

KITSELAS
PROPERTY ASSESSMENT ACT, 2012
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WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal and Statistical Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands, interests in reserve lands or rights to occupy, possess or use reserve lands;

B. The Chief and Council of Kitselas deem it to be in the best interests of Kitselas to make a law for such purposes; and

C. The Chief and Council have given notice of this law and have considered any representations received by the Chief and Council, in accordance with the requirements of the *First Nations Fiscal and Statistical Management Act*;

NOW THEREFORE the Kitselas Chief and Council duly enact as follows:

**PART I
CITATION**

Citation

1. This Law may be cited as the *Kitselas Property Assessment Act, 2012*.

**PART II
DEFINITIONS AND REFERENCES**

Definitions and References

2.(1) In this Law:

“assessable property” means property that is liable to assessment under this Law;

“assessed value” means the market value of land or improvements, or both, as if the land or improvements were held in fee simple off the reserve, as determined under this Act;

“assessment” means a valuation and classification of an interest in land;

“Assessment Notice” means a notice containing the information set out in Schedule IV;

“Assessment Review Board” means a board established by Chief and Council in accordance with Part IX;

“assessment roll” means a roll prepared pursuant to this Law, and includes a supplementary assessment roll, a revised assessment roll;

“assessor” means a person appointed by Chief and Council under subsection 3(1);

“chair” means the chair of the Assessment Review Board;

“Chief” means the person elected by the members as the head of the Council;

“Chief and Council” and “Council” has the meaning given to “council” in the FNFSMA;

“complainant” means a person who commences an appeal of an assessment under this Act;

- “Councillor” means a member of the Kitselas Chief and Council;
- “FMB” means the First Nations Financial Management Board established under the FNFSMA;
- “FNFSMA” means the *First Nations Fiscal and Statistical Management Act*, S.C. 2005, c. 9, and the regulations enacted under that Act;
- “FNTC” means the First Nations Tax Commission established under the FNFSMA;
- “holder” means a person in possession of an interest in land or a person who, for the time being,
- (a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land,
 - (b) is in actual occupation of the interest in land,
 - (c) has any right, title, estate or interest in the interest in land, or
 - (d) is a trustee of the interest in land;
- “improvement” means any building, fixture, structure or similar thing constructed, placed or affixed on, in or to land, or water over land, or on, in or to another improvement and includes a manufactured home;
- “interest in land” or “property” means land or improvements, or both, in the reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;
- “Kitselas” means the Kitselas First Nation, being a band named in the schedule to the FNFSMA;
- “*Kitselas Reserve Lands Management Act*” means the land code enacted by Kitselas further to the *First Nations Land Management Act* and the Framework Agreement on First Nations Land Management dated February 12, 1996;
- “manufactured home” means a structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to
- (a) be moved from one place to another by being towed or carried, and
 - (b) provide
 - (i) a dwelling house or premises,
 - (ii) a business office or premises,

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

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

“Notice of Assessment Inspection” means a notice containing the information set out in Schedule II;

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

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

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

“party”, in respect of an appeal of an assessment under this Law, means the parties to an assessment appeal under section 32;

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

“property class” means those categories of property established in subsection 6(10) for the purposes of assessment and taxation;

“Province” means the province of British Columbia;

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

“resolution” means a motion passed by a majority of Chief and Council present at a duly convened meeting and affirmed by Band Council Resolution;

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

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

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

“Taxation Act” means the *Kitselas Property Taxation Act, 2012*;

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

“taxes” includes

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

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

(2) In this Act, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 6(3)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this Act, except where otherwise stated.

PART III ADMINISTRATION

Assessor

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

(2) An appointment under subsection (1) is on the terms and conditions set out in the resolution.

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

Authorization of Financial Management Board

4. Notwithstanding any other provision of this Law, if the FMB gives notice to Chief and Council pursuant to the FNFSMA that third-party management of the revenues raised under this Act is required, Chief and Council authorizes the FMB to act as agent of Kitselas to fulfill any of the powers and obligations of the Chief and Council under this Act and the FNFSMA.

