



Metlakatla First Nation – Information Sheet

Matrimonial Real Property (MRP) Law

What is Matrimonial Real Property (MRP)?

“Matrimonial” refers to two people being in a marriage or marriage-like relationship (common-law). “Real property” means real estate like land or a house. “Personal property” includes things like cars, jewelry, boats, furniture and other movable items and would not be the subject of a MRP Law.

Where does the authority for Metlakatla to pass a Matrimonial Real Property Law come from?

The authority of the Metlakatla Land Code enables us to make our own law about Matrimonial Real Property and what happens to the family house if a couple separates or divorces. If we do not make our own law, we would be subject to the existing Federal Government laws which is the Family Homes on Reserve and Matrimonial Interests or Rights Act (FHRMIRA). Developing a Metlakatla First Nation MRP Law would ensure that this law reflects the interests of Metlakatla Members.

What is a Matrimonial Real Property Law and what does it do?

There are many decisions that have to be made when a marriage or common law relationship ends. For example, will one spouse stay in the family home and do they even have a right to? Does each spouse have an equal share in the financial value of the family home? How will marital real property be divided up? Sometimes, spouses agree on how marital real property will be divided up but sometimes they don't.

Provincial laws apply to determine alimony and child support but provincial laws cannot deal with homes and lands on Reserve land. A Matrimonial Real Property law can help the process of dividing property and solving disputes when the spouses cannot agree.

When spouses cannot agree, our MRP Law will contain the rules to determine what happens to real property (family homes) if a couple separates or divorces. The Law will apply when at least one person of the married/common-law couple is a Metlakatla member.

A Matrimonial Real Property Law is intended to define:

1. How the interests of children are protected as a priority
2. What real property is subject to the law (Garden Lots, Certificate of Possessions, Family Homes)
3. Equality and not discriminate on the basis of sex/gender or sexual orientation
4. That non-members cannot gain ownership of a family home or the ability to sell reserve land
5. The process for resolving property disputes through community-based solutions in the event of marital breakdown and encourage couples to have marriage contracts
6. Protections in the case of family violence through Emergency Protection Orders
7. The ability of the non-member spouse to apply for an Exclusive Occupation Order. An Exclusive Occupation Order is issued during a couple separation or divorce when one spouse (whose

name is not on the Certificate of Possession) is permitted to stay in the house on Metlakatla land – usually to care for the children.

What the MRP Law cannot do?

The MRP Law will not resolve division of assets such as vehicles, money, boats, clothing, etc. “personal property” is dealt with under Provincial Laws.

What are pre-nuptial, marriage or separation agreements?

These agreements are made by a couple about to be or already in a marriage or common-law relationship where the couple decides what will happen with their homes and assets if they separate or divorce. The Metlakatla Lands Department encourages all members to have a prenuptial, marriage or separation agreement as early in the relationship as possible. Should a separation or divorce occur, an agreement would make the situation significantly easier on both spouses because they have already determined who gets what.

If I have to go to court to resolve an MRP dispute what can the courts do?

Under the MRP Law, the courts may be able to make various court orders such as:

- respect marriage agreements (they would uphold marriage agreements whether they are registered or not)
- interim possession of the family home especially where this is in the best interest of the children
- restraining orders to deal with violence or abuse; and,
- an order for one spouse to pay compensation to another (this would be in addition to alimony, child support, etc. which are set under provincial law).

Other Metlakatla laws may over-ride the MRP Law such as order to remove people from the reserve that are harmful to the community (Access, Residency and Trespass By-Law 2016).

For more information:

Contact the Metlakatla First Nation Lands Department at lands@metlakatla.ca or (250) 628-3234 Ext 2013.