

# **WESTBANK FIRST NATION**

## **HOME OWNER GRANT MANUAL**



# WESTBANK FIRST NATION TAXATION

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	<b>Page Number</b>
<b>1. INTRODUCTION</b>	
1.1 General .....	1
1.2 Organization of manual .....	1
1.3 Interpretation .....	1
1.4 Status of administration manual .....	1
1.5 Grant administrator .....	1
<b>2. PREPARATION OF TAX NOTICES</b>	
2.1 Application to be printed on the tax demand notice .....	1
2.2 Display of grant amount on the taxation notice .....	2
2.3 Scheduled grant amounts .....	2
2.4 Explanatory notes on taxation notice .....	2
2.5 Calculating the grant .....	2
<b>3. APPLICATION PROCEDURES</b>	
3.1 Eligible residence.....	2
3.2 Handicapped persons .....	3
3.2.1 Handicapped homeowner .....	3
3.2.2 Handicapped spouse or relative .....	3
3.3 Power of attorney .....	4
3.4 Spouse or relative of a deceased owner .....	4
3.5 Completion of application .....	4
3.6 Time limits for application.....	4
3.6.1 General .....	4
3.6.2 Manufactured homes .....	5
3.7 Penalty .....	5
<b>4. ELIGIBILITY</b>	
4.1 Permanent residents .....	5
4.2 Ownership .....	6

4.2.1	Definition of owner .....	6
4.2.2	Option to Lease / Right of First Refusal .....	6
4.2.3	Spouse or relative of deceased owner .....	6
4.2.4	Separated marriage partners .....	7
4.3	Eligible residences .....	7
4.4	Manufactured and floating manufactured homes .....	7
4.5	Supplementary folio .....	8
4.6	Spouse or relative upon owner's death .....	8
4.7	Limitations .....	9
4.7.1	General .....	9
4.7.2	Executor/Executrix or administrator of an estate .....	9
4.7.3	Trusts - Bankruptcies .....	9
4.7.4	Spouse not owner.....	10
4.7.5	Corporate owners.....	10
<b>5.</b>	<b>INTERPRETATIONS</b>	
5.1	Permanent resident in British Columbia .....	10
5.2	Principal residence .....	11
5.3	Recent purchase or sale .....	12
5.4	Recent subdivision of property .....	13
5.5	Recent construction or destruction of residences .....	13
5.6	Absentee owners .....	14
5.7	Handicapped persons .....	16
5.11	Foster and Associate Families .....	16
<b>6.</b>	<b>DOCUMENTARY EVIDENCE</b>	
6.1	General .....	17
6.2	Ownership .....	17
6.3	Residency .....	17
6.4	Persons over 65 .....	18
6.5	Handicapped persons .....	18
6.5.1	Medical certificate .....	18
6.5.2	Recipients of GAIN .....	20

6.5.3	War veterans .....	20
6.6	Absentee owners .....	20
6.7	Power of Attorney .....	21
6.8	Grants on apportioned properties .....	21

**7. APPROVAL PROCEDURES**

7.1	General .....	21
7.2	Disapproval of grant .....	22
7.3	Reversal of approval .....	22
7.4	Refunds to owners entitled to the grant .....	22
7.5	Repayment of grant by persons not entitled .....	23

# WESTBANK FIRST NATION TAXATION

## HOME OWNER GRANT MANUAL

### INTRODUCTION

#### **1.1 General**

This manual has been developed for use by Westbank First Nation tax collectors in administering the home owner grant program. Front end administrative responsibility for the program has been delegated by Council to the Surveyor or Taxes by virtue of Section 23.1 of the Westbank First Nation Property Taxation Bylaw.

#### **1.2 Organization of manual**

The following chapters are organized according to the sequence of events that take place from the preparation of taxation notices, the applicant qualifications, to the allocation of the grant to the applicant.

#### **1.3 Interpretation**

Words appearing within the context of this manual will be interpreted as set out in Section 1(1) of the Westbank First Nation Property Assessment and Taxation Bylaws. In addition:

“Owner” means registered leaseholder or registered manufactured home owner.

#### **1.4 Status of administration manual**

This manual provides guidance on procedures and is to be used as the administrative framework for the management of the program.

#### **1.5 Grant administrator**

The Surveyor of Taxes and collectors approve grants when property taxes are paid.

### 2. PREPARATION OF TAX NOTICES

#### **2.1 Application to be printed on the tax demand notice**

The application will be printed on the front of the taxation notice.

## **2.2 Display of grant amount on the taxation notice**

The maximum allowable Home Owner Grant and Additional Grant will be printed on the taxation notice. Both the amount of the grant and the amount of tax due after deducting the grant must be shown on the taxation notice.

## **2.3 Scheduled grant amounts**

Once current year taxes are calculated, the amount of entitlement is determined by reducing the gross property tax by an amount equal to the grant amount approved by Band Council Resolution. Sewer charge is not subject to grant reduction.

## **2.4 Explanatory notes on taxation notice**

The explanatory notes printed on the taxation notice are for information and guidance only and where any discrepancies or interpretations are required this manual will prevail.

## **2.5 Calculating the grant**

The home owner grant is provided by way of a reduction of indebtedness for current year taxes. The prescribed taxation notice clearly distinguishes between taxes and other charges, and shows the grant as a reduction against taxes levied on residential (Class 1) property only. The amount of the grant should always be based on the taxes assessed for the year to which the grant relates. Grants do not apply to delinquent taxes, penalties, interest, collection charges or miscellaneous service charges.

Only one grant application may be made per roll number.

