

**COMMUNITY DECISION-MAKING PROCESS
MATRIMONIAL REAL INTERESTS LAW
COMMUNITY CONSULTATION**

Karonhianonhnha School Gym

25, September 2013

6:00 – 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Kahente Horn-Miller (Lead - CDMP)

Joe Delaronde – Group 1

Gene Diabo – Group 2

Arnold Lazare – Group 3

RESOURCE PEOPLE:

Paul Nicholas (Lead – Resource Person)

Melanie Gilbert

Rosemary Lahache

Rose-Ann Morris

RECORDERS:

Kahente Horn-Miller (Main Screen)

Brandi Meloche (Group 1)

Sophia Dupont (Group 2)

Shirley Ellen Meloche (Group 3)

6:00 P.M. **WELCOMING** – Kahente Horn-Miller

6:05 P.M. **INTRODUCTION/MEETING GUIDELINES** – Joe Delaronde & Kahente Horn-Miller

6:10 P.M. **MATRIMONIAL REAL INTERESTS LAW** – Paul Nicholas

6:15 P.M. **QUESTION:**

8:15 P.M. **NEXT STEPS** – Kahente Horn-Miller & Paul Nicholas

8:30 P.M. **CLOSING**

Note: Due to minimal participants, three groups were combined into two. Both groups proceeded to discuss the questions and answered them all at once.

QUESTIONS:

**Does Kahnawà:ke want to create its own law on Matrimonial Real Interests?
Is this proposed law an urgent matter?**

GROUP 1

Facilitator: Joe Delaronde

Resource Person: Rosemary Lahache (Housing)

Group Speaker: Leonard Bordeau

Recorder: Brandi Meloche

30 Minute Group Discussion

Discussion:

- Yes we have to make our own laws and yes we have to hurry up.
- Yes, but who will make the law? Kahnawà:ke or MCK?
- Council intends to come back to the community with a working draft of the law within a few months.
- Jurisdiction, we're always fighting for it. Where are the people? We have to do something, maybe stronger and better communication.
- Yes, we have to get this done. Canada has many lawyers, how are we going to put our law together? How do we proceed?
- We have a Legal Team at council, 2 of them are from the community so they have that background. Also, look at the S2 Law to see what is in it. We have many people doing research.
- Speak to your family & friends; stress how important this issue is. Bring a few people with you to the next meeting.
- "Real Interests" mean house and land, that's where things fall apart in divorce. Hope for fair process.
- Skits may be useful to communicate to those who shy away from attending because this is a law and it may be complicated. A skit will allow people to see what may happen.
- Has there been any communication with any of the Longhouses? What is their position?
- Anyone can come to these session's, anyone can participate and have their say. There have been traditional people who have participated in other sessions. There have been meetings with the longhouse to make connections, communicate but it's difficult.
- Some people may feel like they will "rock the boat" if they attend one of these sessions if they have a family member who is married to a Non-native.

Outcome:

Group 1 agrees that Kahnawà:ke must create their own MRI law and that it is an urgent law.

FINAL RECORD OF DISCUSSION

QUESTIONS:

**Does Kahnawà:ke want to create its own law on Matrimonial Real Interests?
Is this proposed law an urgent matter?**

GROUP 2

Facilitator: Gene Diabo

Resource Person: Melanie Gilbert (Lands) Rose-Ann Morris (Membership)

Group Speaker:

Recorder: Sophia Dupont

30 Minute Group Discussion

Question 1

Discussion:

- There is a definite need.
- Does having a will prevent this from happening?
- Answer: having a will is part of it, deals with the death of a spouse and estate but not the breakdown of a marriage or a common law union.
- Even having a will does not make it clear cut.
- If second marriage between Native man and non-Native woman and if the husband wills his land to the non-Native wife, the Native children are left with nothing.
- The land is under the Indian Act right now.
- It would have to be clear, the differences between family breakdowns and deaths.
- It would be sent to a Quebec court to decide even if they have a band number.
- A Quebec court would be able to decide occupancy on the reserve.
- If there is a breakdown in the marriage or the common law union, if there is agreement on how to divide assets is not a problem but when there is no agreement, it is decided by the provincial court.
- Alternative Dispute Resolution (ADR) and mediation can be used to come to an agreement but if there is no agreement, it will be decided outside.
- The original intent was to prevent Native women from getting the shaft.
- There is also a rumor that if there is an election in the spring and if the Liberals get in, they might shelve this law but it is still a good idea for Kahnawà:ke to have its own law.
- We can share our law with the Iroquois caucus.

- I can envision some non-Natives hoping that Kahnawà:ke doesn't get its law done in time so that the Canadian Law, S-2 would apply.
- Any questions can be sent to Paul Nicholas at Council or refer to the KLCC site: www.kahnawakemakingdecisions.com

Outcome:

Consensus of Group 2 is that yes, Kahnawà:ke needs its own MRI law.

Question 2:

Discussion

- The law can be amended to include compassionate reasons.
- Look to develop principles in a Kahnawà:ke law that the main concern is the children.
- The MRI Law would look at the family home and secondary home (cabin in Tiowero:ton).
- At present, the home would be awarded to the spouse making the payments.
- The decision would be for the person who is the care-giver of the children.
- If one spouse owned the house before the relationship but there were renovations that the other spouse contributed to during the time the couple was married, they should be compensated but not necessarily get half the house.
- S-2 says it is the care-giver of the children whether Native or non-Native and it doesn't matter who owns the home.
- There are some good points in S-2 protecting the children but it cannot affect us the way they want it.
- What works in Kanehsatà:ke doesn't necessarily work in Kahnawà:ke and vice versa.
- We are all different, what may work with the Mi'kmaq will not work with, for example, the Haida Nation.
- Akwesasne has almost completed its law.
- Iroquois caucus has been working on this for a while but their legislative process is different from the Kahnawà:ke's CDMP, they have a modified band council.
- They developed a law with a legal team and justice committee and they started drafting and sent it to the community. It has taken 7 years and they are now at the point of implementing it and they are willing to share their law with other communities.

- They ratify their law through an electronic vote. They are notifying the Crown that they have their own law and not sending it to INAC to have it approved.
- It is the will of the people of Akwesasne.
- S-2 says that First Nations can create their own laws but it has to go through a process to be ratified by the community. The S-2 law says that a law made by a community can replace the S-2.
- A lot of people say that they voted in 12 chiefs and let them take care of it.
- The Quebec Bar Association has criticized S-2 legislation and Quebec may be a player in opposing this law.
- The work to do after the law is drafted is for the chiefs to go to the Justice Minister and present them with our own law.
- Historically, we have a matriarchal society that can be the baseline of where to start. The majority of people follow this.
- We can take Akwesasne law and modify it to suit Kahnawà:ke.
- It can be fast-tracked to get this law in place and be amended a year later.

Outcome:

Consensus of Group 2 is that yes, creation of Kahnawà:ke's own law to replace S-2 is urgent.

Final Minutes
1st MRI Community Consultation

Approved by:

Paul Nicholas, MRI Technician

Date

Chief Lloyd Phillips, KCR Membership Portfolio

Date

Chief Clinton Phillips, Lands Portfolio

Date