

Baranof Island Housing Authority



Lease with Option to Purchase Program Policy

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DURING THE RENTAL PHASE OF THE PROGRAM, STAFF WILL VERIFY AND CERTIFY HOUSEHOLD COMPOSITIONS, INCOME AND EARNINGS AT LEAST ANNUALLY FOR CONTINUED ELIGIBILITY AND OCCUPANCY. THE PURPOSE OF RECERTIFICATION IS NOT TO DECREASE RENT ANY TIME INCOME DECREASES. RECERTIFICATION IS CONDUCTED TO ASSIST PARTICIPANT IN ACHIEVING HOMEOWNERSHIP AND TO MEET THE OBLIGATIONS OF THE CAP.	6
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I. Policy Statement

The Sections contained in this policy describe the process to be used for Baranof Island Housing Authority (BIHA) housing programs.

The Baranof Island Housing Authority (BIHA) is aware that not all members of the Sitka Tribe of Alaska may credit qualify for home loan programs offered by private lenders. To overcome this obstacle, BIHA has developed the Lease with Option to Purchase (LWOP) Program to assist individuals or families who are truly committed to owning a home and willing to work with staff to achieve mortgage readiness within a three-year period.

II. Purpose

This policy establishes the program specific criteria upon which a family can achieve homeownership through BIHA's LWOP Program. It also provides direction to staff for admission of applicants into the LWOP Program and for administering the requirements governing their occupancy.

III. Outreach

The LWOP Program will be implemented by BIHA through a staff of housing counselors who will conduct a reasonable and broad-based effort to solicit and accept applications from all interested parties.

IV. Applicability of Policies

1. All Participants are subject to the policies of the BIHA as they now exist or as they may hereafter be revised or added by the BIHA. The BIHA Admissions and Occupancy Policy (AOP), BIHA Client Action Plan (CAP), the BIHA Housing Counseling Policy, the BIHA Collection & Eviction Policy, the BIHA Grievance Policy, which are attached hereto, or as they may hereafter be amended, are by this reference made a part hereof.
2. The Board of Commissioners (Board) and staff will comply with all applicable laws and regulations of the Department of Housing and Urban Development (HUD), Additionally, commissioners and staff must be in compliance with the Sitka Tribal codes and Ordinances, applicable state and federal laws and regulations, and BIHA policies. Failure for staff to be in compliance will be addressed through disciplinary action that could result in termination of employment or removal from the Board, as the case may be.

V. Eligibility

A. Tribal Preference

The applicant must be a member of a federally recognized tribe to be considered as the Lessee with the right to exercise the option to purchase. BIHA will give Indian preference in the selection process, in accordance with BIHA's AOP.

Non-Indian and non-member spouses/partners may be considered as an occupant of the household during the lease option period but will not have the right of successorship during the rental (option) period.

B. Rental Period

1. The home will be considered as a rental until the option period is exercised by the participant who must be a tribal citizen.
2. Although non-member and non-Indian spouses/partners may have their income and credit considered for qualifying purposes, they are not eligible to exercise the option.
3. In the event the qualifying participant is no longer able to continue as the Lessee during the rental period for any reason, the non-member or non-Indian spouse/partner will have 90 days to vacate.

C. Income

1. The applicant family must have sufficient household income and demonstrate the capacity to meet the minimum rent during the rental period and debt service during the homeownership period.
2. Moderate-income applicants may be admitted to the LWOP Program if the BIHA determines that there is a documented need for housing for such families that cannot reasonably be met without such assistance. In all instances, assistance and benefit cannot be the same as for a low-income family. Payment requirements and any other assistance will be according to rates established by the BIHA for moderate-income families.

D. Employment Stability

For an applicant to be financially eligible for the LWOP Program, they must have at least two years stable income and also demonstrate the ability to maintain at least their present level of income. This will be verified by staff and may be satisfied by a written statement from the applicant's employer. If it is not feasible to determine income potential from an employer, this verification may come from

copies of the applicant's income tax returns for the last three years prior to the application date. The applicant must sign an IRS Form 4506t or other forms as reasonably necessary, authorizing the IRS to release the information to the BIHA. These income tax returns will be kept on file and new ones will be submitted each year thereafter until the option is exercised.

