
WILLIAMS LAKE INDIAN BAND
MATRIMONIAL REAL PROPERTY LAW 2017-02



Williams Lake Indian Band Matrimonial Real Property Law 2017-02

WHEREAS the Williams Lake Indian Band has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

WHEREAS the Williams Lake Indian Band has taken control of its reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management*, and has enacted the *Williams Lake Indian Band Land Code* which came into force and effect on July 1, 2014;

AND WHEREAS, pursuant to the *Framework Agreement*, the Williams Lake Indian Band agreed to enact rules and procedures, applicable on the breakdown of a marriage, to the use, occupancy and possession of First Nation land, and the division of interests in that land;

AND WHEREAS pursuant to the Williams Lake Indian Band Land Code, Williams Lake Indian Band agreed to enact rules and procedures applicable on the breakdown of a marriage to the use, occupancy and possession of Williams Lake Indian Band lands, and the division of interests in that land;

AND WHEREAS Williams Lake Indian Band intends to provide rights and remedies, without discrimination on the basis of sex, to Spouses who have or claim interests in Williams Lake Indian Band lands upon the breakdown of their marriage;

AND WHEREAS it is the intent of Williams Lake Indian Band in the interests of natural justice to respect the rights of the individual and treat all persons fairly;

NOW THEREFORE Council of the Williams Lake Indian Band enacts the following law.

1.0 TITLE & PURPOSE

1.1 This law may be cited as the "*WLIB Matrimonial Real Property Law 2017-02*".

1.2 The purpose of this Law is to:

- protect citizens and property;
- enact rules and procedures applicable on the breakdown of a Marriage or a Common Law Marriage; and
- provide rights and remedies without discrimination with respect to interests in WLIB lands upon breakdown of a Marriage or a Common Law Marriage.

2.0 DEFINITIONS

2.1 In this Law, unless the context otherwise requires:

"**Child**" means a person under the age of nineteen (19) who is the offspring of at least one Spouse or a legally adopted child or a child adopted in accordance with WLIB custom;

"**Council**" means the lawfully elected governing body of WLIB;

"**Court**" means any federal or provincial court of competent jurisdiction;

"**Common Law Marriage**" means two people not married to each other who have lived together in a marriage like relationship for a period of not less than 3 years;

"**Land Code**" means the *Williams Lake Indian Band Land Code*;

"**Life Estate**" means the right of a Spouse or Child to occupy the Matrimonial Home for a period of time up to a maximum of the rest of their life;

"**Marriage**" means a marriage performed in accordance with the law of a province or territory in Canada;

"**Matrimonial Home**" means a family home that:

- a) is affixed to WLIB Lands; and
- b) is, or if the Spouses have separated was at the time of separation, occupied by one or both Spouses as the family home or that is mutually intended by the Spouses to be occupied by one or both of them as the family home;

but despite the common law relating to real property excludes and is separate from the land or Certificate of Possession or Allotment on which the home is situated;

"**Mediator**" means a mediator listed with the BC Mediator Roster Society;

"**Person**" in addition to its ordinary meaning, includes any association, household, society, corporation, partnership or party, whether acting by themselves or by a servant,

agent or employee, and the successors, assigns and personal or other legal representatives of such person to whom the context can apply according to law;

“Pre-nuptial, Marriage or Separation Agreement” means an agreement in writing signed by the Parties and by a witness in which the parties agree on their respective rights and obligations under the Marriage or on separation with respect to the possession, use or division of an Interest in WLIB Lands, and includes:

- a) a Pre-nuptial Agreement entered into between Spouses who intend to marry or live in a Common Law Marriage;
- b) a Marriage Agreement entered into between Spouses who are married to each other; and
- c) a Separation Agreement entered into between Spouses who are married to each other and are living separate and apart;

“Primary Care” means physical custody and day to day care of a Child to protect the well-being of the Child;

“Spouse” means a person who is married to another person of the same or opposite sex in a traditional, civil or religious ceremony or a partner in a Common Law Marriage;

“Williams Lake Indian Band” or **“WLIB”** means the Williams Lake Indian Band as defined in the *Williams Lake Indian Band Land Code*;

