



Developing a Matrimonial Real Property Law

Engagement Survey #4 November, 2015

St. Mary's First Nation is developing a matrimonial real property law. Your input is important and will help shape the future of this community.

We do not foresee any risks to completing this survey. It is completely voluntary. You can stop at any time and you do not have to answer any question that you do not want to. Your answers will be grouped with those of other participants so no one will be able to trace your answers back to you specifically.

What is Matrimonial Real Property?

Matrimonial real property is a legal term to describe property that a couple gains or builds up while they are married or in a common law relationship. Matrimonial real property on reserve includes the family home and may include land held by a couple with a Certificate of Possession or custom allotment.

Dispute Resolution

1. Do you think that spouses should have to follow a St. Mary's specific dispute resolution process or would another form of mediation be okay? *Please tick one box only.*
 - I think any dispute resolution process is fine as long as the spouses go through one; the dispute resolution process does not have to be specific to St. Mary's First Nation
 - I think that spouses should have to go through a dispute resolution process made by St. Mary's First Nation (a 'made in St. Mary's' approach)
2. If a dispute resolution committee cannot help the spouses reach an agreement, do you think that a dispute resolution committee should have the power to make a final decision about the spouses' interest in St. Mary's First Nation land? *Please tick one box only.*
 - Yes
 - No
 - Other: _____

3. If you agree with the sentence in Question 2, what power do you think a committee should have?
Please tick one box only.

- I don't think a dispute resolution committee should have the power to make final decisions, as I noted in question #2
- To transfer a matrimonial home to a spouse absolutely (in full)
- To order that both or either spouses be relocated to other housing
- To allow a spouse to rent from the other spouse for a certain number of years
- To divide the land parcel up between the spouses
- Other: _____

4. Do you think that spouses who seek dispute resolution, should do so within a specific period of time?
Please tick one box only.

- I do not think there should be a time limit on when spouses should be allowed to seek dispute resolution; a spouse should be able to go whenever they want
- I think that spouses should seek dispute resolution within 1 year of divorcing/separating
- I think that spouses should seek dispute resolution within 2 years of divorcing/separating
- I think that spouses should seek dispute resolution within 3 years of divorcing/separating
- I think that spouses should seek dispute resolution within 5 years of divorcing/separating
- Other: _____

5. Should the rule about getting dispute resolution be the same or different for common law partners?
Please tick one box only.

- I think that the rule should be the same for common law spouses as with married couples
- I think that the rule should be different for common law spouses as with married couples; the rule for common law couples should be: _____
- Other: _____

6. What kinds of factors do you think a court of dispute resolution panel should consider in dividing property? *Please tick all that apply.*

- The date when the family home was acquired or disposed of
- How long the relationship lasted
- How long the couple have lived separately
- The needs of each spouse to become or remain economically independent
- Direct financial contributions of each spouse toward the acquisition, upkeep, or improvement or increased value of the family home
- Indirect or in-kind contributions each spouse made to the acquisition, upkeep, improvement or increased value of the family home through child rearing responsibilities
- Any relevant order or award that a court has made
- The extent to which the financial means and earning capacity of each spouse have been affected by the responsibilities and other circumstances of the relationship
- Whether actions or omissions of a spouse during the relationship or after the date of separation caused a significant change in the value of the home
- The amount of any debt that spouses have that could affect their ability to acquire, maintain, or improve the family home
- The spouses financial responsibility related to the care and upbringing of children
- The availability of other accommodations/homes
- The terms of a domestic contract between the spouses
- Whether a spouse has made, without the other Spouse's consent, a substantial gift of SMFN property to a third party
- A spouse's direct or indirect contribution to the career or career potential of the other spouse
- Other: _____

Family Home

7. Do you think that spouses who are divorcing/separating should have to sell their family homes and the value of what they get for selling their house be divided between the spouses? *Please tick one box only.*

- Yes
- No
- Other: _____

8. Do you agree with this sentence: If spouses are: (a) both SMFN members and (b) one person is granted full legal custody of the children, the spouse with full legal custody shall receive the family home to live in. *Please tick one box only.*

- Yes, I agree with this statement
- No, I do not agree with this statement
- Other: _____

9. Do you agree with this sentence: If spouses are: (a) both SMFN members and (b) both spouses share legal custody of the children and (c) heterosexual, the family home will be given to the mother to live in. *Please tick one box only.*

- Yes, I agree with this statement
- No, I do not agree with this statement
- Other: _____

10. Please complete the following sentence: If spouses are: (a) both SMFN members and (b) both spouses share legal custody of the children and (c) homosexual, the family home will be given to:

11. Do you agree with this sentence: If one spouse is a SMFN member and the other spouse is not a SMFN member and (b) they do not have shared children, the SMFN should receive the family home to live in. *Please tick one box only.*

- Yes, I agree with this statement
- No, I do not agree with this statement
- Other: _____

Notice to Council

12. Do you think that couples that are divorcing or separating should have to notify Chief and Council/SMFN that they are divorcing/separating? *Please tick one box only.*

- Yes, I agree with this statement
- No, I do not agree with this statement
- Other: _____

Amendments to the Law

13. Do you think it is okay for Chief and Council to change the SMFN matrimonial real law without consultations if the changes are minor?

Minor changes could include (but not be limited to): changing references to parts that may have expired or been repealed, clarifying the language so that the meaning of the law is clearer, clarify inconsistencies, correcting grammar, or changing references to other St. Mary's laws.

Please tick one box only.

- Yes
- No

14. Do you think that members of SMFN should be consulted if more significant changes to the SMFN matrimonial real law are being proposed? *Please tick one box only.*

Yes

No

Other: _____

Emergency Protection Orders

15. Do you think that the SMFN matrimonial real property law should include a part about emergency protection orders? *“Emergency protection orders are short term, temporary orders to help protect victims of domestic violence.” Please tick one box only.*

Yes, I think the SMFN law should have a part about emergency protection orders and it should apply to all couples

No, I do not think the SMFN law should have a part about exclusive occupation orders

Other: _____

16. Do you think that emergency protection orders should be available to all couples, even when one spouses is not a member of St. Mary’s First Nation? *Please tick one box only.*

I think emergency protection orders should be available to all spouses

I think emergency protection orders should only be available to members of St. Mary’s First Nation

Other: _____

Estates

17. The St. Mary’s First Nation matrimonial real property law could contain come parts about the rights of a spouse when the other spouse dies. Are you interested in having such a section in a St. Mary’s law? *Please tick one box only.*

Yes

No

Other: _____

18. Comments or additional thoughts? *If you would like to enter your name for a \$100 draw prize, please write your name, phone number and email in the comments box (under any comments you may have).*

Name for draw: _____

Contact number/email for draw: _____

Comments:

For more information about the matrimonial real property process, please to <http://www.stmarysfirstnation.com/index.html> or call Erica Paul at (506) 458-9511.

Thank you.