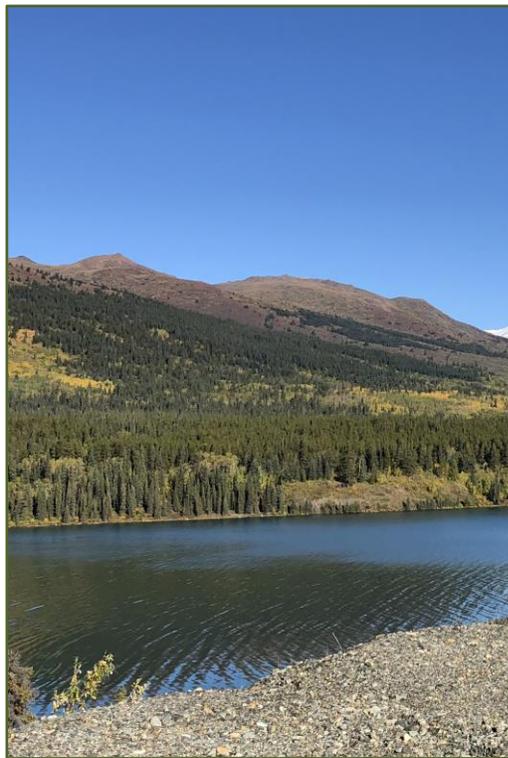




MRP Dispute Resolution Model

TRAINING SCENARIOS



Overview

The Centre of Excellence for Matrimonial Real Property (COEMRP) has developed these Matrimonial Real Property Dispute Resolution Models: Training Scenarios (Training Scenarios) to assist in providing training to First Nations in developing dispute resolution mechanisms to resolve matrimonial real property disputes on separation or survivorship in accordance with either their matrimonial real property law or the Family Homes on Reserve and Matrimonial Interests or Rights Act (FHRIMRA) and the Provisional Federal Rules.

Two on-reserve Matrimonial Real Property Dispute Resolution Models were developed – one for use where First Nations hold real property in accordance with the Indian Act or a Land Code, and the other for use where First Nations hold real property in accordance with customary or traditional land holdings. Each Dispute Resolution Model also has a corresponding Workbook to aid First Nations in developing their dispute resolution mechanisms.

These Training Scenarios have been developed to assist First Nations to identify different factors and issues that may arise in a matrimonial real property dispute and to consider how they may be accommodated in a dispute resolution mechanism. These Training Scenarios are purely fictitious and do not represent any real person or First Nation.

Participants will require a copy of their First Nation's matrimonial real property law (if applicable) or the Provisional Federal Rules (if applicable) to complete the Training Scenarios.

SCENARIO #1

Jim and Susan have lived together in a common-law relationship for 17 years on Beautiful First Nation. Their relationship has just ended and they cannot agree to how their matrimonial real property should be divided. They would like to resolve their dispute without having to go to court.

Jim is a member of Beautiful First Nation, a member of Council, and operates his own seasonal business as a fishing lodge owner. Susan is a member of Wonderful First Nation, which is located 8 hours away, but has lived in Beautiful First Nation ever since her relationship with Jim began 17 years ago. Susan is the Health Director in Beautiful First Nation.

Jim and Susan's three children are 2, 7, and 11 years old. They have agreed that Susan will be the primary caregiver of the children.

During their relationship, Jim and Susan have both contributed to paying the mortgage on their home, making improvements on the home, and financially supporting their family. As Jim's work is seasonal, there have been times that Susan has been the primary contributor towards the household and family expenses. The Certificate of Possession is listed in Jim's name.

Beautiful First Nation operates under its own land code, which has been in place for 6 years. Beautiful First Nation is currently developing its own matrimonial real property law but it has not been presented to the community for ratification yet. There is a significant demand to buy or rent homes in Beautiful First Nation, as there is a shortage of available homes.

Instructions:

Using your First Nation's matrimonial real property law or the Provisional Federal Rules (whichever is applicable to your First Nation), please answer the following questions.

Questions:

1. What should a dispute resolution process look like to address this dispute?
2. What factors and issues for consideration are presented in this scenario?
3. How are those factors and issues accommodated in the dispute resolution process?

SCENARIO #2

Andrew's wife Edna has just passed away. Andrew and Edna were married for 52 years and are both members of Gorgeous First Nation. They have no children.

Andrew and Edna use to live in the city but moved back to Gorgeous First Nation 5 years ago when they retired. They were living in Edna's late parents home that they left to Edna, as she is the oldest child, which is the custom of Gorgeous First Nation.

Edna did not have a will. Andrew is uncertain whether Gorgeous First Nation will allow him to continue to live in their home. He lives on a very fixed income and would prefer not to go to court.

Andrew is very hard of hearing and often relies on his friend Clyde to help him understand what people are saying if he cannot hear them.

Gorgeous First Nation passed its matrimonial real property law 2 years ago, which was passed in accordance with the Family Homes on Reserve and Matrimonial Interests or Rights Act and the Provisional Federal Rules.

Under the matrimonial real property law, it states that a dispute resolution process will be developed but it has not been developed yet.

Instructions:

Using your First Nation's matrimonial real property law or the Provisional Federal Rules (whichever is applicable to your First Nation), please answer the following questions.

Questions:

1. What should a dispute resolution process look like to address this dispute?
2. What factors and issues for consideration are presented in this scenario?
3. How are those factors and issues accommodated in the dispute resolution process?

SCENARIO #3

Lindsay and Charlie have been married for 4 years and have a 6 months old child that they adopted. They are renting a house in Amazing First Nation, which they are both members of.

Lindsay suffers from mental health issues that can cause him to be emotionally and physically violent towards Charlie. Charlie is fearful of Lindsay and knows that he cannot stay in the relationship anymore but has nowhere for him and his child to go.

Although Lindsay and Charlie have been married for 4 years, not all people living in Amazing First Nation are accepting of their same-sex relationship. In fact, Charlie's family has refused to help him with his relationship issues.

Lindsay's family have hired a lawyer to protect his interests in the matrimonial home. They do not want to go to court however as they are worried that Lindsay's mental health issues and violent behaviour will be brought up in court.

Amazing First Nation has developed a dispute resolution process under its matrimonial real property law. Amazing First Nation operates under a land code.

Instructions:

Using your First Nation's matrimonial real property law or the Provisional Federal Rules (whichever is applicable to your First Nation), please answer the following questions.

Questions:

1. What should a dispute resolution process look like to address this dispute?
2. What factors and issues for consideration are presented in this scenario?
3. How are those factors and issues accommodated in the dispute resolution process?