“WLIB Lands” means:

- a) the following WLIB Indian Reserves: Williams Lake Indian Reserve No. 1;
 - i) Asahal Indian Reserve No. 2; Five Mile Indian Reserve No. 3;
 - ii) James Louie Indian Reserve No. 3A;
 - iii) Tillion Indian Reserve No. 4;
 - iv) Chimney Creek Indian Reserve No. 5;
 - v) San Jose Indian Reserve No. 6; and
 - vi) Carpenter Mountain Indian Reserve No. 15;

As further described in the Individual Agreement between WLIB and Canada; and

- b) lands set apart by Canada in the future as lands reserved for the use and benefit of WLIB, within the meaning of subsection 91(24) of the *Constitution Act, 1867* and section 2(1) of the *Indian Act*;

“Williams Lake Indian Band (WLIB) Law” means a law enacted pursuant to the WLIB Land Code or a WLIB bylaw enacted pursuant to the *Indian Act*;

- 2.2 Unless otherwise provided in this Law, words expressions, and rules of construction used in this Law have the same meaning as the Williams Lake Indian Band Land Code.
- 2.3 Wherever the singular, or masculine or the term "person" is used in this Law, it shall be deemed to include the plural, feminine, body corporate, WLIB or other entity where the context so requires.

PART I: APPLICATION OF THE LAW

3.0 ONLY TO WLIB LANDS

- 3.1 This Law applies only to Interests in WLIB Lands as identified in the *WLIB Land Code*.
- 3.2 This Law applies only to WLIB Members and their Spouses in relation to a breakdown of a Marriage or Common Law Marriage.
- 3.3 This Law does not apply to a Matrimonial Home held by either Spouse or both Spouses where neither Spouse is a Member.
- 3.4 This Law applies only to Matrimonial Homes and except where explicitly stated, not to other Interests in or on Williams Lake Indian Band Lands as defined in the *WLIB Land Code* or in this Law.

4.0 FEDERAL AND PROVINCIAL LAWS

- 4.1 The *BC Family Law Act* and the *Canada Divorce Act* apply as modified by this Law and to the extent possible subject to this Law, the Land Code, and the common law.
- 4.2 Despite paragraph 3.4, the fact that a Matrimonial Home does not include future or contingent Interests in Lands shall not be taken to confer jurisdiction upon a Court over those Interests under this Law.
- 4.3 Nothing in this Law limits the application of valid and applicable federal or provincial laws in respect of matrimonial causes or any rights or remedies available in those laws, except to the extent that such laws deal expressly or implicitly with Matrimonial Homes or WLIB Lands and to that extent this Law shall apply.
- 4.4 Unless otherwise specified in this Law, nothing in this Law relieves either Spouse of the requirement to observe the rules and procedures of a Court in relation to matrimonial causes.

5.0 DOES NOT APPLY TO WILLS AND ESTATES

- 5.1 For greater certainty a Spouse cannot commence an action after the death of the other Spouse to claim, take or pursue an Interest in WLIB Lands held by the other Spouse under this Law and his or her Interest will be determined by the applicable law governing the estate of the deceased Spouse.

5.2 Despite paragraph 5.1 when a Spouse who owns a Matrimonial Home dies, a survivor who does not hold an Interest or right in or to the Matrimonial Home may occupy that home for a period of up to 180 days after the day on which the death occurs or for such longer period which may be approved by Council Resolution whether or not the survivor is a WLIB Member.

6.0 CONTINUATION WHERE SPOUSE DIES DURING PROCEEDINGS

6.1 Despite paragraph 5.1 where a proceeding has been commenced under Part IV of this Law and either Spouse dies before all issues relating to the Matrimonial Home have been determined by a Court the surviving Spouse may continue the proceeding.

7.0 SUBJECT TO OTHER LAWS

7.1 The rights and remedies recognized in this Law are subject to any Laws passed enacted under the WLIB Land Code in relation to:

- a) the removal and punishment of persons trespassing on Lands or frequenting Lands for prohibited purposes;
- b) prevention of nuisance; or
- c) protection of the community.

