

Glossary of Terms

Wills & Estates – Exploring Future Needs

October 7, 2021

A

Allotment

The process by which a parcel of First Nation land is granted to a member of that First Nation. A non-member may not acquire an allotted interest.

Applicant

The person who applies to have a document registered in the FNLRS.

B

Beneficiary

A person or entity who benefits from something such as a will or a life insurance policy. An example of a beneficiary is the person who you leave your house to when you die.

Bequest

The act of giving or leaving something through your Will.

C

Cardex Holding

A historical individual interest in reserve land created by Band Council Resolution and approved by the Minister under Section 20(1) of the [Indian Act](#). The legal land descriptions associated with Cardex Holdings were vague and often inaccurate. The interest of the holder of a Cardex holding is considered lawful possession under the Indian Act, however, no evidence of title is issued (NETI) until the land is surveyed.

Certificate of Occupation (CO)

Under Sect. 20(5) of the Indian Act, the Minister could issue a CO for a period of 2 years with a potential extension of two years. CO's were commonly issued prior to granting a CP in order for the individual(s) to satisfy certain conditions prior to full allotment.

Common-law Partners

Persons who have been living together in a conjugal relationship for at least one year (as defined in the Indian Act)

Certificate of Possession (CP)

A document giving evidence of a member's right to lawful possession of reserve lands pursuant to the *Indian Act*.

E

Encumbrance/Charge (QC)

An interest or right in real property /immovable (QC), which diminishes the value of the fee, but does not prevent conveyance of the fee by the owner. Mortgages, taxes, judgements are encumbrances known as liens. Restrictions, Easements, reservations are encumbrances, though not liens.

Estates

All of the assets you own when you die, including land, bank accounts, personal property, after all of your debts are paid (funeral, hydro, etc.). Examples: Land/Leases, Livestock, Standing Crops, Vehicles, Boats, ATV's, Baskets, Prints, Carvings, Fishing Gear, Collections, Jewelry, Investments such as GICs, Bonds, RRSPs, etc.

Evidence of Title (EOT)

Refers to documentary evidence of an interest/land right (QC) in reserve lands pursuant to the [Indian Act](#) or First Nation's Land Code.

Executor vs Administrator

(executor appointed under a Will vs administrator appointed by Canada)

F

FHRMIRA

Abbreviated form of the Family Homes on Reserves and Matrimonial Interests or Rights Act.

First Nation Land Registry System (FNLRS)

Established under Framework Agreement to record documents respecting First Nation Land or interests on the reserve for First Nations with a Land Code in force.

G

Guardian ad litem

A guardian appointed by the court to represent the interests of a minor or incompetent person in legal actions.

I

Instrument

A formal legal document dealing with transactions relating to interests in First Nation lands; the document specifies the type of transaction, the parcel of land, the parties to the transaction, and any legal details and specifications.

Interest

in relation to First Nation land in any province or territory other than Québec, means any interest, right or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land; ("intérêt")

J

Joint Tenancy

A form of ownership by two or more persons of the same property. The individuals, who are called joint tenants, share equal ownership of the property and have the equal, undivided right to keep or dispose of the property. Joint Tenancy does not apply to reserves in the Province of Quebec with the exception of Akwesasne Indian Reserve No. 15.

L

Land Right

in relation to First Nation land in the Province of Québec, means any right of any nature in or to that land excluding title, and includes the rights of a lessee; ("droit foncier")

Lands Set Aside

means land in the Yukon reserved or set aside by notation in the property records of the Northern Affairs organization, Department of Indian Affairs and Northern Development, for the use of indigenous people in the Yukon; ("terres mises de côté").

Lawful Possessor

A First Nation member who has been allotted the right to use and occupy a parcel or parcels of First Nation land. An active Lawful Possessor is the current possessor, while an inactive Lawful Possessor is the former possessor.

Licence

in relation to First Nation land, ("permis")

- a. in a province or territory other than Québec, means any right of use or occupation of First Nation land, other than an interest in that land
- b. in the Province of Québec, any right to use or occupy First Nation land, other than a land right in that land

Life Estate

Creates a life interest that exists when a Member has a CP on First Nation land, and another person (normally a family member) is granted the right to use and occupy the land and live in the house. The life interest lasts as long as the person with the life interest is living or has not relinquished the life interest.

M

Minister

"Minister" means, the Minister of Indigenous Services Canada

N

No Evidence of Title Issued (NETI)

A situation where a First Nation member has lawful possession of reserve lands pursuant to the [Indian Act](#) but evidence of title was not issued. The lawful possessor, when abstracted as having title does have lawful possession of the subject property, it was simply that the transaction granting possession was administratively deficient or the lawful possessor receiving the interest was deceased or immediately transferring their right of possession onto another member, and therefore a CP was not issued.

Notice

A document, registered in the First Nation Lands Registry System, that reflects the existence of a claim or interest, whether legally valid or not, against a parcel or First Nation land.

P

Parcel Abstract

A summary in sequence of the documents, facts and events evidencing or affecting the nature of a person's title or interest in an area of First Nation land.

Personal Property

Anything other than real property, including:

- Clothing, jewelry, furniture, home
- Automobiles
- Copyrights, trademarks
- Software, stocks, etc.

R

Real Property

Land and anything permanently attached.

S

Spouse

A person who is married, whether by a traditional, religious, or civil ceremony, and includes a Spouse by common-law relationship

T

Tenancy in Common

Tenancy in common is a form of concurrent ownership that can be created by deed, Will or operation of law. Several features distinguish it from joint tenancy. A tenant in common may have a larger share of property than the other tenants. The tenant is also free to dispose of his or her share without the restrictive conditions place on a joint tenancy. Unlike joint tenancy, tenancy in common has no right of survivorship. Thus, no other tenant in common is entitled to receive a share of the property upon a tenant in common's death; instead, the property goes to the deceased's heirs.

Traditional Holdings

Are interests/land rights (Qc) given to specific members to use, occupy and possess specific parcels of land based on generations of historical occupancy of a certain area. These holding are not recognized through the *Indian Act* but may be under a Land Code. (May also be known as a Custom/Family/Traditional Land Holding)

Transferee

The person, corporation, partnership or other entity acquiring the interest.

Transfer

The process which allows a lawful possessor (locatee) to give his or her lawful possession of First Nation land to another member of the First Nation.

Transferor

The person, corporation, partnership or other entity from who the interest is be acquired.

U

Undivided Interest

An ownership right to use and possession of a property that is shared among co-owners, with no one co-owner having exclusive rights to any portion of the property.

W

Will

The legal statement concerning the disposition of one's property after death; the document containing such wishes.