



Critical Path for Enforcing Housing Covenant Breaches

PURPOSE

The purpose of this Education Brief is to provide a Critical Path for consistency and awareness on how Whistler Housing Authority will respond to and enforce Employee Housing Covenant breaches.

BACKGROUND

The Whistler Housing Authority (WHA) oversees the Employee Housing Program on behalf of the Resort Municipality of Whistler (RMOW). There are over 2,350 Employee Housing Units that are restricted exclusively for Whistler's workforce. Different types of Employee Housing units include: WHA Rental and Ownership properties; employee restricted rentals owned by private businesses; properties with occupancy restrictions; employee restricted suites; and infill housing. Throughout the 25+ years of Whistler's Employee Housing Program there have been different iterations of the Employee Housing Covenants and Leaseholder Agreements registered on title of the properties that dictate how the Employee Housing units may be occupied, utilized and for some properties restrict the maximum rental and resale rates allowed.

Periodically, the WHA is notified that there may be misuse of one of the Employee Housing units. The following Critical Path outlines the steps that WHA staff will take to follow-up and endeavor to resolve any suspected breaches of Employee Housing Covenants. Some of the actions taken will involve collaboration with the RMOW to ensure a successful resolution and protection of Whistler's Employee Housing inventory in perpetuity.

CRITICAL PATH

1. The WHA may be notified of a suspected breach of the covenant of an Employee Housing unit by a community member via a confidential link on the WHA website, by phone, email, or in person. Examples of suspected breaches may be related to the rental rate being charged, occupancy of the unit, whether the owner is using the unit as their primary residence, or whether the owner and occupants are working in Whistler, etc.
2. The WHA acknowledges and thanks the person reporting the potential breach for communicating their concern and care for the integrity of the Employee Housing Program. Due to privacy considerations specific information about the investigation may not be able to be shared with the person reporting the suspected breach.
3. Investigation into the reported breach is started by the WHA researching the requirements of the Housing Covenant for the property of the suspected breach to determine the specific requirements and restrictions that are applicable for the identified Employee Housing unit. These requirements and restrictions are diverse and distinct across the Employee Housing inventory.
4. The property file will also be checked to see if there is any additional information relevant to the situation. Contact information for the owner may be available in the property file and can be cross-referenced with mailing addresses on file from the RMOW's tax roll.

5. If there is a discrepancy between what has been reported as a suspected breach and what is allowed within the Housing Covenant, the owner is contacted by WHA staff in writing (email or letter) and notified of the concern. The property owner is provided with information about the requirements of the Housing Covenant registered for the property. The first point of contact is generally from the position of the WHA providing the owner with specific information and education about their Employee Housing unit.
6. Statutory Occupancy Declarations are one type of reporting tool utilized in the Employee Housing Program to ensure the Employee Housing units are being used in compliance with the obligations set out in the Housing Covenants. If a breach has been suspected, WHA staff will request a Statutory Occupancy Declaration to be completed by the property owner to confirm how the owner has declared the occupancy and use of the property, currently and in prior year(s). Additional documents such as tenancy agreements, government issued ID, verification of employment letters etc. may be requested in conjunction with the Statutory Declaration. The older Housing Covenants in the Employee Housing Program have a clause stating that Statutory Declarations can be requested up to four times per year, whereas the newer Housing Covenants authorizes the Municipality to make such inquiries as it considers necessary and reasonable in order to confirm that the Owner is complying with the covenant.
7. Staff will review and cross-reference the information provided by the owner with the Housing Covenant and the details reported.
8. If the owner submits documentation that is not consistent with the information reported on the suspected breach, the WHA may then request that the owner provides a notarized Statutory Declaration pertaining to the details of the suspected breach.
9. If the owner submits the requested documentation and it supports that they are in compliance and not in any violation of the Housing Covenant, then the suspected breach is considered resolved. At times, what is reported as a suspected breach does not contravene the covenant of the employee unit. As an example, certain covenants allow for long term rentals by Whistler employees whereas some covenants require the owner(s) to occupy the unit as their primary residence and this is not always known by the person reporting the suspected breach. If there is no incongruity, then the suspected breach will be considered resolved.
10. If the owner does not respond to the request, the WHA will attempt to find additional contact information for the owner. If the notice is still not responded to, then a more severe enforcement/demand letter will be sent outlining the potential penalty for non-compliance (i.e. rent charge, details of resale policy). This letter is sent to the owner with a set deadline to respond.
11. Depending on the situation, the WHA may work with Employee Housing owners who are out of compliance with the Housing Covenant to give them a set amount of time to bring the unit back into compliance as an alternative to imposing a penalty. The Housing Covenants governing the units in the Employee Housing inventory set out remedies and penalties that can be exercised by the Municipality in respect to Employee Housing breaches.
12. WHA staff communicates the enforcement updates to the WHA Board of Directors at regular Board meetings.

SUMMARY

Whistler's Employee Housing Program is designed to ensure that Whistler's workforce has access to stable, safe, long-term housing options within the community where they work. WHA takes reports of misuse of the Employee Housing

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inventory seriously and uses the procedure outlined within the Critical Path above to follow up on all reported suspected breaches or concerns in a consistent and fair manner when investigating potential breaches. Following up with owners leads them to have a better understanding of the Employee Housing Program requirements and adherence to the housing policies, which results in more opportunities for local employees to secure suitable housing.

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