8.0 WLIB MORTGAGES AND HOUSING AGREEMENTS PREVAIL

8.1 Nothing in this Law affects the rights or priority of WLIB if:

- a) WLIB has guaranteed a mortgage or holds a mortgage or legal or financial interest in a Matrimonial Home; or
- b) WLIB has entered into an agreement with a Spouse or Spouses with respect to the use, occupation or tenancy of a Matrimonial Home.

9.0 APPLIES DESPITE RESTRICTIONS ON MORTGAGES AND SEIZURE OF PROPERTY ON RESERVE

9.1 This Law applies despite subsection 89 (1) of the *Indian Act*.

PART II: PRE-NUPTIAL, MARRIAGE AND SEPARATION AGREEMENTS

10.0 PRE-NUPTIAL, MARRIAGE & SEPARATION AGREEMENTS

10.1 Despite the definition of "Registry" in the *WLIB Land Code*, registration under section 11

may mean registration in the First Nations Lands Registry or a separate registry maintained or coordinated by WLIB to retain private documents relating to agreements under this Part.

- 10.2 It is the purpose and intent of this Law to respect written agreements between Spouses or people intending to become Spouses as to the use, possession, occupancy, disposition or partition of an Interest in WLIB Lands including a Matrimonial Home.

11.0 REGISTRATION OF AGREEMENTS

- 11.1 All Spouses or persons intending to become Spouses are encouraged to register their Pre-Nuptial, Marriage or Separation Agreements.
- 11.2 A Spouse or persons intending to become a Spouse may submit an application to the Lands Manager to register a Pre-Nuptial, Marriage or Separation Agreement in the First Nations Lands Registry or a separate registry.
- 11.3 A Pre-Nuptial, Marriage, or Separation Agreement may contain a provision asserting that a structure is a Matrimonial Home.
- 11.4 The Lands Manager will register in the requested registry any Pre-Nuptial, Marriage or Separation Agreement submitted under paragraph 11.2 provided that:
- a) the applicant provides an original agreement or a certified true copy;
 - b) the agreement is submitted by a Spouse and signed and dated by both Spouses with their signatures notarized;
 - c) the applicant provides proof of membership in the WLIB of at least one of the Spouses;
 - d) the applicant pays the prescribed fee, if any;
 - e) the agreement provides the legal description of any Interest referred to in the agreement and proof of title; and
 - f) for each Interest referred to in the agreement submitted for registration:
 - i. The applicant provides proof that they or their Spouse are the sole owner of the Interest; or
 - ii. If an Interest in the Agreement is shared with other parties a signed and notarized statement from each other shared Interest Holders stating that they do not object to the Interest being included in the Agreement.

12.0 AGREEMENTS VALID AND BINDING

- 12.1 Subject to this Law and all applicable laws a provision in a Pre-Nuptial, Marriage or Separation Agreement that reflects the agreement of the Spouses with respect to an

Interest in WLIB Lands, including a Matrimonial Home, is valid and binding and enforceable.

13.0 INTERESTS, RIGHTS, AND LIFE ESTATES TO NON-MEMBERS

- 13.1 A Pre-Nuptial, Marriage or Separation Agreement may provide an Interest or grant rights to a Matrimonial Home to a Spouse or Child who is not a Member but such Interests and rights shall not in any case be greater than a Life Estate and any such Interest or right that is greater than a Life Estate in respect of a non-member is void.
- 13.2 Despite paragraphs 11.4 and 12.1 any provisions in a Pre-Nuptial, Marriage or Separation Agreement is void if:
- a) it purports to give, transfer, award, acknowledge or create an Allotment in favour of a Spouse or any individual who is not a Member; or
 - b) otherwise conflicts, or fails to comply, with the requirements of the WLIB Land Code.

14.0 COURT MIGHT SET ASIDE OR VARY AGREEMENTS

- 14.1 Subject to this Law, a Court may on application set aside or vary a provision of a Pre-Nuptial, Marriage or Separation Agreement with respect to a Matrimonial Home:
- a) if a Spouse failed to disclose to the other Spouse all of that Spouse's Interests in WLIB Lands or any material information in respect of those Interests;
 - b) if there is evidence of abuse or coercion; or
 - c) otherwise in accordance with the common law or the law of equity or contract.

