

Introducing Land Markets in First Nations: Transgressive Tendencies,
Post-Colonial Possibilities

by

Jason C. Locke

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Department of City Planning
Faculty of Architecture

University of Manitoba
Winnipeg, Canada

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Abstract

This thesis examines attempts to transform access to land and housing in First Nations ('Indian Reservations') in Canada through the mechanism of market development. This initiative, proposed by the Government of Canada to First Nations, is a deliberate shift away from socially funded housing to owner occupied housing as a way to increase wealth and address social conditions. The thesis begins with a brief statement of how recent policy shifts in First Nation housing have been justified by neoliberalism, and outlines policy and planning interventions consistent with neoliberalism to develop First Nation homeownership programs. Next, the thesis examines market development in Indigenous lands internationally and draws on lessons learned that may take shape in First Nations. Finally, the thesis examines how interventions in First Nations have been discussed in recent policy documents leading up to the Kelowna Accord signed in 2005, and reports on critical discourse analysis of the documents that were authored by the signatories to support negotiations on the Accord. The purpose is not so much to evaluate the interventionist policies as it to highlight what they attempt to achieve, and to identify some of the challenges they present to planners.

Specifically, the thesis addresses the question: what underlying meanings have been embedded in the documentation supporting negotiations on the land questions between Ottawa and Aboriginal organisations? To this end, it extends

the analysis by Skelton and Ribeiro (2006), which raises concerns in relation to social rights, Aboriginal governance and social relations that may accompany the introduction of land markets. Findings show how powerful policy discourses shaped by ideological beliefs privilege particular market forms. However, the emphasis on developing market mechanisms fails to address fundamental issues, such as the underlying cause of poverty and homelessness in First Nations. Such insights challenge current direction in First Nations housing policy and calls for socially responsive and community-based solutions to housing that are relevant to culture, context and place.

In memory of my grandfather Charles Arthur Ogden ...

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Abbreviations

AFN	Assembly of First Nations
CAP	Congress of Aboriginal Peoples
CDA	Critical Discourse Analysis
CMHC	Canada Mortgage and Housing Corporation
CP	Certificate of Possession
FN	First Nation
FNLMA	First Nation Land Management Act
FNMHF	First Nations Market Housing Fund
INAC	Indian and Northern Affairs Canada
ITK	Inuit Tapiriit Kanatami
MNC	Métis National Council
MLG	Ministerial Loan Guarantee
NWAC	Native Women's Association of Canada
RLF	Revolving Loan Fund
SCC	Supreme Court of Canada
SCR	Supreme Court Records
UK	United Kingdom

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CHAPTER 1

Introduction and Context

In recent years, Aboriginal housing policy in Canada has shifted from social housing to owner occupied housing as a means to address poverty and social conditions in First Nations. These lands, also known as reserves, were assigned to 'Indian Bands' by England during European colonisation, or later by Canada during the negotiation of treaties. Living conditions in First Nations have been denounced internationally (UNESCO, 2004 as cited in Skelton and Ribeiro, 2006). Some of the problems include: inadequate insulation, plumbing and electricity, overcrowding and toxic mould. Moreover, there is a backlog of houses needed, estimated at 20,000 to 35,000 units, and growing by 2,200 units per year (Canada, 2005a).

Over recent years, efforts to improve living conditions through the development of markets for land¹ on First Nations have intensified through consultative processes involving roundtables and policy retreats focused on education, housing, economic opportunities and health. The overall purpose was to close the gap in living conditions between Aboriginal people and people in the rest of Canada (AFN, 2005a; Canada, 2005b). The latest round of consultations during

¹ Typically, treaties designate a portion of reserve land as "First Nation fee simple land on which treaty rights and First Nation jurisdiction apply (Woolford, 2005, p. 160). However, this does not create individual ownership idealised by neoliberals. Therefore, the intervention of land markets seeks to bring about the individual ownership of land through market mechanisms, such as private homeownership. The term land market is used interchangeably with homeownership because of the applied association to private property ownership.

the Kelowna Accord, a document representing a decade or so of negotiations between Ottawa and Aboriginal organisations signed in November 2005, supports the development of land markets in First Nations. The emphasis on markets represents a neoliberal shift from social housing to private homeownership. Neoliberalism is the contemporary manifestation of classical liberalism, which aims to privatise state-provided services; reduce government's role as the producer of social goods and services; promotes individualism (i.e., free enterprise, free competition) in the market place to increase wealth; and calls for no restrictions/barriers to facilitate free trade as the best way for a nation's economy to develop.

Development of land markets in First Nations poses several concerns. Consequences may include undermining traditional rights to social housing; the displacement of governance patterns as the role of Chiefs and Council in mediating access to housing is replaced by market mechanisms; and the disruption of social relations as market influences permeate everyday life. The purpose of this thesis is to analyse the colonialist approach that appears to characterise contemporary federal Aboriginal housing policy and to examine the potential impact of the introduction of land markets in First Nations on social rights, Aboriginal governance and social relations.

It is important to clarify that the term *First Nation* is a Canadian term of reference, which refers to the Aboriginal peoples living in Canada whose descendants are

neither Inuit nor Métis. Various terms describe First Nation or Aboriginal peoples, many of which carry colonial frames of reference (Peters, 2001 as cited in Tota, 2002). For instance, the term ‘*Indian*’ “is used to refer to groups or individuals who are reported as being Treaty Status or Registered Indians as defined by the *Indian Act*” (Tota, 2002 citing R.S.C. 1985, c. I-5, *Indian Act*); and though the term ‘First Nation’ is more appropriate, the two are used interchangeably. A First Nation may also include individuals, groups and political communities that identify themselves as being Aboriginal. The term Indigenous is used here when speaking about Indigenous cultures internationally. Further, the three main groups of Aboriginal peoples in Canada (First Nations, Métis and the Inuit) all have specific programs for housing. This is largely due to historical context and the Constitution of Canada.

Aims and objectives

The central aim of this thesis is to assess the level of inequality and marginalization that may result in the development of land markets in First Nations. A second aim is to inform planners and policy makers whose decisions directly affect the well-being of First Nations. In order to reach these two aims I identify three objectives. First, to explore what the initiative of land markets in First Nations attempts to achieve; second, to explore the relationship of power and inequality in language as it presents itself in the negotiations between Ottawa and First Nations in relation to land markets; and finally, to foster discussions that may lead to ethical practices through which land and housing

circulate in First Nations, constituting alternatives to conventional market-based approaches that are sensitive to community, culture and place.

The study of language in relationships of power shows how language may contribute to the domination of some by others (Fairclough, 1992, 2001).

Language use is often taken for granted and many are unaware of the connection between language and unequal relations of power. However, when inequality in language is revealed and brought to the surface it may reveal relationships of power through language use and its significance in creating social relations of power and dominance (ibid., p. 1). This widening of perception, that language affects social relations, precipitated by a discourse on the market as the solution to poverty, and as the vehicle for increasing wealth and fostering social change, establishes the foundation of the thesis.

Following the analysis of Skelton and Ribeiro (2006), this thesis develops a comprehensive understanding of the broader social consequences that land markets may have on social relations, Aboriginal governance and social rights. Unlike current housing studies among marginalized populations, particularly in the Global South, whose focus is primarily on social rights, Skelton and Ribeiro (2006) suggest that a broader approach is necessary. This will likely include a discussion on Aboriginal rights and sovereignty, in which land and housing play a primary role.

Research questions

The following research questions guide the empirical research for the study and enable the project to address its objectives:

(1) What themes can be identified in the *content* of recent policy literature related to land markets in First Nations?

(2) What underlying meanings have been *embedded* in the documentation supporting negotiations on the land questions between Ottawa and Indigenous organizations?

In answering these questions, attention to voice and representation of voice are important in determining the underlying meanings in the policy documents. As a non-Aboriginal researcher, my intention is not to impose my opinion on Aboriginal peoples. Rather I hope to identify where the desire for markets originate – from the community or is it constructed from a popular discourse on homeownership? In addition, what role has discourse played in shaping the decisions by Aboriginal leaders and communities? Without knowing the level of community participation in drafting the various housing policies by the Aboriginal organisations, I urge that opinions of community members matter most. Therefore, processes that acknowledge community voice should ultimately shape housing policy. However, it appears that it is ideologically rooted discourses that currently shape on-reserve housing policy. This thesis intends to explore the nature of these discourses.

Data sources: The Kelowna Accord documents

The data consists of policy documents leading up to the Kelowna Accord in which the initiative to develop land markets in First Nations is supported. These documents were authored by the federal government and by the following signatory Aboriginal organizations: Assembly of First Nations (AFN), Congress of Aboriginal Peoples (CAP), Métis National Council (MNC), Native Women's Association of Canada (NWAC), and the Inuit Tapiriit Kanatami (ITK) (see Appendix A).

Although the Accord is currently out of favour with the Conservative Party, who formed a minority government since the signing of the Accord, the provision to develop land markets has remained alive and recently gained momentum as Ottawa has invested \$300 million to develop homeownership opportunities in First Nations (CMHC, 2007; CMHC, 2008) (see Chapter 2). The empirical study of the documents leading up to the Accord focuses on language and the existence of forms of power relationships as they develop in the text of the documents. This helps to identify the common assumptions behind a homeownership ideology, which I argue further marginalizes First Nations social well-being and collective forms of housing and identity.

The strength of the documents as useful sources of data appears in the language or discourse on homeownership. For example, when there are utterances that tend to adopt a popular discourse on homeownership, the task of the empirical

research is to explore whose interests appear genuinely to be supported – those of the community or those promoting the dominant discourse on pro-homeownership. Recent studies have shown that people tend to adopt a discourse based on common assumptions, which may in fact be false or misleading (Yauk, 2006). A critical discourse of the documents sheds light on the underlying risks that markets bring to First Nations.

It is important to note that the thesis does not discuss Inuit or Métis housing in detail. Rather the focus is on housing initiatives within First Nations. Both the Inuit Tapiriit Kanatami (ITK) and the Métis National Council (MNC) representing Inuit and Métis peoples in Canada respectively were involved in the Kelowna Accord negotiations. As such, their housing policy documents provide useful data in the analysis. In Nunavut, where the ITK operates, the Government of Nunavut allocates housing under a separate governance structure. Inuit as Aboriginal peoples are entitled to access federal housing programs designed for Aboriginal peoples. However, Inuit people argue that the current level of programming and funding is insufficient. Similarly, Métis peoples agree that current levels of funding are insufficient, and like all Aboriginal peoples face similar challenges to meet their housing needs.

Assumptions and limitations of the research findings

A key assumption of this thesis is that contemporary social relationships are generally oppressive. This is reasonable and widely documented by a network of

critical discourse analysis scholars (see for example Blommaert and Bulcaen, 2000; Fairclough, 1996, 2001; Parker, 1999). Because language plays a primary role in creating and maintaining oppressive relationships, it can widen the level of social marginalisation. Policy is well suited as an area for discussion on social marginalisation because it tends to emerge from high-profile recommendations at the ministerial level rather than the community. In their study on health research policy in the United Kingdom (UK), Shaw and Greenhalgh (2008) found that policy was forced to redefine itself according to an ideologically based discourse on market behaviour, positioning primary care research as a marketable tool to be exploited. Another assumption of this study is that homeownership is a privileged form of tenure, and there are certain socio-economic benefits taken for granted associated with homeownership.

A limitation of the study is the research method observes the issues from only one source—that of the documents—and not from multiple viewpoints. While beyond the scope of this thesis, a multi-dimensional view of an issue, called *triangulation*, observes an issue from different angles or viewpoints to obtain a clearer picture. For example, interviews with government officials, Aboriginal organisations and First Nation community members may shed further light on land markets through multiple perspectives. The result may increase knowledge on the degree of social marginalisation at the community level, especially if markets are not as widely accepted as the policy documents claim.

However, what might be considered a limitation can also be seen as an opportunity for further research as this thesis lays the groundwork for future study. This may include interviews with each group, whose observations can then compare to the analysis in this thesis to seek positive outcomes.

Utility of research: Theoretical and practical knowledge

The importance of this research to the practice of planning is twofold. On the one hand, it critically examines the link between neoliberalism and Aboriginal housing policy, and the extent to which markets and property relations encode power relationships. This understanding contributes to the growing body of scholarly planning knowledge via theoretical returns gained from the empirical research and analysis. On the other hand, the thesis contributes to the practical knowledge of planning practice by demonstrating that planning can promote the interests of Aboriginal communities (Sandercock, 2004). To the extent that planning practices have been exclusionary, isolating and elitist, this research prepares the groundwork for ethical practices that are socially responsive and inclusive.

