

NAK’AZDLI WHUT’EN NOTICE OF VOTE
ON PROPOSED FAMILY HOMES LAW

NOTICE IS GIVEN, PURSUANT TO SECTIONS 17 AND 18 OF THE NAK’AZDLI WHUT’EN LAND CODE, THAT THE NAK’AZDLI WHUT’EN PROPOSES TO HOLD A COMMUNITY VOTE ON JULY 6, 2023, TO ENACT THE NAK’AZDLI WHUT’EN FAMILY HOMES LAW, 2023.

The following question regarding the Nak’azdli Whut’en Family Homes Law will be asked of the Eligible Voters by ballot:

“Do you vote in favour of the Nak’azdli Whut’en Family Homes Law, 2023?”

IN-PERSON VOTING LOCATIONS

JULY 6, 2023	9:00 AM TO 7:00 PM
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KWAH HALL
120 Kwah Road, Nak’azdli IR#1, BC

PRINCE GEORGE
Carrier Sekani Tribal Council 1460 – 6 Avenue, Prince George, BC

VOTE ELECTRONICALLY
From 9:00 AM on JUNE 22 until 7:00 PM on JULY 6, 2023

IF YOU PREFER TO VOTE ELECTRONICALLY, please visit the election website, then click the RED button “Sign Up with OneFeather” or “Vote with OneFeather” and follow the instructions provided:

www.onefeather.ca/nations/nakazdli

You will be required to provide your Registry Number (Status Card), Date of Birth, and an email address and phone number. Please contact voterhelp@onefeather.ca immediately with any questions.

VOTE BY MAIL-IN BALLOT

Mail-in voting packages will automatically be sent to all Eligible Voters for whom a mailing address is on record. Any Eligible Voter may request a mail-in ballot by contacting OneFeather at:

voterhelp@onefeather.ca

Copies of the Nak’azdli Whut’en Family Homes Law can be accessed from the Nak’azdli Whut’en Housing Office, the Band Administration Office and downloaded from www.onefeather.ca/nations/nakazdli or upon request to the Referendum Officer.

AND FURTHER TAKE NOTICE that all members of Nak’azdli Whut’en 18 years of age or older as of the date of the Referendum Vote are eligible to vote.

Dated in Victoria, Province of British Columbia this 6th day of June 2023

For more information, please contact OneFeather:
Email: voterhelp@onefeather.ca
Office: (250) 384-8200 Toll Free: 1-855-923-3006
209-852 Fort Street, Victoria, B.C., V8W 1H8
<https://www.onefeather.ca/nations/nakazdli>



WHY ENACT A NAK'AZDLI WHUT'EN FAMILY HOMES LAW?

Currently, the federal *Family Homes on Reserves and Matrimonial Interests or Rights Act* applies to Nak'azdli Whut'en Reserve Lands. This legislation creates many rights for non-members and member spouses who do not have an ownership interest in reserve land to live in or be compensated for half the value of matrimonial real property upon the breakdown of a spousal relationship.

Information about the proposed Nak'azdli law which will replace the federal law, was presented in a series of community meetings held in 2018, 2021, and 2022. In addition, members were given an opportunity to provide written feedback about the proposed replacement law. The council has considered community feedback, and has directed that the law be put to a vote on July 6, 2023.

The current and proposed laws only apply to homes and other structures and lands on Reserve. They do not deal with bank accounts, personal property, child support, spousal support or custody. In both laws spouses can contract out of the law by entering into their own written signed agreement. Spouses can enter into the agreement before, during, or after they become spouses.

The most significant differences between the federal law and the Nak'azdli law are:

Federal Law	Proposed Nak'azdli Law
Common-law is not defined, however it is likely that the BC definition of common-law, which is two years, will be applied.	Common-law is defined as living together for five years or if there is a child of the relationship
"Family home" includes homes on CP lands, rental homes, band-guaranteed homes, and any matrimonial interest recognized by the First Nation (ie. customary holdings).	Only recognizes family homes on leased lands and CP lands that are held in the name of at least one spouse. This means that where there is a band-owned home or a mortgage and title is with the Band the Band's own policy would determine who would remain in the home (and subject to continued payment of the mortgage).
A "matrimonial interest" is any right to land or structures on Nak'azdli Whut'en Reserves held by one spouse that was not acquired through inheritance. This means that if a member owns lands other than the lands the family home is located on their spouse might have a right to ½ the value or the amount they contributed towards the lands/structure upon breakdown of the relationship.	"Matrimonial interests" are not recognized, only interests in the family home are recognized.
The federal law gives a spouse (common-law or married) who is a member an automatic right to the greater of ½ the value of the family home and land and matrimonial interests OR the amount the spouse contributed to the family home and land and matrimonial interest upon the breakdown of	Married spouses have the right to ½ the appreciation of the family home during the time they were married. Common-law spouses have no right to share in the value of the family home at all upon the breakdown of the relationship unless they have a domestic agreement setting this out.

the relationship. A non-member spouse only has the right to ½ the value of the structure, not the underlying lands.	
A court may order a transfer of ownership of the family home or matrimonial interests from one member spouse to the other member spouse upon breakdown of the marriage.	A court may not order a transfer of ownership of the family home or matrimonial interests from one member spouse to the other member spouse upon breakdown of the marriage: only compensation may be ordered.
A member spouse must get the written consent of their spouse (member or non-member) to the transfer of the family home or a matrimonial interest.	A member spouse only requires written consent of the spouse to the transfer of the family home where the parties are married. In the case of a common-law relationship consent is not required unless set out in a domestic contract.
Permits a surviving spouse to live in the home for six months after the death of their spouse and then they can apply to court to stay for a period up to the end of their life provided they maintain the home. The Federal Law also gives them an automatic ½ interest in the value of the home and matrimonial interest(s).	Permits a surviving spouse to remain in the home for a year and apply to court to remain longer. Does not grant an automatic right to ½ the value of the family home or matrimonial interest(s) as giving a non-member spouse the right to ½ the value of the family home may pose a financial burden on member heirs who cannot pay out these amounts to the surviving spouse without selling the property. The right to stay in the home for a year is subject to any other applicable Nak'azdli laws.
<p>An exclusive occupation order is a court order made upon breakdown of the relationship that permits one spouse to live in the family home and orders that the other spouse to leave. This type of order is often made after breakdown of the relationship but before a decision has been made about division of assets.</p> <p>An exclusive occupation order may also permit a non-member spouse to remain in the family home for up to the rest of their life, but this type of order would normally only be made in favour of a non-member spouse where they are the primary caregiver for the children of the marriage.</p>	
An exclusive occupation order can be made for a Family Home, including band-owned or guaranteed housing.	An exclusive occupation order can be made for the Family Home, which does not include band owned or guaranteed homes. Which spouse can stay in band-owned or guaranteed housing is up to Nak'azdli Whut'en under its policies and agreements.