



**First Nations Tax Commission**  
**Commission de la fiscalité des premières nations**

The First Nations Tax Commission, pursuant to the *First Nations Fiscal Management Act*, hereby approves the following law made by the Kwikwetlem First Nation in the Province of British Columbia,

***Kwikwetlem First Nation Property Assessment Law, 2017***

Dated at Kamloops, British Columbia this 24th day of July, 2017.

On behalf of the First Nations Tax Commission

C.T. (Manny) Jules – Chief Commissioner  
First Nations Tax Commission



**KWIKWETLEM FIRST NATION  
PROPERTY ASSESSMENT LAW, 2017**

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WHEREAS:

- A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands, interests in reserve lands or rights to occupy, possess or use reserve lands;
- B. The Council of the Kwikwetlem First Nation deems it to be in the best interests of the First Nation to make a law for such purposes; and
- C. The Council of the Kwikwetlem First Nation has given notice of this law and has considered any representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

NOW THEREFORE the Council of the Kwikwetlem First Nation duly enacts as follows:

**PART I  
CITATION**

**Citation**

1. This Law may be cited as the *Kwikwetlem First Nation Property Assessment Law, 2017*.

**PART II  
DEFINITIONS AND REFERENCES**

**Definitions and References**

- 2.(1) In this Law:

- “Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c. 9, and the regulations enacted under that Act;
- “assessable property” means property that is liable to assessment under this Law;
- “assessed value” means the market value of land or improvements, or both, as if the land or improvements were held in fee simple off the reserve, as determined under this Law;
- “assessment” means a valuation and classification of an interest in land;
- “Assessment Notice” means a notice containing the information set out in Schedule IV;
- “Assessment Review Board” means a board established by Council in accordance with Part IX;
- “assessment roll” means a roll prepared pursuant to this Law, and includes a supplementary assessment roll, a revised assessment roll;
- “assessor” means a person appointed by Council under subsection 3(1);
- “chair” means the chair of the Assessment Review Board;
- “complainant” means a person who commences an appeal of an assessment under this Law;
- “Council” has the meaning given to that term in the Act;
- “First Nation” means the Kwikwetlem First Nation, being a band named in the schedule to the Act;
- “holder” means a person in possession of an interest in land or a person who, for the time being,
- (a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land,
  - (b) is in actual occupation of the interest in land,
  - (c) has any right, title, estate or interest in the interest in land, or
  - (d) is a trustee of the interest in land;
- “improvement” means any building, fixture, structure or similar thing constructed, placed or affixed on, in or to land, or water over land, or on, in or to another improvement and includes a manufactured home;
- “interest in land” or “property” means land or improvements, or both, in the reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;
- “manufactured home” means a structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to
- (a) be moved from one place to another by being towed or carried, and
  - (b) provide
    - (i) a dwelling house or premises,

- (ii) a business office or premises,
- (iii) accommodation for any other purpose,
- (iv) shelter for machinery or other equipment, or
- (v) storage, workshop, repair, construction or manufacturing facilities;

“Notice of Appeal” means a notice containing the information set out in Schedule VI;

“Notice of Hearing” means a notice containing the information set out in Schedule VIII;

“Notice of Withdrawal” means a notice containing the information set out in Schedule VII;

“Order to Attend Hearing/Produce Documents” means an order containing the information set out in Schedule IX;

“party”, in respect of an appeal of an assessment under this Law, means the parties to an assessment appeal under section 31;

“person” includes a partnership, syndicate, association, corporation and the personal or other legal representatives of a person;

“property class” means those categories of property established in subsection 5(10) for the purposes of assessment and taxation;

“Province” means the province of British Columbia;

“reserve” means any land set apart for the use and benefit of the First Nation within the meaning of the *Indian Act*;

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“revised assessment roll” means an assessment roll amended in accordance with section 11 of this Law;

“secretary” means the secretary of the Assessment Review Board appointed under section 24;

“supplementary assessment roll” means an assessment roll under section 18;

“tax administrator” means the person appointed by Council to that position under the Taxation Law;

“Taxation Law” means the *Kwikwetlem First Nation Property Taxation Law, 2017*;

“taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation; and

“taxes” includes

(a) all taxes imposed, levied, assessed or assessable under the Taxation Law, and all penalties, interest and costs added to taxes under the Taxation Law, and

(b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other local revenue law of the First Nation, and all penalties, interest and costs added to taxes under such a law.

(2) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 5(3)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this Law, except where otherwise stated.

### PART III ADMINISTRATION

### **Assessor**

3.(1) Council must appoint one or more assessors to undertake assessments of assessable property in accordance with this Law and such other duties as set out in this Law or as directed by Council.

(2) An assessor appointed by Council must be qualified to conduct assessments of real property in the Province.

### **Application of Law**

4. This Law applies to all interests in land.

## **PART IV ASSESSED VALUE**

### **Assessment and Valuation**

5.(1) The assessor must assess all interests in land that are subject to taxation under the Taxation Law and all interests in land for which payments-in-lieu may be accepted by Council.

(2) For the purpose of determining the assessed value of an interest in land for an assessment roll, the valuation date is July 1 of the year before the taxation year for which the assessment applies.

(3) The assessed value of an interest in land for an assessment roll is to be determined as if on the valuation date

(a) the interest in land was in the physical condition that it is in on October 31 following the valuation date; and

(b) the permitted use of the interest in land was the same as on October 31 following the valuation date.

(4) Paragraph (3)(a) does not apply to property referred to in paragraphs 17(3)(b) and (d) and the assessed value of property referred to in that section for an assessment roll must be determined as if on the valuation date the property was in the physical condition that it is in on December 31 following the valuation date.