However, this requires a new way of thinking to the conventional Western planning approach (see for example Hibbard & Lane, 2004; Jojola, 2000; Sandercock, 2004). To do this, the thesis draws on the burgeoning body of literature on planning for Indigenous communities world-wide. In short, planning with, in, and by Aboriginal communities will require a decolonisation of

conventional planning practices, working within an Aboriginal framework that incorporates Western and Indigenous knowledge and supporting the interests of Aboriginal communities, cultures and places.

Chapter outline

Chapter 1 introduces the thesis and develops the context of the study. Next, it shows how land titling and land markets have become policy mechanisms to address issues of poverty and social conditions. These initiatives were recently introduced to First Nations as acceptable solutions during the Kelowna Accord negotiations. Chapter 2 discusses the elements of neoliberalism that may accompany markets in First Nations. Also a review of market development in Indigenous lands help to determine how markets may take shape in First Nations. Chapter 3 is an historical review of First Nations housing policy and practice, showing a gradual shift from social housing to homeownership. Chapter 4 describes the method of critical discourse analysis and gives reasons for choosing it as a research method. Next, the chapter describes the process of analysis of the Kelowna documents and maps out the major themes that emerged. The results of the analysis appear in Chapter 5, which also concludes with a discussion of the major elements of the thesis, how planners can play a role in social change and recommendations for further study.

Introducing land markets in First Nations

This thesis examines attempts to transform access to land and housing in First Nations through the mechanism of private market development. As mentioned, this initiative is a deliberate shift away from socially funded housing to private housing, and is put forward as a way to remediate poverty, increase wealth and address social conditions in First Nations. The initiative proposes to formalise current housing practices in First Nations through privatisation, thereby creating formal residential housing markets. The conventional wisdom, largely driven by a neoliberal ideology, suggests that giving formal property titles and creating market housing will increase First Nations populations' wealth as they capitalize on the proceeds. One of the barriers to development in First Nations is the inability, under the *Indian Act*, to use property for investment. Another supposed source of impediment is the system of collective land ownership recognised by most First Nations. The public policy and planning implication of this assertion is that, in contrast to collective practices, individual efforts and privatisation are more effective. This thesis explores recent movement in public policy to develop market housing in First Nations. The focus of attention is on what the initiative attempts to achieve, rather than a micro-analysis of policy documents, and thus explores the social policy implications of markets as vehicles for social change.

In Canada there is little experience with policy initiatives fostering the creation of residential land markets (Skelton and Ribeiro, 2006). Several countries, however, have attempted to confer formal property titles on the collective lands of

impoverished Indigenous communities, thus undermining traditional practices in an effort to create residential land markets. The literature review in chapters 2 and 3 show that neoliberals privilege particular market forms. They seek to introduce markets where they are absent and their reproduction where they have failed. Contrary to the purported benefits, the literature reveals that markets have not improved social conditions as promised, and in some cases are irrelevant or unnecessary. The thesis reviews these experiences and examines recent policy initiatives in Canada that are preparing the ground for markets in First Nations.

I anticipate that the analysis of these initiatives will broaden the understanding of what markets attempt to achieve, and subsequently raise concerns that may accompany markets and likely further marginalize social conditions of First Nations.

Following the analysis of Skelton and Ribeiro (2006) the theorizing work of this thesis will embrace issues such as social rights, Aboriginal governance and social relations in its examination of market development initiatives. In the process, other issues may develop alongside these broader categories. This work builds on recent planning theory that suggests planners' optimism can lead to successful outcomes (Mukhija, 2005). By nature, planners have a social conscience and seek progressive change to ensure positive outcomes. They are often interested in collaboration, community participation, and social justice. It seems fair to suggest that many planners are inclined to support an optimistic

view of Indigenous group interests and the benefits of a collective response to property issues.

To support First Nations development, solutions should include developing practices that are socially responsive and contextually-specific to the customs, practices and beliefs of each group. Such practices might include collective and group efforts, which can be as economically efficient as, if not more than, privatisation. Meaningful practices, however, must constitute alternatives to the conventional market-based approach. Indigenous scholars Alfred and Corntassel (2005) add: “institutional approaches to making meaningful change in the lives of Indigenous people have not led to what we understand as decolonization and regeneration; rather they further embedded Indigenous people in the colonial institutions they set out to challenge” (p. 612).

Whether the extent of market success will be the extent of hardships it brings to First Nations through the “formal logic of the market” (Skelton and Ribeiro, 2006) is key to this understanding. We may determine the degree of hardship by looking at examples of market introduction elsewhere. Alternatively, markets may yield progressive outcomes if they are ethically shaped. This thesis intends to lay the groundwork upon which we can foster discussion of such ethics and identify ways that ethical practices can be inserted into practices through which land and housing circulate in First Nations.

In short, the introduction of land markets raises concerns as identified. However, if planners work towards developing ethically supported outcomes, these outcomes may yield progressive results. These results, in turn, may influence public policy to support ethical practices and socially responsive First Nation housing policy. The next section describes how neoliberalism has influenced public policy and shaped state planning decisions.

Neoliberalism in contemporary public policy and planning

As noted, neoliberalism seeks to reduce government's role in providing social services and promotes participation in the free market economy as the means to increase individual wealth. However, the neoliberal agenda has isolated the poor through its dismantling of the social welfare state and privatisation of social services (Hackworth and Moriah, 2006; Jessop, 2002; Keil, 2002). In countries where Indigenous populations reside and rely on the social provisions of the state, progressive social policy commentators argue that neoliberalism has ushered in an era of 'neocolonization' (see for example Alfred and Corntassel, 2005).

The 'roll-back' philosophy of neoliberalism has influenced housing policy by undermining the state's responsibility for "provision of [social] housing for marginalized populations in favour of its role as an 'enabler'" (Skelton and Ribeiro, 2006; see also Harris and Arku, 2006). Housing as an 'enabler' means a "shift in thinking from housing as a social sector to housing as an economic

sector” (Skelton & Ribeiro, 2006, p. 2). Under this new way of thinking, housing provision relies on the “market as the effective and reasonable vehicle for housing delivery” (ibid.).

The World Bank has been particularly influential in housing reform, especially in the Global South. For example, in Brazil, Africa, Asia, and India, they advised governments “to abandon their earlier role as producers of housing and to adopt an enabling role of managing the housing sector as a whole” (World Bank, 1993, p. 1). In addition, the World Bank has claimed that social housing funded through non-profit or public agency support fails to improve the housing conditions of the poor, including the polluted environment in which they live. They have even argued that “it is the poor that are most disadvantaged by poorly functioning housing markets” and therefore called for policy reforms that promote market intervention in marginalized communities (ibid., p. 2).

Skelton and Ribeiro (2006) point to three characteristics of neoliberalism that have taken shape in market housing among marginalized populations: (1) the market as the most reliable source for achieving social change; (2) individualism and less government intervention; and (3) the rejection of the state as the central producer of social goods and services (see also Hackworth and Moriah, 2006; Jessop, 2002).

The influence of neoliberalism in public policy and planning has created new relationships of power “whereby citizens are redefined as clients and autonomous market participants who are responsible for their own success, health, and well-being” (Keil, 2002, p. 583 citing Isin, 1998). Under these circumstances, “social policy is being subordinated to economic policy” in its attempt to “overturn a culture of dependency” (Jessop, 2002, p. 459). This logic seeks to transfer control over the economy from the public to the private sector; however, the reduction of intervention in one area has led to intervention in another. Keil (2002) adds, state planning has intervened in new ways in which oppression rather than empowerment has created “fissures in which urban resistance and social change take root” (p. 579).

Such conceptualizations have emerged as policy preference for homeownership aimed at low- and moderate-income households has isolated the poor. For example, policies leading to planning interventions that focus on maintaining and or increasing home ownership, in fact, do not reach those in most need. In the United States, Basolo (2007) found that US cities require large subsidies to “adequately subsidize ownership for low-income households” (p. 115). As a result, the majority of assistance went to help moderate-income households to achieve homeownership because they required fewer resources. Another impediment in low-income homeownership is the inability to sustain the long-term costs associated with ownership.

Nevertheless, the neoliberal pursuit of market privatisation of residential lands has gained acceptance among certain policy circles as programs designed to increase homeownership replace social housing. The following section looks at the origins of recent policy promoting the establishment of residential land markets and the commentators who find it problematic.

The neoliberal pursuit of the market: Internationally and in Canada

The neoliberal portrayal of markets as instruments of economic success is focused on marginalized populations by Hernando de Soto's influential book *The Mystery of Capital* (2000). In this book, de Soto recognises the entrepreneurial abilities of the poor and the informal institutions of loans and rents they create outside the formal legal system. He laments the absence of formal legal title, which he argues further prevents the ability of the poor to increase their wealth. De Soto's (2000) main argument is that titling would enable the poor to grow rich because the land they hold informally could be capitalised, and the proceeds used to increase wealth. *The Mystery of Capital* has been widely criticised for its universalist and populist tone (see for example Gilbert, 2002 and Bromley, 2004) and for its overstated assumptions and lack of evidence on the absence of title as a major source of poverty. Some critics of de Soto fear that policy makers will entrust the market as the means to increase wealth without understanding how markets should function properly (Gilbert, 2002).

De Soto's proposals have recently gained support from Conservative Party activist Thomas Flanagan, who argues, "individual property rights are essential to successful market economies" (Flanagan & Alcantara, 2006, p. 158). Flanagan's recent edited collection by non-Aboriginal academics and professionals (Anderson, Benson & Flanagan 2006) is subtitled *The Other Path for Native Americans*, and promotes neoliberal economic reforms as the tools for First Nation self-determination. The contribution by Flanagan and Alcantara (2006) examines existing forms of individual land ownership on First Nations such as Certificate of Possession (CP) and customary allotments. In their view, these instruments are ineffective, since they prevent individuals from selling and mortgaging land freely, and in their place suggest freehold arrangements and active participation in the market. Their tone is universalist and portrays a colonialist view of property rights that privilege particular economic forms:

Indigenous people, like any other population, are subject to the basic economic forces of externalities, scarcity, and transaction costs that ultimately ground notions of property rights, encourage entrepreneurial behavior and technological adaptation, and define their boundaries of economic organization. (Galbraith, Rodriguez & Stiles, 2006, p. 25).

Flanagan and colleagues claim that Indigenous land tenure was "historically noncollective" (ibid., p. 24) and based on private property in which owners "had a vigorous entrepreneurial interest in maximizing the productivity of these assets, including land" (ibid., 19). This claim, however, ignores the important social, cultural and relational aspects that Indigenous peoples experience in land tenure.

It is important to note that Indigenous traditional concepts of land and land rights focus on use rather than ownership (Bobroff, 2001; Harris, 2002; Jojola, 2000; Krueckeberg, 1995; Lane & Cowell, 2001; Nadasdy, 2003). For example, Jojola (2000) points out that Indigenous land tenure is the collective embodiment of Indigenous world-views and the fundamental relationship that underpins these world-views is that between humans and the environment. Thus, sustainable land use practices are foremost important in maintaining sustainable relations between the land and the people who use it for survival.

Indigenous and Anglo-American property systems

Generally, Indigenous land tenure is poorly understood. The confusion over property ownership, for instance, has led to negative outcomes such as the *Indian Act* and the *Dawes Act*². Some scholars, however, have attempted to dispel these misconceptions in order to correct where others got it wrong. One misconception is that Indigenous peoples owned all their land in common without recognised systems of property rights. It is important to note that Indigenous groups in North America had complex and widely varying systems of land ownership. These systems not only served to protect the common interests of the group, but also supported individual property rights. Many of them provided for the transfer of land, transfer to next-of-kin, and the ability to change land use according to changes in social conditions (Bobroff, 2001).

² The Dawes General Allotment Act of 1887 is an act of Congress that imposed a private property system of allotments on the Native American tribes of the United States. The act replaced tribal systems of property rights with an Anglo-American property regime.

Therefore, and in contrast to Flanagan and colleagues' belief, a more accurate characterisation of Indigenous property systems are that they recognise and protect a wide range of property rights in land. These rights include communal and individual interests, both of which lie at the core of Indigenous identity (Bobroff, 2001; Nadasdy, 2003; Woolford, 2005). In addition, the belief that all collectively held land leads to economic inefficiency, as argued by Flanagan and colleagues, is inaccurate. Instead, as Cornell (2002) points out, collective title to tribal lands in the United States "has not proven to be an obstacle to economic development" (as cited in Woolford, 2005).

