

RESOLUTION 2018-16

Approve and Authorize Revisions to Colville Indian Housing Authority's Payment and Collection Policy

WHEREAS, the Colville Indian Housing Authority is the duly constituted Housing Authority for the Confederated Tribes of the Colville Reservation, established by the Colville Business Council pursuant to the authority of the Constitution of the Colville Confederated Tribes, and in particular Article V, Section 1(a); and,

WHEREAS, the authorities and responsibilities of the Colville Indian Housing Authority are set out in the Colville Tribal Housing Authority Ordinance, adopted by Resolution 1977-59 of the Business Council; and,

WHEREAS, the purposes for which the Colville Indian Housing Authority was established include: (1) remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety, and morals; (2) alleviating the acute shortage of decent, safe, and sanitary dwellings for persons of low income; and (3) providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings; and,

WHEREAS, the Colville Indian Housing Authority has been designated as the "Tribally Designated Housing Entity" for the Confederated Tribes of the Colville Reservation, as that term is defined at Section 4(21) of the Native American Housing Assistance and Self-Determination Act of 1996, P.L. 104-330 (25 U.S.C. 4101 - 4212), as amended ("NAHASDA"); and,

WHEREAS, the Business Council has appointed a Board of Commissioners to manage the Colville Indian Housing Authority (the "Board"), which Board operates pursuant to a Constitution and By-laws enacted by the Board on August 10, 2004 (as amended); and,

WHEREAS, the Board has enacted and from time-to-time has amended a Payment and Collection Policy to establish and inform Colville Indian Housing Authority tenants and homebuyers of the Colville Indian Housing Authority's guidelines for the collection of rent, homebuyer, and other payments and to ensure the continuation of adequate housing services while providing for the safety and well-being of residents; and

WHEREAS, the Colville Indian Housing Authority management team has conferred with the Housing Authority's legal counsel to amend and update the Payment and Collection Policy, which amendments are represented on the ~~strikeout~~/underline copy of the Payment and Collection Policy attached as Exhibit A to this Resolution; and

WHEREAS, the Board has determined that adopting the draft proposed amendments to the Payment and Collection Policy is in the best interest of the Colville Indian Housing Authority;

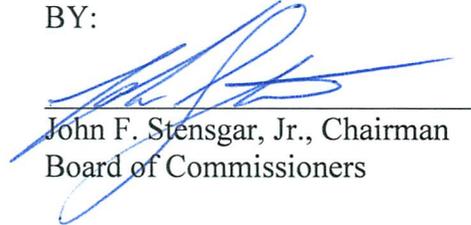
NOW, THEREFORE, BE IT RESOLVED, that the Colville Indian Housing Authority Board hereby approves and adopts the proposed amendments to the Payment and Collection Policy, which amendments are represented on the ~~strikeout~~/underline copy of the Payment and Collection Policy attached as Exhibit A to this Resolution; and

NOW, THEREFORE, BE IT FINALLY RESOLVED, the amended version of the Colville Indian Housing Authority's Payment and Collection Policy attached as Exhibit A hereby supersedes and replaces any prior versions of said Policy.

CERTIFICATION

This is to certify that the foregoing was duly enacted, pursuant to Article V of the Colville Tribal Ordinance, ratified on January 27, 1977, at a regular meeting of the Colville Indian Housing Authority Board of Commissioners, held on July 19, 2018, a quorum being present, with a vote of 4 FOR; 0 AGAINST, and 0 ABSTAINED.

BY:



John F. Stensgar, Jr., Chairman
Board of Commissioners

ATTEST:

BY: 

