

MOHAWKS OF THE BAY OF QUINTE

Mortgage Rewrite Policy

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DATES OF COMPLETION AND REVISIONS
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	DATE	MOTION #	SECTION
COMPILED	October 15, 1986	12	All
REVISED	December 18, 2005	5	All
REVISED	February 20, 2008	11	All
REVISED	May 20, 2008		All
REVISED	October 11, 2012	1	Purpose, 1.a., 2.a., 2.b., 2.d.i., 3.b., 3.c., 3.d., 4.a, 4.b., 4.c.ii., 4.c.ii.a., 4.c.iii., 4.c.vi., Section 5 Estates, 6.a., Section 8 Appeal Process
REVISED	August 30, 2013	1	Approved for signature.

PURPOSE

The Mohawks of the Bay of Quinte Mortgage Rewrite Policy reflects the changing social and economic needs of the membership of the Mohawks of the Bay of Quinte.

The original Mortgage Rewrite Policy was developed to allow the Mortgagor an opportunity to financially sustain their mortgage and to revise their mortgage agreement with the Mohawks of the Bay of Quinte to ensure that their current financial situation did not jeopardize their ability to maintain their homeownership status. Existing mortgages were also rewritten to address any errors and/or the death of one of the Mortgagors.

The Mortgage Rewrite policy is designed to allow flexibility in the Mortgagee and Mortgagor relationship and can be accessed by any eligible Mortgagor(s) of Mohawks of the Bay of Quinte.

The Mortgage Rewrite Policy strives to accommodate Mortgagors with life changes by including options related to the dissolution of marital or common-law relationships and the inheritance of an estate property.

1.

POLICY FUNCTION

- a. This Policy applies to repayable mortgage loans administered from the Mohawks of the Bay of Quinte (Mortgagee) to the registered Members (Mortgagor) of MBQ for their residential housing needs as per the following Mohawks of the Bay of Quinte policies and procedures: Mortgage Application, New Construction, Purchase of an Existing Home and Residential Renovation.

2.

CONDITIONS

- a. Mortgages may be rewritten to consolidate an existing mortgage with a new or existing loan(s) from the Mohawks of the Bay of Quinte (MBQ) for housing, renovation, sanitation, water holding tank, or water purification relating to the same residence or for other reasons as may be approved by the Mohawks of the Bay of Quinte Housing Administration and the Tyendinaga Mohawk Council (TMC).
- b. Mortgages may be rewritten if the mortgage is in arrears and the Mortgagor has no other feasible financial plan that will permit the Mortgagor to pay off the arrears. The Mortgagor's payment history will be considered by TMC as demonstrating the Mortgagor's commitment and ability to pay.
- c. Mortgages may be rewritten if the Mortgagor has experienced a substantial change in financial status which makes it impossible to maintain the payment schedule. For example, the Mortgagor has not been able to work due to illness, the Mortgagor has been unable to secure suitable employment, the Mortgagor has incurred other unforeseen financial obligations, one of the Mortgagors has died, etc.
- d. Mortgages may be rewritten to correct errors in legal descriptions, land surveys, name spelling, name changes, or to add or remove Mortgagors.
 - i. All Mortgagors must complete an MBQ Mortgage Application Form, affordability scale (if applicable), a credit reference check and obtain approval before being added onto an MBQ Mortgage or before being named the sole Mortgagor when removing a Mortgagor's name from an existing mortgage.
- e. Mortgages may be rewritten to reflect changes in the entire mortgage program operated by the Mortgagee.

3.

APPLICATION PROCESS

- a. The mortgage and loan(s) shall be consolidated into one single mortgage.
- b. Mortgagor(s) must adhere to the MBQ Mortgage Application Policy to be eligible for a mortgage rewrite. This MBQ Mortgage Rewrite Policy must be followed in conjunction with the *MBQ Mortgage Application Policy and Procedures*.
- c. If required, a mortgage could be rewritten to remove arrears. MBQ Housing Officer(s) will process the request and bring it to TMC for approval. Subsequent requests to rewrite a mortgage for arrears will be processed on an individual basis by the MBQ Housing Administration at the request of the Mortgagor.
- d. A new mortgage will be drawn up by the Mortgagee and signed by both the Mortgagee and Mortgagor. The new mortgage will replace the former mortgage. Registration with Aboriginal Affairs and Northern Development Canada (AANDC) Registry Office will be carried out by the Mohawks of the Bay of Quinte Finance department.
- e. The term of the mortgage may be extended to a maximum of 35 years or the Mortgagor may choose to maintain the non-expired term.

4.

LEGAL DISSOLUTION OF RELATIONSHIPS

- a. The Tyendinaga Mohawk Council (TMC) recognizes that there are instances when MBQ Members' relationships concerning mutual interest in real property ends in the legal dissolution of the relationship.
- b. As a result of section 4.a., one MBQ Member may be required to purchase the other MBQ Member's interest in real property. The MBQ member, who is purchasing the other's interest, must be entitled to hold a Certificate of Possession on the Tyendinaga Mohawk Territory.
- c. This policy allows for mortgage applications to be submitted to the TMC, providing that 4.a, 4.b., and the following criteria are satisfied:
 - i. The house is located on the Tyendinaga Mohawk Territory.
 - ii. Applications will be subject to availability of funds of the MBQ.
 - iii. Applicant is approved for an MBQ mortgage as outlined in the *MBQ Mortgage Application Policy and Procedures*. This involves completing a Housing Affordability Scale form and obtaining a positive credit reference check.
 - iv. The house has received an official appraisal. Costs for this are to be borne by the Applicant.

