Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MA/25/2016]

On March 22, 2016, the Department of Municipal Affairs received your request for access to the following records/information:

1. Letter dated October 26, 2015 from Steve Bamable, Manager, Eastern Regional Lands Office, Department of Municipal Affairs to Mayor Harold Akerman of the Town of Cupids regarding expropriation of parcels of privately owned lands at Salt Water Pond in Cupids, NL.

2. Letter dated September 15, 2015 from Corrie Davis, MCIP, Manager, Land Use Planning, Lands Branch, Department of Municipal Affairs to Mayor Harold Akerman of the Town of Cupids regarding the Town of Cupids request for approval to proceed with expropriation of privately owned land at Salt Water Pond in Cupids, NL.

3. Letter dated September 9, 2015 from Harold Akerman of the Town of Cupids to the Minister of the Department of Municipal Affairs and/or Corrie Davis, MCIP, Manager Land Use Planning, Lands Branch, Department of Municipal Affairs, requesting Ministerial and/or Departmental permission to expropriate privately owned land at Salt Water Pond in Cupids, NL.

4. Letter dated July 3, 2014 from Jamie Chippett, Deputy Minister, Department of Municipal Affairs to [redacted] regarding the Town of Cupids Crown Land Application #142543 for title to the Crown land situated at Pointe Beach in Cupids, NL.

5. Letter dated June 27, 2014 from Steve Bamable, regional Lands Manager, Eastern Regional Lands Office, Department of Municipal Affairs to the Town of Cupids regarding approval of Crown Land Grant application and the assessment of an illegal development fee on the Town of Cupids for the unauthorized commercial marina being operated on Crown land at Pointe Beach in Cupids, NL.

6. Letter dated February 4, 2013 from Corrie Davis, MCIP, Manager, Land Use Planning, Department of Municipal Affairs to Deputy Mayor Ross Dawe and Council of the Town of Cupids regarding Town of Cupids request to expropriate lands at the Salt Water Pond in Cupids, NL.

7. ALL of the complete notes and correspondence regarding the April/May 2012 meeting between Corrie Davis and Dan Noseworthy of the Department of Municipal Affairs and the Town of Cupids Mayor and council regarding Pointe Beach and Crown land issues at Salt Water Pond in Cupids, NL.
8. Letter dated April 30, 2012 from Robert C. Dicks, Director of Crown Lands Administration, Lands Branch, Department of Municipal Affairs to Town of Cupids regarding a Section 30 notice to vacate Crown land and cease operation of an unauthorized commercial marina on Crown land situated at Pointe Beach in Cupids, NL.

9. E-mail dated September 26, 2011 from Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Department of municipal Affairs to the Town of Cupids regarding Department direction and assistance to the Town of Cupids to prepare and submit a Crown Land Application for title to the Crown land at Pointe Beach in Cupids, NL.

10. Letter dated February 9, 2011, from Mayor Ronald Laracy of the Town of Cupids to Damien Morrissey, Manager, Eastern Regional Lands Office, Department of Municipal Affairs [formerly Department of Environment and Conservation] regarding the Town of Cupids interest in acquiring title to the Crown land at Pointe Beach in Cupids, NL.

11. Letter dated January 5, 2011 from Mayor Ronald Laracy of the Town of Cupids to the Minister of Municipal Affairs and/or the Eastern Regional lands Office [formerly Department of Environment and Conservation] regarding the Town of Cupids interest in acquiring title to the Crown land at Pointe Beach in Cupids, NL.

12. Letter dated November 2, 2010 from Mayor Ronald Laracy of the Town of Cupids to the Minister of Municipal Affairs and/or Eastern Regional Lands Office [formerly Department of Environment and Conservation] regarding the Town of Cupids interest in acquiring title to the Crown land at Pointe Beach in Cupids, NL.

13. ALL of the complete briefing notes and correspondence from the Hon. Tom Hedderson MHA Harbour Main in the possession of the Department of Municipal Affairs and/or Eastern Regional Lands Office [formerly Department of Environment and Conservation] regarding the Town of Cupids Crown Land Application for title to Crown Land at Pointe Beach and for Town of Cupids plan and permission to expropriate privately owned lands at Salt Water Pond in Cupids.

14. Complete copy of Memorandum of Understanding Agreement entered into between the Cupids Boat Owners Association and the Town of Cupids on June 28, 2010 to enhance and develop the Pointe Beach area of the Town of Cupids.

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Municipal Affairs to provide partial access to the requested documents in the Department's custody and control (i.e., items #1 through #13). Please note that the Department does not have a record of the document listed in item #14. You may wish to consult the Town of Cupids for such a document.

Also, please note that the records we have found in our files do not exactly match the items requested in every instance. We have a letter dated February 9, 2011 from the Mayor of Cupids to the Minister of Environment and Conservation rather than to Damien Morrissey, Regional Land Manager, as indicated in the request. We have included this letter as item #10. We have a January 5, 2011 letter in our custody from the Town Clerk of Cupids to Damien Morrissey, Regional Land Manager, instead of to the Minister as the requested. This is included as item #11.

Please be advised that some information contained within the records has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act, 2015 (the Act):
Policy advice or recommendations

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

Legal advice

30. (1) The head of a public body may refuse to disclose to an applicant information

(a) that is subject to solicitor and client privilege or litigation privilege of a public body; or

(b) that would disclose legal opinions provided to a public body by a law officer of the Crown.

Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed. Please note the following pages have been redacted in full and not included in the response package:

Item #13A:
- Pages 13, 17 to 21, 23-27 and 29 have been redacted in full subject to Section 40(1).

Item #13B:
- Pages 10, 12, 14, 16, 18, 20 and 21 have been redacted in full subject to Section 40(1).
- Pages 25 to 28 and 30 to 38 have been redacted in full subject to Section 29(1)(a).

Please also note, the bottom of page 45, Item #13B references a letter being attached to the note. This letter was not found in the responsive records. Should the letter be discovered, it will be provided to you after being reviewed for exceptions.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Act. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8
You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 729-2787 or by e-mail at tarakelly@gov.nl.ca.

Sincerely,

[Signature]

Tara Kelly
Director / ATIPP Coordinator
Dear Mayor Akerman:

I am writing in response to our meeting of September 3, 2015, concerning the expropriation of private lands around Saltwater Pond for the Town’s future development of Saltwater Pond. The general approach of how the land acquisition will proceed was discussed, with particular focus on the private land claims of the

As you are aware, the [redacted] was indicated on a survey plan of Cupids, prepared by Public Works Canada, Real Estate Services under plan number S-2309. This plan depicted a deed registered by Her Majesty in Right of Canada under Volume 1008 at Folio 386. A review of this deed indicated that in 1968 the Government of Canada expropriated a section of this land within land claimed by [redacted].

Further investigation into the [redacted] claim indicates a chain of title going back to 1934 when [redacted], sold parcels of land on both sides of the main road to [redacted]. This land was subsequently sold to [redacted] who in turn, sold it to [redacted]. It is the Department’s position that these two parcels of land cannot be considered unencumbered Crown land and that a Section 25 Notice should not be served.

It must also be borne in mind that Cupids is one of the oldest communities on the island and these parcels are on the seashore. The Department advises that the Town of Cupids should include these two parcels of land within the overall proposed expropriations planned.
In the meeting, a number of survey plans were presented that depicted parcels of land that would be subject to expropriation. It is essential that revised surveys be drafted, indicating the 1966 OHM, as indicated on the map prepared by this Department. This will ensure that there will be no discrepancies between the areas that will be expropriated and areas that the Department will serve Section 25 Notices on, once the expropriations have been completed. Your surveyor can contact this office for a copy of this plan.

If you have any further questions concerning this matter, I may be contacted by telephone: (709) 729-2654 or email: stevebarnable@gov.nl.ca or at the address below.

Sincerely,

STEVE BARNABLE, Manager
Eastern Regional Lands Office

cc: Milly Meaney, Director Crown Lands Administration
Corrie Davis, Manager of Land Use Planning
September 15, 2015

Mayor Harold Akerman
Town of Cupids
P.O. Box 99
Cupids, NL A0A 2B0

Dear Mayor Akerman:

Re: Request for Expropriation of Land surrounding Saltwater Pond.

We are in receipt of your letter to our Minister dated September 9, 2015, in which the Town is requesting approval to proceed with expropriation of land surrounding Salt Water Pond.

Please be advised that officials of our Department are reviewing this request and will be in contact with you in the near future.

Yours truly,

Corrie Davis, MCIP
Manager
Land Use Planning, Lands Branch

P.O. Box 8700, St. John's, NL, Canada A1B 4J6  709 729-3090  709 729-0477
September 9, 2015

Minister Keith Hutchings
Dept. of Municipal & Intergovernmental Affairs
P.O. Box 8700
St. John's, NL
A1B 4J6

Dear Minister Hutchings:

At our regular council meeting held on September 8, 2015, it was moved and resolved that Council start proceedings to expropriate the land, other than what is considered Crown Land, surrounding Saltwater Pond. A copy of Council’s resolution is enclosed.

There have been several meetings held with Crown Land officials, Municipal Affairs officials and our respective Lawyers on this matter.

The Town is requesting your approval to proceed with the expropriation under Section 222 of the Municipalities Act.

We would like to thank you for your consideration in this matter and look forward to a favourable reply.

Sincerely,

Harold Akerman,
Mayor
Town of Cupids

HA/ik

c.c. Thomas Hederson, MHA

Mr. Denis Barry
Barry, Walsh & Associates
At the regular meeting of Council, Motion #114-09-2015 - Burry/Edmunds
Resolved that the Town of Cupids start proceedings to expropriate the land, other than what is considered Crown Land, surrounding Saltwater Pond. Land starting at 323 Seaforest Drive, all along the pond to include just the right of way to the Cribbing on Quay Rd., ending at the Morgan property. The Beehan house and Morgan house will be excluded in the expropriation process.

In favour:
Mayor Akerman, Deputy Mayor Christine Burry, Councillor Darrin Akerman, Councillor Gordon Power, Councillor Mike Power and Councillor Ron Edmunds.

Opposed:
Councillor Kevin Connolly

Motion carried
Dear [Redacted]

I write in response to your letter dated March 9, 2014, concerning the Town of Cupids Crown Lands application number 142543 for land at Pointe Beach. I apologize for the delay in responding.

In your letter you had referenced work that was completed with respect to Phase I of the proposed commercial marina. On October 20, 2009, the Department of Environment and Conservation executed Transfer No. 134057, to transfer the administration and control of the Crown lands located at Pointe Beach to the Minister of Tourism, Culture and Recreation. The Minister of Tourism, Culture and Recreation then issued a Licence to Occupy under Subsection 15(2) of the Executive Council Act to the Town of Cupids for the Cupid 400 celebrations. The work that was carried out on Pointe Beach was for the celebrations.

When Transfer 134057 was terminated the Town of Cupids then applied to the Crown Lands Administration Division under application 142543 for Pointe Beach for the use of a marina. They planned to avail of the existing infrastructure that was constructed for the Cupid 400 celebrations.

A site investigation was completed by the Navigable Waters Protection Program Office (NWP) which revealed that the placement of the work for the celebrations was not a substantial interference to navigation. NWP now operate under a “self-assessment” policy, and the Town of Cupids has been advised to contact NWP for any necessary permits or approvals required under the Navigable Waters Protection Program.

During the referral process the Lands Branch of the Department of Environment and Conservation referred the application to various departments and agencies for their comments and/or recommendations. Any conditions and/or requirements by the referral agencies have been conveyed to the applicant. The onus will be on the applicant to obtain all necessary permits and to conform to all regulatory requirements. I can also confirm that the Town of Cupids' application has received Lieutenant Governor in Council approval and an approval has been issued by the Department as a result.

Please be advised that there are no timelines in place for the development of these lands granted under the Lands Act.

P.O. Box 8700, St. John's, NL, Canada A1B 4J6 telephone (709) 729-2572 fax (709)729-0112
it should be noted that the development of Pointe Beach for the celebrations was conducted under the Licence to Occupy issued by the Minister of Tourism, Culture and Recreation under Subsection 15(2) of the Executive Council Act. For any concerns related to conformity with the municipal plan and development regulations, it is recommended that you contact the Department of Municipal and Intergovernmental Affairs for direction.