Application of Act

5. This Act applies to all interests in land.

PART IV ASSESSED VALUE

Assessment and Valuation

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

(2) For the purpose of determining the assessed value of an interest in land

for an assessment roll, the valuation date is July 1 of the year before the taxation year for which the assessment applies.

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

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

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

(4) Paragraph (3)(a) does not apply to property referred to in paragraphs 18(3)(b) and (d) and the assessed value of property referred to in that section for an assessment roll must be determined as if on the valuation date the property was in the physical condition that it is in on December 31 following the valuation date.

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

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

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

(a) present use;

(b) location;

(c) original cost;

(d) replacement cost;

(e) revenue or rental value;

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

(g) economic and functional obsolescence; and

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

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

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

(10) Chief and Council hereby establishes the property classes established by the Province for provincial property assessment purposes, for the purposes of assessment under this Act and imposing taxes under the Taxation Act.

(11) The property classes established under subsection (10) are set out in Schedule I to this Act, and the classification criteria for each property class shall be determined using the corresponding provincial classification rules.

(12) As an exception to subsection (11), Class 7 (forest land) must include only lands respecting which a licence or permit to cut timber has been issued under the *Kitselas Reserve Lands Management Act*, including licences or permits issued prior to the *Kitselas Reserve Lands Management Act* where the same have been continued in force under the terms of the *Kitselas Reserve Lands Management Act*.

(13) The assessor must assess interests in land according to the property classes established under this Act.

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

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

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

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

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

(a) the valuation methods, rates, rules and formulas established under provincial assessment legislation existing at the time of assessment; and

(b) the assessment rules and practices used by assessors in the Province for conducting assessments off the reserve.

Exemption from Assessment

7. Notwithstanding any other provision in this Act, improvements designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act*, R.S.B.C. 1996, c. 11 are exempt from assessment under this Act.

PART V INSPECTIONS

Inspections

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

(2) Where the assessor wishes to conduct an inspection of assessable property for the purpose of assessing its value, the assessor must deliver a Notice of Assessment Inspection by personal delivery, mail, fax or e-mail to the person named on the assessment roll at the address indicated on the assessment roll.

(3) Personal delivery of a Notice of Assessment Inspection is made

(a) in the case of delivery to a residential dwelling, by leaving the notice with a person at least eighteen (18) years of age residing there; and

(b) in the case of delivery to any other assessable property, by leaving the notice with the person apparently in charge, at the time of delivery, on those premises.

(4) A Notice of Assessment Inspection is considered to have been delivered

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

(b) if sent by mail, five (5) days after the day on which the notice is postmarked;

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

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

(5) Where an assessable property is occupied by a person other than the person named on the assessment roll, the person named on the assessment roll must make arrangements with the occupant to provide access to the assessor.

(6) Unless otherwise requested by the person named on the assessment roll, inspections of an assessable property must be conducted between 09:00 and

17:00 local time.

(7) If the assessor attends at an assessable property to inspect it and no occupant eighteen (18) years of age or older is present or permission to inspect the property is denied, the assessor may assess the value of the assessable property based on the information available to the assessor.

(8) As part of an inspection under this section, the assessor must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals respecting the assessable property and the occupant must, on request, furnish every facility and assistance required for the entry and examination.

PART VI

ASSESSMENT ROLL AND ASSESSMENT NOTICE

Assessment Roll

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

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

- (a) the name and last known address of the holder of the interest in land;
- (b) a short description of the interest in land;
- (c) the classification of the interest in land;
- (d) the assessed value by classification of the interest in land;
- (e) the total assessed value of the interest in land;
- (f) the net assessed value of the interest in land subject to taxation under the Taxation Act; and
- (g) any other information the assessor considers necessary or desirable.

Certification by Assessor

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

- (a) certify in writing in substantially the form set out in Schedule XI that the assessment roll was completed in accordance with the requirements of this Act; and
- (b) deliver a copy of the certified assessment roll to Chief and Council.

Assessor to Prepare and Certify Revised Assessment Roll

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

- (a) modify the assessment roll to reflect all reconsideration decisions, corrections of errors and omissions, and decisions received by the assessor from the Assessment Review Board;
- (b) date and initial amendments made to the assessment roll under this section; and
- (c) prepare a revised assessment roll.

