



Presented by:
MLIB Land Management
MRP Engagement Sessions

*January 30th, 2018
Kelowna, BC*



McLeod Lake Indian Band Matrimonial Real Property Act

May 20th, 2004

McLeod Lake Indian Band Matrimonial Real Property Act, May 20th, 2004



- ▶ McLeod Lake Indian Band (MLIB) has jurisdiction and authority over its reserve lands and resources pursuant to the *Framework Agreement on First Nations Land Management* and has enacted the *McLeod Lake Indian Band Land Code* effective May 20th, 2003.
- ▶ MLIB has enacted rules and procedures applicable on the breakdown of a marriage in the use, occupancy and possession of Band Land, and the division of interests in that land;
- ▶ MLIB intends to provide rights and remedies, without discrimination on the basis of sex, to Spouses who have or claim an interest in Band Land upon the breakdown of their marriage;

McLeod Lake Indian Band Matrimonial Real Property Act, May 20th, 2004



- ▶ MLIB intends to respect the following general principles with respect to the use, occupancy and possession of matrimonial real property on Band Land, and the division of interests in that land on the breakdown of a marriage:
 - (a) the children, if any, of spouses should have a right to remain undisturbed in the matrimonial home;
 - (b) each spouse should have an equal right to possession of the matrimonial home (this means that the band member does not have priority over the non-band member spouse, and it resides mainly with whomever is the custodian of the children);
 - (c) each spouse should be entitled to an undivided half interest in the matrimonial home as a tenant in common (which keeps with the previous principle that there is no priority, and what matters is whomever has custody of the children);
 - (d) the rules and procedures shall not discriminate on the basis of sex; and
 - (e) no person is entitled to hold a permanent interest in Band Land (this means, there is no actual home ownership on reserve, as the housing stock rests with the Band).

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- ▶ MLIB further intends to respect the following procedural principles with respect to the use, occupancy and possession of matrimonial real property on Band Land and the division of interests in that land on the breakdown of a marriage:
 - (a) the right of spouses to make their own agreement as to the disposition of interests in Band Land in the event that their marriage breaks down;
 - (b) the value of mediation where the spouses have not, or are unable to reach their own agreement; and
 - (c) the right of spouses to have access to a court of competent jurisdiction to deal with all of their property rights, entitlements and obligations on the breakdown of their marriage, subject to McLeod Lake Indian Band law where their property includes an interest in Band Land.



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► **Application**

Covers off the application of the Act, as it applies to Band land and definitions.

► **Interspousal Contracts**

With respect to agreements made by spouses and understanding of the Act.

► **Mediation**

Mediation measures available in the event of a breakdown in marriage, dispute resolution panel and how to go about requesting mediation, as well as how it shall proceed.

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► Access to a Court of Competent Jurisdiction

Access to court and how the Land is subject to the *McLeod Lake Indian Band Land Code*.

► Matrimonial Home

Shows equal rights to interest in matrimonial home, and how/where consent may be required by the court. It also covers guiding principle of the best interest of the child and the custodial parent.

► General Provisions

How gifts of inheritance are treated regarding Band land and fines payable for contraventions.



*McLeod Lake Indian Band
On Reserve Housing Policies and
Procedures Manual*

November 2001



- ▶ McLeod Lake Indian Band (MLIB) recognized the need within its community in providing suitable, quality and affordable housing to its membership. The Band has therefore taken the necessary requirements in finding solutions and providing action in the development of a Housing Program. The primary objectives within the Housing Program is ensuring equitable and consistent treatment of all Band Members, the longevity of the housing stock, and continued success of the Housing Program.
- ▶ MLIB developed a Housing Policy to ensure these objectives. The Housing Policy is based on the participation of all stakeholders and equitable treatment for all to be applied in a consistent manner. Above all, the Housing Policy is the embodiment of a contract between the band who provides the housing, and those who benefit from the housing. Both, band and housing recipient, have an important and ongoing role to play in the success of the Housing Program. Both have duties and obligations to the other. The future of the Housing Program depends upon both parties in carrying out their respective obligations in a straightforward manner.
- ▶ The Housing Policy outlines those duties and responsibilities, and delineates the roles to be followed to ensure the ongoing success of the MLIB Housing Program.



► **1.0 POLICY REVIEW**

Shows how it was adopted and that it can be amended.