In essence, Indigenous property systems represented the collective consciousness of the group as a distinct people whose rights to land were fundamental to their existence. This ensured that the individual use of land and resources coincided with the community's goals and objectives so as not to endanger the group's security and prevent exploitation from outsiders (ibid.).

Indigenous property systems differed in important ways from the Anglo-American property regime. For outsiders, this has caused confusion. Indeed, the central importance of land to Indigenous peoples meant that under these systems most restricted the ability to transfer land rights outside of the group. This led Indian Agents, politicians, economists, and so on to conclude that the band invariably held Native title in common (ibid.). Subsequently, this narrow view marginalized the diversity and complexity of Indigenous property systems governing land

rights among Indigenous peoples themselves (Ibid.). Bobroff (2001) found that complex and thriving Indigenous property systems existed in North America long before European colonisation. His description of these systems is noteworthy, for which a lengthy quote is necessary.

All known tribes' property systems recognized individual right in personal goods. Agricultural tribes recognized exclusive right in land. Some hunting and gathering cultures found property rights less necessary, while others developed complex ownership systems governing particular land areas and resources. Societies whose members ranged over vast territories were the least likely to recognize property rights in land, although even these tribes recognized property rights in cultivated lands. As one writer described it, the Indian property institutions, like property rules under English common law, were able to change and adapt to meet new social and economic challenges and conditions (Bobroff, 2001, p. 1573).

In short, Indigenous property systems in North America have similarities to other Indigenous lands internationally. These systems existed long before European colonisation and for some Indigenous groups they are distant relics, whose property systems now operate within contemporary band councils or tribal governance systems that mirror Anglo-American values. Bobroff (2001) has shed some light on these misconceptions; however, further work is required to increase this understanding.

To conclude, this chapter shows that First Nation housing policy has taken on the general characteristics of neoliberalism as identified. As a result, planning for, and the provision of, housing has shifted away from social housing to home ownership on-reserve, promoted as a means to increase wealth, improve housing conditions and standards of living in First Nations (CMHC, 2005). In November of 2004, Ottawa, provincial and territorial governments, and Aboriginal organisations discussed these issues at the Aboriginal Roundtable process. In a final meeting concluding the process, federal Ministers and native leaders “discussed a vision for increased Aboriginal control over housing and the need to work collaboratively on developing a new Aboriginal housing system” (ibid., see also Canada-Aboriginal Peoples Roundtable, 2004, pp. 20-23). One of the recommendations was that “homeownership could be promoted through innovative financing mechanisms geared to people living in poverty or with inadequate credit ratings” (ibid., pp. 20-23). As the next chapter demonstrates, the neoliberal basis for titling and land markets draws attention to some areas that likely affect social conditions in First Nations.

Chapter 2

Theoretical Orientation

Skelton and Ribeiro (2006) recognize that market-oriented policy initiatives have been rooted in neoliberalism. This understanding informs the theoretical basis of the thesis and it is central in articulating the colonialist relationship that exists between the federal government and First Nations in Canada. This chapter presents three areas of concern that may accompany the development of markets in First Nations. Next, a discussion on the development of land markets in Indigenous lands shows that markets appear irrelevant in some contexts. The chapter concludes with some reflections on building alternatives to the conventional market approach that are contextually relevant.

It is recognized that First Nations housing policy will tend to take on the elements of neoliberalism identified above, as it transforms existing practices and institutions of housing on First Nations. As land markets develop in First Nations, Skelton and Ribeiro (2006) suggest that particular attention to *social rights*, *Aboriginal governance* and *social relations* require further exploration if we are to work towards alternatives to conventional land markets. These three areas effectively address a myriad of issues, including race, class, gender, etc., and guide the theoretical orientation of the thesis.

Social rights

Social rights are of particular interest in the development of land markets, since markets have been introduced as a new strategy to address a network of complex issues and enhance the social well-being of First Nations. Global experiences of market development among marginalized populations are useful, since their familiarity may give rise to certain risks that may accompany markets in First Nations. For example, a network of scholars criticise state land titling initiatives in the Global South as overly optimistic and suggest that faith in the market as the most appropriate vehicle for the expansion of social rights is problematic (see for example Bromley, 2004; Skelton and Ribeiro, 2006; Yiftachel and Yakobi, 2004).

In First Nations, conditions of poverty and inadequate housing are common. In an effort to 'close to gap' between First Nations and the rest of people living in Canada with respect to 'living conditions', Ottawa has proposed to introduce land titling and housing markets (Canada, 2005a). Currently, land in First Nations circulates outside of market relations as Chiefs and Councils allocate housing to band members. Ottawa proposes to transform this process through the allotment of property titles and the fostering of markets. Drawing on the experience of similar initiatives in the Global South, however, where 'formal' property markets have replaced 'informal' housing practices, the expansion of social rights has been limited (Skelton and Ribeiro, 2006).

While the situation in First Nations is different, I anticipate that similar concerns may arise. One example is the “complex web of reciprocal relations and obligations with the land and the animals upon it” (Nadasdy, 2003, p. 223) that First Nations experience, rather than private property ownership. This relationship underlies the issue of social rights, since such practices are integral to the traditional belief systems of Indigenous communities. Nevertheless, over recent years land markets, which stand to challenge Aboriginal land tenure, have gained acceptance (Assembly of First Nations, 2005a; Canada, 2005a).

One circumstance identified as impeding development in First Nations, is the inability, under the *Indian Act*, to mortgage and sell reserve land, resulting in the lack of private investment (Canada, 2005a; Skelton and Ribeiro, 2006; see also Flanagan and Alcantara, 2002; 2006). In an effort to create market-like conditions, the federal government has expressed a desire to “modernize” (Canada, 2002a, p. 4) the *Indian Act* in order to simulate individual entrepreneurialism.

Similarly, the system of collective land ownership (recognized by most First Nations) is vilified as yet another impediment to development (Flanagan and Alcantara, 2006). The courts have been reluctant to hear cases dealing with customary land rights because they have neither statutory nor common-law basis. Neoliberal economists argue that collectively held land rights are insecure, leading to inefficient use of land (ibid.). Since the 1960s, Ottawa has introduced

enabling instruments, such as Certificates of Possession (CP), Ministerial Loan Guarantees (MLG) and Revolving Loan Funds (RLF) that allow qualified homebuyers to overcome these obstacles, gain title to the land, and obtain security through alternative means. Current housing conditions and levels of poverty in First Nations, however, testify to their ineffectiveness. Considering the intervention of land markets the question becomes: how might they be shaped differently to perform better where others have failed?

Governance

Governance issues relate to the central role of Chiefs and Councils in the allocation of land and housing. In 1996, the federal government introduced the *First Nation On-Reserve Housing Policy* with funding to foster housing authorities separate from Chief and Council, and in 2003-2004 “further funding to ‘depoliticize’ housing on First Nations was issued” (Skelton & Ribeiro, 2006, p. 6: See also Canada, 2004b, p. 5). This move was a deliberate attempt to provide a more “business approach” to housing on-reserve, whereby First Nations could access private capital markets independent of band council administration (Canada, 2004b, pp. 5-6).

The provisions of the *Indian Act* created the contemporary system of band governance. Both have been criticised across a wide political spectrum as outdated, racist, ineffective and harmful (Alfred, 1999; Canada, 2002a; Harris, 2002; Ladner and Orsini, 2005, Turner, 2006; Woolford, 2005). One of the major

criticisms is that they have failed to improve the quality of life of First Nations people and further embedded Aboriginal peoples into a colonialist relationship with Ottawa. Research among marginalized communities in the Global South shows that an often implicit objective of developing land markets has been to undermine existing practices and replace them with state sanctioned norms and values (Skelton and Ribeiro, 2006). If markets should develop along these lines, they may inhibit the creation of appropriate forms of First Nations governance based on community values.

Social relations

In Indigenous cultures, social relations between individuals and between individuals and the environment create important social networks upon which land tenure plays a primary role. Long before European colonisation Indigenous societies planned their communities (Harris, 2002; Jojola, 2000; Lane & Cowell, 2001; Nadasdy, 2003) with these social networks in mind thus maintaining social relations through land use practices (Jojola, 2000, p. 4). In contrast, the Western approach has primarily regulated land-use and limited individual freedoms (Krueckeberg, 1995).

According to Jojola (2000), land tenure in Indigenous cultures is “distinguished by long and sustained patterns of continuous ownership” (ibid., p.4). This sustained ownership lives on over successive generations as it passes down to next-of-kin. Jojola continues to explain that “land became the embodiment of collective

groups whose goal is to sustain the productivity of the land onto those who will inherit it” (ibid.). Therefore, the interests of the community prevail over those of individuals, since one’s actions may jeopardize community sustainability. This entitlement, as Jojola explains, “became a birthright and collective stewardship is the primary mode of maintaining it” (ibid.).

Collective ownership or customary rights are the most common forms of property ownership in First Nations. Unlike common law property ownership, most do not individually own private property, but do so collectively. While title to reserve lands remains formally in the hands of the Crown for the benefit and use of First Nations, these lands, so far, have been able to operate under customary tenure governed by Chief and Council. The supporters of land titling and market development emphasise the security that formal title brings to its owner, whereby individuals may use it as collateral for investment and so on. Conventional forms of property ownership, however, are incompatible with Indigenous systems of land tenure. Indeed, Aboriginal groups had well developed recognised property systems (see Chapter 1), which have been replaced by property regimes under the *Indian Act*. The incompatibility between both systems is that common law property ownership signifies a relationship between the tenant and the Crown (McNeil, 1997) whereas collective ownership focuses on the relationship between the individual and the land and those who interact within it.

Considering the nature of land tenure within Indigenous societies, it becomes clearer how “distinctive world-views” developed (Jojola, 2000, p. 4). Indigenous world-views include the necessary elements to achieve a balanced and symmetrical interrelationship between humans and the environment. World-views link both past and present, and direct communities into the future. Moreover, as Indigenous communities interact in mainstream society and undergo change, the process of transformation balances the past, present and future in tune with evolving world-views (Jojola, 2000). This has enabled some Indigenous communities to maintain traditional values and still operate within the conventional world.

In summary, Skelton and Ribeiro (2006) have identified that the disruption of traditional forms of land tenure may result in a change in the prevailing social relations that will both affect and be affected by the particular forms that markets take. It bears repeating that the neoliberal “portrayal of markets as neutral instruments” (ibid., p. 24) sets aside the experience that First Nations have with the land and the environment (i.e., animals, plants, etc.). Also, as in other contexts, “conventional markets encode relationships of power based in cleavages such as class, gender, [‘race’] and so on” (ibid., p. 23), that may determine one’s ability to engage in markets (Skelton & Ribeiro, 2006). As Roy cautions, “formal property systems can...be rife with patriarchal and class power” (Roy 2005, p. 152 as cited in Skelton & Ribeiro, 2006, p. 25).

As noted, market-oriented policy initiatives have been rooted in neoliberalism. The introduction of land markets in First Nations adopts a neoliberal approach as housing shifts to an economic sector promoting privatisation of land. The risks that may accompany markets include those that undermine social rights, governance and social relations as market mechanisms replace current practices of land and housing allocation on-reserve. In addition, the promotion of the market as the effective vehicle for social change and its ability to remediate issues of poverty is questionable. The following section explores the development of land markets as instruments for social change in Indigenous lands. Attention to the socio-economic and socio-political elements of market expansion may provide insight into how market will unfold in First Nations.

The emergence of land markets in Indigenous lands

Formalising provisions for the individual ownership of housing and other land-based assets emerges, as described earlier, from the optimistic policy prescription that property titles are necessary in order to eradicate poverty and create an environment of investment among the poor regions of the world. Formalisation involves official registration and issuance of titles to individuals (or families) who possess housing and other land-based assets in a supposedly ineffective, fragile and insecure state. This alleged insecurity of tenure is arguably the principal cause that inhibits investment among the poor, since they merely *possess* rather than *own* property. Proponents of ownership claim that title provides individuals with greater access to official sources of credit, such as

banks, credit unions, lending institutions and so on, whereby title may be used as collateral for loans to upgrade housing, start a business, or to engage in other economic development opportunities. Bromley (2007) point out “the imperative of formalisation flows from the flawed inductive logic that says ‘rich countries have formalised tenure, therefore formalisation of tenure will help make you rich’” (p.1). However, there is little empirical evidence that shows formalisation is the necessary ingredient for productivity and even fewer assurances that beneficial outcomes are inevitable.