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

- (a) certify in writing in substantially the form set out in Schedule X that the revised assessment roll was completed in accordance with the requirements of this Act; and
- (b) deliver a copy of the certified revised assessment roll to Chief and Council and to the chair.

(3) On certification under this section, the revised assessment roll becomes the assessment roll for the taxation year and it is deemed to be effective as of the date the assessment roll was certified under section 10.

Validity of Assessment Roll

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

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

Inspection and Use of Assessment Roll

13.(1) On receipt by Chief and Council, the assessment roll is open to inspection in the Kitselas Administration Office by any person during regular business hours.

(2) A person must not, directly or indirectly, use the assessment roll or

information contained in the assessment roll

(a) to obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means; or

(b) to harass an individual.

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

(a) specifying the purpose for which the information is to be used; and

(b) certifying that the information contained in the assessment roll will not be used in a manner prohibited under this section.

Protection of Privacy in Assessment Roll

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

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

Chargeholders

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

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

Assessment Notice

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

(2) Where requested by the recipient, an Assessment Notice may be e-

mailed to a person named on the assessment roll, and the Assessment Notice will be deemed to have been delivered on the date that the e-mail is sent by the assessor.

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

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

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

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

PART VII

ERRORS AND OMISSIONS IN ASSESSMENT ROLL

Amendments by Assessor

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

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

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

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

- (a) because of a change in a holder that occurs before January 1 in a taxation year that is not reflected in the certified assessment roll and that results in
 - (i) land or improvements, or both, that were not previously subject to taxation become subject to taxation, or
 - (ii) land or improvements, or both, that were previously subject to

taxation cease to be subject to taxation;

(b) after October 31 and before the following January 1, a manufactured home is moved to a new location or destroyed;

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

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

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

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

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

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

Supplementary Assessment Roll

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

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

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

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

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

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

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

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

(c) a holder's failure to disclose requested information, or,

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

as required under this Act.

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

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

(5) Where the assessor receives a decision of the Assessment Review Board after March 31 in a taxation year, the assessor must create a supplementary assessment roll reflecting the decision of the Assessment Review Board and this section applies.

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

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

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

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

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

(c) mail an amended Assessment Notice to every person named on the

assessment roll in respect of the interest in land affected.

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

PART VIII

RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

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

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

(3) A request for reconsideration of an assessment must

(a) be delivered to the assessor within thirty (30) days after the day that the Assessment Notice is mailed or e-mailed to the person named on the assessment roll in respect of an assessable property;

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

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

(4) The assessor must consider the request for reconsideration and, within fourteen (14) days after receiving the request for reconsideration, either

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

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

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

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

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

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

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

PART IX

ASSESSMENT REVIEW BOARD

Chief and Council to Establish Assessment Review Board

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

(a) consider and determine all recommendations from the assessor under subsection 17(1); and

(b) hear and determine assessment appeals under this Act.

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

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

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

Remuneration and Reimbursement

21.(1) Kitselas must remunerate

(a) the chair of the Assessment Review Board (or replacement member appointed to act), at the rates established from time to time for a part-time panel chair of the British Columbia Property Assessment Appeal Board;

(b) any other member of the Assessment Review Board (or replacement member appointed to act), at the rates established from time to time for a part-time member of the British Columbia Property Assessment Appeal Board

for time spent on activities related to the Assessment Review Board.

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

Conflicts of Interest

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

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

(2) For the purposes of paragraph (1)(a), membership in Kitselas does not in itself constitute a personal or financial interest in assessable property.

Appointment of Chair

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

- (2) The chair must
 - (a) supervise and direct the work of the Assessment Review Board;
 - (b) undertake administrative duties as necessary to oversee and implement the work of the Assessment Review Board;
 - (c) determine procedures to be followed at hearings consistent with this Act;
 - (d) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken; and
 - (e) preside at hearings of the Assessment Review Board.

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

Appointment of Secretary

24.(1) Chief and Council must, by resolution, appoint a secretary of the

Assessment Review Board.

- (2) The secretary of the Assessment Review Board must
 - (a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and
 - (b) fulfill such other duties as directed by the chair and the Assessment Review Board.

