

Coffs Harbour and District Local Aboriginal Land Council

Housing Policy

Preamble

The following definitions are provided:

Council – means Coffs Harbour and District Local Aboriginal Land Council (CH&DLALC)

Councillors – means the individuals holding the office of a member of the Council of Coffs Harbour and District Local Aboriginal Land Council

Council officers – means the Chief Executive Officer and staff of CH&DLALC appointed by the Chief Executive Officer.

CEO - Chief Executive Officer

COC – Chair of Council

1. Purpose

The purpose of this document is to provide a framework for CH&DLALC to manage their properties in a sustainable way, and to provide fair, equitable and transparent processes that govern all decisions made.

2. General principles

- Commitment to providing access to housing that is appropriate and affordable
- Openness and transparent in approach and decision making
- Fairness and equity—any costs and benefits of policy outcomes are to be fairly distributed among all tenants

- Efficiency and effectiveness—resources are applied in such a way as to maximise beneficial outputs and outcomes per dollar expenditure
- Simplicity and ease of administration—policy recommendations should be simple to implement and administer and the costs of administration held in check
- Sustainability—social, economic or environmental.

3. Definitions

Applicant – the person who makes the formal application for housing assistance

Tenant – the person who signs the Residential Tenancy Agreement

Resident – a person who lives in the property on a permanent basis

Household members – all people living in the home regardless of age or relationship

4. Scope

This policy covers all aspects of housing management including eligibility, tenant selection tenancy management and asset management.

This policy applies to the organisation as a whole including the Board, CEO, managers, staff, volunteers, members and tenants.

This document focuses on the positive and essential role that feedback from tenants and the community can play in ongoing continuous improvement of housing services provided by CH&DLALC.

5. Responsibilities

It is the responsibility of the Board to authorise, administer and monitor this policy for the benefit of the community that it serves.

Where a commercial agent has been appointed to manage the properties, they are also required to comply with the provisions of this policy.

The CEO is responsible for the implementation of this policy, for monitoring changes in relevant legislation, and for advising on the need to review or revise this policy as and when the need arises.

It is the responsibility of each staff member to implement and monitor this policy and related operational procedures.

All Staff members and volunteers must:

- Ensure that they are aware of, and comply with, the policy and any procedures that apply;
- Observe these principles when supporting tenants;
- Report all incidents of breaches of the policy;
- Where appropriate, suggest ways in which practices, systems and procedures could be improved so as to reduce the likelihood of a breach occurring.

6. Procedure

Introduction

The Application and Allocations Manual has been primarily designed to provide **CLEAR** procedural guidelines for Council Board members whose role is to allocate and manage Council accommodation within the boundaries of Council.

An additional intention of this manual is to provide detailed information on the Council's procedures to its members and other authorized funding bodies.

It must be pointed out to all users of this manual that policies and procedures can be reviewed as Council's focus changes and economic factors indicate. The LALC Board will endeavour to review this policy every twelve months or as deemed necessary for review.

**THE CORE FUNCTIONS OF THE CH&DLALC BOARD AND PROPERTY DEPARTMENT IN
RELATION TO PROPERTY MANAGEMENT ARE TO:**

- ❖ Review the housing waiting list as necessary.
- ❖ Selection of tenants for LALC housing.
- ❖ Deal with mutual exchange applications.
- ❖ Deal with succession tenancy applications.
- ❖ Deal with requests for transfers of housing properties.
- ❖ Determine members requests for purchasing of houses.
- ❖ Approve allocations and notice of termination of tenants.
- ❖ Determine appeals and complaints regarding LALC housing allocations.
- ❖ Review and update housing forms.
- ❖ Delegate day to day property management issues to the Chief Executive Officer.
- ❖ Ensure the Property Manager has the necessary property management qualifications, as per the Aboriginal Housing Office's requirements.

AIMS AND OBJECTIVES

A function of the Coffs Harbour & District Local Aboriginal Land Council (CH&DLALC) as stipulated in the Aboriginal Land Rights Act 1983 No. 42 section 12 (G) is to ensure that Land Council upgrade and increase residential accommodation for Aboriginals in its area.

- ❖ The CH&DLALC aims to ensure that every **MEMBER** has access to secure, adequate and appropriate housing. Applicants for housing are to be a **MEMBER** of the CH&DLALC and reside within the CH&DLALC boundaries.
- ❖ Housing provisions to be distributed equitably to all areas of the Council boundaries.