15.0 PAST AND FUTURE AGREEMENTS VALID

- 15.1 This Part applies whether the parties entered into the Pre-Nuptial, Marriage or Separation Agreement on, before, or after the date that this Law comes into force and effect.

PART III: MATRIMONIAL HOME

16.0 MATRIMONIAL HOME

- 16.1 Whether or not a structure or Interest is a Matrimonial Home is a question of fact.
- 16.2 Where part of a Matrimonial Home is normally used for a purpose other than residential purposes, the Matrimonial Home includes only that part of the structure or structures that may reasonably be regarded as necessary for use and enjoyment as the family residence.

17.0 LIMITS ON SALES AND ENCUMBRANCES

- 17.1 No Spouse shall sell, transfer or otherwise grant a mortgage or other interests in the Matrimonial Home unless:
- a) the other Spouse consents in writing;
 - b) the other Spouse joins in and signs the instrument;
 - c) the other Spouse has released all rights in respect of the Matrimonial Home by Pre-Nuptial, Marriage or Separation Agreement;
 - d) a Court order has authorized the transaction; or
 - e) a Court has released the Matrimonial Home from the application of this section.

PART IV: MEDIATION, DISPUTE RESOLUTION & COURT

18.0 MEDIATION

- 18.1 Either Spouse may commence mediation with respect to their rights and interests in family property by providing to the BC Mediator Roster Society and the other spouse a written request for mediation setting forth the general subject of the dispute.
- 18.2 Unless otherwise agreed each Spouse shall be responsible for an equal share of the costs of mediation.
- 18.3 The Spouses shall cooperate with the BC Mediator Roster Society and with one another in selecting a mediator from the BC Mediator Society panel of neutrals and in scheduling mediation proceedings.
- 18.4 If the Spouses have not agreed upon a mediator within fourteen (14) days of the initial request to the BC Mediator Roster Society either spouse may in writing request that the BC Mediator Roster Society appoint a mediator and they shall appoint a Mediator within fourteen (14) days of receipt of the request.
- 18.5 A Spouse may attend mediation with or without legal counsel.
- 18.6 A Spouse who receives a notice of appointment with a Mediator has a duty to attend the mediation.
- 18.7 If a mediation does not proceed because one of the Spouses refuses to attend or if no issues are resolved by negotiated agreement the mediator shall prepare a report confirming that the mediation did not proceed or did not result in a negotiated agreement. The report shall only address whether both Spouses were willing to and did participate in the mediation and confirm that the mediation did not result in a negotiated

agreement.

18.8 The Mediator's report described shall be in writing and shall be sent to both Spouses and may be submitted to the Court in proceedings under Part IV to assist the Court in making a determination whether there has been a mediation.

18.9 For greater certainty nothing in this Part is intended to deprive or limit the right of a Spouse to seek any further alternative dispute resolution on the breakdown of the relationship in relation to any matter other than an Interest in WLIB Lands or to restrict the Spouses from otherwise reaching agreement with respect to an Interest in WLIB Lands provided that such agreement results in a separation agreement that meets the requirements set out in this Law.

19.0 COOPERATIVE DISPUTE RESOLUTION ENCOURAGED

19.1 Any Spouse may contact the Lands Manager for information and resources relating to mediation and dispute resolution.

19.2 Spouses are encouraged to resolve their differences regarding any matter addressed in this Law through cooperative discussion, mediation or alternative dispute resolution.

20.0 GENERAL ACCESS TO COURT

20.1 Where Spouses are unable to resolve their differences regarding any matter addressed in this Law they may apply to the Court for a resolution of their dispute.

21.0 TIME LIMIT

21.1 Unless otherwise ordered by the Court, a Spouse seeking to apply for an order under this Part must make their initial application within the later of the following dates:

- a) the date that is two years from the date of separation; or
- b) the date of a final decree of divorce.

22.0 TYPES OF ORDERS, POWER OF COURT

22.1 Subject to this Law the *WLIB Land Code* and the common law, a Court may on application make any order in relation to a Matrimonial Home held by a Spouse or by both Spouses that the Court could make in respect of a Matrimonial Home situated off of WLIB Lands in the Province of British Columbia.

