

**TRIBAL CODE
CHAPTER 90:**

HOUSING AUTHORITY ORDINANCE

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HISTORY NOTE

Current Ordinance:

Adopted as Tribal Ordinance No. 1 in 1975 following the approval of the Tribal Constitution.

Reenacted in Tribal Code format as part of the Tribal Code on July 5, 1995, Resolution No. 95-89, effective immediately.

Amendments:

Tribal Resolution No. 2006-145, adopted November 13, 2006, amending §90.402.

Tribal Resolution No. 2002-04, adopted January 15, 2002, amended various sections.

Tribal Resolution No. 2-22-78D, adopted February 28, 1978, expanded the number of commissioners from 5 to 7.

Tribal Resolution No. 8-11-92B, adopted August 11, 1992, amended Articles II and VI. This amendment was formally approved by HUD under 24 CFR 905.126(b) by memorandum on October 22, 1992.

Prior Ordinances:

The Housing Authority was first established by the Original Band of the Sault Ste. Marie Chippewa Indians and Their Heirs, Inc., a state nonprofit corporation that was the predecessor of the Tribe, in Resolution No. 72-101. It was reenacted in substantially its current form by the Original Bands in Resolution No. 9-23-74-2, September 23, 1994.

TRIBAL CODE

CHAPTER 90:

HOUSING AUTHORITY ORDINANCE

SUBCHAPTER I: PREAMBLE

90.101 Short Title.

This Ordinance shall be known as the Sault Ste. Marie Tribe of Chippewa Indians Housing Authority Ordinance, Tribal Code, Chapter 90.

90.102 Declaration of Need.

It is here by declared:

(1) that there exists within the Tribe's seven county service area, unsanitary, unsafe and overcrowded dwelling accommodations available at rents or prices which persons of low income can afford; and that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations;

(2) that these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, moral and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

(3) that the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

(4) that the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of Tribal concern;

(5) that residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this Ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment;

(6) that the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination;

(7) that Tribal families are in need of home buyer assistance.

90.103 Purposes.

The Authority shall be organized and operated for the purposes of:

(1) remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety and morals;

(2) alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income;

(3) providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings;

(4) providing real or personal property necessary, convenient or desirable for administrative, community, health, recreational and welfare purposes;

(5) improving the quality of life in all Tribal communities;

(6) engaging in activities that are directly or indirectly related to housing, including, but not limited to: mortgage and servicing; housing development and management; development and management of such housing-related services as laundromats, cleaning services, inspections, etc;

(7) participating in entities formed to accomplish any of the above-described purposes including acting as a general partner of a limited partnership; and

(8) to act as a recipient and receive block grant funds authorized under PL 104-330 and administer such funds in accordance with the provisions of the Act, as authorized by the Board.

SUBCHAPTER II: DEFINITIONS

90.201 General Provisions.

For the purpose of this Ordinance, certain terms are defined in the Subchapter. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number, and words in the masculine gender include the feminine gender. The word "shall" is always mandatory and not merely directory.

90.202 Act.

“Act” means the Native American Housing and Self-Determination Act.

90.203 Board.

“Board” means the governing body of the Tribe.

90.204 Commission.

“Commission” means the-Housing Authority Commission.

90.205 Federal Government.

"Federal Government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise of the United States of America.

90.206 Homebuyer.

"Homebuyer" means a person(s) who has executed a lease-purchase agreement with the Authority, and who has yet achieved homeownership.

90.207 Homeowner.

‘Homeowner’ means a person(s) who has title to their home.

90.208 Authority.

“Authority” shall mean the Housing Authority.

90.209 Housing Project or Project.

"Housing Project" or "project" means any work or undertaking to provide or assist in providing decent, safe and sanitary dwellings, apartments, or other living accommodations for persons of low income by any suitable method (including but not limited to rental, sale of individual units in single or multifamily structures under conventional condominium or cooperative sales

contracts or lease purchase agreements, loans or subsidizing of rentals or charges), or to provide facilities for administrative, community, health, recreational and welfare purposes. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the project.