Removal of Member

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

- (a) is convicted of an offence under the *Criminal Code*;
- (b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or
- (c) fails to perform any of his or her duties under this Act in good faith and in accordance with the terms of this Act.

Duty of Member

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

PART X

APPEAL TO ASSESSMENT REVIEW BOARD

Appeals and Assessor Recommendations

27. The Assessment Review Board
- (a) must consider and determine assessor recommendations made under subsection 17(1) for changes to the assessment roll; and
 - (b) must hear and determine appeals made under this Part.

Notice of Appeal

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

- (a) a completed Notice of Appeal,
- (b) a copy of the Assessment Notice, and

(c) an administration fee of thirty dollars (\$30),
to the assessor within sixty (60) days after the date on which the Assessment Notice was mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property.

(2) The address for delivery of a Notice of Appeal to the assessor is

BC Assessment Authority
100 – 4545 Lazelle Avenue
Terrace, BC V8G 4E1

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

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

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

Agents and Solicitors

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

Scheduling of Hearing

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

(2) The chair must, at least thirty (30) days before the hearing, deliver a Notice of Hearing setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

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

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

Parties

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

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

Delivery of Documentation

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

Timing for Hearing

33. Subject to section 46, the Assessment Review Board must commence a hearing within ninety (90) days after delivery of the Notice of Appeal to the assessor or receipt of an assessor recommendation under subsection 17(1), unless all parties consent to a delay.

Daily Schedule

34.(1) The chair must

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

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

Conduct of Hearing

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

- (2) A party may be represented by counsel or an agent and may make

submissions as to facts, law and jurisdiction.

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

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

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

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

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

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

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

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

Maintaining Order at Hearings

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

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

Summary Dismissal

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

(a) the appeal is not within the jurisdiction of the Assessment Review Board;

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

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

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

Quorum

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

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

Decisions

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

Combining Hearings

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

Power to Determine Procedures

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

Orders to Attend/Provide Documents

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

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

by issuing an Order to Attend/Provide Documents and serving it on the person at least two (2) days before the hearing.

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

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

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

(a) the chair must sign and issue an Order to Attend/Provide Documents and the party must serve it on the witness at least two (2) days before the hearing; and

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

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

Adjournments

43. The Assessment Review Board may

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

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

Costs

44. The Assessment Review Board may make orders

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

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

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

Reference on Question of Law

45.(1) At any stage of a proceeding before it, the Assessment Review

Board, on its own initiative or at the request of one or more of the parties, may refer a question of law in the proceeding to a court of competent jurisdiction in the form of a stated case.

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

(3) The Assessment Review Board must

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

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

Matters before the Courts

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

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

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

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

Withdrawal of Appeal

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

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

Delivery of Decisions

48.(1) The Assessment Review Board must, at the earliest opportunity after the completion of a hearing, deliver a written decision on the appeal or assessor recommendation to all parties.

(2) Any person may obtain a copy of a decision of the Assessment Review Board from the tax administrator on request and payment of a fee of twenty-five dollars (\$25.00).

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

Delivery of Documents under this Part

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

(2) Personal delivery of a document is made

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

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

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

(3) Subject to subsection (4), a document must be considered to have been delivered

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

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

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

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

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

Appeals

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

(2) An appeal under subsection (1) must be commenced within thirty (30) days of the delivery of the Assessment Review Board's decision under subsection 48(1).

PART XI

GENERAL PROVISIONS

Disclosure of Information

51.(1) The tax administrator, the assessor, a member of the Assessment

Review Board, the secretary or any other person who has custody or control of information or records obtained or created under this Act must not disclose the information or records except

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

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

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

Disclosure for Research Purposes

52. Notwithstanding section 51, Chief and Council may disclose information and records to a third party for research purposes, including statistical research, provided

- (a) the information and records do not contain information in an individually identifiable form or business information in an identifiable form; or
- (b) where the research cannot reasonably be accomplished unless the information is provided in an identifiable form, the third party has signed an agreement with Chief and Council to comply with Chief and Council's requirements respecting the use, confidentiality and security of the information.

Validity

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

- (a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;
- (b) an error or omission in an assessment roll, Assessment Notice, or any notice given under this Act; or
- (c) a failure of Kitselas, the tax administrator or the assessor to do something within the required time.

