

MAYA CUSTOMARY LAND POLICY

December 8, 2023

GLOSSARY OF TERMS.

For the purposes of this Policy:

- **"Alcalde"** means the elected leader of a Maya Village by Village Members in accordance with Maya Customs.
- **"Alcalde system"** means the traditional governance system of the Maya People used by Maya Villages of Southern Belize, and includes the roles of the Ab'ink, Alcaldes and Village Police all as defined and empowered by Maya Customs.
- **"Consent Order"** means the consent order containing terms of settlement perfected and filed before the Caribbean Court of justice in *Maya Leaders' Alliance and Others v The Attorney General of Belize* dated April 22, 2015.
- **"Consultation"** means good faith communications through which Maya Villages are afforded opportunity to participate in conceiving and/or defining policies informing legislative and/or administrative measures that affect Maya traditional rights including rights to use and possess land.
- **"Demarcation"** means the establishment and registration of the physical boundaries of a Maya Village.
- **"Free, Prior and Informed Consent"** means the free, prior and informed consent of a Maya Village to the taking of any administrative action by the state affecting Maya Customary Land Tenure vested in that Village and secured in accordance with formal written policy approved and adopted by the state of Belize which policy respects Maya Customs and is settled after consultations with the Maya People.
- **"Government of Belize"** means the executive branch of the independent state of Belize as defined in the Constitution of Belize as represented by the Minister Responsible for Indigenous Peoples' Affairs in relation to matters affecting the Maya People within Belize including the implementation of this Policy.
- **"Maya Customs"** means long standing normative principles and rules of conduct and practices of the Maya People in Southern Belize that inform Maya rights and identity and that govern decision-making by Maya Villages.
- **"Maya Customary Land Tenure"** means a collection of rights in and over land situate in Southern Belize arising by virtue of and reflecting long-standing use and occupation in accordance with Maya Customs which rights are recognized and protected by the

Constitution of Belize and which are vested in Maya Villages for the benefit of their members individually and collectively.

- **"Maya Lands"** means lands subject to Maya Customary Land Tenure vested in a Maya Village in Southern Belize.
- **"Maya People"** means the Mopan and Q'eqchi' Maya peoples who reside in Maya Villages in Southern Belize, identify themselves as Maya, and govern themselves according to Maya Customs.
- **"Maya Village"** means a settlement of Maya People who self-identify as Maya, who choose their First and Second Alcaldes according to Maya Customs, and who collectively use and occupy land in accordance with and subject to Maya Customary Land Tenure.
- **"Self Determination"** means the collective right of the Maya People to freely determine their political status and to freely determine their economic, social and cultural development in accordance with and subject to the Constitution of Belize.
- **"Village Member(s)"** means a person recognized as a member of a Maya Village according to Maya Customs.
- **"Registration/titling"** means the process of recording in public records and providing official legal documentation evidencing and certifying the existence of legal interests in lands situated within the boundaries of the independent state of Belize.
- **"Self-identification"** means Village Members identifying for themselves the existence and location of Maya Villages in Southern Belize as well as their membership.
- **"Third parties"** means legal persons who now hold documentary title to legal interests in land other than Maya Customary Land Tenure which are rooted in or issued or recognised by the state for lands which are situated within the boundaries of land claimed by a Maya Village as subject to Maya Customary Land Tenure and includes Village Members who hold such titles.
- **"Village Council"** means a Village Council constituted and elected in accordance with the provisions of the Village Councils Act of Belize.
- **"Village Meeting"** means the Ab'ink being a traditional meeting of the Village Members called and conducted in accordance with Maya Customs and being as well the highest authority for decision making of a Maya Village.

INTERPRETATION

No provision in this Policy shall be interpreted as implying for any people, group or person any right to engage in any activity or to perform any act that is prohibited by the Constitution of Belize, or other laws of Belize or construed as authorizing or encouraging any act or omission which would dismember or impair, totally or in part, the territorial integrity or sovereignty of the independent state of Belize.

In the exercise of the rights enunciated in the present Policy, human rights and fundamental freedoms of all shall be respected. The exercise of the rights described in this Policy shall be subject to all limitations or derogations permissible in the manner permitted by the Constitution.