E. Compensating Factors

In rare circumstances, and only with supporting documentation, may an applicant family be selected if the projected house payment and other projected housing costs (i.e., monthly maintenance reserve, utilities, etc.) would exceed the income limits defined and established by the specific program assisting the Participant or the family income just barely meets the minimum requirements. The Housing Counselor will submit a recommendation with supporting documentation to the applicable BIHA staff for a final decision. There must be compelling factors documenting that the family would be able to fully meet the obligations of homeownership.

VI. Application Process

A. Qualifying Applicant

An eligible applicant must submit a full and complete application, including authorizations and evidence of prior attendance in Housing Counseling and Participant Education classes and sessions, before they can submit an application and be determined eligible or placed on a waiting list.

B. Process

1. The Application process requires the Applicant must pay fees for the following:
 - Credit Report
 - Background Check
2. In order to be considered for occupancy in any housing program offered by BIHA, a written (legible) application must be completed.
3. All application data processed by Staff are entered into the Housing Data Systems (HDS).
4. Staff members receiving an application must note the date and time of receipt of the application.

5. All information provided in the application will be immediately verified and documented.
6. When no units are available, a preliminary review for application completeness is performed to determine “apparent eligibility” for placement on the waiting list.
7. Applicants with incomplete applications will be notified and provided an opportunity to complete the application for a maximum of 30 days.
8. In the event of a rejection, the staff will notify the Applicant in writing of the basis of the determination and the right to appeal the decision in accordance with the grievance policy, hereinafter, by reference, made a part of this policy.
9. In the event of a favorable determination, the BIHA Housing Manager will notify the Applicant in writing of apparent eligibility and place them on the Waiting List using the date and time the Applicant originally applied.

C. Forms

The LWOP Program requires supplemental forms to determine suitability for the LWOP Program. Additional forms include, but are not limited to the following:

1. Prequalification
2. IRS 4506t
3. Consent for Credit Report
4. Participant Counseling Agreement
5. Setting Goals Worksheet Statement
6. Financial History
7. Budgeting Worksheets
8. Client Assessment and Action Plan

D. Waitlist

1. The BIHA will maintain a separate Waiting List for the LWOP Program.
2. The waitlist will be organized by priorities.

VII. Verification

Procedures for verification will be in accordance with the verification guidelines outlined in the BIHA AOP.

VIII. Selection Process

1. Applicants must first be determined to be eligible which includes completing the initial Home Buyer Education class. Applicants must be able to qualify for mortgage readiness within a maximum of three years (36 months).
2. Once eligibility and qualification requirements have been met, applicants are placed on a waiting list.
3. Selection will be made in the order of earliest date of mortgage readiness to the latest date of mortgage readiness.

IX. Housing Counseling Requirements

A. Completion of Required Actions

All participants and each occupant of the premises will complete all "Required Actions" as described in the (CAP), which shall become a part of the Lease Agreement. The Participants must agree that all actions will be completed in a period of time not to exceed 36 months from the effective date of the Lease Agreement.

B. Condition of Participation

As a condition of participation in the BIHA housing program, the participant will attend and satisfactorily complete Participant Education classes provided by the BIHA.

C. One-on-One Housing Counseling:

If BIHA deems it necessary, the Participant will attend as many One-on-One Housing Counseling sessions as needed to meet the requirements with respect to property maintenance, financial management, compliance with the CAP, and such other matters as may be appropriate.

D. Failure to Comply:

Non-compliance with the Housing Counseling requirements or the CAP will result in termination of participation in the LWOP Program.

X. LWOP Program Rent & Other Payments

This section describes the rental payments required during the rental phase of the program and, if applicable, any additional required payments.

A. Rent Payment for Low-Income Families

During the rental phase of the LWOP program, low income families will be charged a monthly rent payment based upon the following:

1. Debt service based on the appraised price for the for the home,
2. A management fee of a minimum of \$282.00, and
3. Buy-down expenses.

B. Rent Payments for Moderate Income Families

The rental payment will be calculated in accordance with the BIHA policy for non-low income families. Monthly rental payments will be determined by the BIHA on a case by case basis based on at least the following:

1. The Fair Market Rent published by HUD in the Federal Register
2. The debt service
3. Monthly minimum rent, a monthly management fee of a minimum of \$282.00.

