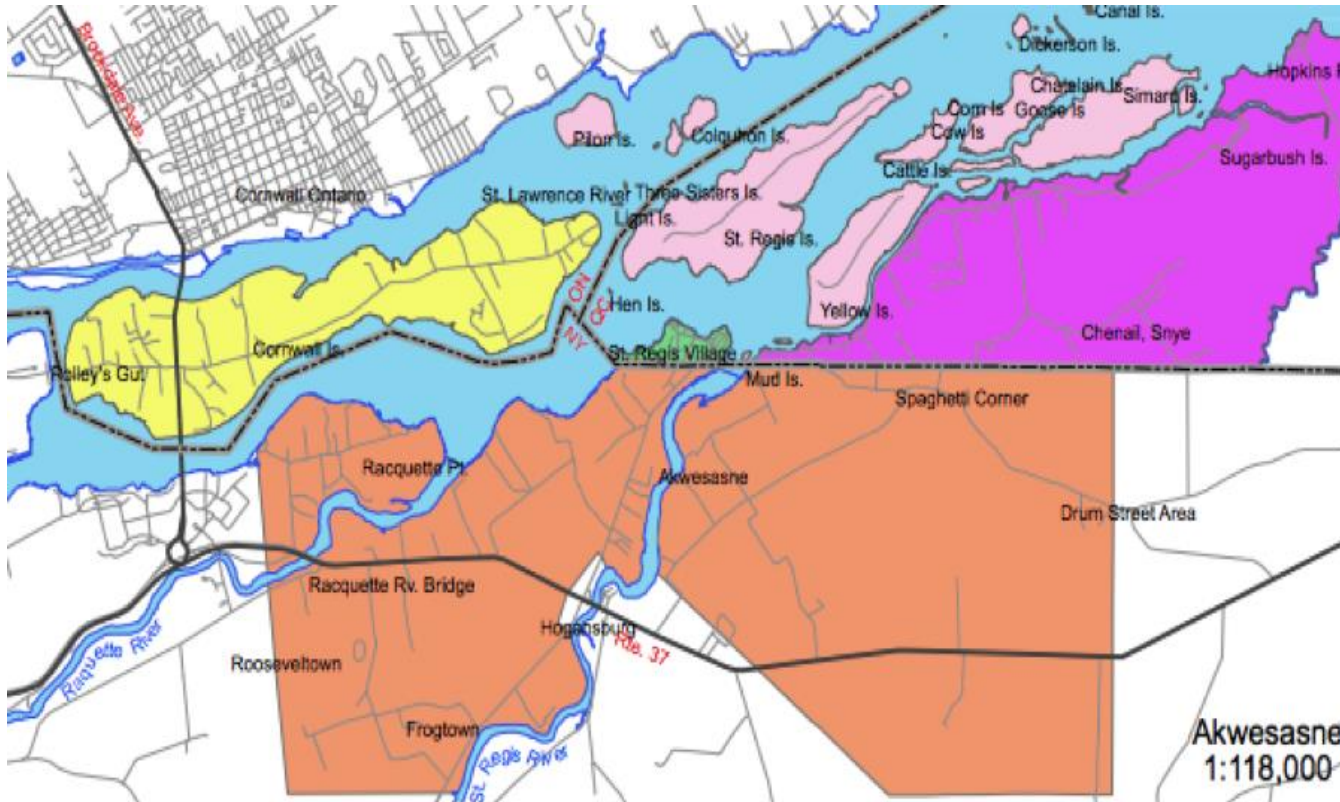


AKWESASNE MOHAWK COURT

Experiences, successes & challenges



Located at CIA #3
101 TEWESATENI ROAD
AKWESASNE, ONTARIO

May 25, 2019

AKWESASNE MOHAWK COURT

- HISTORY & EVOLUTION
- Indian Act –as early as the 1960's through DIAND, MCA began working on writing laws. Commonly referred to as Band By-Laws
- In the 1980's several laws were submitted to DIAND for approval as By-laws, several were rejected for various reasons.
- Appointment of I.A. JP's began in 1986 under S. 107
- The Akwesasne Court was set up in the early 1990's
- 94-95 the Court was set up to follow procedures contained in any law passed by MCA. Commonly referred to as 'community laws'.

