

Draft Kahnawà:ke Residency Law

Community Decision Making Process Hearing
Kahnawà:ke Shakotia'takehnhas Community
Services

March 21, 2019

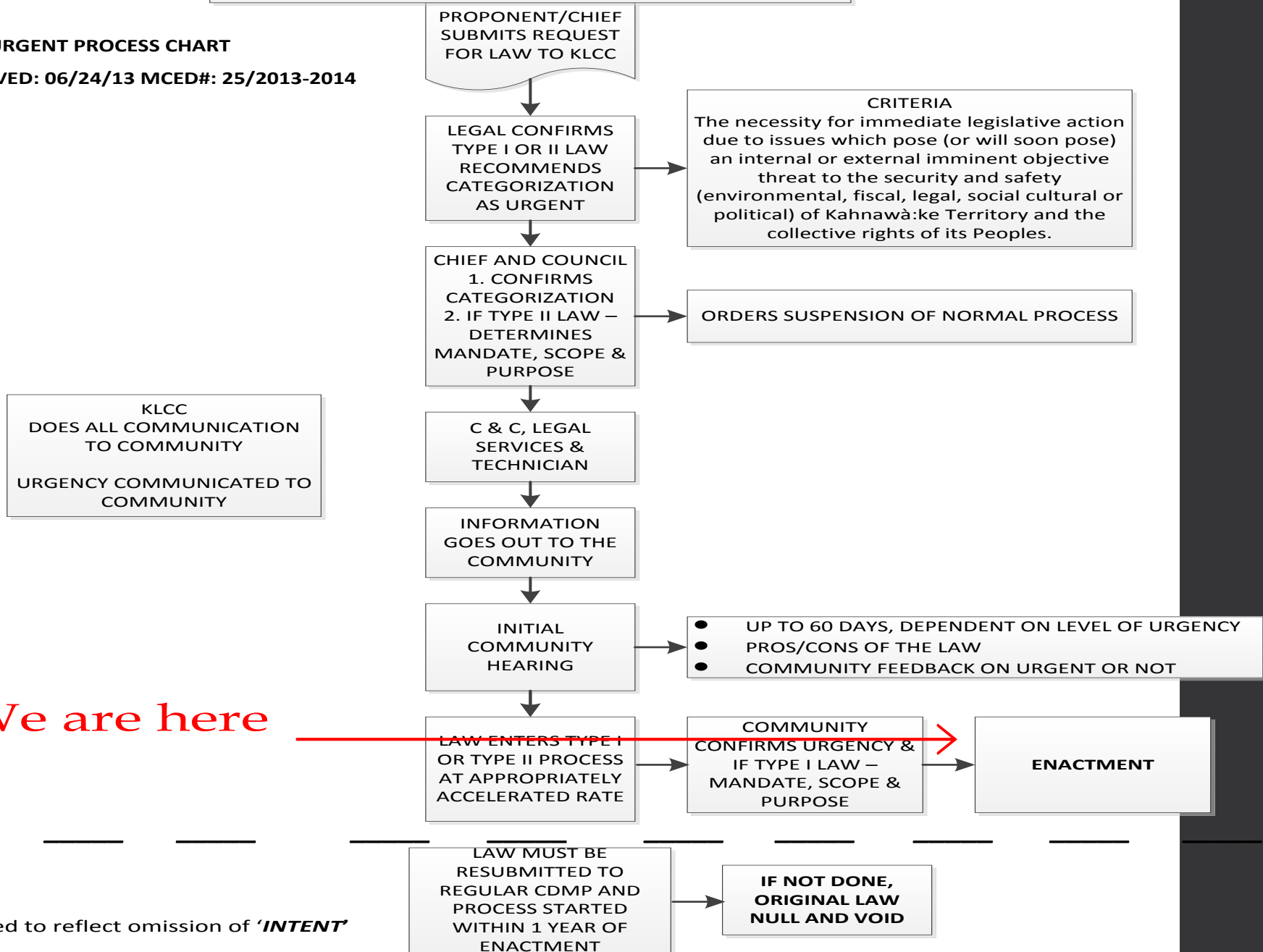
Community Hearing Guidelines

- **RESPECT**
- **CELL PHONES**
- **COMMITMENT**
- **PARTICIPATION**
- **FOCUS**
- **STICK TO THE ISSUE**
- **ONE SPEAKER AT A TIME**
- **BE BRIEF**
- **SPEAK IN LOW TONES**
- **BUILD CONSENSUS**