# **3. APPLICATION PROCEDURES**

## **3.1 Eligible residence**

For eligible residences, grant applications are made by completing the application form printed on each taxation notice. The owner of the eligible residence is required to sign the application. If the owner qualifies for the additional grant, that part of the application form pertaining to the additional grant must also be completed.

In the case of co-ownership, any of the owners may sign the form, provided he/she is an eligible occupant. However if only one of the co-owners qualifies for the additional grant, the signature of the qualifying owner must be affixed to the application. In cases where there is co-ownership of more than one residence situated on one parcel of land, any one of the owners may apply and one grant may be paid. Any sharing of the grant among co-owners is by private arrangement and must not involve the collector.

Corporate owners should not apply for the grant in respect of eligible residences.

### **3.2 Handicapped persons**

Handicapped home owners or home owners with a handicapped spouse or relative residing with them may be eligible to claim entitlement to the additional grant if they meet the qualifications within this policy manual.

#### **3.2.1 Handicapped homeowner**

A handicapped home owner must provide the collector with a certificate signed by his/her medical doctor attesting to his or her disability. Applicants must use the prescribed form, "Westbank First Nation Local Government Services Homeowner Grant Certificate of a Permanently Disabled Person and Property Lessee/Occupier" for this purpose. Collectors should provide the certificate to any home owner requesting it. The applicant is responsible for arranging for his/her medical doctor to complete and sign the certificate. (See Appendix \_\_\_\_\_)

Collectors must accept only valid certificates. Collectors must not accept photocopies or partially completed certificates. A valid certificate contains the attending physician's name and office address, the applicants name and address and the physician's signature and date of signing. No other symbols or markings (e.g. handwritten comments) should appear in Part A.

Handicapped applicants are not expected to provide a new certificate for each tax year. A valid certificate may, at the collector's discretion be reused in subsequent years. Collectors may require applicant to supply a new certificate at any time if there is doubt as to the continued validity of the filed certificate or if the prescribed form changes.

#### **3.2.2 Handicapped spouse or relative**

The above policy also applies to handicapped spouses or relatives except that Part A of the certificate should have the handicapped person's name instead of the applicant's, and Part B of the certificate contains the owner's (applicant's) name, his/her relationship to the handicapped person, the applicant's signature and date signed.

### **3.3 Power of attorney**

As a general rule, the grant may be applied to reduce current year taxes only upon receipt of a signed application from an eligible owner and full payment of taxes due. However, where an eligible owner is unable to apply, the application may be made by a person appointed as the applicant's attorney. These appointments must be in writing and notarized.

### **3.4 Spouse or relative of a deceased owner**

Under certain conditions, a spouse or relative of a deceased owner or a deceased eligible occupant may be eligible to receive a grant even if she/he is not the registered owner. (See Section 4.2.3)

### **3.5 Completion of application**

The entire application form must be completed by the applicant. Applications which are illegibly signed and do not contain the applicant's name printed in the space provided are not acceptable. Owners claiming additional benefits must complete the relevant section of the application form. Applications which have sections crossed out or altered are not acceptable.

The application must be remitted to the WFN Taxation office by the tax due date to avoid penalty. Applications may be mailed. However, the postmark date will determine the date of application. It is the taxpayer's responsibility to ensure the delivery of the application. Failure of an intermediary, such as a financial institution or lawyer, to remit the application on behalf of the owner is a private matter for resolution between the parties involved and is outside the collector's authority or responsibility. As well, the grant cannot be carried forward as a credit to the following year.

Completion of the application does not reduce the current year taxes by the applicable grant amount, until the total amount of tax due is paid. In cases where the collection of taxes has been turned over to a bailiff, the date payment is received by bailiff will constitute WFN payment date.(added Dec 96)

Faxed applications are not to be accepted. Faxed signatures are not considered adequate audit evidence.

### **3.6 Time limits for application**

#### **3.6.1 General**

Home owner grants must be claimed prior to December 31, in the calendar year of the taxes payable and where the current year net tax plus all delinquent taxes, penalties, interest and charges have been paid in full.

If an individual is unable to apply for the grant, the application may be made by the applicant's committee or a person appointed in writing as the applicant's attorney. This means that an eligible owner who is not available to sign the grant application could appoint an individual with the owner's Power of Attorney, to sign the grant application on the owner's behalf. Rather than appointing a representative to make the application, eligible occupants can pay their gross taxes and apply retroactively prior to December 31 of the taxation year. By paying the gross taxes, the applicant would avoid any penalties on unpaid taxes.

Any taxes remaining unpaid beyond the tax due date are subject to penalty and an owner who neglects to claim a home owner grant prior to the due date is subject to this penalty.

### **3.6.2 Manufactured homes**

Applicants may claim grants for manufactured homes which are to be relocated before current year tax notices are delivered. Manufactured home owners are required to pay in full the current years taxes before relocating their home. An application for the grant will be supplied at the time the taxes are paid, providing the owner is otherwise eligible.

### **3.7 Penalty**

Section 10(2) of the Westbank First Nation Property Taxation Bylaw requires that a penalty of ten per cent (10%) be levied on all unpaid taxes on the first business day following July 1 of the year taxes are first levied.

Taxes left unpaid due to failure to claim a home owner grant are subject to penalty. The penalty is the same as prescribed for all outstanding taxes. If an owner has not paid their taxes by the due date the penalty will be calculated on the gross taxes unpaid, not the amount of taxes owing after the home owner grant has been deducted. This is the case whether or not the owner is subsequently determined to be eligible for the home owner grant.