If you have any further questions concerning the processing of this application please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John's, NL, A1B 4J6, telephone: (709) 729 - 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

JAMIE CHIPPETT
Deputy Minister

cc: Mr. Corrie Davis, Manager, Land Use, Municipal & Intergovernmental Affairs
    Mr. Steve Barnable, Regional Lands Manager
Dear Sir/Madam:

RE: APPLICATION NO.: 142543  
TYPE: Grant  
PURPOSE: Commercial  
LOCATION: Cupids  
CONSIDERATION: $9900.00 (plus13% HST)

Your application for a Crown Grant has been approved as per the location on the attached map and subject to the attached conditions.

The Grant consideration of $9900.00 (plus13% HST) has been established on the basis of the frontage and/or area approved for survey, but may change depending on the frontage and/or area described in the final survey submitted to this Department. A fee of two hundred dollars ($200.00) will be required for the cost of preparing and registering the title documents.

An illegal development fee of five hundred dollars ($500.00) is required as a result of unauthorized occupation without benefit of title. Please do not remit any monies until requested to do so.

Before final processing of your application can be completed, you are responsible for fulfilling the following requirement(s):

1. CROWN LAND SURVEY

You must have the land surveyed by a registered member of the Association of Newfoundland Land Surveyors.

The land survey must not exceed an area of 1.0 hectare(s).
The land survey must be received by this Office on or before June 27, 2015, or your application will be considered cancelled by you in accordance with Section 10 of the Lands Act 1991, as amended and Departmental Policy. The Department will not be responsible for any costs incurred for a land survey should the site be determined unsuitable.

Should you require any further information concerning this approval, please contact the Regional Lands Office at the address listed below.

Yours truly,

[Signature]

REGIONAL LANDS MANAGER

Attachment(s)
LIST OF REFERRAL CONDITIONS

Department of Municipal Affairs - Urban and Rural Planning Division

1. As a result of Cupids Municipal Plan Amendment No 1. 2013 and Cupids Development Regulations Amendment No 1, 2013 the proposed use of land (marina) is classified as a "Transportation Use" and is permitted within the Cupids Rural Zone.

Department of Environment and Conservation - Environmental Assessment Division

1. Please be aware that the Department of Environment and Conservation must be notified of any significant changes to the undertaking. All proponents are required to comply with all relevant legislation including permits and approvals from this Department and any other municipal, provincial or federal regulatory authorities.

Federal Fisheries and Oceans Canada – Fish Habitat Division

1. You must submit a "Request for Project Review" under the “Fish Habitat Protection Provisions of the Fisheries Act”. Application forms can be found at:

   http://www.nfl.dfo-mpo.gc.ca/e0005354

   Completed application can be sent to FPP-NL@dfo-mpo.gc.ca

Department of Environment and Conservation - Water Resources Management Division

1. A permit under Section 48 of the Water Resources Act is no longer required for the applied structures. However, you must follow the new guidelines for the Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses as found here on the Government of NL website:


2. A permit will be required under Section 48 of the Water Resources Act for any infilling or dredging work associated with these structures or other works within 15 metres of a body of water.

Service NL

1. Any building erected that is not serviced by municipal water and sewer must apply for private water and sewer at the Government Service Centre located at 149 Smallwood Drive, Mount Pearl, NL.

Transport Canada – Navigable Waters Protection Program

1. You have been advised by Transport Canada that prior to the commencement of the proposed project, approval, must be obtained for any “works” constructed or placed below the original high water mark pursuant to the Navigable Waters Protection Act.
2. Please refer to the attached letter addressed to you, dated December 31, 2012. All conditions as stated must strictly be followed.

**Department of Environment and Conservation – Lands Branch**

1. This conditional approval is subject to an application for an existing easement for a water line to Quin-Sea Fisheries Limited (Application# 135082) and any utility easements that may exist in the area.

**Department of Tourism, Culture and Recreation - Provincial Archeology Office**

1. This Office recommends approval of the application on the condition that the Town of Cupids must be notified prior to any dredging, to determine if archeological monitoring may be required.
Your File Votre référence

Our File Notre référence

8200-2012-700275

December 31, 2012

Town of Cupids
PO Box 99
Cupids, NL A0A 2B0

Re: NWPA: Application for Approval of Proposed/Existing Marina and Intake Cupid's Harbour, Province of Newfoundland and Labrador.

It has come to our attention through the Newfoundland and Labrador Department of Environment and Conservation that you propose to undertake the above.

Any 'works' constructed or placed in navigable waters below the original high water mark require the approval of the Minister of Transport, Infrastructure and Communities pursuant to the Navigable Waters Protection Act. It is our responsibility through the administration of that Act to ensure that such works do not interfere with the public right of navigation. As we have no record of approval for this project, the onus is on you as the owner or person in possession to make application to this Department with a view to seeking approval prior to commencement.

The enclosed application guide further outlines your responsibilities under the Act and describes the procedures to follow in making an application. Please refer to our web page at http://www.tc.gc.ca/eng/marinesafety/oep-nwpp-menu-1978.htm. Should you require further clarification or assistance, please contact our office in Dartmouth at (902) 426-2726 or by facsimile transmission at (902) 426-7585 or by e-mail at nwpdar@tc.gc.ca.

Navigable Waters Protection Program – Maritimes
Marine Safety
Transport Canada
Atlantic Region

Enclosure

cc: Department of Environment and Conservation/Lands Branch
NOTE TO USERS

The information on this map was compiled from land records integrated at the Crown Lands Office.

The boundary lines shown are intended to be used as an aid in land sales identified by the Crown. The accuracy of these is not sufficient for legal purposes and does not guarantee titles.

Users finding any errors or omissions are asked to contact the Crown Lands Office at 729-3800.

Users finding any errors or omissions should contact the Crown Lands Office at 729-3800.

The User hereby indemnifies and saves harmless the Minister, its officers, employees and agents from and against any claims or losses arising directly or indirectly on account of any violation or infringement of copyright or intellectual property, arising out of any copying of information contained on this map. The Minister and its or her officers, employees and agents are not responsible for any damage or expense to any person or company in any way due to any error in this map.

For Inquiries please contact a Regional Lands Office.
Corner Brook - 237-2357
Gander - 236-1420
Goose Bay - 696-2488
St. John's - 729-3264
Clarenville - 686-4074

Government of Newfoundland & Labrador
Department of Environment & Conservation

Scale 1:2,500
Compiled on Sep 19, 2008

Crown Lands Division

Quin-Sea Fisheries Limited
Application# 135982

TOWN OF CUPIDS
APPLICATION NO. 142543
February 4, 2013

Deputy Mayor Ross Dawe & Council
Town of Cupids
P.O. Box 99
Cupids, NL A0A 2B0

Dear Deputy Mayor Dawe and Council:

RE: Town of Cupids
Proposed Expropriation

On behalf of Municipal Affairs, I reviewed Council's request to expropriate lands around Saltwater Pond.

I am unable to recommend the Minister approve the expropriation at this time. The Cupids Municipal Plan and Development Regulations prohibit marina uses around Saltwater Pond.

I noted the following from the Town's Development Regulations when I reviewed the proposed expropriation:

- Marina uses are classified as transportation uses.
- The property is zoned "Rural" by the Cupids Development Regulations.
- Transportation uses are not permitted within the Cupids "Rural" Zone.

However, the Town Council may amend the Town's Municipal Plan and Development Regulations to accommodate the proposal. The Urban and Rural Planning Act, 2000 establishes the process to amend Council's Municipal Plan and Development Regulations. Expropriation can be considered after such amendments are completed Council. I understand that Council has initiated an amendment process to accommodate the marina use around saltwater pond.

Should you require further information on this matter, please contact Geralyn Lynch of this office by telephone at 729-0422 or email geralynlynch@gov.nl.ca.

Yours truly,

Corrie Davis, MCIP
Manager, Land Use Planning
April 26, 2012

Forty Beach: Cupids.

- Chad
- Don
- Henry
- Sanden
- Conni

- Town's proposal to acquire and operate
  a marina.
- Expropriation?
- No one currently
- Why?
- Old Wharf was repaired
  - Recreational
Crown land.
- LTO for tenant / owner.
  for purpose of a fire, celebration.
- LTO for: a name of tenant.
- # on.
- LTO expired.
- Demolish of infrastructure.
  - is it a park??
- Family Beach vs. Queen Road.
  Area.
- need: map that illustrates
  everything.

Crown land operation.

"Best Crown allocation."

eg.

Check Exp File... seems to be
a bit of a mess.
how does all this tie together ???

Cupids Pest Control Corp. Inc. ??
- MA has to protect infrastructure investment
  who pays for any necessary work / O&M costs.

Recreational Facility - is
  able to own / operate.

Exploitation

[Diagram: Waterline]

Repositional when may be commenced enterprise.

Section 40 (1)

Section 40 (1)

Secorrost Drive

explosion only in

Lands need to finalize Cl vi encumbered lands.

Inappropriate the works for municipal purpose.

Mauldin Reservation

Robert Wilson

non responsive
Capitol

- Expropriation / operation
  of Marina

fulfillment + fees (one check)

Letter from R. Pelle Apr. 30
- if on crown land
  - stip. use of land until
    you get title

- No need to seek prior
  Ministerial Approval

- town requested to
lands should provide copy of title investigation.

Starting point is mapping

I've will request this from Crown lands (Peter House is)

discuss

from survey

most I land is filled in along St. Drive & Quay Road

Pointe Beach should be easy...

Temporary camping permit.

Is there a plan for the cap works that was undertaken in 2001.
Current financial situation.

Status of repatriation.

Please correspondence to indicate that we refer to CE from Brook to channel.
Council needs to publish minutes
1. Intent

previous memo of intent 198
centralized by TCB

MAP 1 - MPA already done

MAP on Google Earth

What was rationale for
Quipu MAP:...
April 30, 2012 Letter

- Date (Lands) >> Capko
- No Authority to operate Marina

- Council - Deny Reop + 1
  Letter

- Signs Removed July 27

- Letter + Notice
  July 22, 2012

- Council Meeting
  From Legal Map presented to Council for discussion

- Memorandum of "Riparian Rights"
  - Some practice & engagement
  - Agreement of Conflict of Interest
Section 40 (1)

2009 - Cupido 460

- Hand dock for yrs
- Others had docks

"demi-van park" - Cupido for Inc.

- not a marina

- correspondence

- what was put on the beach was supposed to come off after 2009.

- Cupido council & 400 agreed.

Denied

Minister French - Police would be "carried out"

- recent letter from council to a landowner.

- Removal of material from "purchased property"
Concern that town acquired
Piney Beach land
owners may not have
safe message

7/20/10 - council appealed for
public beach on day
use park. Council
that council may
transfer to OP park

two recent applications
Section 40 (1)

any decisions are subject
to appeal.

Council referred to advice
soliciting of their
choice

private and public
revisions

Iran thru property
Cupido would have to publish more on its intention for an application.

Section 40(1)

The case of the Port Owners Association

It appears as though no progress has been published as of yet.

- financial feasibility?
- land ownership conflicts?

A. Be need to have these issues addressed prior to Crown lands application.

Allegation that No Power wished to work with...
Section 40 (1)
- org. [Handwritten] purchased land
- paid for water pump property
- removed "Aske"

[Handwritten] signed correspondence
From: Noseworthy, Dan  
Sent: Friday, April 27, 2012 9:32 AM  
To: Davis, Corrie  
Subject: RE: Cupids

Sure. I'll call Ivy.

From: Davis, Corrie  
Sent: Friday, April 27, 2012 9:19 AM  
To: Noseworthy, Dan  
Subject: Cupids

hey Dan,

Would you take the lead in trying to arrange a meeting with them?

My MS outlook Calendar shows my availability. Evening calendar entries generally represent things regarding my wife and daughter and can be ignored.

