

**COMMUNITY DECISION-MAKING PROCESS
DRAFT KAHNAWÀ:KE RESIDENCY LAW
CDMP HEARING**

**Kahnawà:ke Shakotii'a'takehnhas Community Services
21, Enniskó:wa/March 2019
6:00 PM – 8:30 PM**

RECORD OF DISCUSSION

FACILITATORS:

Leslie Beauvais-Skye
Joe Delaronde

RESOURCE PEOPLE:

Chief Kahsennenhawe Sky-Deer (Lead)
Trina C. Diabo, Technician
Suzanne Jackson, Legal Counsel

RECORDER:

Brandi Meloche

- ❖ **Opening Address – Leslie Beauvais-Skye**
- ❖ **Welcome/Respectful Behaviors/Process – Leslie Beauvais-Skye**
- ❖ **Overview of Draft Kahnawà:ke Residency Law - Chief Kahsennenhawe Sky-Deer & Trina C. Diabo**
 - Who will be able to Reside in Kahnawà:ke?
 - Approved Kahnawà:ke Residents (AKRs)
 - Permit Holders: Minor Child, Residency, Work/Education and Humanitarian
 - Application Process
 - Obligations of AKRs/Permit holders
 - Ineligibility/Revocation criteria
 - Complaint Driven Evictions
 - Removal Processes
- ❖ **Next Steps: Leslie Beauvais-Skye & Chief Kahsennenhawe Sky-Deer**
- ❖ **Closing – Leslie Beauvais-Skye**

**Who will be able to reside in Kahnawà:ke?
(Section 4 – Pg. 8)**

Discussion:

- **Suggestion** → Have classes of permit holders/types of permit holders.
- “Humanitarian” is not specific enough.

Outcome:

- The above suggestion was noted. No further comments or questions.

**Approved Kahnawà:ke Residents (AKRs)
(Section 29 pg. 12)**

Discussion:

- **Question:** Does an adopted child have to be Onkwehón:we?
- **Answer:** No, that is why there is a cutoff date of November 10, 2003.
- **Question:** Do parents of children who were adopted after 2003 have to apply for a permit?
- **Answer:** Yes, parents of children who were adopted after 2003 would have to apply for a permit.
- **Question:** Does a non-Native have to leave the territory if they divorce?
- **Answer:** Yes, unless they were married before 1981.
- **Question:** Do you have definitions of what exactly is “respecting Mother Earth”?
- **Answer:** It would have to be an obvious breach. For example, they were dumping illegally.

Outcome:

- No further comments or questions.

Permit Holders: Minor Child, Residency, Work/Education and Humanitarian (Section 32 – pg. 13)

Discussion:

- **Question:** Section 39. A. 2 – Community member stated that they know a person who only recently found out that they have a relative in the community (2 Great Grandparents), but always identified herself as a non-Native. Now that she has one grandparent she can apply for residency. There are major concerns with this.
- **Answer:** Legal Counsel, Suzanne Jackson refers to the definition that the Registrar would be working with. All applicant's names are posted prior to approval allowing community members to make a valid objection. The Registrar would have to take that into consideration.
- **Comment:** If I'm objecting, I'm objecting without knowing this woman's bloodline.
- **Response:** The Registrar will ask for proof from the applicant to show her ancestry.

Outcome:

- There was discussion on this section, and no consensus was reached. The community member was asked to come back with a suggestion at the next hearing.

Application Process (Section 58 – pg. 16)

Discussion:

- **Question:** Kanien'kehá:ka of Kahnawà:ke - What are the breeches of the law? Why, "may" be subject to eviction? Shouldn't they be evicted if they breach the law?
- **Answer:** The person may have a non-Native living with them or may be renting to a non-Native. The "may" is in there because the person may rectify the situation before eviction is required.
- **Comment:** There should be a list or definition of the ways the person could breach the law.

- **Answer:** The law specifically states who has the right to reside in Kahnawà:ke. If a person goes against that, then they are breaching the law.
- **Question:** Once your entitlement to reside has been revoked under the KKL, shouldn't they be subject to eviction?
- **Answer:** They are being given an option to rectify the situation and/or move from the territory. There is also a difference between the PowerPoint presentation and the actual law. It will be outlined differently in the law.
- **Question:** What is the definition of a Minor Child? A child is up to maybe twelve (12) years old.
- **Answer:** No, a child is up until the age of eighteen (18). There is a definition section in the law which includes a definition of a child. The definition is a person who has not reached the age of eighteen.
- **Question:** Is it the responsibility of the parent or guardian to apply for the permit on behalf of the child?
- **Answer:** A child requires their own permit. The adult may have a permit but have a child that may not have the right to reside. It has to be kept separately.
- **Comment:** There needs to be a distinction of minor child and young adult. An older teenager should be classified as a young adult.
- **Response:** The Registrar has the power to revoke the permit of a child. Again, the Registrar has the discretion of looking at a file and the global situation, then the age of the child would come into play. It was added that what registrar or bailiff would remove a young child.
- **Question:** Does a criminal law have any play here? Courts decide to have a child tried as an adult depending on the type of crime.
- **Answer:** Criminal law is very different and it would not apply here.
- **Question:** If someone got convicted in an outside court of a crime, would their permit be automatically revoked?
- **Answer:** A complaint would have to be made and the reason listed to revoke the permit. A court record could be requested if the permit holder isn't a child. If it is a child, the permit could be revoked by confirming that the child is a danger to the community.
- **Question:** Who is approving these applications?
- **Answer:** The Residency Registrar. The posting to apply for the position has been closed.
- **Question:** What if the Registrar doesn't like a family? This is concerning.
- **Answer:** There is an appeal process with the Community Review Board. The Board will make sure that everything is on the up and up.
- **Question:** Is the Community Review Board up and running yet?
- **Answer:** No not yet. There will be five people on the board and they will have to apply for the position.
- **Question:** Isn't the point of this law is to say that if you don't leave you will be evicted? I don't like the "maybe". It's not "maybe" at that point.