## **4. ELIGIBILITY**

### **4.1 Permanent residents**

The home owner grant is only available to individuals who are permanently resident in British Columbia. The following factors will be considered:

- the intent to establish British Columbia as their home (with no intention of establishing a permanent home elsewhere);
- the centre of the applicant's working, social and economic life; and
- where the applicant files his/her income tax return.

## **4.2 Ownership**

An "owner" of an "eligible residence" who occupies it as his or her "principal residence" is eligible for a home owner grant. The owner must be qualified for the grant at the date she/he submits the signed application form to the collector.

### **4.2.1 Definition of owner**

An "owner" means the holder of a registered head lease, sublease, permit, manufactured home or the tenant for life under a registered life estate.

### **4.2.2 Option to Lease / Right of First Refusal**

Applicants who hold an Option to Lease or a Right of First Refusal do not qualify for the grant.

### **4.2.3 Spouse or relative of deceased owner**

The "spouse" or "relative" of a deceased owner of an eligible residence is eligible to receive a home owner grant as long as:

- the spouse or relative is permanently resident in B.C.
- the spouse or relative occupied the eligible residence as his/her principal residence on the date of that owner's death and continues to so occupy the residence; and
- the residence remains registered in the name of the deceased owner or that owner's estate.

The grant is only available in the year in which the death occurred. The home owner grant cannot be claimed on the deceased owner's behalf by an executor/executrix or administrator of an estate, unless he/she was a spouse or relative of the deceased owner and they were living in the residence at the time the owner died. If the deceased owner of the property was living in the residence by himself/herself, no grant can be claimed by anyone.

A relative is defined as the deceased owner's child, grandchild, father, mother, brother or sister. A spouse means a marriage partner or a man and woman not married to each other but who have lived together as husband and wife for a continuous period of not less than two years before the death of either of them or the filing of a grant application by either of them.

#### **4.2.4 Separated marriage partners**

Separated marriage partners who are living apart and who have either entered into a written agreement under which the husband and wife have agreed to live apart or who are subject to an order of the court recognizing the separation are deemed not to be spouses. In this case, both the husband and wife are therefore eligible to separately claim for home owner grants for separate dwellings, provided all other qualifications are met.

The written agreement referred to above must be signed by both of the marriage partners and should be a statutory declaration duly notarized attesting to the fact that the couple have agreed to live apart. This agreement must be in place at the time each separated marriage partner is eligible to apply for the grant.

#### **4.3 Eligible residences**

An "eligible residence" is land shown as a separate taxable parcel or manufactured home pad on the current tax roll that has, as an improvement, a building that is assessed and taxed as an improvement in the current tax year and is occupied as residential accommodation. The definition of "Improvement" has the same meaning as the Westbank First Nation Property Assessment Bylaw 95-TX-07. The grant is only available on residential accommodation.

Where the property is classified as commercial (Class 6) or agricultural (Class 9) but the owner also resides on the property, the owner should notify the British Columbia Assessment Authority to have the portion occupied as a principal residence reclassified as (Class 1) residential accommodation.

The taxes assessed on the commercial portion or the agricultural portion of a property that is used both commercial or agricultural and as a residence, should be excluded from the

computation of the home owner grant. Where a property is currently only assessed as Class 6 or Class 9 but is used for residential accommodation, the owners are required to have the residential portion separately assessed.

#### **4.4 Manufactured and floating manufactured homes**

A “manufactured home” is defined in the WFN Property Assessment Bylaw 95-TX-07 as any structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried. Manufactured homes are treated the same as single family residences. They are assessed as an improvement and are taxable. An owner of a manufactured home is not eligible for the grant unless he/she is registered under the Manufactured Home Act.

A manufactured home, situated within a mobile home park, which is assessable and taxable, is deemed to be a separate taxable parcel.

If the manufactured home is affixed to the land and is assessable and taxable as an improvement, then the owner of the manufactured home and the land is eligible for a home owner grant, provided other qualifications are met.

A taxpayer who has purchased a lot within a mobile home park that contains, as its only taxable improvement, a concrete pad is not eligible for the home owner grant.

Motor-homes, travel-trailers and other mobile recreational accommodations which are not registered under the Manufactured Home Act do not qualify for the home owner grant therefore no grant should be allowed even if they are parked on a taxable parcel which has a concrete pad as a taxable improvement.

If a financial institution pays the property taxes in full because the manufactured home is being repossessed, the owner cannot claim the grant by way of refund on a retroactive basis.

Floating manufactured homes may be eligible for the home owner grant. In addition to the normal grant eligibility requirements, the floating manufactured home must be anchored or secured, for a period of 60 days or more during the year, to land, a structure, or a buoy in a mobile home park that is covered by water.

#### **4.5 Supplementary folio**

Residences assessed by way of supplementary assessments are treated conventionally and are eligible for the home owner grant.

#### **4.6 Spouse or relative upon owner's death**

If a collector establishes the eligibility of a spouse or relative of a deceased owner for the year that the death occurs, the entitlement of the spouse or relative is the same as the deceased owner or eligible occupant would have received had she/he been alive.

#### **4.7 Limitations**

##### **4.7.1 General**

The receipt of a home owner grant by an owner or spouse in the current year absolutely disqualifies that owner or spouse from claiming or receiving the benefit of another grant in respect of the same tax year anywhere else in British Columbia.

No more than one grant shall be paid in any tax year in respect of an eligible residence on land shown as a separate taxable parcel or manufactured home pad on a tax roll. A grant paid in respect of such an eligible residence absolutely disqualifies present or subsequent owners from claiming or receiving another grant for the same residence in respect of the same tax year.

