

WHAT WE ARE SEEKING THROUGH THE CONSULTATIONS AND DIALOGUE SESSIONS

On-reserve matrimonial real property issues raise a number of questions and challenges for First Nations communities. There are many factors to consider and potential solutions in finding the best possible way to address the division of matrimonial real property in First Nations communities. However, the greatest challenge will be how to balance the protection of the rights of spouses to a fair share of the family home while respecting the collective rights of First Nations. This includes consideration of jurisdictional issues and the unique circumstances on-reserve.



The Native Women's Association of Canada, the Assembly of First Nations, and Indian and Northern Affairs Canada will each be seeking solutions and recommendations from First Nations individuals and leadership on how best to address the legislative gap that presently exists.

Consultations are scheduled to begin in October 2006, and end in January 2007. The Native Women's Association of Canada, the Assembly of First Nations, and Indian and Northern Affairs Canada will each hold its own process of dialogue across the country. It is our hope that this dialogue will provide viable options for Canada to implement in establishing on-reserve matrimonial real property solutions for First Nation communities.

If you wish to share your views or get more information on this initiative, contact:

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ON-RESERVE MATRIMONIAL REAL PROPERTY

Make sure your voice is heard!

WHAT IS THE ISSUE OF ON-RESERVE MATRIMONIAL REAL PROPERTY?

Canada's new government and First Nation governments and organisations are committed to fostering healthy relationships between spouses and ensuring children are raised in a safe and loving environment. While First Nation communities prefer that families remain together, it is a general fact that marital breakdown can and does occur. When marital breakdown occurs in a First Nation community, the rules of how spouses can divide property are uncertain.

This is because provinces have no authority to legislate in respect of matrimonial real property on reserves. While the jurisdiction of some First Nations to introduce codes or mechanisms is recognized, most First Nations have not reached agreements with Canada to address matrimonial real property on reserves. The federal *Indian Act* makes no reference to the issue of matrimonial real property, creating a legislative gap on-reserve.

WHAT IS MATRIMONIAL REAL PROPERTY?

Matrimonial real property is generally viewed as the "family home." This is the home that the spouses lived in at the time they separated.

Under provincial and territorial law, the matrimonial home is treated differently from other property in that it does not matter if a spouse is named on the title of the property, or if a spouse brought the home into the marriage with them. Each spouse has an equal right to possession of the matrimonial home regardless of ownership. The concept of a family home is quite different than other forms of real or immovable property that spouses may own such as a cabin or cottage.



Make sure your voice is heard!



Canada