

TITLE 27. LAND ASSIGNMENT LAW

CHAPTER 1. PURPOSE, POLICY, DEFINITIONS

27 M.P.T.L. ch. 1 § 1

§ 1. Title

The title of this Law shall be the Land Assignment Law of the Mashantucket (Western) Pequot Tribe.

27 M.P.T.L. ch. 1 § 2

§ 2. Purpose

The purpose of this Land Assignment Law is to establish uniform policies and procedures for the Tribe's grant by Assignment to Eligible Tribal Members of certain rights to enjoyment, use, development, and transfer of certain specified lands located within the Mashantucket (Western) Pequot Reservation for residential purposes only. Further, the purpose of this Land Assignment Law is to define the rights so granted by the Tribe to Tribal Members with respect to Assignments including, but not limited to, the right to pledge a security interest in the same pursuant to the terms of a Loan Program.

27 M.P.T.L. ch. 1 § 3

§ 3. Tribal Residential Land Assignment Policy

It is hereby declared that the Land Assignment Policy of the Tribe shall be to retain and regain in trust status all lands as now or may in the future constitute "settlement lands" as that term is defined in the Mashantucket Pequot Indian Claims Settlement Act, 25 U.S.C. § 1752(4); that such settlement lands be under the exclusive jurisdiction and sovereign authority of the Tribe; and that all lands under the jurisdiction and sovereign authority of the Tribe be managed in such a way that preserves and protects the long term interests of the Tribe and its Tribal Members; that the grant of Assignments to individual Tribal Members and the vesting in such Tribal Members of certain limited rights of residential use and occupancy and of pledge and transfer as hereafter provided, will promote the interests of the Tribe and its Tribal Members.

27 M.P.T.L. ch. 1 § 4

§ 4. Definitions

In construing the provisions of this Land Assignment Law, the following words or phrases shall have the meanings designated unless a different meaning is expressly provided, or the context clearly indicates otherwise:

a. "Assignee" means an enrolled individual Tribal Member or enrolled Tribal Members to whom an Assignment is conveyed in accordance with the provisions of this Land Assignment Law.

b. "Assignment" means the real property located on the Reservation to which Assignment Rights are made appurtenant and vested in an Assignee pursuant to 27 M.P.T.L., Land Assignment Law expressly including the following:

- (1) any tract of land located within an Assignment Area described in, or delineated on, a Survey as suitable for the construction of a Dwelling; and
- (2) such tract of land so described or delineated together with any Dwelling now or hereafter located thereon; and
- (3) such other improvements as are now or hereafter made to such tract of land or to such Dwelling by an Assignee in accordance with Tribal Law for the benefit only of such Assignment.

c. "Assignment Area" means the Initial Assignment Area and that portion or those portions of the Reservation as the Tribal Council shall, from time to time, designate by resolution as subject to 27 M.P.T.L., Land Assignment Law.

d. "Assignment Conveyance" means the conveyance to an Assignee of an Assignment and the Assignment Rights appurtenant thereto.

e. "Assignment Mortgage" means a mortgage or other Instrument executed by an Assignee to the benefit of a Loan Program Lender, granting to such lender a security interest in an Assignment. Any mortgage or other Instrument purporting to grant a security interest in an Assignment or in a Dwelling that is not made pursuant to the terms of a Loan Program shall be deemed null, void and of no effect.

f. "Assignment Rights" means those rights appurtenant to an Assignment as specified in 27 M.P.T.L., ch. 2.

g. "Certificate of Assignment" means the written instrument by which an Assignment Conveyance is made.

h. "Certificate of Compliance" has the meaning as set forth in 27 M.P.T.L., ch. 5 § 5.

i. "Certificate of Conveyance" means any document issued by the DOH or the Tribe pursuant to Tribal Law and/or tribal custom which evidences that a named Tribal Member(s) has satisfied all financial obligations of such Tribal Member to the Tribe arising under an Occupancy Agreement and is therefore acknowledged by the Tribe to have certain rights to occupy the Dwelling, subject to any conditions and/or requirements of Tribal Law and custom. A Certificate of Conveyance shall not be deemed an Assignment Conveyance unless and until a Certificate of Assignment evidencing an Initial Assignment conveyance to an Assignee is Recorded.

j. "Department of Housing" or "DOH" means the Mashantucket Pequot Department of Housing, a department of the Tribe charged with the responsibility of administering this 27 M.P.T.L., Land Assignment Law pursuant to Chapter 1 § 3.

k. "Dwelling" means a house, apartment, condominium, mobile or manufactured home, or other residential unit as permitted by 14 M.P.T.L. Land Use Law and applicable Zoning Regulations, located in the Assignment Area. No residential unit located outside of the Assignment Area shall be considered a Dwelling for purposes of this Assignment Law.

l. "Eligible Tribal Member" has the meaning as set forth in 27 M.P.T.L. ch. 2 § 1.

m. "Good Standing" means not banished.

n. "Initial Assignment" means any Assignment Conveyance in which the Tribe is the grantor or assignor.

o. "Initial Assignment Area" means the geographic area denominated Tribal Housing Phase 7A as described in TCR030104-01 of 03.

p. "Instrument" means any writing or document evidencing or affecting:

- (1) The Assignment Rights of an Assignee in and to an Assignment including, but not limited to, a Certificate of Assignment and a license of such rights as permitted under 27 M.P.T.L., Land Assignment Law;
- (2) The rights of a Tribal Member in and to a Dwelling that is not an Assignment, including, but not limited to, an Occupancy Agreement and a Certificate of Conveyance;
- (3) The rights of a Loan Program Lender in and to an Assignment including, but not limited to, an Assignment Mortgage;
- (4) The rights of the Tribe in and to an Assignment or Dwelling.