- v. Application cannot exceed the property value as determined by the official appraisal or the maximum mortgage limit. The lesser of the two amounts will be considered.
- vi. Before any funds are released, a signed legal separation or dissolution agreement must be provided. Approved signature may be that of a Lawyer, Judge or Notary Public or Justice of the Peace.

5.

ESTATES

In the event of an Estate, with an existing MBQ Mortgage, being willed, or otherwise left, to a registered MBQ Member, an MBQ Mortgage Application through this policy will be considered under the following conditions:

- a. A Transfer of Land by Personal Representative Form is signed by the Administrator/Executor and is submitted to Aboriginal Affairs and Northern Development Canada (AANDC).
- b. Applicant is approved for an MBQ mortgage as outlined in the *MBQ Mortgage Application Policy and Procedures*. This involves completing an affordability scale and obtaining a positive credit reference check.
- c. An official appraisal of property is required and the application cannot exceed the property value as determined by the appraisal or the maximum mortgage limit.
- d. Existing Mortgages and the Applicant's mortgage amount owing (if any) do not exceed the maximum allowable mortgage limit.
- e. In circumstances where an Applicant's mortgage amount and the estate mortgage exceed the maximum mortgage limit, Applicants' may request an exception to pay both mortgages separately. MBQ Housing Administration will refer these requests directly to TMC for decision.
 - i. If approved by TMC, the Applicant will be required to make payment arrangements with MBQ Finance department.
- f. The outstanding balance of the MBQ Mortgage must be paid in full upon selling the Estate property.
- g. Applicant(s) may make agreements to settle an estate with all heirs to this property named in a Last Will and Testament (Will).
- h. If no Will exists, Applicant(s) may make agreements to settle an estate with all individuals necessary as determined by the Estate Administrator. Agreements to settle an estate cannot exceed the maximum mortgage limit through the *MBQ Mortgage Application Policy and Procedures*.

- i. A letter from individuals, who received a settlement payment through this agreement, stating that no additional monies will be requested regarding this specific property.
- i. All Estate issues are handled by the department of AANDC. The MBQ Lands Office will provide contact information to the appropriate AANDC department.

6.

MORTGAGE INCENTIVE POLICY

- a. Mortgagors who wish to rewrite their mortgage to remove arrears should also review the Mortgage Incentive Policy because their eligibility for qualification under that Policy will not take effect until the next calendar year after the mortgage is re-written.

7.

COMPLIANCE

- a. Applications will be disregarded if the Applicant(s) fails to comply with any of the terms, conditions or requirements set out in this policy.

8.

APPEAL PROCESS

In the event that an Applicant(s) wishes to appeal a decision made under this policy:

- a. The Applicant(s) are encouraged to request a meeting with the Mohawks of the Bay of Quinte Housing Administration to discuss any decision relating to their application.
- b. If the Applicant(s) are not satisfied with the decision of the MBQ Housing Administration, the Applicant(s) are encouraged to request a meeting with the MBQ Chief Administrative Officer and representatives of the MBQ Housing Administration.
- c. If the Applicant(s) are not satisfied with the outcome of this meeting, they may choose to submit a Notice of Appeal to the Appeal Board.
- d. The Appeal Board shall consist of **Tyendinaga Mohawk Council**.
- e. Appeal Notices must be in writing and submitted within thirty (30) business days of the initial notification of the MBQ Chief Administrative Officer's decision. Copies of the Appeal Notice will be sent to all the members of the Appeal Board.

- f. The Appeal Board shall review the Appellant's position and circumstance as presented in the Notice of Appeal. The Appeal Board will also give consideration to the MBQ Housing Administration decision and decision making process.
- g. The Appeal Board will acknowledge the Appeal Notice within twenty (20) business days and will, if necessary, request a meeting and notify the Appellant of the date, time and place of the meeting.
- h. The Appeal Board will make their decision in private and render their decision in writing to the Appellant within ten (10) business days of the decision.
- i. All decisions of the Appeal Board are final. However, should the circumstances change; the Appellant will be notified that they may re-apply to the program or service at the MBQ Housing Administration office.

9.


AMENDMENTS

- a. The Mohawks of the Bay of Quinte Housing Administration and the Tyendinaga Mohawk Council reserve the right to amend this policy to adhere to the changing needs of the membership of the Mohawks of the Bay of Quinte.

10.

ACCEPTANCE

- a. Duly accepted by a quorum of the Tyendinaga Mohawk Council this 15th day of October, 1986.
- b. Revisions duly accepted by a quorum of the Tyendinaga Mohawk Council this 11th day of October, 2012.
- c. Revisions were duly accepted by a quorum of the Tyendinaga Mohawk Council this 30th day of, 2013.



R. Donald Maracle, Chief