

Land Code and First Nation Law Case Law Summaries

Current to July 8, 2025

Legal Framework:

The Framework Agreement on First Nation Land Management, ratified by the *Framework Agreement on First Nation Land Management Act*, provides for the development of land codes by Signatory First Nations, which are enforceable as federal law, allowing provincial courts to adjudicate disputes under specific conditions.

The following is a summary of relevant case law, organized by province, pertaining to First Nation land codes and First Nation laws developed under a land code. This document is current to the date noted above and will be updated as new case law arises.

British Columbia cases

Waterslide Campground v. Goulet, 2008 BCSC 532

Westbank First Nation (WFN) applied for an order to compel the British Columbia Provincial Court to register an arbitrator's order under WFN law arising out of a landlord-tenant dispute.

WFN applied to the Provincial Court of British Columbia to file an Arbitrator's Order made under WFN Law, arising out of a landlord-tenant dispute, so that the Order could be enforced in the Provincial Court. The Provincial Court did not accept the Order for filing, and WFN appealed that decision to the Provincial Supreme Court. The Supreme Court of British Columbia ordered the Provincial Court of British Columbia to register the WFN Arbitrator's Order and affirmed that the WFN Act and WFN Self-Government Agreement law-making powers were authorized by an enactment of Canada.

Milestones

- While this case was related to a First Nation Self-Government Agreement rather than a Land Code, it did establish that:
 - A decision made under a First Nation Law is registerable and enforceable by provincial courts.
 - First Nation Laws can be considered "enactments of Canada" for the purposes of enforcement by provincial courts.

Source for Provincial Court Case:

<https://www.canlii.org/en/bc/bcpc/doc/2006/2006bcpc297/2006bcpc297.html>

Source for Supreme Court Case:

<https://www.canlii.org/en/bc/bcsc/doc/2008/2008bcsc532/2008bcsc532.html>

K'omoks First Nation v. Thordarson and Sorbie, 2018 BCPC 114

Non-members trespassed on a Land Code First Nation, British Columbia Provincial Court.

Two non-members occupied a home on Certificate of Possession (CP) land and refused to vacate or pay rent. They were charged with trespassing, contrary to the K'omoks First Nation Land Code. When the RCMP, BC Prosecution Service, and the Public Prosecution Service of Canada would not take action on behalf of K'omoks First Nation, a private prosecution was commenced by K'omoks First Nation in BC Provincial Court. The two accused were found guilty, fined \$1000 each, and were prohibited from being on K'omoks First Nation Land.

Milestones

- First filing of an Information and Summons in Provincial Court under a First Nation's Land Code.
- The written decision affirmed that a First Nation's Land Code is enforceable by Provincial Courts.
- The successful prosecution in Provincial Court of an offence against a First Nation's Land Code resulted in the removal of trespassers.

Source: <https://www.canlii.org/en/bc/bcpc/doc/2018/2018bcpc114/2018bcpc114.html>

Lower Nicola Indian Band v. Caldwell & Pockrant, 2024 Provincial Court of British Columbia

Lower Nicola Indian Band (LNIB) private prosecution of two non-members living on LNIB community land contrary to the LNIB Land Code and LNIB Trespass Law.

Two non-members were living in a motorhome on LNIB community land contrary to the LNIB Land Code. After all other reasonable efforts to remove the trespassers were unsuccessful, LNIB commenced a private prosecution of the trespassers. Following the process hearing, multiple court appearances, and pre-trial conferences, the accused entered guilty pleas on the opening day of their trial in early June 2025. Both were sentenced with three-year probation orders restricting them from residing on LNIB land as well as nominal fines. They have until the end of the month to remove all their property.

Milestones

- Process Hearing re-affirmed that, "...the Framework Agreement and Land Code create valid and enforceable laws which are subject to the Criminal Code summary conviction process."
- When the accused persons did not attend court for the Land Code offences, arrest warrants were issued by the court and acted on by the RCMP.

Source : <https://www.firstpeopleslaw.com/files/file/66c6810c7bec9/Lower-Nicola-Indian-Band-v-Barb-Caldwell-and-Mike-Pockrant.pdf>

Lower Nicola Indian Band v. Purdie, 2024 Provincial Court of British Columbia (decision pending)

Lower Nicola Indian Band (LNIB) private prosecution of a non-member who previously lived on LNIB community land contrary to the LNIB Land Code and LNIB Trespass Law.