SCOPE, VISION AND LIMITATIONS OF THE POLICY

This Maya Customary Land Policy provides a framework for the development and implementation of affirmative measures to be taken by the Government of Belize to implement the Consent Order as informed by the relevant court proceedings and judgments in Belize, International Human Rights Standards and international jurisprudence as well as by National Policies, all of which are referenced in the Appendices hereto. It provides a guide to inform those changes and to signal the overarching approach of the Government to the recognition and protection of the rights comprising Maya Customary Land Tenure.

Implementation of this Policy requires institutional and legal innovation to be undertaken in order to more precisely define, delimit, demarcate, title and register the Maya Customary Land Tenure, as well as to integrate Maya Customary Land Tenure into the existing titling system and protect them with existing institutional structures. It further requires that Maya governance mechanisms and modalities of decision-making be recognised and formalized in order to give effect to communal decisions integral to and inextricable from Maya Customary Land Tenure.

This Policy has taken into account diverse comments received on broad consultations with the Maya Leaders Alliance as well as directly with affected Maya and Non-Maya Villages and is to be used as a collection of instructions for the drafting of required legislation defining, establishing and regulating the new regime. The proposed draft legislation is then to be subject to further consultations with the wider public in the normal course of its consideration and passage into law.

GENERAL OBJECTIVE

The overarching object of this Policy is to provide a framework within which Belize as a State will, in accordance with the Consent Order and the undertakings contained therein, proceed to define and protect the rights that arise from and that are associated with Maya Customary Land Tenure and by which it will initiate the conceptualizing and drafting of necessary national legislation.

GENERAL GUIDING PRINCIPLES

The following general principles shall guide the conception and development of required national legislation:

1. Each Maya Village, with the affirmative votes of at least 75 per cent of Village Members participating in a Village Meeting held within 12 months of the date of application, shall, within a fixed period of 7 years from the enactment of the national legislation, have a collective right to apply for official recognition and registration of a legal proprietary interest in land to be known as and called Maya Customary Land Tenure.

2. Maya Customary Land Tenure shall be communally owned by a Maya Village and shall be inalienable by the Maya Village but shall be subject to acquisition by the state for public purposes in accordance with the Constitution of Belize. On any such acquisition, Maya Customary Land Tenure shall merge with and be subsumed within the fee simple interest in the land acquired by the state and cease to independently exist in that land.
3. A collection of rights in land to be known as Maya Customary Land Tenure will be registered in the name of each Maya Village which successfully applies for and is granted registration. Those rights shall as far as possible mirror the rights of user over land exercised by the Maya People in accordance with Maya Customs in lands located in Southern Belize.
4. The Government of Belize will recognize a legal personality for each Maya Village, in accordance with Maya Customs and self-identification, to facilitate the application for registration.
5. Each Maya Village shall be entitled to apply for registration in its name of Maya Customary Land Tenure for the circular area of land comprised, in the case of villages with a membership of 500 people or less, within 1 kilometer of the village center; in the case of villages with 1000 members or less but more than 500 members, within 2 kilometers of the village center; and in the case of Maya Villages with more than 1000 members, within 3 kilometers of the village center, without the need for any further demarcation or proof of continuous use and occupation of that space provided only that the requisite number of Village Members approve of the application for registration of the interest.
6. In the event that the aforesaid the circular areas overlap for any two or more Maya Villages, the area of overlap shall be governed and/or used and occupied only in accordance with terms agreed in writing between the affected villages. The written Agreement is to be noted as an encumbrance on the registers for titles issued to the Maya Villages.
7. All individual titles issued in favour of private persons within the said circular area shall be extinguished in favour of Maya Customary Land Tenure on registration. Village Members whose land titles are so extinguished shall be entitled to a refund of any purchase price or rents paid to the Government for their titles together with reasonable interest thereon. Third Parties, other than Village Members, whose titles are extinguished shall be entitled to compensation in accordance with the Constitution and in accordance with procedures and principles set forth in the legislation. Such village members and third parties may make a claim against a public fund, separate and distinct from the Consolidated Revenue fund, to be known as Maya Customary Land Tenure Compensation Fund for the payment of compensation.
8. Each Maya Village shall, in addition to the said circular area, also be entitled to apply for registration of Maya Customary Land Tenure in lands situated beyond the aforesaid circular areas.
9. The primary criteria for the recognition and registration of Maya Customary Land Tenure in any land outside the said circular areas shall be continuous possession and use of the land by Village Members in accordance with Maya Customs for at least thirty years prior to the date of presentation of the application for registration.