URGENT LAW MAKING PROCESS

FINAL URGENT PROCESS CHART

APPROVED: 06/24/13 MCED#: 25/2013-2014



We are here

Amended to reflect omission of *'INTENT'*

APPROVED: June 20, 2016 MCED#: 25/2016-2017

AGENDA

- ❖ **Opening Address – Leslie Beauvais-Skye**
- ❖ **Welcome/Respectful Behaviors/Process – Leslie Beauvais-Skye & Joe Delaronde**
- ❖ **Overview of Draft Kahnawà:ke Residency Law – Ietsénhaienhs Kahsennenhawe Sky-Deer & Trina C. Diabo**
 - *Who will be able to Reside in Kahnawà:ke?*
 - *Approved Kahnawà:ke Residents (AKRs)*
 - *Permit Holders: Minor Child, Residency, Work/Education and Humanitarian*
 - *Application Process*
 - *Obligations of AKRs/Permit holders*
 - *Ineligibility/Revocation criteria*
 - *Complaint Driven Evictions*
 - *Removal Processes*
- ❖ **Next Steps: Joe Delaronde & Leslie Beauvais-Skye**
- ❖ **Closing – Leslie Beauvais-Skye**

Brief overview of decision making, reviews and appeals

Residency Registrar:

- * Verifies and decides on applications for AKR/Permits
- * Decides on Revocation Complaints



Community Review Board (CRB):

On application, CRB may review decisions of the Residency Registrar or the Compliance Officer where:

1. due process was not followed
2. the laws of natural justice were not adhered to
3. there was bias
4. the decision was manifestly unreasonable
5. there was an absence of jurisdiction, or
6. there was a mistake of law.

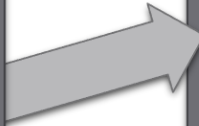


Court of Kahnawake

- * May appeal CRB decisions
- * Issuance of Eviction Orders

Compliance Officer:

- * Decides on Eviction Complaints
- * Issues Notices of Eviction



WHO WILL BE ABLE TO RESIDE?

(Section 4, page 8 of Law)

ENTITLEMENT TO RESIDE

1. A Kanien'kehá:ka of Kahnawà:ke;
2. A Minor Child who was adopted by a Kanien'kehá:ka of Kahnawà:ke prior to November 10, 2003

PERMISSION TO RESIDE

1. An Approved Kahnawà:ke Resident
2. A person who possess a valid Permit

ALL OTHER PEOPLE ARE NOT PERMITTED TO RESIDE ON THE TERRITORY AND MAY FACE EVICTION IF A COMPLAINT IS FILED AGAINST THEM.

Approved Kahnawà:ke Residents

(Section 29, page 12 of
Law)

The following are eligible to be authorized as
Approved Kahnawà:ke Residents:

1. A person who has three (3) Kanien'kehá:ka of Kahnawà:ke great-grandparents and has Immediate Family and Community Ties;
2. A person who has two (2) Kanien'kehá:ka of Kahnawà:ke great-grandparents, has Immediate Family, Community Ties and who was raised in the Community;
3. A person with Onkwehón:we Ancestry who was adopted as a Minor Child by a Kanien'kehá:ka of Kahnawà:ke and has Immediate Family and Community Ties;
4. A Iah Onkwehón:we Té:ken who was married to a Kanien'kehá:ka of Kahnawà:ke prior to 1981 moratorium and is still married and Residing with their spouse or is still Residing and was widowed while Residing in the Territory.