This section discusses the socio-economic and socio-political dimensions of formalisation of land tenure in Indigenous land, using examples from Papua New Guinea, Sub-Saharan Africa, Australia and New Zealand. A major finding is that ‘tenure security’ (formal title) is largely redundant when customary tenure provides sufficient security for economic productivity. In addition, the assumption that private property regimes are easily inserted into locally recognised property systems ignores the diversity commonly found within informal extralegal systems in Indigenous land (Bobroff, 2001; Cousins et al., 2005; Cousins, 2007; Nadasdy, 2003; Sandercock, 2004). Arguably, the biggest mistake of formalisation is that it fails to address the underlying cause of poverty, which is not tenure security but a whole host of other issues, such as access to jobs and employment, education and training, and affordable housing.

Socio-economic dimensions of formalisation

The justification for formalisation stems from the alleged economic benefits of legal title. The World Bank continues to invest confidence in property title and its “large benefits” (WDR, 2006, p. 165 as cited in Bromley, 2007, p. 7) despite recent criticisms as an effective instrument to make the poor grow rich (see for example Bromley, 2007; Gilbert, 2002; Sjaastad and Cousins, 2008). In fact, the World Bank admits there are challenges in urban and rural contexts which titling cannot address (WDR, 2006). The assertion of the ‘large benefits’ of titling, however, is neither accurate nor empirically supported (Bromley, 2007). Bromley (2007) is leery of such statements and laments how the World Bank can justify such policy truths in the “face of ambiguous empirical support” (p. 8).

Furthermore, Bromley (among others) is fearful that the response to the alleged ‘challenges’ will divert focus from more useful initiatives, such as tackling the barriers to credit where tenure is not at all insecure.

The subject of tenure security is highly complex in Indigenous lands because of multiple interests in land parcels. In other words, a number of individuals may have a specific interest in the same piece of property, however, the right to exercise this interest is communally recognised. Multiple interest in land is a source of discomfort for those who work in the development community because it is difficult to determine who owns what. Formalisation attempts to change this by determining at last who owns what (Bromley, 2007). Yet much of this

confusion rests with the World Bank and colleagues and not with Indigenous communities.

In fact, the literature which supports “ownership security” (formalisation) (see for example Feder and Oncah, 1987 as cited in Bromley, 2007) shows that the real issue is not tenure security but the prejudice of markets (ibid.). Moreover, the term ‘ownership security’ is redundant since ownership cannot be insecure as it represents a right to possess as opposed to occupancy of land, which is indeed insecure (Becker, 1977 as cited in Bromley, 2007).

Against this backdrop, the literature points to the prejudice found within the credit banking system and not with individual investment behaviour, as is argued by, for example, the World Bank (2006). Such is the case where ownership is informally secure. Under this circumstance, the prejudicial practices of lending institutions favour holders of ‘formal titles’ over those who do not possess this symbol of ownership. Bromley (2007) rightly points out, “and thus for the wrong reasons, the idea gained currency that titles imply security which then induces investment” (p. 14).

In the Indigenous lands of Papua New Guinea, Holzknacht (2003) notes that customary land tenure systems are “highly productive” and that changes will likely confound the process of land reform. However, supporters of land registration in that country contend that communal land owners have not only

failed to keep pace with the economy but have also missed opportunities that only markets provide (Curtin, 2003; see also Koczberski *et al.*, 2002; Hide, 2002; and Gibson & Rozelle, 1998). Holzknicht disagrees and points to the empirical record to bolster his claim. For instance, most of the coffee, coca and copra³ exported from Papua New Guinea grows on customary lands (Holzknecht, 2003, p. 22). In addition, the Indigenous community living in Morobe Province has successfully created a market for agriculture production, which now produces 12 tonnes of upland rice per year—all with communally held land (*ibid.*).

In Kenya and Ghana, similar observations were made by researchers who “found no relationship between land rights and plot yields... [and] also found that the mode of acquisition had no effect on plot yields“ (Migot-Adholla *et al.*, 1993, p. 282 as cited in Bromley, 2007, p. 15). In Burkina Faso, the productivity of land depended on determinants “other than property rights, mainly the natural fertility and climate conditions” (Ouedraogo, *et al.*, 1996, p. 232 as cited in Bromley, 2007, p. 16). In a comprehensive study on land rights in Ghana, Kenya and Rwanda, Place and Hazell (1993) report that: “Rights which farmers hold over individuals’ parcels of land vary widely, and are in many cases surprisingly privatized. Yet with few exceptions, land rights are not found to be a significant factor in determining investments in land improvements, use of inputs, access to credit, or the productivity of land. These results cast doubt on the need for ambitious land registration and titling programs at this time” (Place and Hazell, 1993, p. 10 as cited in Bromley, 2007, p. 16).

³ Copra is the dried meat, or kernel, of the coconut.

Research by Deininger (2003) of the World Bank, whose work supports these fundamental points argues that: “Increasing security of tenure does not necessarily require issuing formal individual titles and in many circumstances more simple measures to enhance tenure security can make a big difference at much lower cost than formal titles...formal title is not always necessary or sufficient for high levels of tenure security (Deininger, 2003, p. 39 as cited in Bromley 2007, pp. 16-17). In other work, Deininger and Feder (2001) add “formal documentation (i.e. titling) is not crucial where customary tenure systems provide sufficient security to facilitate the level of investment and land transactions that are relevant for the prevailing economic environment” (Deininger and Feder, 2001, p. 314 as cited in Bromley 2007, p. 17).

In a similar vein, Gough and Yankson (2000) write that customary tenure in Africa has existed alongside European-based systems because of its resiliency and built-in checks that limit the abuse of authority. It is important to distinguish between traditional and contemporary systems of Indigenous tenure. Anecdotal evidence suggests that contemporary systems are highly corrupt and mirror Western based institutions; whereas traditional institutions are those that existed before colonisation and serve as the basis for many Indigenous communities who desire to return to traditional forms of governance.

In contrast, formal property systems “often operate in the interests of a select minority and are inequitable, unresponsive and overly bureaucratic” (Kasanga *et*

al., 1996 as quoted in Gough & Yankson, 2000, p. 2487). From an Indigenous perspective, it is this resilience, shaped by informal rights and obligations, which has enabled some traditional societies to maintain the practice of customary tenure so far. Holzkecht (2003) adds that in Papua New Guinea the “survival of community-based land and resource management practices [are] integral to the maintenance of social cohesion and to the promotion of sustainable development” (Holzkecht, 2003, p. 20). It is no wonder then that attempts to transform Indigenous land from customary based tenure to private markets have been contentious, often marked by violent protests and demonstrations (Holzkecht, 2003).

One impediment to development of Indigenous land is the multiple claims recognised on the same parcel of land. For example, one individual may harvest crops, another individual may forage for firewood, and yet another individual may hunt within a designated trap line. Following the logic of titling, how may we distinguish between whose rights are more important and which use is to be made more secure? Platteau offers the following words of caution:

In a social context dominated by huge differences in education levels and by differential access to the state administration, there is a great risk that the adjudication/registration process will be manipulated by the elite to its advantage ... The fact of the matter is that, insofar as it encourages the assertion of greedy interests with powerful backing and is likely, wittingly or not, to reward cunning, titling opens *new* possibilities of conflict and insecurity that can have disastrous consequences for

vulnerable sections of the populations *at a time when their livelihood crucially depends on their access to land* (Platteau, 1996, pp. 43-5 as cited in Bromley, 2007, p. 18: emphasis original).

While there is some evidence to support the idea that property formalisation, and the issuing of property title in particular, may increase people's ability to invest and secure finance (Feder and Onchan, 1987; Fermin-Sellers and Sellers, 1999 as cited in Sjaastad and Cousins, 2008), it is not the single cause of economic growth as de Soto claims (2000). Rather there are other, more relevant sources, such as lack of health care, job opportunities, infrastructure and a whole host of other restraints. As Sjaastad and Cousins (2008) point out, whether formalisation is deemed necessary or not it will fail to address the underlying cause of poverty. In the case that land title and markets are deemed necessary, they will likely include a host of additional supportive interventions and policies to achieve any significant impact (Sjaastad and Cousins, 2008). If so, alternatives that pay greater attention to local settings are more likely to have successful outcomes.

Socio-political dimensions of formalisation

Turning to the socio-political dimensions of formalisation the literature points out that titling and market development may undermine social rights, governance structures and social relations of the recipients of land reform. Currently, policy preference for institutional arrangements proposed to the poor, reflect an ideological arrogance of the state. The notion that what works for the Western developed world will also work for the developing world is evidence of this

arrogance. How this affects social rights, governance, political autonomy and culturally recognised and developed social relations is a primary concern.

Indeed, policy preference for titling and market development follows the unfounded assumption that formalisation of tenure is necessary to remediate poverty and encourage investment. The irony, however, is that participation in the market economy requires a steady income, thus programs geared toward securing employment rather than title would appear logical. The World Bank admits that formal tenure security may not be relevant where it currently exists informally; nevertheless, it continues to justify its course of action on the 'large benefits' of titling.

As a result, the intensification of titling and market development in Indigenous lands leads us to believe that Indigenous communities suffer from the effects of tenure insecurity (Bromley, 2007). This, of course, is not necessarily true.

Nonetheless, the pervasive arguments of de Soto and colleagues have, in effect, created a frenzy around the 'benefits' of titling thereby drawing attention away from the real issues. Those who subscribe to de Soto's logic fail to see that poverty exists because of "flawed economics", not the lack of tenure security.

In South Africa, Cousins et al. (2007) report that individual private ownership disrupted social relations because the allocation of plots ignored tradition kinship ties and social networks. Issues of incompatibility arise when formal property

rights collide with community-based systems of tenure. The result, as Cousins *et al.* explain, is that “formalization of property rights transforms and alters both the nature of the rights and the social relations and identities that underline them” (Cousins *et al.*, 2007, p. 28).

Some final considerations on the institutional ‘confidence’ of market development now seem appropriate. For instance, the creation of land markets in Indigenous lands follows the logic that Indigenous peoples want what the non-Indigenous world offers. While it is true that Indigenous communities aim to increase economic development and become self-sustaining, many choose to do so under their own terms (Lane and Hibbard, 2005; Lane, 2006). This means following appropriate customs and practices that are unique to individual communities and respecting property systems that are integral to Indigenous cultures. Outside interventions, on the other hand, propose to undermine such customs and practices. Such was the case in Queensland, Australia, where homeownership incentives have been contextually irrelevant. Moran *et al.* (2002) found that conventional homeownership intended to “alter the economic and social fabric of Indigenous community settlements in Queensland” (p. 367).

In closing, neoliberals privilege particular strategies in the development of markets in Indigenous lands. They seek to replace and undermine traditional systems of tenure with institutional arrangements that are far from ‘neutral’ (Skelton and Ribeiro, 2006). Consequences for Indigenous communities would

include undermining traditional rights to social benefits in housing; the displacement of ownership rights as the process of formalisation confounds land reform; and the disruption of social relations as communities become embedded into new practices which replace old ones.

Furthermore, if markets develop without deliberate attempts to shape them, negative outcomes are inevitable. According to Smith (2005), the insertion of ethical practices can lead to positive market development. Earlier work by Sjaastad and Bromley (1997), for example, claims that tenure should determine how markets function rather than tenure adjusting to markets. Mukhija (2001) also adds that if markets are to develop, they require institutional support rather than just enthusiasm.

The review presented in this chapter shows that titling policies appear irrelevant in some settings. Furthermore, the attempt to address issues of poverty through one-off solutions ignores the underlying cause of poverty, inadequate housing and affordability. In settings where tenure reform is indeed necessary, it must give way to a more nuanced, context-specific and integrated approach to development opportunities that recognise diverse forms of tenure (Cousins et al. 2007, p. 28). This would likely include an approach that considers the social, cultural, environmental, and economic needs of a community in order to comprehensively address land issues. The following chapter describes the

Canadian context in which Aboriginal housing policy has been influenced and shaped by neoliberalism.