- **Answer:** The PowerPoint doesn't reflect exactly what the law will say. If someone breeches the law, they may leave before being evicted. That is the, "may".
- **Question:** How will the eviction be done?
- **Answer:** A Bailiff will be found that has that experience. They need the training and expertise and skill set for the job.
- **Question:** Is the law going to stay in place before the year long process?
- **Answer:** Yes, this is an expedited Process, but the law is in place and active for the entire year. It may not start tomorrow, but in the next coming months it will be developed. Over the summer months the regulations need to be drafted, the Registrar and Compliance Officer need to be hired. It's a chance for the law to breathe and we can see where we need to make any adjustments.
- **Comment:** You're losing people because it's taking too long (the CDMP).
- **Response:** This is only the second meeting and it is moving quickly.
- **Comment:** These meetings are very important. You can speak to people at the kiosks, but it's important to come here and ask questions. I would like this to move faster.
- **Response:** Details given about the steps of the process and the timeline. Part of the delay was the Miller case. That put a delay on the CDMP. We were advised not to post anything online. Another factor was that the Kanien'kehá:ka of Kahnawà:ke Law had to be enacted before we could proceed with the Draft Kahnawà:ke Residency Law. The definitions within the two laws had to harmonize. Lastly, the Draft Cannabis Law became a priority.

**Minor Child Permit
(Section 34 & 35 - pg. 13)**

Sections 34 and 35 were additional suggested amendment.

Current Version:

- 34. A Minor Child with a parent or Guardian who is an Approved Kahnawà:ke Resident or a valid Permit Holder must have a valid Permit to Reside on the Territory.
- 35. The parent or Guardian must apply for the Permit for the Minor Child and prove that the Minor Child will be Residing with them.

Version with suggested amendments:

34. A Minor Child with Onkwehón:we Lineage who does not meet the criteria contained in section 29 and who Resides with a parent or Guardian who is a Kanien'kehá:ka of Kahnawà:ke, an Approved Kahnawà:ke Resident or a valid Permit Holder must have a valid Permit to Reside on the Territory.

35. The parent or Guardian must apply for the Permit for the Minor Child.

Discussion:

Section 34

- **Suggestion:** Change Onkwehón:we to Lineage to Onkwehón:we Ancestry.
- **Suggestion:** Add, "or".

Section 35

- **Suggestion:** Take out the word "prove".
- **Question:** Are there any comments or questions made here tonight that require a review of the law?
- **Answer:** Most questions were answered. There was discussion on the "minor child permit".
- **Question:** Do we want a distinction made on what exactly a minor child is?
- **Suggestion:** Have an age timeline in brackets such as "Minor Child (0-12)"
- **Suggestion:** List as Minor Child/Youth
- **Suggestion:** List as Child, Youth, Young Adult
- **Response:** The term minor child means anyone under eighteen to be considered a child (*means a person, who has not yet reached the Age of Majority*). If the wording is raising flags, you can change the wording to "minor". One of the factors the Registrar is going to look at is age. If you have a law that says you can't evict anyone under fourteen, then you are creating a divide. Some people may argue that a thirteen year old can be mature and considered in the same category as a fourteen year old.
- Agree with the term, "Minor".
- This is strange, a fourteen-year-old child is legally of age to see a doctor without the parent/guardian present.
- **Response:** Having privacy with your doctor is very different. You could not execute an eviction of a small child. That would be impossible to send them on their own. Between the Bailiff's ethics and the Registrars discretion, you will never see a five-year-old child being evicted.
- **Concern:** Section A2. Nowhere does it say born and raised in the community. If the person never had immediate ties, but they stayed here for three years and had children then they have ties. If they don't fit the application in one section they fit in another.

- **Response:** The Approved Kahnawà:ke Resident section has more criteria to meet because the permission is for life, whereas with other permits, you must re-apply. You could submit an objection to the person's application. You can question their ties to the community or their ancestry etc. This is what the Registrar would review for consideration.

Certain residency areas allow people to marry within other sister communities. You need to be able to have your partner live here. Again, they need to have at least 2 Great Grandparents and provide proof. It's the community ties that are the test. Are you really connected to this community or are you here for the benefits? Do they actively participate in community functions? Do they give back to the community? Do they volunteer in the community? This is above and beyond their regular employment. They must prove this and reapply every three years and keep this up. They must keep meeting this requirement.

Outcome:

- Consensus reached on Section 34 revisions.
- Consensus on the Section 35 revisions
- Consensus reached to use the term "Minor".

FINAL OUTCOME:

There was discussion on **Permit Holders: Residency, Work/Education and Humanitarian** section, and no consensus was reached. The community member was asked to come back with a suggestion at the next CDMP Hearing.

Discussion will continue at the next CDMP Hearing on the Residency Permit specifically, and any sections of the Draft Law that the Community has questions on up to and including ***Obligation of AKRs/Permit Holders, Ineligibility/Revocation criteria, Complaint Driven Evictions & Removal Processes.***

Approved by:

Chief Kahsennenhawe, Portfolio Chief

Date

Trina C. Diabo, Technician

Date