(5) Except where otherwise provided, the assessor must assess interests in land at their market value as if held in fee simple off the reserve.

(6) The assessor must determine the assessed value of an interest in land and must enter the assessed value of the interest in land in the assessment roll.

(7) In determining assessed value, the assessor may, except where this Law has a different requirement, give consideration to the following:

(a) present use;

(b) location;

(c) original cost;

(d) replacement cost;

(e) revenue or rental value;

(f) selling price of the interest in land and comparable interests in land;

(g) economic and functional obsolescence; and

(h) any other circumstances affecting the value of the interest in land.

(8) Without limiting the application of subsections (5) and (6), an interest in land used for an industrial or commercial undertaking, a business or a public utility enterprise must be valued as the property of a going concern.

(9) Where a lease or other instrument granting an interest in land places a restriction on the use of the property, other than a right of termination or a restriction on the duration of the interest in land, the assessor must consider the restriction.

(10) Council hereby establishes those property classes established by the Province for provincial property assessment purposes that are set out in Schedule I, for the purposes of assessment under this Law and imposing taxes under the Taxation Law.

(11) The assessor must

- (a) assess interests in land according to the property classes established under subsection (10); and
- (b) use the provincial classification rules for each property class.

(12) Where a property falls into two (2) or more property classes, the assessor must determine the share of the assessed value of the property attributable to each class and assess the property according to the proportion each share constitutes of the total assessed value.

(13) Where two (2) or more persons are holders of assessable property, the assessor may choose to assess the property in the name of any of those persons or in the names of two (2) or more of those persons jointly.

(14) If a building or other improvement extends over more than one (1) property, those properties, if contiguous, may be treated by the assessor as one property and assessed accordingly.

(15) Where an improvement extends over, under or through land and is owned, occupied, maintained, operated or used by a person other than the holder of the land, that improvement may be separately assessed to the person owning, occupying, maintaining, operating or using it, even though some other person holds an interest in the land.

(16) Except as otherwise provided in this Law, for the purposes of assessing interests in land the assessor must use

- (a) the valuation methods, rates, rules and formulas established under provincial assessment legislation existing at the time of assessment; and
- (b) the assessment rules and practices used by assessors in the Province for conducting assessments off the reserve.

### **Exemption from Assessment**

6. Notwithstanding any other provision in this Law, improvements designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act* (BC) are exempt from assessment under this Law.

## **PART V**

### **REQUESTS FOR INFORMATION AND INSPECTIONS**

#### **Requests for Information**

7.(1) The assessor may deliver a Request for Information containing the information set out in Schedule II, to a holder or a person who has disposed of assessable property, and that person must provide to the assessor, within fourteen (14) days from the date of delivery or a longer period as specified in the notice, information for any purpose related to the administration of this Law.

(2) The assessor may in all cases assess the assessable property based on the information available to him or her and is not bound by the information provided under subsection (1).

#### **Inspections**

8.(1) The assessor may, for any purposes related to assessment, enter into or on and inspect land and

improvements.

(2) The assessor may enter onto any property and may examine any property

(a) to determine an assessment of land and improvements, in respect of which the assessor thinks a person may be liable to assessment; or

(b) to confirm an assessment.

(3) The assessor must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals of the person referred to in paragraph (2)(a) who must, on request, furnish every facility and assistance required for the entry and examination.

## **PART VI**

### **ASSESSMENT ROLL AND ASSESSMENT NOTICE**

#### **Assessment Roll**

**9.**(1) On or before December 31 of each year, the assessor must complete a new assessment roll containing a list of every interest in land that is liable to assessment under this Law.

(2) The assessment roll must be in paper or electronic form and must contain the following information:

(a) the name and last known address of the holder of the interest in land;

(b) a short description of the interest in land;

(c) the classification of the interest in land;

(d) the assessed value by classification of the interest in land;

(e) the total assessed value of the interest in land;

(f) the net assessed value of the interest in land subject to taxation under the Taxation Law; and

(g) any other information the assessor considers necessary or desirable.

#### **Certification by Assessor**

**10.** On completion of an assessment roll and on or before December 31 in that year, the assessor must

(a) certify in writing in substantially the form set out in Schedule X that the assessment roll was completed in accordance with the requirements of this Law; and

(b) deliver a copy of the certified assessment roll to Council.

#### **Assessor to Prepare and Certify Revised Assessment Roll**

**11.**(1) No later than March 31 after the certification of the assessment roll under section 10, the assessor must

(a) modify the assessment roll to reflect all reconsideration decisions, corrections of errors and omissions, and decisions received by the assessor from the Assessment Review Board;

(b) date and initial amendments made to the assessment roll under this section; and

(c) prepare a revised assessment roll.

(2) On completion of the revised assessment roll, the assessor must

(a) certify in writing in substantially the form set out in Schedule X that the revised assessment roll was completed in accordance with the requirements of this Law; and

(b) deliver a copy of the certified revised assessment roll to Council and to the chair.

(3) On certification under this section, the revised assessment roll becomes the assessment roll for the

taxation year and it is deemed to be effective as of the date the assessment roll was certified under section 10.

### **Validity of Assessment Roll**

12. An assessment roll is effective on certification and unless amended in accordance with this Law, by a decision of the Assessment Review Board or by an order of a court of competent jurisdiction, is

- (a) valid and binding on all parties concerned, despite any
  - (i) omission, defect or error committed in, or with respect to, the assessment roll,
  - (ii) defect, error or misstatement in any notice required, or
  - (iii) omission to mail any notice required; and
- (b) for all purposes, the assessment roll of the First Nation until the next certified assessment roll or certified revised assessment roll.