No person is entitled to a grant on a residence that is not classified under a Class 1 property.

##### **4.7.2 Executor/Executrix or administrator of an estate**

If a spouse or relative of a deceased owner occupies the eligible residence as a principal residence and the residence remains registered in the name of the deceased owner, or the deceased owner's estate, then the grant is still deductible in the year in which the death occurred. The grant is extended to a limited number of beneficiaries who occupy the residence as a principal residence. The clear indication is that the executor or administrator of the estate, even though that person stands in the shoes of the owner, does not qualify for the grant. This does not include the administrator or the executor of the estate if they are a spouse or relative of the deceased.

An executor/executrix is not eligible for a grant as he/she acts for the estate. The eligible occupant is required to be in occupation at the time of application.

##### **4.7.3 Trusts - Bankruptcies**

Where the property is registered in the name of the trustee in bankruptcy, the bankrupt individuals, who were previously registered owners, no longer meet the definition of

owner and do not qualify for the grant. This will continue as long as the property remains registered in the name of the trustee. Reasoning for disallowing a grant in this situation is that the grant would benefit the creditors of the bankrupt individuals and not the individual home owner.

Where the registered owner establishes a trust agreement with an occupant of a dwelling, the trustee is still considered the registered owner and the one who must qualify for the grant.

#### **4.7.4 Spouse not owner**

When a property is owned by one spouse who has claimed the basic grant and paid the taxes in full and the other spouse subsequently becomes an owner and qualifies for the additional grant, the additional grant cannot be given as he/she were not an owner when the application was made.

#### **4.7.5 Corporate owners**

- a) Corporate owners should not apply for the grant in respect of eligible residences. This restriction applies whether or not the corporation is public or closely-held, and the shareholders reside in the dwelling. Corporations cannot meet the principal residence requirements because they cannot reside anywhere, and collectors must disallow grants for dwellings held by corporate owners.
- b) A grant may be applied for when the property owned by a body corporate, all issued and outstanding shares of which are held by a person registered as an "Indian" under the Indian Act, which is used and occupied by the person holding all of the issued and outstanding shares of the body corporate, as that person's principal residence. A Statutory Declaration must be completed and submitted to the WFN taxation office.

### **5. INTERPRETATIONS**

#### **5.1 Permanent resident in British Columbia**

The home owner grant is only available to individuals who are permanently resident in British Columbia. "Permanently resident" means:

- is a Canadian citizen or landed immigrant;
- practices his/her profession or trade in British Columbia;
- has all or most of his/her personal effects in British Columbia;
- has or is eligible for British Columbia medical insurance;
- has a British Columbia drivers licence and/or vehicle registered in British Columbia;

- files a British Columbia income tax return;
- is entitled to vote in British Columbia;
- does not have another residence, nor has set up lodging out of the province;
- receives the tax demand notice at a British Columbia address;
- has a record of recurring visitations to British Columbia in preceding years, and is only absent from B.C. for unusual or temporary reasons.

The intention and entitlement of an individual to make British Columbia the place where he/she ordinarily resides is relevant in the interpretation of permanently resident. Therefore, for example, individuals on a Canadian visitor's permit cannot be considered permanent residents since it is uncertain whether or not they will be allowed to remain in Canada.

Any one of the above criteria cannot be considered conclusive evidence that the individual is not a British Columbia resident as some of these require the passage of time, i.e. entitlement to vote in British Columbia requires that a person reside in the Province for 6 months. Similarly, new residents of B.C. may not have filed a tax return by the time they apply for the grant.

## **5.2 Principal residence**

The "principal residence" is defined as the usual place where an individual makes his/her home. It is the place where an individual lives and conducts his/her daily affairs. Ownership of a home does not automatically qualify the taxpayer for a grant, even if it is the only home the person owns. The owner of an eligible residence must still occupy it as his/her principal residence to be entitled to the grant.

A property does not qualify as an eligible residence, unless the owner occupies a self-contained unit in it. A self-contained unit should have its own cooking, sleeping, bathroom and preferably, living room facilities. For example: an owner cannot rent out a house but maintain a single room in it with a telephone and answering machine and have mail delivered to the house, but actually live elsewhere.

The determination of principal residence is usually easily made, although in some circumstances several factors must be evaluated. These circumstances usually occur when the type of occupation appears inconsistent with the definition of principal

residence stated above. The most common instance is when an owner works or attends school elsewhere and only resides on the property on weekends or holidays.

The collector is given the statutory power to make such decisions and should exercise judgment in these areas of uncertainty. Consideration of the following may assist the collector in reaching a decision:

The facts of each case must be evaluated separately to determine principal residence: consider the intent of the owner with respect to the property. Intention is a significant factor in determining which one of two (or more) places is a person's principal place of residence.

Length of occupation does not, in itself, determine principal residence: consider circumstances in which full-time occupation of the property is not possible or practical for the owner and the person's usual way of life.

It is possible for a person to reside temporarily in one place but be principally resident in another: Consider students going away to school or remote work sites.

It must be emphasized that no one can be principally resident in two places. Furthermore, an owner and his/her spouse (including common-law) are limited to only one grant with respect to a taxation year. It is up to the collector to determine the applicant's principal residence based on the evidence provided by the taxpayer, or lack thereof, and other sources of information obtained. If it is known that a person is an owner of two dwellings, collectors should ensure that the grant is paid on the one dwelling determined to be the principal residence.