23.0 EMERGENCY ORDERS

23.1 The Court may on *ex parte* application by a Spouse make an emergency exclusive occupation order for the Matrimonial Home in favour of that Spouse for a period of up to

90 days whether or not the Spouse is a Member and whether or not a Child is involved if the Court concludes that:

- a) domestic violence has occurred; and
- b) the order should be made to help ensure the immediate protection of the Spouse or a Child who resides in the Matrimonial Home.

23.2 An order under paragraph 23.1 must include a provision directing a peace officer to enforce any provisions of the order if requested to do so by the applicant Spouse.

23.3 An order under paragraph 23.1 may include any or all of the following additional provisions:

- a) a provision requiring the Spouse of the applicant Spouse and any other person to vacate the Matrimonial Home and prohibiting them from returning to the Matrimonial Home for the duration of the order;
- b) a provision directing a peace officer to remove the applicant's Spouse and any other person from the Matrimonial Home;
- c) a restraining order;
- d) a provision directing a peace officer to escort the person who is required to vacate back to the Matrimonial Home to supervise the removal of personal belongings; or
- e) any other provision that the Court considers necessary for the immediate protection of any person who is at risk.

23.3 Any person in whose favour or against whom an order is made under paragraph 23.1 may apply to the Court to have the order varied or revoked at any point while the order remains in force.

24.0 COURT ORDERS

24.1 If a Spouse sells, transfers or otherwise grants a mortgage or other interest in a Matrimonial Home in contravention of paragraph 17.1 a Court may on application

- a) set aside the transaction or interest; or
- b) order the Spouse to pay compensation to the other Spouse.

24.2 Paragraph 24.1(a) does not apply where the person holding the interest at the time of the application to the Court acquired the interest for value, in good faith and without notice at the time of acquiring or making an agreement to acquire the interest in the Matrimonial Home.

24.3 Regardless of which Spouse holds the Matrimonial Home a Court may on application and subject to this Law:

- a) order the delivering up , safekeeping and preservation of the Matrimonial Home;
- b) direct that one Spouse be given exclusive possession, consistent with this Law, of the Matrimonial Home for such period as the Court may direct and release any other aspect or interest relating to the Matrimonial Home from the application of this Part;
- c) authorize a sale or transfer, mortgage or other interest consistent with WLIB Law of a Spouse's Interest in a Matrimonial Home subject to the other Spouse's right of exclusive possession as ordered;
- d) make any interim or temporary order to give effect to the purposes of this Law or to protect the rights of a Spouse; and
- e) make any ancillary order, including an order as to costs that the Court deems necessary to give effect to this Law.

24.4 A Court in considering whether to direct that one Spouse have exclusive possession of a Matrimonial Home shall be guided by the principle that the parent with the Primary Care of a child should have possession of the Matrimonial Home for a period sufficient to ensure that the child, or the youngest child if there is more than one child, reaches the age of majority or, if they are dependent on the Spouse, for a reasonable time period after the age of majority provided that this is consistent with the best interests of the child or children.

24.5 Where both Spouses share joint custody of a child or children the principle set out in paragraph 24.4 shall be adapted to favour the Spouse who has Primary Care if there is one.

24.6 In applying the principle set out in paragraph 24.4 a Court may have regard to the fact that one or more of the children are not Members and may also take into consideration any disabilities of any of the children and whether such disabilities support continuing possession or occupation of the Matrimonial Home past the time the child with disabilities reaches that age of majority.