q. "Loan Program" means any loan program, such as Housing and Urban Development ("HUD") Section 184 or Fannie Mae Loan Guarantee programs, as the same may be approved by resolution of the Tribal Council.

r. "Loan Program Lender" means any lender making a loan to an Assignee secured by an Assignment Mortgage, together with any permitted Assignee of, or successor to such lender as provided for by the terms of the Loan Program pursuant to which such loan is made.

s. "Occupancy Agreement" means a written agreement between the Tribe and a Tribal Member conferring rights to occupy a Dwelling pursuant to a housing Program. An Occupancy Agreement shall not be deemed an Assignment Conveyance unless and until a Certificate of Assignment evidencing an Initial Assignment conveyance to an Assignee is Recorded.

t. "Program" means any program heretofore established or authorized by the Tribal Council for the purpose of providing Tribal Members an opportunity to

occupy and enjoy a Dwelling and, pursuant to the terms of such Program, to qualify for a Certificate of Conveyance upon the discharge of certain financial and other obligations. Programs include, but are not limited to, the program known as the Alternative Housing Program or Lease with the Option to Purchase Program.

u. "Recording", "Record", and "Recorded" shall mean the act of recording an Instrument as a public document in accordance with 27 M.P.T.L, ch. 5.

v. "Reservation" means the Mashantucket (Western) Pequot Reservation, which shall include all lands held in trust by the United States of America for the benefit of the Mashantucket (Western) Pequot Tribe.

w. "Survey" means such maps, surveys, or other documentation defining and delineating an Assignment Area and the Assignments therein established as is certified and adopted by either the Tribal Council or the Housing Committee of the Tribal Council for purposes of this Land Assignment Law and duly Recorded.

x. "Tribal Clerk" refers to the Office of the Tribal Clerk of the Tribe.

y. "Tribal Council" or "Council" means the Mashantucket Pequot Tribal Council, the governing body of the Tribe.

z. "Tribal Court" means the courts established by the Laws of the Tribe.

aa. "Tribal Law" means all laws, resolutions, regulations, ordinances or other form of action by the Tribal Council, and such regulations and policies as are duly adopted by a department of the Tribe in accordance with Tribal Law.

bb. "Tribal Member" means an individual who is an enrolled member of the Tribe in good standing.

cc. "Tribe" means the Mashantucket (Western) Pequot Tribe as recognized by the United States of America and also known as the Mashantucket Pequot Tribal Nation.

CHAPTER 2. ASSIGNMENT

27 M.P.T.L. ch. 2 § 1

§ 1. Eligible Tribal Members

Initial Assignments may only be made to Eligible Tribal Members. An Eligible Tribal Member is a person who:

- a. Is an enrolled Tribal Member as defined in 27 M.P.T.L., ch. 1, § 4(bb);
- b. Is at least 18 years of age or, if below the age of 18, has a guardian or

conservator who has been appointed by the Tribal Court;

c. Does not currently have an interest in more than one (1) tribal home as determined by the DOH in accordance with Tribal Council Resolution;

d. Has not suffered the cancellation, forfeiture or termination of a prior Assignment Conveyance;

e. Has not suffered divestiture of Assignment rights previously granted arising out of the enforcement by a Loan Program Lender of its rights under an Assignment Mortgage; and

f. Is financially capable as determined by DOH.

27 M.P.T.L. ch. 2 § 2

§ 2. Rights Conveyed by Assignment Conveyance

a. The due execution, delivery, and Recording of a Certificate of Assignment shall vest in the Assignee therein named, the right to occupy and exercise dominion and control over the Assignment therein identified to the exclusion of the rights of other Tribal Members subject to the following:

- (1) The rights of the United States of America as fee title owner of the Reservation for the benefit of the Tribe;
- (2) The rights of the Tribe to assert its inherent police power with respect to Assignees, Assignments, Dwellings and the uses thereof including, but not limited to, the adoption of Tribal Laws relating to land use control, building codes, and similar Tribal Laws whether of general application to the Reservation or to portions of the Assignment Area;
- (3) The rights of the Tribe to tax Assignees, Assignments and/or Dwellings;
- (4) The rights of the Tribe to terminate an Assignment for cause pursuant to 27 M.P.T.L., ch. 3;
- (5) The rights of a Loan Program Lender arising under an Assignment Mortgage;
- (6) The rights of the Tribe for access over, under, into, and upon any Assignment or Dwelling as may be necessary for governmental activities of the Tribe including, but not limited to, the provision of utilities for the benefit of Tribal Members;
- (7) The rights of the Tribe in and to all timber, water, water courses, minerals, sand, gravel, and other natural resources located on the Reservation, which rights are reserved to the Tribe to be managed in accordance with Tribal Laws; and

- (8) The rights of the Tribe in and to all ceremonial, burial, and sacred grounds, as they may be identified by the Tribal Council from time to time.

The foregoing rights, as so limited, constitute "Assignment Rights" of an Assignee when conveyed by a Recorded Certificate of Assignment.

b. The Assignment Rights of an Assignee shall include the joint use and occupancy of the Assignment by the spouse and children or step-children of the Assignee, constituting the Assignee's immediate family, and such other persons as may from time to time be permitted by DOH. The joint use and occupancy of the Assignment by any non-Tribal Member or of any such other persons shall at all times be deemed derivative of the rights of the Assignee under the Assignment.

