

Indigenous Law

Indigenous law and the exercise of inherent rights by Indigenous governments is a dynamic and ever-evolving legal area. It is crucial to have trusted legal advisors who are respectful of and thoroughly versed in issues relating to First Nation, Inuit and Métis governments, nations and organizations in Canada.

We have one of Canada's largest and most experienced Indigenous law practices, which includes partners of Indigenous descent in each of our Québec, Toronto and Ottawa offices.

We assist our clients in navigating complex legal questions in Indigenous law and building relationships with Indigenous peoples. We advise Indigenous peoples, project proponents, key stakeholders and the Crown on permitting and approval issues when proposed projects may affect Aboriginal and/or Treaty rights, or where government-to-government relationships need development in order to further reconciliation objectives.

As a collaborative, multidisciplinary firm, we offer a range of services to federal, provincial, territorial and Indigenous governments, agencies, organizations and private entities. These services can include:

- constitutional questions;
- the duty to consult;
- the exercise of inherent rights by Indigenous peoples;
- strategic partnerships;
- procurement opportunities between industry and Indigenous groups;
- unresolved land claims and historic grievances;
- corporate entities and trusts;
- environmental approvals and permitting;
- financing on First Nation lands;
- interpreting treaties and applicable laws;
- exercising jurisdiction and authority by Indigenous groups;
- land and housing developments;
- taxation;
- cannabis projects; and
- economic development activities.

We have a growing practice providing commercial and transactional advice to Indigenous-owned businesses across all industry sectors – natural resource development, oil and gas, energy and transmission, infrastructure and construction, franchising, banking, and cannabis. Industry partners rely on us to assist in establishing strategic partnerships with Indigenous-owned businesses.

We are called on frequently to give legal advice to clients with interests in the northern and remote regions of Canada and have extensive experience with Northern Land Claims Agreements.

Our team includes active members and directors of various Indigenous organizations, such as the Canadian Council of Aboriginal Business, Indigenous Bar Association, National Indigenous Trust Officers Association, Anishnawbe Health Foundation, Northwest Territories and Nunavut Chamber of Mines, the Tungasuvvingat Inuit Board and the Akitsiraq Law Society.

Our lawyers have well-established relationships and a reputation for excellence at Indigenous Services Canada and Crown-Indigenous Relations, as well as other provincial and territorial ministries and government agencies for Indigenous affairs, natural resources and energy. We offer government experience and close access for national organizations working with provincial and federal Crown entities.

Experience

- The Federal Crown in the sale or purchase of major assets, including BC Rail and Kinder Morgan Canada (Trans Mountain Pipeline);
- The Federal Crown on the adequacy of consultations Kinder Morgan conducted with First Nations in relation to the Trans Mountain Pipeline;
- The Ontario Chiefs-in-Assembly on the creation of one of Canada's largest limited partnerships called the Ontario First Nation Sovereign Wealth LP, a partnership among 129 First Nations in Ontario;
- The Ontario First Nations Sovereign Wealth LP on the acquisition of 14 million common shares in Hydro One Limited (representing approximately 2.4 per cent of Hydro One Limited) from the Province of Ontario;
- The Ontario Chiefs-in-Assembly on negotiating a significant seed capital contribution for long-term wealth creation in connection with the privatization of Hydro One limited and the creation of the OFN Capital Wealth LP a limited partnership wholly owned by the Ontario First Nation Sovereign Wealth LP;
- Industry and First Nations in the negotiation of Impact Benefit Agreements involving:
 - Railways, pipelines, highways, and transmission facilities;
 - Oil and gas projects in northeast British Columbia and Nunavut;
 - LNG, butane, rail and port expansion projects in the Port of Prince Rupert;
 - Coal mines and quarries;
 - Mountain development agreements for major ski and tourism operations;
 - Major real estate developments; and
 - Wastewater treatment facilities, conveyancing systems and landfill operations.
- First Nations in the exercise of jurisdiction and authority, including advice on land and housing development, taxation and assessment, cannabis;
- First Nations in a broad range of economic development activities, including customized governance structures for corporate entities;
- Project proponents, utilities, and First Nations in the negotiation of on-reserve tenures under the Indian Act and the First Nations Land Management Act, involving:
 - Electrical distribution and telecommunications;
 - Residential and commercial real estate developments, including field offices for utility services and correctional facilities;
 - Mines, quarries and vineyards; and
 - Easements, highways and related infrastructure.

- First Nations across Canada in setting up trusts to receive a claim settlement, to address minor members of the First Nations, to receive capital funds;
- Crown and Crown corporations on the duty to consult when making decisions that could adversely affect existing or potential Aboriginal rights and title, or treaty rights;
- Financial institutions, including CMHC, First Nations and trusts on lending and security issues relating to loans to First Nations and their members for on-reserve housing;
- Industry, lenders and the Crown on:
 - the adequacy of consultations conducted with First Nations in relation to required permits and approvals;
 - contamination issues relating to Indian reserves, including under leases and rights of ways;
 - negotiating treaties and interim treaty agreements, in particular the potential impact on existing tenures and planned developments; negotiating new rental rates under existing leases and rights of way;
 - historic land transactions that are relevant to current developments; and
 - strength of claim assessments and potential trespass issues.
- Utilities, railways, ports, private sector parties, municipalities and Crown corporations on protocol agreements with Indigenous groups to establish good working relationships and address legal issues, among other concerns and interests raised by Indigenous groups.

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

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