

Minutes
Matrimonial Real Property (MRP) Committee
Bingwi Neyaashi Anishinaabek
November 6, 2014

Committee Members Present:

Guy Gladu
Joe Ladouceur Sr.

Audrey Gilbeau

Committee Members by Conference:

Line Clarke

Committee Members Absent

N/A

Others Present:

Jeremy Bonhomme

Gord Wickham

Business

CALL TO ORDER

The meeting commenced at 5:00 p.m. with dinner. The business portion of the meeting commenced at 5:30 p.m.

REVIEW OF AGENDA

Gord provided an overview of the agenda items to the committee. No changes or additions were made.

REVIEW OF MINUTES

Jeremy provided the MRP Committee with a copy of the October 23, 2014 minutes. The Committee reviewed and adopted the October 23, 2014 MRP Committee minutes.

DECISION: Move to accept the October 23, 2014 minutes.

MOVED: Guy Gladu

SECONDED: Audrey Gilbeau

All voted in favour.

REVIEW OF ACTION ITEMS:

Gord revisited Question #2 from the “MRP Weekly Questions – Week #2: Division of Real Property/Compensation” document which was deferred by Audrey Gilbeau until November 6, 2014 meeting.

Question #2: If you want to exclude gifts and inheritances, what about where the property in question is the site of the family home? Should it then count as matrimonial property even if it was gifted to just one spouse or inherited by just one spouse?

Decision: Gifted property, regardless of the presence of a matrimonial home, remains with the member that inherited the property only. A home built on the gifted property at a later time will be considered Matrimonial Real Property.

Moved: Guy Gladu

Seconded: Joe Ladouceur Sr.

All voted in favour.

WEEK 3: EXCLUSIVE OCCUPATION ORDERS

The MRP Committee collectively worked through the “MRP Weekly Questions – Week #3: Exclusive Occupation Orders” document.

Gord facilitated this session and Jeremy noted all questions, concerns and dialogue. After reviewing each question and discussions amongst the committee members, the MRP Committee voted on the questions.

The “MRP Weekly Questions – Week #3: Exclusive Occupation Orders” document, including all notes and conclusions, drafted as a result of the meeting will be utilized in the future by the committee for the development and drafting of the BNA MRP Law.

1. Are you comfortable with the court granting an Exclusive Occupation Order to a spouse who is the primary caregiver of a child, in order to allow them to continue raising the child in the family home, where the spouse establishes that this order would be in the best interests of the child?

Decision: Yes, based on the assumption that the child is of both parents.

Moved: Audrey Gilbeau

Seconded: Guy Gladu

All voted in favour.

2. If you are comfortable with Exclusive Occupation Orders to support child-rearing, do you want to distinguish between situations where the child in question is a child of a member spouse, and a child who only belongs to the non-member spouse? In other words, are you okay with an Exclusive Occupation Orders that would go to a non-member, primary caregiver of a child who is neither the biological child of the member spouse, nor the adopted child of the member spouse?

Decision: If the child is brought to the marriage from the non-member they will not have the option of obtaining an exclusive occupation order.

Moved: Joe Ladouceur Sr.

Seconded: Line Clarke

All voted in favour.

3. If you think that children who are not the biological child or the adopted child of the member spouse should be treated differently from those who are, what about a child whom the member has taken on as a step child? Should they be able to benefit from an exclusive occupation in the same way a as a biological or adopted child of the member would be?

Decision: No, unless there is a legal obligation such as a Customary Care Agreement or a formal adoption.

Moved: Guy Gladu

Seconded: Audrey Gilbeau

All voted in favour.

4. Do you want law to specify that EOOs are only available to primary caregivers while children are minors, or else dependents because of illness or disability?

Decision: The Exclusive Occupation Order is available to primary caregivers while children in question are minors, enrolled in school and living in the

residence full-time, or deemed to be unable to care for themselves due to a disability or illness as confirmed by a medical professional.

Moved: Guy Gladu

Seconded: Audrey Gilbeau

All voted in favour.

5. Do you want to create option for a non-spouse who becomes the primary caregiver of a child to apply for an EOO of that child's family home, for the purposes of raising that child? (e.g. a grandparent, aunt or uncle?)

Decision: Yes.

Moved: Line Clarke

Seconded: Audrey Gilbeau

All in favour.

WEEK 5: ALTERNATIVE DISPUTE RESOLUTION

The MRP Committee collectively worked through the "MRP Weekly Questions – Week #5: Alternative Dispute Resolution" document.

Gord facilitated this session and Jeremy noted all questions, concerns and dialogue. After reviewing each question and discussions amongst the committee members, the MRP Committee voted on the questions.

The "MRP Weekly Questions – Week #5: Alternative Dispute Resolution" document, including all notes and conclusions, drafted as a result of the meeting will be utilized in the future by the committee for the development and drafting of the BNA MRP Law.

1. Do you want to encourage spouses to try to resolve their dispute through mediation before they file a claim against their spouse or do you want to require mediation?

Decision: Encourage mediation.

Moved: Audrey Gilbeau

Seconded: Joe Ladouceur Sr.

All voted in favour.

2. Should Spouses be forced to go to the Panel instead of Ontario Courts, or would they both have to agree to go to the Panel?

Decision: Spouses will not be forced to go to the panel, and can seek remedy through the Ontario courts.

Moved: Guy Gladu

Seconded: Audrey Gilbeau

All voted in favour.

NEXT MEETING

The next meeting has been scheduled for Thursday, November 13th, 2014 at 5:00 p.m. at the Wickham Consulting office, 1111 Victoria Avenue E. Thunder Bay, ON.

MEETING ADJOURNMENT

The meeting was adjourned at 7:00 p.m.

MOVED: Joseph Ladouceur Sr.

SECONDED: Line Clarke

All voted in favour.