10. Proof of use and enjoyment of lands by Third Parties pursuant to titles issued to them prior to the date of the Consent Order to the exclusion of use or occupation by a Maya Village and/or Village Members within the relevant thirty-year period shall constitute an interference with use and occupation preventing recognition and registration of Maya Customary Land Tenure in any particular land.
11. Notice of any application by a Maya Village for recognition and registration of Maya Customary Land Tenure in land outside the circular areas shall be given to all affected Third Parties who may then choose to formally object to the application.
12. Where a Third Party objects to the grant of Maya Customary Land Tenure in any such land, the dispute shall be referred for resolution by a Tribunal to be established for that purpose. The dispute is to be resolved by reference to whether the applicant is in fact in possession and has had use of the land in question for the required time period.
13. The use and occupation of land, even in the absence of objection, shall always be subject to verification by the state as a part of the application process albeit observing appropriate standards of proof where there is no objection.
14. Maya Villages shall have a right to self-identify and demarcate the boundaries of each respective village for the purpose of supporting application for registration of Maya Customary Land Tenure in lands beyond the circular areas, subject to verification by the state of the identification and demarcation process.
15. Maya Customary Land Tenure may not be recognised or registered in lands now comprising any public highway or roadway or in any lands reserved as National Forest Reserves or National Parks.
16. Special dispensation will be given to Village Members to access nearby National Forest Reserves and Parks to fish, hunt and harvest forest resources for subsistence purposes in accordance with Maya Customs and subject to rules promulgated by the manager of the particular reserve for that purpose.
17. Special dispensation will also be given for Villages to engage in the exploitation of forest resources in National Reserves and Parks on a commercial basis provided only that the activity is sustainable and conducted in accordance with rules promulgated by the manager of the particular reserve for that purpose.
18. Each Maya Village has an autonomous right to determine in accordance with Maya Customs the management, administration, use and distribution of lands subject to Maya Customary Land Tenure but only within the limits of the rights comprised within Maya Customary Land Tenure. This right to internal self-determination is expressly confined to the exercise of rights arising from Maya Customary Land Tenure and is not a right to self-government of any area or the recognition of any "Maya Territory" implying any such right to self-government.
19. Notwithstanding any Maya Customs to the contrary, if any, all Maya People, including women, men, youth, elders, and people with disabilities, shall have equal rights to enjoy all the rights

arising from Maya Customary Land Tenure, and to participate in its management and distribution.

20. Save for projects justified in the interest of public health, public order, public safety, critical national development, national security and defense and in respect of which consultations are impractical because of emergency or otherwise, no project, or development or significant administrative action may be effected on lands subject to Maya Customary Land Tenure without the Free, Prior and Informed Consent of affected Maya Villages obtained through a process of consultation recognized and approved by the State and which includes a fair and efficient dispute resolution mechanism.
21. The Government shall recognize the governance structure of Maya Villages wherein the Ab'ink (Village Meeting), in accordance with the Alcalde System, has the supreme authority to decide on matters pertaining to or affecting Maya Customary Land Tenure. In doing so the Government shall seek to harmonize the Alcalde System with the powers of Village Councils established pursuant to the Village Councils Act.
22. The Government of Belize shall seek amendments to the Constitution to support national legislation and shall seek as far as possible to limit adverse financial consequences resulting from the implementation of this Policy.