Chapter 3

First Nation Housing Policy and Practice: A Historical Review

The following historical review of publicly funded First Nations housing shows how neoliberalism has gradually shifted housing policy from a 'social sector' to an 'economic sector'. For instance, mortgage-fuelled incentive programs now replace those previously designed to fund social housing. The most recent example is the First Nations Market Housing Fund (FNMHF) established in March 2008 as a means to increase homeownership. A discussion of the FNMHF appears later; however, first it is necessary to give some historical background to the institutional development of First Nations housing policy and practice.

To begin, it is important to understand that 'Registered' First Nations have several options for accessing housing on-reserve either from the Department of Indian and Northern Affairs Canada (INAC) or the Canada Mortgage and Housing Corporation (CMHC). The programs discussed below, for the most part, pertain to First Nations people living on-reserve.

Indian and Northern Affairs Canada (INAC)

Programs offered by INAC support on-reserve housing related activities, such as the construction of new homes and the renovation of existing units. First Nation band councils or their designated housing authorities administer these activities through "comprehensive, community-based plans to meet the needs of their

members” (Canada, 1999, p. 6). These plans include the allocation of available funding, and the establishment, planning and implementation of housing projects.

In the mid-1960s, INAC introduced a housing subsidy program that provided conditional subsidies through annual contributions to First Nations to assist in building and renovating housing. Subsidy funding started at \$7,000 in 1961, increased to \$10,000 in 1973, increased to \$12,000 in 1977, and then to \$22,125 in 1980 (Brant, 2000, p. 2). This program remained virtually unchanged until 1996, when it was discovered that the “current level of investment by all parties [was] insufficient for many First Nations to sustain improvements” to housing (Canada, 2003a, p. 3).

In fact, communities were building housing on funding originally intended as a partial subsidy. The quality of housing suffered and many of these homes are still in the process of upgrading or replacement. As Brant (2000) notes, “the template for Aboriginal housing was set and controlled by people other than the First Nation people and the continuing and revised programs have generally been built on this foundation” (p. 3).

This period also marks the beginning of a shift towards First Nation privately owned housing. Depending on income, community members sought financial help from private lenders following established lending criteria to obtain, purchase or renovate on-reserve housing. Because band members cannot

mortgage on-reserve property, security for private lenders is made possible through Ministerial Loan Guarantees (MLG) with the consent of the band council and approval from the Minister of Indian Affairs. Since the late 1960s, the MLG has provided security for lending institutions to increase homeownership on First Nations. The program was extended to authorize on-reserve housing loans totalling \$1.7 billion in 1998 and by 2003, 591 First Nations had used it (Canada, 2003a).

Ministerial loans guarantees help provide individuals obtain a Certificate of Possession (CP). A CP is similar to fee simple title in that it gives the holder an interest in property, but unlike legal title a CP only grants a right to possession and not fee simple interest (Alcantara, 2005). CPs have enabled First Nations people to secure mortgages with consent of the band council and the approval of the Minister of Indian Affairs. In Six Nations, Ontario, CPs have been used to promote private ownership of homes on reserve (Flanagan & Alcantara, 2002). How it works is a CP holder transfers the CP to the band as collateral. Next, a MLG is signed, upon which the band assumes responsibility for the mortgage in the event of a default. This reduces the risk for the private lender and allows the individual member to obtain a mortgage. However, if the member defaults on his or her loan, the band can take the land because it holds the CP. Otherwise, the CP is returned to the owner once the mortgage is paid off. Despite its limitations, this process has been used by several First Nations (ibid.; Alcantara, 2005).

Similarly, the Mohawks of the Bay of Quinte have used CPs to access homeownership using Revolving Loan Funds (RLF) to gain title to the land and borrow directly from the First Nation without an MLG. In 1971, a RLF program was created to provide housing loans to eligible community members, to a maximum of \$70,000, at a fixed interest rate of six per cent (Canada, 2003a, p. 5). Successful applicants are approved based on a point system, and when selected they are required to build their home in accordance with applicable building codes and policies. Loan agreements with occupants specifying roles and responsibilities include the need for occupant maintenance, payment guidelines, and eviction and appeal measures (CMHC, 2005).

As a further incentive, if the occupant makes eleven monthly payments, the twelfth month is free. While the Bay of Quinte is meeting the needs of those ready to own, it appears it is “behind in providing rental accommodation” (Gerow *et al.* 2006, p. 18). Despite these shortcomings the community is embracing homeownership. For example, Gerow *et al.* report that in the calendar year of 2006 “there are 25 families with mortgage applications, of which 8 or 9 will be granted” (*ibid.*).

Whether the Bay of Quinte serves as an appropriate model for other First Nations is questionable. The average mortgage payment in the Bay of Quinte is approximately \$500 (CREA, 2006, p. 6), which seems unreasonable for most First Nations people living in northern remote reserve communities.

Nevertheless, the initiative purports to create a sense of 'community pride' (ibid.; Canada, 2003b; CMHC, 1998). However, the origin of this 'sense of pride' requires further research, especially considering the connection to government housing programs in urban centres, which have tapped into the pro-homeownership discourse around 'community pride' to promote homeownership (McCarthy *et al.* 2001). In the words of Bay of Quinte housing manager, Chris Maracle:

In a era where home ownership is just a dream for many disadvantaged or lower income families, our project is innovative, in that hundreds of housing loans have been issued to young, working couples, elders, and even those on social assistance. (As cited in CREA, 2006, p. 16)

The use of CPs is relevant in the discussion on neoliberalism, since it illustrates a policy shift towards homeownership. This was clearly expressed in the new federal on-reserve housing policy of 1996, the aim of which included increased "local control and accountability for housing, improve program flexibility, and *encourage more use of non-government resources* to improve housing conditions" (Canada, 2003a, p. 8: emphasis added). One of the policy goals was to "promote individual pride and shared responsibility, including home ownership and increased private market investment" (ibid.).

In 1999, INAC introduced the *First Nations Land Management Act (FNLMA)* in order to remove the barriers to economic development and simulate economic growth in First Nations (S.C. 1999, c. 24; see also Canada, 2002b). The initiative

does not authorize the sale of reserve land, however, it does allow for land exchanges in accordance with established land codes and on approval from band members. Fourteen First Nations⁴ have opted in, and have since developed their own land codes and are now “legally responsible for managing their lands” outside of the *Indian Act* (Canada, 2005c). However, Flanagan and Alcantara (2006) are doubtful that many First Nations will use the *FNLMA*, since it is highly complex, costly and requires enormous administrative support. For many smaller bands, this is simply not feasible, nor are they in a condition to administer over land independent of the *Indian Act*. It is interesting to note that some of *FNLMA* First Nation communities are located close to commercial development and urban centres, and in some cases have been able to capitalise on economic development opportunities. Insofar as this has improved a community’s ability to adopt the *FNLMA* process is uncertain. Nevertheless, it would suggest that wealthier communities are in a better economic position to opt in.

Aside from the practical reasons, replacing one piece of legislation with another does not address the fundamental issues of Aboriginal sovereignty, rights and the recognition of these rights (see for example Sandercock, 2004 and Hibbard & Lane, 2004). Herein lies the collective desire of First Nations, which is to regain sovereign control and ownership over their lands and resources and to use them freely without government intervention (Alfred, 1999; Turner, 2006).

⁴ The fourteen *FNLMA* signatory First Nations include: Westbank, British Columbia; Lhiedli T’enneh, British Columbia; N’quatqua, British Columbia; Squamish, British Columbia; Musqueam, British Columbia; Siksika, Alberta; Muskoday, Saskatchewan; Cowessess, Saskatchewan; Opaskwayak Cree, Manitoba; Chippewas of Georgina Island, Ontario; Mississaugas of Scugog, Ontario; Chippewas of Mnjikaning, Ontario; Nipissing, Ontario; and Saint Mary’s, New Brunswick

Nevertheless, many have expressed interest in the *FNLMA*, and as Flanagan and Alcantara (2006) point out, some may eventually assume complete control of their land through the *FNLMA* process. While it is too early to tell if this process is meaningful for First Nations, is it also unclear how much control First Nations will have and whether this will improve social conditions.

Canada Mortgage and Housing Corporation (CMHC)

Another source for on-reserve housing resources is the Canada Mortgage and Housing Corporation (CMHC), a national, government owned housing agency. CMHC became involved in the late 1970s and initially provided operating subsidies to bands for non-profit rental housing through its On-Reserve Rental Housing Program. Since then, it has made the Residential Rehabilitation Assistance Program (RRAP) available to on- and off-reserve residents renovating existing housing. The program is administered on-reserve by band councils or the housing authorities (Canada, 2003a; 1999).

One of the strongest critics of these programs is the Assembly of First Nations (AFN), a national organisation representing First Nation citizens in Canada. The AFN argues that current funding for on-reserve housing is not enough, and that First Nations are entitled to an increase based on First Nation 'treaty rights' to housing (Canada, 2003a; AFN, 2005a). The federal government, however, denies the existence of these rights (Canada, 2004b, pp. 6-7), and instead refers to "new institutional arrangements" (Canada, 2005d, p. 8), including funding for

increased market-based housing on-reserve and shifting from a “rights-based to a needs-based” distribution of funding for social housing (Canada, 2005a, p. 5).

Despite its misgivings, the AFN agrees that alternative measures are necessary, and as one of the signatories of the Kelowna Accord, agrees that market-based solutions will be a part of the solution to addressing housing needs and poverty on-reserve, and calls for an examination of investment pools (AFN, 2005b, p. 18 as cited in Skelton & Ribeiro, 2006). However, this willingness potentially creates an environment in which homeownership becomes the accepted norm in First Nations, without first questioning the potential consequences.

First Nations Market Housing Fund

The most recent addition to the CMHC on-reserve housing portfolio is the First Nations Market Housing Fund (FNMHF). Introduced on March 31, 2008, the Fund claims to provide the basis for a “new ability to meet housing demands” and provide “access to the same quality of life that other Canadians take for granted” (CMHC, 2008a). The \$300 million initiative proposes to help build 25,000 new homes over the next 10 years (CMHC, 2008a).

According to the FNMHF website (<http://www.fnmhf.ca/english/index.html>), the purpose is to “facilitate and broaden” the range of housing options for First Nations so that they may have the same housing choices and opportunities as non-Aboriginal Canadians. It identifies barriers which prevent market

development, including the limited access to private financing, the inability to obtain mortgage security as prevented by the *Indian Act*, the remote location of many reserves, and the “unique” land tenure regime on-reserve (i.e., communal ownership) that First Nations experience. The FNMHF offers two program areas through which First Nations can gain access to financing for homeownership. These are the Credit Enhancement Facility and the Capacity Development Program.

Credit Enhancement provides financial security to a First Nation’s housing loan guarantees made to financial institutions. In the event that a borrower defaults on an approved loan, the lender can first seek compensation from the First Nation as the guarantor of the loan; should this fail the lender is able to turn to the Fund for compensation for the amount of the Credit Enhancement (CMHC, 2008b). Because the *Indian Act* prevents the seizure of property on-reserve in the case of loan default, lenders are hesitant to provide First Nation housing loans. The Fund reduces the risk to private lenders and enables community members to access homeownership, provided they meet the program criteria.

The Capacity Development Program supports the provision of training, technical advice and several other services which focus on developing market-based housing capacity for qualified First Nations and their members. The purpose is to provide support for First Nations who meet the program criteria but have areas in which they need further development to assist them in qualifying for the Fund’s

Credit Enhancement Facility. Services of support include but are not limited to such areas as: planning, legislative and regulatory regimes, developing institutional structures, housing policies, financial management policies, among others.

The access criteria for both program areas focuses on the following three guiding principles:

1. Financial Management

A First Nation must demonstrate competency in financial management, a history of paying its obligations, and an adequate financial position.

2. Good Governance

A First Nation must demonstrate that it has good governance and administration within the community. In particular, it has sustainable processes and systems which will support the community's commitment to housing management over the long-term.

3. Community Commitment and Evidence of Demand for Market-based Housing

A First Nation must demonstrate evidence that community members support the concept of market housing and can afford homeownership and/or market rentals in the community (Source: <http://www.fnmhf.ca/english/index.html>).

A First Nation can apply for both programs, but must demonstrate competency in each of the three areas to qualify⁵. On a yearly basis, the Fund monitors participant success according to twelve categories that support the guiding principles (See Appendix B). Appendix B also includes the Access Criteria for the FNMHF, listing current eligible borrowers, lands and tenure for which the Fund supports.