27 M.P.T.L. ch. 2 § 3

§ 3. Rights Conveyed by Assignment Mortgage

a. The due execution and delivery of an Assignment Mortgage by an Assignee shall vest in the Loan Program Lender therein named, a valid security interest in and to such Assignee's Assignment and Assignment Rights. The security interest thereby granted is enforceable in Tribal Court pursuant to the provisions of 25 M.P.T.L., Foreclosure and Eviction Law and in accordance with the terms of such Assignment Mortgage. Any term of an Assignment Mortgage shall be deemed void and not enforceable if it is:

- (1) Contrary to the terms and conditions of the Loan Program pursuant to which it is made; or
- (2) Contrary to the provision of any Tribal law in effect at the time the Assignment Mortgage was executed. The right of a Loan Program Lender arising under an Assignment Mortgage expressly constitutes a "Security Interest" as that term is defined in 25 M.P.T.L.

b. The security interest in an Assignment granted to a Loan Program Lender shall be perfected by Recording the Assignment Mortgage Instrument.

c. Any purported security interest granted in an Assignment or a Dwelling to the benefit of other than a Loan Program Lender pursuant to a Loan Program shall be deemed null, void, and of no effect.

27 M.P.T.L. ch. 2 § 4

§ 4. Conveyance of Assignment

An Assignee shall have the right to convey, grant, assign, transfer, pledge, or encumber the Assignee's Assignment only as follows:

a. Conveyance by an Assignee to another Eligible Tribal Member or Eligible Tribal Members of such Assignee's Assignment Rights in and to an Assignment,

whether for value received or by gift;

b. Conveyance of a deceased Assignee's Assignment to an Eligible Tribal Member or Eligible Tribal Members pursuant to the terms of such deceased Assignee's will as probated in the Tribal Courts or otherwise by operation of the intestacy laws of the Tribe as determined by the Tribal Courts;

c. Conveyance of a deceased Assignee's Assignment by will or intestacy to a Surviving Spouse to the extent permitted by 24 M.P.T.L., Probate Law, and 29 M.P.T.L., Non-Tribal Member Surviving Spouse Law;

d. In accordance with an order of the Tribal Court, conveyance of an Assignee's Assignment to a guardian or conservator for an Eligible Tribal Member or Eligible Tribal Members who are incapable or have not reached the age of majority;

e. Granting of a security interest in an Assignment to a Loan Program Lender pursuant to the terms of an Assignment Mortgage;

f. License or other grant by an Assignee to an Eligible Tribal Member or Eligible Tribal Members of less than all of such Assignee's Assignment Rights, including, but not limited to, rights to occupy an Assignment provided such license or other grant is evidenced by an Instrument countersigned by DOH indicating its approval and then Recorded prior to the date such grantee is entitled to exercise such rights.

Unless expressly permitted above or as otherwise may be permitted by Tribal Law, any purported conveyance, grant, assignment, transfer, pledge, or encumbrance of an Assignee's rights, arising under an Assignment Conveyance held by such Assignee, shall be null, void, and unenforceable. Upon Recording an Instrument evidencing a permitted conveyance of an Assignment, the Eligible Tribal Member to whom the Assignment is conveyed shall be the Assignee for all purposes of this Assignment Law.

Except as expressly permitted under this Law with respect to the rights of a Loan Program Lender, any purported Assignment to a corporation, limited liability company, limited partnership, or entity other than a natural person, whether the same is wholly owned or controlled by an Eligible Tribal Member or Eligible Tribal Members and whether or not the same is chartered or created under Tribal Law, shall be null, void and of no effect.

27 M.P.T.L. ch. 2 § 5

§ 5. General Provisions

a. The Scope of this Land Assignment Law. The provisions of this Land Assignment Law with respect to Assignments shall apply only to those areas of the Reservation described or delineated in a Survey and designated as an Assignment Area by resolution of Tribal Council. No Assignment relating to any portion of the Reservation not located within an Assignment Area shall be valid.

b. Limitations on Application. In no event shall the provisions of this Assignment Law be deemed to apply to the area of the Reservation designated as the Gaming Enterprise Site in 4 M.P.T.L. ch. 1, § 1(b) nor shall such area be designated as an Assignment Area.

c. Conflict. In the event of a conflict between the provisions of this 27 M.P.T.L., Land Assignment Law and the provisions of any other Tribal Laws affecting the subject matter hereof, the provisions of this Land Assignment Law shall control.

d. No Assignment Area shall by Resolution of the Tribal Council or otherwise lose its designation as such, it being the intent and purpose of this Law that such designation shall be of a continuing and perpetual nature.

e. The Tribal Court shall have exclusive jurisdiction over any matter, claim, or dispute arising out of, or in any way related to, an Assignment, a Dwelling, a Certificate of Assignment, an Occupancy Agreement, a Certificate of Conveyance or otherwise related in any way to the rights and obligations of any person relative to an Assignment or a Dwelling; and

f. The Tribal Court shall have the authority to direct the use of an Assignment and occupancy of a Dwelling by other than the Assignee to the extent necessary for the enforcement of Tribal Law in harmony with the purposes and intent of 27 M.P.T.L., Land Assignment Law.

CHAPTER 3. ENFORCEMENT; TERMINATION OF ASSIGNMENT

27 M.P.T.L. ch. 3 § 1

§ 1. Enforcement of Assignee's Obligations by the Tribe

a. The Tribe, acting directly, or by or through the DOH, may seek in Tribal Court the enforcement of any provision of this Land Assignment Law and enforcement of the terms of any Instrument in which the Tribe has an interest including, but not limited to, a Certificate of Assignment. The foregoing notwithstanding, unless pursuant to the rights of the Tribe arising under the terms of any Loan Program pursuant to which an Assignment Mortgage is made, only the Loan Program Lender or permitted successor or assignee of a Loan Program Lender shall be entitled to enforce its security interest arising under an Assignment Mortgage.

b. The Tribal Court shall have jurisdiction and authority to hear and adjudicate any enforcement action brought pursuant to this Section.

c. The Tribal Court shall specifically be authorized to award monetary damages and to impose such equitable orders as the Tribal Court may deem necessary for the enforcement of Tribal Law in harmony with the purposes and intent of this 27 M.P.T.L., Land Assignment Law.

d. Prior to the commencement of an enforcement action, DOH must provide written

notice to the Assignee of any violation and provide a period of not less than 150 and not more than 180 days to cure the violation or violations. If the violation is not cured within the time period stated in such written notice, then the Tribe may commence an enforcement action seeking such remedies as DOH may request. The election by DOH to seek any one or more than one remedy in an enforcement action shall not preclude the Tribe from pursuing any other remedy allowed by Tribal Law including, but not limited to, the termination of an Assignment in accordance with Section 2 of this Chapter.

e. A copy of any notice required under subsection (d) of this Section also shall be sent to any Loan Program Lender or permitted successor or assign as then holds of Record a security interest in the Assignee's Assignment.