C
c. 709.729.5409

d. 709.729.0477

e. korrie.davis@gov.nl.ca
Ivy has a council meeting on Monday evening. She is going to confirm their availability and get back to me.

Dan

From: Davis, Corrie
Sent: Friday, April 27, 2012 9:19 AM
To: Noseworthy, Dan
Subject: Cupids

hey Dan,

Would you take the lead in trying to arrange a meeting with them?

My MS outlook Calendar shows my availability. Evening calendar entries generally represent things regarding and can be ignored.

---

Corrie Davis, MCIP
Manager of Land Use Planning
Municipal Affairs

t. 709.729.5409
f. 709.729.0477
c. corriedavis@gov.nl.ca
Kelly, Tara

From: Davis, Corrie
Sent: Tuesday, April 19, 2016 2:21 PM
To: Kelly, Tara
Subject: FW: meeting with council

Corrie Davis, MCIP
Manager, Land Use Planning
Department of Municipal Affairs
P.O. Box 8700
St. John's, NL A1B 4J6
Tel 709.729.5409 Fax 709.729.0477

From: Davis, Corrie
Sent: Wednesday, May 02, 2012 1:24 PM
To: Noseworthy, Dan
Subject: Re: meeting with council

Either the 15th or 16th would work for me.

Corrie

Sent Via BlackBerry

From: Noseworthy, Dan
To: Davis, Corrie
Sent: Wed May 02 13:05:36 2012
Subject: FW: meeting with council

Corrie

I'm good for the evenings of May 14, 15, or 16.

Dan

From: Town of Cupids [mailto:townofcupids@eastlink.ca]
Sent: Wednesday, May 02, 2012 9:58 AM
To: Noseworthy, Dan
Good morning Dan,
At our meeting last night, Council set Thursday night, May 3rd, at 7:00 p.m. for your meeting with Council. Please confirm that this time is acceptable to yourself and Corrie.
Thanks.

Ivy King
Town Clerk
Town of Cupids
Tel #: (709) 528-4428
Fax #: (709) 528-4430
townofcupids@eastlink.ca
Hi Dan,
Tuesday, May 15th, @ 7:00 p.m. is ok with my group.
See you then!
Thanks.
Ivy

----- Original Message ----- 
From: Noseworthy, Dan
To: Town of Cupids; Davis, Corrie
Cc: Ross Dawe; Harold Akerman; Doug Furey; Chris Burry; Harvey Puddister
Sent: Wednesday, May 02, 2012 1:47 PM
Subject: Re: meeting with council

Ivy

Neither of us is available this Thursday. We compared calendars and both of us are available on the evening of the 15th or 16th. Check with your group to see if these dates are ok.

Dan

From: Town of Cupids <townofcupids@eastlink.ca>
Sent: Wednesday, May 02, 2012 9:58 AM
To: Noseworthy, Dan
Cc: Ross Dawe; Harold Akerman; Doug Furey; Chris Burry; Harvey Puddister
Subject: meeting with council

Good morning Dan,
At our meeting last night, Council set Thursday night, May 3rd, at 7.00 p.m. for your meeting with Council. Please confirm that this time is acceptable to yourself and Corrie.
Thanks.

Ivy King
Town Clerk
Town of Cupids
Tel #: (709) 528-4428
Fax #: (709) 528-4430
townofcupids@eastlink.ca
"This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender."

No virus found in this message.
Checked by AVG - www.avg.com
Version: 10.0.1424 / Virus Database: 2411/4973 - Release Date: 05/02/12
Kelly, Tara

From: Davis, Corrie
Sent: Monday, May 14, 2012 1:23 PM
To: Noseworthy, Dan
Subject: RE: Cupids?

got a bike to loan me!!??

From: Noseworthy, Dan
Sent: Monday, May 14, 2012 1:16 PM
To: Davis, Corrie
Subject: RE: Cupids?

If the weather is good (and it is suppose to be) I will be biking!!

From: Davis, Corrie
Sent: Monday, May 14, 2012 12:58 PM
To: Noseworthy, Dan
Subject: RE: Cupids?

Ok sounds Good.

Shall we drive together or will you be taking your bike if the weather is good?

C

From: Noseworthy, Dan
Sent: Monday, May 14, 2012 12:18 PM
To: Davis, Corrie
Subject: RE: Cupids?

Everything is a go for 7.

From: Davis, Corrie
Sent: Monday, May 14, 2012 8:51 AM
To: Noseworthy, Dan
Subject: Cupids?

did you hear back from Ivy? I need to know if we're on for tomorrow night.

Corrie
Manager of Land Use Planning

Municipal Affairs

t. 709.729.5409
f. 709.729.0477
e. corriedavis@gov.nl.ca
Lands Branch  
Crown Lands Administration

April 30, 2012

Town of Cupids  
Cupids, NL  
A0A 2B0

Dear Sir/Madam:

I write in response to a complaint dated April 11, 2012, regarding the Town of Cupids participating with the Cupids Boat Owners Association Inc., in operating a “commercial marina” from lands locally known as Pointe Beach.

This is to advise that these lands are Crown lands and you are not authorized to operate a commercial marina from these lands. You are to immediately cease any occupation of these lands and not to restrict public access to the said lands.

Should the Town of Cupids or the Cupids Boat Owners Association Inc. refuse to vacate these Crown lands, the Department of Environment and Conservation will apply to a judge for a Court Order under the provisions of Section 30 of the Lands Act requiring these lands to be delivered up to the Crown.

Your immediate attention to this request is expected.

Sincerely,

ROBERT C. DICKS  
Director of Crown Lands Administration

cc: Mr. Steve Barnable, Regional Lands Manager
Item #9

Ivy, some general information on applying for the land (see below). I have contacted Gary Myler (729-0193), who will assist you through the process. An application will need to be submitted with copies of the advertisement (i.e. make sure the publication date on it). Please call Gary prior to making advertisement as he will be able to direct you on the "footprint" dimensions of what you are applying for in order that it is correct on the advertisement.

Steve

Subsection 7(2)(a) of the Lands Act does allow for the grant, lease or licence of Pointe Beach including the 15 metre shoreline reserve if for an industrial undertaking. A commercial marina would classify as such an undertaking. The following conditions need to be met prior to an application being taken:

• An applicant for a grant, lease or licence under subsection 7(2) shall publish a notice of his or her intended application in the Gazette, 1 local paper and 1 weekend edition of a paper having general circulation in the province at least 2 months prior to making the application.
• The notice required shall state the name of the applicant, the exception under which the application is being made, contain a description of the lands in respect of which the application is being made and inform a person who wishes to object to the application that he or she must file the objection with reasons for it with the Minister within 1 month of the publication of the notice.

• Once the two (2) month waiting period has past, the Town can make application for Pointe Beach. The application is to be accompanied by an application fee of $113.00 plus an approved Municipal Recommendation Form, as well as a development plan.

The application will be registered and referred to the appropriate Government Departments for comment and recommendation. These comments and recommendations are reviewed by the Department and a decision made on whether a title can be issued as well as the type of title (grant, Lease or licence) that will be issued and what appropriate fees will apply.
See samples of the advertisement and additional information at this link.


Steve Barnable
Regional Lands Manager - Eastern

Crown Lands Administration Division, Lands Branch
Department of Environment and Conservation
Howley Building, Higgins Line
P.O. Box 8700
St. John's, NL A1B 4J6
Tel: (709) 729-2654 Fax: (709) 729-0726
February 9, 2011

Hon. Minister Ross Wiseman  
Dept. of Environment & Conservation  
4th Floor, West Block  
Confederation Building  
P.O. Box 8700  
St. John's, NL  
A1B 4J6

Dear Hon. Minister Wiseman:

At the regular council meeting held on February 7, 2011, a discussion had taken place regarding the ongoing issues the Town of Cupids has related to the land around Salt Water Pond and Pointe Beach. It was decided that Council would seek a meeting with you to discuss the following issues:

1. The Town's interest in securing land tenure at Point Beach, the site where the Cupids 400 celebrations were held. Previous correspondence have been interacted between the Town and Damian Morrissey, Regional Manager regarding this issue. If possible, council would like to have Minister Terry French, Tourism Dept. and Minister Tom Heddson, MHA, Transportation and Works Dept. to attend this meeting as well.

2. Secondly, Council would like to discuss with you the expropriation process for the land owners around saltwater pond which has been ongoing since April 2010. The Town's lawyer, Mr. Denis Barry, has spoken with Mr. Peter Howe, Crown's Lands Division and has put in a formal request for Crown Lands to investigate whether the Crown is the owner of the lands in question and a full investigation of where the high water mark and the crown's reservations are in the areas affected.
The Town Council of Cupids is very interested in having these issues resolved. Therefore, we look forward to a favourable reply as to when you can meet with us regarding these issues.

Thank you for your attention in this matter.

Sincerely,

Ronald Laracy
Mayor,
Town of Cupids

cc. Minister Terry French, Tourism Dept.
Minister Tom Hederson, MHA Works Services & Trans.
Mr. Damian Morrissey  
Regional Land Manager  
Environment & Conservation  
Eastern Regional Land Office  
Howley Building, Higgins Line  
St. John's, NL  
A1B 4J6

Dear Mr. Morrissey:

As per Mayor Laracy's letter to you dated November 2, 2010, to date we have not had a response regarding the procedure we need to follow in order to acquire Pointe Beach after the License for Occupancy expires on March 31, 2011.

Could you please look into this matter and advise as soon as possible.

Thank you for your assistance in this matter.

Sincerely,

Ivy King  
Town Clerk  
(for) the Town of Cupids

C.C. Minister Charlene Johnson  
Dept. of Environment & Conservation

Minister Thomas Hedderson, MHA  
Dept. of Works, Services & Transportation
November 2, 2010

Mr. Damian Morrissey
Regional Land Manager
Environment & Conservation
Eastern Regional Land Office
Howley Building, Higgins Line
St. John's, NL
A1B 4J6

Dear Mr. Morrissey:

We are writing to you regarding the land situated at Pointe Beach, Cupids. On October 20, 2009, the administration and control of this land was transferred to the Honourable Minister of Tourism Culture and Recreation for the purpose of the Cupids 400 Celebrations (copy of transfer enclosed). The Minister of Tourism, then in turn, issued to the Town of Cupids, a License for Occupancy for the purpose of our Celebrations (copy enclosed). Both the transfer and the license will expire on March 31, 2011.

We, the Town Council of Cupids, would like to administer and control this land after this expiry date. Our purpose for this land would be for recreational purposes for the use of the town. As this beach area has been upgraded, we have the facilities available to us to hold our annual Cupers Cove Soiree Festival there and our local boat owners will avail of this area to tie up their boats. We have many local residents and tourists who walk this beach area which adds to the tourism attraction of our town. Our Anniversary Celebrations were a tremendous success and we would like to continue to provide to our local residents and our tourists an area where they can relax and enjoy our beautiful historic town.

2/........
Could you please advise, as soon as possible, the procedure we need to follow in order to acquire this land for our intended purposes.

Thank you for your assistance in this matter.

Sincerely,

Ronald Laracy
Mayor,
Town of Cupids

RL/ik

Encls.

c.c. Minister Charlene Johnson,
Dept. of Environment & Conservation

Minister Thomas Hedderson, MHA
Dept. of Works, Services & Transportation
LICENCE
FOR OCCUPANCY OF LAND
for the purpose of
Cupids 400 Celebrations

Under the provisions of Subsection 15(2) of the Executive Council Act, Chapter E-16.1 of the Statutes of Newfoundland and Labrador, 1995, as amended, Her Majesty the Queen in Right of Newfoundland and Labrador (hereinafter called the "Crown") represented herein by the Honourable the Minister of Tourism, Culture and Recreation for the Province of Newfoundland and Labrador (hereinafter called the "Minister") does hereby issue a LICENCE FOR OCCUPANCY (hereinafter called the "Licence") unto

Town of Cupids

in the Province of Newfoundland and Labrador (hereinafter called the "Licence Holder") its successors and assigns ALL THAT piece or parcel of land delineated and highlighted in red in the attached Schedule A, and being situate at Pointe Beach, Cupids (hereinafter called the demised premises), TO HAVE AND TO HOLD the demised premises unto the Licence Holder for the term expiring on March 31, 2011, from the 26th day of November A.D. 2009, SUBJECT to the reservations, terms and conditions hereinafter set out;

YIELDING AND PAYING unto the Crown as the price and consideration of the said Licence the sum of $1.00 (the receipt of which is hereby acknowledged) per year, the first payment to be made on the execution of this Licence;

PROVIDED that the Licence Holder covenants and agrees to comply in all respects to the terms and conditions as outlined in Schedule B and Schedule C of these presents;

AND FURTHER PROVIDED that this Licence shall not be assigned or conveyed without the prior written consent of the Minister and then only on such terms and upon payment of such fees as the Minister may prescribe.