To conclude, the discussion on First Nation housing policy and practice shows the development of market initiatives over time. However, current conditions in First Nations are evidence that their success has been limited. Nevertheless, recent initiatives, such as the FNMHF, show that particular market forms are privileged. This understanding increases awareness of the intended outcomes of market development, as we begin to see the role of policy in shaping peoples perceptions on the most appropriate course of action. As the next chapter demonstrates, discourse plays a powerful role in shaping peoples perceptions. A critical discourse analysis of the Kelowna documents serves to address a major objective of the thesis, which is discovering what underlying meanings have been embedded in policy supporting land markets in First Nations.

⁵ A diagram of how the FNMHF works is available at <http://www.fnmhf.ca/english/elements/CEEnglish.pdf>

CHAPTER 4

Methods and Analysis: Critical Discourse Analysis

This chapter explains the qualitative nature of this study and describes the method of critical discourse analysis (CDA), its main elements, and its use as a research tool for analysing the Kelowna documents. In addition, the chapter discusses recent criticisms of the approach and the reasons for choosing CDA as a research method. The chapter concludes with a detailed description of the analysis process, including the coding and creation of major themes.

CDA is a technique used here to study the power relationships manifested in the Kelowna Accord negotiations. In the broadest sense, the purpose of CDA is to analyze “opaque as well as transparent structural relationships of dominance, discrimination, power and control as manifested in language” (Wodak, 1995, p. 204 as cited in Blommaert & Bulcan, 2000, p. 448). More specifically, Wodak explains, CDA “studies real, and often extended, instances of social interaction which take (partially) linguistic form. The critical approach is distinctive in its view of (a) the relationship between language and society, and (b) the relationship between analysis and the practices analysed” (Wodak, 1997, p. 173 as cited in Blommaert & Bulcan, 2000, p. 448). The technique of CDA may increase awareness of the underlying motivations to introduce land markets in First Nations and the extent to which their recent acceptance has been shaped by dominant discourses on homeownership.

Using Wodak's 'critical approach' and the techniques of CDA generally, this thesis examines relationships of power and inequality as expressed in language in the Kelowna Accord texts. In reference to Wodak's second step the analysis of the Kelowna texts explores the extent to which discourse is 'socially conditioned' in First Nations. In other words, how has discourse influenced decision-making on the development of land markets in First Nations? Particular attention to the linguistic features in the text, such as vocabulary, grammar, and text structure, is important in determining how discourse has affected First Nations policy-making.

Qualitative analysis

This thesis is a qualitative research analysis of Aboriginal housing policy. By nature qualitative research is inductive since researchers rarely know how their data will be analysed until after their project begins (Neuman, 2003). The qualitative nature of critical discourse analysis (CDA) represents an analytical approach that views the world as created through many different social settings. Analysts bear in mind that within social settings there are multiple discourses that exist against a "cultural backdrop" such as class, age, gender, language (and dialects), and so on (Parker, 1999, p. 2). Researchers using discourse analysis become quickly aware that words and phrases are neither fixed nor self-contained; rather they attach to different social settings that give them their meaning (ibid). Thus, it is imperative that researchers in discourse analysis read texts with the understanding in mind that language is culturally significant. The term 'text' is not limited to spoken and written texts, but as Parker (1999) points

out “a text is any tissue of meaning which is symbolically significant for a reader” (ibid., p. 4). As the process of analysis begins, the goal of qualitative research is to employ one’s inductive logic to enable the organisation of a rich collection of data into a coherent set of fundamental themes. The development of themes, which emerge through an interpretive and reflexive reading of the texts, may lead to a better understanding or draw conclusions on a particular social setting.

Researchers using qualitative analysis are particularly concerned with discovering what is meaningful or relevant to the everyday life of individuals and how people construct meaning in social settings (Neuman, 2003). Their focus is largely on discovering the nature of reality and how the social world shapes this reality. There are two competing orientations or sets of assumptions about the nature of reality: essentialist and social constructionist. *Essentialist assumptions* tend to explain reality through a ‘matter-of-fact’ mentality that says, “what people see and touch...is not overly complex [and] ...things are the way there are by nature, or created out of a natural order of the world” (Neuman, 2003, p. 3). This belief carries the assumption that gender and race differences, for example, have an underlying and unchanging 'essence' that is innate and therefore universal. For example, the social perception that males commit more crime than women because of their ‘maleness’ is a commonly held belief of this sort (ibid., p. 63).

In contrast, *social constructionists* take an interpretative approach and tend to rely on human interactions and peoples’ beliefs to create reality. Unlike an

essentialist approach, “there is no inner essence that causes the reality people see” (ibid.). Rather it is the product of ‘social processes’, which constructionists believe are created from what people of a particular society believe. For instance, the fact that males may or may not commit more crime than women is more than just a fixed reality. Instead, as constructionists would argue, the social perception around who is committing crime has more to do with what people see and experience as it is socially constructed (ibid.). Constructionists note that most people take things around them for granted, and act as if they were a natural part of being and a fixed reality (ibid., p. 64). For example, people accept that a week has 7 days but very few people realise that a week could be different. Cultures have had 3-day, 5-day, and even 10-day weeks. The 7-day week in which we now operate is a social construction, explains Neuman (2003), since it was “created in particular places and under specific historical circumstances” (p. 64).

Constructionists and essentialists hold different views on the relation between language and reality. This distinction is important in understanding how CDA shapes the analysis of the Kelowna Accord texts to show the significance of this relationship. Neuman explains: “An essentialist believes language can connect to reality and tries to make language pure, logical, and precise so that it more accurately reflects the essential physical reality that people see” (2003, p. 64). On the other hand, “a constructionist sees language as filled with built-social constructions, so that as people learn language, they are also learning to think and see the world in certain ways. Language cannot connect to essential reality

but inevitably contains a worldview that colours how people see and experience the world” (ibid.).

In short, a constructionist approach encourages us to be mindful of how people perceive and react to their social world. An essentialist approach is limited, since we must move beyond the ‘cold, hard facts’ in order to truly understand the social realities of a particular setting. This thesis aligns itself with a social constructionist approach because it is curious why participants of the Kelowna Accord place faith in markets and how this perception has been socially created. Between the two, the constructivist approach enables a closer examination because it seeks to understand a person’s social behaviour (i.e., reality, belief system and tacit knowledge).

“Language and Power”: Critical discourse analysis

The emergence of CDA in the social sciences is commonly associated with Fairclough’s seminal publication *Language and Power* (first published in 1989). In this book, Fairclough engages in a critical language study that concerns itself with relations of power and inequality in language. Set in Britain, the book is a highly politicised analysis of discourses during the Margaret Thatcher era (1979-1990) when the neoliberal agenda began forcefully to take shape in that country. Fairclough’s commitment and his blueprint for understanding and analysing text have helped bring attention to the importance of discourse analysis in recent decades. Fairclough’s work has not only motivated a network of scholars to study

the connection between language use and unequal relations of power, but it is largely responsible for launching similar projects of investigation, such as a commitment to social action, integrating linguistic analysis and social theory and social psychology (Blommaert and Bulcaen, 2000: see also Wodak, 1995).

Fairclough offers a three-dimensional framework for understanding and analysing discourse. This framework, along with Parker's criteria for distinguishing discourses (1999), provides the necessary grounding for a clearer understanding of language as discourse and social practice. This grounding is essential in order to interpret the Kelowna texts and discover key underlying elements of its discourse. It is important to note that as researchers develop a clearer picture of discourse analysis they begin to see that discourse "involves social conditions, which can be specified as social conditions of production, and social conditions of interpretation" (Fairclough, 2001, pp. 20-21). These social conditions relate to three different 'levels' of social organization: (1) the immediate social environment in which discourse happens; (2) the level of social institution in which a discourse is created; and (3) the level of social interaction in society as a whole (ibid.). In short, these social conditions shape the way people use language or how language is directed at others, which in turn shape the way texts are produced and analysed. Fairclough (2001) draws our attention to the fact that understanding language as discourse and social practice is not just about analysing texts or the processes of production and interpretation. Rather it

is also about analysing the relationship between all relevant parts: texts, interactions, and contexts.

We now know that text is a product rather than a process since it is the product of the process of text production. Text is also a resource used in the process of interpretation, and we now know that discourse refers to the process of social interaction of which a text is one part. Context refers to the processes of text production and interpretation that are socially determined. These are the specific practices that are ideologically shaped and used to produce and interpret texts. They are socially generated and their origins are representative of the social relations and social struggles from which they were generated (Fairclough, 2001).

Looking specifically at Fairclough's three-dimensional framework for understanding and analysing discourse, the first is *discourse-as-text* (Blommaert and Bulcaen, 2000; Fairclough, 2001). Discourse-as-text refers to the stage of analysis that is concerned with formal properties of text, such as choices and patterns in vocabulary (e.g., word choice, use of metaphors), grammar (e.g., transitivity, modality), cohesion (e.g., links between sentences, repetition of words), and text structure (e.g., turn-taking, controlling topic) (Fairclough, 2001; Blommaert and Bulcaen, 2000, p. 448).

The second dimension is *discourse-as-discursive-practice*. This refers to the relationship between text and 'consumer' of discourse as it is produced, circulated, distributed and consumed in everyday life (Blommaert and Bulcaen, 2000; Fairclough, 2001). This stage of the analysis is more interpretive, whereas the first step is more descriptive. The interpretive process should include the analysis of the vocabulary, grammar, cohesion, and text structure used; attention should be given to speech acts, coherence, and intertextuality (i.e., the social origins of discourse) (Blommaert and Bulcaen, 2000).

The third dimension is *discourse-as-social-practice*. This concerns the relationship between interaction and social context (Fairclough, 2001, p. 22). In other words, what are the ideological effects and hegemonic processes in which discourse is a feature? In society there are a number of hegemonic relationships that exist through discourse (Fairclough, 1995). They are present in our everyday life at work, education, leisure, and so forth. Fairclough (1995) points out that particular forms of discourse have become 'naturalized' in society and are largely responsible for sustaining hegemonic dominance of power relations. For example, the interview between doctor and patient illustrates how the patient follows the set agenda of an interview, and must try to fit anything that does not fit into the doctor's agenda into elaboration of their answer (ibid.). The tone of the interview is often impersonal and brisk, and the patient undergoing treatment is a case for treatment rather than a person (ibid.). This conventional way of consultation corresponds to the hegemonic relations within medicine, which

supports the ideological assumptions about the nature of medicine and the social identities of doctors and patients. The doctor plays the role as the all-knowing expert, and his or her patient plays the subservient role as the ignorant, unknowing patient. These roles support the hegemonic relations that are similar in many types of power relationships (ibid.).

Turning to Parker's ten criteria for distinguishing discourses (Table 1), his framework enables a closer reading of the policy documents. It reveals how arguments are structured, whose interests are promoted and ignored, and what objects and subjects are promoted in discourse. Parker's framework helps to trace the development of Aboriginal housing policy over time and considers which institutions does discourse support, how power relations have been reproduced and the ideological effects of these relationships.

<i>Criteria for distinguishing discourses</i>	<i>Description</i>
Discourse is realised in text	Treating objects of study (e.g. documents) as texts which are described as put into words
A discourse is historically located	Exploring how and where discourses emerged and describe how they change
A discourse is a coherent system of meanings	Discourse consists of groups of statements that present a particular reality of the world. The goal is to map the world this discourse presents
A discourse is about objects	Asking what objects are referred to and how are they described and talked about
A discourse contains subjects	Asking who is talked about in the discourse, what does it say about them, and what could you say if you identified with them
A discourse refers to other discourses	How does this relate to other discourses? Comparing and contrasting discourses, identifying similarities and differences
A discourse reflects on its own way of speaking	Referring to the terminology used to describe the discourse, and referring to other texts to see patterns as discourse occurs
Discourses support institutions	Is the discourse supported by institutions or does it attack institutions
Discourses reproduce power relations	Identifying those who gain or lose from the employment of discourse
Discourses have ideological effects	Showing how a discourse connect with other discourse that sanction oppression

Source: Parker, 1999.

Criticisms of CDA

Critical responses to CDA largely centre on matters of interpretation and context (see for example Pennycook, 1994; Billig, 1999; Widdowson, 1995, 1996, 1998).

Widdowson and colleagues argue that CDA is problematic because analysts read their own biases and prejudices onto their data and analyse them accordingly. They suggest that CDA can only find out what analysts already knew and therefore do not produce critical results. The possibility that analysts may be predisposed to a particular view before data analysis does not rest easy with Widdowson.

