

**Kitselas Policy Manual**  
**Land Grant Transfers Upon Death**

Unit	Policy	Approved
<b>General</b>	This policy deals with the transfer of a right of possession and occupation from one member to another member. Only after the Transfer has been registered in the First Nation Land Registry does the right come into existence.	Approved by BCR LMO- 2011-02-07- 02 on February 7, 2011
<b>Authority</b>	<p>The <i>Kitselas Reserve Lands Management Act</i>, K.B.C. 2005 No 1 section 29.2 states:</p> <p>A spouse or dependant referred to in section 29.1, whether or not their usual place of residence was with the Member at the time of the Member's death or declaration of incompetence, may make application for transfer of the Member's interest, and Council will, subject to this Act, decide such application on its merits.</p>	
<b>Member</b>	For the purposes of the <i>Kitselas Land Interests Law</i> , K.B.C. 2007-01, only a band member registered under section 6 of the <i>Indian Act</i> who is a registered member of the Kitselas Band can be eligible to be granted a right of possession and occupation in Kitselas lands.	
<b>Criteria</b>	<p>The following is the criteria approved in this policy:</p> <ol style="list-style-type: none"> <li>1. Residential lots in either Kulspai or Gitaus;</li> <li>2. Lot must be surveyed and have a recorded legal description;</li> <li>3. The deceased's death has been certified;</li> <li>4. The wishes of the deceased are being carried out either by will or an Administrator of the estate;</li> <li>5. The interest is to be transferred to a registered Kitselas member;</li> <li>6. If there is to be more than one owner, both or all owners must agree to either a joint tenants to tenants in common.</li> </ol>	
<b>Rights of owners</b>	<p>The right of possession and occupation includes:</p> <ol style="list-style-type: none"> <li>1. The right to "will" the home and lot to another band member; the band cannot transfer ownership of land to a non band member;</li> <li>2. The right to sell it to another band member;</li> <li>3. To lease or rent;</li> <li>4. To give it to another band member;</li> <li>5. The right to benefit from the resources on the land;</li> <li>6. The right to benefit from improvements made after transfer of ownership;</li> </ol>	

	<ol style="list-style-type: none"> <li>7. Neither the Band Council nor the Department of Indian Affairs has the authority to cancel a right of possession and occupation unless as provided for in the <i>Kitselas Land Interest Law</i>, K.B.C 2007-01 under Article 9.0; and,</li> <li>8. Council cannot add owners to the land without the consent of the present owner.</li> </ol>
<b>Rights subject to</b>	<p>Ownership rights are subject to:</p> <ol style="list-style-type: none"> <li>1. Any business licensing laws of Kitselas;</li> <li>2. Any environmental laws of Kitselas;</li> <li>3. Owners and all persons are subject to all of the laws of Kitselas including zoning laws; and,</li> <li>4. Any other laws of Kitselas.</li> </ol>
<b>Obligations of owners</b>	<p>The owner's obligations and responsibilities include:</p> <ol style="list-style-type: none"> <li>1. Since it is no longer a band house, the owner is responsible for all maintenance and repairs.</li> <li>2. The owner is responsible for fire insurance, the Council has no obligation to replace a house.</li> <li>3. To prepare a "will" and register the will in the Kitselas Land registry office.</li> <li>4. Inform the Kitselas Lands Office of any changes to ownership.</li> </ol>
<b>Council will approve</b>	<p>The following will be approved by Council;</p> <ol style="list-style-type: none"> <li>1. All documentation is complete and checked by legal counsel.</li> </ol>
<b>Council will not approve</b>	<p>The following will not be approved by council under <i>Kitselas Reserve Land Management Act</i>, K.B.C. 2005-01:</p> <ol style="list-style-type: none"> <li>1. Transfers to non Band members.</li> <li>2. Incomplete Documentation</li> </ol>