Permit Holders

(Section 32, page 13 of Law)

There are 4 types of Permits that a person may apply for:

1. Minor Child Permit
2. Residency Permit
3. Work/Education Permit
4. Humanitarian Permit

A Permit Holder is obligated to renew the Permit or apply for a new Permit prior to their Permit expiring.

If the Permit Holder does not apply or is not issued a renewal or a new Permit they must leave the Territory on the date their Permit expires.

Minor Child Permit

(Section 34, page 13 of Law)

- ❖ A Minor Child who is not recognized as a Kanien'kehá:ka of Kahnawà:ke or as an Approved Kahnawà:ke Resident and Resides with a parent or Guardian who is an Approved Kahnawà:ke Resident or a valid Permit Holder must have a Permit to Reside on the Territory.
- ❖ The parent or Guardian must apply for the Permit for the Minor Child and prove that the Minor Child will be or is currently Residing with them.
- ❖ Minor Child Permits will be valid until the Minor Child reaches the Age of Majority (18) or has their Permit revoked in accordance with the Law.

Residency Permit

(Section 39, page 13 of Law)

**Can be denied based on ineligibility criteria*

The following people are eligible to obtain a three (3) year Residency Permit:

1. A person who has Onkwehón:we Ancestry and:

- a) is Married to or living in a Common-Law Relationship with a Kanien'kehá:ka of Kahnawà:ke, or
- b) has Immediate Family and Community Ties.

2. A Iah Onkwehón:we Té:ken who was adopted prior to November 10, 2003 by a Kanien'kehá:ka of Kahnawà:ke, and:

- a) has reached his or her Age of Majority,
- b) has been Raised in the Community since the date on which he or she was adopted; and
- c) has Immediate Family and Community Ties.

3. A person who has sufficient knowledge of the Kanien'kehá language and Kanien'kehá:ka culture, as evidenced by the results of a Language and Culture test taken in accordance with the *Regulation on Language and Culture Testing* and has Immediate Family and Community Ties

Work / Education Permit

(Section 41, page 14 of
Law)

**Can be denied based on
ineligibility criteria*

Work and Education Permits will be valid for one year. The following are eligible to apply:

**1. A person who has Onkwehón:we
Ancestry, and:**

- a) is working within the Territory; **or**
- b) is attending an educational facility within proximity to the Territory.

If the duration of the Applicant's work or education is significantly less than one (1) year the Residency Registrar may issue a Work/Education Permit for less than one (1) year.

Humanitarian Permit

(Section 43, page 14 of Law)

**Can be denied based on ineligibility criteria*

To apply for a Humanitarian Permit the person must:

1. Be terminally ill and need assistance or lodging from an Immediate Family member who is Kanien'kehá:ka of Kahnawà:ke who Resides on the Territory;
2. be providing assistance to a Kanien'kehá:ka of Kahnawà:ke who is terminally ill;
3. be providing assistance to a Kanien'kehá:ka of Kahnawà:ke who has a disability or illness which requires specialized care;

The Residency Registrar will determine the length of each Humanitarian Permit to a maximum of one (1) year.

SUMMARY OF RESIDENCY

WHO	HOW	DURATION	PROCESS FOR REMOVAL
Kanien'kehá:ka of Kahnawà:ke	Entitlement to Reside	Forever, unless they lose their entitlement to reside under the KKL	Once their entitlement to reside has been revoked under the KKL they may be subject to eviction
Approved Kahnawà:ke Residents	Apply to Residency Registrar proving criteria*	Forever, unless they lose their AKR recognition under the KRL	Complaint to Residency Registrar to revoke AKR recognition, if successful, may be subject to eviction
Minor Child Permit Holder	Parent/Guardian who is AKR or PH applies to Residency Registrar proving criteria*	Until they turn 18**	Complaint to Residency Registrar to revoke Permit, if successful, may be subject to eviction
Residency Permit Holder	Apply to Residency Registrar proving criteria*	3 year Permit**	Complaint to Residency Registrar to revoke Permit, if successful, may be subject to eviction
Work/Education Permit Holder	Apply to Residency Registrar proving criteria*	For one year unless work/education is significantly less than one year**	Complaint to Residency Registrar to revoke Permit, if successful, may be subject to eviction
Humanitarian Permit Holder	Apply to Residency Registrar proving criteria*	Discretion of Residency Registrar to a maximum length of 1 year**	Complaint to Residency Registrar to revoke Permit, if successful, may be subject to eviction

