

# Msunduzi Housing Association

## Lease Agreement Guide

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Welcome to your new life with the Msunduzi Housing Association! This guide has been designed with the intention of making your stay with us a happy one. **It is valuable for answering any questions that you have, both now and in the future.** It introduces the lease agreement your tenure is based on, and aims to give tenants a clearer understanding of the guidelines, rules, and regulations that need to be followed in order for everyone in the development to live happily and harmoniously together.

Signing your lease agreement is an important moment, because it is a legal requirement for the occupation of your rental unit. The lease covers your responsibilities as a tenant, and it covers MHA's responsibilities as a landlord.

This guide also contains information that will be used in the tenant training course that you will attend shortly. We urge you to read this guide thoroughly before attending tenant training, as you are required to complete a small test at the end of your training session.

The training programme and this guide will ensure that you have a clear understanding of both your rights and responsibilities, and those of the MHA.

[Attempt to answer the questions in this guide in preparation for the tenant training.](#) If you cannot, do not be concerned. **At the end of the training course, you will be able to answer these questions.**

Please do not hesitate to contact the MHA if you have any queries. It will be our pleasure to assist you.

The Directors and Staff wish you a pleasant stay in our unit. We look forward to working with you in the years to come.

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# 1. Ownership

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The Msunduzi Housing Association (MHA) was established as an independent, registered, Section 21 company in March 1999. In terms of the Companies Act 71 of 2008, the MHA is an independent Non-Profit Company. The Association's vision is that there shall be affordable, quality, integrated, housing for all within the Msunduzi Metropolitan area.

The sole purpose of the MHA is to build and rent out flats to individuals/families who qualify for Social Housing Rental Schemes (currently, those earning between R2000 and R7500 per month).

## So when do I own my unit?

Please note that the Msunduzi Housing Association owns the flats it rents out, and there has never been a plan to sell/alienate these units, and neither will there ever be. All tenants have signed leases over the property they utilize. A lease is a:

*“Written or implied contract by which an owner (the lessor) of a specific asset (such as a parcel of land, building, equipment, or machinery) grants a second party (the lessee) the right to its exclusive possession and use for a specific period and under specified conditions, in return for specified periodic rental or lease payments”*

It is important to understand that the unit is owned, wholly and completely, by the MHA, and ownership of the units will never transfer to another individual or entity, under any circumstances.

## Is there a possibility that I can own my unit in the future?

No, there is no such possibility. The rental units owned by the Msunduzi Housing Association will never be for sale, and will always remain in the ownership of the Association, with the sole purpose of being rented out to tenants who qualify for rental in terms of the Social Housing Act.

## But I have been paying my rent for years, why will I never own my unit?

The units are rental units, and you have a lease with the Association. The implication of a lease is explained in more detail above. Your payment of a rental is for the exclusive use of your flat, and not toward ownership. You cannot own a rental unit with the Msunduzi Housing Association. On ceasing to make payment of your rental, you no longer have the right to the benefit of the flat.

## 2. House Rules

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### Rules

The house rules exist for a reason - they help ensure that tenants get along with one another, and with MHA staff. They provide a way to ensure that all tenants and staff members of the MHA treat one another well, and with respect. The house rules are a way for people from a variety of different backgrounds and social contexts to co-exist in peace and harmony with one another. The house rules are as follows:

- Tenants shall treat one another, and all MHA staff, with dignity and respect.
- Tenants shall not use foul, abusive, or offensive language.
- Tenants shall work towards creating good neighborly relationships.
- Tenants are encouraged to form committees to mediate or arbitrate between disputing tenants.
- Tenants and their visitors shall be considerate to neighbors, and shall not make loud noise or play loud music.
- Tenants may not repair their vehicles on the property, unless in specially designated areas.
- Tenants may not park unroadworthy vehicles on the property without prior permission from the MHA.
- Tenants may hire an extra parking bay for an additional cost, subject to availability.
- All parking bays are to be used for the parking of vehicles only (no trailers, etc).
- There will only be one parking bay allocated per unit, unless there is spare parking available.
- All parking bays are for the sole use of the tenant they are assigned to.
- Tenants may not erect carports, marquees, wendy houses, and/or canopies, without prior written consent from MHA.
- Visitors must park in the designated parking areas only.
- Tenants' vehicles may only be washed in designated areas.
- Tenants are not allowed to have any live animals on the property, including (but not limited to) birds, poultry, or reptiles.
- Tenants may not store any flammable, combustible, explosive, and/or toxic materials on the property.
- Tenants must maintain a hygienic bin, with approved refuse bags, for containing refuse in his/her unit.
- Tenants must place securely tied refuse bags in the designated refuse collection area.
- Tenants are not allowed to use any firearms or pellet guns on the property.
- Tenants are not allowed to remove or obstruct manhole covers.
- Tenants are not allowed to conduct any business or trade on the property.
- Tenants must maintain their units, common areas, and corridors in a neat and tidy condition, and must avoid littering of any kind.
- Tenants are not allowed to post any advertisements and posters on the property.
- Demonstrations or political/union gatherings of any nature are not allowed on the property.
- Only the MHA is allowed to clean, repair, or maintain the sewerage reticulation system.
- Tenants may not place any items in the toilets that can block the sewers.
- No litter or rubbish is allowed to be placed in the storm water system, as this will cause blockages.

- Only an electrician authorized by the MHA can work on any electrical equipment in the unit or on the property.
- Tenants must provide their own light bulbs, for use inside their unit.
- Tenants must make sure that laundry is only hung in the designated areas, and kept out of public view. No laundry (including mats and carpets) is allowed to be hung out of windows, over balconies, or on the boundary fence.
- Tenants must clear their post boxes often, and avoid littering due to uncollected post.
- Tenants may not cause foul odors that will be offensive to other tenants.
- Tenants may not cause any damage to the premises or property, and will be held liable for the cost of any damage caused.
- Tenants may not tamper with any firefighting equipment, and may not use the fire hoses for anything other than firefighting.
- No smoking is allowed in enclosed areas, including foyers, lifts, corridors, balconies, and/or other public areas. No cigarette butts may be disposed of in the common areas.
- No alcohol is allowed to be consumed in any public place/common area. Alcohol consumption outside of your unit is strictly prohibited.
- The tenant rules may be changed from time to time. One (1) month's written notice will be given to tenants regarding proposed changes. Tenants must respond to the proposed changes within this one month period. The final decision, subject to applicable laws, will be made by the Board of the MHA.
- The rules are non-negotiable. By signing the lease agreement, the tenant acknowledges that the rules have been explained to them by the MHA and that they understand the rules, and that they agree to abide by the rules at all times while a tenant of the MHA.
- The tenant will comply with the house rules at all times.
- The house rules are there for the convenience, comfort, and general wellbeing of the tenant, and to promote the appearance and management of the affairs of the property.
- Any tenant who doesn't comply with the house rules will be evicted from the premises at the sole discretion of MHA. A minimum of seven (7) days' notice shall be given by MHA.

## Legislation

If any of the laws of South Africa with relation to leases change, it is the landlord's right to request that the lease held with yourself be changed accordingly.

## Miscellaneous

All changes to a lease agreement must be effected in writing, and signed by both the landlord and the tenant.

Any indulgence given by the landlord to a tenant does not mean a change in the terms of the lease agreement held.

Whilst a tenant owes the Msunduzi Housing Association NPC for outstanding rental, it is granted under South African Law that the landlord has the legal right to all the tenants' possessions on the property in question (due court processes observed).

## 3. Maintenance Obligations

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### The MHA's Maintenance Obligations

The MHA must keep the outside (grounds) and the structure (buildings) of the premises in a good state of repair throughout the life of the lease period, and must take care of all normal maintenance required on the outside or the structures of the premises. This means that the MHA is responsible for the maintenance of the grounds (mowing grass, etc), as well as the outside of the buildings (painting, repair of wall cracks, etc).

### The Tenant's Maintenance Obligations

The tenant is responsible for maintaining the inside of the unit in good repair, and must carry out, at his/her own cost, small maintenance and repairs needed inside the unit. These small maintenance items include, but are not limited to:

- Any painting inside the unit.
- Replacement of broken glass in windows and mirrors.
- Replacement of faulty/broken door handles, hinges, locks, switches, and doorbells.
- Maintenance of taps, and toilet cistern/seat.
- Replacement of light bulbs.
- All other small repairs and maintenance needed from time to time.