AKWESASNE MOHAWK COURT

- 94-95, Akwesasne Mohawk Court was given jurisdiction over any matters arising from s. 810 of the C.C.C. = Sureties to Keep the Peace
 - **Historical moment for Akwesasne '99/'00**
 - The Inherent Rights based Court was implemented by the MCA
 - Two community members were appointed, Justice Hall & Francis who still sit today in Akwesasne Court, 19 years respectively.

Akwesasne Law - Classification

Court Law						
By-Laws Pursuant to Indian Act			Other Federal Acts	Akwesasne Community Laws		
Section 81-86	Section 10	Section 74	Family Homes on Reserve Act	Acknowledged by Confederacy	Enacted by Community Disallowed by INAC	Enacted by Community
Anti Noise By-Law	Membership Code	Akwesasne Election Law	Couples Property Law	Wildlife Conservation Law	By-Law Respecting Conservation Officers	Akwesasne Tobacco Law
All Terrain Vehicle Law					Sale of Fireworks	Collection and Disposal of Garbage
Conduct and Activities of Hawkers, Peddlers and Others					Bingo Ordinance	Housing Loan
Sale of Tax Exempt Cigarettes					Prevention of Disorderly Conduct and nuisances	Banishment Law
Intoxicants By-Law					By-Law Respecting Peacekeepers	Drug Law
Ethical Conduct Law					Small Vessels	Itinerant Vendors Law
Curfew By-Law					Residency Law	Private Home for the Aged
Waterworks System						Recreation Minimum
Control and Destruction of Dogs						Sanitation and Incentive Program
Regulation of Traffic						



AKWESASNE MOHAWK COURT LAW

- 2010-2011 law began the development stages, was passed on February 23, 2016, Regulations were passed on May 22, 2018
- Principles & Values of:
 - Sken:nen (Peace)
 - Kasatstensera (strength) and
 - Kanikonri:io (a good mind)

Section 5.0 Jurisdiction

written into our own Court law we've given ourselves the

- recognition as a court of competent jurisdiction
- **Jurisdiction & Legal Authority**
- Built in the independent oversight body
- Built in a Appellate division
- What the Court may rely on:
 - a) Akwesasne Laws
 - b) C.C.C.
 - c) the Cdn Charter of Rights & Freedoms
 - d) the common law
 - e) laws of equity; and
 - f) other applicable laws.

AKWESASNE MOHAWK COURT

- ENFORCEMENT:
- Decisions & Orders are enforceable throughout Akwesasne
- **CHALLENGE: Peace Bonds (civil in nature)**, violations do not lead to breaches as in S. 810 CCC, “Sken:nen Order” = peace order under our law
- Restorative Justice Principles: not punitive in nature, community service work hours

AKWESASNE MOHAWK COURT

- What does the passing of the ACL
- Our ACL has given the Akwesasne Court expanded jurisdiction and authority
- Fair decisions of the Court are being made applying the Principles of Natural Justice
-
- It is recognized as a 'court of competent jurisdiction'.
- Can hear matters that pertain to:
 - Constitution Act 1982
 - Canadian Charter of Rights & Freedoms
 - Authority to make orders for remedies under section 24 of the CR&F

Challenges to the Akwesasne Court

- Financial Resources
- Human Resources
- Nation Building vs Political Protocol Agreement: Which will get us to the finish line quicker?
- **Internal vs External Challenges: Justices from the outside courts not understanding our laws) example: MRP –our processes**
- **Outside courts should send any matters back to our courts until the parties have exhausted our processes written into our law**
- **Conversations or trainings need to occur**

Challenges to the Akwesasne Court

- Move Away from Adversarial approach – Good Mind Cultural Values
- Amalgamation of western and indigenous values and principles
- Diminish possible Justice “conflict of interests created for the Court”
- Cultural Program funding
- Court data sharing with Provinces
- Sense of equality amongst our own people