24.7 Subject to this Law a Court may make any determination about a Matrimonial Home and may make orders that are necessary, reasonable or related to give effect to the determination including:

- a) a declaration as to whether a structure is in fact a Matrimonial Home;
- b) an order that a Matrimonial Home be transferred to one Spouse exclusively on an interim or permanent basis;
- c) an order that a Matrimonial Home be subject to a lease by one Spouse to the other Spouse for a term not exceeding 5 years except for extensions for reasons set out in paragraph 24.4 and 24.6 and subject to such terms and conditions as the Court deems just taking into account the best interests of any children living in the Matrimonial Home;
- d) an order granting an easement or access for a specified period of time across a Certificate of Possession or Allotment held or shared by one Spouse for the purpose

of enabling the other Spouse to access the Matrimonial Home;

- e) an order that restrains either Spouse from disposing of or transferring a Matrimonial Home or an Interest in it either legally or beneficially pending the granting of the divorce;
- f) an order directing one or both Spouses to pay specified amounts of money in relation to rent, lease, mortgage, tax, utilities, repairs, legal fees or other payments relating to the Matrimonial Home;
- g) an order that one Spouse make a compensation payment to the other Spouse to recognize the contribution which the other Spouse has made to the acquisition, rent, mortgage payments, upkeep and/or improvements of the Matrimonial Home including:
 - i. Determining the amount payable by one Spouse to the other; and
 - ii. Providing that the amount payable be settled by
 - a. Payment of the amount in a lump sum;
 - b. Payment of the amount by installments;
 - c. The set off or compensation of any amounts owed by one Spouse to the other, or
 - d. Any combination of the methods referred to in subparagraphs;
- h) an order that one Spouse pay compensation to the other Spouse if the Matrimonial Home or an Interest has been granted, sold or transferred; or
- i) any appropriate equitable order where one Spouse has intentionally, recklessly, or fraudulently damaged, granted an interest, sold or transferred the Matrimonial Home or an Interest relating to it.

24.8 In making any order under paragraph 24.7 the Court shall determine the fair share of each Spouse in relation to the Matrimonial Home or the value of the Matrimonial Home and then shall consider the following factors:

- a) the date when the Matrimonial Home was acquired or disposed of;
- b) the duration of the Marriage or Common Law Marriage;
- c) the duration of the period during which the Spouses have lived separate and apart;
- d) the needs of each Spouse to become or remain economically independent;
- e) direct or indirect financial contributions of each Spouse toward the acquisition, rent, mortgage payments, upkeep, improvements, or increased value of the Matrimonial Home including contributions through child rearing responsibilities;
- f) any relevant order or award that the Court is making or has previously made for the Spouse pursuant to the provincial Family Law Act or the federal Divorce Act or their successors; and
- g) any other factor which the Court considers relevant to an equitable

division of the Matrimonial Home.

24.9 In making any compensation order under sub-paragraph 24.7(g) the Court shall:

- a) not make any order until it has been provided with a least one valuation of the Matrimonial Home by a qualified appraiser, and which accounts for the limitations on the ownership rights associated with it and in particular the feasibility of selling or leasing the Matrimonial Home; and
- b) not make an order against a Member if that Member Spouse demonstrates that the order is likely to unreasonably force the Member Spouse to move out of that Matrimonial Home.

25.0 CERTAIN ORDERS PROHIBITED

25.1 No order shall be made under this Part:

- a) in respect of a Certificate of Possession or Allotment in favour of a Spouse who is not a Member; or
- b) that results in a sale, partition or transfer of a Certificate of Possession or Allotment.

26.0 COURT MAY VARY ORDERS

26.1 A Court may on application vary any declaration or order granted under this Part if:

- a) There is a material change in circumstance; or
- b) The Court determines that fairness or equity justify a variance.

27.0 COPY AND REGISTRATION OF ORDERS

27.1 When a Court makes any order under this Law the Spouse in whose favour the order is made shall provide without delay a copy of the order to the Lands Manager who shall register it in the First Nations Land Registry.

PART VI: GENERAL PROVISIONS

28.0 INTERPRETATION

28.1 Headings in this Law are for reference purposes only and do not form part of this Law.

28.2 All provisions of this Law are severable. If a Court determines that any provision of this Law is invalid or inapplicable the provision shall be severed from the Law and the remainder of the Law shall remain in force with any necessary revisions.

29.0 CERTAIN PRE-MARRIAGE GIFTS AND INHERITANCES EXEMPT

29.1 An Interest and the value of the Interest in WLIB Land:

- a) Received prior to the Marriage or Common Law Marriage; and
- b) Received as a gift or inheritance by one Spouse only from a third person who is a family member or by one Spouse only together with one or more members of that family; shall be deemed subject to proof to the contrary to have been transferred with the intention that the Interest should continue to be held within that family exempt from any claim of the other Spouse.