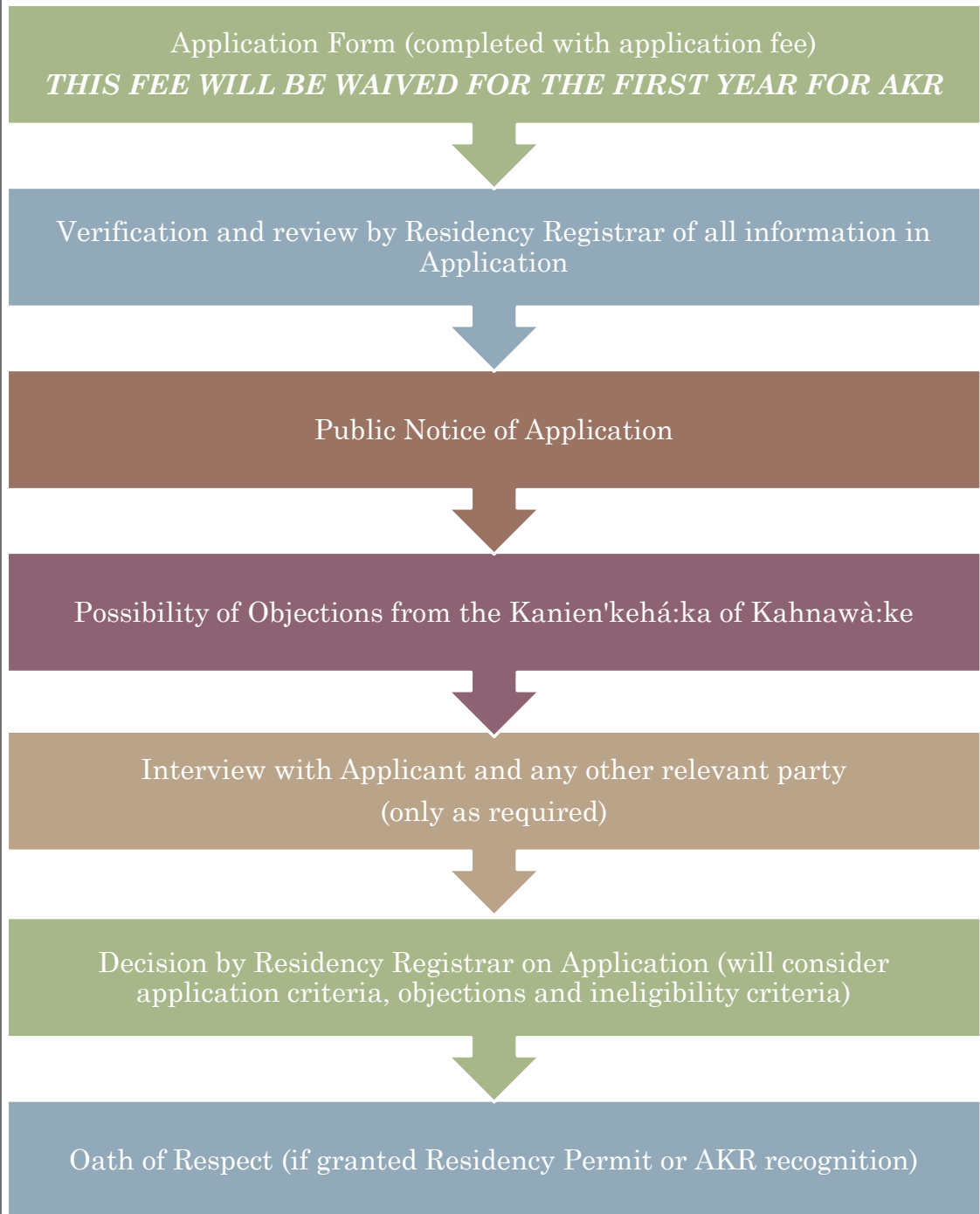
*may be denied based on ineligibility criteria
 **or if they have their Permit revoked under the KRL

