

## Resale of Price Controlled Employee Restricted Property

Your client has provided you with a Contract of Purchase and Sale for the purchase of an Employee Restricted property and the following document will summarize the steps required by the Purchaser's solicitor.

The essence of the Employee Restricted Housing structure is contained in the Right of First Refusal / Option to Purchase (RFR / OTP) and the Housing Agreement (HA) registered against title. All transfers will require a new Notice of Housing Agreement (NHA) and only those with older Housing Agreements will require a new Housing Agreement to be registered. In accordance with the Contract of Purchase and Sale the purchaser will be responsible for the costs of filing the discharge, RFR/OTP, HA and Notice.

Please allow at least **5-7 business days** from the time the Whistler Housing Authority (WHA) receives the documents for the execution and documents to be returned to you for filing. The executed documents will be released to you on the undertaking set out in your letter.

### 1. Right of First Refusal / Option to Purchase (RFR / OTP):

To transfer this property, the Land Title Office will require a **discharge of the RFR/OTP**. The WHA will provide you with a registrable discharge of both the RFR and OTP on your undertaking to make no use of the Discharge if you file a new RFR/OTP concurrently with the transfer of the property into your client's name, and in priority to any mortgages or other financial encumbrances.

### 2. Housing Agreement (HA):

- a. If the existing HA was registered on title before June 2006 and is not the current ST070090 or ST080100; and in addition to the RFR/OTP the existing HA **will need to be discharged and a new HA registered on title**, along with **replacing the Notice of Housing Agreement**.
- b. If HA: ST070090 or ST080100 are registered on title, you are then only required to **cancel the Existing Notice of Housing Agreement and register a new Notice of Housing Agreement** in its place. To cancel an existing Notice, use a Form 17 Cancellation. To file a new Notice, use a Form 17 Charge. The "nature of charge, notation or filing cancelled" is "Municipal Government Notice" in each case.

### 3. Notice of Housing Agreement (NHA):

You are required to cancel the existing Notice of Housing Agreement and register a new Notice of Housing Agreement in its place in the buyers' name(s). To cancel an existing Notice, use a Form 17 Cancellation. To file a new Notice, use a Form 17 Charge. The "nature of charge, notation or filing cancelled" is "Municipal

Government Notice” in each case.

4. You will also have to undertake to provide the Whistler Housing Authority (WHA) with copies of these documents once they are filed at the Land Title Office. Examples of the Form C for the RFR/OTP and HA, and the specific covenants for each project are available online at: [www.whistlerhousing.ca/legal](http://www.whistlerhousing.ca/legal).
5. The procedure is to send the WHA a form of Discharge together with the new RFR / OTP and HA for execution by the Resort Municipality of Whistler under your letter of undertaking. For your convenience, we have attached a draft letter of undertaking.
6. The WHA will advise you when the executed copies are ready and will be sent electronically via email. Please allow at least 5-7 business days from the time the WHA’s receives the documents for execution until you need them returned. The executed documents will be released to you on the undertaking set out in your letter.
7. Return the filed copies in accordance with the undertaking.

*(Revised July 2021)*

# Draft Letter of Undertaking

*Highlighted sections may not apply to all transfers.*

[on Solicitor's letterhead]

**RE: Transfer of \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_**

We confirm that we act on behalf of the Purchasers in the above-noted transaction.

In accordance with the package received from your office, we have prepared and enclose for execution by the Resort Municipality of Whistler:

1. Release of Right of First Refusal No. \_\_\_\_\_ and Option to Purchase \_\_\_\_\_, and
2. New Option to Purchase and Right of First Refusal.
3. **Release of Housing Agreement** No. \_\_\_\_\_ and/or Notice of Housing Agreement \_\_\_\_\_
4. **New Housing Agreement** and/or Notice of Housing Agreement

We enclose a copy of our title search for your records.

Kindly return the documents, duly executed in registrable form, where required, to our office, on our undertakings as follows:

1. To file the Release of Right of First Refusal No. \_\_\_\_\_ and Option to Purchase \_\_\_\_\_, and the new Right of First Refusal and Option to Purchase concurrently with the Form A Transfer and in priority to any or other financial encumbrances, Form B Mortgage at the Lower Mainland Land Title Office;

**If Required:** To file the Release of Housing Agreement \_\_\_\_\_ and Notice of Housing Agreement, and the new Housing Agreement \_\_\_\_\_ and Notice of Housing Agreement concurrently with the Form A Transfer and in priority to any or other financial encumbrances, Form B Mortgage at the Lower Mainland Land Title Office;

2. Upon acceptance at LTO to forward registered copies of Right of first Refusal/Option to Purchase to your office at 325-2400 Dave Murray Place, Whistler, BC, V0N 1B2

3. If, for any reason, we are unable to comply with the above conditions we will, return to you the unregistered Release of Right of First Refusal \_\_\_\_\_ and Option to Purchase \_\_\_\_\_ and the new Right of First Refusal and Option to Purchase, or, if they have been submitted for registration, request their withdrawal.

As this transaction is scheduled to complete on \_\_\_\_\_, \_\_\_\_\_, 20\_\_, we ask that signed documents be returned to us as soon as possible.

We trust you find the above enclosed to be in order. Please contact the office with any questions you may have. Thank you.

Sincerely,