29.2 The exemption in paragraph 29.1:

- a) Does not apply with respect to an Interest in WLIB Lands that is a Matrimonial Home; and
- b) Only applies to the value of the gift or inheritance prior to the Marriage or Common Law Marriage.

30.0 RIGHTS OF NON- MEMBERS NON TRANSFERABLE

30.1 Notwithstanding any other provision of this law or any order to the contrary, a non-Member who is granted interim occupation or possession rights on WLIB Lands under this Law cannot dispose of, transfer or assign these rights or pass them to their heirs in a will. As soon as the non-Member ceases use or occupation personally, or the term of the order or arrangement expires, all rights are deemed to be terminated.

31.0 PENALTIES

31.1 Every person who violates any provision of this Law, or who permits an act or thing to be done in contravention of this Law, or who fails to do any act or thing required by this Law shall be deemed to have committed an offence against this Law and:

- a) shall be liable to a fine of not less than \$50.00 and not greater than \$2,000;
- b) shall be liable, upon summary conviction, to the penalties provided by the Offence Act; or
- c) any combination of the above.

31.3 Notwithstanding sub-paragraph 31.1(a) Council may determine that all or a portion of a fine may be paid off by way of a community service performed by the person subject to that fine, the nature of and conditions of which shall be set out in a Resolution.

31.4 Each day a violation of this Law continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.

32.0 AMENDMENTS

- 32.1 Substantive amendments to this Law can only be made in accordance with Part IV of the *WLIB Land Code*;
- 32.2 Despite paragraph 32.1 of this Law Council may, by Resolution, authorize minor amendments to the Law including:
- a) amendments to correct typographical errors;
 - b) amendments required to reference any relevant new or amended WLIB Laws; and
 - c) amendments which serve to clarify the Law where there is no reasonable dispute about the intention underlying the original provision.

33.0 IMMUNITY

- 33.1 No action for damages lies or may be instituted against present or past Council or its members or employees, servants or agents of either WLIB or Council:
- a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority; or
 - b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.
- 33.2 Section 33.1 does not provide a defence if:
- a) Council or its members, or employees, servants or agents of either WLIB or Council have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or
 - b) the cause of action is libel or slander.
- 33.3 WLIB, present or past Council, or members, employees, servants or agents of any of WLIB or Council, are not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other WLIB Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other WLIB Law.
- 33.4 All actions against WLIB for the unlawful doing of anything that:
- a) is purported to have been done by WLIB under the powers conferred by this Law or any WLIB Law; and
 - b) might have been lawfully done by WLIB if acting in the manner established by law
- must be commenced within six (6) months after the cause of action first arose, or within

a further period designated by Council in a particular case, but not afterwards.

- 33.5 WLIB is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to WLIB, within two (2) months from the date on which the damage was sustained. In case of the death of a person injured, the failure to give notice required by this section is not a bar to the maintenance of the action. Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the Court of Appeal, believes:
- a) there was reasonable excuse; and
 - b) WLIB has not been prejudiced in its defence by the failure or insufficiency.

34.0 FEES AND FORMS

- 34.1 Council may, by resolution passed at a duly convened meeting, establish, correct, revise or update the terms of any applicable fee or fine schedules, forms, protocols or other related documentation which complement and support this Law, and will post notice of same in a public area of the WLIB administration building and make a copy of same available for viewing free of charge at the administrative offices of WLIB and available for distribution at a nominal charge.


BE IT KNOWN that this Law entitled "WLIB Matrimonial Real Property Law 2017-02" was read:

For the first time at a duly convened meeting of WLIB Council held on the 16 day of August, 2016.


For the second time at a duly convened meeting of WLIB Council held on the 4 day of July, 2017.

For the third time, and enacted, at a duly convened meeting of WLIB Council held on the 28 day of August, 2017.

Signed by the following members of Council:




Chief




Councillor



Councillor



Councillor



Councillor



Councillor