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March 8, 2016

Dear Membertou Members,



**RE: Council asks for YOUR vote on the new *Membertou Family Homes Law, 2016***

Membertou Governance consulted community members over a two-year period on the development of this law and Council supports its enactment. If this law does not pass, the federal government's provisional federal rules (PFR) will apply in Membertou on June 19, 2016. There are many provisions that our members did not agree with during our consultations with them. The PFRs are outlined in the *Family Homes on Reserves and Matrimonial Interests or Rights Act*.

Membertou band members, who voiced their opinions at Governance's engagement sessions, would like to see the following in our own law:

1. The PFR applies to common-law couples and spouses. Our members were concerned that a short relationship could have an impact on the rights to the family home. They felt that a couple should not be deemed common-law until they had lived together for five (5) years, or if they had a child together. We have made this change in our law, but the PFR deems couples who have lived together for only one (1) year to be common-law and have rights to the family home upon break-up.
2. Our members were very concerned about how family homes are valued in the PFR. In the PFR there is a right to a 50:50 split in the value of the family home or other property on-reserve used for a family purpose upon breakdown of the relationship.

In the PFR, the amount a non-member spouse contributed to the family home can be used to determine the value. This means that the band member could end up owing their ex-partner more than half the market value of the home upon break-up, because market value on-reserve is often lower than off-reserve, as you can only sell to another band member.

Band members found this unfair. They requested that Membertou's law be limited to half the value of the actual appreciation of the family home during the relationship. Our law has this provision, the federal law does not. Also, the division of property

for common-law couples is only permitted where there is a written agreement between the parties.

3. The PFR permits courts to order the transfer of the family home from one spouse, or common-law partner, to another upon a relationship break-up. Members did not agree with this. They felt that the Membertou land base was very limited and that houses were often kept in the family from one generation to the next. Membertou's law does not permit a court to order the sale or transfer of a family home upon the breakdown of a relationship; it only permits compensation for appreciation during the relationship and may permit a non-member to stay in the home if they are the custodial parent.
4. Band members expressed concern that the PFR allowed for the division of real property on-reserve other than the family home, and that rent-to-own homes could also be impacted. Our law makes it clear that the rules on property-division only apply to family homes, and while an emergency protection order may be granted for rent-to-own homes, there is can be no division of the value of the home until the mortgage is paid-out and a certificate of possession (CP) has been issued. Who may stay in the home upon breakdown of the relationship will be continued to be governed by Membertou policy and the terms of domestic (written) agreements.
5. The PFR permit a surviving spouse, or common-law partner, to stay in the family home for six months after their partner passes away. Our members found this to be too short and an inadequate time to grieve. The time period was extended to one year in our law, and the survivor can apply to court to stay longer.
6. Members agreed with the PFR on the matter of emergency protection orders (EPO). These orders allow a court to order one party to leave the family home for a period of up to 90 days, where there has been family violence and exclusion is deemed necessary. Our law permits this as well, with the primary focus being on the best interest and safety of children.
7. Members disagreed with the PFR on exclusive occupation of the family home. The PFR permit common-law partners and spouses to apply to stay in the family home, and exclude the other partners from the home after the break-up for a period of time. Members asked that this order only be available to spouses and to common-law partners with dependent children and that the best interests of the children be the most important factor.
8. Membertou agreed with the federal rules on the ability of common-law partners and spouses to enter into domestic (written) agreement about what will happen to the family home if the relationship breaks down. Our law confirms that these types of agreements are valid even where they differ from our law. For example, by written agreement you can give your non-member spouse a right to live in the family home after your death for the rest of their life. They cannot own the certificate of possession, or rent it out, or sell it, but they can live in it.

A full copy of the law is available on the Membertou Governance website at [www.maupeltutantelsutekek.webs.com](http://www.maupeltutantelsutekek.webs.com). If you have any questions, please contact Cheryl, the Governance Coordinator, via email at [cherylknockwood@membertou.ca](mailto:cherylknockwood@membertou.ca) or call her at 902-564-6466 (ext. 2520). She is also available for drop-in information sessions at the Membertou Entrepreneurship Centre every Tuesday and Thursday afternoons from March 22 until April 28, 2016.

These are some of the reasons we are hoping you will come out and vote for our own law. We need 25% of our membership to vote and 50% plus one to vote in favour in order for our law to pass. Thank you for your support!

From Membertou Chief and Council

Terrance J. Paul

Chief

Lee Gould

Councillor

Orlando

Councillor

Alta Duthie

Councillor

Julie Christmas

Councillor

Laurence

Councillor

[Signature]

Councillor

[Signature]

Councillor

Sean C. Christmas

Councillor

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Councillor

Jhanna Lakto

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