C. Certification & Recertification

During the rental phase of the program, staff will verify and certify household compositions, income and earnings at least annually for continued eligibility and occupancy. The purpose of recertification is not to decrease rent any time income decreases. Recertification is conducted to assist Participant in achieving homeownership and to meet the obligations of the CAP.

Should the participant's income fall below their calculated monthly rental payments, or fall below the monthly management fee of \$282.00, the participant shall have 60 days to increase their monthly income.

If the participant fails to increase their monthly income within the 60 days, the Lease to Purchase Agreement will be terminated, and the participant may be required to:

- Vacate the home
- Move into a Rental Program Unit (if available)

BIHA may terminate the agreement in its entirety with 30 day written notice to the tenant in accordance with BIHA's Eviction & Ejectment Policy.

D. Management Fee:

A management fee of a minimum of \$282.00 will be assessed to each resident. Management fees will be used to ensure coverage of operating expenses. The BIHA reserves the right to modify the fee schedule.

XI. Recertification Process

Procedures for recertification will be guided by the recertification guidelines outlined in the BIHA Admissions and Occupancy Policy,

XII. Option to Purchase & Purchase Prices

A. Option to Purchase Period:

BIHA, in consideration of the Lease Agreement, grants to the participant the exclusive option to purchase the home on the leased premises, provided that the participant shall have duly fulfilled all of the provisions and conditions of the Lease Agreement, pursuant to the terms and provisions hereinafter stated: The option to purchase shall be available for a period as determined by the CAP but not to exceed 36 months.

B. Notice of Exercise of Exclusive Option

The exercise must be executed by written notice to the BIHA, either delivered or mailed to the following address:

Baranof Island Housing Authority
245 Katlian Street
Sitka, Alaska 99835

A notice which is mailed shall be deemed to be timely in the event the notice is mailed within the option period as evidenced by the U. S. postmark.

C. Failure to Exercise Purchase Option

If the participant fails to exercise the option to purchase within the designated option period, the Lease Agreement will terminate and BIHA shall retain all rental

payments received and the participant shall have no right to receive back any part of the rent and shall have no further rights or claims hereunder.

D. Exercising the Purchase Option

If the participant exercises the purchase option, the purchase shall occur within sixty (60) days. The purchase shall be subject to all of the following terms and conditions:

1. The Participant has preapproval from a private lender for the purchase of the home.
2. The Lease Agreement has not be terminated prior to the exercise of the purchase option.
3. The participant shall not have the right to assign the purchase option.
4. No portion of the rental payments shall be refunded to the participant in the event the participant fails to exercise said purchase option.
5. In the event the participant exercises the option to purchase, the participant shall pay all settlement costs incidental to acquiring ownership, including but not limited to, costs and fees for credit report, field survey, title examination, title insurance, inspections, attorney fees, closing, recording, transfer taxes, finance fees, mortgage loan discount and appraisals.

E. Purchase Price Formula for Low-Income Participants

1. First mortgage.

The Participant must obtain their own mortgage in an amount sufficient to satisfy the appraised price. Likewise, the Participant may pay cash in an amount sufficient to satisfy purchase of the home.

2. Closing Cost Assistance

Participants who successfully meet all the requirements of the LWOP Program will be eligible for BIHA's Closing Cost Assistance not to exceed \$5,000. If the eligible Participant successfully exercises their option and remains in the home for the affordability period of 5 years, then the Closing Cost Assistance will be forgiven. If, however, the homeowner sells the home prior to the expiration of the affordability period, they are required to reimburse BIHA for the amount of funds granted at closing. The BIHA Closing Cost Assistance reimbursement

shall be secured to BIHA through a lien process which includes a Promissory Note entered into at the time of the closing.
For more information on BIHA's Closing Cost Assistance Program, a copy of the program policy can be provided upon request.

F. Purchase Price Formula for Moderate-Income Participants

1. First mortgage.

The Participant must obtain their own mortgage in an amount sufficient to satisfy the appraised price. Likewise, the Participant may pay cash in an amount sufficient to satisfy purchase of the home.

2. Closing Cost Assistance

Participants who successfully meet all the requirements of the LWOP Program will be eligible for BIHA Closing Cost Assistance. The amount awarded is not to exceed \$5,000.