90.210 Indian Housing Plan.

“Indian Housing Plan” means the Commission approved and Board ratified comprehensive housing plan required under the Native American Housing and Self Determination Act of 1996.

90.211 Obligations.

"Obligations" means any notes, bonds, interim certificates, debentures or other forms of obligation issued by the Authority pursuant to this Ordinance.

90.212 Obligee.

"Obligee" includes any holder of an Obligation, agent or trustee for any holder of an Obligation or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.

90.213 Ordinance.

“Ordinance” means Tribal Code, Chapter 90, Housing Authority Ordinance.

90.214 Persons of Low Income.

"Persons of low income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use and have family income less than eighty percent (80%) of the national median income.

90.215 Tenant.

“Tenant” means one who pays rent for the use and occupation of another’s land or building under a lease or similar arrangement.

90.216 Tribal Court

“Tribal Court” means the Sault Ste. Marie Chippewa Tribal Court.

90.217 Tribal Land

“Tribal Land” means:

(1) The Sault Ste. Marie Tribe of Chippewa Indians Reservation and any other lands designated for the Tribe as a reservation lands by the Secretary of the Interior; or

(2) land over which the Tribe exercises governmental power that is held in trust by the United States for the benefit of the Tribe or a member of the Tribe, or that is owned by the Tribe in fee and is located in a “independent Indian community” as that term is used in 18 U.S.C. §1151(b).

90.218 Tribe

“Tribe” means the Sault Ste. Marie Tribe of Chippewa Indians.

SUBCHAPTER III: HOUSING AUTHORITY COMMISSION

90.301 Commission; Creation.

The affairs of the Authority shall be managed by a Commission composed of seven persons.

90.302 Membership on the Commissioners.

(1) The Commission members shall be appointed, and may be reappointed, by the Board. A certificate of the Secretary of the Board as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the Commission member.

(2) A Commission member shall be a Tribal member.

(3) No person shall be barred from serving on the Commission because he is a Tenant or Homebuyer in a housing project of the Commission; and such Commission member shall be entitled to fully participate in all meetings concerning matters that affect all of the Tenants or Home buyers, even though such matters affect him as well. However, no such Commission member shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a Tenant or Homebuyer), or to be counted or treated as a member of the Commission, concerning any matter involving his individual rights, Obligations or status as a Tenant or Homebuyer.

90.303 Membership Terms.

The term of office shall be four years and staggered. In the case of an appointment to fill a vacancy, the appointment shall only be for the length of the unexpired term. Each member of the Commission shall hold office until his successor has been appointed and has qualified.

90.304 Officers of the Commission.

(1) The Commission shall submit to the Board its recommendation for Chairperson. The Board shall name one of the Commission members as Chairperson of the Commission, taking into consideration the Commission member recommended for the Chairpersonship by the Commission. The Commission shall elect from among its members a Vice-Chairperson, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairperson, the Vice-Chairperson shall preside; and in the absence of both the Chairperson and Vice- Chairperson, the Secretary shall preside.

(2) The Secretary shall keep complete and accurate records of all meetings and actions taken by the Commission.

(3) The Treasurer shall keep full and accurate financial records, make periodic reports to the Commission, and submit a complete annual report, in written form, to the Board as required by §90.501 of this Ordinance.

90.305 Removal.

(1) A member of the Commission may be removed by the Board for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the Board and only after the member has been given a written notice of the specific charges against him at least ten (10) days prior to the hearing. At any such hearing, the Commission member shall have opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Commission member, a record of the proceedings, together with the charges and findings thereto shall be filed with the Board.

90.306 Compensation.

The Commission Member shall not receive compensation for their services but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.

90.307 Meetings.

(1) Meetings of the Commission shall be held at regular intervals as provided in the by-laws of the Authority. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Commission concurs in the proposed action. Special meetings may be scheduled to accommodate a canceled regular meeting.

(2) Telephonic and video conference meetings shall be allowed under the following conditions:

(a) all Commission members participating can be heard and can participate in the discussion;

(b) notice is given in the same manner as for a regular meeting; and

(c) a quorum of Commission members participates in the telephone meeting.

