When a marriage or common-law relationship ends, questions may arise about the **family home and shared property** (matrimonial property).

Off-reserve, provincial or territorial laws apply, but federal law applies on reserves. The *Family Homes on Reserves and Matrimonial Interests or Rights Act* (**FHRMIRA**) allows First Nation communities to create their own laws on matrimonial property. If no such law exists, default FHRMIRA rules apply.

As of late 2025, all Wolastoqey communities in New Brunswick follow these default rules, but this could change if a community enacts its own law. Always check with your local Band Office for updates.

Wolastoqey
Tribal Council Inc.

New Brunswick Law Foundation
Fondation pour le droit au Nouveau-Brunswick

For more details on matrimonial property rights on reserve, visit our website.

WOLASTOQEY TRIBAL COUNCIL INC.

New Brunswick Law Foundation
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Matrimonial Property Rights

on Reserve



Who Does the FHRMIRA Apply to?

The FHRMIRA applies to individuals in marriages or common-law relationships living (living together at least one year) on reserve lands. It covers Band members and non-members, including those with or without Indian status, who are separating, divorcing, or dealing with a partner's death.

Equal Rights to the Family Home

A "family home" (e.g., house, apartment, or mobile home) refers to a structure on reserve land where a couple "habitually resides", but it does not include the land itself. Under the FHRMIRA, both partners have equal rights to occupy the family home, and it cannot be sold or mortgaged without both partners' written consent.

Note: First Nation residency or trespass by-laws may affect how FHRMIRA applies, so it's important to get legal advice for your specific situation.

What if I Am Facing Abuse From My Partner?

In cases of family violence, you or someone on your behalf can apply for an Emergency Protection Order (**EPO**). This short-term order (up to **90 days**, with possible extensions) can give you temporary exclusive use of the home, remove the abusive partner, and bar them from returning. The court considers safety factors, and breaking the order can lead to fines or jail.

Rights to Occupy the Family Home

- **After a breakup:**
  If partners cannot agree on who stays in the home, the court can issue an Exclusive Occupation Order (**EOO**). An EOO allows one partner to stay in the home temporarily or long-term but does **not** change ownership.

- **After a spouse passes away:**
  A surviving partner who does not own the home can remain in it for **180 days** and may apply to stay longer. Co-owners may stay based on their ownership rights.

Division of Property After a Breakup or Death of a Partner

Generally, when a relationship ends or a partner dies, each partner is entitled to half the value of the family home structure and other shared property, though personal gifts and inheritances are excluded. Only Band members can receive value tied to reserve land rights, and you can divide property through agreement or by going to court.

What Does Compensation Look Like?

Matrimonial property is valued at fair market price, considering debts, and compensation comes from the estate, not the Band. Band members may receive property transfers, but non-members cannot inherit reserve land. If a survivor receives FHRMIRA compensation for a property, they can't claim more for that same property, though courts may adjust the amount if a prior agreement exists or full compensation would be unfair.

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