The tenant is responsible for any damages to the unit, whether caused by the tenant, his or her dependents, his or her visitors, and/or his or her other occupants, including instances where the unit has been illegally sub-let.

The maintenance of the interior fittings, which includes the electrical and plumbing systems, is generally the responsibility of the MHA. However, the tenant has the responsibility of ensuring that the sewerage pipes and drains are kept in good working order, and free from blockages and obstructions. If the tenant is negligent in carrying out this responsibility, and repairs are needed as a result, then the MHA reserves the right to claim the cost of the repairs from the tenant.

The tenant has no right to withhold or reduce any rental as a result of maintenance works needed or carried out at the premises.

### Structural Alterations

The tenant may not make any structural alterations and/or additions to the premises. Any additions to the interior may only be made with the MHA's consent, and must be carried out at the tenants cost. If necessary, the alterations must only be carried out by a suitable qualified person, approved and appointed by the MHA, who shall be paid by the tenant.

The MHA may require other reasonable conditions before granting approval for additions to the premises.

Maintenance of these additions will be for the tenant's cost, and the tenant will not be reimbursed or compensated in any way by the MHA for such additions.

The tenant may not remove any additions which have been made to the unit, and on termination of the lease agreement, the additions will remain the property of the MHA, with no compensation to the tenant.

### Refurbishment

In the case of refurbishment of the premises being necessary, the MHA may require the tenant to vacate the premises for a reasonable period of time. The MHA will try to minimize the disruption caused by the refurbishment, and may not require the tenant to pay rental for the period that the tenant has vacated the premises.

### Committees

The MHA may, at its sole discretion, establish committees of tenants, who will meet with the MHA to discuss matters of mutual interest. Such committees will only be recognized as fully constituted once due process has been followed in the election of the committee members, and when a constitution has been signed by the elected representatives.

### Occupants

The premises are let exclusively for residential purposes, for occupation by the tenant, his/her spouse/partner, their minor children, and any other persons authorized by the MHA in writing.

A schedule of persons residing at the premises is attached to the lease agreement, and any person not included on the schedule is not entitled to reside in the premises.

If, for any reason, the tenant or any other person on the schedule should cease to reside at the premises for a continuous period of thirty (30) days, or should the tenant be absent from the premises for any continuous period exceeding two (2) months, without the consent of the MHA, then the MHA may, at its sole discretion, cancel the lease agreement on seven (7) days written notice.

The tenant must provide the MHA with any reasonable information required, in writing, including (but not limited to) income and family composition details.

The MHA will not consent to the addition of relatives to the family composition form, unless the person being added is a parent or spouse. All other persons will be treated as visitors, and may not remain on the premises for more than fourteen (14) days without the prior written consent of the MHA first being obtained.

### Insurance

The MHA will insure the property against damage, up to (but not limited to) the full replacement cost of the property.

The tenant is responsible for the contents of the premises, and must take insurance if he or she wants to be insured. The tenant, in such a situation, will be responsible for payment of premiums for the insurance of the contents of the premises. The MHA will not be responsible in any way for the payment of insurance premiums for the contents of the premises.

The tenant may not allow anything to be done to the premises, or anything to be kept in the premises, which will increase the rate of insurance which the MHA must pay. Where the tenant allows such, the tenant will be responsible for the payment of the extra insurance premium.

## Damage to Property

If the property or premises is destroyed by fire, or any other cause, the MHA will repair and/or rebuild the premises or the property as soon as it can. The tenant will not have any claim against the MHA during this time, and the MHA is not obligated to compensate the tenant for any loss or damage, howsoever caused (including, but not limited to, loss or damage related to lack of occupancy during the time of damage and/or the time repairing and/or rebuilding the premises or property).

In the case where repairing or rebuilding the premises or property is necessary, the MHA may change or vary the form of construction of the property or premises. In this event, the tenant will be entitled to the same standard of occupation enjoyed before the damage or destruction of the premises or property.

Where the tenant is responsible for the damage or destruction of the premises or property, the MHA will recover in full the cost of the damage or destruction from the tenant, and terminate the lease on 30 days notice.

