



Notice from the Mohawk Council of Kahnawà:ke regarding Canada's 'S-2' legislation

(Kahnawà:ke – 5, Ohiarihkó:wa/July 2013) As the community is aware, the Mohawk Council of Kahnawà:ke is proposing that the community creates a Kahnawà:ke-based law to counter Canada's recently passed Family Homes on Reserves and Matrimonial Interests or Rights Act (usually referred to as 'S-2'). On June 26th Chiefs Lloyd Phillips and Clinton Phillips announced that Kahnawà:kehró:non would begin receiving information on this law and the reasons the MCK is openly advocating for our own legislation, using the 'Urgent Law-Making Provisions' in the Community Decision Making Process. Please read this and share with family and friends.

Reason #1: S-2 imposes provincial court's jurisdiction in determining the division of property in cases of breakups of marriages or common law relationships, and the death of a spouse or common law partner as they relate to First Nations real property, as well as other related issues.

Reason #2: S-2 is flawed and will only complicate matters. For example, this law recognizes property rights for common law partners after only one year of cohabitation, which is contrary to the status quo in Kahnawà:ke (and, actually, throughout Quebec).

Reason #3: S-2 recognizes non-member spouses or common law partners' interest in property (though not actual ownership) and a potential right to occupy to occupy the property – which, needless to say, is problematic for Kahnawà:ke.

Reason #4: The Conservative Government has, once again, failed to consult Native people on a major piece of 'Native' legislation and passed S-2 despite strong opposition voices by many First Nations organizations and governments, including the MCK.

Reason #5: S-2 has received Royal Assent and now awaits the final and formal approval from the Privy Council (expected very shortly) – S-2 will come into effect one year from that date unless First Nations have their own laws in place to supersede the Federal law. The MCK is proposing that the community works together to create our own law before the federal law comes into force in 2014 but the window of opportunity is quite narrow. In order to do so, the community itself will have to give priority to this task, hence the request to use the CDMP's Urgent Law Making Process.

Please note that, currently, Kahnawà:ke disputes over marital property are discussed and alternative solutions are developed leading to mutual consent of parties. An ideal solution to the problems faced with matrimonial property can – and should – be developed internally. Our hope is that people will see the urgency in creating a law that will not allow an outside court to determine outcomes of our lands and properties. We should ask ourselves: Is putting your family's issues in the hands of a provincial judge our best option? Is a provincial judge fully aware of the special status regarding how we treat our property, family lands, and how we sometimes use our land for business purposes?

For more information, please contact Chiefs Clinton Phillips or Lloyd Phillips at 450-632-7500.

Niá:wen,

Mohawk Council of Kahnawà:ke