- ❖ Eligibility for housing must not discriminate on the grounds of sex, marital status, religion, disability, life situation or family ties.
- ❖ The CH&DLALC will endeavour to provide subsidised housing to low-income earners following our cost recovery or income-based guidelines. **APPLICANTS** for housing who have the financial capacity to obtain and maintain affordable finance for adequate and appropriate house purchase will be given lowest priority.
- ❖ The CH&DLALC will endeavour to promote home ownership by its members who have the capacity and desire to undertake this commitment.

ROLE OF THE CH&DLALC BOARD

- The CH&DLALC Board will inform and update members of the CH&DLALC their decisions regarding housing issues as stated in their core functions and the aims and objectives.
- The principle role of the CH&DLALC Board is to ensure that the housing policy is adhered to and remains the focus of Council as it relates to housing issues.
- To provide a written report detailing housing issues to the members for presentation at the CH&DLALC AGM.
- The CH&DLALC Board will be responsible for CH&DLALC Housing issues for the period of their standing as a CH&DLALC Board member in accordance with the NSW Aboriginal Land Rights Act 1983 as amended.
- Any Housing issues will be discussed at the monthly meeting of the CH&DLALC Board.
- To execute their power of delegation as set out in the delegation of authority.
- To review when necessary the housing policy and waiting list to ensure it remains consistent with the aims and objectives of the Council.
- All CH&DLALC Board members must adhere to the CH&DLALC Board members Code of Conduct and Confidentiality agreement.

- No CH&DLALC Board member will deal with housing issues if they are an immediate relative of the applicant/tenant or if the other Board members vote to decide there is a conflict of interest. Majority vote counts. **The definition of an immediate relative is partners, spouses, parents, children, brothers, sisters, uncles, aunties, nieces, nephews, grandchildren or grandparents of the member.**
- A strict code of ethics is to be adhered to following these guidelines.

DELEGATION OF AUTHORITY

The delegations that apply for the CH&DLALC Board and Property Department for housing are as follows.

<u>Ref No:</u>	<u>Action</u>	<u>Delegation of Authority</u>
1.	To approve admission of eligible Property Department Applicants to the housing waiting list.	Property Department
2.	Remove applicants from the housing waiting list who do not meet eligibility guidelines.	CH&DLALC Board
3.	To restrict access to the waiting list of former unsatisfactory tenants of CH&DLALC houses.	CH&DLALC Board
4.	To remove from the housing waiting list applicants who refuse a second offer of housing from the LALC.	CH&DLALC Board

5.	Approval of accommodation mutual exchange	Property Department
6.	Termination of tenancies for any reason.	Property Department
7.	To determine succession of tenancy.	Property Department
8.	To approve the allocation of housing	CH&DLALC Board
9.	To approve transferring of tenants	Property Department

HOUSING APPLICATIONS:

APPLYING FOR CH&DLALC HOUSING:

The CH&DLALC will accept applications from members of the CH&DLALC who reside within the CH&DLALC boundaries for placement.

STEPS IN RECEIPT OF APPLICATION:

1. Applicant fills out new application for housing and submits to CH&DLALC office.
2. Application is date stamped by CH&DLALC office staff upon receipt of application.
3. Explanation of factors affecting eligibility are as follows;
 - i. Must be a current member of CH&DLALC.
 - ii. Must provide evidence of current income status.
 - iii. Must provide two (2) most recent rent receipts or alternatively a letter of accuracy from whom ever you are staying with.

4. A file is created for the applicant.
5. Eligible applicants details are entered onto the housing waiting list as soon as possible after receipt. All original documentation is to be filed in filing system.
6. Ineligible applicants will be notified in writing including the reasons for their ineligibility (i.e. Income, membership etc).
7. All applicants' details are to be maintained on individual files. The file created for an applicant is then continued on once the applicant becomes a tenant.

WAITING LIST AND ELIGIBILITY:

WAITING LIST INCOME ELIGIBILITY

To be eligible to be on the waiting list applicants must meet income eligibility as specified by the Aboriginal Housing Office guidelines and must provide income details in the form of their most recent group certificate and/or Centrelink statement.