### **5.3 Recent purchase or sale**

To meet the eligibility requirements, the claimant must be the registered owner of the eligible residence and living on the property as his/her principal residence at the time the application is made. Therefore, the application for the grant must be made prior to the conveyance of the dwelling. This is because the sale of a dwelling is conclusive evidence that it has ceased to be the principal residence of the vendor. Once a conveyance is completed, the vendor is no longer eligible for the grant.

Circumstances may arise in which full taxes are paid by the vendor but no grant is claimed. The home owner grant is a reduction of indebtedness for current year taxes and must be claimed by the individual who actually paid that debt. Since the indebtedness was paid by the vendor, no grant can be allowed to the purchaser. That taxes are apportioned on the Statement of Adjustments does not alter the eligibility criteria. The grant cannot be prorated.

Similarly, purchasers are only eligible for a grant if they pay the property taxes subsequent to the purchase and if they satisfy the other eligibility criteria.

In the case of recently conveyed property, where a small portion of the taxes have been left outstanding, the purchaser may be entitled to a home owner grant. The following should be noted in approving these grant applications:

1. Ensure that the property is registered in the name of the new owner prior to the tax due date. New owners are not eligible for the grant, unless there are taxes left outstanding on the tax roll.
2. Where there are taxes outstanding, the amount of the grant is only to be allowed up to the value of the current year taxes outstanding. i.e. if there is an amount of \$39.99 left unpaid and the new owner meets the eligible requirements the grant would be \$39.99.

#### **5.4 Recent subdivision of property**

The collector may apportion the property taxes for individual units of a new subdivision and allow the grant on those units. In order for the collector to apportion the taxes, the plan of subdivision must be filed in Lands registry after August 31 and before June 1 of the next year.

When apportioning the unpaid taxes, the collector must establish that both land and improvements are assessed and that taxes appear on the original tax notice. If there was only a partial improvement assessed and taxed, the collector can only apportion based on the assessed value as at October 31 of the previous year. If a piece of property is subdivided and the improvement is totally on one of the divided parcels, then the grant can only be allowed on the parcel with the improvement on it. To be eligible for the grant the applicant must qualify in all other respects.

The owner of property to which an apportionment, on late subdivision, has been applied as eligible for the grant only if the individual is otherwise qualified for a grant.

#### **5.5 Recent construction or destruction of residences**

A grant may be paid only in respect of land shown as a separate taxable parcel or manufactured home pad, and having a taxable improvement (a building) on it used as a

principal residence. This rule is useful in determining the eligibility of newly constructed or destroyed residences.

No grant may be paid on a land-only folio. Since in practice the assessment roll for any current tax year closes as of October 31 of the year previous, this means that a grant is payable in the current tax year only in the event that some part of a newly constructed residence (an improvement) was affixed to the ground and assembled at the close of the previous year. There is no requirement that the residence be occupied by December 31. The owner must show, to the collector's satisfaction, that the building is occupied as a principal residence at the time of application for a grant, that an improvement on the land was assessed for the current year, and that the owner otherwise qualifies for the grant. An occupancy permit should be requested to verify that the property is in livable condition.

A dwelling destroyed after the closing of the assessment roll is liable for taxes levied on the closing valuation. An improvement would therefore be shown on the current year assessment roll, and the only remaining question is whether the residence was occupied as a principal residence. A grant will be paid in such circumstances, provided all other requirements are met only for the year that the dwelling is destroyed, unless a new principal residence is established at the same location.

### **5.6 Absentee owners**

Collectors may be confronted with eligibility decisions with regard to absentee owners. Circumstances giving rise to absentee ownership are many and varied. Examples are:

- a person may be institutionalized, hospitalized, or become a ward of the Province;
- a student may leave home to attend an educational institution;
- a consultant may be posted out-of-province or out-of-country on a construction project;
- armed forces personnel may be posted out of the province or country;
- teachers may temporarily relocate in other provinces or other countries on exchange;
- a person may be forced to work away from home due to lack of employment within a commutable distance; and
- a person on an extended vacation with a definite return date within one year.

When presented with an application from an absentee owner, the collector should establish eligibility by ensuring that all the following criteria are met:

- a) the property has not been rented out;
- b) the applicant must have applied for and received the grant, on the property, in the year prior to leaving; and
- c) the applicant intends on returning to the property when the circumstances permit.

This policy may be extended for one year only. If the property owner is still absent after one year, no home owner grant may be claimed until such time as the owner returns to the property on a full-time basis.

In each individual case, consideration should be given to the purpose and duration of the absence from the home in order to determine principal residence.

If the property is rented, no grant can be allowed because it ceases to be the applicant's principal residence and becomes an income producing property.

Collectors should ensure prior eligibility and receipt of the grant by the applicant on the subject property as this will help in determining the property is his/her principal residence.

Establishing whether or not a person plans to move back to the property is also important. For example, if the property is listed as being for sale, then obviously the applicant does not intend to move back, and, therefore it can no longer be his/her principal residence. The collectors should be reasonably assured that the applicant will return to the property.

In the case of applicants who are forced to leave their home for health reasons and reside in an intermediate care facility, hospital, etc., the absentee owner policy has been extended.

When presented with an application from an applicant who is currently residing in one of these facilities, the Collector should establish eligibility by ensuring that all the following criteria are met:

1. The property has not been rented out;

2. The applicant must have applied for and received, or have been eligible to receive the grant on the property in the year prior to leaving;
3. The applicant intends on returning to the property when circumstances permit; and
4. The absence from the property (residing full-time) does not exceed the maximum three consecutive years.

The time period for extending this type of absentee ownership is three years or until a contravention of other eligibility requirements occur, i.e. renting the property.