27 M.P.T.L. ch. 3 § 2

§ 2. Termination of Assignment Rights by the Tribe

a. In addition to the rights set forth in Section 1 above, and subject to the provisions of this Chapter, the Tribe shall have the right, but not the obligation, to terminate the Assignment Rights of any Assignee upon a determination by the Tribal Council of good cause shown as that term is defined in subsection (b) of this Section.

b. The following shall constitute good cause for the termination and divestiture of the Assignment Rights of an Assignee in and to an Assignment:

- (1) An attempt by an Assignee to convey, assign, pledge, mortgage or otherwise transfer Assignee's interest in an Assignment except as expressly provided for in this Land Assignment Law;
- (2) The failure of any Assignee to use and occupy a Dwelling located on an Assignment as such Assignee's principal place of residence for six or more months in any calendar year, for more than two consecutive calendar years, without written approval of DOH;
- (3) The banishment and/or exclusion of an Assignee from the Tribe and from the Reservation under Tribal Law and custom;
- (4) The failure of Assignee to materially abide by Tribal Law as it relates to Assignments, Dwellings, and the public health and safety of persons occupying Assignments or Dwellings; and
- (5) The failure of an Assignee to commence and/or complete construction of a Dwelling within the time periods provided in ch. 6, §6 of this Land Assignment Law.

27 M.P.T.L. ch. 3 § 3

§ 3. Procedure for Termination

With the exception of terminations pursuant to ch. 3, §2(b)(5), the Tribe shall

exercise its rights to terminate Assignment Rights only in accordance with the following procedure:

a. DOH shall give written notice to the Assignee of the violations constituting good cause for termination of Assignment Rights and DOH's intent to seek termination of Assignment Rights, which notice shall contain:

- (1) The action(s) that must be taken by the Assignee to effect a cure in order to avoid the termination, provided a cure is practicable given the stated grounds for termination and the time allowed for such cure pursuant to subsection (b), below, or a statement that no cure period shall be afforded the Assignee if DOH determines a cure is not practicable given the stated grounds for termination;
- (2) The specific good cause reason for the intended termination;
- (3) The date on which the termination is proposed to be effective and a summary of the consequences of such termination;
- (4) The name, phone number, and address of the person or persons in the Tribe or DOH that may be contacted for further information concerning the termination; and
- (5) A statement certifying that a copy of this notice has been sent by DOH to any Loan Program Lender who has a security interest in the Assignment affected by notice of intent to seek termination.

b. Provided DOH reasonably concludes a cure is practicable given the stated grounds for termination, DOH shall allow the Assignee a period of not less than 150 days and not more than 180 days to cure or otherwise remedy the condition or conditions constituting the stated grounds for termination.

c. If the cure period so noticed to the Assignee has expired, and the Assignee has not cured the violations supporting the good cause reason for termination, then DOH may request, in writing, that Tribal Council terminate Assignment Rights. Such a request to Tribal Council shall include a detailed description of the violations supporting the good cause reason for termination, the date the notice of such violation was sent to the Assignee, and the cost to the Tribe of such termination including any amounts due the Loan Program Lender and the Assignee, if any, as provided for in Section 4 of this Chapter.

d. The Tribal Council shall review and act upon all requests to terminate Assignment Rights filed with the Tribal Council within 90 days of such filing. In the exercise of its sole discretion, Tribal Council may by resolution terminate an Assignment Conveyance provided such resolution also authorizes the expenditure of any monies reasonably determined by the Tribal Council to be payable to any Loan Program Lender with an interest in such Assignment or to the Assignee subject to termination, if any, all as provided for in Section 4 of this Chapter. If Tribal Council fails to so terminate said Assignment Rights within the time provided for in this subsection (d), whether by affirmative act or by failure to act for any reason, such Assignment shall not be terminated.

e. As to a termination of an Assignment pursuant to ch. 3, §2(b)(5) of this

Land Assignment Law, the Housing Committee is authorized to terminate a Land Assignment upon recommendation of the DOH for failure to commence construction of a Dwelling as provided in ch.3, §2 (b)(5); provided that the DOH must provide written notice to the Assignee of its intent to seek termination and an opportunity for the Assignee to be heard by the Housing Committee prior to termination, if requested by the Assignee.

27 M.P.T.L. ch. 3 § 4

§ 4. Payment in Compensation for Termination

As the termination of Assignment Rights is an extraordinary remedy and constitutes a forfeiture and taking of a property right, the Tribe shall not terminate an Assignment with a Dwelling pursuant to the terms of this Chapter unless the Tribe pays to, or on account of, the Assignee so terminated the following sums, only:

a. The Tribe shall pay to any Loan Program Lender, or permitted successor or assign of a Loan Program Lender, all then unpaid sums secured by an Assignment Mortgage of Record encumbering such Assignment. For purposes of this Chapter, such holder of an Assignment Mortgage shall not be entitled to collect from the Tribe any extraordinary sum, fee, or penalty otherwise due by virtue of prepayment as a condition to releasing the lien of such Assignment Mortgage.