### **Inspection and Use of Assessment Roll**

13.(1) On receipt by Council, the assessment roll is open to inspection in the First Nation office by any person during regular business hours.

(2) In addition to inspection under subsection 13(1), Council may allow the assessment roll to be inspected electronically through an online service, provided that the information available online does not include any names or other identifying information about a holder or other person.

(3) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll to

- (a) obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means; or
- (b) harass an individual.

(4) The tax administrator may require a person who wishes to inspect the assessment roll to complete a declaration in substantially the form set out in Schedule III

- (a) specifying the purpose for which the information is to be used; and
- (b) certifying that the information contained in the assessment roll will not be used in a manner prohibited under this section.

### **Protection of Privacy in Assessment Roll**

14.(1) On application by a holder, the assessor may omit or obscure the holder's name, address or other information about the holder that would ordinarily be included in an assessment roll if, in the assessor's opinion, the inclusion of the name, address or other information could reasonably be expected to threaten the safety or mental or physical health of the holder or a member of the holder's household.

(2) Where the assessor omits or obscures information under subsection (1), such information must be obscured from all assessment rolls that are available for public inspection under subsection 13(1) or are otherwise accessible to the public.

### **Chargeholders**

15.(1) Any person holding a charge on assessable property may, at any time, give notice, with full particulars of the nature, extent and duration of the charge, to the assessor and request that his or her name be added to the assessment roll in respect of that assessable property, for the duration of the charge.

(2) On receipt of a notice and request under this section, the assessor must enter the person's name and address on the assessment roll and provide copies of all assessment notices issued in respect of the



assessable property.

### **Assessment Notice**

16.(1) The assessor must, on or before December 31 of each year, mail an Assessment Notice to every person named in the assessment roll in respect of each assessable property, at the person's address on the assessment roll.

(2) Where requested by the recipient, an Assessment Notice may be e-mailed to a person named on the assessment roll, and the Assessment Notice is deemed to have been delivered on the date that the e-mail is sent by the assessor.

(3) A person whose name appears in the assessment roll must give written notice to the assessor of any change of address.

(4) Any number of interests in land assessed in the name of the same holder may be included in one Assessment Notice.

(5) If several interests in land are assessed in the name of the same holder at the same value, the Assessment Notice may clearly identify the property assessed, without giving the full description of each property as it appears in the assessment roll.

(6) Subject to subsection 13(2) and subsection (7), the assessor must provide, to any person who requests it and pays to the assessor the fee of six dollars (\$6), the information contained in the current Assessment Notice sent by the assessor.

(7) Where information has been omitted or obscured under subsection 14(1), the assessor must omit that information from a notice provided under subsection (6).

## **PART VII**

### **ERRORS AND OMISSIONS IN ASSESSMENT ROLL**

#### **Amendments by Assessor**

17.(1) Before March 16 in each year after the certification of an assessment roll under section 10, the assessor must notify and recommend correction to the Assessment Review Board of all errors or omissions in the assessment roll, except those errors or omissions corrected under subsection (2) or section 19.

(2) Before March 16 in each year after the certification of an assessment roll under section 10, the assessor may amend an individual entry in the assessment roll to correct an error or omission, with the consent of the

- (a) holder of the interest in land; and
- (b) the complainant, if the complainant is not the holder.

(3) Without limiting subsection (1), the assessor must give notice to the Assessment Review Board and recommend correction of the assessment roll in any of the following circumstances:

- (a) because of a change in a holder that occurs before January 1 in a taxation year that is not reflected in the certified assessment roll and that results in
  - (i) land or improvements, or both, that were not previously subject to taxation becoming subject to taxation, or
  - (ii) land or improvements, or both, that were previously subject to taxation ceasing to be subject to taxation;
- (b) after October 31 and before the following January 1, a manufactured home is moved to a new location or destroyed;

(c) after October 31 and before the following January 1, a manufactured home is placed on land that has been assessed or the manufactured home is purchased by the holder of land that has been assessed; and

(d) improvements, other than a manufactured home, that

(i) are substantially damaged or destroyed after October 31 and before the following January 1, and

(ii) cannot reasonably be repaired or replaced before the following January 1.

(4) Except as provided in section 18, or pursuant to an order of a court of competent jurisdiction, the assessor must not make any amendments to the assessment roll after March 31 of the current taxation year.

(5) Where the assessment roll is amended under subsection (1), the assessor must mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in land affected.

### **Supplementary Assessment Roll**

**18.(1)** If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that any interest in land

(a) was liable to assessment for the current taxation year, but has not been assessed on the current assessment roll, or

(b) has been assessed for less than the amount for which it was liable to assessment,

the assessor must assess the interest in land on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed on the current assessment roll, provided that a supplementary assessment roll under this section must not be prepared after December 31 of the taxation year in which the assessment roll certified under section 10 applies.

(2) If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that an interest in land

(a) was liable to assessment for a previous taxation year, but has not been assessed on the assessment roll for that taxation year, or

(b) has been assessed in a previous taxation year for less than the amount for which it was liable to assessment,

the assessor must assess the interest in land on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed, but only if the failure to assess the interest in land, or the assessment for less than it was liable to be assessed, is attributable to

(c) a holder's failure to disclose,

(d) a holder's concealment of particulars relating to assessable property,

(e) a person's failure to respond to a request for information under subsection 7(1), or

(f) a person's making of an incorrect response to a request for information under subsection 7(1);

as required under this Law.