### **5.7 Handicapped persons**

Entitlement to the additional grant is extended to, among others, those who are handicapped or the spouse or relative of a handicapped person. A handicapped person is one who provides the collector with a signed Westbank First Nation certificate by a medical practitioner that he/she has a permanent disability which is sufficiently severe that he/she requires either:

- physical assistance; or
- costly structural modifications to the home, in order to manage normal daily functioning in the home.

The applicant is eligible to receive the additional grant in the current taxation year regardless of whether the handicapped was diagnosed before or after the tax due date.

A relative means child, grandchild, brother, sister, grandparent, parent, step-parent, or a person in respect of which the owner stands in loco parentis.

The term “loco parentis” is defined as having assumed the duty of providing for a minor and includes where the person is acting in the capacity of a parent in the other relations of family life. The parent and person acting in “loco parentis” is responsible for the financial, physical, mental and spiritual well-being of the individual. Caregivers are compensated for their responsibilities and are thereby not in loco parentis and are not eligible for the grant.

### **5.8 Foster and Associate Families**

Foster parents and associate families receive nominal compensation and may be eligible for the additional grant as they have additional responsibilities vis-à-vis the child.

Foster parents of handicapped children and Associate families are responsible for the general upbringing, i.e.: the moral standards and behavior of the child under the age of 19. In order for the additional grant to be allowed, the child must be a “permanent” resident in the home. The foster parent or associate family is not entitled to the additional grant when the child only resides in their residence on a part-time basis. The Ministry of Social Services (in the case of foster children) and the Ministry of Health and Ministry Responsible for Senior Citizens (in the case of associate families) will confirm whether the child has been placed in the foster home or with the associate family on a permanent or part-time basis.

Taxpayers should be asked to provide such proof from the relevant Ministry in writing on an annual basis. These letters should be attached to the handicap certificate.

## **6. DOCUMENTARY EVIDENCE**

### **6.1 General**

Collectors must be satisfied that the evidence requested from and provided by applicants is consistent, relevant and persuasive to establish eligibility for the grant. In cases where an applicant fails to supply satisfactory evidence to the collector, the collector has no obligation to allow the grant.

### **6.2 Ownership**

Documents accepted by a collector as proof of ownership must be prepared by a solicitor or notary public and registered in the WFN Lands office or Manufactured Home Registry office.

### **6.3 Residency**

The determination of an individual’s principal residence often requires an evaluation of several factors relating to the individual’s way of life. The following should be considered:

- is the property the centre of the economic, personal and social life of the individual?
- is it the address from which the individual’s income tax return is filed?

- is it the address used for purposes of the individual's life insurance, medical insurance, and auto insurance?
- is it the address from which the individual pays bills?

If for any period during the year, the owner is absent, refer to Chapter 5.6.

The residency of an applicant should be queried if:

- their postal address differs from the address of the property;
- the address on the cheque differs from the property address or the bank branch is in another tax jurisdiction; or
- the application is received with an out of province/jurisdiction postmark.

Where another tax jurisdiction is indicted, the tax collector should contact the other collector and determine whether the applicant received the grant there in the current or immediately prior tax year. If the applicant received the grant in the immediately prior tax year, the collector should determine what circumstances have changed before allowing the grant in the current tax year and notify the other tax jurisdiction that a grant has been claimed.

If the applicant is paying over the counter, he/she should be queried as to the differences in the addresses and the clerk should document the answer to the tax account file. Otherwise, the collector should consider contacting the applicant for verification of their residency, especially if an out of province address is involved.

Where an application for a grant is received on a seasonal or recreational property, the collector should obtain confirmation that this is now a permanent residence. An enquiry letter should be sent to the taxpayer requesting copies of bills, including billings received during the "off-season".

#### **6.4 Persons over 65**

In the case of persons over 65, it is not expected that each claimant produce evidence of age. The statutory declaration of age usually will be taken at face value. Where reasonable doubt exists, a birth certificate, drivers license, Gold Care Card, Canada Card or other such evidence may be taken as proof of age. The evidence reviewed should be noted on the application form.

## **6.5 Handicapped persons**

### **6.5.1 Medical certificate**

Handicapped property owners claiming the additional grant must provide the collector with a “Westbank First Nation Home Owner Grant Certificate of A Permanently Disabled Person and Property Lessee/Occupier” signed by his/her medical practitioner. Handicapped persons are not expected to provide a new certificate for each tax year.

For the collector the main obligation is to obtain from the applicant a valid certificate signed by the applicant’s or handicapped person’s physician. Physicians are responsible for:

- interpreting the Regulation; and
- assessing an applicant’s or handicapped person’s medical condition in light of the physician’s own interpretation of the Regulation.

In effect, the philosophy of the Regulation is to rely on the professional judgment of physicians to prevent abuse of this provision.

From time to time, collectors may receive enquiries from physicians as to the precise meaning or definition of words or phrases appearing on the Regulation. Collectors should advise physicians as follows:

- there is no precise meaning or definition of any word or phrase used in the Regulation;
- it is intended that physicians apply the Interpretation Guidelines on the certificate to their patient’s circumstances; and
- the physician should sign a certificate on behalf of a patient only if, in his/her professional judgment, the patient qualifies.

Collectors may require applicant claiming an additional grant for a handicapped spouse or relative to supply a new certificate each year as the marital status of the applicant may change and/or the spouse or relative may no longer reside on the property.

As in all, other grant applications, the collector may reverse all or a portion of the grant if obtained on the basis of false information. If the collector suspects there may be abuse, he/she may want to:

- confirm the physician's signature;
- enquire into the nature of the disability or modifications to the home, or
- require the applicant provide the certificate on an annual basis.