► **2.0 HOUSING AUTHORITY**

Endorsed by the MLIB Chief and Council and applies to all houses located on reserves of the MLIB.

► **3.0 HOUSING COMMITTEE**

Six committee members for two year periods, with a quorum of four meeting monthly to provide:

- liaison and consultation between members and Band Council
- input, interpretation and recommendations relating to housing policies
- mediation of disputes arising from application of Housing Policies
- issue recommendations, notices, decisions and orders to assist in further development of the housing policy
- subject to the MLIB Conflict of Interest Policy



► **4.0 HOUSING OFFICER**

Responsibilities of the Housing Officer.

► **5.0 ELIGIBILITY**

Those in arrears are not eligible for rental of housing units on MLIB reserves. This is debt owing to MLIB upon which no regular payments are being made. All housing and/or other loans in arrears must be paid in full before an application can be processed. Must be a member of MLIB and 19 years of age.

► **6.0 APPLICATION PROCEDURES**

In writing and kept on file for one year.



► **7.0 HOUSING ALLOCATIONS**

Go through Housing Committee, and meet following criteria:

- a) sign lease indicating willingness to pay required monthly payment.
- b) must not have outstanding arrears with MLIB Housing Department.
- c) must provide references from past landlord(s).

Prioritization criteria:

- i. Disabled persons
- ii. Elderly
- iii. Single parent
- iv. Married couple (common law)
- v. singles



- ▶ **7.5** Upon separation, divorce or death; non-band members occupying a home who are not members of the MLIB will be given six (06) months notice that the lease will be terminated, unless this non-band member is responsible for any children who are members of MLIB. Then they will be able to continue to reside in the unit until the children are of majority age, at which time, the unit will be transferred to the Band Member, who occupied the unit.
- ▶ This was written a few years prior to our Matrimonial Real Property Act, and was to ensure that in the event of a marriage breakdown, that the children will not be caused undue hardship and can remain in their home. We also had non-band members whom had lived here with their member spouses, and if the member had passed on, were allowed to remain in their matrimonial home until they so chose to move away or indefinitely, whichever the case may be.

McLeod Lake Indian Band's experiences, best practices, challenges and lessons learned



► **EXPERIENCES:**

As stated, our Housing Policy was made in 2001 and our Matrimonial Real Property Act in 2004. We had already made stipulations where the children of members and their spouses were concerned regarding the matrimonial home and the breakdown of marriage. This was well before the 2013 *Family Homes on Reserves and Matrimonial Interests or Rights Act*.

Our common practice also includes letting our Nations members' spouses to continue to live in their matrimonial home, upon the passing of our Band members, especially when the member's spouses are Elders. The spouses of our Nations members are currently and always have been respected.

McLeod Lake Indian Band's experiences, best practices, challenges and lessons learned



► **BEST PRACTICES:**

When our Housing Policy was made in 2001, the Housing Committee and department requested a letter of support to be signed by the Chief and Council, and this went so far as to enforcement, which includes: rent collection, notice of default and notice of eviction. Having the full support of Chief and Council went a long way in ensuring that our housing policy was enforced.

We are working diligently to ensure that when we do updates, our Land Code and Housing Policy will work together to ensure enforcement, occupancy and trespass issues are addressed.

McLeod Lake Indian Band's experiences, best practices, challenges and lessons learned



► **CHALLENGES**

It is very important that with the changing of each new governance structure (Chief and Council elections, every three years), that the Laws, Codes, Policies, Bylaws, and Guidelines are strong in the fact that they are supported by the Nation's members to ensure that they supersede the change of government. It is also imperative that Administration is fully aware of the ramifications if they do not adhere to the policies, codes and laws set out, to ensure continuity.

McLeod Lake Indian Band's experiences, best practices, challenges and lessons learned



► **LESSONS LEARNED:**

To incorporate staff training, to ensure that Administration is fully aware of ramifications of not following through with Laws, Codes and Policies.

To ensure that Policies, Bylaws, etc. have the full backing of the current Chief and Council, at the beginning of their terms, to have stricter requirements in the Chief and Council Election Code, as well as having these items approved by the Nation's members.

To work together between the departments when making amendments to Policies, Bylaws, Codes, etc. before approval, to ensure that they work together to strengthen the Laws.



Mussi Cho (Big Thanks)
MLIB Land Management