(3) In addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before December 31 of the taxation year in which the assessment roll certified under section 10 applies, correct errors and omissions in the assessment roll by means of entries in a supplementary assessment roll.

(4) The duties imposed on the assessor with respect to the assessment roll and the provisions of this Law relating to assessment rolls, so far as they are applicable, apply to supplementary assessment rolls.

(5) Where the assessor receives a decision of the Assessment Review Board after March 31 in a

taxation year, the assessor must create a supplementary assessment roll reflecting the decision of the Assessment Review Board and this section applies.

(6) Nothing in this section authorizes the assessor to prepare a supplementary assessment roll that would be contrary to an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction.

(7) A supplementary assessment roll that implements an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction may not be appealed to the Assessment Review Board.

(8) The assessor must, as soon as practicable, after issuing a supplementary assessment roll

(a) deliver a certified copy of the supplementary assessment roll to the Council;

(b) where the supplementary assessment roll reflects a decision of the Assessment Review Board, deliver a certified copy of the supplementary assessment roll to the chair; and

(c) mail an amended Assessment Notice to every person named on the assessment roll in respect of the interest in land affected.

(9) Where a supplementary assessment roll is issued under this Law, the supplementary assessment roll is deemed to be effective as of the date the assessment roll was certified under section 10 in respect of the assessable property affected.

## **PART VIII**

### **RECONSIDERATION OF ASSESSMENT**

#### **Reconsideration by Assessor**

19.(1) A person named on the assessment roll in respect of an assessable property may request that the assessor reconsider the assessment of that assessable property.

(2) A request for reconsideration may be made on one or more of the grounds on which an assessment appeal may be made under this Law.

(3) A request for reconsideration of an assessment must

(a) be delivered to the assessor within twenty-one (21) days after the day that the Assessment Notice is mailed or e-mailed to the person named on the assessment roll in respect of an assessable property;

(b) be made in writing and include the information set out in Schedule V; and

(c) include any reasons in support of the request.

(4) The assessor must consider the request for reconsideration and, within twenty-one (21) days after receiving the request for reconsideration, either

(a) advise the person who requested the reconsideration that the assessor confirms the assessment; or

(b) where the assessor determines that the assessable property should have been assessed differently, offer to the person who requested the reconsideration to modify the assessment.

(5) Where the person who requested the reconsideration agrees with the modification proposed by the assessor, the assessor must

(a) amend the assessment roll as necessary to reflect the modified assessment;

(b) give notice of the amended assessment to the tax administrator and to all other persons who received the Assessment Notice in respect of the assessable property; and

(c) where a Notice of Appeal has been delivered in respect of the assessable property, advise the Assessment Review Board of the modification.

(6) Where the person who requested the reconsideration accepts an offer to modify an assessment, that person must not appeal the modified assessment and must withdraw any Notice of Appeal filed in respect of the assessable property.

## **PART IX**

### **ASSESSMENT REVIEW BOARD**

#### **Council to Establish Assessment Review Board**

**20.(1)** Council must, by resolution, establish an Assessment Review Board to

- (a) consider and determine all recommendations from the assessor under subsection 17(1); and
- (b) hear and determine assessment appeals under this Law.

(2) The Assessment Review Board must consist of not less than three (3) members, including at least one (1) member who is a practising or non-practising member in good standing of the law society of the Province, and at least one (1) member who has experience in assessment appeals in the Province.

(3) The Assessment Review Board must consist of at least one (1) member who is a member of the First Nation but not a member of Council.

(4) Each member of the Assessment Review Board must hold office for a period of three (3) years unless the member resigns or is removed from office in accordance with this Law.

(5) If a member of the Assessment Review Board is absent, disqualified, unable or unwilling to act, Council may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

#### **Remuneration and Reimbursement**

**21.(1)** The First Nation must remunerate

- (a) the chair (or acting chair) for his or her services at a rate of seven hundred and twenty-five \_\_\_\_\_ dollars (\$725) per day,
- (b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 20(2), at a rate of six hundred and twenty-five dollars (\$625) per day, and
- (c) a member (or a replacement member appointed to act), other than those referenced in paragraphs (a) and (b), for his or her services at a rate of five hundred dollars (\$500) per day,

for time spent on activities of the Assessment Review Board required under this Law or expressly authorized by Council.

(2) The First Nation must reimburse a member, including a replacement member, of the Assessment Review Board for reasonable travel and out of pocket expenses necessarily incurred in carrying out his or her duties.

#### **Conflicts of Interest**

**22.(1)** A person must not serve as a member of the Assessment Review Board if the person

- (a) has a personal or financial interest in the assessable property that is the subject of an appeal;
- (b) is the Chief of the First Nation or a member of Council;
- (c) is an employee of the First Nation; or
- (d) has financial dealings with the First Nation, which might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal, as required under the terms of this Law.

(2) For the purposes of paragraph (1)(a), membership in the First Nation does not in itself constitute a

personal or financial interest in assessable property.

### **Appointment of Chair**

23.(1) Council must, by resolution, appoint one of the members of the Assessment Review Board as chair.

(2) The chair must

(a) supervise and direct the work of the Assessment Review Board;

(b) undertake administrative duties as necessary to oversee and implement the work of the Assessment Review Board;

(c) determine procedures to be followed at hearings consistent with this Law;

(d) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken; and

(e) preside at hearings of the Assessment Review Board.

(3) If the chair is absent or incapacitated, Council must designate a member of the Assessment Review Board as the acting chair for the period that the chair is absent or incapacitated.

### **Appointment of Secretary**

24.(1) Council must, by resolution, appoint a secretary of the Assessment Review Board.