b. If the value of any improvements made to the Assignment, including any Dwelling thereon located, exceeds the sums due a Loan Program Lender pursuant to subsection (a) of this Section, the Tribe shall timely pay the Assignee such excess. If the value of such improvements are less than or equal to such sums due a Loan Program Lender, then the Assignee shall receive no direct compensation as a consequence of such termination.

c. If the Assignment is not encumbered by an Assignment Mortgage of Record, the Tribe shall pay the Assignee the full value of the improvements to the Assignment.

d. Any compensation as may be due directly to an Assignee pursuant to this Section shall be subject to the right of set off exercisable by the Tribe for sums due the Tribe by such terminated Assignee.

e. For purposes of this Section, the value of any improvements made to an Assignment shall mean the fair market value of all improvements made to such Assignment as of the date Notice is given pursuant to Section 3(a) above, including any Dwelling thereon located but excluding any value of the land component of the Assignment, as determined in accordance with the valuation procedure set forth in subsection (f) of this Section.

f. The sales price shall be determined by an appraisal process as follows:

- (1) At its cost, DOH shall engage two appraisers licensed in the State of Connecticut to provide written appraisals of the value of the improvements to the assignment subject to the termination process;

- (2) To the maximum extent each appraiser shall determine is appropriate, comparables used in calculating value shall be derived from the values of improvements located on the Reservation. If in the exercise of any appraiser's professional judgment the use of such comparables are not warranted, the appraiser may use comparable sales information from real estate transfers occurring outside the Reservation. If in the exercise of any appraiser's professional judgment the use of comparables is not warranted, the appraiser shall use such other basis for determining value as the appraiser may deem appropriate; and
- (3) The value shall be the average of the value determinations set forth in the appraisal reports of the two appraisers, provided the values so found by the appraisers do not vary more than 15%. If variance exceeds 15% DOH, at its cost shall engage a third appraiser to prepare a third appraisal report. In that event, the value shall be the average of the value determinations set forth in the two appraisal reports as finding the most nearly equivalent values and the value set forth in the most divergent appraisal report shall be disregarded.

g. Nothing contained in this Section shall preclude the Tribe from offsetting against any sum due the Assignee the amount of any obligation of such Assignee to the Tribe, whether or not such obligation has matured or is otherwise then due and payable to the Tribe. In no event shall the Tribe be entitled to so offset against any sum payable pursuant to subsection (d) of this Section.

CHAPTER 4. DELEGATION TO THE MASHANTUCKET DEPARTMENT OF HOUSING (DOH)

27 M.P.T.L. ch. 4 § 1

§ 1. Application of Land Assignment Law

a. The DOH is hereby authorized to oversee and administer the application of 27 M.P.T.L., Land Assignment Law, and, in addition to Tribal Council Officers, to execute, on behalf of the Tribe, Assignment Conveyances to Eligible Tribal Members in accordance with this Law.

b. The DOH shall have primary enforcement powers under this Land Assignment Law and it is authorized to initiate and/or perform all necessary actions under this Land Assignment Law including, but not limited to:

- (1) The acceptance of applications for Assignments;
- (2) The determination of Eligible Tribal Members for Assignments;
- (3) The determination of Tribal Member priority for the issuance of Assignments;
- (4) The determination and issuance of corrective actions to address deficiencies in Assignments;

(5) The issuance of notices of violations of the laws, regulations, and/or rules governing Assignments and Dwellings; and

(6) The issuance of notices of intent to terminate an Assignment Conveyance, and the filing of any and all documents to request such a termination by Tribal Council or the Housing Committee, as the case may be.

c. The DOH, together with the Office of Legal Counsel, shall have the responsibility and authority to represent the Tribe in actions before the Tribal Court concerning 27 M.P.T.L., Land Assignment Law.

27 M.P.T.L. ch. 4 § 2

§ 2. Develop, Promulgate, and Enforce Regulations

As the Tribal Council shall from time to time authorize and direct, the DOH shall develop, adopt, and promulgate such regulations as DOH determines are needed for the orderly operation of the DOH and the administration of this Land Assignment Law. DOH is expressly delegated enforcement authority with respect to the same.

CHAPTER 5. RECORDING

27 M.P.T.L. ch. 5 § 1

§ 1. Applicability

Any Instrument evidencing any interest in an Assignment or a Dwelling shall be recorded as provided by this Chapter.

27 M.P.T.L. ch. 5 § 2

§ 2. Effect of Recording

An Instrument affecting a Dwelling and/or an Assignment in accordance with this Land Assignment Law shall be notice to all persons and entities of the existence of the transaction or transfer, and of any rights, interests, or liabilities created thereby.

27 M.P.T.L. ch. 5 § 3

§ 3. Priority

Any Instrument affecting any interest in an Assignment or Dwelling recorded in accordance with this Land Assignment Law shall be presumed to have priority over any instrument, lien, or claim not recorded at the time of such recording.

a. No Occupancy Agreement or Certificate of Conveyance executed by or on behalf of the Tribe prior to the enactment of this Land Assignment Law shall be rendered invalid or unenforceable for failure to Record, provided record of its execution is on file in the records of DOH.

b. Any unrecorded Instrument shall be presumed to have priority over any unrecorded Instrument executed thereafter. Any unrecorded Instrument executed by or on behalf of the Tribe shall be presumed to be dated as of the date so executed by the Tribe.

