

*Framework Agreement on
First Nation Land Management*
Law Development & Enforcement

TALSAA Informational Workshops
Grey Eagle Resort & Casino, Calgary, AB
March 15-16, 2023



**FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**

Wade Davidson
First Nations Land Management Resource Centre

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



Land Use, Zoning, and Development



Residential Tenancy



Allotments, Interests and Licences



Business Permitting and Licensing



Environmental Assessment and Protection



Emergency Laws



Natural Resource Management

Enforcement and Adjudication under Land Code



Enforcement and Adjudication under Land Code

Promoting Compliance & Respect for Laws

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

Enforcement and Adjudication under Land Code

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

Enforcement and Adjudication under Land Code

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



Enforcement and Adjudication under Land Code

- 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

Enforcement and Adjudication under Land Code

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

Enforcement and Adjudication under Land Code

Prosecution

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

Enforcement and Adjudication under Land Code

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



June 6 – 8, 2023 – Hilton Lac-Leamy , Gatineau-Ottawa, QC

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QUESTIONS & DISCUSSION



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