WEEKLY HOUSEHOLD INCOME LIMITS

Household size	Total maximum Gross Weekly income	Total Annual Household Income (\$)
Single	\$575	29900

Single 1 child	855	44460
Single 2 children	950	49400
Single 3 children	1045	54340
Single 4 children	1140	59280
Couple	795	41340
Couple 1 child	1075	55900
Couple 2 children	1170	60840
Couple 3 children	1265	65780
Couple 4 children	1360	70720
Each additional adult 18 or over	220	
First child (under 18 years)	Add \$280	
Each additional child < 18 years	90	
Disability allowance	95	
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Total weekly household income must include the gross income of all adults being housed with the applicant.

Household income is the total gross income (i.e. before tax) of all adult household members including wages, Centrelink pensions and allowances and interest on investments.

Where an applicant or household member has a documented disability that requires expenditure in excess of \$70.00 per week, that amount can be deducted from the gross household income before the test is applied. (Documented evidence needs to be provided).

Applicants must be a **MEMBER** of the CH&DLALC and reside within the CH&DLALC boundaries.

Be on the housing waiting list for twelve (12) months to be eligible for housing.

All applications for housing must include **ALL** details of people to be housed and documents of their income.

RENT SETTING AND COLLECTION

The CH&DLALC will charge rent in accordance with the Aboriginal Housing Office cost based and income rent analysis. An average of this amount will be nominated according to the type of dwelling and its condition and amounts rounded up to the nearest \$10.00

For existing tenants with combined household incomes over \$75,000 per annum, rent will be charged at market rent in accordance with the homes number of bedrooms using the Department of Housing “market rent formula”.

Currently set as at DEC 2010:- 1BR – \$180, 2BR - \$250, 3BR - \$340 and 4BR - \$420.

Tenants who are solely in receipt of Centrelink income will have rents payable on the cost based formula.

Tenants who are in receipt of income up to \$75,000 per annum will have rents payable on the income based formula. The income based formula will not exceed the “market rent formula”.

Tenants and/or combined households who are in receipt of income exceeding \$75,000 per annum will have rents payable on the “market rent formula”.

Each occupant's income is including all adults residing in the dwelling and any visitors who stay for more than six weeks, rent will never exceed market rent and a review will be performed annually.

If income details are not received by the Coffs LALC within 28 days from 1st August each year market rent will be charged and 60 days notice will be given notifying the tenant of the market rent increase.

*** CH&DLALC attempts to maximize the Commonwealth Rent Assistance payable to tenants of CH&DLALC through its rent setting formulas.**

The Property Department has the responsibility of setting, reviewing and increasing rents in accordance with the LALC's housing policy which is approved by the CH&DLALC board.

Water Usage Charges

Tenants are responsible for covering all of their own water usage and utility charges (i.e. Electricity/Gas). This is in addition to rent payable in accordance with section 38 & 39 of the *Residential Tenancies Act 2010*.

Water usage is a set part of all tenancy agreements. CH&DLALC pays the water accounts on tenant's behalf and invoices tenant for water usage. The tenant has 21 days to pay CH&DLALC for water usage additional to their rental charge. Failure to pay outstanding water usage will result in Consumer, Tenancy and Trader Tribunal action to recover costs associated with unpaid water usage. As per Section 39 of the *Residential Tenancies Act 2010*.

Formula for calculating cost based rent:

Example:

Generally 0.5 % of the replacement value of the house should be budgeted annually for the day-to-day maintenance. To cover the cyclical maintenance 2% of the replacement value of the dwelling should be budgeted and put aside. A management fee calculated by the % of total household value of each property x total overhead costs should be charged.

E.g. Overhead costs = \$100,000 House value = \$182,000 Total value of all houses \$9,100,000. Divide house value by total value to get %. $\$182,000 / \$9,100,000 = 2\%$. Percentage of overhead costs associated to this residence is 2% of \$100,000 = \$2000

Cost rent formula: Step 1 Subtotal = weekly rent
52 (weeks in year)

Example: Based on a dwelling with a replacement value of \$182,000. The cost rent for the following example would be \$170.00

Annual land rates (a)	1000
Annual building insurance(c)	1000
Day to day repairs and maintenance (d)	910
Cyclic maintenance (e)	3640
Management fee (f)	2000

Subtotal = \$8550

\$8550 = \$164.42 rounded to next \$10 = \$170.00

The Coffs LALC may group all four-bedroom homes, which calculate to similar amount into a group and get an average of this amount.