SIGNED by the Licence Holder
on the 26th day of November A.D. 2009

SIGNED by the Minister of Tourism, Culture and Recreation
on the 19th day of November A.D. 2009

[Signature]
Licence Holder

[Signature]
Minister of Tourism, Culture and Recreation
SCHEDULE B

1. The Licence does not authorize the Licence Holder to enter upon private land, to dispute private claims to land, or to obstruct any public right-of-way.

2. The Licence does not convey the right to extract any minerals including, limestone, granite, slate, marble, gypsum, marl, clay, sand, gravel, peat, coal, natural gas, petroleum or salt from or under the demised premises.

3. The Licence Holder shall pay and discharge all taxes and charges that may be levied by any Municipal, Provincial or Federal authority on or in respect to the demised premises.

4. The Licence constitutes the approval of the Department of Tourism, Culture and Recreation only and does not waive the required consent of other government departments or agencies.

5. The Licence Holder, hereby indemnifies and saves harmless the Minister and the Government of Newfoundland and Labrador and from any and all manner of claims, damages, losses, costs and charges whatsoever occasioned to or suffered by or imposed upon the Minister and the Government of Newfoundland and Labrador directly or indirectly in respect of any matter or thing in consequence of or in connection with or arising out of the occupancy or use of the demised premises by the Licence Holder in connection with the occupancy or use of the same by the Licence Holder or in respect of any accident, damage or injury to any person, animal or thing by from or on account of the same. The Covenants of the Licence holder for indemnity herein contained shall extend to all damages and claims for damage by reason of improper or faulty erection or construction of structures erected or installed on or in the demised premises herein described or in connection therewith by the Licence Holder and by reason of an insufficiency in said structures and whether or not the same have been approved by the Minister and the Government of Newfoundland and Labrador, their servants or agents.

6. The demised premises shall be kept neat and tidy to the satisfaction of the Minister.

7. Disposal of garbage on the demised premises or underwater is not acceptable and shall be disposed of at an approved waste disposal site or burned in an acceptable manner with the written permission of the Department of Environment and Conservation.

8. Should the Licence Holder, the heirs, executors, administrators and assigns default in the performance of any of the provisions herein contained, the Minister may give thirty (30) days notice for the termination of this Licence, and upon the expiration of the thirty (30) days, this Licence shall cease and the Licence Holder shall forthwith vacate the demised premises.

9. In the event the Licence is cancelled, or upon expiration, the Licence Holder shall remove all buildings, structures and personal property from the demised premises and restore the demised premises to the satisfaction of the Minister of Government Services and the Minister of Tourism, Culture and Recreation within ninety (90) days from the date of cancellation or expiration. Should the Licence Holder fail to comply with this condition, the Minister may remove or demolish all buildings, structures and personal property remaining on the demised premises and restore the demised premises in any manner the Minister sees fit, and the costs incurred by the Minister in the removal or demolition and restoration of the demised premises shall be recovered from the Licence Holder as a debt due to the Minister. Furthermore, the indemnity contained in Condition 5 of this Licence shall remain in full force and effect until all structures and property are removed or demolished and the demised premises is restored to the satisfaction of the Minister of Government Services and the Minister of Tourism, Culture and Recreation.

10. If during the term of the Licence the Minister requires the demised premises for any reason the Licence may be terminated after thirty (30) days written notice and the Licence Holder shall have the demised premises restored to the satisfaction of the Minister of Government Services and the Minister of Tourism, Culture and Recreation and the Licence Holder shall indemnify and save harmless the Minister against any loss, cost or damage resulting directly or indirectly from the Licence Holder’s use, occupation or restoration of the demised premises.
11. The failure of the Crown to insist upon strict performance of any of the covenants and provisos contained in this Licence shall not be deemed a waiver of any rights or remedies that the Crown may have or a waiver of any subsequent breach or default.

12. The Licence Holder shall permit access to the demised premises at all times by Officers authorized by law or by the Minister.

13. This Licence shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador.
SCHEDULE C

1. The Licence Holder shall not restrict or impede public access to the demised premises.

2. Authorization from the Department of Fisheries and Oceans Canada must be obtained prior to carrying on any work(s) which may affect fish habitat(s) adjacent to the demised premises.

3. Any project work within the shoreline reservation shall require a permit under Section 48 of the Water Resources Act from Water Resource Management Division, Department of Environment and Conservation.

4. The Licence Holder must obtain all of the necessary permits from the Government Service Centre, Department of Government Services.

5. The Licence Holder must not place or erect any buildings or permanent structures on the demised premises, other than those for which this Licence is intended, without the prior written consent of the Minister.

6. The demised premises shall not be used for any purpose other than that specified without the written consent of the Minister.

7. This Licence is subject to a water line easement to the fish plant (hereinafter the “easement area”) as identified and highlighted in green in Schedule A of these presents; any development of the easement area by the Licence Holder, its successors or assigns, without the prior written consent of the Easement Holder may result in the Easement Holder removing all unauthorized structures within the easement area and restoring the easement area to its original condition at the cost and expense of the Licence Holder.
TRANSFER
ADMINISTRATION & CONTROL OF
CROWN LAND TO THE HONOURABLE
THE MINISTER OF TOURISM,
CULTURE AND RECREATION

Under the Provisions of subsection (2) of Section 34 of the Lands Act, Chapter 35 of the Statutes of Newfoundland and Labrador, 1991, as amended, Her Majesty the Queen in Right of Newfoundland and Labrador represented herein by the Honourable the Minister of Environment and Conservation for the Province of Newfoundland and Labrador (hereinafter called the "Minister") does hereby ORDER THAT the administration and control of land situated at Pointe Beach, Cupids, as more particularly delineated and highlighted in red in Schedule A annexed hereto, is hereby transferred to the Honourable the Minister of Tourism, Culture and Recreation for the purpose of the Cupids 400 celebrations subject to the following conditions:

1. That this Transfer is for a fixed term to expire on March 31, 2011, after which the administration and control of the land shown on the hereinafter mentioned Schedule A shall be transferred back to the Minister provided the land has been restored to its original condition or to a condition satisfactory to the Minister and confirmed in writing by the Minister,

2. That this Transfer is subject to the condition that public access to those lands hereby transferred and delineated in Schedule A shall not be restricted or impeded,

3. That all minerals, quarry materials, both metallic and non-metallic, limestone, granite, slate, marble, gypsum, sand, clay, sand, gravel, building stone, volcanic ash, peat, coal, salt, natural gas, oil, and related hydrocarbons and under the said land shall be reserved to Her Majesty the Queen in Right of Newfoundland and Labrador,

4. That this Transfer is subject to a water line easement to the fish plant thereto related the "easement area") as identified and highlighted in green in Schedule A of these presents, any development of the easement area by the Honourable the Minister of Tourism, Culture and Recreation, its successors or assigns, without the prior written consent of the Easement Holder may result in the Easement Holder removing all unauthorized structures within the easement area and restoring the easement area to its original condition at the cost and expense of the Honourable the Minister of Tourism, Culture and Recreation.

IN WITNESS WHEREOF the Minister of Environment and Conservation for the Province of Newfoundland and Labrador has hereunto subscribed his or her hand and the Seal of the Department of Environment and Conservation has been hereunto affixed on the 20 day of December, 2009.

SIGNED AND SEALED
by the Minister of Environment and Conservation and
the Seal of the Department of Environment and Conservation
was hereunto affixed in the presence of:

[Signature]
Minister of Environment and Conservation

WITNESS

ANN MARIE RASTOW
A Commissioner for Oaths and for
the Province of Newfoundland and Labrador.
My commission expired on December 31, 2002.
Title: Issuance of a Title at Pointe Beach to the Town of Cupids.

Issue: The Town of Cupids wishes to acquire title to land at Pointe Beach. The land was under Licence to the Town from the Department of Tourism Culture and Recreation. The term of the title has expired and the Licence is regarded as “Terminated”.

Background and Current Status:

- Pointe Beach is a peninsula within the waters of Conception Bay running from the shoreline of the Town of Cupids out into the ocean and creating an inner harbour called Saltwater Pond.

- April 14, 2009, the Town of Cupids advertised in The Compass a Notice of Intent as required in the Lands Act indicating its intention to apply for the lands encompassing Pointe Beach for the purposes of a Day Use Park. A similar Notice was advertised on April 15th and 17th, 2009 in both the Telegram and the Newfoundland Gazette respectively.

- As a result of the advertisements, several letters of objection were filed with the Minister responsible for Crown Lands.

- June 19, 2009, the Town of Cupids applied for Pointe Beach under application number 134057 for the purposes of a Day Use Park in conjunction with the Cupids 400 Celebrations.

- As part of the application process, the application was referred to six (6) Government Departments for comment. All Departments approved the proposal and the application was put forward to the Regional Lands Committee for review.

- The review of the application determined that the published Notice of Intent stated that the Town would be applying for Crown land located within 15 metres of the waters of Cupids Harbour pursuant to subsection 7(1.1)(b) of the Lands Act. This was erroneous since that subsection only outlines those exceptions for which the shoreline reservation can be reduced from 15 metres to 10 metres. That subsection is not the part of Section 7 that gives the authority to issue a lease, licence or grant for a specific use. Furthermore, a review of subsection 7(2) has determined that it contains nothing to allow for approval to be given for the purpose of a municipal recreation park.

- A meeting was held between officials from the Lands Branch and the Department of Tourism, Culture, and Recreation to discuss the matter and consider options. This meeting yielded a possible resolution to the matter. The attendees of the meeting arranged a meeting with representatives from the Town in September 2009.
• Issuing a title to the 15 metre shoreline reserve for the purpose of a park is not a permitted use under the *Lands Act* and therefore the land under Application 134057 was transferred to the Department of Tourism, Culture and Recreation (TCR) so it could be used for a recreation park as part of the Cupids 400 Celebrations in 2010; the title was to expire March 31, 2011. TCR in turn licenced the land to the Town for the purpose of a park and the licence expiry date was March 31, 2011. The transfer to TCR has since been extended to October 31, 2011.

• May 2011, the Town met with Crown Lands regarding their existing Licence and the possibility of acquiring a Crown Grant for the area which was currently held under Licence from TCR and to change the use as a marina.

• The application process was explained to the Town should they wish to proceed with an application for Pointe Beach.

• October 31, 2011, the Licence expired and no further renewals were processed.

• No Crown land application has been submitted to date for Pointe Beach.

**Recommendation:**

• Subsection 7(2)(a) of the *Lands Act* does allow for the grant, lease or licence of Pointe Beach including the 15 metre shoreline reserve if for an industrial undertaking. A commercial marina would classify as such an undertaking.

• The following conditions need to be met prior to an application being taken:
  - An applicant for a grant, lease or licence under subsection 7(2) shall publish a notice of his or her intended application in the *Gazette*, 1 local paper and 1 weekend edition of a paper having general circulation in the province at least 2 months prior to making the application.
  - The notice required shall state the name of the applicant, the exception under which the application is being made, contain a description of the lands in respect of which the application is being made and inform a person who wishes to object to the application that he or she must file the objection with reasons for it with the Minister within 1 month of the publication of the notice.

• Objections received will be taken into consideration as part of the application process. As the Cupids area has been settled since the 1600’s, the possibility exists that although no known Crown titles are currently issued on Pointe Beach, extensive usage has prevailed at this site. The objections that may be anticipated will likely make reference to riparian rights. The Crown is believed to be the only upland owner having riparian rights and as no complaints were registered with regard to the TCR Transfer, agreements based on riparian rights may be challenged by the Crown.