(3) A majority of the full Commission (notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Commission action shall be taken by a vote of less than a majority of such full Commission.

SUBCHAPTER IV: POWERS AND OBLIGATIONS

90.401 Perpetual Succession to Name.

The Authority shall have perpetual succession in its corporate name.

90.402 Ability to Sue and Be Sued.

The Commission hereby gives its irrevocable consent to allowing the Authority to sue in its corporate name, upon any contract, claim or obligation arising out of its activities under this Ordinance and hereby authorizes the Authority, on a case by case basis, to agree by contract to be

sued and to waive any immunity from suit which it might otherwise have. In no event, shall the Housing Authority be liable for any individual or aggregate claims or damages in excess of Fifty Thousand Dollars (\$50,000). The Tribe shall not be liable for the debts or obligations of the Authority.

90.403 Powers.

The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

- (1) To adopt and use a corporate seal.
- (2) To enter into agreements, contracts, and understandings with any governmental agency, Federal, state, or local (including the Board) or with any person, partnership, corporation of Indian tribe; and to agree to any conditions attached to Federal financial assistance.
- (3) To agree, notwithstanding anything to the contrary contained in this Ordinance or in any other provision of law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with the requirements as to minimum salaries and wages and maximum hours of labor, and comply with any conditions which the Federal government may have attached to its financial aid to the project.
- (4) To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.
- (5) To borrow or lend money, to issue temporary or long term evidence of indebtedness and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of this section of this Ordinance.
- (6) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.
- (7) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law and approved by the Commission and ratified by the Board in the Indian Housing Plan.
- (8) To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

(9) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units); to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of Tenants or Home buyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Commission may deem necessary and desirable to effectuate the powers granted by this Ordinance.

(10) To finance purchase of a home by an eligible Homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development.

(11) To terminate any lease or rental agreement or lease-purchase agreement when the Tenant or Homebuyer has violated the terms of such agreement, or failed to meet any of its Obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such Tenant or Homebuyer.

(12) To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only eligible participants as defined by the Indian Housing Plan.

(13) To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

(14) To invest such funds as are not required for immediate disbursement.

(15) To establish and maintain such bank accounts as may be necessary or convenient.

(16) To employ an Executive Director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Commission shall deem proper.

(17) To take such further actions as are commonly engaged in by public bodies of this character as the Commission may deem necessary and desirable to effectuate the purposes of the Authority and the Indian Housing Plan.

(18) To join or cooperate with any other public housing agency or agencies operating under laws or ordinances of a State or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other Obligations and giving security therefor), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purposes, the Authority may be resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority

or in the name of such agency or agencies.

(19) to adopt such bylaws as the Commission deems necessary and appropriate.

(20) to do any and all things necessary or desirable to secure financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

90.404 Exclusive Application to Authority.

No ordinance or other enactment of the Tribe with respect to the acquisition, operation or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this Ordinance.

90.405 Obligations.

(1) The Authority may issue Obligations from time to time in its discretion for any of its purposes and may also issue refunding Obligations for the purpose of paying or retiring Obligations as it may determine, including Obligations on which the principal and interest are payable:

(a) exclusively from the income and revenues of the project financed with the proceeds of such Obligations, or with such income and revenues together with a grant from the Federal government in aid of such project;

(b) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such Obligations; or

(c) from its revenues generally. Any such Obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

(2) Neither the commissioners of the Authority nor any person executing the Obligations shall be liable personally on the Obligations by reason of issuance thereof.

(3) The notes and other Obligations of the Authority shall not be a debt of the Tribe and the Obligations shall so state on their face.

(4) Obligations of the Authority are declared to be used for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this Ordinance shall constitute, by virtue of this Ordinance and without necessity of being restated in the Obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of Obligations and each of them including all transferees of the Obligations from time to time.

(5) Obligations shall be issued and sold in the following manner:

(a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Commission and may be issued in one or more series.

(b) The Obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.

(c) The Obligations may be sold at public or private sale at such price or prices as the resolution may provide.