(2) The secretary of the Assessment Review Board must

(a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and

(b) fulfill such other duties as directed by the chair and the Assessment Review Board.

### **Removal of Member**

25. Council may terminate the appointment of a member of the Assessment Review Board for cause, including where a member

(a) is convicted of an offence under the *Criminal Code*;

(b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or

(c) fails to perform any of his or her duties under this Law in good faith and in accordance with the terms of this Law.

### **Duty of Member**

26. In performing their duties under this Law, the members of the Assessment Review Board must act faithfully, honestly and impartially and to the best of their skill and ability, and must not disclose to any person information obtained by them as a member, except in the proper performance of their duties.

## **PART X**

### **APPEAL TO ASSESSMENT REVIEW BOARD**

#### **Appeals and Assessor Recommendations**

27. The Assessment Review Board must

(a) consider and determine assessor recommendations made under subsection 17(1) for changes to the assessment roll; and

(b) hear and determine appeals made under this Part.

#### **Notice of Appeal**

28.(1) Any person, including without limitation the First Nation and the assessor, may appeal an assessment or a reconsideration of an assessment of assessable property to the Assessment Review Board by delivering

- (a) a completed Notice of Appeal,
- (b) a copy of the Assessment Notice, or extract of the information contained therein, and
- (c) an administration fee of thirty dollars (\$30),

to the assessor within forty-five (45) days after the date on which the Assessment Notice was mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property.

(2) An appeal is commenced by delivery of a Notice of Appeal to the assessor at the address set out in the Assessment Notice.

(3) The grounds for an appeal may be in respect of one or more of the following:

- (a) the assessed value of the property;
- (b) the assessment classification of the property;
- (c) the applicability of an exemption to the property;
- (d) any alleged error or omission in an assessment or Assessment Notice; and
- (e) the liability of the holder to taxation under the Taxation Law.

(4) Where an appeal is commenced with respect to a supplementary assessment, the appeal must be confined to the supplementary assessment.

#### **Agents and Solicitors**

29. Where a complainant is represented in an appeal through a solicitor or agent, all notices and correspondence required to be given to the complainant are properly given if delivered to the solicitor or agent at the address set out in the Notice of Appeal.

#### **Scheduling of Hearing**

30.(1) On delivery of a Notice of Appeal to the assessor, or on receipt of a recommendation from the assessor under subsection 17(1), the chair must, in consultation with the assessor, schedule a hearing of the appeal or the assessor recommendation.

(2) The chair must, at least ten (10) days before the hearing, deliver a Notice of Hearing, setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

(3) Notwithstanding subsection (2), the chair is not required to deliver a Notice of Hearing to a holder of a property affected by an assessor recommendation under subsection 17(1) where the recommendation

- (a) results in a decrease in the assessed value of the property;
- (b) does not change the classification of the property; and
- (c) does not result in the removal of an exemption.

#### **Parties**

31. The parties in a hearing, except as provided in subsection 30(3), are

- (a) the complainant;
- (b) the holder of the assessable property, if not the complainant;
- (c) the assessor; and
- (d) any person who the Assessment Review Board determines may be affected by the appeal or

assessor recommendation, upon request by that person.

### **Delivery of Documentation**

32. The chair must, without delay, deliver a copy of any document submitted by a party in relation to an appeal to all other parties.

### **Timing for Hearing**

33. Subject to section 46, the Assessment Review Board must commence a hearing within forty-five (45) days after delivery of the Notice of Appeal to the assessor or receipt of an assessor recommendation under subsection 17(1), unless all parties consent to a delay.

### **Daily Schedule**

34.(1) The chair must

- (a) create a daily schedule for the hearings of the Assessment Review Board; and
- (b) post the daily schedule at the place where the Assessment Review Board is to meet.

(2) The Assessment Review Board must proceed to deal with appeals and assessor recommendations in accordance with the daily schedule, unless the Assessment Review Board considers a change in the schedule necessary and desirable in the circumstances.

### **Conduct of Hearing**

35.(1) The Assessment Review Board must give all parties a reasonable opportunity to be heard at a hearing.

(2) A party may be represented by counsel or an agent and may make submissions as to facts, law and jurisdiction.

(3) The Assessment Review Board may conduct a hearing whether the complainant is present or not, provided the complainant was given notice of the hearing in accordance with this Law.

(4) The burden of proof in an appeal is on the person bringing the appeal.

(5) In an oral hearing, a party may call and examine witnesses, present evidence and submissions and conduct cross-examination of witnesses as reasonably required by the Assessment Review Board for a full and fair disclosure of all matters relevant to the issues in the appeal.

(6) The Assessment Review Board may reasonably limit further examination or cross-examination of a witness if it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the appeal.

(7) The Assessment Review Board may question any witness who gives oral evidence at a hearing.

(8) The Assessment Review Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

(9) The Assessment Review Board may conduct its proceedings by any combination of written, electronic and oral hearings.

(10) An oral hearing must be open to the public unless the Assessment Review Board, on application by a party, determines that the hearing should be held *in camera*.

### **Maintaining Order at Hearings**

36.(1) The Assessment Review Board may, at an oral hearing, make orders or give directions that it considers necessary to maintain order at the hearing.

(2) Without limiting subsection (1), the Assessment Review Board may, by order, impose restrictions on a person's continued participation in or attendance at a hearing and may exclude a person from further

participation in or attendance at a hearing until the Assessment Review Board orders otherwise.