• Once the two (2) month waiting period has past, the Town can make application for Pointe Beach. The application is to be accompanied by an application fee of $113.00 plus an approved Municipal Recommendation Form, as well as a development plan.
• The application will be registered and referred to the appropriate Government Departments for comment and recommendation. These comments and recommendations are reviewed by the Department and a decision made on whether a title can be issued as well as the type of title (grant, Lease or licence) that will be issued and what appropriate fees will apply.

Annexes:
1. Site plan.
2. Location plan.
4. Section 7.

Prepared/Approved by: R. Dicks/Peter Howe, ADM, Bill Parrott, DM
Approved by:
March 9, 2012
1. The "Municipal Recommendation Form" should be completed first, this will ensure the proposed development conforms to the Town’s zoning regulations.

2. Once the Town has approved the development, a "Notice of Intent" under subsection 7(2) the Town shall publish a notice of its intended application in the Gazette, 1 local paper and 1 weekend edition of a paper having general circulation in the province at least 2 months prior to making the application. The notice required shall state the name of the applicant, the exception under which the application is being made, contain a description of the lands in respect of which the application is being made and inform a person who wishes to object to the application that he or she must file the objection with reasons for it with the Minister within 1 month of the publication of the notice.

3. Objections received will be taken into consideration as part of the application process. As the Cupids area has been settled since the 1600’s, the possibility exists that although no known Crown titles are currently issued on Pointe Beach Pond area, extensive usage has prevailed near this site. The objections that may be anticipated will likely make reference to riparian rights or private claims.

4. Those objections will result in two (2) courses of actions.
   i. If riparian rights are expressed, the Town will need written permission from the claimant.
   ii. If the land is under private claim, the application process will be halted until the matter of the private claim is settled.

5. Once the two (2) month waiting period has past, the Town can make application for Pointe Beach. The application is to be accompanied by an application fee of $113.00 plus an approved Municipal Recommendation Form, as well as a development plan.

6. The application will be registered and referred to the appropriate Government Departments for comment and recommendation. These comments and recommendations are reviewed by the Department and a decision made on whether a title can be issued, as well as the type of title (grant, Lease or licence) that will be issued and what appropriate fees will apply.

7. If approved the Town will receive an Approval Letter indicating the location approved, appropriate fees to be paid, and whether a survey will be required.

8. If a survey is required, instructions will be provided to the Town regarding how this process will work. Legislation allows for the survey to be submitted to the Crown within one year and at the Town’s cost.

9. Documents will be created and forwarded to the Town with a request for payment of appropriate fees.
Annex 3

Process Sheet

1. The “Municipal Recommendation Form” should be completed first, this will ensure the proposed development conforms to the Town’s zoning regulations.

2. Once the Town has approved the development, the Town shall publish a “Notice of Intent” under subsection 7 (2)(a) in the Gazette, 1 local paper and 1 weekend edition of a paper having general circulation in the province at least 2 months prior to making the application. The notice required shall state the name of the applicant, the exception under which the application is being made, contain a description of the lands in respect of which the application is being made and inform a person who wishes to object to the application that he or she must file the objection with reasons for it with the Minister within 1 month of the publication of the notice.

3. Once the two (2) month waiting period has past, the Town can make application for Pointe Beach. The application is to be accompanied by an application fee of $113.00 plus an approved Municipal Recommendation Form, as well as a development plan.

4. The application will be registered and referred to the appropriate Government Departments for comment and recommendation. These comments and recommendations are reviewed by the Department and a decision made on whether a title can be issued, as well as the type of title (grant, Lease or licence) that will be issued and what appropriate fees will apply.

5. If approved, the Town will receive an Approval Letter indicating the location approved, appropriate fees to be paid, and whether a survey will be required.

6. If a survey is required, instructions will be provided to the Town regarding how this process will work. Legislation allows for the survey to be submitted to the Crown within one year and at the Town’s cost.

7. Documents will be created and forwarded to the Town with a request for payment of appropriate fees.
Annex 4

THE LANDS ACT

Chapter 36, S.N. 1991, as amended

Reservation of Shorline

7.11 Where Crown lands that border on a lake, pond, river, the seashore or foreshore are granted, leased or licensed under this Part, it is considered, in the absence of an express grant, lease or license of those Crown lands, that a strip of Crown lands not less than 15 metres wide around and adjoining the lake, pond, seashore or foreshore or along each bank of the river was not intended to pass and did not pass to the grantee, lessee or licensee.

(1) Notwithstanding subsection (1), where lands are granted, leased or licensed under this Part

(a) for residential purposes;

(b) for a purpose referred to in Section 9 including the installation of water and sewer works and the construction of public roads by a municipality; or

(c) for the purpose of a grant, lease or licence under a lease, licence or permit to occupy issued before the coming into force of this subsection

the strip of Crown lands around and adjoining the lake, pond, seashore or foreshore or along each bank of the river may be no less than 10 metres wide.

(2) No grant, lease or license of a strip of Crown lands around and adjoining a lake, pond, seashore or foreshore or along each bank of the river that is otherwise reserved under subsection (1) shall be issued without the prior approval of the Lieutenant-Governor in Council and only under the following circumstances.

(a) where an applicant demonstrates that a grant, lease or licence of the land is necessary for the purpose of an industrial undertaking and the grant, lease or licence would not cause undue injury to the rights of others;

(b) to enable a person to carry on aquaculture;

(c) to enable a municipality to engage in water and sewer works and to permit the construction of public roads;

(d) where a structure that is being used as a residence and was erected before the coming into force of this section intrudes on the reservation, to the extent of the intrusion only, and

(e) for the purpose of giving a license only for the construction of boat houses and wharves to the extent that they intrude on the reservation.

(3) A grant, lease or license issued under subsection (2) does not convey exclusive hunting or fishing rights, except as provided by the Aquaculture Act to the grantee, lessee or licensee.

(4) A grant, lease or license issued under paragraph (2)(d) or (e) shall not permit a grantee, lessee or licensee to restrict access to the reservation on the part of the general public by erecting a fence or by other means.

(5) An applicant for a grant, lease or license under subsection (2) shall publish a notice of his or her intended application in the Gazette, a local paper and a weekend edition of a paper having general circulation in the province at least two months prior to making the application.

(6) The notice required by subsection (5) shall state the name of the applicant, the exception under which the application is being made, contain a description of the lands in respect of which the application is being made and inform a person who wishes to object to the application that he or she must file the objection with reasons for it with the Minister within 1 month of the publication of the notice.

(7) The Lieutenant-Governor in Council may include in a grant, lease or license issued under subsection (2) those terms and conditions that the Lieutenant-Governor in Council considers necessary.
Title: Private land claims adjacent to the Saltwater Pond in the Town of Cupids.

Issue: The Town of Cupids wishes to acquire land adjacent to the Saltwater Pond which was filled in by Canadian Government (PWGSC) make-work-projects in the early 1970's and 1980's and portions are now claimed by adverse claimants. The Town of Cupids have requested that the Crown advise them on what portion of this land is considered to be Crown land and what is private land.

Background and Current Status:
• A Group called the Cupids Development Group, Inc., in trust for the Town of Cupids applied for Crown title for a marina in 1998, which incorporated the current adverse land claims. It was at this time that the land claims became an issue.

• A 1988 survey authorized by PWGSC shows the original High Water Mark (HWM), the infilling of land past the HWM and the names of the people who were claiming these lands at the time.

• In November 1998, as a result of the submitted application, an inspection into all possible land claims surrounding the Saltwater Pond was conducted by the Crown Lands Administration Division (CLAD).

• In 1999, were written by the Department stating that they had riparian rights and were entitled to continued and unencumbered access and use of the Saltwater Pond. The letter did not say anything about being the owners of the backfilled portion of the pond.

• Throughout 1999 there was an ongoing dispute concerning who owned the land applied for on the application for the marina. During this time the application remained active.
- The Crown required the Town to provide an acceptable survey by June 2000. The survey submitted included the two disputed properties that were subject to a Court action between the Town of Cupids and claimants and could not be included in the application until the Town committed to revive the court case to provide resolution to the ownership issue. The law firm acting on behalf of the Town indicates this file is not active.

- In July 2002, the Town told the claimants that it would not proceed with a lease on the land in question but suggested the beach would be beautified through a Licence to Occupy. This was decided at a meeting held between the Town and Honourable Walter Noel, Minister responsible.

- In August 2002, the Harbour Authority told Council that in order to get funding for the upgrades they would need a lease not a licence.

- At a meeting in October 2002, the Town Council decided to continue with the land included in the survey in 2001 by which included the infilled land adjacent to the property owners. This resulted once again in the Cupids Salt Water Pond Private Land Owners Committee expressing their negative concerns for the development.

- In January 2003, Mr. Peter Howe, Manager of Crown Lands Administration, and Mr. Wayne Boggan, Director of Crown Lands Administration, visited Cupids to meet with all parties involved to see if some common ground could be found. The Land Owners Committee expressed their objection to issuing a lease but would agree to a Licence to Occupy to upgrade the cribbing and beach beautification. The Town would not agree and said that they wanted to proceed with the lease.

- In July 2003, a letter was sent to the Town from Honourable George Sweeney, Minister responsible at the time, stating that a Licence to Occupy would suffice in order to obtain federal funding.

- Very little correspondence occurred between 2003 and 2009 until the Town submitted a new application for a recreational park on the Pointe Beach area only. Since this application was for a different purpose and location, the Crown requested that a new application be submitted with new advertisements, as required under Section 7 of the Lands Act, because the application included the shoreline reservation.

- Application number 134057 replaced the old application number 116233 and did not include any land involving adverse land claims.

- Issuing a title to the 15 metre shoreline reserve for the purpose of a park is not a permitted use under the Lands Act and therefore the application for the Town was cancelled.
• The land under Application 134057 was transferred to the Department of Tourism, Culture and Recreation (TCR) so it could be used for a recreation park as part of the Cupids 400 Celebrations in 2010; the title was to expire March 31, 2011. TCR in turn licenced the land to the Town for the purpose of a park and the licence expiry date was March 31, 2011. The transfer to Tourism, Culture and Recreation has since been extended to October 31, 2011.

• In February 2011, the Town requested to meet with CLAD regarding two issues. One being the renewal of their existing Licence and the second being the expropriation process for the land being privately claimed adjacent to the pond.

• The Town’s lawyer put in a formal request for the Crown to investigate whether the Crown is the owner of the lands in question.

• A meeting with the Town of Cupids was held on March 21, 2011 at the Howley Building regarding their requests. It was agreed Crown Lands would conduct further investigations regarding the private claims.

• The investigations needed to determine the location of the original high water mark prior to the infilling that occurred in the 1970’s so that valid private claims could be identified.

• The infilled land area outside the original High Water Mark was determined relative to each claimant's assertion of ownership.

Analysis:
• Settled in 1610, Cupid's is the site of the first English settlement in Canada. The portion of the four parcels in question from the Road to the original HWM is not Crown Land.
Annexes:
1. Site plan.
2. Location plan.
3. Two old photos taken in the area (circa 1955 and undated).
5. Map of Original High Water Mark (OHWM) compiled by Cadastral Mapping Section.
6. Plotted surveys overlaid on OHWM.
7. Maps of each individual Claimants land outside of OHWM.

Attachment:
1. Public Section 25 Notice.
2. Section 25 Notices for four claimants.

Prepared/Approved by: D. McCarthy/R. Dicks/Peter Howe, ADM, Bill Parrott, DM
Approved by: October 12, 2011
Green Line represents the Original HWM from 1966 Aerial Photo
NOTICE

Take notice that her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all those pieces of land situated and being at Saltwater Pond, Cupids, in the District of Harbour Main-Whitbourne, as outlined on the attached Schedule, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statues of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of receiving this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John’s, NL, Telephone: 729-2654, Fax: 729-0726.

