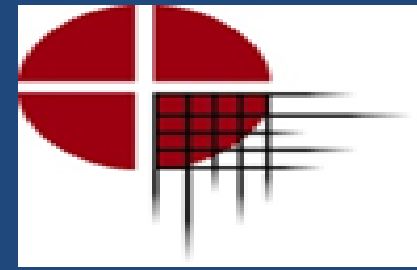




Aboriginal Financial Officers Association  
Band Administrators Workshop  
Saskatoon, Saskatchewan  
March 26th, 2015



# Family Homes on Reserves and Matrimonial Interests or Rights Act

Presenters:

Louis LeDoux – Director of Operations

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## WELCOME

# PREAMBLE:

## HISTORY OF FAMILY HOMES ON RESERVES AND MATRIMONIAL INTERESTS OR RIGHTS ACT

- An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves.
- Whereas it is necessary to address certain family law matters on First Nation reserves since provincial and territorial laws that address those matters are not applicable there and since the Indian Act does not address those matters.
- Whereas measures are required to provide spouses or common-law partners with rights and remedies during a conjugal relationship, when that relationship breaks down or on the death of a spouse or common-law partner in respect of the use, occupation and possession of family homes on reserves, including exclusive occupation of those homes in cases of family violence, and the division of the value of any interests or rights that they hold in or to structures and lands on those reserves

- Whereas it is important that, when spouses or common-law partners exercise those rights and seek those remedies, the decision maker take into account the best interests of the children, including the interest of any child who is a First Nation member to maintain a connection with that First Nation, and be informed by the First Nation with respect to the cultural, social and legal context in the circumstances;
- Matrimonial real property can include land held by one or both spouses or common-law partners and used by the family, i.e. houses, sheds, mobile homes or other structures on that land. It does not include things such as cars, money, clothing or televisions.
- December 16, 2013, the Family Homes on Reserves and Matrimonial Interests or Rights Act was put into place.
- The Act gives First Nation communities the opportunity to either develop their own community matrimonial real property law or follow provisional federal law rules.
- If a First Nation makes its own laws within one year (before December 16, 2014), the provisional federal rules will apply until the First Nation law comes into force.

# Family Homes on Reserve Matrimonial Interests or Rights Act

- Pre December 2014
- Reviewed Matrimonial Interest or Right act
- Review Housing Policy & Procedures Manual
  - Scheduled Meeting with CMHC
  - Developed draft Housing Policy & Procedures Manual
  - Reviewed Housing Policy & Procedures Manual with Chief and Council
  - Ratification of Housing Policy & Procedures Manual by Chief and Council

# Family Homes on Reserve Matrimonial Interests or Rights Act

- Housing Policy & Procedures Manual Implementation
  - Distributed manual
  - Reviewed with occupant
  - Posted manual on web site
  - Used by other organizations in presentations such as First Nations Land Management Act (FNLMA) etc.

# Family Homes on Reserve Matrimonial Interests or Rights Act

- Housing Policy & Procedures Manual

## 411 Transfer of Units in the Event of Marriage Breakdown

- 411.1 In the event of a divorce or separation occurring among the residents of a housing unit, be they Tenants, Occupants, Joint-Tenants, Joint-Occupants or spouses, the following provisions shall apply:

# **Housing Policy & Procedures Manual**

- **(a) as a general rule, the housing unit shall be allocated to the party who has either through agreement between parties or through Court Order, been awarded primary custody of any children of the marriage or relationship, provided that either the custodial parent or children are Band Members;**

# Housing Policy & Procedures Manual

- (b) in the event that both parties have been awarded joint custody or arrangements have been made between the parties as to joint custody of the children, then the parties shall forward a written statement to the Authority indicating which party will have the privilege of occupying the unit; and



# **Housing Policy & Procedures Manual**

- **(c) In the event the parties are unable to agree among themselves as to allocation of the housing unit as provided for in subsection 411.1(b) above, the matter shall be referred to the Family Homes on Reserves Matrimonial or Rights Act (ACT) as referenced in section 713 hereof.**

# Housing Policy & Procedures Manual

- 713 DISPUTE RESOLUTION
  - 713.1 It is the intention of the Authority to try to resolve all disputes between Tenants and Occupants in a fair and equitable manner. For the purpose of this section the term “dispute” shall be defined as any complaint made by a Tenant or Occupant respecting:

# Housing Policy & Procedures Manual

- (a) the provision of services by the Band to their housing unit; or
- (b) arising with regard to the allocation of a housing unit in the event of marriage breakdown that is not reconcilable the Family Homes on Reserves and Matrimonial Interests or Rights Act will be used as provided for under section 411

# Support Available for You and Your Community

- A Centre of Excellence for Matrimonial Real Property, hosted by the National Aboriginal Lands Managers Association (NALMA), is now available to assist First Nation Communities.
- Phone: 1-855-657-9992 or 705-657-9992
- Fax: 705-657-2999
- E-Mail: [info@coemrp.ca](mailto:info@coemrp.ca)
- Website: [www.coemrp.ca](http://www.coemrp.ca)
- For more information, visit [www.aadnc.gc.ca/MRP](http://www.aadnc.gc.ca/MRP)  
contact [mrp-bim@aadnc-aandc.gc.ca](mailto:mrp-bim@aadnc-aandc.gc.ca) about the Act.

# Family Homes on Reserves and Matrimonial Interests or Rights Act

Mistawasis First Nation  
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Leask, SK S0J 1M0



(306) 466-4800 (Band Office)  
(306) 466-2010 (Public Works Office)

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# Family Homes on Reserves and Matrimonial Interests or Rights Act

THANK YOU

MAY THE CREATOR SEE YOU ALL  
SAFELY HOME