



# SAHT Transfer Developments Property sales to tenant or private market procedure

This procedure sets out how the SA Housing Authority (the Authority) will assess requests for the sale of properties that are leased to the Community Housing Providers (CHPs) under SAHT Transfer Programs (such as ROSAS and BPSC). The procedure defines the responsibilities of both the CHP and the Authority.

Under the terms of the SAHT Transfer Development Deed (BPSC, ROSAS or equivalent), a CHP may sell a property to a tenant or on the open market provided it has been approved as part of a project plan and the funds used as stipulated in the project plan.

The minimum price for sale must in accordance with the [SA Housing Authority Real Property Transactions Policy](#).

However, where a sale is proposed to a tenant, an agent's market appraisal is not required. Where a property is not part of an approved or proposed project the Authority will manage the sale and the property will be surrendered from the CHP's lease (see [Property sales to tenants not part of approved project plan](#)).

## Procedure detail

### CHP considers selling property to tenant

Sales to tenants may occur as a result of a request from a tenant or a pro-active program by the CHP. Where a request is initiated by a tenant, the CHP will consider the application in line with their own sale to tenant policies, procedures and asset plans. Following due consideration, the CHP is not obliged to sell the property (subject to any rights of SAHT).

**Note:** If the sale is not a funding source for a proposed project, the property is to be sold to the sitting tenant as per Section 17 (Property purchased by tenant) of the SAHT Transfer Program guidelines. Funds obtained from the sale are returned to the SAHT and there is no replacement property provided by SAHT.

If the CHP determines the sale is a funding source for a proposed project, approval must be sought via completing a project proposal and forwarded to the Housing Partnerships team prior to entering into any agreements or dealings for the sale of the property. The [SAHT Transfer Developments Property Sales to Tenant Form \(part of project development\)](#) must be completed by the CHP and forwarded to Housing Partnerships.

The CHP will also consider how the sale proceeds are proposed to be applied, to satisfy the requirements of the Authority, and contribute to the objectives of the CHP's Investment and Asset Management Plan and the approved project plan.

If the CHP seeks to sell a property to a tenant and the funding is not proposed to be reinvested into a project, the CHP will notify and seek consent from the Authority in writing (which consent may be withheld in the Authority's discretion). The request must be made in accordance with section 17 of the SAHT Transfer Program Guideline and using the [SAHT Transfer Program Property Sale](#)



[Request Form \(not part of development\)](#). See [Property sales to tenants not part of approved project plan](#)

## CHP seeks consent from the Authority to sell on the open market

The details must be included in the project proposal. If the Authority approves the Project Plan, the CHP may be authorised to act on behalf of SAHT either under license or through title transfer to proceed with the sale. The CHP is responsible for arranging the sale on the open market and cover all costs associated with the sale of the property. NOTE: Where the property is to be sold on the open market, there is no Property Sales to Tenant form required.

## The Authority considers request

The project proposal must be forwarded to Housing Partnerships. The Authority will consider the project proposal and property sale request in accordance with the SAHT Transfer Program Redevelopment Work Instruction.

If the property doesn't sell for the agreed sale price the Authority, in its absolute discretion, can vary the sale price in accordance with the Authority's Delegations. The CHP will be required to substantiate a robust marketing strategy and highest offer as part of the request for the lower amount.

## Project Plan and Deed of Statutory Charge

Where consent is granted, the SAHT will provide an approved Project Plan to ensure:

- SAHT's financial interest in the property being sold is secured against a replacement property, alternative project property, or part thereof by a Deed of Statutory Charge being registered on the Title for the property. Where there is not a specified property identified for the proceeds of sale, a bank guarantee or equivalent approved security instrument to secure the government interest will normally be required. The Project Plan will identify a timeframe for how long the proceeds can be held, before they are reinvested into purchase of another property (or another project);
- the sale proceeds are reinvested into agreed projects as described in the Project Plan within a set timeframe;
- if a property under the Housing Transfer Management Deed is being sold as part of a project plan, the CHP must replace with a property of equal or greater than the number and value of the property sold as approved in the Project Plan; or wholly applied to another purpose approved by SAHT in its absolute discretion; and
- all other relevant matters are documented as required under the Project Plan.