KKL = Kanien'kehá:ka of Kahnawà:ke Law
 KRL = Kahnawà:ke Residency Law

Application Process for Approved Kahnawà:ke Residents and for Permits

(Section 58, page 16 of Law)

**If denied, possibility of Review of Decision (Community Review Board) and appeal of that review (Justice of the Peace)*

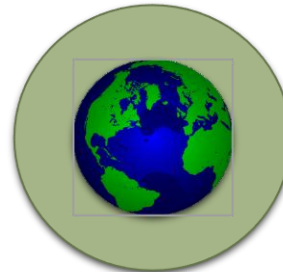


Obligations of Approved Kahnawà:ke Residents and Permit Holders

(Section 89, page 20 of Law)



Comply with the codes, laws and regulations applicable in the Mohawk Territory of Kahnawà:ke;



Respect and protect Mother Earth;



Respect and encourage Kanien'kéha and Kanien'kehá:ka culture; and



Update the Residency Registrar regarding any changes to the information provided in the application.

Ineligibility/Revocation Criteria for Approved Kahnawà:ke Residents and Permit Holders



HAS THROUGH AN ACT OR OMISSION DIRECTLY OR INDIRECTLY, CONTRAVENED A PROVISION OF THIS LAW



IS A DANGER TO THE COMMUNITY



HAS BEEN INVOLVED IN CRIMINALITY OR ORGANIZED CRIMINALITY



HAS DIRECTLY OR INDIRECTLY MISREPRESENTED THEMSELVES OR WITHHELD MATERIAL FACTS RELATING TO A RELEVANT MATTER



DOES NOT POSSESS SUFFICIENT KNOWLEDGE OF KANIEN'KÉHA LANGUAGE AND KANIEN'KEHÁ:KA CULTURE



ALLOWS A PERSON TO RESIDE ON THE TERRITORY WHO DOES NOT HAVE A RIGHT TO RESIDE PURSUANT TO SECTION 4 OF THE LAW OR IS NOT AN APPROVED KAHNAWÀ:KE RESIDENT OR DOES NOT HAVE A VALID PERMIT.