27 M.P.T.L. ch. 5 § 4

§ 4. Recording Process

The Tribal Clerk shall maintain a permanent record of each transaction affecting Reservation lands, including but not limited to, any actions affecting interests in Assignments and Dwellings in accordance with the following:

a. The Tribal Clerk shall perform the Recording functions under this Land Assignment Law.

b. The Tribal Clerk shall maintain, within its own system of records, a system for the Recording of Instruments and, as may be directed by Tribal Council, other documentation relating to the lands comprising the Reservation.

c. The Tribal Clerk shall Record Instruments only upon the production of a Certificate of Compliance at the time of recording, which Certificate of Compliance shall be recorded immediately prior to the Instrument to be Recorded.

d. The Tribal Clerk shall endorse the following upon any Instrument received for Recording under this Land Assignment Law:

(1) The date and time of receipt of the Instrument;

(2) The filing number, to be assigned by the recording agent, which shall be a unique number for each Instrument; and

(3) The name of the individual recording agent or other employee of the Tribal Clerk receiving the Instrument for Recording.

e. Upon completion of the above endorsements, the Tribal Clerk shall make a true and correct copy of the Instrument, shall notarize such copy as being a true and correct copy of the original, shall maintain such copy of the Instrument in the Records of the Recording system, and shall return the original of the Instrument to the person that presented the same for recording.

f. The Tribal Clerk shall maintain a Log of each Recorded Instrument, in which there shall be entered:

(1) The name of the grantor of each Instrument, identified as such;

- (2) The name of the grantee of each Instrument, identified as such;
- (3) The date and time of receipt of the Instrument by the Tribal Clerk;
- (4) The filing number assigned by the Tribal Clerk;
- (5) The name of the individual in the Tribal Clerk's Office receiving the Instrument;
- (6) A description of the Reservation Land, Assignment, or Dwelling which is the subject of the Instrument;
- (7) A description of the transaction described by the Instrument; and
- (8) A notation that the Certificate of Compliance has been tendered.

g. The Tribal Clerk shall further establish and maintain an up to date Index of all Instruments recorded by reference to the identification of the Assignment or Dwelling to which it relates, both by Survey designation and by street address.

h. The Index, the Log and the Instruments or copies of the Instruments duly recorded shall be made available for inspection during the Tribal Clerk's regular business hours by Registered Persons in accordance with such reasonable rules as the Tribal Clerk may from time to time adopt. For purposes of this section, a "Registered Person" is a natural person whose name is entered upon a registry created and updated by the Office of Legal Counsel for use by the Tribal Clerk in ascertaining natural persons who have a legitimate need for accessing the Tribal Land Records. The Office of Legal Counsel shall include on such registry the following natural persons as of right:

- (1) any Tribal Member;
- (2) any employee of the Office of Legal Counsel;
- (3) any person as may be designated by a member of the Tribal Council;
- (4) any person as may be designated as an authorized representative of a Loan Program Lender;
- (5) not more than three persons as may be designated as authorized representatives of a title insurance company that is licensed to do business in the state of Connecticut and requires access to service one or more Loan Program Lenders; and
- (6) any person who is so empowered by an order of the Tribal Court.

The Tribal Clerk shall be entitled to rely on the registry for purposes of determining who is a Registered Person. Subject to subsection (j) of this section, the Tribal Clerk shall provide Registered Persons with copies and shall upon request certify the same as true and accurate.

i. In lieu of presenting an original Instrument for Recording, any person or

entity may present a copy of the same upon which there is an original certification of the DOH Director stating that the copy is a true and accurate copy of the original Instrument and that the original document is lost or otherwise unavailable and the reason thereof.

j. The Tribal Clerk may from time to time establish reasonable Recording fees, copying fees, and fees for the certification of any Instrument Recorded under the recording system established under this Land Assignment Law.

27 M.P.T.L. ch. 5 § 5

§ 5. Certificate of Compliance

Each Instrument submitted for Recording shall be accompanied by a Certificate of Compliance issued by the Tribe's Office of Legal Counsel or such other instrumentality of the Tribe as the Tribal Council may from time to time direct. The issuing party shall issue said Certificate upon an investigation and determination that the form and content of the Instrument to be recorded complies with the requirements of this Land Assignment Law. No Instrument may be recorded by the Tribal Clerk unless the Instrument is accompanied by a valid Certificate of Compliance.

CHAPTER 6. INITIAL ASSIGNMENT AREA; ADDITIONAL ASSIGNMENT AREAS

27 M.P.T.L. ch. 6 § 1

§ 1. Scope of this Chapter

The provisions of this Chapter apply only to the Initial Assignment Area and such additional Assignment Areas, or portions of additional Assignment Areas, as are then not improved by Dwellings. The provisions of this Chapter shall not apply to any portion of an Assignment Area to the extent that at the time of its designation as an Assignment Area by Tribal Council, the same is improved by a Dwelling then subject to an Occupancy Agreement or Certificate of Conveyance. By the enactment of this Land Assignment Law, the Tribal Council ratifies the designation of the Initial Assignment Area and the Survey of the same, and by this ratification of the Survey of the Initial Assignment Area, the size, location, and configuration of each Assignment therein located.

27 M.P.T.L. ch. 6 § 2

§ 2. Eligibility for Assignments

With respect to such Assignment Areas only, and the initial Assignment of Dwellings to Tribal Members by the Tribe, DOH shall determine which Eligible Tribal Members, as that term is defined in 27 M.P.T.L. ch. 2, shall receive an Assignment in accordance with the provisions of this Chapter.

27 M.P.T.L. ch. 6 § 3

§ 3. Initial Qualification

To be considered for an Assignment, the applicant must be an Eligible Tribal Member, as defined in 27 M.P.T.L. ch. 2, and make application to DOH in the manner prescribed by DOH and approved by Tribal Council.

