

**INSTRUCTIONS FOR FILING DETERMINATION OF HEIRS
(REAL PROPERTY ON TRIBAL TRUST LAND)
IN FOREST COUNTY POTAWATOMI TRIBAL COURT**

1. Complete the form by filling in all the blank lines. If you cannot fill in all of the blanks, do the best you can. You must have a correct address for all the Heirs.
2. Take the completed petition to the Clerk of Court for filing. The filing fee is \$60.
3. The Clerk will issue you a summons. The summons is a court document that lets the Heirs know he or she is requested to be at Court, with date and time to appear.
4. Review Realty Ordinance and Interim Regulations.
5. Provide certified copy of death certificate at time of filing.

**FOREST COUNTY POTAWATOMI COMMUNITY
TRIBAL COURT**

IN RE: Estate of _____

Case No. _____

PETITION FOR DETERMINATION OF HEIRS

Petitioner, _____, an interested person and a child of _____, brings this Petition for Determination of Heirship Rights in Property Interest pursuant to Section 402 of Title Four of the Forest County Potawatomi Community Interim Regulations, Section 7.3 of the Realty Ordinance, Transfer of Interests in Real Property on Tribal Trust Lands (hereinafter the "Regulations").

THE PARTIES

1. The Decedent's date of birth is: _____. The Decedent died on _____, 20____ at the age of _____. *Attach Death Certificate when filing.
2. At the time of Decedent's death, she lived on the Forest County Potawatomi Indian Reservation at a home located at _____.
3. The Decedent is: (*Choose one*) a: ☐ Forest County Potawatomi tribal member ☐ other Indian ☐ non-Indian ☐ other _____
4. ☐ The Decedent was not married at the time of death.
☐ The Decedent was married at the time of death.
5. Upon information and belief, Decedent ☐ did ☐ did not have a will. (If yes, please attach.)
6. Listed below, to the best of petitioner's knowledge, are the names and addresses of Decedent's spouse, children, heirs and devisees:

Name (Include spouse, if any)	Address (or date of death)	Age and Date of Birth of Minors	Interest and Relationship

5. Collectively, Decedent's next of kin and devisees are known as "Heirs."
6. Petitioner is unaware of any other children of Decedent.

JURISDICTION AND VENUE

1. The Forest County Potawatomi Community Executive Council has adopted Interim Regulations to provide a legal process to determine the heirship rights of survivors of persons who, at time of death, own an interest tribal trust land. Interim Regulations §101.
2. The Forest County Potawatomi Community Tribal court has exclusive jurisdiction to regulate and enforce the Regulations regarding transfer of interests in real property in tribal trust lands. Regulations §102.
3. Venue for this proceeding is proper in this Tribal Court because the Decedent resided on the Forest County Potawatomi Community Reservation when she died and Decedent was a Forest County Potawatomi tribal member.
4. Upon information and belief, Petitioner has not received a demand for notice and is unaware of any demand for notice of any probate or appointment proceeding concerning the Decedent.

CLAIM FOR RELIEF

1. The Forest County Potawatomi Community ("Tribe") administers a forgivable/zero interest (FZI) home loan program for members, pursuant to which 75% of the loan amount is forgiven over a fifteen year period, at the rate of 5% per year, and 25% of the loan amount is repaid over fifteen years, at 0% interest.

2. Pursuant to the FZI Program, and with the approval of the Executive Council, Decedent on _____, _____, executed a Promissory Note and Mortgage Loan in the amount of _____.
3. Under the Tribe's Constitution, Art. IV, § 1(b), authority to issues leases and otherwise deal with tribal land is vested in the General Council.
4. In 1995, the General Council approved "Policies and Procedures- Forest County Potawatomi Community Tribal Housing Program" (hereinafter "Policies") to govern the FZI program.
5. Under the Policies, an FZI loan applicant "must have or be able to obtain a leasehold interest or title in fee simple to the property, and must further be able to provide a first mortgage or equivalent security interest in the property to the Tribe." Policies, page 7.
6. Although FZI Policies provide that long-term leases by issued to members purchasing homes on tribal trust lands, no such leases were issued in many cases, including in decedent's case.
7. After her FZI loan application was approved, Decedent met with the Tribe's Land Use Department and, together with the Land Use Department, jointly selected a site for his/her home on lands held in trust by the United States Government for the Tribe at an address known as _____ whose legal description is:
8. FZI Program Policies provide that "[a]ny individual of adult age, related to the maker of the Promissory Note by blood or marriage, may take title to the property and assume the rights, responsibilities, and interest of the original maker." Policies, page 10.
9. The purpose of the FZI Program is to enable tribal members to discontinue their status as renters and become home owners, thereby enjoying all of the benefits of home ownership, including the right to dispose of their homes by sale, gift or devise to relatives who are members of the tribe.
10. With respect to homes financed through the FZI loan program off reservation, tribal members acquire a fee simple ownership interest in their homes.
11. Although decedent did not possess a lease in the Premises, it was the intention and expectation of the General Council (as reflected in the Policies), Executive Council, Land Use office, Housing Office and decedent that Decedent would acquire a similar ownership interest in the Premises and improvements thereon. This intention and expectation gives rise to an inchoate ownership interest.

12. Pending issuance of a lease by the General Council, petitioner and Decedent's heirs seek a tribal court determination of the right to assume Decedent's inchoate ownership interest in the home.
13. Upon information and belief, the current unpaid amount on that Promissory Note is \$_____.
14. Petitioner is unaware of any other probate or appointment proceeding concerning the decedent.
15. The Heirs are next of kin to Decedent and are eligible to receive long term leases of tribal trust law for home ownership.

WHEREFORE, Petitioner requests the Court proceed pursuant to Section 406 of the Interim Regulations to

- (1) to set a time and place of hearing and order that notice be given to all interested persons as provided by law;
- (2) determine the decedent's next of kin;
- (3) determine whether any of the heirs have freely waived their rights in the Property and that the petitioner shall assume decedent's rights in the Property;
- (4) Enter judgment that
 - (i) pending issuance of a lease pursuant to tribal law, petitioner is entitled to assume all of decedent's rights in the property,
 - (ii) petitioner shall, as a condition of assuming decedent's rights in the Property, assume the decedent's FZI note and mortgage and enter into all agreements required by the Housing Office in order to effectuate the assumption,
 - (iii) the Housing Office is authorized to issue to petitioner documentation of petitioner's ownership interest in the Property, pending issuance of a lease pursuant to tribal law, and
 - (iv) such other relief as the court deems appropriate.

Dated this ____ day of _____, 20____.

PETITIONER

Name _____

Address _____

Telephone # _____