## Loss, Damage, or Injury to Persons or Property

The MHA is indemnified from any and all liability for loss or damage to the tenant's person or property, whether in the premises, the parking lot, or any other area under the MHA's control, in respect of loss or damage sustained by the tenant as a result of:

- Water seepage or leakage, wherever found or however caused.
- Rain, hail, lightning, or fires as a result of a *vis major* (an overwhelming force of nature having unavoidable consequences; a greater force; an "act of God"; an unavoidable accident) or *casus fortuitus* (chance occurrence, unavoidable accident; something which is extraordinary, exceptional, or unforeseen, and which human foresight cannot be expected to anticipate, or which, if it is foreseen, cannot be avoided by the exercise of reasonable care or caution).
- Any act, neglect, or negligence whatsoever on the part of the MHA, its employees, agents, or servants.
- The property or premises, or any part thereof, being in a defective condition or state, or in disrepair.
- Any repair not being affected by the MHA.
- Any other cause whatsoever.

## 4. Finance

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### Payment Obligations of the Tenant

Initial rental for occupation will be calculated on a pro-rata basis, if the tenant takes occupation before or after the 1<sup>st</sup> day of the month.

The tenant must pay the full rental in advance, before or on the first day of the month, from the commencement date. Payment must be made by way of a debit order, directly into the bank account of the MHA.

If the tenant pays cash into the MHA's bank account, the tenant will be liable for a monthly administration fee of R30-00, including cash deposit fees. This amount may vary from time to time.

In the event that a tenant pays by debit order, and the debit order is not honored by the bank, the tenant will be liable for an administration fee of R55.00, which amount may vary from time to time.

If the tenant does not pay the rental on time, the MHA will charge interest at 12%.

Where legal action is taken by the MHA against the tenant to recover monies due, the tenant will be responsible for payment of attorney fees on the attorney and own client scale.

### Rental Increases

The MHA reviews rentals annually, and will increase the rental once a year on the 1<sup>st</sup> of July, regardless of when the tenant takes occupation. The MHA must give the tenant at least thirty (30) days written notice of any such increase.

### Municipal Services

The tenant is responsible for agreements with the municipality for the provision of municipal services, and must pay the municipality directly for such services.

The MHA will, through legal processes, recover from the tenant all amounts owing to the municipality, and will terminate the service where amounts are outstanding.

Electricity is supplied by the MHA to the tenant via a pre-paid metering system, and vouchers are only available from the MHA's offices, Monday to Thursday from 8:00am to 4:30pm, and on Fridays from 8:00am to 4:00pm (unless otherwise advised).

The tenant is responsible for all other service and related charges levied by the municipality.

### Pre-paid Water Installations

By signing the incoming inspection, the tenant agrees that the prepaid water installation, including the meter, keypad, and seals, is in proper working order.

Any tampering with the prepaid water installation whatsoever shall render the lease agreement terminated by the MHA, and the tenant will be required to vacate the premises on thirty (30) days' notice.

The tenant is responsible for water consumed during the period of this agreement, as well as costs for repairing or replacing the entire installation, or parts of it. The minimum cost for

replacement of the water meter is R2 500.00, and the minimum cost for replacement of the keypad is R1 000.00, both of which costs may change from time to time.

### Electrical Installations

By signing the incoming inspection, the tenant agrees that the electrical installation, including the meter and seals, is in proper working order.

Any tampering with the electrical installation whatsoever shall render this agreement terminated by the MHA, and the tenant will be required to vacate the premises on thirty (30) days' notice.

The tenant is responsible for electricity consumed during the period of this agreement, as well as costs for repairing or replacing the entire installation, or parts of it. The minimum cost for replacement of the electricity meter shall be R1 000.00, which cost may change from time to time.

### Fire Hoses

If the tenant, any member of the tenant's household, or any visitor of the tenant, is found tampering with fire hoses in any way whatsoever, the tenant shall be liable to a minimum fine of R500.00, or the cost of repairing the installation, whichever number is the greater. Illegally broken fire hose seals will result in the cost for repair or replacement being raised against the entire block in question.

The MHA will terminate the lease agreement on thirty (30) days written notice where tampering as described above has been found to have occurred.

### Conduct

The consumption of alcohol by any person in any common areas, including staircases, parking areas, play areas, or areas between buildings, is strictly prohibited. The use of any narcotic drugs, at any place on or in the premises or property, is strictly prohibited.

