Framework Agreement on First Nation Land Management

Law Development & Enforcement

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Law Making Authority

Law Making Authority under the Framework Agreement

- Is a First Nation led exercise of self-government authority
- First Nations under Land Code have the authority to develop land laws
- A First Nation Law is not a Bylaw
- First Nations under the FA exercise law making authority independently of any other government





Examples of Law Making Authority



Trespass, Enforcement and Ticketing



Residential Tenancy



Business Permitting and Licensing



Emergency Laws



Land Use, Zoning, and Development



Allotments, Interests and Licences

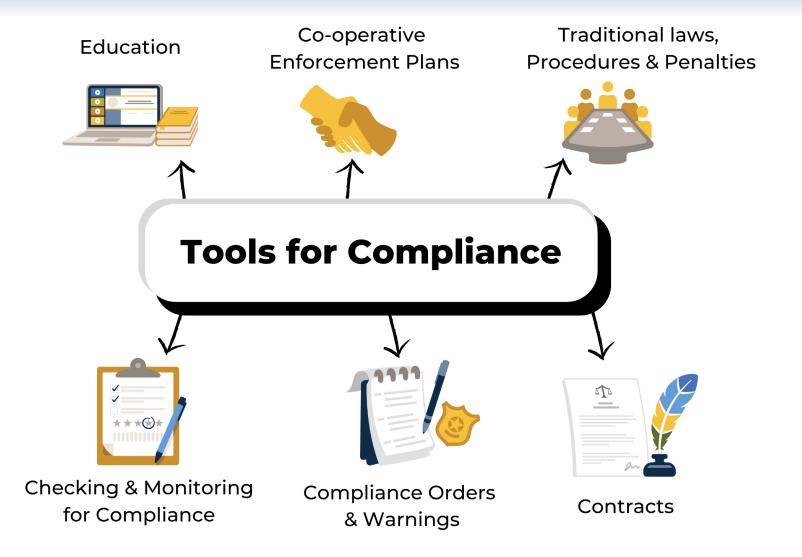


Environmental Assessment and Protection



Natural Resource Management







Promoting Compliance & Respect for Laws

- Reduce the risk of violation of laws
- Elders, Mediation, Dispute Resolution
- Diversion of charges
- Restorative Justice



Fines and Remedies

The *Framework Agreement* authorizes high penalties for violation of environmental laws.

• Environmental protection standards and punishments will have at least the same effect as those in the laws of the province of the First Nation

First Nations have **flexibility** in establishing fines and remedies



What is the Enforcement Process?

What happens when a person is found committing an offence under First Nation law?

- A. Education, Warning, Administrative Remedies Restorative/Diversion Programs
- B. Two main enforcement processes available when option "A" is not effective or appropriate
 - The Criminal Code summary conviction procedure; and
 - Ticketing processes



 The vast majority of cases will be resolved through education, warnings, dispute resolution, healing and traditional remedies

Promote compliance without enforcement

Alternatives to the Win-Lose courtroom approach



Policing & Enforcement

- The right enforcement staff is key
- Cooperative agreements
- Cost effectiveness
- Must develop and maintain community support and confidence
- Community Peace Officers/Community Safety Officers



Prosecution

- Private Prosecution
- Agreement with a province or territory to arrange for a provincial or territorial prosecutor
- Cost & No guarantee of desired outcome

Justices of the Peace (JP)

First Nations have authority to appoint Justices of the Peace for enforcement of laws..... "to try offences established by or under a land code or a First Nation law"



First Nations must "....protect the independence of each Justice of the Peace it appoints in a way similar to that in a province, for example tenure, removal and remuneration"



Looking Ahead

- Don't Wait for Government to Fix Enforcement Issues
- Practical Issues & Pilot Projects
- No overnight solutions but small practical steps are happening
- Less discussion and concept and more action
- Incremental Progress & Headway









QUESTIONS & DISCUSSION

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