However, within the branch of interpretive social science, a qualitative researcher is inextricably and inevitably implicated in the data generation process (Mason, 2002). As qualitative researchers, the job of CDA analysts is to identify, where possible, patterns that emerge in textual analysis and interpret how these might fit together to describe a particular social setting. As Guba and Lincoln (1989) point out, a constructivist approach enters having very little idea about what is salient and, therefore, ought to be examined. This differs from a positivist approach, which begins an inquiry knowing what it is they don't know (ibid.). The latter approach incorporates tacit knowledge, and by bringing one's knowledge to bear, qualitative researchers may accurately determine what should be examined.

With these specifications in mind, it is possible to mount an interpretative inquiry. The method of CDA enables a joint construction of the messages found in the Kelowna texts and the qualitative interpretation of these messages. The results, which are found in Chapter 5, helps the reader to come to a realisation of not only the state of affairs as believed by the participants of the Kelowna Accord but also of the underlying motives, feelings, and rationales leading to those beliefs.

Reasons for choosing CDA as a research tool

The technique of CDA is a useful tool for exposing issues of social injustice. The literature review shows that with First Nations, markets are frequently the privileged form and current policy direction gives them license to replace socially

funded housing programs on-reserve. This research concerns itself with exposing social injustice in Aboriginal housing policy, which tends to adopt a seemingly homeownership bias favouring market housing. Language plays a significant role in the relations between people and the relationship between power and inequality. CDA is useful in determining the nature of these relationships and exposing the underlying meanings.

Furthermore, researchers might do well to more fully appreciate the wider context in which Aboriginal housing policy is situated and ultimately shaped. By exposing issues of inequality through discourse, we may understand whose interests are promoted and whose are ignored and correct this.

Data Collection and Analysis Process

This section describes the analytical process used to interpret the Kelowna texts. It outlines a three stage coding process that identifies general themes and initial codes used to create major themes and eventually overarching themes. A series of three maps (figures 2 – 4) show how the major themes and overarching themes fit together to complete the analysis.

Coding process

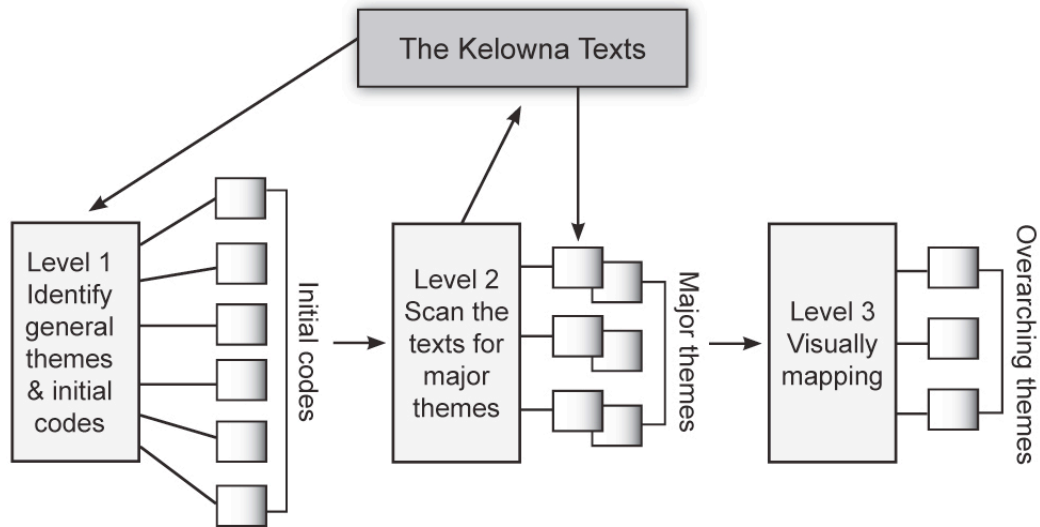
The data coded includes 12 documents, 7 from the federal government and 5 from Aboriginal organisations. Additional documentation, such as Roundtable

discussions and Briefing Notes also helped lead the discursive work raising a number of questions about who shapes and promotes discourses.

The coding process includes three levels (see Figure 1). Guided by Parker's framework for distinguishing discourses, the first level identifies general themes in the documents by locating common points of interest and assigning initial codes. This includes flagging noteworthy statements of prejudice, bias, beliefs and assumptions deemed relevant for further review. At this stage, particular attention to how and why different people, including their points of view, gain privilege or have been excluded is relevant. This will reveal which institutions gain support, where the reproduction of power relations lies, and what ideologies find acceptance or rejection.

The process of selective coding made it easier to create a manageable data set and sort and combine emerging trends into a variety of initial themes for the next stage of coding. The second level scanned the documents with these initial codes in mind and searched for commonalities and differences. A further refinement of the codes enabled a regrouping into major themes based on the substantive relationships they have in common. In some cases, contradictions emerged illustrating the differences in people's perception of reality. For example, themes that appear to provide a benefit for some, serve as a liability for others. This contradiction is important when analysing the data as discussed in the following chapter.

Figure 1: Coding process of overarching themes



The third level visually maps out the relationships that exist between the major themes in the previous stage and create overarching themes (see Figures 2 – 4). For example, themes that appear common group together because their relationship may give us insight into the texts. When complete, the map provides a clearer picture of where the themes fit in relation to one another and where patterns emerge. The overarching themes lie at the centre with the major themes extending out and sub-themes connecting to the major themes. The grouping of themes this way helps to visualise the presence of different discourses, what is accepted, and what is ignored.

Figure 2: Themes Describing Self-Determination

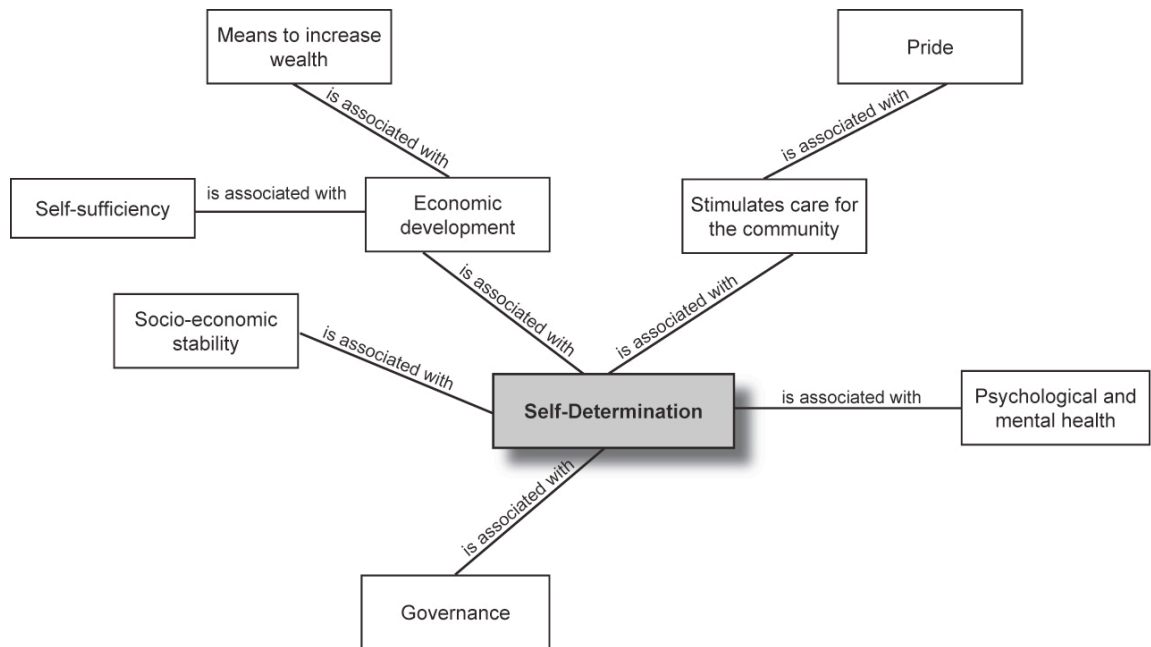


Figure 3: Themes Describing On-Reserve Context

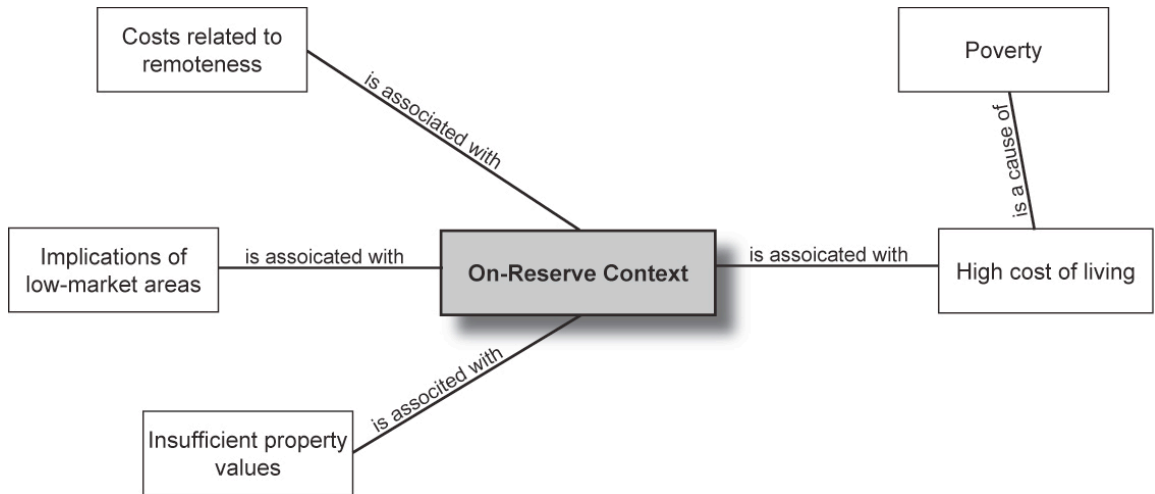
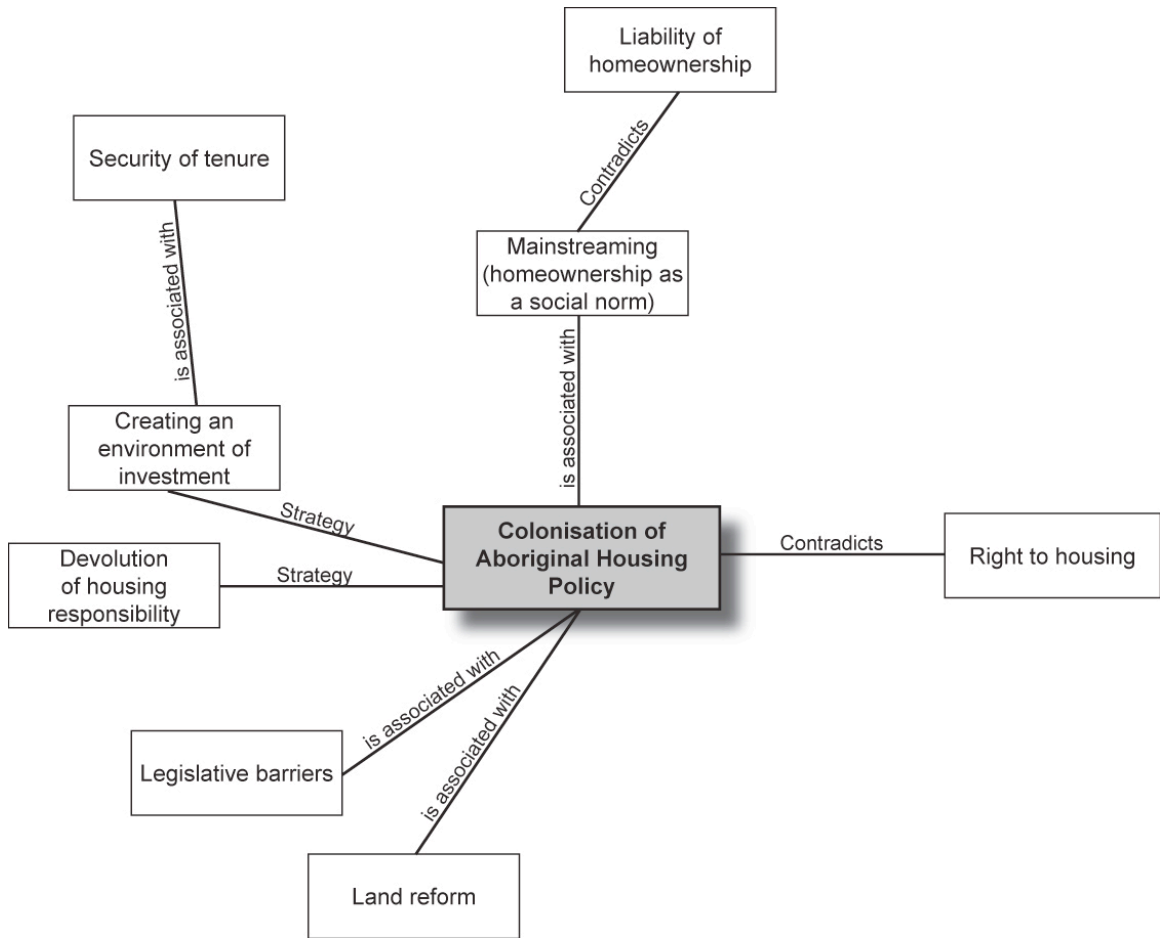


Figure 4: Themes Describing Colonisation of Aboriginal Housing Policy



CHAPTER 5

Results and discussion: Interpretation of Discourse

The previous chapter identified three overarching themes that appear to be embedded in the Kelowna texts. While there may be other themes, the scope of this study focuses on what is deemed to be the most significant. This chapter begins with an overview of the themes that emerged, followed by a detailed analysis of each theme. Next, a discussion of the analysis draws conclusions about the implications of developing markets in First Nations and revisits concerns to social rights, Aboriginal governance and social relations as previously identified. Finally, a commentary on the role of planners committed to social change and the need for critical analysis fosters discussions for next steps that may produce ethical outcomes for market development.