The carrying and display of firearms on any part of the premises except within the tenant's unit, is strictly prohibited.

The MHA will terminate this agreement on thirty (30) days written notice where contravention of the above has been found to have occurred.

### Service Providers

The MHA will appoint external service providers at its sole discretion to provide various services, such as (but not limited to) maintenance, security, cleaning, gardening, etc.

These service providers will act solely on instructions of the MHA, and will in no way be responsible or accountable to any tenant, in any way whatsoever.

Where a tenant does not keep an appointment with a service provider who is undertaking daily or planned maintenance to the unit, the tenant shall be solely responsible for the call out cost of the service provider, which cost the MHA shall raise to the tenant's rental account.

## Deposit

The tenant must pay a deposit to the MHA in the amount as set out in the main lease agreement. The tenant may not use the deposit to set off any rental payment or any other payment.

The deposit may be used by the MHA when the lease is terminated, in order to repair any damages to the premises, after which any outstanding rental amounts or other monies owing will be deducted. The remaining amount must be paid to the tenant within twenty-one (21) days of the end of the lease.

Interest will be payable by the MHA in terms of the deposit, at the rate of interest payable to an individual by a bank on a normal savings deposit. The deposit must be invested by the MHA in an interest bearing account with a financial institution.

The tenant will be liable for the letting administration costs as a result of the tenant's termination of this agreement, or as a result of the Department of Housing not approving a housing subsidy, should the lease be terminated by the tenant within six (6) months from the commencement date, or should the agreement be cancelled by the MHA following the default of the tenant within a period of twelve (12) months from the commencement date. These costs will be deducted from the deposit by the MHA at a rate applicable at the time.

## Receipts

The tenant accepts as a receipt the monthly rent statement provided by the MHA, which reflects all receipts and rentals due.

The MHA will provide to the tenant a written receipt for any payment made in respect of rentals, arrears, or as a deposit, or for any other payment received from the tenant, at the tenant's request.

## Set off

The tenant is not allowed to refuse to pay, or fail to pay, any money or part of any money owing to the MHA, as a set off against any monies which the MHA may owe to the tenant, or if the MHA is in breach of any terms of the lease agreement, or for any other reason.

## Notices

If any party needs to give notice to the other party, such notice must be in writing and must be delivered to the tenant by registered post or by hand, at the premises, or to the MHA by hand, at the address of the MHA as set out on the first page of the lease agreement; in which case delivery is deemed to have happened when the notice is so delivered.

Where the tenant refuses to accept delivery by hand, or acknowledge the same by signing the MHA's delivery book, then the notice shall be sent by registered post.

## 5. Letting

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### Incoming Inspection

1. The premises will be in good condition before you move in.
2. On or before the day you move in, your premises will be inspected by Housing Supervisor and yourself.
3. The Housing Supervisor will carry an inspection book, in which he will record any defaults. The tenant will sign the incoming inspection form, and will be given a signed copy.
4. We may rectify any defects resulting from inspection at our sole discretion.
5. You have 3 months in which to report any defects that you may pick up after the inspection.
6. Once the 3 month period is over, you are liable for any minor maintenance defects in your unit.

### Entering the premises

1. Our staff or contractors may request to enter your unit for inspections.
2. Where we cannot not gain access, we will verbally make arrangements for access.
3. You must allow us access into your unit in order to carry out maintenance works when necessary.
4. In a case of an emergency, we may enter your unit without giving you notice.

### Termination

The Lease Agreement can be terminated in the following ways:

1. If we need to demolish or sell the property, we will give you 6 months' notice to move out.
2. If you default on your rental payment, we can terminate the agreement without notice.
3. If you commit any other breach of this agreement including the House Rules, we can terminate the agreement without notice.
4. If you tamper with the electricity and/or water pre-paid meters, we can terminate the agreement without notice.
5. If you decided to move out, you need to give us a 1 month notice, calculated from the 1<sup>st</sup> day of the month.
6. If you do not give us notice from the 1<sup>st</sup> day of the month if you intend to move out, you will be liable for the following month's rental.
7. If there is a dispute between yourself and us, you will still be liable for the rental amount while you still occupy our unit.
8. If the dispute involves legal costs, the tenant will be liable for such legal costs before moving out of the unit.
9. Once you have given us one month notice, we have a right to show your unit to prospective new applicants at a reasonable time.
10. Prior to moving out, your account must be up to date (this includes rental, water, legal costs, or any other breach amount that is included on your rent account).