HAS COMMITTED A MATERIAL BREACH OF A MOHAWK LAW, TRADITION OR CUSTOM

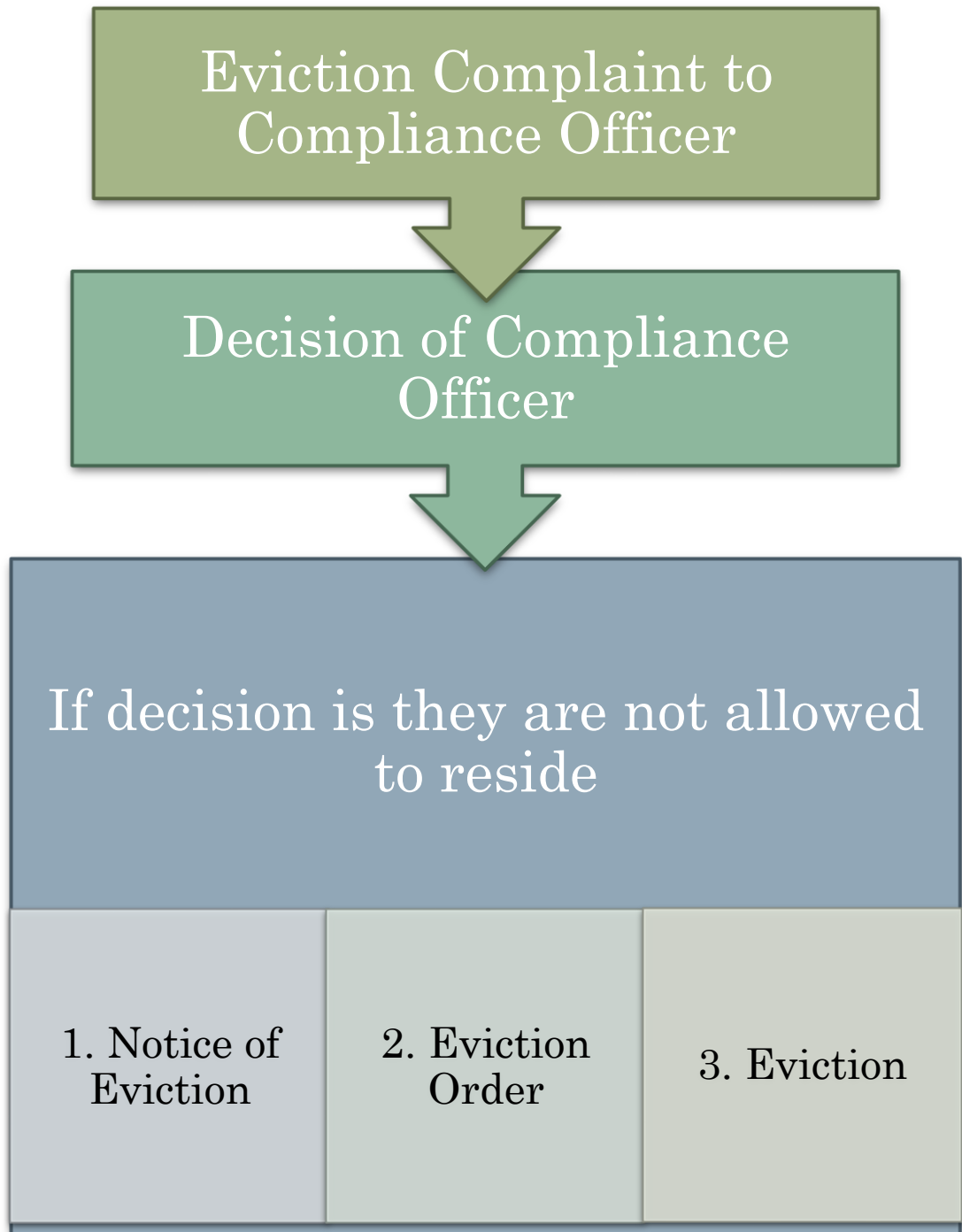
Complaint Driven Evictions

- To trigger the eviction process, a Kanien'kehá:ka of Kahnawà:ke must submit a valid complaint to Registrar/Compliance Officer (depending on the situation)* concerning a person who does not have the entitlement/permission to reside or who is in contravention of this law.
- The Office of the Kahnawà:ke Kanien'kehá:ka Registry **will not** be investigating cases without a valid complaint having been submitted

* Not KKR Not AKR No Permit	Eviction Complaint to the Compliance Officer for eviction
AKR/Permit	Revocation Complaint to the Residency Registrar to get AKR/Permit revoked which will then lead to eviction
Kanien'kehá:ka of Kahnawà:ke	Action in the Court of Kahnawà:ke to have the entitlement to reside revoked under s. 15 of the <i>Kanien'kehá:ka of Kahnawà:ke Law</i>