Example: **House 1 \$117.50**
 House 2 \$115.50
 House 3 \$ 118.20

House 1 + House 2 + house 3= average rent per property

3

117.50 + 115.50 + 118.20 = \$117.06

3

Rounded up to nearest \$10.00 would be \$120.00 per week for these three properties.

ALLOCATION OF COFFS LALC HOUSES:

- Property Manager to recommend to CH&DLALC Board members first applicant from housing waiting list that are eligible under bedroom category and qualifying in relation to time on waiting list.

- Applicants are asked to provide updated income details and other relevant information for CH&DLALC Board members review prior to endorsement. Applicant will be given fourteen (14) days to provide all requested information.

- Selected applicant must be endorsed by CH&DLALC Board members with applicant profile being forwarded to the Aboriginal Housing Office for approval.

- Once approval has been granted by the Aboriginal Housing Office, a residential lease must be approved by CH&DLALC Board members at a properly convened meeting of the CH&DLALC Board.
- Minutes will be taken of the CH&DLALC Board meeting and all relevant details of the decisions made.
- The chosen applicants name will be advertised in the front office of the LALC for a period of 7 working days to allow for appeals or complaints.
- Applicants with previous debts to CH&DLALC will not be eligible for housing until such time as the debt is cleared. Applicants will remain on the waiting list in a suspension mode. CH&DLALC will maintain and control an active and inactive housing waiting list. Inactive applicants will be determined by previous rental history with the CH&DLALC.
- Applicants who refuse a second offer of suitable housing from the LALC will have their names removed from the Housing Waiting List and need to reapply for housing from the LALC. Unless the offer is considered unreasonable with appropriate supporting documentation. (I.e. Letter from doctors, domestic violence order)
- That 20 Bent Street units are designated for over Forty-Five (45) years of age tenants only, on the provision that those tenants meet all eligibility criteria. 20 Bent Street units were constructed under the understanding of the units being utilized for Elders accommodation only.

- Tenants who are deemed to be under occupying a property will be offered appropriate alternative accommodation within or outside of CH&DLALC's housing portfolio dependent on bedroom eligibility criteria; and
- If an applicant is requested in writing to provide information within 14 days for an available property, and the applicant does not respond, that it is considered that the applicant has declined an offer of housing. The same said applicant would also become ineligible to receive another offer of housing for a period of six (6) calendar months from the completion of the 14 days to respond.
- Requests for eligibility information doesn't constitute an offer of Housing.

APPEALS AND COMPLAINTS:

CH&DLALC will receive and deal with all complaints and appeals in a professional, courteous and timely manner. Complaints will be reviewed, assessed and responded to within one week of the complaint or appeal being received in writing. A final determination of the complaint / appeal will be made with 28 days of its receipt.

This policy does not deal with complaints from one tenant about another tenant or complaints about a tenant from a neighbor.

COMPLAINTS / APPEALS PROCEDURES:

- Complaints / appeals must be received in writing, signed by the applicant;
- Appeals must identify the specific decision under question;
- A policy and procedure review will be undertaken upon receipt of a written complaint / appeal by the Property Department;

- A final determination will be made within 21 days of lodgment by the CEO or CH&DLALC Board;
- A written response detailing the review process and the decision will be provided to the appellant / complainant by the Property Department or CEO;
- Information concerning further avenues for appeal / complaint will be provided to the applicant with the final determination letter.

Appeals and complaints regarding selection of tenants:

- ❖ Only applicants can appeal or complain if they were not selected for a property.
- ❖ In the case of an appeal the CH&DLALC Board may decide to interview the applicant appealing and decide:
 - If they wish to remain with their original decision.
 - They decide to re interview the chosen applicant and possibly change their decision.
 - If they decide to change their decision after an applicant has been endorsed by the Board. The applicant is not to be given a lease and the Board is to consider rescinding their previous decision at the next LALC Board meeting.
 - The Board will respond within 28 days of lodgement.