### **Summary Dismissal**

37.(1) At any time after a Notice of Appeal is received by the Assessment Review Board, the Assessment Review Board may dismiss all or part of the appeal where it determines that any of the following apply:

- (a) the appeal is not within the jurisdiction of the Assessment Review Board;
- (b) the appeal was not filed within the applicable time limit; or
- (c) the complainant failed to diligently pursue the appeal or failed to comply with an order of the Assessment Review Board.

(2) Before dismissing all or part of an appeal under subsection (1), the Assessment Review Board must give the complainant an opportunity to make submissions to the Assessment Review Board.

(3) The Assessment Review Board must give written reasons for any dismissal made under subsection (1) to all parties.

### **Quorum**

38.(1) A majority of the members of the Assessment Review Board constitutes a quorum, provided that there must not be less than three (3) members present at any time.

(2) Where a quorum of the members of an Assessment Review Board is not present at the time at which a hearing is to be held, the hearing must be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.

### **Decisions**

39. A decision of the majority of the members is a decision of the Assessment Review Board and, in the case of a tie, the decision of the chair governs.

### **Combining Hearings**

40. The Assessment Review Board may conduct a single hearing of two (2) or more appeals or assessor recommendations related to the same assessment if the matters in each hearing are addressing the same assessable property or substantially the same issues.

### **Power to Determine Procedures**

41.(1) Subject to this Law, the Assessment Review Board has the power to control its own processes and may make rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.

(2) Without limiting subsection (1), the Assessment Review Board may make rules respecting the holding of pre-hearing conferences and requiring the parties to attend a pre-hearing conference.

### **Orders to Attend or Produce Documents**

42.(1) At any time before or during a hearing, but before its decision, the Assessment Review Board may make an order requiring a person to

- (a) attend a hearing to give evidence, or
- (b) produce a document or other thing in the person's possession or control as specified by the Assessment Review Board,

by issuing an Order to Attend Hearing/Produce Documents and serving it on the person at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be.



(2) Where an order is made under paragraph (1)(a), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable travel expenses to attend and give evidence before the Assessment Review Board.

(3) A party may request that the Assessment Review Board make an order under subsection (1) to a person specified by the party.

(4) Where a party makes a request under subsection (3),

(a) the chair must sign and issue an Order to Attend Hearing/Produce Documents and the party must serve it on the witness at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be; and

(b) a party requesting the attendance of a witness must pay a twenty dollar (\$20) witness fee plus reasonable travel expenses to the witness to attend and give evidence before the Assessment Review Board.

(5) The Assessment Review Board may apply to a court of competent jurisdiction for an order directing a person to comply with an order under this section.

### **Adjournments**

43. The Assessment Review Board may

(a) hear all appeals or assessor recommendations on the same day or may adjourn from time to time until all matters have been heard and determined; and

(b) at any time during a hearing, adjourn the hearing.

### **Costs**

44. The Assessment Review Board may make orders requiring a party

(a) to pay all or part of the costs of another party in respect of the appeal,

(b) to pay all or part of the costs of the Assessment Review Board in respect of the appeal,

where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

### **Reference on Question of Law**

45.(1) At any stage of a proceeding before it, the Assessment Review Board, on its own initiative or at the request of one or more of the parties, may refer a question of law in the proceeding to a court of competent jurisdiction in the form of a stated case.

(2) The stated case must be in writing and filed with the court registry and must include a statement of the facts and all evidence material to the stated case.

(3) The Assessment Review Board must

(a) suspend the proceeding as it relates to the stated case and reserve its decision until the opinion of the court has been given; and

(b) decide the appeal in accordance with the court's opinion.

### **Matters before the Courts**

46. If a proceeding with respect to liability to pay taxes in respect of assessable property that is the subject of an appeal is brought before a court of competent jurisdiction

(a) before the hearing is to commence, the hearing must be deferred until the matter is decided by the court;

(b) during the hearing, the hearing must be adjourned until the matter is decided by the court; or

(c) after the hearing has concluded but before a decision on the appeal is given, the decision must be deferred until the matter is decided by the court.

### **Withdrawal of Appeal**

47.(1) A complainant may withdraw an appeal under this Part by delivering a Notice of Withdrawal to the Assessment Review Board.

(2) Upon receipt of a Notice of Withdrawal under subsection (1), the Assessment Review Board must dismiss the matter set for its consideration.

### **Delivery of Decisions**

48.(1) The Assessment Review Board must, not more than ninety (90) days after the day on which a hearing is completed, deliver a written decision on the appeal or assessor recommendation to all parties.

(2) Any person may obtain a copy of a decision of the Assessment Review Board from the tax administrator on request and payment of a fee of ten dollars (\$10).

(3) The tax administrator may obscure or omit personal information (other than name and address) and financial business information from decisions provided under subsection (2), provided that assessment and property tax information must not be obscured or omitted.

### **Delivery of Documents under this Part**

49.(1) Delivery of a document under this Part may be made personally or by sending it by registered mail, fax or e-mail.

(2) Personal delivery of a document is made

(a) in the case of an individual, by leaving the document with the individual or with a person at least eighteen (18) years of age residing at the individual's place of residence;

(b) in the case of a first nation, by leaving the document with the person apparently in charge, at the time of delivery, of the first nation's administrative office, or with the first nation's legal counsel; and

(c) in the case of a corporation, by leaving the document with the person apparently in charge, at the time of delivery, of the corporation's head office or a branch office, or with an officer or director of the corporation, or with the corporation's legal counsel.

(3) Subject to subsection (4), a document is considered delivered if

(a) delivered personally, at the time that personal delivery is made;

(b) sent by registered mail, on the fifth day after it is mailed;

(c) sent by fax, at the time indicated on the confirmation of transmission; or

(d) sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(4) A document delivered on a non-business day or after 17:00 local time on a business day is considered delivered at 09:00 on the next business day.

