



THE MILLE LACS BAND OF
OJIBWE INDIANS

Legislative Branch of Tribal Government

RESOLUTION 19-02-11-21

RESOLUTION APPROVING REVISIONS TO THE MILLE LACS BAND OF OJIBWE HOUSING DEPARTMENT ELDER HOUSING POLICY

WHEREAS, the Mille Lacs Band Assembly (“Band Assembly”) is the duly elected legislative body of the Mille Lacs Band of Ojibwe (“Band”) a federally-recognized Indian Tribe; and

WHEREAS, according to 3 MLBS § 2(a), the Band Assembly is empowered to “enact laws which promote the general welfare of the people[;]” and

WHEREAS, according to 3 MLBS § 2(d), the Band Assembly is empowered to adopt resolutions; and

WHEREAS, pursuant to 12 MLBS § 5(b)(8), the Band’s Housing Advisory Board is empowered to “approve new Housing programs and Housing Policies developed by the Housing Department with ratification by the Band Assembly[;]” and

WHEREAS, on October 15, 2020, the Band’s Housing Advisory Board approved revisions to the Mille Lacs Band of Ojibwe Housing Department Elder Housing Policy (“Elder Housing Policy”), a copy of which is attached hereto; and

WHEREAS, on October 21, 2020, the Band Assembly met at a regular session and offered verbal approval of the attached version of the Elder Housing Policy, effective immediately;

NOW, THEREFORE, BE IT RESOLVED that the Band Assembly does hereby authorize, approve, and ratify the attached version of the Elder Housing Policy with an effective date of October 21, 2020.

WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a regular session of the Band Assembly in Legislative Council assembled, a quorum of legislators being present, held on the 28th day of October, 2020, at Nayahshing, Minnesota, by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Band Assembly, hereunto cause to have set the signature of the Speaker of the Assembly.

OFFICIAL SEAL OF THE BAND


Sheldon Boyd, Speaker of Assembly

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**MILLE LACS BAND OF OJIBWE HOUSING DEPARTMENT
ELDER HOUSING POLICY**

I. INTRODUCTION

In accordance with the history, tradition and culture of the Mille Lacs Band of Ojibwe, Elders merit the highest respect. Elders have special needs in view of economic and social challenges that they have faced, limited incomes in retirement, and health issues related to aging. One of the most desirable needs of the Band Elder is to be given the opportunity to live in safe, healthy, and affordable housing. One of the missions of the Housing Department is to ensure that priority placement be given to Elders due to their distinctive status and special needs.

Services are to be provided to an Elder's primary residence only. This program authorizes Elders to apply for a maximum of \$75,000.00 in eligible renovations; this program does not create any account from which funds may be withdrawn and is dependent upon annual funding appropriations.

II. PRIORITY

By this policy, the Mille Lacs Band grants first priority for housing, housing renovation, and housing maintenance to Elders who are (1) enrolled in the Mille Lacs Band of Ojibwe; and (2) fifty-five (55) years of age or older.

III. DEFINITIONS

- a. "Basic Garage" means a stick-built structure that is designed to protect no more than two automobiles, that does not have any living space (to include a loft), and that has a concrete slab foundation. A "Basic Garage" must meet all applicable residential building and electrical codes. Under no circumstances shall the term "Basic Garage" be construed to allow any add-ons, fixtures, or furnishings that do not assist in the storage or protection of personal property.
- b. "Elder" means any Band Member who is fifty-five (55) years of age or older.
- c. "Elder Housing Unit" means a residential unit that has been set aside by the Housing Department and identified as an Elder Housing Unit. Elders will be given a conditional life estate interest in the homes and the homes will revert to the Department when any of the conditions are not met or the Elder passes away.
- d. "Legal Guardian" means an individual, related or non-related, who is the designated caregiver of the Elder Band Member by Order of the Court of Central Jurisdiction or another court having jurisdiction over the individual Band Member.
- e. "Life Estate" means an estate whose duration is limited to the life of a party; a claim or interest in real or personal property, not amounting to ownership, and limited by a term of life, either that of the person in whom the right is vested or that of another.

IV. OCCUPANCY RULES

Residents of Elder home units must abide by the occupancy limits set by the Housing Department for each particular unit. Any non-elders living with the Elder must submit to a criminal background check by the Housing Department and must meet the requirements for eligibility provided in the Rental Admission Policy. The non-elder occupant will be evicted if found to be living at the residence without the prior permission of the Housing Department.

Prior to moving into an Elder unit, the Elder must meet with Department staff to go over the rights and responsibilities of the parties. This will include a discussion of the responsibilities of both the Elder and the Department, the occupancy limits of the home, the required procedures to add another to the household, the fact that the Elder's interest in the home is limited to his or her lifetime and will be limited by a number of conditions. The Elder and the Elder's designated personal representative of the Elder's estate must both sign the Housing Department's Elder designation of personal representative form. The Elder's personal representative will be liable for any damages to the Elder's unit after the Elder's death. If the Elder fails to designate a personal representative or there is no person willing to accept responsibility for damages to the Elder unit after the Elder's death, the Housing Department will immediately assume control of the Elder's unit upon the Elder's death.