The Project Plan will outline the details of the project development (e.g. concept plan, key milestones, expected completion date), and the type of property (e.g. value, construction type, number of bedrooms), and the financial interest to be held by SAHT.

## Sales Process

The CHP is responsible for managing the property sale, including funding all costs associated with sales, valuation and conveyancing on behalf of the CHP as the seller. It is reasonable to expect the tenant as the purchaser to pay for their own conveyancing to represent their interests, as they would in a private sale.



## Title transfer

Where property sale activities for development purposes form part of the Project Plan, the Authority, upon execution of the Project Plan, will transfer Title to the CHP. The CHP will be responsible to manage the property sale:

- A Deed of Statutory Charge will be executed and registered on the Certificate of Title.
- When the Title has been transferred from SAHT ownership, any tenant must sign a new lease with the CHP;
  - if the tenant was transferred from SAHT to the CHP as part of a transfer program they must continue to retain the equivalent of SAHT lease conditions (if deemed a Type 1 Tenant (existing tenant) under the terms of the Housing Transfer management Deed). The tenant must continue to be considered a Type 1 Tenant after the new lease is signed, and this must continue if the sale fails to proceed.
- The CHP is responsible for the relocation of any tenant.

## Contract for sale

In the case of a sale to sitting tenant, the purchasing tenant must be included in the contract of sale and must be registered on the Certificate of Title for the property as a Registered Proprietor. The tenant's interest in the property cannot be wholly assigned to another party however other parties may be listed as joint purchasers.

It is the CHP's responsibility to enter into a suitable contract for sale with the purchaser, (such as the Real Estate Institute of South Australia's Contract for Sale). The contract for sale must also obligate the tenant to be listed as an owner on the Certificate of Title (the Title cannot be assigned wholly to another party or parties), and must investigate and consider the points below, to either include in the contract or to be addressed prior to the signing of the contract or settlement:

- Asbestos within the property
- Boundary check
- Building Inspection
- Trees
- Fencing
- White Ants
- Landfill
- Firewalls
- Party walls and services
- Create Party Wall Rights
- Issue new Title for property being sold

Additional information can be located in the Consumer and Business Services (Buyers information guide).

## Conveyancing

A conveyancer or solicitor is required to prepare the documents to transfer legal ownership of the property to the purchaser. The responsibility for managing and all costs associated with the conveyancing process for the sale of a property to a tenant rests with the CHP.



The Housing Partnerships team will notify the Authority's Conveyancing team which will complete an application to cancel the Statutory Charge over the Title which will be lodged in the Lands Titles Office before or at settlement. There are no fees payable for this process by either party.

### **House sale does not proceed**

If a house sale does not proceed, the CHP must immediately provide the Authority evidence that the sale is not proceeding setting out the reason and submit an amended project proposal for approval by the appropriate delegate. The Title must be transferred back to SAHT.

If the house sale is to a tenant, the CHP lease will remain in place and the tenant will continue to be subject to the equivalent of SAHT lease conditions (if considered a Type 1 Tenant (existing tenant) under the terms of the Housing Transfer management Deed).

## **Property sales to tenants which are not part of an approved project plan**

Unless agreed otherwise by the Authority, where a property is proposed to be sold to a tenant and the sale is not part of an approved project plan, the Authority will manage the sale in accordance with section 17 of the SAHT Transfer Program Guidelines. The [SAHT Transfer Program Property Sales Request Form \(not part of development\)](#) is to be completed by the tenant and CHP and forwarded to Housing Partnerships.

Where the Authority manages the sale of the property, the Authority will retain the sale proceeds and the CHP will not be provided with a replacement property.

The Housing Management Transfer Deed and the associated Lease will be amended to reflect the sale of the property.

## **Related Information**

### **Controlling documents**

This procedure is based on and complies with:

- SAHT Transfer Housing Management Deed and relevant documentation
- SAHT Transfer Development Deed and relevant documentation

### **Other documents and resources**

- [SAHT Transfer Program Guidelines](#)
- SAHT Transfer Redevelopment Work Instructions
- [Community Housing Maintenance Accommodation Standards](#)
- [SAHT Transfer Program Property Sale Request Form \(not part of development\)](#)
- [SAHT Transfer Developments Property Sales to Tenant or Private Market form \(part of project development\)](#)