

LOWER NICOLA INDIAN BAND COUNCIL RESOLUTION

181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7
TEL.: 250-378-5157 FAX: 250-378-6188

Resolution #: #04-30-2024-04

WHEREAS the Lower Nicola Indian Band operates under the authority of Chief and Council;

WHEREAS:

- A. The Lower Nicola Indian Band manages its lands, including the right to reside on its lands, pursuant to its inherent right of self-government, as well as pursuant to the Lower Nicola Indian Band Land Code passed pursuant to the Framework Agreement on First Nation Land Management Act (S.C. 2022, c.19, s.121) (the "Land Code");
- B. The persons listed at section 24.1 of the Land Code, including "invitees" of member interest holders, have a default right to reside (a "Residence Right") on Lower Nicola Indian Band lands (the "Lands");
- C. Notwithstanding the default Residence Rights of such persons, section 24.1 of the Land Code further allows the Chief and Council (the "Council") to alter or revoke such rights by band council resolution;
- D. Section 24.4 of the Land Code provides that any person who resides or remains on the Lands without a Residence Right is guilty of an offence, and may be evicted, removed or made subject to other consequences;
- E. On April 2, 2024, the Council enacted the Lower Nicola Indian Band Trespass Law to set out additional trespass offences on the Lands and to set out a procedure for the Council to remove a specific Residence Right by way of a Prohibition Order made by band council resolution;
- F. Under section 7.1 of the Lower Nicola Indian Band Trespass Law, the Council may, by band council resolution, issue a Prohibition Order to revoke a person's Residence Right, if the person is invited to reside on the Lands under section 24.1 and the Council has reasonable grounds to believe that the person poses a serious threat or may cause serious harm to the Lower Nicola Indian Band community or land;
- G. James Purdie, who is not a member of Lower Nicola Indian Band, has resided initially in a travel trailer on Lot 326, Nicola Mameet Indian Reserve No. 1 of the Lands approximately between January to July 2023, then in motorhome in October 2023, and most recently since at least April 6, 2024, in a motorhome, and possibly earlier;
- H. On September 20, 2022, Council passed a band council resolution which reads: "The Lower Nicola Indian Band Council hereby prohibits RV's to be utilized as dwellings, residences, or cabins on LNIB Lands including CP Lands and Custom Family Lands unless they receive prior written authorization by the Lands Manager" (the "RV Prohibition Order");
- I. James Purdie never sought or received prior written authorization from the Lands Manager to reside on Lot 326, Nicola Mameet Indian Reserve No. 1 in his travel trailer or motorhome;
- J. On July 4, 2023, Council passed a band council resolution stating that Council is of the view that James Purdie does not fall within the scope of persons who have a Residence Right under section 24.1 of the Land Code and hence he is guilty of an offence under section 24.4 of the Land Code and, in the alternative, if James Purdie does have a Residence Right by virtue of his being an "invitee" of a member interest holder, then Council is of the view that it is in the best interest of the Lower Nicola Indian Band to revoke that Residence Right and Council resolved to revoke any residence right that James Purdie may have pursuant to section 24.1 of the Land Code (the "Revocation Resolution");
- K. On July 27, 2023, Lower Nicola Indian Band staff attempted to served James Purdie with notice of the Revocation Resolution however, James Purdie vacated the Lands sometime before July 27, 2023;
- L. Council is still of the view that James Purdie does not have a Residence Right under Land Code or, in the alternative, if James Purdie has a Residence Right by virtue of being invited to reside on or access the Lands under section 24.1, then Council has removed any such right by way of the Revocation Resolution;
- M. Council is of the opinion that James Purdie's past and present behavior and activities on the Lands pose a threat to Lower Nicola Indian Band community and land and is of the view that it is in the best interest of the Lower Nicola Indian Band to issue a Prohibition Order to remove any remaining right James Purdie may have on the Lands, for greater certainty;

NOW THEREFORE BE IT RESOLVED THAT:

1. James Purdie does not have a Residence Right on Lower Nicola Indian Band land;

2. James Purdie's past and present behavior and activities on Lower Nicola Indian Band lands pose a threat to Lower Nicola Indian Band community and land;

3. If James Purdie has any Residence Right by virtue of being invited to reside on Lower Nicola Indian Band lands pursuant to section 24.1 of Land Code, that Residence Right is hereby immediately revoked for a period of three years on all Lower Nicola Indian Band Land in accordance with section 7.1 of the Lower Nicola Indian Band Trespass Law (the "Prohibition Order");

4. Notice of the Prohibition Order will be provided to James Purdie as soon as practicable, in accordance with the Lower Nicola Indian Band Trespass Law;

5. James Purdie and any person who may have invited James Purdie to reside on Lower Nicola Indian Band lands will have a right to seek a review of the Prohibition Order under section 8 of the Lower Nicola Indian Band Trespass Law; and

6. If James Purdie continues to reside on any Lower Nicola Indian Band lands in contravention of the RV Prohibition Order, the Revocation Resolution, and the Prohibition Order, James Purdie will commit an offence under section 24.4 of the Land Code and section 9.2 of the Lower Nicola Indian Band Trespass Law and may be prosecuted by Lower Nicola Indian Band.

This resolution is supported by the undersigned and passed this 30th of April 2024.


Quorum of Council: 5



Stuart Jackson, Kwúk'wpi?



Connie Joe, Councilor



Bill Bose, Councilor

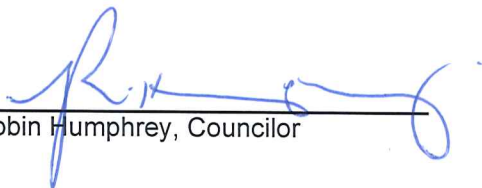


Lesley Manuel, Councilor

Arthur Dick, Councilor



William Sandy, Councilor



Robin Humphrey, Councilor

Lucinda Seward, Councilor