

## TITLE 5. SPECIAL PROCEEDINGS

### Chapter 5.6

#### ADMINISTRATIVE APPEALS OF TRIBAL HOUSING ASSIGNMENT DECISIONS

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**5.6.1. Purpose.** The assignment of rental and mutual help housing affects the entire tribal community. Considering the substantial shortage of low income housing on the Port Madison Indian Reservation, there exists a strong need to arrive at prompt resolution of disputes concerning the assignment of tribal housing to applicants. The purpose of this chapter is to provide applicants with a reasonable opportunity to contest the tribal housing assignments while, at the same time, providing for all available houses to be assigned and occupied in a timely manner. (Res. 98-066 (part), passed Aug. 24, 1998)

**5.6.2. Applicability.** This chapter shall apply to all final decisions by the Tribal Council regarding approval of tribal housing assignments, provided that Tribal Council departure decisions pursuant to Sections VI(A), VI(B), VI(C), and VII(B) of the Suquamish Housing Program Admission Policy<sup>1</sup> are not subject to judicial review. (Res. 98-066 (part), passed Aug. 24, 1998; amended by Res. 99-016 (part), passed Feb. 22, 1999)

**5.6.3. Administrative Appeals — Finality — Exhaustion of Administrative Remedies.** An applicant must have exhausted administrative remedies for all administrative decisions regarding his or her eligibility and preference rankings for tribal housing assignments and the Tribal Council must have made a final decision regarding a tribal housing assignment for which he or she claims eligibility prior to seeking judicial appellate review under this chapter. (Res. 98-066 (part), passed Aug. 24, 1998)

**5.6.4. Judicial Review of Administrative Decisions.** (a) The provisions of this chapter are the exclusive procedure for obtaining judicial review of the Tribe's final decisions regarding tribal housing assignments.

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<sup>1</sup> VI Tribal Council Review of Proposed Housing Unit Assignment List: (A) Tribal Council Review of Proposed Housing Unit Assignment List; (B) Tribal Council Departure from Housing Unit Assignment List; (C) Procedures for Departure Hearings. VII Notice to Applicant and Appeal Process: (B) Departure Decisions Are Final.

(b) A housing applicant may institute proceedings for judicial appellate review under this chapter by filing a petition for review in the Suquamish Tribal Court within twenty-one (21) days of the date of a final Tribal Council housing assignment. The petition shall name as respondent the Suquamish Tribe. Petitioner shall serve a copy of his or her petition to the Office of the Suquamish Tribal Attorney and to the Suquamish Tribal Council Secretary within seven (7) days of the filing of the petition with the Tribal Court.

(c) The petition for review must state the nature of the decision being appealed and the factual and legal basis for the appeal.

(d) To temporarily stay the implementation of a tribal housing assignment decision pending judicial appellate review, the Tribal Court must issue an order granting a temporary stay made upon a motion filed by the petitioner. To obtain a temporary stay, within seven (7) days of a final housing assignment decision, the petitioner must file with the Tribal Court a motion for a temporary stay of that housing assignment decision submitting with the motion its legal and factual basis for requesting a temporary stay. The Tribal Court will hear such motion on an expedited basis. Upon a finding of good cause and of irreparable harm to the petitioner, the Tribal Court may issue an order granting a temporary stay for up to thirty (30) days. Prior to the expiration of the temporary stay, the Tribal Court may upon motion of the petitioner issue an order extending the stay upon a further finding of good cause. The Suquamish Tribal Council may of its own accord stay all or any part of its decision pending the judicial appellate review. If the Suquamish Tribal Council stays, in whole or in part, a tribal housing assignment, the Tribe shall promptly notify the Court of its stay decision.

(e) Within seven (7) days of being served with a petition for review or within such further time as the Tribal Court may allow, the Tribe and petitioner shall meet and stipulate to the record for review, and the Tribe shall thereafter promptly transmit to the Court the original or a certified copy of such stipulated documents. In the written stipulation, the Tribe and the petitioner shall each identify the documents in the record which they claim to support their position. Should the parties not reach a stipulation in the time allowed, the Tribe shall transmit the entire administrative record of the decision under review. Any party unreasonably refusing to stipulate to limit the record may be taxed by the Court for the additional costs. The Court may permit or require subsequent corrections to the record upon a finding that the document or documents had been considered but omitted from the record to the extent such correction is deemed desirable and in the interest of justice. The Court may permit or require the record to be supplemented upon a finding that the evidence sought to be submitted is newly discovered, material to the decision being reviewed, which the requesting party could not with reasonable diligence have discovered and produced at the time the application was filed, an eligibility or ranking decision was administratively reviewed, or the final tribal housing assignment decision was made. Records will be supplemented only to the extent such supplementation is deemed desirable and in the interest of justice.

(f) The review shall be conducted by the Court without a jury within fourteen (14) days of receiving the record for review. The review of the Court shall be confined to the record. The Court may, at its discretion, schedule an oral hearing to hear arguments of the parties of the matter on review.

(g) Any alleged irregularities in procedure before the Suquamish housing program or the Suquamish Tribal Council not shown in the record shall be submitted to the Court in the form of a motion to the Court supported by a memorandum of law and affidavits. The Court may, upon request, hear oral argument and receive written briefs on the issues. The length of briefs and time for arguments shall be set by the Court.

(h) The Court may, in whole or in part, affirm the administrative decision, reverse the administrative decision and issue corresponding injunctive or declaratory relief, or remand the case for further proceedings if the Court finds the substantial rights of petitioners have been prejudiced because the findings, inferences, conclusions, or decisions are:

(1) In violation of tribal constitutional provisions;

(2) In excess of lawful authority or jurisdiction, not in accordance with procedures required by law, or otherwise unlawful;

(3) Not supported by evidence that is substantial when viewed in light of the whole record before the Court; or

(4) Arbitrary or capricious. (Res. 98-066 (part), passed Aug. 24, 1998)

**5.6.5. Tribal Court Decision Final.** Decisions of the Tribal Court pursuant to this chapter are not subject to review by the Suquamish Court of Appeals. (Res. 99-016 (part), passed Feb. 22, 1999)

**5.6.6. Waiver of Tribal Sovereign Immunity.** The sovereign immunity of the Suquamish Tribe is waived with regards to petitions for judicial review brought in accordance with this chapter. (Res. 98-066 (part), passed Aug. 24, 1998; renumbered by Res.99-016 (part), passed Feb. 22, 1999)