Melanie Green, Secretary/Treasurer
Board of Commissioners

COLVILLE INDIAN HOUSING AUTHORITY

PAYMENT & COLLECTION POLICY

PAYMENTS AND COLLECTIONS POLICY

- A. **Policy:** Payments and collections shall apply to all tenants living within CIHA managed units.
- B. **Purpose:** It is the administrative responsibility for the Colville Indian CIHA to assess monthly rental payment to all tenants that have signed the month to month rental lease agreement. Payments and collections shall be obtained within the prescribed manner.
- C. **Procedures:** This section and the procedures set out herein are intended to be implemented in concert with the applicable program rental agreement or homebuyer agreements. The purpose of this section is to inform CIHA tenants and homebuyers of the CIHA guidelines for the collection of rent, homebuyer, and other payments. The objective of these procedures is to collect the amounts owed to the CIHA and to ensure the continuation of adequate housing services while providing for the safety and well-being of residents.
- D. **Due Date:** Rent and homebuyer payments are due on or before the first day of each month. This includes any and all fees due from work orders and/or maintenance fees, statements of which will be mailed directly by Maintenance Department. The certified mailing fee and service charge fee for such statements shall be the responsibility of the tenant or homebuyer. Failure to make payment by the 30th day after a monthly payment is due will be grounds for termination and eviction (unless the applicable lease or homebuyer agreement expressly states otherwise).
- E. **Where and How to Make Payments**
- (1) Rent, homebuyer, and other payments due to CIHA may be mailed to the CIHA administrative offices: P. O. Box 528, Nespelem, WA, or delivered to 42 Convalescent Center Blvd., Nespelem, WA. Cash should not be sent by mail. Cash payment will not be accepted in the field. (*Note: the CIHA is not responsible for cash payment sent in by postal service.*)
 - (2) Payments may be made by cash, money orders or personal checks. Cash will be accepted at the Administration Offices only.
Exception: Residential Services Special at Buttercup Land and Eagle Nest can accept cash payment, provided that the cash payment will be turned into a money order same day as receipt, and provided further that the cost of processing the cash to a money order will be charged to the tenant/homebuyer.
 - (3) Residents shall be strongly encouraged to participate in employer payroll deduction programs so that rent and homebuyer payments, as well as any Tenant Accounts Receivable (TARS) or delinquent payments, are automatically paid each month. Any employer payroll deduction agreement should be structured so that any deductions that come in in excess of the rent or homebuyer payments are applied to any TARS or delinquent accounts for that resident. Payments shall not be

considered late if they are paid bi-monthly via payroll deduction as long as the payroll deduction remains active.

- (4) The amount of monthly rent, homebuyer payments and late fees are defined in the applicable rental agreement and/or homebuyer agreement.
- (5) The non-sufficient funds (NSF) fee charged from the bank on all returned checks will be \$30.00 and will be applied against the tenant's or homebuyer's account the following month. If there are two or more NSF charges against a tenant's or homebuyer's checking account, that tenant or homebuyer will no longer be allowed to submit personal checks, and will only be permitted to make payment via certified check, cash or money order. However, if a tenant or homebuyer who has been subjected to such a restriction subsequently makes timely payments (i.e., by the first of the month) consecutively for 12 months, CIHA will remove the restriction on that tenant or homebuyer and will allow them to once again make payment via personal check.

F. **Partial Payments:** When tenant or homebuyer presents credible evidence clearly demonstrating an inability to make full payment beyond their control, CIHA in its sole discretion, may accept partial payment. Tenants and homebuyers are responsible for notifying CIHA prior to the first day of the month if they will be unable to make the full monthly payment when due and for requesting an informal resolution with the CIHA to make partial payments.

G. **Timetable for Notice of Payment Delinquency**

- (1) Keeping track of payments is the responsibility of each tenant. Payments are due without demand or notice. Failure to make timely payments will result in the assessment of additional fees and, where applicable, termination of the pertinent rental or homebuyer agreement. The notices to be sent out pursuant to this section are a courtesy by CIHA to inform the tenant that he or she is delinquent in a payment due. A failure by CIHA to send such a notice will not remove the delinquency or abate charges.
- (2) Notice of Payment Delinquency: If rents or homebuyer payments are not paid by the (10th) day of each month, the CIHA Compliance Department may send a Notice of Payment Delinquency to the tenant or homebuyer. This notice will contain the following information:
 - (a) The date of the notice.
 - (b) That he or she is in default in the payment of rent, include the amount that is owed to CIHA including other fees as assessed; and
 - (c) Statement of how much is owed the CIHA, including other fees as assessed, and that the failure to pay rent is grounds for termination of the lease or homebuyer agreement.
 - (d) That the tenant/homebuyer may be required to meet with the CIHA

Compliance Officer to attempt to work out a payback agreement for an account that is delinquent, provided, however, that the decision to enter (or not enter) into such an agreement is at the sole discretion of CIHA.

H. **Notice of Default & Termination:**

- (1) If rents or homebuyer payments are not paid by the **30th** day of each month, the CIHA will send a Notice of Default and Termination (“NDT”) to tenants or homebuyers.
- (2) The NDT shall contain substantially the following language:

CIHA hereby gives you notice that you are in default of your [Rental Agreement/MHOA] dated [insert date of agreement] for failure to make your required monthly payment, and that your [Rental Agreement/MHOA] will be terminated on [insert date of termination] if you have not made full payment of all amounts owed to CIHA or entered into a payback agreement acceptable to CIHA prior to that date. If you do not come into compliance you shall quit occupancy and surrender possession to CIHA of the dwelling unit now occupied by you at [here insert the address or other reasonable description of the location of the dwelling unit], on or before the [here insert the date – generally 31 days for renters, and 46 days for homebuyers (check the terms of the applicable Rental Agreement/MHOA)] for failure to comply with the requirement of making your monthly payment.

If there are additional reasons for termination, those additional reasons should also be included and described in the NDT, and the applicable timeline for termination adhered to.

