

## FEEDBACK REPORT

### The Draft Kahnawá:ke

#### Residency Law

June 12 –July 11, 2018

#### Introduction:

The Proponent to a Law is responsible for ensuring all aspects of the associated planning are done. For the Residency Law, Rhonda Kirby is the proponent and Trina C. Diabo is the assigned Office of the Council of Chiefs Technician to carry out the tasks related to the Residency Law and the author of this report.

The scope was discussed and agreed to at the Consultation Hearing on May 23<sup>rd</sup>, 2017, as this Law was categorized as an urgent Law. Therefore, once the Law was drafted, according to the Consultation Hearing, it was then posted for a 30-day review by the community. The proponent & team did also hold a focus group to discuss what “some lineage” could mean for this Law during the drafting.

The Draft Residency Law was made available for review online at [www.kahnawakemakingdecisions.com](http://www.kahnawakemakingdecisions.com) from June 12, 2018 to July 11, 2018. Press releases were sent to Kahnawa'kehró:non requesting feedback to the draft Law, by filling out the form and sending it, or emailing it directly.

The Law will be reviewed based on the feedback, and will then be posted as the Law for a period of one year. At the one year mark, the Law will go through the regular Community Decision Making Process exercise.

#### Verbatim Feedback Received:

A Community Member requested further elaboration on the adoption portion. Therefore please ensure that this section is clear. *So any adoption should be a First Nation's infant? Or will adopting a Non-First Nations infant be acceptable?*

There was a word missing “meet” on page 17 no. 40 applicant must “meet”

Section 40 Work/Education Permit: *“ii. Is attending an educational facility within the Territory”*. I feel as though we should not limit the educational facility to be within the Territory. For instance, if an Onkwehón:we person from another community is accepted to a University in Montreal (McGill, Concordia, etc.), we should allow them to reside in the territory should they wish to do so because it is in such close proximity, and we should be encouraging our people to seek higher education.

In Section 69 Objections to Approved Kahnawà:ke Residents Applications and Permit Applications: *“Objections may only be made Kanien'kehá:ka of Kahnawà:ke”*. I believe it should say “Objections may only be made by a Kanien'kehá:ka of Kahnawà:ke”.

In general, the Kanien'kéha words such as “Onkwehón:we” and “Iah teionkwehón:we” throughout the Law are spelled incorrectly, and should match the spelling in the Kanien'kehá:ka of Kahnawà:ke Law.

**Add in bold:** This Law is an affirmation of our **Onkwehón:we** and Treaty rights. This Law is essential if we are to survive and to thrive as **Onkwehón:we** Peoples and as Kanien'kehá:ka of Kahnawá:ke.

**Change in bold:** "Applicant" mean's a person who is applying for authorization as an Approved Kahnawà:ke Resident or who is applying for a Permit under this Law,

**Add in bold:** "Kanien'kehá:ka Lineage" means direct descent from Kanien'kehá:ka Great-Grandparents, to a maximum amount of generations as required pursuant to the *Regulation Concerning the Custom Code Method of Calculation for Kanien'kehá:ka Lineage*, verified by proof acceptable to the Registrar and, if necessary, by the Administrative Tribunal, the Court of Kahnawà:ke or the Kahnawà:ke Court of Appeal, as the case may be,

**Add in bold:** the lands under the control and jurisdiction of the Kanien'kehá:ka of Kahnawà:ke, including the Kahnawà:ke interest in Tiowero:ton (Doncaster);

**Is there a guideline for this period of time?** "Raised in the Community" means a person who has, from a young age, Resided and has spent more than half their lives on the Territory,

Under this section: **Why is this called Registered and Permits are called Application?**

***RIGHT TO RESIDE***

1. *The following have the right to Reside on the Territory provided that right has not been revoked:*

- a) *Kanien'kehá:ka of Kahnawà:ke;*
- b) *A Minor Child with Onkwehón:we Lineage Residing with a parent or Guardian who is a Kanien'kehá:ka of Kahnawà:ke, provided the parent or Guardian has registered the Minor Child with the Residency Registrar;*
- c) *A Dependent Person with Onkwehón:we Lineage Residing with a parent or Guardian who is a Kanien'kehá:ka of Kahnawà:ke or an Approved Kahnawà:ke Resident or who holds a valid Permit, provided the parent or Guardian has registered the Dependent Person with the Residency Registrar; or,*
- d) *A Minor Child who was adopted by a Kanien'kehá:ka of Kahnawà:ke prior to November 10, 2003, provided the parent or Guardian has registered the Minor Child with the Residency Registrar;*

**Add in bold:** The Residency Registrar will:

- e) authorize, pursuant to this Law, Approved Kahnawà:ke Residents;
- f) verify and decide applications for Permits;
- g) decide the merits of a Complaint for Revocation of authorization of Approved Kahnawà:ke Resident or Permits and;

**Add in bold:** The Compliance Officer will:

- h) when requested by the Residency Registrar investigate and verify the factual basis of Complaints to revoke Approved Kahnawà:ke Residents;
- i) when requested by the Residency Registrar investigate and verify the factual basis of Complaints to revoke Permits;
- j) investigate, verify and decide the merits of Complaints for eviction and;

### **Approved Kahnawà:ke Resident List**

The Residency Registrar will keep a confidential list of the names, of those persons who have been authorized to be Approved Kahnawà:ke Residents. This list will be updated by the Residency Registrar, as required by this Law and the Regulations. **This is contrary to S.11.b, 12 +13?**

**Add in bold:** A person who is not recognized as an Kanien'kehá:ka of Kahnawà:ke or authorized as an Approved Kahnawà:ke Resident who wish to Reside within the Territory must apply for a Permit from the Residency Registrar within thirty (30) days of Residing on the Territory.

