

## Nisga'a Landholding Transition Act

### Nisga'a Citizens' Frequently Asked Questions August 2009



For further information  
please refer to the Nisga'a  
Individual Landholding  
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[www.nnkn.ca](http://www.nnkn.ca)

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In June of this year meetings were held with each Nisga'a community to answer questions about the effects of the proposed *Nisga'a Landholding Transition Act*. The following questions were the most common ones asked at the community meetings. They are reproduced here for the benefit of Nisga'a citizens who could not attend any of the meetings.

Wilp Si'Ayuukhl Nisga'a will be considering this legislation at its October, 2009 session. Please take the time to make your views known to your elected representatives.

#### **Why is WSN considering these changes?**

Changes to the way in which Nisga'a citizens hold their residential properties were first considered by WSN in 2006. At that time there was a roundtable discussion that was focused on seeking ways to increase economic prosperity for Nisga'a citizens. The roundtable identified the current system of Nisga'a Village Entitlements and Nisga'a Nation Entitlements as a barrier to economic development.

#### **Who can get a fee simple grant from a Nisga'a village?**

The legislation provides an opportunity for a Nisga'a village to offer a grant of a residential lot to a Nisga'a citizen only. A village cannot grant land to someone other than a Nisga'a citizen, or grant land for any purpose other than residential.

#### **Who decides what lands will be zoned residential?**

Village governments have the jurisdiction for lands within Nisga'a villages, and can pass laws designating land for residential purposes, as well as for other purposes.

#### **What happens if I already have a Nisga'a Village Entitlement or a Nisga'a Nation Entitlement?**

If you have an Entitlement and the village government does not offer you a fee simple grant, you can request one. The village government is required to consider the request as soon as practicable, and cannot unreasonably refuse the request. It may, however, refuse the request for a valid reason, including an unpaid debt to the village by the entitlement holder. If a request is refused, the reasons must be provided to the Entitlement holder.

### **Can my Nisga'a Village Entitlement or Nisga'a Nation Entitlement be converted to fee simple ownership without my consent?**

No. Participation is voluntary, and if you prefer to keep your Nisga'a Village Entitlement or Nisga'a Nation Entitlement, you may.

### **Can the village government charge a fee for a lot?**

The village government can only charge a fee for the fee simple interest in a lot that does not already have a Nisga'a Village Entitlement or Nisga'a Nation Entitlement registered against it.

### **How will the cost of the lots be determined?**

Each village government, as owner of the land, can establish the price it wishes to charge for a fee simple lot that is not currently subject to a Nisga'a Nation Entitlement or a Nisga'a Village Entitlement.

### **What can I do with my lot once I own it?**

Fee simple lots will be able to be leased, rented, sold or transferred to anyone, whether or not that person is a Nisga'a citizen. They can also be mortgaged as security for a loan, or bequeathed to anyone. Use of land will be subject to zoning laws established by Village Governments.

### **Could I operate a business on my fee simple residential lot?**

Although lots must be zoned for residential use in order to be granted in fee simple, village governments may, if they wish, allow home based businesses as an allowable use in a residential zone. In this case, some business use would be allowed.

### **What happens if I don't pay my mortgage?**

If a fee simple lot is mortgaged and the mortgage is not paid, the lending institution will be able to foreclose on the mortgage and take possession of the fee simple interest.

### **What about people who can't afford to own their own home?**

This legislation does not affect the village government's use of its residential land for rental housing, social housing or other housing options.

### **Does this legislation make it possible to buy Nisga'a Lands outside of villages?**

This proposed legislation does not apply to lands outside of Nisga'a villages.

### **How much of Nisga'a Land is affected by this legislation?**

The lands affected are individual lots within Nisga'a villages that are zoned for residential use and are less than 0.2 ha (approximately ½ acre) in size. The total amount of land that will be affected is approximately 100 ha, or 1/2000 of Nisga'a Lands.

### **If land is transferred to someone other than a Nisga'a citizen, is it still Nisga'a land?**

Although the legislation would allow the holder of a fee simple interest in Nisga'a Land to transfer that interest to anyone, the land will always be Nisga'a Land and subject to Nisga'a laws.

### **What do the Nisga'a Constitution and the Nisga'a Final Agreement say about this?**

The legislation is consistent with both the *Nisga'a Constitution* and the *Nisga'a Final Agreement*.

### **Does this decision require a referendum?**

The *Nisga'a Constitution* requires that a referendum be held if a disposition of more than 40 square kilometers is made by the Nisga'a Nation or a disposition of more than 10 square kilometers is made by a Nisga'a Village. The total amount of land that is affected by the proposed legislation is approximately 1 square kilometer, so no referendum is required by the *Constitution*.

### **What is the time frame for considering this change?**

Wilp Si'Ayuukhl Nisga'a will be considering this proposed legislation further at its October, 2009 session. Please make your views known to your elected representatives before that time.