

Band Council blasts Aboriginal Affairs over MRP law

By Donna Duric
Writer

Since the federal Matrimonial Real Property Act on reserves came into force last December, land transfers on Six Nations have been in limbo due to new requirements from Aboriginal Affairs demanding spousal

consent and signatures from both parties before transfers can take place.

The requirement and accompanying mountain of paperwork had Six Nations Band Council livid with two Aboriginal Affairs housing directors at a general council meeting last Tuesday.

"I'm sure you're well aware Six Nations has its own MRP law," elected Chief Ava Hill told Daryl Hargitt, lands registrar, and Geoff Cole, lands director last week.

Hill told council that Aboriginal Affairs and Northern Development Canada (AANDC) is insisting forms

need to be signed by both partners before processing land transfers.

But Hill said Six Nations should not be required to fill out the forms.

"Our MRP law was done well before this federal legislation came into being," Hill said. "It was said by the

minister of the day this federal legislation will only apply to those First Nations that do not already have their own MRP law, so that's why we did our own law. We're taking the position that the federal legislation doesn't apply to us or any of the procedures and processes that are attached to it.

"That's why we wanted you here today because our staff informed us," said Hill.

Cole said part of his job is to manage the "Indian Land Registry" at Aboriginal Affairs headquarters and "at this point, AANDC is trying to apply the legislation that was put in place. We've developed forms to implement the administration of the law."

The forms ask that three general requirements are satisfied before moving forward with a land transfer:

- to make sure the spouse has provided consent for the transfer of the property
- that it had been done in an open and transparent way with a declaration that that's been done according to procedures
- and that there are no court orders against the property prohibiting a transfer

Cole says AANDC frequently gets complaints from members of First Nation communities saying they were tricked out of their land or tricked into signing a transfer.

"This is all what the law is trying to address in some manner so people have consented to the transactions that have occurred," said Cole.

"We're here because we want to hear your opinions on that and to work with some of your folks to find ways to find flexibility to maintain minimum requirements we put in place while trying to address your needs," Cole said.

Hargitt said the federal MRP law was created to address a

gap on reserves that didn't guarantee rights to the matrimonial home for either spouse in the event of a marriage break-up.

"This (the forms) is the administrative work that has flowed from that...to ensure spousal consent is had when transferring or encumbering matrimonial interests in the family home," said Hargitt. "That's what we're trying to do. It's a bit of a growing process."

Hargitt said the AANDC lands department decided land transfers won't be registered if the forms aren't signed properly.

There are provisions in the form for single or widowed people who are not in a matrimonial or common-law relationships that allows them to continue with a land transfer without a spouse's signature only if they can prove they don't have a spouse with interest on the property.

But councillors repeatedly insisted Six Nations community members shouldn't have to sign the forms or meet AANDC requirements because band council developed its own MRP law.

"We've done our own law...yet now you guys are coming to us and dictating we've got to fill this out before we do any land transfers?" said Coun. Dave Hill. "Why do we have to go by your law? I guess you guys just lied to us, like always."

The elected Chief complained there was no consultation with Six Nations on the federal MRP law. "Despite what your officials say," she said. "They say they had a consultation process; they met with large, urban centres. Their consultation process is a sham, on this whole federal legislation. You may not have heard me in the beginning when I said, 'we do not accept the federal legislation.' It does not apply in this community. We have

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