



Lheidli T'enneh

## **Matrimonial Real Property Law Interspousal Contracts**

### **What is an Interspousal Contract?**

A contract entered into between couples who are married, common-law married or intends to marry. It is similar to a prenuptial agreement. It basically says "***we agree with the Matrimonial Real Property Law and that in the event of a marital breakdown, the parent with custody of the children will get the house and the lease on the lot.***" It is enforceable by law.

### **Is signing the Interspousal contract voluntary?**

Yes, there is no obligation to sign but it is recommended as there are no laws protecting the rights of persons living on reserve in the event of a marital breakdown.

### **How long does the contract last?**

There is no expiration date on the contracts.

### **What if there are no children involved, can you still sign an Interspousal contract?**

Yes

### **Why should I sign an Interspousal Contract?**

By signing a contract you are protecting your rights. There are no legal provisions in regards to the house and land for families living on reserve.

### **Who can sign the Interspousal Contract?**

Any couple living on reserve with or without children can sign the Interspousal contract.

### **What are the options for dispute resolution in the event of a marital breakdown?**

1. The right to Discussion – discussion occurs around the signed Interspousal Contract.
2. The right to Mediation – provide mediation for spouses.

3. The right to a Court of Competent Jurisdiction – Lands manager may be required to prove that mediation has been completed and the outcome.

### **What are the steps for Mediation?**

1. The spouse must request a Notice of Request for Mediation. At which time a member of the dispute resolution panel will meet with each spouse and explain the process and costs and suggest that each spouse obtain independent legal advice.
2. The Notice of Request for Mediation must be served to the other spouse before it can be filed with the Lands Manager. Proof of service is required.
3. It will then be forwarded to Lands Authority, who in turn will arrange for a Mediator and set an appointment for mediation.
4. A Notice of Appointment will be served to each spouse and the Lands Manager no later than 10 days before the appointment.

### **Successful Mediation**

If the Mediation is successful, the agreement of the spouses re: Lheidli T'enneh land will be drafted in a Separation Agreement. This information shall be passed to the Lands Authority and Lands Manager for filing in the Lheidli T'enneh Registry System.

### **Unsuccessful Mediation**

If the Mediation is unsuccessful, the mediator will draft a confidential report detailing the point remaining in dispute with the spouses re: Lheidli T'enneh land.

Upon the close of an unsuccessful Mediation the Lands Authority will issue a Certificate of Compliance, if both spouses have attended. Or a Certificate of Waiver if the Lands Authority finds that the other spouse cannot be found or refuses to participate.

These forms must be registered and are necessary to prove to the courts that mediation was attempted in accordance with the Lheidli T'enneh MRPL without success.

### **What is the cost for Mediation?**

The Band has set up an account with \$2000 for the purpose of mediation so there is no cost to members.

### **Why do mediation?**

Before you can go to court, you must prove that mediation was attempted.