

Redline of Proposed Changes

Title 8 Probate Code

8.02.010 Residences located on real property held in trust for the Tribe.

- A. Notwithstanding any section of this code, Section 11.20.490 of the Squaxin Island Tribal Housing Code shall govern the inheritance of residences located on Tribal trust property. Since the Housing Code grants only members the right to lease, to hold a leasehold interest, or to own a residence, any attempt by a decedent member to leave his or her legal interest in the residence to another individual shall be recognized only to the following extent:
1. Completely, if the decedent member leaves his or her legal interest in the residence to another member ~~by will.~~
 2. If the decedent member leaves his or her legal interest in the residence to a non-member spouse ~~by will~~, then only to the extent that the non-member spouse can reside in the residence for the rest of his or her life, must maintain and occupy the residence as his or her primary residence, and must comply with all Tribal Housing Program policies and procedures.
 3. If the member who dies leaves his or her legal interest in the residence to a non-member descendant ~~by will~~, then only to the extent that such non-member descendant has the right to reside in the residence for the duration of his or her life, must maintain and occupy the residence as his or her primary residence, and must comply with all Tribal Housing Program policies and procedures. ~~Additionally, a member must own or lease the residence as his or her primary residence to such non-member descendant.~~
- B. Any attempt by a non-member spouse, non-member descendant, non-member Indian, or a member or non-member minor or incapacitated person to leave the residence by will shall only be recognized if the conveyance or transfer is to a member.
- C. Transfer of interest through probate, time limit. Any transfer of an interest in a residence located on trust property by will or intestacy shall be valid only if recognized in a final probate order of the Tribal Court. Probate with respect to such interest must be initiated within one year of death absent good cause shown.
- D. Interests violating the restrictions under Section 11.20.490. No final probate order may grant an interest in a residence located on trust property to a person who is restricted from holding that interest under Section 11.20.490. The Court shall instead implement the intent of the decedent as closely as possible without violation of Section 11.20.290, and to that end may (1) order the sale or transfer of a residence located on trust property, (2) grant compensation to individuals claiming an interest in a residence located on trust property but who are restricted from holding that interest by reason of Section 11.20.490,

(3) convert an interest from complete ownership to a life estate with power of sale or appointment to tribal members, or (4) such other approach as may be appropriate in the interest of equity.

- E. Responsibilities of interest holder before or during probate. During the time before or during the probate of an interests in a residence located on trust property, any person holding an interest in a residence located on trust property must comply with all Tribal Housing Program policies and procedures, including, but not limited to, any requirement to pay the land-lease fees; any requirement to maintain insurance; and any requirement to provide a copy of any existing sub-lease.
- F. Untimely transfers. A person claiming an interest in a residence located on trust property who fails to initiate and prosecute diligently the transfer of the interest within the time frame in Section 8.02.010(C) is subject to eviction pursuant to Section 11.20.140. Upon completion of eviction pursuant to this section, the interest shall escheat to the Tribe.
- G. Effective Date. The changes to 8.02.010 adopted by Resolution 23- [2](#) shall be effective upon adoption of the resolution. For any residence subject to the procedures under 8.02.010 where the decedent passed prior to adoption of the changes, the time limit for initiation of probate contained in 8.02.010 (c) shall be calculated as one year from the date of the adoption of the resolution.