ROSS WISEMAN
Minister of Department of Environment and Conservation
NOTICE

Take notice that her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all that piece of land situated and being at Cupids, in the District of Harbour Main-Whitbourne, as outlined on the attached Schedule A, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statues of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the publishing of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John's, NL, Telephone: 729-2654, Fax: 729-0726.

PETER HOWE
Assistant Deputy Minister (Lands)
NOTICE

Take notice that her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all that piece of land situated and being at Cupids, in the District of Harbour Main-Whitbourne, as outlined on the attached Schedule A, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the publishing of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John’s, NL, Telephone: 729-2654, Fax: 729-0726.

PETER HOWE
Assistant Deputy Minister (Lands)
Take notice that her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all that piece of land situated and being at Cupids, in the District of Harbour Main-Whitbourne, as outlined on the attached Schedule A, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the publishing of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John’s, NL, Telephone: 729-2654, Fax: 729-0726.

PETER HOWE
Assistant Deputy Minister (Lands)
NOTICE

Take notice that Her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all that piece of land situated and being at Cupids, in the District of Harbour Main-Whitbourne, as outlined on the attached Schedule A, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statues of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quietting of Titles Act to have his or her title judicially investigated within sixty (60) days of the publishing of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quietting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John's, NL, Telephone: 729-2654, Fax: 729-0726.

PETER HOWE
Assistant Deputy Minister (Lands)
Information Note
Department of Environment and Conservation

Title: Private land claims adjacent to the Saltwater Pond in the Town of Cupids.

Issue: The Town of Cupids wishes to acquire land adjacent to the Saltwater Pond which was filled in by Canadian Government (PWGSC) make-work-projects in the early 1970's and 1980's and portions are now claimed by adverse claimants. The Town of Cupids have requested that the Crown advise them on what portion of this land is considered to be Crown land and what is private land.

Background and Current Status:
• A Group called the Cupids Development Group, Inc., in trust for the Town of Cupids applied for Crown title for a marina in 1998, which incorporated the current adverse land claims. It was at this time that the land claims became an issue.
• A 1988 survey authorized by PWGSC shows the original High Water Mark (HWM), the infilling of land past the HWM and the names of the people who were claiming these lands at the time.
• In November 1998, as a result of the submitted application, an inspection into all possible land claims surrounding the Saltwater Pond was conducted by the Crown Lands Administration Division (CLAD).
• In 1999, were written by the Department stating that they had riparian rights and were entitled to continued and unencumbered access and use of the Saltwater Pond. The letter did not say anything about being the owners of the backfilled portion of the pond.
• In 1999, were written by the Department stating the land that they were claiming had not been alienated from the Crown however their access to and use of the pond would not be restricted.
• No Section 25 Notices were ever served on the four claimants.
• Throughout 1999 there was an ongoing dispute concerning who owned the land applied for on the application for the marina. During this time the application remained active.
• The Crown required the Town to provide an acceptable survey by June 2000. The survey submitted included the two disputed properties that were subject to a Court action between the Town of Cupids and claimants and could not be included in the application until the Town committed to revive the court case to provide resolution to the ownership issue. The law firm acting on behalf of the Town indicates this file is not active.
• In July 2002, the Town told the claimants that it would not proceed with a lease on the land in question but suggested the beach would be beautified through a Licence to Occupy. This was decided at a meeting held between the Town and the Minister responsible.
• In August 2002, the Harbour Authority told Council that in order to get funding for the upgrades they would need a lease not a licence.
At a meeting in October 2002, the Town Council decided to continue with the land included in the survey in 2001 by [redacted], which included the infilled land adjacent to the property owners. This resulted once again in the Cupids Salt Water Pond Private Land Owners Committee expressing their negative concerns for the development.

In January 2003, 2 senior officials with Crown Lands Administration visited Cupids to meet with all parties involved to see if some common ground could be found. The Land Owners Committee expressed their objection to issuing a lease but would agree to a Licence to Occupy to upgrade the cribbing and beach beautification. The Town would not agree and said that they wanted to proceed with the lease.

In July 2003, a letter was sent to the Town from the Minister responsible stating that a Licence to Occupy would suffice in order to obtain federal funding.

Very little correspondence occurred between 2003 and 2009 until the Town submitted a new application for a recreational park on the Pointe Beach area only. Since this application was for a different purpose and location, the Crown requested that a new application be submitted with new advertisements, as required under Section 7 of the Lands Act, because the application included the shoreline reservation.

Application number 134057 replaced the old application number 116233 and did not include any land involving adverse land claims.

Issuing a title to the 15 metre shoreline reserve for the purpose of a park is not a permitted use under the Lands Act and therefore the application for the Town was cancelled.

The land under Application 134057 was transferred to the Department of Tourism, Culture and Recreation (TCR) so it could be used for a recreation park as part of the Cupids 400 Celebrations in 2010; the title was to expire March 31, 2011. TCR in turn licenced the land to the Town for the purpose of a park and the licence expiry date was March 31, 2011. The transfer to Tourism, Culture and Recreation was extended to October 31, 2011, and has since been cancelled.

In February 2011, the Town requested to meet with CLAD regarding two issues. One being the renewal of their existing Licence and the second being the expropriation process for the land being privately claimed adjacent to the pond.

The Town’s lawyer put in a formal request for the Crown to investigate whether the Crown is the owner of the lands in question.

A meeting with the Town of Cupids was held on March 21, 2011 at the Howley Building regarding their requests. It was agreed Crown Lands would conduct further investigations regarding the private claims.

The investigations needed to determine the location of the original high water mark prior to the infilling that occurred in the 1970’s so that valid private claims could be identified.

The infilled land area outside the original High Water Mark was determined relative to each claimants’ assertion of ownership.

ENVC has written and advised the Town via its lawyer of those lands considered to be Crown land and those that are not.
Analysis:
- Settled in 1610, Cupid's is the site of the first English settlement in Canada. The portion of the four parcels in question from the Road to the original HWM is not Crown Land.
- The Town sought ENVC's intervention to identify Crown versus private land in the area so that the Town may pursue an expropriation of the private lands.

Alternatives:
1. Section 29(1)(a)
Recommendation(s):
- ENVC has consulted with its Solicitor, Ms. Dianne Smith, Q.C., and #3 is the recommended course of action.
- Meet with the Town of Cupids and present #3 as ENVC's position.
- Outline the process to the Town of Cupids in writing.

Prepared/Approved by: R. Dicks/Peter Howe, ADM, Bill Parrott, DM
Approved by: October 25, 2012
I write in response to your letter dated August 16, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town’s approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file with the application recently received from the Town. The concerns outlined in your letter will be considered before a final decision is made.

If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John’s, NL, A1B 4J6, telephone: (709) 729 – 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
July 12, 2012

Dear [Name],

At the regular Council meeting held on July 10, 2012, Council instructed that I write to you to request that you remove the equipment stored on the land adjacent to the Salt Water Pond. Council wishes to advise that they consider this to be town property and it is very unsightly to have your equipment stored there.

Thank you for your co-operation in this matter.

Sincerely,

Ivy King
Town Clerk
(for) the Town of Cupids

/ik
Dear [Name],

I write in response to your undated letter to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town’s approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

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Sincerely,

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
    Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Omitted Name]

I write in response to your letter dated August 18, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act, applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town's approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

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Sincerely,

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
    Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Redacted]

I write in response to your letter dated August 12, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town's approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

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Sincerely,

[Signature]

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
    Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
I write in response to your letter dated August 20, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act, applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town's approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

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If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John's, NL, A1B 4J6, telephone: (709) 729 - 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
    Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Name],

I write in response to your letter dated August 13, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town's approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file with the application recently received from the Town. The concerns outlined in your letter will be considered before a final decision is made.

If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John's, NL, A1B 4J6, telephone: (709) 729-2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
I write in response to your undated letter to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town's approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file with the application recently received from the Town. The concerns outlined in your letter will be considered before a final decision is made.

If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John's, NL, A1B 4J6, telephone: (709) 729 - 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Name],

As the Minister responsible for Crown Lands, I have been asked by Honourable Kathy Dunderdale, Premier of Newfoundland and Labrador, to respond on her behalf to your letter received on August 15, 2012, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

Under Section 7 of the Lands Act (concerning the shoreline reservation) the Town of Cupids must wait two months after the last publication date of the Notice of Intent before a Crown land application can be submitted. Presently, this Office has not received an application for this site.

Applications for Crown land within the Town must be in conformity with the Town’s approved municipal plan. For any exceptions which you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file and should an application from the Town be received, the concerns outlined in your letter will be considered before a final decision is made.

If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John’s, NL A1B 4J6, telephone: (709) 729-2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSON, MHA
Harbour Main District
Minister

cc: Honourable Kathy Dunderdale, Premier of Newfoundland and Labrador
Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
I write in response to your letter dated August 18, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town's approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file with the application recently received from the Town. The concerns outlined in your letter will be considered before a final decision is made.

If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John's, NL, A1B 4J6, telephone: (709) 729 - 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSO, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
    Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Name],

I write in response to your letter dated August 17, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town’s approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

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If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John’s, NL, A1B 4J6, telephone: (709) 729 – 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

[Signature]

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Redacted]

I write in response to your letter dated October 29, 2012, regarding the Notice of Intent published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

Under Section 7 of the Lands Act (concerning the shoreline reservation) the Town of Cupids must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. Presently, this Office has not received an application for this site.

Applications for Crown land within the Town must be in conformity with the Town’s approved municipal plan. For any exceptions that you may have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

If and when an application is received, the application will be distributed for review and recommendations through the Crown Lands referral process to all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

The expropriation of privately owned land does not fall under the authority of Department of Environment and Conservation, and approval to do so must come from the Department of Municipal Affairs.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file and should an application from the Town be received, the concerns outlined in your letter will be considered before a final decision is made.
If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John's, NL A1B 4J6, telephone: (709) 729 – 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSON, MHA
Harbour Main District
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Name]

I write in response to your letter received August 30, 2012, to the former Minister responsible for Crown lands in the Province, concerning the Notice of Intent that was published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

In accordance with the provisions of Section 7 of the Lands Act, applicants must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can be submitted. In addition, applications for Crown land within the Town must be in conformity with the Town’s approved municipal plan. For any exceptions that you might have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

Applications for Crown land are distributed for review and approval through the Crown Lands referral process, which includes all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file with the application recently received from the Town. The concerns outlined in your letter will be considered before a final decision is made.

If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John’s, NL, A1B 4J6, telephone: (709) 729 - 2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

TOM HEDDERSON, MHA
Harbour Main
Minister

cc: Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Dear [Name] (redacted),

I write in response to your letter dated August 20, 2012, regarding the Notice of Intent published by the Town of Cupids for a Marina at Pointe Beach, Saltwater Pond, Cupids.

Under Section 7 of the Lands Act (concerning the shoreline reservation) the Town of Cupids must wait two (2) months after the last publication date of the Notice of Intent before a Crown land application can submitted. Presently, this Office has not received an application for this site.

Applications for Crown land within the Town must be in conformity with the Town's approved municipal plan. For any exceptions that you may have with the Town of Cupids concerning issues pertaining to land use, zoning and development, it is recommended that you contact the Department of Municipal Affairs.

If and when an application is received, the application will be distributed for review and recommendations through the Crown Lands referral process to all government departments and agencies with a mandate or interest related to the proposal. If approvals are obtained from these referrals, then the application may be approved.

Your letter has been forwarded to the Eastern Regional Lands Office to be placed on file and should an application from the Town be received, the concerns outlined in your letter will be considered before a final decision is made.

If you have any further questions concerning this matter, please contact Mr. Steve Barnable, Regional Lands Manager, Eastern Regional Lands Office, Howley Building, Higgins Line, St. John's, NL A1B 4J6, telephone: (709) 729-2654 or email: stevebarnable@gov.nl.ca.

Sincerely,

[Signature]

TOM LEDGERSON, MHA
Harbour Main District Minister

cc: Mr. Steve Barnable, Regional Lands Manager
Mr. Corrie Davis, Manager, Land Use, Municipal Affairs
Title: Issuance of a Title at Pointe Beach to the Town of Cupids

Issue: The Town of Cupids wishes to acquire title to land at Pointe Beach. The land was under Licence to the Town from the Department of Tourism Culture and Recreation. The term of the title has expired and the Licence is regarded as "Terminated".