Where the collector inquires into the nature of the disability or modifications to the home, he/she should document the reasons given and file these in the applicant's file.

### **6.5.2 Recipients of Level 2 Disability Benefits**

Cheque stubs do not identify recipients of handicapped persons benefits under the Disability Benefits Program Act and are not sufficient proof of eligibility for the additional grant. Therefore, these recipients should be directed to produce a letter (form supplied by Westbank First Nation Tax office) from the local district office of the Ministry of Human Resources verifying receipt of Level 2 disability benefits when the grant application is made. The district office will release this information only to its clients, or to a suitable representative, but will not release it directly to collectors for reasons of confidentiality. Confirmation should be done each year because the assistance is based on an individual's income and can be discontinued at any time by the Ministry of Human Resources.

### **6.5.3 War veterans**

Recipients of allowances under the War Veterans Allowance Act (WVA) and the Civilian War Allowance Act should produce cheque stubs as proof of receipt of the allowance at the time of application. Both of these allowances are issued through the Department of Veteran Affairs. Cheque stubs from these sources can be identified by the letters WVA/CWA followed by a 7 digit number. Veteran pensions issued through the Canada Pension Commission will not have this identification number and should not be confused with the war veterans allowance or the civilian war allowance. If an applicant is unable to provide a current cheque stub, the applicant should contact the Department of Veterans Affairs for written confirmation.

## **6.6 Absentee owners**

The primary consideration in determining if an owner/applicant, who is temporarily absent from the property, is eligible for the grant is whether the property is rented or not. Therefore, the collector should first inquire as to whether the property is vacant or rented. If the property is not rented, the collector may require the applicant sign an affidavit to that effect. The collector may also want to check municipal water utility records to verify the subscriber or have a bylaw officer make inquiries at the property. If rented, no grant can be allowed. The property ceases to be the applicant's principal residence and becomes an income producing property.

An owner temporarily absent from his/her principal residence for purposes of employment should be requested to provide a letter from his/her employer. This letter should include detail of the length of time the employee is expected to be away and whether the employment is of a permanent nature.

A student who has temporarily left his/her principal residence to attend an educational institution should be requested to provide a letter from the institution. As in the case of employment, this letter should include the duration of the program and the student's estimated time for completion.

#### **6.7 Power of Attorney**

The signature of a person appointed to sign the grant application on an owners behalf may be accepted with a notarized power of attorney.

If the application is signed by a power of attorney, then the collector should ensure the application and the accompanying cheque has "power of attorney" or "P/A" written after the name. The collector may also request the attorney submit a copy of the legal document as evidence. A tax clerk should not sign a grant application on behalf of a taxpayer as attorney. This is not a good practice since tax clerks are involved in the approval process of the home owner grant.

A Bank Power of Attorney is not considered to be sufficient documentary evidence, unless it is a general power of attorney. Bank powers of attorney are usually titled either general or limited.

A letter from a neighbor "authorizing" a person to sign the grant application on his/her behalf is not acceptable.

#### **6.8 Grants on apportioned properties**

A property must have been assessed as having an improvement to meet the definition of an eligible residence. The collector must evaluate the eligibility of the individual parcels

based upon the assessment of the parent property roll, i.e. were there improvements. Individuals claiming the grant for the first time on a parcel which was subject to apportionment, should be required to provide an occupancy permit to prove that the property is in livable condition.

## **APPROVAL PROCEDURES**

### **7.1 General**

Once a collector is satisfied that an applicant is eligible for a grant and has not previously received a current year grant during the current tax year, and that no grant has previously been paid on the applicant's parcel of land, the collector approves the grant. After a grant is approved, the collector may request any information or make any inquiries that the collector considers necessary for determining a person's entitlement to a grant or the amount of a grant.

No grant may be used to reduce current year taxes unless the signature of the owner of an eligible residence appears on the grant application form.

### **7.2 Disapproval of grant**

Collectors may disapprove an application and should provide the applicant with the reasons for his/her determination in writing. If the grant is not approved, and this results in outstanding taxes, the amount outstanding is liable for penalty.

### **7.3 Reversal of approval**

A collector may reverse any approval, in the current tax year, whether the initial approval was made on the basis of his/her own error or on the basis of false information supplied by the applicant. However, where an individual has signed an application and the collector subsequently determines they do not reside there or are not otherwise eligible for the grant, the individual has made a false application and the collector should reverse the grant.

### **7.4 Refunds to owners entitled to the grant**

An eligible resident may claim a refund of the grant in the current year to which the grant relates after full taxes have been paid and indebtedness is eliminated. A refund may arise due to simple failure to claim at the time taxes were paid, or failure to claim the additional benefits for the aged and the handicapped at the time taxes were paid.

Where full taxes have been paid by a previous owner and a refund is being claimed by a subsequent owner, no refund shall be paid. A refund may only be made to the person who paid the taxes, (or to a financial institution who paid the taxes on the person's behalf) provided the person meets the criteria noted below:

- the applicant owned the eligible residence when the taxes were paid;
- those taxes were paid by the applicant; and
- the applicant was eligible for the grant at December 31st of the year to which the grant relates.

#### **7.5 Repayment of grant by persons not entitled**

If a grant is made to a person not entitled, or entitled to a lesser amount, that person has a debt to the Westbank First Nation and must repay the amount of the grant deduction. The collector will notify the person in writing with explanation as to the disentitlement of grant

After determination that a person has received during the current year or the 6 preceding years an amount that the person was not entitled to receive as a grant, the collector shall notify the person:

- (a) that the person is not entitled to the amount received,
- (b) that on the date stated on the notice of disentitlement (demand), the total amount due and payable to the Westbank First Nation Taxation office
  - (i) the amount of grant deduction from each disentitled tax year;
  - (ii) interest rate which will be charged, as per WFN Property Taxation Bylaw at the date of the disentitlement letter.