27 M.P.T.L. ch. 6 § 4

§ 4. Prioritization of Assignments

The applications for Assignment ("Applications") shall be processed and prioritized by DOH in the following manner:

a. DOH shall be responsible for accepting and processing all Applications for Assignments.

b. In the event that the Tribal Council sets an Application Period, then the DOH shall review Applications made during this period (the "Application Period") and shall not consider Applications not made during the Application Period.

c. Only Applications made by Eligible Tribal Members shall be considered.

d. Only Applications that set forth all the information required by DOH shall be considered.

e. DOH shall notify any applicant within 20 calendar days of receipt of a timely Application if the Application is deficient in any way. Any applicant notified of deficiencies in his or her Application must resubmit a corrected Application prior to close of the Application Period, if applicable.

f. In the event that Tribal Council sets an Application Period, and if there are multiple applications, then at the end of the Application Period, DOH shall draw by lottery the names of those Eligible Tribal Members who have complied with the subsections (b), (c) and (d) of this Section and shall establish a priority list for selection of Dwellings. DOH shall, within 30 calendar days thereafter, permit selection of Dwellings within the applicable Assignment Area in the order of priority established by the lottery. The qualification of prospective Assignees and the prioritization and selection of Dwellings by the DOH shall be final and binding.

g. In the event there is no Application Period, Assignments shall be considered in the order in which a completed Application is received by DOH.

h. As the foregoing relates to the Initial Assignment Area only, the process of selecting initial prospective Assignees and initial Assignments is hereby ratified as complete and in full compliance for purposes of this Section.

27 M.P.T.L. ch. 6 § 5

§ 5. Issuance of Certificates of Assignment

Upon completion of the process described above in Section 27 M.P.T.L. ch. 6, § 4, a Tribal Council Officer, or DOH shall execute and cause to be Recorded, Certificates of Land Assignment identifying the Assignment and naming each respective successful applicant as Assignee.

27 M.P.T.L. ch. 6 § 6

§ 6. Construction Period Requirements

As the judicious allocation of scarce Dwellings on the Reservation is an underlying purpose of this Land Assignment Law, the following requirements shall apply to Assignees receiving an Assignment:

a. An Assignee shall have two (2) years from the date of the Recording of the Certificate of Assignment to commence construction of a Dwelling in accordance with all applicable Tribal Laws. Failure to commence construction within this timeframe may result in termination of the Land Assignment. For this reason only, the Assignment can be terminated by the Housing Committee upon the recommendation of the DOH in accordance with ch. 3, §3(e) of this Land Assignment Law.

b. Assignee shall have completed construction of such Dwelling within five (5) years of the date of the Recording of the Assignment. The DOH may issue extensions for up to an additional six (6) months for completion upon a showing of good cause.

c. The failure of Assignee to install an appropriate foundation in accordance with Tribal Law shall be deemed conclusive evidence of a violation of subsection (a) of this Section for purposes of the application of Chapter 3 of this Land Assignment Law.

d. The failure of Assignee to timely obtain a Certificate of Completion from the Tribe's Land Use Commission that such Dwelling complies with applicable Tribal Laws and is fit for human habitation shall create a presumption of the Assignee's violation of subsection (b) of this Section for purposes of the application of Chapter 3 of this Assignment Law.

27 M.P.T.L. ch. 6 § 7

§ 7. Authority of DOH to Amend Survey

DOH is hereby granted the authority to Record an amended Survey, to make minor adjustments to a Survey, and therefore the Assignments thereby evidenced, for the limited purpose of correcting errors, mistakes, inconsistencies, or omissions provided that such adjustments do not materially change the benefits conferred by a Certificate of Assignment then of Record.

27 M.P.T.L. ch. 6 § 8

§ 8. Conversion of Certificates of Conveyance

All rights arising under any Certificate of Conveyance duly issued pursuant to any Home Program shall be convertible by DOH into an Assignment upon declaration by the Tribal Council that the portion of the Reservation in which the Dwelling therein described is located has been made an Assignment Area pursuant to Tribal Council's adoption and approval of a Survey relative to the same. All rights arising under a Certificate of Conveyance pursuant to applicable Tribal Laws, regulations, or custom shall be deemed extinguished upon the Recording of a Certificate of Assignment by DOH to the benefit of the holder of such Certificate of Conveyance and thenceforth the provisions of this Assignment Law shall exclusively control and determine the rights of the Tribal Member in and to the Dwelling as described in both the superseded Certificate of Conveyance and in such superseding Certificate of Assignment.

27 M.P.T.L. ch. 6 § 9

§ 9. Conversion of Rights Held under an Occupancy Agreement

All rights arising under any Occupancy Agreement duly entered into pursuant to any Home Program shall be convertible by DOH into an Assignment upon declaration by the Tribal Council that the portion of the Reservation in which the Dwelling therein described is located has been made an Assignment Area pursuant to Tribal Council's adoption and approval of a Survey relative to the same provided that at the time of such conversion, all obligations then outstanding to the Tribe arising under the Occupancy Agreement are satisfied in full. Upon such satisfaction and the mutual release of the Occupancy Agreement by the Tribal Member and DOH, all rights arising under the same pursuant to applicable Tribal Laws, regulations, or custom shall be deemed extinguished upon the recording of a Certificate of Assignment by DOH to the benefit of the Tribal Member who is a party to the same and thenceforth the provisions of this Assignment Law shall exclusively control and determine the rights of the Tribal Member in and to the Dwelling as described in both the superseded Occupancy Agreement and in such superseding Certificate of Assignment.