The Elder must sign an agreement that includes these provisions and will be given a copy of the agreement. An Elder may not receive a life estate and own their own residence. If a unit is available and the Elder has not sold his or her home, the unit will go to the next eligible Elder on the list. The ineligible Elder will remain on the list according to his/her age.

Elders are generally not required to submit to background checks before moving into an Elder unit. If, however, the Housing Department receives a written complaint regarding the behavior of any Elder, that Elder may be required to submit to a background check in order to continue living at the residence. The Elder will be treated with the highest regard during this process. If the background check shows that the Elder has a criminal background that indicates the Elder is banned for life from Band housing (murder, arson of Band property, manufacture of methamphetamine, sex offender registration, or any other offense listed in Section III(b)(iv) of the Rental Admission Policy that creates a lifetime ban), that Elder is no longer eligible to live in the unit and must vacate within sixty (60) days. See Rental Admission Policy, Section III(b)(iv) for complete list of offenses. Only those crimes which would ban the Elder for life will preclude him or her from the Elder home program.

V. BENEFITS FOR ELIGIBLE RECIPIENTS

a. Elder Home Units

Band Elders may receive a home designated as an Elder Home if space is available and if they are determined to be Elders who meet the criteria of this policy. Priority will be based on age, with older Elders receiving priority over those who are younger and over any other group of individuals. The MLBO Housing Department will maintain a number of homes designated for Elders in each District based on the number of elderly in that District.

b. Life Estate Interest

A Band Elder living in a Band-owned home located on reservation land or on Band owned fee land designated as an Elder home, shall receive a Life Estate in that property, subject to certain conditions. Upon the death of the Elder holding the life estate in a designated Elder Home, or a violation of the conditions placed on the estate, the home will revert to the Band and will not be subject to any other type of ownership. Conditions include compliance with the occupancy limits and compliance with all Housing policies, among any others listed in the life estate deed.

An Elder who must move out of his/her Elder Home temporarily due to special circumstances, i.e. recovery in a nursing home following major surgery or illness, will not lose his/her right to occupy the Elder Home if the Housing Department is notified and if the temporary period does not exceed six (6) months. In cases where the Elder is not able to return to his/her home after six (6) months, any family members living with the Elder must vacate the home within sixty (60) days of receipt of written notice from the Housing Department and the home will return to the Housing Department for the use of another Elder.

c. Divorce; No Assignment Permitted

If a Band Elder divorces his/her non-Band member or non-Indian spouse, the former spouse is not entitled to claim any interest in the life estate or Elder Home property. The life estate cannot be given or transferred to any other Band member, Elder or non-Band member. The life estate vests in the Band member alone and extinguishes when that Band member dies or gives up occupancy of the home. The life estate, and any claim of possession regarding the home, cannot be awarded to the non-Band member in divorce proceedings. Such decisions, whether voluntary or court ordered, will be considered invalid and will not be honored.

An exception to the above may be considered by the Housing Department if any minor Band member children live in the home with the non-Band member spouse. The children must be the minor children or grandchildren of the Elder Band member in order for an exception to be considered. The non-Band member spouse may continue to live in the home until the youngest child either attains the age of eighteen (18) or leaves the home; whichever event occurs first.

d. Elder Band Member Deceased

Upon the death of the Elder Band member, any non-elder occupants living in the unit with the Housing Department's permission must vacate the premises within sixty (60) days in order to make it available for the use of other Band member Elders. Any occupants living in the unit without the Housing Department's permission must vacate the unit immediately or be subject to eviction. **The Director of Housing, at his discretion, may**

extend the sixty (60) day period for an additional forty-five (45) days to allow the occupant additional time to arrange for alternative housing.

The life estate is granted only to the Band member and extinguishes upon his/her passing. The remaining members of the household are responsible for the utilities for the property during this period.

If the deceased Elder was living with an Elder spouse (Band member or not), Band Elder sibling, or Band Elder child, the Housing Department shall allow the Elder spouse, Elder sibling or Elder child to remain in the unit and this Elder spouse, Elder sibling or Elder child will receive a conditional life estate in the unit. Any non-Band member Elders who receive the life estate after the death of their Band member spouse(s) will be responsible for their own utilities and a condition of the life estate is that the surviving spouse shall comply with the Housing Department's program policies and procedures to include the Elder Policy, Occupancy Policy, Drug Policy, and Grievance Policy.

Upon the death of the surviving Elder spouse, Elder sibling or Elder child, the life estate extinguishes and cannot be transferred to any other individual. The premises must be vacated and made available to another Elder Band member.

In accordance with the tradition and culture of the Mille Lacs Band of Ojibwe, Band Elders receiving a unit after the death of another Elder may request that the appliances be given away. The Housing Department shall to the greatest extent possible redistribute the appliances to other tenants.

e. Renovations

A Band member Elder may apply for renovation funds to make repairs on his/her existing home. The maximum amount of funding to be paid for renovations is seventy-five thousand dollars (\$75,000.00). This amount may be applicable to one eligible project or to several smaller eligible projects, but shall not exceed \$75,000.00. This amount may be applied for by a Band member Elder having an ownership interest in his/her main residence.

