



Matrimonial Real Property Rights in Your Community Federal Government's Act - What is it?



Pam Paul and Dan Christmas at a community engagement session. Photo by Cheryl Knockwood

The federal government has passed legislation to address matrimonial real property (**MRP**) on reserves, specifically, when couples separate, divorce, or if a spouse or common law partner dies. These laws include who lives in the family home on-reserve, how the home, and lands and structures are valued then divided between parties. This legislation came into effect on December 16, 2014, but because Membertou is a signatory to the *First Nations Land Management Act*, it will not come into effect here until June 19, 2016. If Membertou does not want to fall under this federal law, it can enact its own law. This federal legislation is called the *Family Homes on Reserves and Matrimonial Interests or Rights Act (FHRMIRA)* and a full version of the act can be found at <http://laws.justice.gc.ca/eng/>. This legislation enables First Nations (FNs) to enact own MRP laws and can include cultural and traditional concepts & alternative disputes mechanisms. If Membertou does not have its own MRP law in force by June 19, 2016, FHRMIRA will automatically apply until Membertou can enact its own MRP law.

What does the FHRMIRA do?

Family Home

Either spouse or common law partner (including non-Band Member or non-Indian) is entitled to live in the family home on-reserve. The family home cannot be sold or mortgaged without the written consent of the other partner. If the relationship (marriage or common law) ends, either partner can apply to the court to have exclusive occupation of the family home on-reserve. It does not matter if one spouse is a non-Band member or non-Indian. The court can grant time-limited exclusive possession of the family home to one partner and order the other partner to leave the family home. Before the court makes this order, it will consider the collective interests of FN members and any representations made by the band council with respect to the community's culture, social and legal context. On the death of a partner who held an interest in the family home on-reserve, the surviving partner (whether a band member/Indian, or not) may live in the family home for a period of 180 days.

Emergency Protection Orders

In cases of domestic violence, a spouse can apply to the court to remove the abusive partner from the family home for up to 90 days and the other partner stays in the home. It does not matter if one partner is non-Indian or a non-Band member or not. *(continued on next pg.)*

What does the FHRMIRA do? (continued)

Division of matrimonial interests and rights on-reserve: In a separation, divorce or death, both partners (whether band members, Indians or not) are entitled to one-half of the value of the other partner's interest in the family home on-reserve. A court can enforce written agreements between partners outlining the amount each partner is entitled to receive in separation or divorce.

The act does not allow non-Indian or non-band members to gain permanent possession or ownership of a family home, or to sell reserve land.

Why should Membertou create its own law?

This is an opportunity to create laws that reflect Membertou's values, traditions and beliefs. We can create and customize laws and a system that works for our people and our community. Membertou can then enforce and govern its own MRP laws. The federal government does not need to approve this law. It will also empower self-governance. Membertou would not be bound to the federal government's FHRMIRA and its provisions (some of which are highlighted on the first page).

How does Membertou create these laws?

The Governance Committee held community engagement sessions for over a year to get your input on a Membertou MRP law. The draft will be shared for the community's review and information sessions will be scheduled to discuss and answer questions. A vote will then be scheduled, where each eligible voter in Membertou (18+) will have the opportunity to vote for, or against, the proposed Membertou MRP law. The proposed Membertou MRP law will require a single majority vote of at least 25% of all on/off-reserve eligible voting band members. Aboriginal Affairs and Northern Development Canada (AANDC) will play no role in reviewing or approving the Membertou MRP law. The MRP law must comply with the Canadian Charter and human rights legislation. If Membertou does not comply with its law once enacted, members can challenge it in court. **This vote must be completed before June 19, 2016.** If the vote is successful, the FHRMIRA law will not apply in Membertou, but Membertou's own MRP law will. If the vote is not successful, the federal government's FHRMIRA will apply.

If I have questions, who do I contact?

For further information or questions, please contact Cheryl Knockwood at 902-564-6466 (ext. 2520).

Note: This outline is merely an overview and does not include each section of the federal act. You are encouraged to review the full federal act which can be found online at <http://laws.justice.gc.ca/eng/>. This document is not intended to be used as legal advice.

“Kisitutesnu piley kelu'lk nstuita'suaqn ta'n knijannaq ksite'ttaq”

Upcoming Events

- **Governance Committee Meetings**
Thursday, November 26, 2015
Wallace Bernard Memorial Seniors' Centre, 10:00 a.m. - 1:00 p.m.
- **Governance Committee Social**
Wednesday December 16, 2015
Membertou Trade & Convention Centre,
6:00 pm - midnight

Membertou Membership Code Input Sessions at Membertou Trade & Convention Centre (MTCC)

Monday, December 14, 2015

- Governance Committee, Noon – 3:00 P.M.

Tuesday, December 15, 2015

- Women's Session, 10:00 a.m. – 1:00 p.m.
- Youth Session, 1:00 p.m. – 4:30 p.m.
- Community Engagement Session, 6:00 p.m. – 9:00 p.m.

Wednesday, December 16

- Elders' Session, 10:00 a.m. – 1:00 p.m.

**Please note above dates are subject to change. Confirm details with Governance Coordinator prior to event.*

More information available at:
www.maupeltutantsutekek.webs.com

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