

Beausoleil Land Code

Expropriation & Next Steps for the 2nd Vote

January 23, 2016

Going to a Second Vote!

- The Land Code is an important way to truly govern our own land and resources, and is the only process that allows us to remove our lands from the confines of the Indian Act.
- Positive results by Members at the first vote in May 2015:
 - 1768 eligible voters total, and 487 casts ballots
 - **417 voted YES** – that's an 84% approval rate
 - **But we needed at least 443 YES votes**
- We applied for more funding (\$34,500) to take the Land Code to a second vote.

Expropriation

Beausoleil's legal capacity

What is Expropriation?

Expropriation means the taking of land without the consent of an owner by an expropriating authority.

With the Land Code, Ontario will never again be able to expropriate BFN land. Canada will have a very limited ability and it is highly unlikely.

The BFN land base can never be diminished with the Land Code.

BFN is not allowed to Expropriate under the Indian Act

- All other levels of government can expropriate
- Except First Nations under the Indian Act (no process at all)
- The Indian Act allows Canada to expropriate land from First Nations only
- True expropriations are very rare, most interests are acquired under mutual agreement
- Expropriation laws protect land owners

Protection under the Framework Agreement Expropriation

- Expropriation laws also protect lands that are negatively impacted
 - Damages due to a relocation of a major highway that affects the revenue of a business
 - Courts have upheld and awarded claims for loss of revenue in a case where a major highway diverted the traffic to a new highway
 - Expropriation compensation could also be paid for the loss of the ability to develop land, in a case where a species at risk habitat is identified on a person's land and therefore there would be limits or no development allowed

BFN's Power to Expropriate established by Framework Agreement

- BFN will have the power to acquire interests in land for community works or other community purposes ONLY, for example:
 - Fire hall
 - Health-care facility
 - Water treatment facility, etc.
- Expropriations can only be made in accordance with the Framework Agreement, our Land Code and BFN land laws.
- Expropriations may affect non-member interests as well
- Partial acquisition or expropriation possible

Keep Expropriation in the Land Code?

BFN Expropriation

- No First Nation across Canada has used the option to expropriate.
- Currently, the Land Code states that a good faith effort must be made to reach a mutual agreement before considering expropriation.
- It also states that a land law must be developed that details the rights and procedures for an expropriation before it can happen.

How would it happen?

- BFN must make a good faith effort to reach a mutual agreement with the interest holder (lessee, permit holder, CP holder, etc.)
- If BFN cannot reach mutual agreement, must develop a land law with the input of the Members on rights and procedures of expropriation.
- BFN must provide compensation (\$, land, etc.)

Benefits of acquisition and expropriation rules in Land Code

- Ensures that Council does not purchase land at above market value
- Ensures that the benefit to the overall quality of life of the Members is paramount
- Ensures that it will be more difficult to amend the rules of expropriation if they are incorporated into the Land Code – easier to amend a land law
- Members vote on the Land Code
- Will a land law on Expropriation require community input and approval?
- The Framework Agreement process must be followed regardless (Land Code or Land Law)

BFN Expropriation Options

- 1) Keep current version of Land Code?
- 2) Restrict BFN ability to expropriate?
- 3) Develop future land law?

Next Steps

Preparing for the Second Vote

To Do List



Image retrieved from:
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- 1) Update Community Ratification Process (voting rules & procedures)
- 2) Information sessions (if required)
- 3) Update or confirm Land Code
- 4) Verifier Scott Jacobs confirms both documents comply with the Framework Agreement
- 5) Locate and inform ALL Members
- 6) Ratification vote (e-voting, mail-in voting and the official polls)

Vote Date

The date hasn't been set yet, but we are aiming for **April 2016**.

Please make sure you and your family update your mailing address or email so that everyone has the opportunity to cast a vote.

April						2016
SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Do you approve the BFN Land Code and the Individual Agreement?

☐ Yes ☐ No

Chi Miigwetch – Questions?



Kristin Monague
A/ Lands Manager
Beausoleil First Nation

Beausoleil First Nation Lands Department

11 O'Gema Miikan
Christian Island, ON L9M 0A9

Tel: 705-247-2051

Fax: 705-247-2239

kmonague@chimnissing.ca

www.chimnissing.ca/lands.html