Notices

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

- (a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll;
- (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
- (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll.

(2) Except where otherwise provided in this Act

- (a) a notice given by mail is deemed received on the fifth day after it is posted;
- (b) a notice posted on property is deemed received on the second day after it is posted; and
- (c) a notice given by personal delivery is deemed received upon delivery.

Interpretation

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

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

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

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

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

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

Force and Effect

56. This Act will be made on the date that the law-making procedures set out in the *Kitselas Reserve Lands Management Act* have been completed and will come into force and effect on the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the 24th day of April, 2012 at Kitselas in the province of British Columbia and is executed and signed to certify the completion of the law-making procedures set out in the *Kitselas Reserve Lands Management Act*.

A quorum of Council consists of four (4) members of Council.

_____ Chief Judy Gerow	_____ Councillor Cora Kennedy
_____ Councillor Gerald Seymour	_____ Councillor Joe Bevan
_____ Councillor Wilfred Bennett Sr.	_____ Councillor Wilfred Bennett Jr.

SCHEDULE I
PROPERTY CLASSES

Class 1 - Residential

Class 2 - Utilities

Class 4 - Major Industry

Class 5 - Light Industry

Class 6 - Business and Other

Class 7 - Forest Land

Class 8 - Recreational Property/Non-Profit Organization

Class 9 - Farm

SCHEDULE II

(Subsection 8(2))

NOTICE OF ASSESSMENT INSPECTION

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____
(the "assessable property")

DATE: _____

TAKE NOTICE that, pursuant to section 8(2) of the *Kitselas Property Assessment Act, 2012*, the assessor for Kitselas proposes to conduct an inspection of the above-referenced assessable property on _____, 20__ at _____ A.M./P.M.

If the above date and time is not acceptable, please contact the assessor on or before _____ [date], at _____ [contact number], to make arrangements for an alternate time and date.

If the assessable property is occupied by a person other than you, you must make arrangements with the occupant to provide access to the assessor.

AND TAKE NOTICE that if, on attending at the assessable property, no occupant eighteen (18) years of age or older is present or permission to inspect the assessable property is denied, the assessor may assess the value of the assessable property based on the information available to the assessor.

Assessor for Kitselas

Dated: _____, 20__ .

SCHEDULE III

(Subsection 13(3))

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

I, _____ [name], of _____ [address],
_____ [city], _____ [province], _____ [postal code],
declare and certify that I will not use the assessment roll or information
contained in the assessment roll to obtain names, addresses or telephone

numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means, or to harass an individual.

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

- (1) a complaint or appeal under the *Kitselas Property Assessment Act, 2012* ;
- (2) a review of an assessment to determine whether to seek a reconsideration or appeal of the assessment; or
- (3) other: _____

Signed: _____
[please print name]

Dated: _____, 20____ .

SCHEDULE IV
(Subsection 16(1))
ASSESSMENT NOTICE

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

TAKE NOTICE that the assessment roll has been certified by the assessor for the Kitselas and delivered to Chief and Council.

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

The interest in land is classified as:

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

TOTAL ASSESSED VALUE: _____

TOTAL ASSESSED VALUE LIABLE TO TAXATION: _____

AND TAKE NOTICE that you may, within thirty (30) days of the date of mailing of this notice, request a reconsideration of this assessment by delivering a written request for reconsideration in the form specified in the *Kitselas Property Assessment Act, 2012*. Within fourteen (14) days of receipt by the assessor of your request for reconsideration, the assessor will review the assessment and provide you with the results of the reconsideration. If the assessor determines that the property should have been assessed differently, the assessor will offer to modify the assessment.

AND TAKE NOTICE that you may, within sixty (60) days of the date of mailing of this notice, appeal this assessment to the Assessment Review Board. The Notice of Appeal must be in writing in the form specified in the *Kitselas Property Assessment Act, 2012*.

Tax Administrator for Kitselas

Dated: _____, 20____ .

