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Specific Claim Settlements Involving Land

Read below to learn more about the types of claims that provide First Nations money to buy land, or the ability to select Crown land, as well as an overview of the steps that are involved in giving such lands reserve status, and urban reserves.

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An Overview of Specific Claim Settlements Involving Land

It is important to note that Canada's policy on specific claims protects the current ownership and rights of private land owners. Private property is not taken away from anyone to settle specific claims. Nor is anyone asked to sell their land unwillingly. If land changes hands after a settlement, this can only happen on a willing-buyer/willing-seller basis.

Specific claim settlements involving land give First Nations the opportunity to buy land on the open market or use transferred provincial Crown lands and add those lands to their reserves. There is a misconception that lands that are bought or transferred are automatically converted to reserve. This is not true. The land must first meet the criteria from Canada's policy on Additions to Reserve/New Reserves. This means that a number of steps must first be completed before any lands can be given reserve status.

There are many reasons why First Nations may want to add land to their reserve, most notably for community expansion and economic development. This benefits everyone – First Nation and non-First Nation people alike. First Nations invest directly in the local economy through the purchase of land and new opportunities for economic development that will bring long-term benefits to First Nation members. These investments, in turn, can generate spin-off economic benefits for neighbouring communities and the potential for new business partnerships.

About Reserve Land

A reserve is land that has been set apart for the use and benefit of an Indian band. Some bands now prefer the term "First Nation" and no longer use the term "reserve." The federal Crown holds the title to reserve lands.

Less than 0.2 % of Canada's land mass, 2.6 million hectares, has reserve status.

About Land-Related Specific Claim Settlements

Specific claim settlements with a land component give First Nations opportunities to acquire land either by using some of their settlement funds to purchase land on the open market or through the transfer of provincial or territorial Crown land.

Land-related settlements enable First Nations to apply to have the purchased lands, or provincial or territorial Crown land, given reserve status, either by adding to an existing reserve base or by creating a new one.

Steps Involved in Adding Land to Reserve

The Government of Canada requires that a step-by-step approach be taken when a First Nation applies to have land given reserve status. This step-by-step process is designed to address the concerns of everyone involved, including environmental authorities and neighbouring municipalities.

These steps include, for example:

- an environmental site assessment must be done to identify any existing contamination and ensure future residents won't be exposed to any related health risks.
- interests held by third parties such as leases, permits and rights-of-way must be addressed.
- any necessary public access to the land and public utilities must be provided for.
- the First Nation must consult with municipal and provincial governments to resolve issues of concern.

Municipal Issues

Before lands are given reserve status, Canada requires that a First Nation contact the appropriate municipal governments to resolve any issues of concern to local communities. Areas of potential interest to a municipal government include:

- measures to compensate for the municipality's loss of tax revenue once the land gets reserve status.
- arrangements, including payment, for the provision of any municipal services such as water,

garbage and fire and ambulance.

- education tax loss and service agreements with affected school divisions must also be negotiated by the First Nation.

The First Nation and the municipality are expected to negotiate in good faith to address any reasonable concerns.

Taxation Issues

Establishing new reserves in municipalities impacts the tax revenue collected by the federal, provincial and municipal governments. While the tax landscape may change, the Additions to Reserves/New Reserves Policy is designed to ensure that concerns about taxation issues can be addressed through negotiations.

For example, the Policy takes into account the fact that when municipal lands are converted to reserve status there is a loss of property tax revenues. Canada requires First Nations to negotiate a service agreement with the municipality and a financial agreement with school boards prior to receiving reserve status where applicable. In general, under these agreements First Nations typically pay the same amount that they would if the land was not reserve land.

The same sales tax exemptions that apply to reserves in rural areas also apply to urban reserves. Under current tax law, First Nation businesses located on reserve are required to collect provincial and federal sales tax and are subject to all the applicable taxes outlined by law or the service agreement negotiated with the municipality.

Only registered Status Indians can take advantage of the sales tax exemption when purchasing goods and services on reserve land, and the income tax exemption when working on reserve land. This allows those individuals to have slightly more money to spend in the local economy.

Urban Reserves

The establishment of First Nation reserves in urban settings is a specific claims success story emerging in small towns and large urban settings across Canada.

An urban reserve is defined as a reserve within or near a town setting or urban centre. They can be found in smaller urban centres such as Portage La Prairie, Manitoba, which has a total population of 13,000 people, or larger cities such as Vancouver, British Columbia, with over two million residents living in the greater metropolitan area.

Background

The majority of urban reserves are created as a result of Treaty Land Entitlement and other specific claim settlements, which provide First Nations with cash payments that may be used to purchase land. As with any private individual or corporation, First Nations have the right to buy land from a willing seller. They also have the option of asking the federal government to give their new land reserve status, whether the property is located in an urban or rural setting.

Urban reserves offer First Nations economic opportunities that are generally unavailable in more remote areas. They give First Nation businesses the chance to establish themselves and provide employment and training opportunities to First Nation members and non-members. In this way,

urban reserves can contribute to the economic vitality of the host municipality. There are now more than 160 urban reserves across Canada, many of them established as a result of land claim settlements.

Building Relationships with Municipalities

Working with the affected municipality is key to an urban reserve's success. Land can be set aside as an urban reserve provided that a number of agreements have been negotiated between individual First Nations and the municipality. A municipal service agreement is particularly important because it provides a fee for services such as water, garbage collection, police and fire protection, an amount which is generally equal to the amount the municipality would have collected through property taxes.

Education tax loss and service agreements with affected school divisions must also be negotiated by the First Nation, including a mechanism for settling disputes.

Economic Benefits

Urban reserves are an important stepping stone for the development of new First Nation businesses and a way into the mainstream job market for First Nation people. They can also provide much-needed economic stimulus to towns and cities as a whole.

There are a number of successful urban reserves in Canada. In Saskatchewan there are urban reserves located in communities across the province including Saskatoon, Yorkton, Fort Qu'Appelle, Prince Albert, North Battleford, Meadow Lake and a number of smaller communities.

Another successful urban reserve has been established at Wendake near Québec City. Home to the Huron-Wendat First Nation, Wendake was created after the settlement of the First Nation's 40-acre specific claim in 1999. Wendake has become an important tourism and cultural centre in Québec, with festivals and powwows held throughout the year. In preparation for Québec City's 400th anniversary celebrations, Wendake opened a four star hotel and museum in March 2008. This complex has generated 300 full- and part-time jobs for members of the community and a place for local artisans to sell their crafts.

By offering First Nations economic opportunities that are unavailable in rural areas, urban reserves serve as springboards into the mainstream economy. They reduce operating costs and provide better access to capital markets and transportation routes. This provides an opportunity for First Nations to diversify their economic base. At the same time, they contribute to the economic and business development of urban centres across Canada. All Canadians benefit from their success.

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