- (3) **In addition**, the NDT should contain language informing the tenant or homebuyer of the following:

Within ten (10) days after receiving a copy of this Notice, you can request an informal meeting or conference with the Executive Director of CIHA or his or her designee. You can bring a spokesperson, attorney, or any representative on your behalf to attend this meeting and make a presentation or inquiry. If you desire this type of meeting with the Executive Director, you should request it as soon as possible. CIHA will make every effort to schedule this matter within seven (7) days after your request has been made. Please contact the undersigned or the Executive Director if you desire to schedule a meeting. Please note that requesting an informal meeting or conference will not stay any of the deadlines in this Notice.

You have the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination. Please contact [insert name] at the CIHA to make arrangements to examine these items if you desire to do so.

- (4) **In addition**, the NDT should contain the following information:

- (a) The date of the notice.
 - (b) The date the rent or homebuyer payment and other charges were due (if applicable).
 - (c) Statement of how much is owed the CIHA (if applicable).
- (5) **Service of NDT.** Per Chapter 9-3 Landlord Tenant Relations Code, the NDT must be served on the tenant or homebuyer in the following manner:
- (a) Delivery must be made by an adult person eighteen (18) years of age or older.
 - (b) Delivery will be effective when it is:
 - i. Personally delivered to a tenant with a copy delivered by certified mail, or
 - ii. Personally delivered to an adult living in the premises with a copy delivered by certified mail.
 - (c) If the notice cannot be given by means of personal delivery, or tenant cannot be found, the notice may be delivered by means of:
 - i. Securely taping a copy of the notice in a conspicuous place near the entrance to said premises in such a manner that it is not likely to blow away and in addition sending an additional copy to the tenant or occupier by certified mail return receipt requested, properly addressed to the last known address of the tenant or occupier, postage prepaid
 - (d) Proof of service by any of the above methods may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of this section.
- (6) **Note: Additional Requirements Specific to Particular Agreements.** Each of the CIHA program agreements (Rental Agreement, MHOA, or tax credit agreement) may have specific requirements as to how the Notice should be served and additional language required to be set out in such Notice. The CIHA Compliance staff will review the specific applicable program agreement and will follow the additional requirements set out therein.
- (7) **Notice to Vacate:** If the tenant or homebuyer does not come into compliance and does not vacate by the date set out in the Notice, CIHA shall serve the tenant or homebuyer with a Notice to Vacate, informing the tenant or homebuyer that he or she must vacate the premises and surrender possession to CIHA within seven (7) days, and that if he or she does not vacate CIHA will take appropriate legal action in the Tribal Court.

I. **Court Action.** If the tenant or homebuyer does not come into compliance or voluntarily

vacate the unit at the end of the time period set out in the Notice of Default & Termination. CIHA shall file a complaint in Tribal Court seeking eviction of the tenant or homebuyer, in compliance with Chapter 9-3 Landlord Tenant Relations Code.

- (1) After the filing of the complaint and related documents, and service of the summons and complaint on the homebuyer or tenant, CIHA may discuss settlement options with the homebuyer or tenant. CIHA will inform the court that a settlement has been reached if agreement has been made to resolve the outstanding amount. The CIHA will include the costs of any amounts included in the civil complaint and request for judgment in the settlement or arrangement. The settlement or arrangement shall include language that in the event the defendants breach the agreement, the case shall be automatically reopened and heard in Court for an immediate eviction.
- (2) CIHA reserves the right to seek resolution of the case and settlement prior to the court hearing and final ruling.
- (3) If CIHA succeeds in the court action, CIHA will seek an order requiring the homebuyer or tenant to pay CIHA's court costs and attorney fees.
- (4) All pertinent CIHA programs and/or staff will be notified to not accept a tenant payment in event CIHA succeeds in court action which may overrule eviction decision.

K. Debt Collection

- (1) The CIHA Compliance staff will, in accordance with the Colville Debt Set-Off Code, forward to the Tribal Comptroller, Tribal Enrollment Officer, and the chief financial officers of applicable tribal entities and enterprises, the names of all tenants and homebuyers who are indebted to CIHA to garnish, in accordance with the Code, the debtors' dividend payments, wages and salaries, or contract payments until the debt to CIHA is satisfied.
- (2) The CIHA Compliance staff will, as appropriate, docket and record all money judgments against tenants and homebuyers in the Tribal Court and all other appropriate jurisdictions, and may use all appropriate judgment enforcement means, including without limitation, wage garnishment orders, real and personal property liens and levies, and probate claims against the estate of a debtor to enforce money judgments against tenants and homebuyers.
- (3) If CIHA is unable to collect the debt of a tenant or homebuyer within five (5) years after the debt is incurred, CIHA will write off the uncollected debt as a loss and will no longer claim the debt as an asset of CIHA. CIHA will not, however, forgive such uncollected debts.