

**San Pasqual Band of Mission Indians**  
**San Pasqual Housing & Community Development**  
**Private Home Ownership Program Policies and Procedures Manual**

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**Lineal Descendant Policy**

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**I. Purpose**

- A. The purpose of this “Lineal Descendant Policy” (“Policy”) is to outline and establish guidance on transferring of dwellings to a successor within the Private Home Ownership Program (PHOP).
- B. Successorship can be through death of the owner or through a gift or sale.
- C. Successors shall comply with all PHOP requirements and/or Covenants, Conditions and Restrictions of the deed/title.

**II. Definition of Lineal Descendant**

- A. A lineal descendant, in legal usage, refers to a blood relative in the direct line of descent - the children, grandchildren, great-grandchildren, etc. of a person. In a legal procedure sense, lineal descent refers to the acquisition of estate by inheritance from grandfather to father, and father to son whereas collateral descent refers to the acquisition of estate or real property by inheritance from brother to brother, and cousin to cousin

**III. Qualifications for Transferring of Dwellings**

- A. Any PHOP dwelling may be conveyed to a direct descendant from family member to family member as long as the receiving family member is a direct descendant of the San Pasqual Band of Mission Indians.
- B. In order for a qualified PHOP dwelling to be conveyed in a divorce settlement to the wife or husband, the wife or husband must be a direct descendant of the San Pasqual Band of Mission Indians.
- C. In order for a qualified PHOP dwelling to be conveyed in a will, the receiving party must be a direct descendant of the San Pasqual Band of Mission Indians.
- D. In the event that the dwelling cannot be conveyed to a direct descendant of the San Pasqual Band of Mission Indians or family member of direct descendant of the San Pasqual Band of Mission Indians, then the dwelling will revert back to the SPH&CD in accordance with the deed/title.

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### IV. Administration of Transfer of Dwellings

- A. Prior to transferring the PHOP home to a direct decedent, the current owner or executor of the estate must notify the SPH&CD, in writing, 30 days prior to transfer.
- B. Once the SPH&CD receives the notice of intent to transfer, the SPH&CD will determine if the direct descendant is PHOP qualified or not within 60 days. The SPH&CD may request additional documentation of direct descent if necessary.
- C. Upon the determination is made that the transfer is in accordance with the deed/title, the SPH&CD will notify the direct descendant in writing via certified mail return receipt, of their options with retaining the dwelling.
- D. In the event the dwelling is relinquished to the SPH&CD by the direct decedent, the dwelling shall be placed back in the PHOP program. The transfer of the dwelling to a direct descent shall take place after all necessary legal documents are filed with the SPH&CD.
- E. During the transfer of the dwelling to a direct descent, the current PHOP owner or estate shall continue to make the monthly payment.

### V. Succession Upon Death

- A. **Definition of "Event."** The term "event" means the death of all of the persons who executed the Contract of Sales Agreement (CSA) as homebuyers.
- B. **Designation of Successor by Homebuyer.** Unless otherwise provided by the SPH&CD's occupancy policies, a homebuyer may designate a successor who, at the time of the "event," would assume the status of homebuyer, provided that at the time he or she meets the conditions stated in subsection C. The designation shall be made at the time of execution of the CSA, and the homebuyer may change the designation at any later time by written notice to the SPH&CD.
- C. **Succession by Persons Designated by the Homebuyer.** Upon occurrence of an "event," the person designated as the successor shall succeed to the former homebuyer's rights and responsibilities under the PHOP if the designated successor meets the following conditions:

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1. The successor is a family member (family member is any member of the family unit such as a spouse, natural child and will make the home his or her primary residence;
  2. The successor is willing and able to pay the Regular Monthly Payment and perform the obligations of a homebuyer under the PHOP;
  3. The successor satisfies program eligibility requirements; and
  4. The successor executes an assumption of the former homebuyer's obligations under the PHOP.
    - a. Married spouses at time of death who are not of Indian decent may live in the house for the remainder of their life, at which point it must be conveyed to a receiving family member of direct descendant of the San Pasqual Band of Mission Indians or it will revert back to the SPH&CD.
    - b. The spouse must maintain the dwelling in accordance with all PHOP requirements.
    - c. In the event the spouse remarries or cohabitates with a non-Indian decent, the spouse must convey the dwelling to a receiving family member of Indian decent or the SPH&CD.
    - d. In the event the spouse voluntarily leaves the dwelling, the dwelling will revert back to the SPH&CD.
- D. **Designation of Successor by SPH&CD.** If, at the time of the "event," there is no successor designated by the homebuyer or if any of the conditions in subsection C are not met by the successor, the SPH&CD may designate, in accordance with its occupancy policy, any persons who qualify under subsection C.
- E. **Occupancy by Appointed Guardian.** If, at the time of the "event," there is not a qualified successor designated by the homebuyer or by the SPH&CD in accordance with the foregoing subsections, and a minor child or children of the homebuyer are living in the home, the SPH&CD may, in order to protect their continued occupancy and opportunity for acquiring ownership of the home, approve as occupant of the home, an appropriate adult who has been appointed legal guardian of the children with a duty to perform the obligations of the PHOP in their interest and on their behalf.

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F. **Succession and Occupancy on Trust Land.** In the case of a home on trust land subject to restrictions on alienation under federal or state law (including federal trust or restricted land and land subject to trust or restriction under state law), a person who is prohibited by law from succeeding to the SPH&CD's interest on such land may, nevertheless, continue in occupancy with all the rights, obligations and benefits of the PHOP, modified to conform to the restrictions on succession to the land.

**VI. Termination in Absence of Qualified Successor.** If there is no qualified successor in accordance with the SPH&CD's approved policy, the SPH&CD shall terminate the CSA and select a subsequent homebuyer to occupy the unit under a new PHOP.