Background and Current Status:
- Pointe Beach is a peninsula within the waters of Conception Bay running from the shoreline of the Town of Cupids out into the ocean and creating an inner harbour called Saltwater Pond.
- April 14, 2009, the Town of Cupids advertised in The Compass a Notice of Intent as required in the Lands Act indicating its intention to apply for the lands encompassing Pointe Beach for the purposes of a Day Use Park. A similar Notice was advertised on April 15th and 17th, 2009 in both the Telegram and the Newfoundland Gazette respectively.
- As a result of the advertisements, several letters of objection were filed with the Minister responsible for Crown Lands.
- June 19, 2009, the Town of Cupids applied for Pointe Beach under application number 134057 for the purposes of a Day Use Park in conjunction with the Cupids 400 Celebrations.
- As part of the application process, the application was referred to six (6) Government Departments for comment. All Departments approved the proposal and the application was put forward to the Regional Lands Committee for review.
- The review of the application determined that the published Notice of Intent stated that the Town would be applying for Crown land located within 15 metres of the waters of Cupids Harbour pursuant to subsection 7(1.1)(b) of the Lands Act. This was erroneous since that subsection only outlines those exceptions for which the shoreline reservation can be reduced from 15 metres to 10 metres. That subsection is not the part of Section 7 that gives the authority to issue a lease, licence or grant for a specific use. Furthermore, a review of subsection 7(2) has determined that it contains nothing to allow for approval to be given for the purpose of a municipal recreation park.
- A meeting was held between officials from the Lands Branch and the Department of Tourism, Culture, and Recreation to discuss the matter and consider options. This meeting yielded a possible resolution to the matter. The attendees of the meeting arranged a meeting with representatives from the Town in September 2009.
• Issuing a title to the 15 metre shoreline reserve for the purpose of a park is not a permitted use under the Lands Act and therefore the land under Application 134057 was transferred to the Department of Tourism, Culture and Recreation (TCR) so it could be used for a recreation park as part of the Cupids 400 Celebrations in 2010; the title was to expire March 31, 2011. TCR in turn licenced the land to the Town for the purpose of a park and the licence expiry date was March 31, 2011. The transfer to TCR has since been extended to October 31, 2011.

• May 2011, the Town met with Crown Lands regarding their existing Licence and the possibility of acquiring a Crown Grant for the area which was currently held under Licence from TCR and to change the use as a marina.

• The application process was explained to the Town should they wish to proceed with an application for Pointe Beach.

• October 31, 2011, the Licence expired and no further renewals were processed.

• On April 11, 2012, a complaint was received from alleging that the Town is operating a commercial marina at Pointe Beach, without a licence/permit in place. declared his objection to the charging of fees and the imposition of regulations and has requested that the Department take action against the Town.

• The Provincial Transfer to Tourism, Culture and Recreation was cancelled on January 1, 2012.

• In discussions with representatives of the Eastern Regional Lands Office, Council members have expressed that they wish to use the site for a “Marina and Day Use Park”. Park infrastructure has been placed on site and complainants have asked for its removal.

• To date an application has not been received from the Town of Cupids for the site.

Analysis:

• A “Day Use Park” is not a use that can be accommodated under Section 7 of the Lands Act.

Annexes:

1. Site plan.
2. Location plan.

Prepared/Approved by: R. Dicks/Peter Howe, ADM, Bill Parrott, DM
Approved by:
April 26, 2012
Title: Private land claims adjacent to the Saltwater Pond in the Town of Cupids.

Issue: The Town of Cupids wishes to acquire land adjacent to the Saltwater Pond which was filled in by Canadian Government (PWGSC) employment projects in the early 1970's and 1980's and portions are now claimed by adverse claimants. The Town of Cupids has requested that the Crown advise them on what portion of this land is considered to be Crown land and what is considered to be private land.

Background and Current Status:
- A Group called the Cupids Development Group, Inc., in trust for the Town of Cupids applied for Crown title for a marina in 1998, which incorporated the current adverse land claims. It was at this time that the land claims became an issue.
- A 1988 survey authorized by PWGSC shows the original high water mark (HWM), the infilling of land past the HWM and the names of the people who were claiming these lands at the time.
- In November 1998, as a result of the submitted application, an inspection into all possible land claims surrounding the Saltwater Pond was conducted by the Crown Lands Administration Division (CLAD).
- No Section 25 Notices were ever served on the five claimants and the five properties remain today.
- In 1999, were written by the Department stating that they had riparian rights and were entitled to continued and unencumbered access and use of the Saltwater Pond. The letter did not say anything about being the owners of the backfilled portion of the pond.
- In 1999, were written by the Department stating the land that they were claiming had not been alienated from the Crown however their access to and use of the pond would not be restricted.
- Throughout 1999 there was an ongoing dispute concerning who owned the land applied for on the application for the marina. During this time the application remained active.
- The Crown required that the Town provide an acceptable survey by June 2000. The survey submitted included the two disputed properties that were subject to a Court action between the Town of Cupids and claimants and could not be included in the
application until the Town committed to revive the court case to provide resolution to the ownership issue. The law firm acting on behalf of the Town indicates this file is not active.

- In July 2002, the Town told the claimants that it would not proceed with a lease on the land in question but suggested the beach would be beautified through a Licence to Occupy. This was decided at a meeting held between the Town and the Minister responsible.

- In August 2002, the Harbour Authority told Council that in order to get funding for the upgrades they would need a lease not a licence.

- At a meeting in October 2002, the Town Council decided to continue with the land included in the survey in 2001 by which included the infilled land adjacent to the property owners. This resulted once again in the Cupids Salt Water Pond Private Land Owners Committee expressing their negative concerns for the development.

- In January 2003, two senior officials with CLAD visited Cupids to meet with all parties involved to see if some common ground could be found. The Land Owners Committee expressed their objection to issuing a lease but would agree to a Licence to Occupy to upgrade the cribbing and beach beautification. The Town would not agree and said that they wanted to proceed with the lease.

- In July 2003, a letter was sent to the Town from the Minister responsible stating that a Licence to Occupy would suffice in order to obtain federal funding.

- Very little correspondence occurred between 2003 and 2009 until the Town submitted a new application for a recreational park on the Pointe Beach area only. Since this application was for a different purpose and location, the Crown requested that a new application be submitted with new advertisements, as required under Section 7 of the Lands Act, because the application included the shoreline reservation.

- Application number 134057 replaced the old application number 116233 and did not include any land involving adverse land claims.

- Issuing a title to the 15 metre shoreline reserve for the purpose of a park is not a permitted use under the Lands Act and therefore the application for the Town was cancelled.

- The land under Application 134057 was transferred to the Department of Tourism, Culture and Recreation (TCR) so it could be used for a recreation park as part of the Cupids 400 Celebrations in 2010; the title was to expire March 31, 2011. TCR in turn licenced the land to the Town for the purpose of a park and the licence expiry date was March 31, 2011. The transfer to Tourism, Culture and Recreation was extended to October 31, 2011, and has since been cancelled.

- In February 2011, the Town requested to meet with CLAD regarding two issues. One being the renewal of their existing Licence and the second being the expropriation process for the land being privately claimed adjacent to the pond.
• The Town’s lawyer put in a formal request for the Crown to investigate whether the Crown is the owner of the lands in question.

• A meeting with the Town of Cupids was held on March 21, 2011 at the Howley Building regarding their requests. It was agreed Crown Lands would conduct further investigations regarding the private claims.

• Since that time the Town has related that ______. To date ______ has not presented any ownership documents to the Town and the dimensions are unknown. The ______ has been in place since the early 1980’s with no adverse claim presented. The land in question is within the inner harbour encircled by the Pointe Beach and the claim would need to be addressed within the framework of resolution outlined in the proposed actions.

• Investigation was needed to determine the location of the original high water mark prior to the infilling that occurred in the 1970’s so that valid private claims could be identified.

• The infilled land area outside the original HWM was determined relative to each claimants’ assertion of ownership.

• ENVC has written and advised the Town via its lawyer of those lands considered to be Crown land and those that are not.

Analysis:

• Settled in 1610, Cupid’s is the site of the first English settlement in Canada. The portion of the five parcels in question from the Road to the original HWM is not Crown Land.

Action Being Taken:

• The Town sought MIGA’s intervention to identify Crown versus private land in the area so that the Town may pursue an expropriation of the private lands.
Annexes:
1. Site plan.
2. Location plan.
3. Two old photos taken in the area (circa 1955 and undated).
5. Map of Original High Water Mark (OHWM) compiled by Cadastral Mapping Section.
6. Plotted surveys overlaid on OHWM.
7. Maps of each individual Claimants land outside of OHWM.

Prepared/Approved by: S. Barnable/M. Meaney/P. Howe

Ministerial Approval:
July 2, 2015
NOTICE

Take notice that her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all those pieces of land situated and being at Saltwater Pond, Cupids, in the District of Harbour Main-Whitbourne, as outlined on the attached Schedule A, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of receiving this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John's, NL, Telephone: 729-2654, Fax: 729-0726.

KEITH HUTCHINGS, MHA
District of Ferryland
Minister of Municipal and Intergovernmental Affairs
NOTICE

Take notice that her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all that piece of land situated and being at Cupids, in the District of Harbour Main-Whitbourne as outlined on the attached Schedule A, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the receipt of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

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PETER HOWE
Assistant Deputy Minister (Lands)
NOTICE

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Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the receipt of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John's, NL, Telephone: 729-2654, Fax: 729-0726.

PETER HOWE
Assistant Deputy Minister (Lands)
NOTICE

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Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the receipt of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

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PETER HOWE
Assistant Deputy Minister (Lands)
NOTICE

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Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the receipt of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

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PETER HOWE
Assistant Deputy Minister (Lands)
NOTICE

Take notice that Her Majesty the Queen in Right of Newfoundland & Labrador claims to be owner of all that piece of land situated and being at Cupids, in the District of Harbour Main-Whitbourne as outlined on the attached Schedule A, by virtue of the said land being Crown Land.

Under the provisions of Section 25 of the Lands Act, Chapter 36, Statutes of Newfoundland & Labrador 1991, as amended, any person having an adverse claim to the title claimed by Her Majesty the Queen in Right of Newfoundland & Labrador shall make application under The Quieting of Titles Act to have his or her title judicially investigated within sixty (60) days of the receipt of this notice. If an application is not made, any claim that the adverse claimant may have is barred and the claimant has no right to make an application under The Quieting of Titles Act, or this or any other Act or law in respect to the lands that are the subject of this notice.

Further information or clarification may be obtained by contacting the Regional Lands Manager, Eastern Regional office, St. John’s, NL, Telephone: 729-2654, Fax: 729-0726.

PETER HOWE
Assistant Deputy Minister (Lands)
Ministerial Brief Note
Dept. of Environment and Conservation

Title: Town of Cupids App. No. 134057

Issue:
The Town of Cupids wishes to obtain title to Crown land (ie Pointe Beach) at Cupids which includes the shoreline reservation.

Background:
- In April, 2009, the Town of Cupids published a Notice of Intent to apply for Crown land including the 15 metre shoreline reservation located at Cupids for the purpose of a day use park with the construction of a stage, boardwalks, and day use facilities pursuant to Subsection 7(1.1)(b) of the Lands Act.
- The only object filed within one month of publication was from Quin-Sea Fisheries Limited regarding the existing water line for the fish plant that extended through the land.
- Application was made and registered on June 19, 2009, at the Eastern Regional Lands Office.
- Referrals were sent as part of the Application Referral Process and all were approved.
- When preparing application for final approval it was discovered that the Notice of Intent referred to the incorrect section of the Lands Act and that, in fact, a grant could not be issued for a municipal park under Section 7 of the Act.
- There have been several recent letters and phone calls from residents and boat owners in Cupids expressing concern that if the Town is granted Pointe Beach, it will become a marina and fees will be charged for berths, launching, etc.
- A recent meeting with executive from Lands Branch and Department of Tourism, Culture and Recreation discussed the possible options to accommodate the Town’s need to acquire title to Pointe Beach.