SCHEDULE V
(Subsection 19(3))

REQUEST FOR RECONSIDERATION OF ASSESSMENT

TO: Assessor for Kitselas

[address]

PURSUANT to the provisions of the *Kitselas Property Assessment Act, 2012*, I hereby request a reconsideration of the assessment of the following interest in land:

[description of the interest in land as described in the Assessment Notice]

I am: ___ a holder of the interest in land

___ named on the assessment roll in respect of this interest in land

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

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

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

Address and telephone number at which applicant can be contacted:

Name of Applicant (please print)

Signature of Applicant

Dated: _____, 20__ .

SCHEDULE VI
(Subsection 28(1))

NOTICE OF APPEAL TO ASSESSMENT REVIEW BOARD

TO: Assessor for Kitselas

[address]

PURSUANT to the provisions of the *Kitselas Property Assessment Act, 2012*, I hereby appeal the assessment/reconsideration of the assessment of the following interest in land:

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

The grounds for the appeal are:

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

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

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

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

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

Name of Complainant (please print)	Signature of Complainant (or representative)

Dated: _____, 20__ .

NOTE: A copy of the Assessment Notice must be enclosed with this Notice of Appeal.

SCHEDULE VII
(Subsection 47(1))
NOTICE OF WITHDRAWAL

TO: Chair, Assessment Review Board for Kitselas

[address]

PURSUANT to the provisions of the *Kitselas Property Assessment Act, 2012* I hereby withdraw my appeal of the assessment of the following interest in land:

Description of interest in land:

Date of Notice of Appeal:

Name of Complainant (please print)

Signature of Complainant (or representative)

Dated: _____, 20____ .

SCHEDULE VIII
(Subsection 30(2))
NOTICE OF HEARING

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

Complainant in respect of this appeal: _____

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

Date: _____, 20__

Time: _____ (A.M./P.M.)

Location: _____ [address]

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

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

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

Chair, Assessment Review Board

Dated: _____, 20__ .

SCHEDULE IX

(Subsection 42(1))

ORDER TO ATTEND HEARING/PRODUCE DOCUMENTS

TO: _____

ADDRESS: _____

TAKE NOTICE that an appeal has been made to the Assessment Review Board for Kitselas in respect of the assessment of _____ [describe interest in land].

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

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

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

Date: _____, 20__

Time: _____ (A.M./P.M.)

Location: _____ [address]

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

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

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

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

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

Chair, Assessment Review Board

Dated: _____, 20__ .

SCHEDULE X

(Section 10 and subsection 11(2))

CERTIFICATION OF ASSESSMENT ROLL BY ASSESSOR

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

I, _____, being the assessor for Kitselas, hereby certify that this is Kitselas [revised/supplementary] assessment roll for the year 20__ and that this assessment roll is complete and has been prepared and completed in accordance with all requirements of the *Kitselas Property Assessment Act, 2012*.

(Signature of Assessor)

Dated _____, 20__ at _____, _____.
(City) (Province)

Chronological No.: LMO-2012-04-24-02
File Reference: 300.17

BAND COUNCIL RESOLUTION

The Council of the:	KITSELAS BAND NO. 680
Agency:	BC REGION
District:	NORTHWEST
Province:	BRITISH COLUMBIA
Place:	TERRACE
Date:	April 24, 2012

WHEREAS: Jeanie Lanine Barrister of Cedar Law was instructed and has completed the legal and technical review of the “Kitselas Property Assessment Act”; and,

WHEREAS: Jeanie Lanine has reviewed the “Kitselas Property Assessment Act” and has prepared a legal opinion and has prepared a final draft dated April 24th, 2012; and,

WHEREAS: the law making powers and process are outlined in the *First Nations Fiscal and Statistical Management Act* (s.c. 2005, c. 9) and have been duly met; and,

WHEREAS: Kitselas Band Council has ensured that the law has been duly made as per the *First Nations Fiscal and Statistical Management Act* (s.c. 2005, c. 9);

THEREFORE BE IT RESOLVED THAT: the Kitselas Band Council approves the final draft of the “Kitselas Property Assessment Act, 2012” dated April 24th, 2012; and,

BE IT FURTHER RESOLVED THAT: on signing of this Band Council Resolution, the 3rd Reading of the “Kitselas Property Assessment Act, 2012” is complete and the “Kitselas Property Assessment Act, 2012” is hereby enacted.

Chief Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Quorum for this Council is: 4