



## **Fact Sheet:** **Membertou Family Homes Law**

### **What is the Membertou Family Homes Law (MFHL)?**

The Membertou Family Homes Law is a law that would determine how the interests in an individually-owned family home, in Membertou, would be divided in the event of a separation, divorce, or death - if the spouses cannot come to an agreement.

In order for Membertou to pass its own MFHL, a minimum of **25%** of eligible voters of Membertou Members must participate in the vote and then 50% +1 of those voters must vote YES.

### **What does the Membertou Family Homes Law do?**

#### **The MFHL:**

- Applies during a separation, divorce, or death of one spouse or common-law relationship;
- Applies only to family homes where a certificate of possession (CP) has been issued, and you have been living in the home together;
- Ensures that following a separation/divorce/death, only spouses are entitled to an equal division of the appreciated value of the family home, from the date of marriage to the date of separation;
- Limits the courts' powers on-reserve, as compared to the federal government's provisional federal rules;
- Places primary focus on the best interest of the children. In the event of separation, divorce or death - the custodial parent, regardless of membership, may have the right to occupy the family home until the youngest child reaches the age of majority (18 years).

The MFHL does **not** apply to your personal property such as bank accounts, vehicles, etc. If band members wish to change the law in the future, there is an amendment clause to do so.

### **Why is Membertou creating its own Family Homes Law?**

Membertou wants its own laws dealing with who will stay in the family home in Membertou, instead of allowing the federal government's act to apply in our community.

### **How, when, and where do we vote on the Membertou Family Homes Law?**

You can vote in three (3) ways: 1) in-person; 2) electronically, or 3) mail-in your ballots.

The vote is on Friday, April 29, and Saturday, April 30, 2016. Notification of voting times and venue(s) (for in-person voting) will be distributed in March 11, 2016. Please check this website to register for electronic-voting: <https://vtnw.com/go/MembertouReg/>

For information on voting, please contact Chris LaPorte, electoral officer, at [cjl8825@gmail.com](mailto:cjl8825@gmail.com), or call 902-577-6935.

## Can I vote?

Yes! If you are a registered Membertou member of voting age (18 years and up), you are eligible to vote on the MFHL.

## What happens if Membertou members do not vote for the *Family Homes Law*?

If we do not vote in favour of our own law, the federal government's *Family Homes on Reserves and Matrimonial Interests or Rights Act* will apply in Membertou, starting **June 19, 2016**.

## Emergency Protection Orders

In cases of domestic violence, a spouse or common-law partner can apply to the court system to remove the abusive partner from the family home, and the other partner stays in the home. It does not matter if one partner is a Membertou band member or not.

## Exclusive Occupancy of a Family Home on-reserve

- If the marriage ends, either spouse can apply to the court to have exclusive occupation of the family home in Membertou;
- The court can only provide exclusive occupation of the home to a non-member *if* he/she is the custodial parent of a child; if not, only band members shall have exclusive occupation of the family home;
- On the death of a spouse or common-law partner who held an interest in the family home in Membertou, the surviving spouse or partner (band member or not) may live in the family home for a period of 365 days.

## Family Homes in Membertou

- Only family homes where a Certificate of Possession (CP) has been issued will be subject to the MFHL;
- If the marriage ends, each spouse is entitled to an equal half of the appreciated value of the family home (if it is not band-owned);
- A non-member **cannot** own a family home on reserve;
- A court can enforce written agreements between spouses or common-law partners outlining the amount each partner is entitled to get in separation or divorce.

## Where can I see the full version of the *Membertou Family Homes Law*?

It is available on the Membertou Governance website at [www.maupeltutantelsutekek.webs.com](http://www.maupeltutantelsutekek.webs.com). Paper copies are also available at the Membertou Entrepreneur Centre's Governance office.

## Who do I contact if I have questions on the *Membertou Family Homes Law*?

Please contact Cheryl Knockwood, Membertou Governance Coordinator, by email at [cherylknockwood@membertou.ca](mailto:cherylknockwood@membertou.ca) or drop in on Tuesdays and Thursdays from 1:00-4:30 p.m. starting March 22, 2016 if you have any questions about law at the Membertou Entrepreneur Centre.

**Note:** This outline does **not** cover each section of the proposed law. We advise all Membertou members to read the full law. This document is not intended to be used as legal advice.