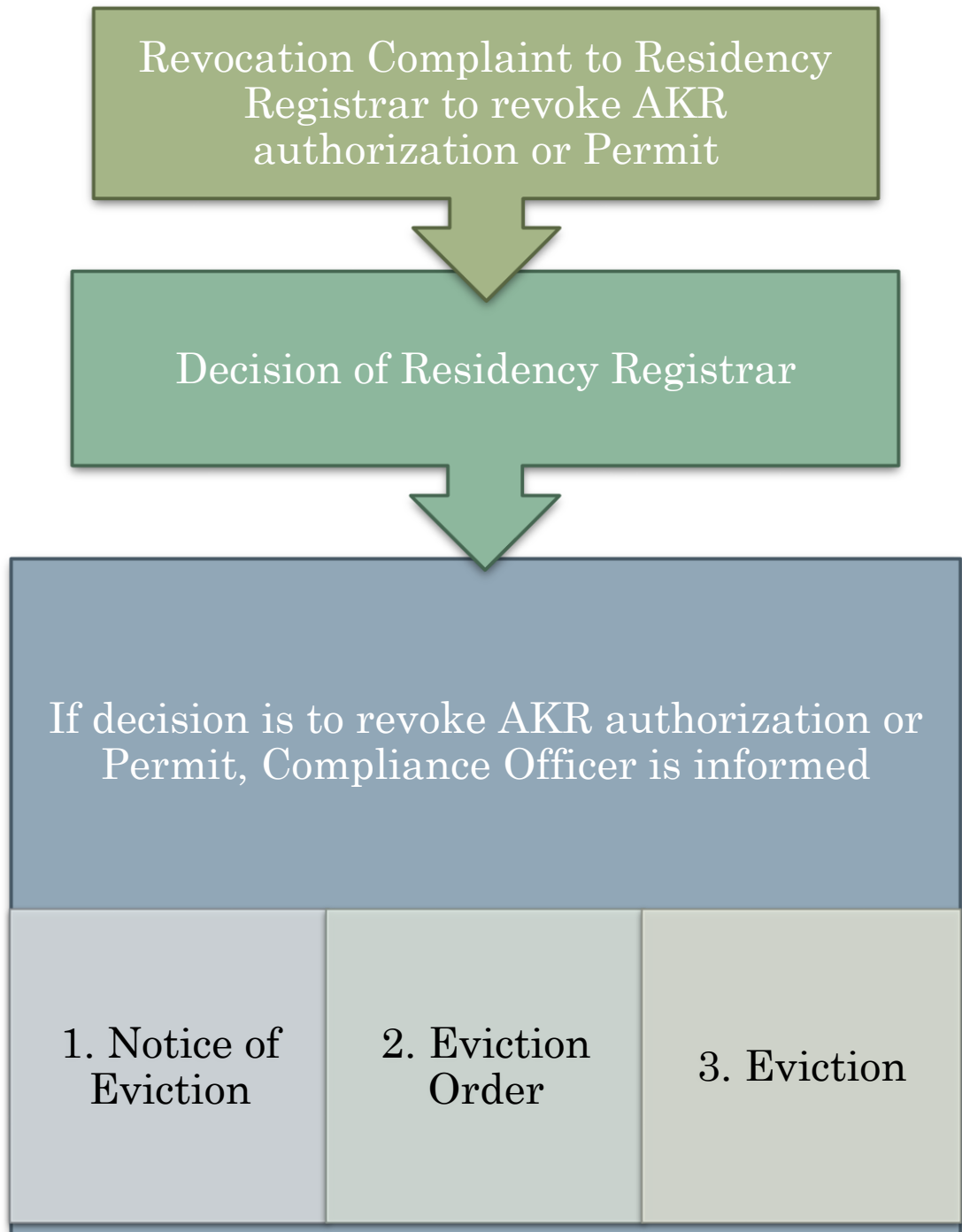
Removal Process

Not KKR
Not AKR
No Permit



Removal Process

AKR Permit



Removal Process

KKR

Action in Court of Kahnawà:ke to
have entitlement to reside revoked
under s. 15 of the KKL

Decision of the Court of Kahnawà:ke

If decision is to revoke entitlement to reside,
Compliance Officer is informed

1. Notice of
Eviction

2. Eviction
Order

3. Eviction