### Return of the premises

When you have terminated your Lease Agreement, for whatever reason, the following needs to take place:

1. You must return the unit in good order and condition, as it was when you first took occupation (fair wear and tear is expected).
2. Any maintenance that you are liable for must be completed prior to returning the unit.
3. Any alterations that we agreed on must be left in good condition.
4. You will hand over all keys, internal or external, as well as parking discs ect, to us.
5. If you left furniture inside your unit when you vacated, we have the right to remove it and, after a period of seven (7) days, to sell your furniture to cover storage expenses.
6. Your furniture will not be left in the unit when you vacate unless you inform us, in writing, that the new tenant has bought the furniture from you.

## Inspection

### *Incoming Inspection*

1. After signing the Lease Agreement, you will make an appointment for the incoming inspection.
2. You have 7 days to do the incoming inspection, and point out any defects.
3. You must put defects to us in writing, failing which we will assume that everything is in order.

### *Preliminary Outgoing Inspection*

1. Once you have given us the notice to vacate, you will arrange a preliminary inspection, which must be done within 14 days of giving notice.
2. It will be done by our Housing Supervisor and yourself, or any person that you have nominated on your termination form. Our Housing Supervisor will provide you with specifications for paints and any other items that you need to repair prior to moving out.

### *The Final Inspection*

1. The final inspection must be done on the last day of your occupation, when there is no furniture inside your unit.
2. Everything inspected must be noted on the outgoing inspection form, which you will sign and be given a copy of.
3. It will show what kinds of repairs need to be done, fair wear and tear excepted.
4. If the outgoing inspection was not signed by you, such report may be signed by an independent building inspector or two of our representatives.

## Deposit

1. The deposit may be used against damages, loss of keys, and outstanding monies owed by you during your occupation.
2. If the money exceeds the deposit, you will be liable to pay the balance outstanding.
3. Once repairs and damages have been rectified, a breakdown of items will be done and a copy given to you.
4. Should you fail to keep to the inspection date when you vacate, we will inspect your unit within 7 days after you have moved out.
5. Should you vacate your premises before the 30 day notice period, the day on which you vacate will be taken as the end date for your Lease Agreement, and you will be liable for all the complications arising from the breach of Lease Agreement.

## Vehicles, Parking, Parking Bays, and Storage

1. Each unit is provided with a parking bay. The parking bay may only be used for parking a vehicle in, and not for any other purposes whatsoever.
2. The parking bay is leased to the tenant on terms and condition determined by the MHA.
3. Only one parking is made available per unit, unless there is a spare parking bay. The extra bay will be costed at the rate of 30% more than the rental of the first parking.
4. All parking bays are for the sole use of the tenant, and may not be 'hired' to other tenants.
5. Where storage is available, the storage can be hired by the tenant for storage purposes only.
6. The parking bay and storage bay rentals can be adjusted by the MHA at any time.
7. Once you have terminated your Lease Agreement with the MHA, you will no longer have access into our parking bay or storage.
8. You are not allowed to erect or have erected on the grounds, gardens, or parking lot of the property any structure, including carports, tents, marquees, wendy houses, or canopies, without prior written consent from us.
9. Visitors will park in the designated parking areas only.
10. No major vehicle repairs may be undertaken on the premises.
11. Vehicles may only be washed in the designated areas.

## Subletting

1. The tenant must personally reside in the unit during the Lease period, and must not allow any other person to reside in the unit without prior consent from the MHA (Landlord).
2. You cannot sub-let our unit, either fully or partially.
3. You cannot handover your Lease Agreement (your unit) to any other person.
4. You have no right to choose a successor to the premises.
5. The MHA has a list of people who are waiting for units, so when you vacate your unit, the first person on the waiting list will take occupation.
6. If you die, we give your family the first option to take over the unit, if they can satisfy the qualifying criteria.
7. In a case where we have tried to get hold of you but cannot, we have the right to secure our unit until we can determine whether you still occupy our unit or not.