### **Appeals**

50.(1) An appeal lies to a court of competent jurisdiction from a decision of the Assessment Review Board on a question of law.

(2) An appeal under subsection (1) must be made within thirty (30) days after the day on which the decision is delivered under subsection 48(1).

## **PART XI GENERAL PROVISIONS**

### **Disclosure of Information**

**51.(1)** The tax administrator, the assessor, a member of the Assessment Review Board, the secretary or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, a court of law or pursuant to a court order;
- (c) in accordance with subsection (2).

(2) The assessor may disclose to the agent of a holder confidential information relating to the property if the disclosure has been authorized in writing by the holder.

(3) An agent must not use information disclosed under subsection (2) except for the purposes authorized by the holder in writing referred to in that subsection.

### **Disclosure for Research Purposes**

**52.** Notwithstanding section 51,

(a) the tax administrator may disclose information and records to a third party for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form; and

(b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form, where

(i) where the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and

(ii) the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

### **Validity**

**53.** Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay taxes or amounts levied under the Taxation Law be affected by

(a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;

(b) an error or omission in an assessment roll, Assessment Notice, or any notice given under this Law; or

(c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

### **Notices**

**54.(1)** Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

(a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll;

(b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or

(c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll.

- (2) Except where otherwise provided in this Law, a notice
  - (a) given by mail is deemed received on the fifth day after it is posted;
  - (b) posted on property is deemed received on the second day after it is posted; and
  - (c) given by personal delivery is deemed received upon delivery.

**Interpretation**

55.(1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

(2) Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

(3) Words in this Law that are in the singular include the plural, and words in the plural include the singular.

(4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.


(5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.


(6) Headings form no part of the enactment and must be construed as being inserted for convenience of reference only.


56. This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the 26 day of June, 2017, at Coquitlam, in the Province of British Columbia.

A quorum of Council consists of two (2) members of Council.

  
\_\_\_\_\_  
Chief Ron Giesbrecht

  
\_\_\_\_\_  
Councillor John Peters

  
\_\_\_\_\_  
Councillor Fred Hulbert Sr.

**SCHEDULE I**  
**PROPERTY CLASSES**

Class 1 - Residential

Class 2 - Utilities

Class 4 - Major Industry

Class 5 - Light Industry

Class 6 - Business and Other

Class 8 - Recreational Property/Non-Profit Organization

Class 9 - Farm

**SCHEDULE II**  
**REQUEST FOR INFORMATION BY ASSESSOR**  
**FOR THE KWIKWETLEM FIRST NATION**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

DATE OF REQUEST: \_\_\_\_\_

PURSUANT to section 7 of the *Kwikwetlem First Nation Property Assessment Law, 2017*, I request that you provide to me, in writing, no later than \_\_\_\_\_ **[Note: must be a date that is at least fourteen (14) days from the date of delivery of the request]**, the following information relating to the above-noted interest in land:

- (1)
- (2)
- (3)

If you fail to provide the requested information on or before the date specified above, an assessment of the property may be made on the basis of the information available to the assessor.

\_\_\_\_\_  
Assessor for the Kwikwetlem First Nation

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE III**  
**DECLARATION OF PURPOSE FOR THE USE OF**  
**ASSESSMENT INFORMATION**

I, \_\_\_\_\_ [name], of \_\_\_\_\_ [address], \_\_\_\_\_ [city],  
\_\_\_\_\_ [province], \_\_\_\_\_ [postal code], declare and certify that I will not use the assessment  
roll or information contained in the assessment roll to obtain names, addresses or telephone numbers for  
solicitation purposes, whether the solicitations are made by telephone, mail or any other means, or to harass  
an individual.

I further declare and certify that any assessment information I receive will be used for the following  
purpose(s):

- (1) a complaint or appeal under the *Kwikwetlem First Nation Property Assessment Law, 2017*;
- (2) a review of an assessment to determine whether to seek a reconsideration or appeal of the  
assessment; or
- (3) other: \_\_\_\_\_

Signed: \_\_\_\_\_  
[please print name]

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE IV  
ASSESSMENT NOTICE**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

TAKE NOTICE that the assessment roll has been certified by the assessor for the Kwikwetlem First Nation and delivered to the First Nation Council.

The following person(s) is/are the holders of the interest in land: **[Name(s) & addresses]**

The interest in land is classified as:

The assessed value by classification of the interest in land is:

TOTAL ASSESSED VALUE: \_\_\_\_\_

TOTAL ASSESSED VALUE LIABLE TO TAXATION: \_\_\_\_\_

AND TAKE NOTICE that you may, within twenty-one (21) days of the date of mailing of this notice, request a reconsideration of this assessment by delivering a written request for reconsideration in the form specified in the *Kwikwetlem First Nation Property Assessment Law, 2017*. Within twenty-one (21) days of receipt by the assessor of your request for reconsideration, the assessor will review the assessment and provide you with the results of the reconsideration. If the assessor determines that the property should have been assessed differently, the assessor will offer to modify the assessment.

AND TAKE NOTICE that you may, within forty-five (45) days of the date of mailing of this notice, appeal this assessment to the Assessment Review Board. The Notice of Appeal must be in writing in the form and accompanied by the fee specified in the *Kwikwetlem First Nation Property Assessment Law, 2017*, and must be delivered to the Assessor at the following address: **[insert address]**.

Assessor for the Kwikwetlem First Nation

Dated: \_\_\_\_\_, 20\_\_\_\_.