OVERRIDING POLICY OBJECTIVES

The following overriding objectives provide additional details and supplement the policy guidelines and shall, to the extent of any inconsistencies, supersede the guidelines in effect. They are also intended to govern the drafting of the required legislation:

1. The legislation shall apply only to the forty one (41) Maya Villages in Toledo District namely: 1) Aguacate; 2) Big Falls; 3) Bladen; 4) Blue Creek; 5) Boom Creek; 6) Conejo Creek; 7) Corazon Creek; 8) Crique Jute; 9) Crique Sarco; 10) Dolores; 11) Graham Creek; 12) Golden Stream; 13) Indian Creek; 14) Jalacte; 15) Jordan; 16) Laguna; 17) Mabilha; 18) Machakilha; 19) Maya Mopan; 20) Medina Bank; 21) Midway; 22) Na Luum Ca; 23) Otoxha; 24) Pueblo Viejo; 25) San Antonio; 26) San Benito Poite; 27) San Felipe; 28) San Isidro; 29) San José; 30) San Lucas; 31) San Marcos; 32) San Miguel; 33) San Pablo; 34) San Pedro Columbia; 35) San Vicente; 36) Santa Ana; 37) Santa Cruz; 38) Santa Elena; 39) Santa Teresa; 40) Silver Creek; 41) Sunday Wood.
2. Each of these Maya Villages have a collective right to apply for official recognition and registration of a legal proprietary interest in the lands within the boundaries of each Maya Village.
3. The registration of lands comprised within the circular area of land comprised, in the case of villages with a membership of 500 people or less, within 1 kilometer of the village center; in the case of villages with 1000 members or less but more than 500 members, within 2 kilometers of the village center; and in the case of Maya Villages with more than 1000 members, within 3 kilometers of the village center, shall be automatic and all individual

titles then issued by the state to any lands within those areas are to stand extinguished on registration of Maya Customary Land Tenure for that space.

4. The Government shall establish a Public Fund separate and distinct from the Consolidated Revenue Fund to meet compensation payments to Third Parties whose titles are so extinguished. The fund shall be funded by the Government and International donors supportive of the recovery of lands for the benefit of Indigenous Peoples.
5. Any compensation due upon such registration shall be assessed in accordance with principles and on observance of such procedures as shall be set forth in the legislation.
6. Compensation for Village Members are to be limited to a refund of monies paid for the individual titles issued plus reasonable interest thereon given that they will continue to participate in use and enjoyment of the land.
7. The registration of title to Maya Customary land Tenure in lands beyond the circular areas shall be effected on the basis of proof of continuous use and occupation of the claimed lands in accordance with Maya Customs for at least 30 years immediately prior to presentation of the application for registration.
8. In every case, at least 75 percent of the Village Members must have voted in favour of the presentation of the application for registration in a Village Meeting so that those Maya Villages who do not wish to have communal lands can simply choose not to apply for registration.
9. Where a Maya Village votes not to make any application and wishes to record formally that decision, a written copy of the decision duly certified under the hand of the Alcalde and including the particulars of the Village Meeting and outcome of the vote may be lodged for registration in a register created for that purpose.
10. There shall be a fixed window of 7 years within which applications for registration of Maya Customary Land Tenure can be made. No applications will be entertained outside that window so that Maya Villages which initially decide not to apply shall have a fixed period within which to reconsider their position before the right to apply is forever lost.
11. The legal proprietary interest in land when recognized and registered shall be communally owned and shall be inalienable by the Maya Village, but shall be subject to compulsory acquisition by the state in accordance with the Constitution of Belize and shall be extinguished on any such compulsory acquisition.
12. Any compensation due upon compulsory acquisition shall be assessed in accordance with principles and on observance of such procedures as shall be set forth in the legislation.
13. The legal proprietary interest in land arising from Maya Customary Land Tenure is and shall be *sui generis* and shall comprise rights that mirror rights of user exercised by the Maya People of Southern Belize in accordance with Maya Customs over the said land.

otherwise impractical. At the very least, the affected Maya Villages shall be notified of any such projects as soon as possible.

- (xi) which expressly reserve unto the State the right in the public interest to compulsorily acquire any lands and interests in lands in the implementation of this Policy in accordance with the Constitution of Belize.
- (xii) require that each Maya Village compile a list of any Third Parties who may be present or are known by them to claim or occupy lands within a Maya Village or land that is subject to Maya Customary Land Tenure and indicate whether they dispute the claim or continued use of those lands by those Third Parties. In the event of dispute the claims shall be referred to a tribunal for resolution.

The state shall consider constitutional amendments necessary to support national legislation giving effect to the foregoing principles and objectives.

The implementation of the policy is to be undertaken in accordance with the steps and timelines contained within the road map from time to time filed with the Caribbean Court of Justice.

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