Synopsis:
- The Town of Cupids has applied for a grant under Section 7 of the Lands Act for a municipal park, however, this is not a use for which a grant can be issued under that section.
- The Town requires title to Pointe Beach in order to proceed with the planned Cupids 400 celebrations.
- Since a grant cannot be issued, the only option would be to issue a Transfer of the land to Department of Tourism, Culture, and Recreation and that Department would issue a lease under Subsection 15 (2)(b) of the Executive Council Act to the Town.
- Some locals and boat owners in Cupids are opposed to the Town being issued a grant to Pointe Beach.

Recommendations:
- Executive from Lands Branch and Department of Tourism, Culture and Recreation meet with the Town of Cupids and advise that a grant cannot be issued pursuant to the Notice of Intent but that a lease can be issued by that department.
If the Town agrees, issue a Transfer of the land to Department of Tourism, Culture, and Recreation and that Department issue a lease under Subsection 15 (2)(b) of the Executive Council Act to the Town. The lease would be for a term ending on March 31, 2011, the date at which Cupids 400 Inc. ceases to exist, and would contain a clause stating that, when the lease expires, the land shall be restored to a condition suitable to the Minister.

The Town be advised that it can apply for a grant to the land, but that would require a new published Notice of Intent for a purpose consistent with Subsection 7(2) of the Lands Act.

Annexes:
1. Site plan.
2. Location map.
3. Copy of Notice of Intent.
4. Copy of application no. 134057.
5. Copy of Section 7 of the Lands Act.
6. Copy of Section 15 of the Executive Council Act.

Prepared by: Wayne Dawe
Date: 2009-08-31

Approved by:
Date:
Title: Community issues that may be raised during the 2015 Municipalities Newfoundland and Labrador (MNL) convention

Background and Current Status:

Issues across Multiple Regions: non-responsive, Section 29(1)(a)
Issue: Expropriation of lands in the inner harbour (Saltwater Pond and Pointe Beach) for future development

- The Town of Cupids uses Pointe Beach for public events and festivals. The town plans to construct a marina adjacent to it and around Saltwater Pond. A Crown Lands grant was issued in October 2014 for this purpose.
- Upon the town’s request, the MIGA Lands Branch identified Crown lands in the area (primarily harbour infilling along the shoreline), versus private lands (adjacent upland parcels) to facilitate the town’s expropriation of the private lands.
- A council may expropriate lands for municipal purposes subject to the approval of the minister in accordance with the Urban and Rural Planning Act, 2000. In September 2015, the town submitted a letter to MIGA requesting the minister’s approval to proceed with expropriation of the privately claimed parcels; however, it did not include all the required documentation.
- MIGA requires the following documentation to support an expropriation request: surveys of the lands to be expropriated that are certified by a NL land surveyor; copies of motions of council to expropriate the specific lands subject to the approval of the minister; clear demonstration that council has authority provided by the Municipalities Act, 1999 to use the lands in the manner that they propose; and documentation of council’s attempts to acquire lands through negotiation.

- MIGA officials scheduled a meeting with the town on October 29, 2015 to clarify the details of the expropriations and to advise the town of the required documentation to proceed. However, the meeting was cancelled by the town. A new meeting has not been scheduled.
Meeting Note
Department of Municipal Affairs
Town of Cupids
4th Floor, Main Boardroom
10:30 am, 31 July 2013

Attendees: Minister Kevin O'Brien
Minister Tom Hedderson
Mr. Ross Dawe, Mayor
Mr. Harold Akerman, Deputy Mayor

Municipal Affairs Officials: Colleen Janes, Deputy Minister; Hugh Donnan, Director of Communications; Justin Hewitt, Executive Assistant to Minister O'Brien; Corrie Davis/Geraldine Lynch, Land Use Planning Division;

Environment and Conservation Officials: Robert Dicks, Director of Crown Lands; Sharon Vokey, Executive Assistant to Minister Hedderson; Jody Morrissey, Constituency Assistant, Harbour Main;

Purpose of Meeting: The primary purpose of the meeting is to discuss Pointe Beach and the Municipal Plan, however

Section 29(1)(a), non responsive

Agenda Item 1: Pointe Beach and the Municipal Plan

- The town uses Pointe Beach for public events and festivals and they want to develop a marina near it and around Saltwater Pond.
- The town applied for Crown Land and requested ministerial approval (Minister O'Brien) to expropriate private lands in order to develop the area.
- The town’s Municipal Plan and Development Regulations prohibit marina uses on Pointe Beach and around Saltwater Pond. This area is designated as rural and the Cupids rural zoning does not allow for transportation uses.
- On 22 January 2013, Minister O'Brien advised the town that they would have to amend their Municipal Plan and Development Regulations if they wished to develop the area. The necessary amendment would entail adding “transportation use” as a permitted use to the rural zone.
- The Urban and Rural Planning Act, 2000 establishes the amendment process.
- The amendment process includes stakeholder consultations and towns are responsible for the costs associated with the amendment process including:
  - Hiring a planning consultant to prepare and certify the amendment documents;
  - Publishing notices in local newspapers; and
  - Hiring a commissioner to conduct a public hearing.
- The town undertook the amendment process and appointed a commissioner, Mr. Tom Strickland, who recommended the town proceed with the amendment as proposed.
- The town accepted the commissioner's recommendation and on 13 May 2013, submitted the amendment to the department for registration pursuant to Section 24 of the Urban and Rural Planning Act, 2000.
- On 31 May 2013 Municipal Affairs sought legal advice from The Department of Justice due to allegations by residents that the amendment process violated their rights under the Charter. The town is aware of these allegations.
Section 29(1)(a), non responsive

Prepared / Compiled / Approved by: C. Davis, J. Dawe, A. Wright, C. Mercer, C. Janes
25 July 2013
Meeting Note
Department of Municipal and Intergovernmental Affairs
Town of Cupids
Executive Boardroom
11:00 a.m., 8 April 2015

Attendees: Minister Keith Hutchings; Council Members
MIGA Officials: Peter Howe

Purpose of Meeting: To discuss a variety of council issues.

Background:
• The Town of Cupids (the town) is located in the Harbour Main district.
• The town's mayor is Harold Ackerman and council has a complement of seven.
• According to the department's internal database, the 2011 population was 761.
• Eastern Regional Office advises their Debt Service Ratio is 1.94 per cent.
• The town's Municipal Operating Grant is $77,086.
• The town's allocation under the 2014-2019 Gas Tax Agreement is $198,438.
• The town applied for $45,400 under the 2014-2015 CEEP for Community Centre Upgrades. No funding was approved for this project.
• Since 1 April 2012, the town has received the following in Special Assistance funding:
  o 2013/14 - $800 - Water Workshop Grants
  o 2014/15 - $1000 - 50th Anniversary of Incorporation Grant
• The town was funded for the following MCW projects since April 2012:

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<th>Program</th>
<th>Project Title</th>
<th>Approved Funding</th>
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<th>Municipal Share</th>
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<td>New Town Hall - full approval</td>
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<td>150,000</td>
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<td>43,009</td>
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Agenda Item 1: Expropriation of Land - Saltwater Pond and Pointe Beach
• The town uses Pointe Beach for public events and festivals and plans to develop a marina adjacent to it and around Saltwater Pond.
• The town has future plans for upgrading and development along the inner harbour (known as Saltwater Pond) and is seeking to acquire these lands. The land is comprised of Crown lands and privately owned land.
- Assistance from the Lands Branch was sought by the town when the Branch was with ENVC to identify Crown lands (primarily harbour infilling along the shoreline) versus private land (adjacent upland parcels) to facilitate the town's expropriation of the private lands.
- The town requested Ministerial approval to expropriate the private lands around Saltwater Pond in 2012 and 2013. At the time, the proposed use of the land was inconsistent with the town's Municipal Plan.
- The town amended its Municipal Plan to allow for marina uses on Pointe Beach and around Saltwater Pond in 2013.
- The town is concerned that the road access to Pointe Beach is on land that may be subject to a private land ownership claim.
- Council can, with the approval of the Minister, expropriate lands for roads to ensure public access to Pointe Beach.
- A Crown lands application for the Pointe Beach was approved by the Lieutenant Governor in Council and subsequently granted under Vol. 324 Fol. 85 on October 29, 2014.
- The town has not advised the department about the specific lands they wish to expropriate.
- A Council may expropriate land for a municipal purpose, subject to the approval of the Minister of Municipal and Intergovernmental Affairs in accordance with the Urban and Rural Planning Act, 2000.
- The Department would need the following to support an expropriation request:
  - Surveys of the lands to be expropriated prepared and certified by a Newfoundland Land Surveyor;
  - Copies of Motions of Council to expropriate the specific lands subject to the Approval of the Minister;
  - Clear demonstration that Council has authority provided by the Municipalities Act, 1999 to use the lands in the manner that they propose; and
  - Documentation that clearly demonstrates why expropriation is necessary as a means to acquire the land. The legislation allows for expropriation only where a property owner is unknown, unwilling, or unable to transfer title to the town.
- In addition to the request for approval for expropriation to the private lands, four private land owners are also claiming lands that were infilled in the inner harbour, which has been determined to be Crown lands. The town was provided a map outlining those lands that were considered to be Crown lands and those considered to be privately owned.
- There has been considerable opposition over the years by some local land owners and boat owners to the town's plans to develop the area of Pointe Beach and Saltwater Pond for the purpose of a marina.
Agenda Item 2: Crown Land Issue by Town's Section 40 (1)

- The town has advised Crown Lands of issues related to its proposed marina. One issue brought to the department's attention is that of Section 40 (1) of the town. The Lands Branch has not been contacted by the town. The branch has been in place since the early 1980s with no adverse claim presented to the town. The land in question is within the inner harbour (Saltwater Pond). This site was reviewed by Crown Lands within the overall inner harbour area reviewed to determine whether or not these lands are Crown lands. This review was based solely on a review of air photos and mapping. No documentation has been provided to Crown Lands by the town for review regarding a claim to these lands. 

- Section 40 (1) will need to be contacted to provide any information or documentation to substantiate a claim to the lands.

Potential Speaking Points:

- non responsive, Section 29(1)(a)
Section 29(1)(a)
Title: Municipal Acquisition of Crown Land for Commercial Marina – Town of Cupids

Issue: The Town of Council of Cupids is seeking approval, pursuant to Section 201 of the Municipalities Act, 1999, to proceed with an application to acquire Crown land for the purpose of developing and managing a commercial marina at Pointe Beach.

Background and Status
- The Town of Cupids met with official from the Department of Environment and Conservation, Crown Lands Division, on January 12, 2012 concerning a proposal to acquire Crown land to develop a commercial marina at Pointe Beach, including the 15 metre shoreline reservation. The Town was advised to seek approval from Municipal Affairs.
- The Town proposes to develop and control the marina and use the revenue generated for the purpose of maintaining infrastructure that was developed in 2010. The proposed acquisition of Crown land is for purposes that are not essential to the operation of the Municipality and therefore requires approval of the Minister of Municipal Affairs in accordance with Section 201 of the Municipalities Act, 1999.
- A boat marina would typically be classified as a transportation land use; the land at Pointe Beach is designated and zoned by the Cupids Municipal Plan and Development Regulations, 1994-2004, as Rural. Transportation is not listed as a permitted or discretionary land use in the Rural Land Use Table, of the Town’s Development Regulations. An amendment to the Municipal Plan and Development Regulations is required in order for the development to proceed.
- There are explicit costs to the Town for undertaking such development, including:
  o Surveying and acquiring the Crown Land.
  o Amendments to Municipal Plan in legal effect under authority of the Urban and Rural Planning Act;
  o Capital construction costs; and
  o Financing costs.
- The cost to the Town associated with the development of marina is not eligible for traditional cost shared capital works financing with the Department of Municipal Affairs.

Action Being Taken
- The attached letter has been developed to address the approval request from the Municipality.