MUTUAL EXCHANGE:

CH&DLALC tenants may exchange (swap) homes with other CH&DLALC tenants with the approval of the Property Manager and subject to the following:

- All requests for exchange must be in writing, signed by the tenant;

- Neither tenant (who swaps) has existing termination order;
- Each tenant is to be up to date with rentals and/or damage payments
- The premises are in a reasonably similar condition and both tenants accept the properties in their current condition;
- Both tenants agree to pay the weekly rent on the property they move to; and
- All exchange agreements must be in writing, signed by the tenant.

NOTE: Tenants who have orders for abandoned premises and / or termination orders will not be considered for mutual exchange.

MUTUAL EXCHANGE PROCEDURE:

Tenants applying for mutual exchange must complete a mutual exchange request form stating their reasons for wanting to move, and if possible the property they wish to move to. The form also includes other questions tenants must answer to assist the Property Manager in locating a suitable property for exchange.

Upon receipt of the Mutual Exchange Form the Property Manager will review tenant records to determine that the above conditions are met. If all conditions are met the Property Manager will place the request form on file and add the name of the applicant to the Mutual Exchange Waiting List.

NOTE: Tenants with current termination orders or abandoned premises orders will not be approved for admission to the Mutual Exchange List.

The Property Manager will identify other suitable homes on the exchange list and notify suitable exchange tenants of the addition of a new property for consideration.

The Property Manager will attempt to match applications and where appropriate will notify tenants that an exchange has been approved. Where an immediate exchange

match is not made the Property Manager will monitor and review requests for exchange and will keep exchange applicants updated on a regular basis.

HOUSING TRANSFERS

CH&DLALC recognises that CH&DLALC tenants personal circumstances change from time to time. (E.g. increase in family size).

Transferring from one residential property to another is permissible; however the transfer applicant must make their request in writing and provide reasoning for transfer request. I.e. Current housing is no longer suitable due to family increase or decrease.

CH&DLALC will endeavor to match suitable transferring of residential properties by requested applicants. Transfers may not be available and CH&DLALC may assist with linking applicants to other Aboriginal Social Housing Providers.

CH&DLALC will maintain a Transfer Waiting List for existing tenants to allow for matching of suitable residential premises. (I.e. Upsizing or downsizing required)

Access to the Transfers Waiting List will only be permitted for existing tenants who are up to date with their ongoing lease obligations to CH&DLALC. (I.e. rent, water etc)

SUCCESSION OF TENANCY:

Succession occurs when one tenant takes over a lease from another tenant living in the same house. This may occur as a result of death in the family, family breakdown, tenant incarceration or illness.

There is one (1) type of succession which is household member succession. A household member is a tenant whose name appears on the lease or who has resided in the house for more than 12 months with CH&DLALC approval.

However special consideration will be given in the instance where a tenant passes away and that tenant has had guardianship of grandchildren. A grandchild may be given succession of tenancy.

Tenant succession is subject to the following:

- All Succession Applications must be in writing, signed by the applicant;
- Applicants for succession housing must meet minimum AHO selection criteria;
- Applicants for succession housing must meet minimum LALC selection criteria;
- No overcrowding is to occur as a result of succession approval;
- No under occupying is to occur as a result of succession approval;
- All debts applicable to the tenancy will remain with the succeeding tenant as a result of succession approval; and
- Approved applicants with current or outstanding arrears including written off debts must enter into a repayment agreement e.g. an agreement to pay weekly rent plus a reasonable arrears repayment amount.

NOTE:

- A succession tenancy will not be considered where an abandoned premises order or termination order is current on the succession property and;
- Household members must be approved by the LALC for a succession tenancy to be considered.

SUCCESSION APPLICATION PROCEDURE:

The Property Manager will review the following when considering succession applications:

- The number of succession applicants;
- The reason for succession tenancy application;
- Household member status – (more or less than 12 months / LALC approved);
- Current debt or arrears status of applicant/s;
- Eligibility criteria for AHO;
- Eligibility criteria for CH&DLALC; and
- Debt history of applicant/s.

The Property Manager will provide a detailed report on the succession application including a recommendation for approval or refusal stating the grounds for both. The CH&DLALC Board has the final decision.

RENT ARREARS MANAGEMENT:

CH&DLALC will pursue tenant arrears in a professional manner through the Residential Tenancy Tribunal and appropriate court orders including garnishees and writs of execution. Tenants who fail to comply with arrears management agreements/ orders will have their tenancy terminated without further negotiation.

