



FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE



Training, Mentorship &
Professional Development

TMPD Virtual Workshop

Scenario Exercise

Scenario 1



Scenario 1 – Trespassing

Scenario:

A couple is renting a house from a First Nation and has fallen six months behind in their rent. The two have been upstanding citizens within the community, but due to recent COVID-19 related shutdowns, both are now unemployed. During an annual review of housing records, the Housing Department noticed the default in rent and reported it to Council. There has been no discussion with the couple on a repayment plan nor has an agreement been developed to settle the overdue account. The couple has two children, ages 8 and 10, and the time of year is January, with winter fully set in.

Information:

The First Nation's Land Code, enacted five years ago, contains sections on right to residency, right to access and a trespass provision. The First Nation has not finalized a Residency Law or Housing Policy but does have Tenancy Agreements for each rental home. All Tenancy Agreements state that non-payment of rent in excess of three months will result in eviction unless a repayment plan is developed and mutually agreed upon. It also states that if the tenant and the First Nation cannot agree upon a repayment plan, the First Nation has the right to serve notice, and once notice has been served, to change the locks and take action to secure the residence. The Tenancy Agreements do allow for repayment plans to be individually developed and customized to suit each tenant's particular situation.

The First Nation has an older Trespass Bylaw, but the local police will not enforce it due to lack of authority, processes and other requirements to properly authorize anyone's removal.

Scenario 1 – Discussion Questions

1. What options are available to the First Nation at this point?
2. What considerations should be made?

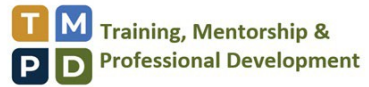
Scenario 1 – Guiding Questions and Considerations

Questions/Discussion:

- Review the Rental agreement. What options are available?
 - Mediation with the couple for repayment and ongoing arrangements for rent; lower rent, subsidized rent, assist in finding employment on-reserve or local employment
- What authority does the First Nation have at their disposal in the event of defaulting of the rental payment and considerations in making those decisions? (Serving of notices, conditions in the rental agreement, etc.)

Considerations:

- Time of year
- The children
- Upstanding members of the community
- Messages sent to the community both to ensure payment on time and that there are consequences
- Where do the members go if they are evicted?
- Support from the community and the Council to work with the members



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Scenario 2

Scenario 2 - Animal Control Problem

Scenario:

Recently, an Animal Control Officer responded to a call on the First Nation where a member alleged that a local dog bit their small child while she was walking down the road, resulting in superficial wounds. When the Animal Control Officer responded, they noted that the dog was contained in a (poorly) fenced area of owner's yard, but the dog owners would not allow the Officer onto their property. The owners maintain that the dog is not threatening, is always contained in the fenced area, and has all its vaccinations. They further claim that the child who was bitten was taunting and teasing the dog through the fence. The Animal Control Officer has responded to several calls in the past about this dog running loose in the community, chasing and frightening children. The police will not respond or assist.

Information:

The First Nation has an Animal Control Bylaw, enacted prior to their Land Code, that deals with domestic animals and animals running at large. The Bylaw is enforced through an agreement with the local Municipality whereby Municipal Animal Control Officers are authorized to respond to issues with domestic animals on reserve and seize and secure animals, at their discretion, for the protection of the community. The agreement is based on a fee-per-service basis, with a minimum charge of \$200 for each response, hourly charges for investigations, and daily charges for kenneling seized animals. The Bylaw does not authorize the police to take any action.

Addition to Scenario:

The Council of the First Nation received an invoice from the Municipality for animal control services from January to July of this year and found that the cost of services has increased significantly.

Scenario 2 – Discussion Questions

- 1) What can the First Nation do to promote compliance within the community?
- 2) Council may find opposition to the law; how does Council prepare for concerns that may arise?
- 3) How will they address the measures to control the aggressive and animals running at large?

Scenario 2 – Guiding Questions & Considerations

- Controlling costs
 - Is there a solution to reduce the costs of animal control?
 - Filtering of calls from the community
 - Monitoring the response and getting authorization from the Lands Manager before dispatching the Animal Control officer
- Does the bylaw provide any alternative remedies to deal with aggressive dogs or dogs running at large?
- Is there an authority to seize the dog?
- What to do with aggressive dogs roaming off the owner's property?
- Is there an alternative way to manage this situation?
- Discussion and review to enhance the Animal Control Bylaw into a First Nation Law?
- Exploring the ability to hire an Animal Control Officer from the First Nation to work with the Municipal officer?

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Scenario Exercise



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Scenario 3

Scenario 3 – Emergency Management

Scenario:

The First Nation has become aware of an increased risk of forest fires in the area. The homes in the community border on the bush line and many have brush and long grasses growing close to the buildings. There are many Elders and children living on reserve, and some families have no access to vehicles for transportation. The next closest community is over 25km away. Council wishes to take some form of action to ensure the safety of the community in the event of a forest fire and the possibility that evacuation of the community is required.

Information:

The First Nation has an Emergency Plan that has not been updated in over 15 years. One of the recommended approaches is for brush to be cut back to a safe radius around the community homes and buildings, although this has never occurred. The Emergency Plan does not mention any agreements with local municipalities or the province, nor does it outline how to declare an emergency and the emergency contact list has not been updated since the Plan was developed.

Scenario 3 – Discussion Questions

1. What are some of the actions, activities, infrastructure, agreements, etc., Council could consider to ensure the safety of the community and its residences in the event of a forest fire?
2. If Council is considering an emergency law to deal with the imminent danger of the fire what would be the considerations in drafting such a law?
3. Should the Emergency Plan be replaced with an Emergency Management Law enacted under Land Code? What would the Plan or Law cover, and what are the advantages or disadvantages of each approach?

Scenario 3 – Guiding Questions & Considerations

- What actions or remedies can Council take to ensure the safety of the community and the residents? (Emergency law consideration that there is a threat of health and safety to the community)
- Does the Emergency Plan and the Emergency Law allow the implementation of orders by Council?
- Does Council have the authority to enact and pass a preventative order to clean up the brush supporting a safe distance around buildings and structures for fire protection? If so, who will bear the costs if an occupant fails or refuses to make the property safe?
- Is there an authority for the police, or enforcement officers to act on the orders of Council?
- What are some of the actions, activities, infrastructure, agreements, etc., Council could consider to ensure the safety of the community and its residences in the event of a forest fire?
 - Fire department, water sources/reservoirs, staff training in fire suppression
 - Availability of buses or other means of emergency transportation
 - Agreements with local municipalities for fire response
 - Ensuring all residents are accounted for/up to date residency lists, buddy systems to ensure everyone is accounted for in the event of an evacuation
 - Prescribed burns, or other measures to minimize fuel for the fire

Scenario 3 – Guiding Questions & Considerations

If Council is considering an emergency law to deal with the imminent danger of the fire what would be the considerations in drafting such a law?

Possible Answers:

- Check the Land Code for the emergency law provisions and authority
- What authorities and to whom do those authorities apply(Enforcement staff, Public works staff, Fire Department and possibly the police)?
- Provide authority to enter onto property and take appropriate measures for removing the brush and combustible material
- Does the community have the capacity to carry out the work (staff, vehicles, tools and expertise etc.)?

Considerations

- Revision of the Emergency Plan and enacting an Emergency Management Law.
- Discuss with surrounding communities for mutual aid, to pool resources, service agreements, arrangements for evacuation and relocating residents, and accessing support groups such as Red Cross, etc.
- Discuss setting up protocols with the province and the federal government in the event of an emergency.