The parent or Guardian must apply for the Permit for the Minor Child and prove that the Minor Child has **Onkwehón:we Lineage** and will be Residing with them.

This term required 4 GGP. **What about others?**

**Add in bold:** In order to be eligible for a Work/Education Permit the Applicant must **meet** the following criteria as verified by proof acceptable to the Residency Registrar:

Any person may apply on behalf of a person who is mentally and/or physically unable to apply personally, provided they have the authority to do so. **This needs to be consistent with 10.3 of the KKL.**

**Add in bold:** The Permit Holder has thirty (30) days to request a review of the decision of the Residency Registrar.

### **General**

Any person may apply on behalf of a person who is mentally and/or physically unable to apply personally, provided they have the authority to do so. **This needs to be consistent with 10.3 of the KKL.**

### **Verification and Decision**

Could not be successful because the Applicant clearly does not possess the criteria necessary to be granted Approved Kahnawà:ke Residency status or the Permit for which they have applied. **What is the process?**

### **Objections to Approved Kahnawà:ke Residents Applications and Permit Applications**

**Add in bold:** Objections may only be made by a Kanien'kehá:ka of Kahnawà:ke.

**Add in bold:** If the Residency Registrar determines that there is sensitive information on the Objection form, they may redact sections of this form prior to providing the copy to the Applicant. The redacted sections of the Objection form must not include information required by the Applicant in order to adequately respond to the Objection.

### **Applicant Interview**

In considering an application, the Residency Registrar may require a meeting with the Applicant, an Objector or any other person to answer questions relevant to the Application. **What is the process?**

**Add in bold:** The interview mentioned in s. 77 will be conducted in accordance with the process chosen by the **Residency** Registrar. The Applicant, the Objector or other person will be informed of the process prior to the interview.

If the Residency Registrar denies the application, the Compliance Officer must send the Applicant a Notice of Eviction within five (5) working days of receipt of the Residency Registrar's decision. In S. 82 **Administratively, what about vacation times? Standard responses?**

### **Procedure for Revoking a Permit or Approved Kahnawà:ke Resident Authorization**

A Kanien'kehá:ka of Kahnawà:ke may submit a Complaint to the Residency Registrar pursuant to this Law, if they know of a Permit Holder or of an Approved Kahnawà:ke Resident who has or is in breach of s. 91 or of a criteria under which they applied. **Standardize**

Within **five (5) working days** of receiving the Complaint the Residency Registrar must provide a written notice to the Permit Holder or the Approved Kahnawà:ke informing them of the deadline mentioned in **section 95** to provide any written representations or additional evidence and with a copy of the Complaint submitted. **Vacation times Administration issue.**

**Add in bold:** If the Residency Registrar determines that there is sensitive information on the Complaint form, they may redact sections of this form prior to providing the copy to the Permit Holder or the Approved Kahnawà:ke Resident. The redacted sections of the Complaint form must not include information required by the Permit Holder or Approved Kahnawà:ke Resident in order **to** adequately respond to the Objection. **Standardize**

### **Complaint for Eviction**

**Add in bold:** Upon receiving **a** Complaint the Compliance Officer must provide a written notice to the person in question with a copy of the Complaint submitted and of the deadline for the person in question to provide any written representations or additional evidence.

If the Compliance Officer determines that there is sensitive information on the Complaint form, they may redact sections of this form prior to providing the copy to the person in question. The redacted sections of the Complaint form must not include information required by the person in order **to** adequately respond to the Complaint.

The Compliance Officer must send a copy of any Notice of Eviction or any decision of the Community Review Board or Justice of the Peace upholding **a** of Revocation or a Notice of Eviction to MCK Justice Services.

### **Notice of Eviction**

If applicable, the Compliance Officer must send a copy **of** the Notice of Eviction **to** the landlord who is renting the property to the person who has received a Notice of Eviction.

### **Penalties**

**Do one or both parties receive the penalty?**

Throughout the Law there are minor grammar and symbol changes, which will be forwarded in a tracked changed document.

The Feedback Report and the Draft Law are available on line at [www.kahnawakemakingdecisions.com](http://www.kahnawakemakingdecisions.com) Community members should take the time to read and review the documents related to the Residency Law. If you have any questions or just want to discuss over the phone or in person, the draft Law, please do not hesitate to contact Chief Rhonda Kirby or Trina C. Diabo at 632-7500.