A non-member was living in a motorhome on LNIB community land contrary to the LNIB Land Code and the LNIB Trespass Law for several month-long periods over the past three years. LNIB made reasonable efforts to remove the trespasser but was not consistently successful. The trespasser has continued to return to LNIB Lands despite clear direction from LNIB that his residence is prohibited. In 2024 LNIB commenced a private prosecution of the trespasser to ensure that he did not return. The matter was before the court between summer 2024 and summer 2025 for a process hearing, multiple court appearances, and a pre-trial conference. A trial was held on July 26-27, 2025, and a decision is pending.

Milestones

- Process Hearing affirmed that offences set out in law enacted pursuant to land code, such as the offences set out in the LNIB Trespass Law, are also valid and enforceable laws and offences which are subject to the Criminal Code summary conviction process

Ontario cases

Shawanaga First Nation v. Ladouceur et al. Superior Court of Justice- Ontario - 2021 ONSC 871

Members trespassed on a Land Code First Nation's land, Ontario Provincial Superior Court (Civil)

Shawanaga First Nation (SFN) purchased Certificate of Possession (CP) land from a SFN member. Prior to the purchase, occupants of the home on the CP land (Ladouceur and Gascon), stopped paying rent. The occupants also did not pay rent nor establish any sort of tenancy with SFN following the purchase and refused to vacate. SFN sought eviction authority through the Ontario Superior Court by an Order of Possession. The Court declared that Ladouceur and Gascon were trespassing and unlawfully occupying CP land.

Milestones

- Established the Ontario Superior Court as the court of competent jurisdiction over these types of land disputes.
- The Court reinforced that CPs are one of the strongest legal forms of land tenure on reserve and determined that SFN did have legal tenure over the land in question.
- The land tenure decision allowed the Court to issue an Eviction Order and a Restraining Order to Ladouceur and Gascon to prevent them from entering or occupying the property.

Source: <https://www.canlii.org/en/on/onsc/doc/2021/2021onsc871/2021onsc871.html>

Mississauga First Nation v Witty and Pilon, 2024- ONCJ- April 2024 (Pilon still before the court)

Non-members trespassed on a Land Code First Nation, Ontario Provincial Court

Two non-members were issued orders under the Mississauga First Nation (MFN) Community Protection Law to vacate a home on MFN lands due to alleged involvement in criminal activities. The non-members did not comply and were charged with trespass-related offences under the MFN Community Protection Law and the MFN Land Code. One accused (Witty) pled guilty to the trespass-related charges and was issued a \$1000 fine. The other accused (Pilon) is still before the court.

Milestones

- First successful filing of an Information and Summons in Ontario Provincial Court under First Nation Land Code and First Nations Law.
- The Ontario Provincial Court recognized the enforceability of a Land Code and First Nation Law.
- First successful private prosecution in an Ontario Provincial Court of a First Nation's Land Code.

Sources: <https://fallslaw.ca/cases/MFNvWitty-Pre-enquete-Decision.pdf>
<https://www.firstpeopleslaw.com/files/file/66c6816a7c1ee/Mississauga-First-Nation-v.-Witty.pdf>

R v D. Toulouse - 2024- ONCJ- December 2024

Non-member charged by the Ontario Provincial Police (OPP) with Criminal Code and First Nation Law offences

Blind River OPP Detachment charged a non-member with criminal code offences and Mississauga First Nation (MFN) Community Protection Law trespass-related offences following an incident that occurred on MFN lands. The accused, who was in pretrial custody on a related matter, pled guilty to trespassing on the Mississauga First Nation and was issued a fine of \$350. The fine was reduced as the accused also

received a jail term for his actions while on MFN. The judge reminded the accused that he is still required to adhere to the MFN Order prohibiting him from their reserve lands.

Milestones

- The first occurrence of a provincial policing agency laying charges under a First Nation law.
- The OPP laying charges under a First Nation law demonstrated that First Nation matters could be heard alongside criminal matters in Provincial Bail Court.

Source: <https://www.sootoday.com/opp-beat/35-year-old-accused-of-breaking-into-mississauga-first-nation-home-10151581>