If the moderate-income Participant successfully exercises their option and remains in the home for the affordability period of 5 years, then the Closing Cost Assistance will be forgiven 5 years from the date funds are granted at closing. If the applicant sells, or transfers the home prior to the 5-year period, the participant will be required to reimburse BIHA the amount they had been awarded for the Closing Cost Assistance.

For more information on BIHA's Closing Cost Assistance Program, a copy of the program policy can be provided upon request.

XIII. Succession

A. Rental Period

Succession is not applicable during the rental period.

B. Death or Incapacity

Upon the death of the participant during the rental period, the Rental participant's interest in the Lease Agreement may NOT be inherited.

XIV. Restrictions

A. Restrictions on Ownership Interest

Only an individual who is eligible under the laws and customs of the Sitka Tribe of Alaska can lease BIHA owned land for residential purposes shall be eligible to be a Participant(s) under this Agreement or have any ownership interest in the right to acquire a leasehold interest in a home under this Agreement. Any purported sale, conveyance or other transfer to such a person, including pursuant to a divorce decree or by will or intestate succession, shall be null and void. Any Participant(s) whose enrollment status is changed subsequent to the execution of this Agreement and who would thereby not be eligible to lease tribally owned land for residential purposes shall be considered as having terminated this Agreement. These provisions shall continue after and survive the term of this Agreement.

B. Restrictions on Sale, Transfer or Conveyance By Participant

In no case shall the Participant(s) sell, transfer or convey any interest in the right to acquire a leasehold interest in a home under this Agreement, including pursuant to a divorce decree or by will or intestate succession, except as may be specifically provided for in the policies... Any such purported sale, transfer or conveyance shall be null and void. This restriction shall apply to liens and encumbrances of all types and kinds.

XV. Inheritance

Once the option is exercised, if the Tribal member dies or becomes divorced from the non-Indian or the non-member, the non-Indian or non-member spouse may not inherit the property in the case of death or be granted the property by consent of the parties or by the Courts in the event of a divorce. Likewise during the rental phase of the program if the Sitka Tribal member dies, the non-Indian or non-member spouse cannot be the beneficiary or remain in possession of the unit; nor may the parties or the Courts allow the non-Indian or non-member spouse to remain in possession of the rental unit in the event of divorce.

XVI. Life Estate

A. Death of Homeowner: In the event of the death of the homeowner, the provisions of the Sitka Life Estate Code may apply.

1. Enrolled members of the Sitka Tribe, may bequeath by a Will a life-estate improvements thereon to their non-enrolled spouse and or their non-enrolled

children. The non-enrolled spouse and or the non-enrolled children shall be permitted to use and occupy the home during the course of their lifetime subject to the same terms and conditions of the enrolled deceased member, which may include any outstanding mortgage. The non-enrolled spouse and or non-enrolled children can never inherit the land or any improvements thereon. Upon the expiration of these life estates the leasehold interest in the land and any improvements thereon shall be transferred and conveyed to an enrolled member pursuant to the terms of the deceased enrolled member's Will.

2. In the event that an enrolled member dies intestate (without a will), his non-enrolled surviving spouse and or non-enrolled children may elect to take a life estate in the home and any improvements thereon. The non-enrolled spouse and or the non-enrolled children shall be permitted to use and occupy the home during the course of their lifetime subject to the same terms and conditions of the enrolled deceased member, which may include any outstanding mortgage.
3. The non-enrolled spouse and or non-enrolled children can never inherit the land or any improvements thereon. Upon the expiration of these life estates the home and any improvements thereon shall be transferred, conveyed and sold to BIHA pursuant to 43 CFR Part 4 at the appraised value. The non-enrolled spouse and or non-enrolled children may decline to take a life estate in the home and sell to BIHA the home pursuant to 43 CFR Part 4, Tribal Purchase of Interests Under Special Statutes.
 - a. Since this is a rent to own program with a private lender, there will not be any equity until the home is purchased. If terminated for whatever reason, the payments made by the Participant will be treated as rent to the BIHA
 - i. After entering this program, individuals or families will be required to periodically file an application with a lender to learn if they qualify for a loan. If they are approved and receive the loan, they will assume the loan from BIHA. If they do not qualify after making the second application to a lender, they will be allowed to stay in the program and re-apply to the lender until a lender approves them within the three (3) year period.