RENT ARREARS MANAGEMENT PROCEDURES:

All rent arrears will be dealt with in the following way unless exceptional circumstances warrant leniency:

- All tenants must be at least two weeks in advance with a minimum four weeks bond lodged at the beginning of the tenancy;
- Tenants with more than two weeks arrears will be sent a warning letter with directions to pay rent and arrears and comply with all other lease conditions;
- If possible phone contact is to be made with the tenant to discuss payment arrangements at this time e.g. Centrepay and direct debit;
- CTTT orders will be sought against tenants who fail to comply with voluntary repayment agreements;
- Ongoing negotiations to save the tenancy are encouraged where progress has been made with arrears;
- Tenants with arrears in excess of 21 days will be issued with a termination notice by the Property Department;
- A termination notice may only be withdrawn where all arrears are paid prior to the vacate date and the tenant is two weeks in advance as per the lease;
- Failure to comply with a termination notice will result in the CH&DLALC Board approving the Property Department to seek a CTTT order for vacant possession.

DEBT RECOVERY:

CH&DLALC will exhaust all debt recovery options in pursuing tenant debts. Debt recovery action will include garnishees and writs of execution for the seizure of goods. Bad debts, debts from previous tenants, will be recouped prior to consideration for future housing by the LALC.

Recovery action will commence prior to any new lease being signed with tenants with current or bad debts. Recovery action will commence wherever CH&DLALC determines that monies owed can be recovered.

DEBT RECOVERY PROCEDURE:

All debts will be pursued in the following manner:

- For current arrears - order from the Residential Tenancy Tribunal;
- For bad debts where the previous tenant works - court order – garnishee;
- For bad debts where the previous tenant does not work – court order – seizure of goods.

EVICTED TENANTS/ABANDONED PREMISES

Any abandoned premises of CH&DLALC will be considered to be vacated premises and any goods left in the premises will be dealt with in accordance with the NSW Residential Tenancies Act (2010). Recovery and Possession Part 6 Division 1 Sections 119 – 125 and Division 2 Sections 126 – 135.

REPAIRS AND MAINTENANCE POLICY

CH&DLALC will maintain its properties by implementing and regularly updating a Repairs and Maintenance Schedule. All requests for repairs received in writing must be prioritized and added to the R & M Schedule.

CH&DLALC will allocate an annual R & M budget, approved by members, from estimated rent collection. This allocation will be spent on identified works listed on the R & M Schedule. In addition CH&DLALC will explore opportunities to generate additional funds for ongoing cyclic maintenance.

CH&DLALC will make every effort to action urgent / emergency repairs e.g. electricity, plumbing and break-ins within four 4 hours of notice.

CH&DLALC will action repairs caused as a result of tenant / visitor damage and undertake appropriate recovery action. Repeated tenant damage will result in termination.

CH&DLALC will retain 0.5% of rental collection for day to day repairs and maintenance. Additionally CH&DLALC will retain 2% of rental collection for its ten (10) year cyclical maintenance plan.

All properties will be inspected on at least an annual basis however more regular inspections may occur depending on the tenant's previous history.

BREACHES OF THE TENANCY

The CH&D LALC adheres to the Residential Tenancies Act 2010 (NSW) and regulations. Tenancies are conditional upon this legislation and persistent breaches of the Act by the tenant will result in the termination of the tenancy.

Examples of breaches are but not limited to:

- Public disturbances
- Failure to maintain lawns and gardens including rubbish / garbage removal
- Rental Arrears
- Tenant Damage to property
- Overcrowding

Tenancy breaches will be dealt with as follows:

- A warning letter will be sent to the non-complying tenant with directions to comply with all lease conditions;

- If possible phone contact is to be made with the tenant to discuss the issue and rectification;
- CTTT orders will be sought against tenants who fail to comply with voluntary repayment agreements in the case of arrears or tenant damage;
- Ongoing negotiations to save the tenancy are encouraged where progress has been made with arrears/tenant damage;
- Tenants with arrears in excess of 21 days or, who fail to address a tenancy issue after having been formally warned, will be issued with a termination notice by the Property Department;
- A termination notice may only be withdrawn where all lease conditions have been complied with;
- Failure to comply with a termination notice will result in the CH&DLALC Board approving the Property Department to seek a CTTT order for vacant possession.