For purposes of this policy, a Band member Elder does not have an ownership interest in his/her home if he/she has not procured a land lease (if applicable) in his/her name for the underlying property to the home. This program shall not be utilized for any structural additions to the home, unless the Band member Elder does not have (and has never had) a garage on the property and wishes to build a Basic Garage. No renovations of existing garages shall be authorized by virtue of this policy, unless the garage is already attached to the house. In such case, renovations shall not exceed the requirements of a Basic Garage, as described in Section III of this policy.

The application process will include a search of the total amount spent on renovations for the elder. If the elder has received \$75,000.00 or more in renovations, he or she is ineligible for further renovations. If the elder has only used a portion of that amount, the elder is eligible for the amount remaining. Funding shall not be used to renovate or repair second

homes or any outbuildings that are not attached to the home unless the Band member Elder is eligible for a new garage in accordance with this policy. The home may be located on trust land or on fee land. In the event that the Housing Department reasonably determines that \$75,000.00 in renovations will be insufficient to make a home safe for habitation, all applications for renovation of this home will be denied.

Before any Elder may utilize these renovation funds, Housing will send its Building Inspector to the Elder's home to determine that the repairs are needed. This will be based on a uniformly-applied evaluation form developed by the Housing Department and based on a point schedule. Any work to correct deficiencies of a renovation by the Housing Department will not be counted toward this \$75,000.00 limit.

A Band member Elder without a life-estate interest receiving renovation funds must retain his/her ownership interest and continue to reside in the home for a minimum period of five (5) years before selling the home and will be required to sign a Retention Agreement prior to funding. During this five (5) year period, the Band shall maintain a lien on the home. The lien will be in the amount of the renovation/remodel and will decrease every month after execution that the Elder continues to reside in and maintain the home, by 1/60 of the total amount. Such lien shall be filed in the Band's Recording Office (or County Recorder) along with the mortgage documents. At the end of the five (5) year period, the Housing Department will issue a Release of Lien to the Band member Elder.

If a Band member Elder sells the home after renovation, but prior to the end of the five (5) year period, the Band member Elder must pay back the amount remaining owed under the Retention Agreement. For example, if the Elder sells four (4) years after receiving the funds, that Elder must pay 1/5 of the total renovation/remodel amount remaining due. Under these circumstances, a Release of Lien shall not be issued until the prorated renovation costs are repaid to the Band.

All amounts spent on an elder's home, regardless of the program, are to be considered when determining whether the elder has reached the \$75,000.00 elder renovation limit.

f. Appliance Replacement Program

Under this program, a Band member Elder may request new appliances for the home he or she either has an ownership interest in and which he/she occupies as a full-time residence. Immediately after application by the Band member Elder to the Housing Department, a member of the Housing Department's maintenance staff will conduct an inspection to determine if the current appliances can be repaired or if a need exists for replacement of the appliance. If it is determined by maintenance staff that new appliance(s) are needed, an Appliance Request form must be turned in to the Housing Department for approval by the Commissioner of Community Development or Executive Director. If appliances are purchased for the home, the old appliances must remain in the home until replaced by the Housing Department. Any new appliances purchased for a Band member Elder home are not assignable to family members and must remain in the home. The Band retains a lien in such appliance to enforce the prohibition on assignment or transfer, and may repossess

such appliance in the event of any violation of such prohibition. The cost of these new appliances will be deducted from the elder's renovation funds available under this program. If repairs to the appliances are needed, the maintenance staff will turn in a request form to the Housing Department. The repairs will be completed by a certified technician to assure the safety of the Elder and family.

g. Emergency Maintenance

A Band member Elder, having an ownership interest in his/her residence may contact the Housing Department immediately in the event of a maintenance emergency. The Housing Department must address these emergency situations within twelve (12) hours of receiving notification from the Elder, or as soon thereafter as is reasonable under the circumstances. An emergency repair is authorized if the repair is necessary to prevent imminent loss of life, property, or substantial danger to health. Whether or not a repair is considered an emergency is a determination to be made by the Commissioner of Community Development. **All repairs that are not determined to be emergencies must go through the standard application process for the Elder Renovation Program.**

Examples of emergencies include the following: 1) the furnace breaks or the pilot light goes out during the Winter season, 2) water line breaks, 3) pipes freezing, 4) no water, 5) sewer backs up, 6) toilets not flushing properly, 7) no electricity in the unit, 8) any amount of rainwater or other precipitation leaking into the residence on a routine basis that severely affects the Elder's ability to safely and enjoyably live within the home, or 9) no air conditioning or fans in the unit during the Summer season.

Dollars spent on emergency maintenance will count towards the \$75,000.00 spending limit through the Elder Renovation Program.

The Housing Department will arrange for maintenance staff or a private contractor to perform the work. The Housing Department must address these emergency situations within twelve (12) hours of receiving notification from the Elder, or as soon thereafter as is reasonable under the circumstances. An Elder should not hire a private contractor to perform work under these emergency situations. If a private contractor is hired to perform emergency maintenance without approval of the Housing Department, the occupant shall be responsible for the payment of the bill.