(d) In case any of the commissioners of the Authority whose signatures appear on any Obligations cease to be commissioners before the delivery of such Obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

(6) Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving validity or enforceability of any Obligation of the Authority or the security therefor, any such Obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this Ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such Obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purpose and provisions of this Ordinance.

(7) In connection with the issuance of Obligations or in curing the Obligations under leases and to secure the payment of such Obligations, the Authority, subject to the limitations in this Ordinance, may:

(a) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) Provide for the powers and duties of Obligees and limit their liabilities; and provide the terms and conditions on which such Obligees may enforce any convenient or rights securing or relating to the Obligations.

(c) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

(d) Convenient with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.

(e) Covenants to what other or additional debts or Obligations may be incurred by it.

(f) Covenant as to the Obligations to be issued and as to the issuance of such Obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(g) Provide for the replacement or lost, destroyed or mutilated Obligations.

(h) Covenant against extending the time for the payment of its Obligations or interest thereon.

(I) Redeem the Obligations and covenant for their redemption and provide the terms and conditions thereof.

(j) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

(k) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserve or other purposes, and convenient as to the use and disposition of the monies held in such funds.

(l) Prescribe the procedure, if any, by which the terms of any contract with holders of Obligations may be amended or abrogated, the proportion of outstanding Obligations the holders of which must consent thereto, and the manner in which such consent may be given.

(m) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.

(n) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it or any covenant, condition or Obligation.

(o) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its Obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(p) Vest in any Obligees or any proportion of them the right to enforce the payment of the Obligations or any covenant securing or relating to the Obligations.

(q) Exercise all or part or combination of the powers granted in this section.

(r) Make covenants other than and in addition to the covenants expressly authorized

in this section, of like or different character.

(s) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its Obligations, or, in the absolute discretion of the Authority, tending to make the Obligations more marketable although the covenants, acts or things are not enumerated in this section.

(t) Pledge, mortgage or grant a security interest in all or any part of its assets.

SUBCHAPTER V: GENERAL PROVISIONS

90.501 Annual Report.

The Authority shall submit an annual report, signed by the Chairperson of the Commission, to the Board showing:

- (1) a summary of the year's activities;
- (2) the financial condition of the Authority;
- (3) the condition of the properties;
- 4) the number of units and vacancies;
- (5) any significant problems and accomplishments;
- (6) plans for the future; and
- (7) such other information as the Authority or the Board deem pertinent.

90.502 Personal Interest

During their tenure no Commission member, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project shall have any interest in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, they disclose said interest in writing to the Authority and said disclosure is entered upon the minutes of the Authority, and the Commission member, officer or employee shall not participate in any action by the Authority relating to the property or contract in which they have any such interest. This section shall not be applicable to the acquisition of any interest in Obligations of the Authority issued in connection with any project, or

to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Commission as provided in '90.302.

90.503 Compliance with Federal Contract Requirements.

Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Federal legislation, and with all regulations and requirements prescribed from time to time by the Federal government in connection with such assistance.

90.504 Bond.

The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agent or employees handling cash or authorized to sign checks or certify vouchers.

90.505 Non-Profit Projects.

The Authority shall not construct or operate any project for profit.

90.506 Public Property.

The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

90.507 Judgement Proof Property.

All property including funds acquired or held by the Authority pursuant to this Ordinance shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgement against the Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right to Obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provision of this Ordinance or the right of the Authority to bring eviction actions in accordance with Section 90.

90.508 Cooperation in Connection With.

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

(1) It will not levy or impose any real or personal property taxes or special assistance upon the Authority or any project of the Authority.

(2) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

(3) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.

(4) It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

(5) The Tribal government hereby declares that the powers of the Tribal government shall be vigorously utilized to enforce eviction of a Tenant, Homebuyer, or Homeowner for nonpayment or other contract violations including action through the appropriate courts.

(6) The Tribal Court shall have jurisdiction to hear and determine an action for eviction of a Tenant, Homebuyer, or Homeowner. The Tribal government hereby declares that the powers of the Tribal Court shall be vigorously utilized to enforce eviction of a Tenant, Homebuyer, or Homeowner for nonpayment or other contract violations.