The debt is to be placed on the tax roll against that person's property. He/she will be given 30 days from the date of the demand to repay the debt. When the 30 day demand period has expired, and the debt has not been repaid, interest will compound monthly from the date of the demand. The total debt will be collected in the same manner as other outstanding taxes.



WESTBANK FIRST NATION  
LOCAL GOVERNMENT SERVICES

SUITE 101 -515 HIGHWAY 97 SOUTH, KELOWNA, BC V1Z 3J2  
TELEPHONE (250) 769-2400 - FAX (250) 769-2401

HOMEOWNER GRANT CERTIFICATE OF A PERMANENTLY DISABLED PERSON  
AND PROPERTY LESSEE/OCCUPIER

**INSTRUCTIONS TO PROPERTY OWNER**

1. If you are a property owner and have a permanent disability, you may be eligible for an additional Home Owner Grant. If you think you may be eligible for the additional grant, your doctor will assess your handicap in terms of the physical assistance and /or structural modifications criteria. If your doctor's assessment confirms your eligibility, he will complete and sign Part A of this certificate.
2. If you are a property owner with a handicapped relative or spouse who permanently resides in your home you may also be eligible for an additional Home Owner Grant. If you think you may be eligible, your doctor will assess your spouse's or relative's handicap in terms of the physical assistance and/or structural modifications criteria. If your doctor's assessment confirms your eligibility he will complete and sign Part A of this certificate. As the property owner, you must then complete and sign Part B.

**Note: RELATIVE** means child, grandchild, brother, sister, grandparent, parent, stepparent, or a person in respect to whom the owner stands in place of a parent to the person with disabilities.

3. Once the doctor has certified that there is a permanent disability and you have completed Part B (if appropriate), deliver the certificate to the collector at the Westbank First Nation office along with your application for the Home Owner Grant, prior to the tax due date. The submission of this certificate later than December 31<sup>st</sup> will disqualify you from receiving the additional grant.
4. If you or your doctor have any questions, ask the collector at the Westbank First Nation office.

**INTERPRETATION GUIDELINES FOR PHYSICIANS**

The following guidelines should be considered in determining whether your Patient qualifies under Part "A" of this certificate. ( See reverse. )

1. The intent of the handicapped classification is to allow home owners an additional benefit under the Home Owner Grant where either they, or relatives permanently living in the home, have a permanent physical handicap which necessitates costly modifications to the home, or extensive physical assistance to enable normal functioning within the home.
2. The disability must be of a permanent nature and there must be no remedial therapy available to the individual which would significantly lessen the handicap.
3. "Physical Assistance" means extensive supervision and care which is necessary in order to perform the functions of daily living in the home; for example, preparation of meals, personal care and hygiene. Please note that this does not include any external activities.
4. A person does not necessarily qualify if he or she is in receipt of a disability pension or workers compensation benefits.
5. "Structural Modifications" may be in the form of ramps for wheelchair access to the home, widening of doorways, installation of elevators or other lifting devices, etc.

**PART A ( TO BE COMPLETED BY PHYSICIAN )**

I, \_\_\_\_\_ of \_\_\_\_\_  
( Print physician's name ) ( office address )

Certify that \_\_\_\_\_ of \_\_\_\_\_  
( name of handicapped person ) ( address )

has a permanent disability which is sufficiently severe that he/she requires either:

- ( a ) physical assistance in the form of regular and extensive supervision, or
- ( b ) costly structural modifications to his/her home

in order to manage normal daily functioning in the home.

\_\_\_\_\_  
( signature of physician ) ( date )

**PART B ( TO BE COMPLETED BY PROPERTY OWNER )**

I, \_\_\_\_\_ certify that the person named \_\_\_\_\_  
( Print property owner's name )

in, Part A above:

- ( a ) is my relative ( or spouse ) as defined on the reverse side of this form.

\_\_\_\_\_ and  
( relationship )

- ( b ) resides in my principal residence.

\_\_\_\_\_  
( date ) ( signature of property owner )

\_\_\_\_\_  
( address )

\_\_\_\_\_

# WESTBANK FIRST NATION

## LOCAL GOVERNMENT SERVICES

Suite 101 – 515 Hwy 97 South, Kelowna, B.C. V1Z 3J2  
Telephone (250) 769-2400 – Fax (250) 769-2401

TO: **Ministry of Employment and Income Assistance**  
B.C. Benefits  
Persons with Disability Status

RE: Application of the Additional Home Owner Grant for persons in receipt of  
**Persons with Disabilities Status.**

The person listed below has applied for the additional home owner grant allowable to persons with disabilities receiving disability benefits "Level 2" under the **Persons with Disabilities Act.**

Applicant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Folio No: \_\_\_\_\_

Please confirm this applicant's eligibility by certifying the applicant is in receipt of a "level 2" disability allowance benefit under the **Persons with Disabilities Act.**

\_\_\_\_\_

I, \_\_\_\_\_  
*Name* *Title*

Of the Ministry of Human Resources, certify that the above noted applicant is Receiving "Level 2" benefits under the **Persons with Disabilities Act.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ .

\_\_\_\_\_  
*Signature*

## Life Estate

### Can claim HOG if:

- Prove they live there
- Documentaition
- Drivers Lic to prove main residence