**SCHEDULE V**  
**REQUEST FOR RECONSIDERATION OF ASSESSMENT**

TO: Assessor for the Kwikwetlem First Nation  
**[address as provided on assessment notice]**

PURSUANT to the provisions of the *Kwikwetlem First Nation Property Assessment Law, 2017*, I hereby request a reconsideration of the assessment of the following interest in land:

**[include the description of the interest in land as found in the Assessment Notice]**

I am: \_\_\_ a holder of the interest in land  
      \_\_\_ named on the assessment roll in respect of this interest in land

This request for a reconsideration of the assessment is based on the following reasons:

- (1)
- (2)
- (3)

**(describe the reasons in support of the request in as much detail as possible)**

Address and telephone number at which applicant can be contacted:

---

---

\_\_\_\_\_  
Name of Applicant (please print)

\_\_\_\_\_  
Signature of Applicant

Dated: \_\_\_\_\_, 20\_\_\_\_.

**SCHEDULE VI**  
**NOTICE OF APPEAL TO ASSESSMENT REVIEW BOARD**

TO: Assessor for the Kwikwetlem First Nation  
**[address of assessor as provided on the Assessment Notice]**

PURSUANT to the provisions of the *Kwikwetlem First Nation Property Assessment Law, 2017*, I hereby appeal the assessment/reconsideration of the assessment of the following interest in land:

**[description of the assessable property, including assessment roll number, as described in the Assessment Notice]**

The grounds for the appeal are:

- (1)
  
- (2)
  
- (3)

**(describe the grounds for the appeal in as much detail as possible)**

Complainant's mailing address to which all notices in respect of this appeal are to be sent:

---

---

Name and address of any representative acting on complainant's behalf in respect of this appeal:

---

---

The required fee of thirty dollars (\$30) is enclosed with this Notice of Appeal.

\_\_\_\_\_  
Name of Complainant (please print)

\_\_\_\_\_  
Signature of Complainant (or representative)

Dated: \_\_\_\_\_, 20\_\_.

NOTE: A copy of the Assessment Notice (or extract of information contained therein) must be enclosed with this Notice of Appeal.

**SCHEDULE VII**  
**NOTICE OF WITHDRAWAL**

TO: Chair, Assessment Review Board for the Kwikwetlem First Nation

[address]

PURSUANT to the provisions of the *Kwikwetlem First Nation Property Assessment Law, 2017*, I hereby withdraw my appeal of the assessment of the following interest in land:

Description of interest in land:

Date of Notice of Appeal:

\_\_\_\_\_  
Name of Complainant (please print)

\_\_\_\_\_  
Signature of Complainant (or  
representative)

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE VIII  
NOTICE OF HEARING**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

Complainant in respect of this appeal: \_\_\_\_\_

TAKE NOTICE that the Assessment Review Board will hear an appeal/assessor recommendation from the assessment/reconsideration of the assessment of the above-noted interest in land at:

Date: \_\_\_\_\_, 20\_\_

Time: \_\_\_\_\_ (A.M./P.M.)

Location: \_\_\_\_\_ [address]

AND TAKE NOTICE that you should bring to the hearing [insert # copies] copies of all relevant documents in your possession respecting this appeal.

A copy of the Assessment Notice and the Notice of Appeal are enclosed with this notice, as well as copies of:

\_\_\_\_\_  
\_\_\_\_\_

(all submissions and documents received in respect of the appeal will be forwarded to all parties)

\_\_\_\_\_  
Chair, Assessment Review Board

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE IX**  
**ORDER TO ATTEND HEARING/PRODUCE DOCUMENTS**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TAKE NOTICE that an appeal has been made to the Assessment Review Board for the \_\_\_\_\_  
First Nation in respect of the assessment of \_\_\_\_\_ [**describe interest in land**].

The Assessment Review Board believes that you may have information [**OR documents**] that may assist the  
Assessment Review Board in making its decision.

THIS NOTICE REQUIRES you to [**indicate the applicable provisions below**]:

1. Attend before the Assessment Review Board at a hearing at

Date: \_\_\_\_\_, 20\_\_

Time: \_\_\_\_\_ (A.M./P.M.)

Location: \_\_\_\_\_ [address]

to give evidence concerning the assessment and to bring with you the following documents:

\_\_\_\_\_  
\_\_\_\_\_

and any other documents in your possession that may relate to this assessment.

A twenty dollar (\$20) witness fee is enclosed. Your reasonable travelling expenses will be reimbursed as  
determined by the Assessment Review Board.

2. Deliver the following documents [**list documents**] OR any documents in your possession that may  
relate to this assessment to the Chair, Assessment Review Board \_\_\_\_\_ [address]  
on or before \_\_\_\_\_.

Please contact \_\_\_\_\_ at \_\_\_\_\_ if you have any questions or concerns respecting  
this Order.

\_\_\_\_\_  
Chair, Assessment Review Board

Dated: \_\_\_\_\_, 20\_\_.

**SCHEDULE X**

**CERTIFICATION OF ASSESSMENT ROLL BY ASSESSOR**

The assessor must certify the assessment roll in the following form:

I, \_\_\_\_\_, being the assessor for the Kwikwetlem First Nation, hereby certify that this is the \_\_\_\_\_ First Nation [**revised/supplementary**] assessment roll for the year 20\_\_ and that this assessment roll is complete and has been prepared and completed in accordance with all requirements of the *Kwikwetlem First Nation Property Assessment Law, 2017*.

\_\_\_\_\_  
(Signature of Assessor)

Dated \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, \_\_\_\_\_.  
(City) (Province)