CHAPTER 7. OTHER PROVISIONS

27 M.P.T.L. ch. 7 § 1

§ 1. Discovery of Items of Archeological Interest

It is the policy of the Tribe to investigate and, to the extent determined by the Tribal Historical Preservation Officer ("THPO"), preserve archeological and historical resources of the Tribe located on the Reservation. Accordingly, if in the course of construction or improvements to a Dwelling, archeological or historical resources are discovered, Assignee shall immediately stop all construction activity and notify the THPO and DOH of such discovery.

a. Upon receipt of such notification, the THPO shall timely cause such resources to be evaluated by a qualified archaeologist in order to assess the

interest of the Tribe and to develop mitigation and/or preservation recommendations and strategies. The THPO shall timely notify the Assignee and DOH of such recommendations and strategies.

b. The Assignee shall comply with such recommendations and strategies made by the THPO unless Assignee objects to the same in writing to the THPO and DOH within 30 calendar days of such notice.

c. If within 30 calendar days of such objection, the THPO, the Assignee, and DOH do not agree to mutually acceptable mitigation and/or preservation strategies to be implemented, then the Assignee may demand reimbursement of any cost and expense reasonably incurred by Assignee prior to the stoppage of construction activity on the basis that the recommendations and strategies of the THPO impose such limitations on Assignee that the improvements then under construction are incapable of completion for the purpose intended in a commercially unreasonable manner.

d. With respect to such discoveries in the course of construction relative to a Dwelling subject to 27 M.P.T.L. ch. 6, only, the following shall apply:

- (1) To the extent determined by DOH to be feasible DOH shall propose to the Tribal Council an adjustment to the Survey delineating the Dwelling to limit or eliminate the need for mitigation or preservation;
- (2) If DOH determines such adjustment is not feasible, or if Assignee objects to such adjustment, or the Tribal Council fails to so adjust the Survey, then DOH shall offer the Assignee the opportunity to relinquish to the Tribe the Assignment then in effect and to issue a new Assignment relative to a different Dwelling.
- (3) If the Assignment is so relinquished, whether or not a new Assignment is issued, the Tribe shall timely reimburse in full any Loan Program Lender holding an Assignment Mortgage on such Dwelling for sums advanced relating in a commercially reasonable manner to Dwelling construction and shall further reimburse Assignee for the reasonable cost of any improvements made to the Dwelling prior to the stoppage of work on improvements in accordance with this Section.

27 M.P.T.L. ch. 7 § 2

§ 2. Damage to a Dwelling Caused by the Tribe

a. Cause of Action. Any Assignee who believes that his or her Dwelling has suffered damage by the actions, or the failure to act, of the Tribe in exercising its reserved rights under 27 M.P.T.L. ch. 2, § 2(a)(6) through 27 M.P.T.L. ch. 2, § 2(a)(8), inclusive, may submit a claim to DOH specifying the nature of the damage, the actual and direct monetary loss suffered by such Assignee as a result of such damage, and the actions or failures to act causing such damage. The DOH, after due examination and evaluation of such claim, shall notify the claimant Assignee within 60 calendar days from the date of filing of the claim of the amount, if any, the Tribe will pay such Assignee for

the claimed damage. In evaluating such claims, the Tribe reserves the right to offset any monies owed to the Tribe by the Assignee against the amount claimed. Any Assignee who is in disagreement with the amount offered by the Tribe may bring an action against the Tribe in Tribal Court. In no event shall the Tribe be responsible for consequential damages.

b. Grant of Jurisdiction. The Tribal Court is hereby granted jurisdiction to adjudicate those causes of action brought pursuant to this Section.

CHAPTER 8. GENERAL

27 M.P.T.L. ch. 8 § 1

§ 1. Construction

Except with respect to Tribal Members or as otherwise expressly provided for in 27 M.P.T.L. or in Tribal Law, 27 M.P.T.L. shall not be construed to grant or establish any rights in any Reservation resources, property, or assets that may be held for the benefit of the Tribe or any individual member of the Tribe. Nothing in 27 M.P.T.L. shall be construed as establishing any individual rights of any Tribal Member beyond those recognized by Tribal Law. Nothing in 27 M.P.T.L. shall be construed as establishing any rights of any Loan Program Lender beyond those recognized by Tribal Law. Nothing in this Assignment Law shall be construed as establishing jurisdiction in any agency or government that is not recognized by Tribal Law.

27 M.P.T.L. ch. 8 § 2

§ 2. Severability

If any part of 27 M.P.T.L. is held to be invalid the remainder shall remain to be in full force and effect to the maximum extent possible.

27 M.P.T.L. ch. 8 § 3

§ 3. Insurance

Any person holding an Assignment who constructs a home on the Assignment shall be required to insure the home for its replacement value.

Historical & Statutory Notes

Derivation.

Effective July 11, 2005, TCR071105-14 of 25 enacted the 27 M.P.T.L, the Land Assignment Law

Amendments.

Effective September 4, 2014 TCR090414-07 of 09 amends 27 M.P.T.L § 4 so that the definition of the term "Dwelling" is modified to include Mobile Homes and amends Chapter 6 § 6 of 27 M.P.T.L. to be consistent with Land Use Zoning Regulations Effective June 7, 2001, TCR060701-04 amended ch. 3 §d(b) to add an additional member to the Land Use Commission.

Effective October 27, 2004, TCR102704-02 added Chapter 13, "Land Use Regulatory Standard for New Housing Projects."

Effective April 28, 2006, TCR042806-01 of 01 added Chapter 15, "New Home Construction Contractors".

Effective September 4, 2014, TCR090414-07 of 09 amended 27 M.P.T.L making amendments to ch. 1 §4 and to ch. 6 §6 to make 27 M.P.T.L., Land Assignment Law consistent with revisions to the MPTN Zoning Regulations with respect to mobile homes and the time period to construct a new home.

Effective June 8, 2016, TCR060816-02 of 04 amended 27 M.P.T.L. to allow Tribal Members to have two (2) Land Assignments provided that they do not have an interest in another tribal home, and to add reference to 29 M.P.T.L. Non-Tribal Surviving Spouse law in 27 M.P.T.L ch. 2 §4(a).

Effective November 2, 2017, TCR110217-01 of 07 amended 27 M.P.T.L. to clarify the procedures to be followed in issuing Land Assignments and amended to allow the Tribal Historic Preservation Officer to be the contact when there are discoveries of archeological and historical interest, amended the definition of the term "good standing" to be defined as, "not banished" and authorizes the Housing Committee to terminate Land Assignments when Assignees fail to commence construction.