Overview of themes that emerged in the documentation

The findings of the analysis indicate that policy supporting land markets in First Nations is shaped by a homeownership, market-based neoliberal discourse. This section describes this discourse using the themes in figures 2 – 4 to show what underlying meanings have been embedded in the Kelowna documentation supporting land markets. Some themes from the figures have been omitted from the discussion in order to give precedence to more important themes. While still relevant in shaping the overall analysis, the decision to focus on selected key themes enables a rich and more concise description of the results.

Themes that emerge in the Kelowna texts are either positive or negative themes. They describe land markets, homeownership, and land titling according to the judgements of the participants in the documents. It is interesting to note that the themes portrayed as negative were often a direct response to the positive themes. Equally significant is that the positive themes also appear negative when viewed under a different light. This dualism is consistent across the documentation. Generally, themes expressed a desire to adhere to mainstream values. For example, the AFN agree that conventional market housing could be a solution to unmet housing needs on-reserve. However, they also reject a status-quo solution as acceptable and argue that housing must be relevant to First Nation communities. Within these two seemingly contradictory statements, dualism appears as one resists against the other.

Overall, three overarching themes emerge in the documentation. First, homeownership in First Nations seemingly contributes to 'Self-Determination' (see Figure 2). Second, the 'On-Reserve Context' describes the difficulty of creating markets in remote, poor, and low-market areas traditionally identified as communally owned (see Figure 3). The final theme 'Colonisation of Aboriginal Housing Policy' reflects the current status-quo of federal policy direction (see Figure 4). In other words, current direction appears to continue to undermine traditional rights to social benefits in housing, disrupt social relations as new practices replace old ones, and displace current practices of Chiefs and Councils in the allocation of housing as markets develop.

The analysis focuses on concrete language use rather than a micro-analysis of the documents. The three overarching themes – self-determination, on-reserve context and colonisation of Aboriginal housing policy – address the significance of the homeownership market-based economy in Aboriginal housing policy. They reveal how different discourses appear in policy language, which at times does not appear to be the construction of the speaker but influenced by popular beliefs of the benefits of homeownership. Particular attention to language use, the construction of policy concerns and solutions, and a critical analysis of what becomes seemingly rational and coherent in policy and planning interventions helped lead the discourse analysis.

Self-determination

The collective desire of Aboriginal peoples is to obtain economic self-sufficiency, self-government and freedom from on-going attempts to assimilate Aboriginal culture into mainstream society. It is a shared vision of a post-colonial world in which Aboriginal rights and title are recognised and affirmed (Alfred, 1999). ‘Self-determination’ or the ability to determine one’s future is an important step in decolonisation. However, the biggest challenge is resisting outside forces that threaten Aboriginal self-determination.

This is evident in the following excerpt by the Aboriginal organisation, AFN, who point out that control over housing leads to greater self-sufficiency and supports self-government; both of which fall under the theme ‘self-determination’.

The intent is for First Nations to assume complete control over all housing and infrastructure matters as a core area of self government jurisdiction. Complete transfer of jurisdiction and control of housing and infrastructure activities and dollars...is essential to overcome some of the inefficiencies currently experienced by the present delivery model; inefficiencies that have created huge gaps between on and off-reserve communities (AFN, 2005a, p.7).

Considering that markets are not neutral, if they are to take shape in First Nations they must embrace progressive values, otherwise they pose a significant threat to self-determination. The theme 'self-determination' reveals that popular discourse on the economic benefits of homeownership has shaped self-determination according to mainstream economic values. Four areas of focus that shape this interpretation include economic development, self-governance, socio-economic stability, and stimulates care for the community.

Economic development

The economic incentives associated with land markets underpin Ottawa's motivation to push for private ownership on-reserve. Ottawa refers to First Nations as an "untapped potential economic engine" (Canada, 2005a, p.17), showing their prejudice for market-based policy initiatives. This, of course, comes with the knowledge that First Nations live in poverty and any solution to address housing needs and overcrowding are welcome. However, what are the potential risks? Land market development in First Nations is a response to

poverty but is primarily characterised as a driver for economic stimulus. This risks ignoring the underlying cause of poverty and poor social conditions in First Nation communities. The following excerpt from a draft memorandum to cabinet refers to the future economic investment in First Nations. The belief that homeownership increases individual wealth is evident in the following excerpt.

The financial asset of housing through home ownership provides a means for economic prosperity and longer-term financial security (Canada, 2004b, p.1).

The seemingly financial benefits of homeownership have permeated current approaches to Aboriginal housing policy, propped by a pro-homeownership discourse. The following two statements from the First Ministers and Aboriginal Leaders conference, for example, have a rippling effect on policy-making within Aboriginal organisations. Here we see that prevailing attitudes support a dominant ideology of the 'social norm' of homeownership.

The ultimate goal of this effort is to address the serious conditions that contribute to poverty among Aboriginal peoples and to ensure that they can more *fully benefit* from and contribute to Canada's prosperity. (Canada, 2005b, p. 2: emphasis added).

Achieving this goal will require re-thinking current approaches to Aboriginal housing policy, services and supports, increasing housing supply, and maintaining the existing stock in good condition, through

investments that address urgent needs as well long-term sustainable solutions. (Canada, 2005b, p. 5).

The preference for housing as a long-term sustainable solution has not gone unnoticed in Aboriginal policy circles. The AFN, for example, calls on “investment pools and other market driven options leading to real estate transaction” to be closely examined in First Nations (AFN, 2005a, p. 18). Admittedly, they see this as one option in addition to social housing, nevertheless the construction of housing policy in this way and presenting it as an investment opportunity has effectively supported particular approaches to the exclusion of others. The following excerpt is evidence of this exclusion as the market is seemingly responsible for creating ‘sustainable’ housing. For example, the AFN calls for:

A shift from dependence to a sustainable housing model controlled by First Nations that will respond to the need for social housing; and create, through housing, opportunities for employment and economic development. (AFN, 2005a, p. 8).

While the market may have its place in some contexts, there are barriers to investment. In order to lay the groundwork for future investment, proposed changes that permit the mortgaging and selling of real estate attempt to restructure current practices of housing allocation on-reserve, thus disrupting social relations and current governance practices. Such changes include registering land titles, restructuring the *Indian Act*, and fostering private

investment. As noted, neoliberals argue that collectively held land is insecure, resulting in the inefficient use of land. It also impedes individual property rights, believed to be essential to successful market economies (Galbraith, Rodriguez and Stiles, 2006). This belief has influenced decision-making among Aboriginal political bodies, which now seek alternatives to collective ownership. The following excerpt bears witness to this shift:

First Nation controlled land registries will provide the ability, currently withheld from First Nation individuals, to buy and sell real estate. This will help provide stability and a measurable baseline for future investment. (AFN, 2005a, p.17).

Governance

The belief that control over housing leads to self-governance appeared in the Kelowna Accord negotiations. The position taken by the documents show that housing is a source of social problems and control over housing invariably leads to greater self-determination and governance. This is a reasonable claim, since control over adequate and affordable housing is likely necessary for good governance. However, the texts show an understanding that housing reforms through markets will enact good governance. The myths associated with housing reform and the anticipated social changes have been well documented in several settings (see for example Rohe, 1996; Rossi and Weber, 1996; Shlay, 2006). While the

documents provide no arguments that participation in the market guarantees good governance, they do provide contrasting visions of governance itself.

The following two statements, beginning with the AFN followed by the federal government, show competing interests on how markets may strengthen self-governance. For the AFN, governance enables economic self-reliance but for the federal government economics enables governance.

Self-government has been shown to be the critical factor in developing economic self-sufficiency and tackling social problems (AFN, 2005a, p. 7).

While the AFN does not suggest one particular model of governance, they do stress that this process is unique to each community. In contrast, federal policy endorses a conventional understanding to housing. This appears evident in the following First Ministers document:

The goal is to ensure that Aboriginal peoples will have access to the same housing conditions and housing opportunities as those of other Canadians in a manner that strengthens the self-reliance of Aboriginal peoples (Canada, 2005d, p. 8).

The federal First Ministers document continues by outlining a series of conventional approaches to housing and governance structures.

Another critical step is promoting participation in the housing market. Changes to financial regulations and current government policies will be required to promote increased participation and homeownership and create investment opportunities in other areas of the housing market, such as private rental and housing developments (Canada, 2005d, p. 8).

It appears that Ottawa's support for Aboriginal self-government varies depending on where ultimate control lies. This is evident in the following two, seemingly contradictory statements, which support the creation of Aboriginal housing authorities but under the hegemonic dominance of federal jurisdiction.

Developing a series of new initiatives that focuses on enhancing and supporting First Nations control over housing on reserve and pursuant to self-government and sectoral agreements. These initiatives will develop new approaches in First Nations housing, including the development of new institutional arrangements (Canada, 2005b, p. 13).

The Government of Canada is committed to working with First Nations in developing new institutional arrangements including a new First Nations Housing Authority. The Authority will support increased First Nations authority to control housing on reserve. In designing the Authority, the particular situation of self-governing First Nations *will be considered* (Canada, 2005d, p.8: emphasis added).

In other words, it is unlikely that the self-governing mechanisms of individual First Nations will have an effect in the design of housing authorities.

However, this contradicts the First Ministers policy objective in the previous

quote. The following statement challenges the earlier notion about conventional understandings. The objective states:

To recognize the diverse and unique history, traditions, cultures and rights of First Nations, Inuit and Métis by respecting a distinctions-based approach at all levels. Aligned with this approach, the needs of Aboriginal peoples in all regions and communities will be recognized regardless of their status, gender and place of residence (urban, rural, remote, on-reserve or off-reserve) (Canada, 2005d, p. 2).

In short, the intention by both Ottawa and the Aboriginal organizations is for Aboriginal communities to assume complete control over all housing and infrastructure needs (AFN, 2005a, p.7). For Ottawa it is a desire to devolve housing responsibility and allowing the market to do its work, and for Aboriginal communities it is a desire for greater self-determination through self-governance mechanisms. How this has shaped policy-making is significant because it builds on the momentum of Aboriginal self-determination to sell the idea of homeownership.

Socio-economic stability

The relationship between socio-economic stability and homeownership is often confused and poorly understood. On the one hand, good housing generally translates to better health and a good quality of life. On the other hand, to say that the lack of good housing (or homeownership) is the main

cause preventing socio-economic stability is overly simplistic. For example, Shlay (2006) Rohe and Stewart (1996) show that homeownership among low-income households in urban areas is unlikely to produce favourable results, especially for families who have fewer economic resources. In addition, increasing the proportion of homeownership in an area should not be seen as a solution to socio-economic stability (Rohe and Stewart, 1996). As observed in the literature review, the push for low-income homeownership among urban and Indigenous populations has diverted attention away from policy solutions addressing affordable housing and poverty.

Likewise, land markets and homeownership in First Nations appear to engender significant socio-economic benefits for families. The Kelowna texts show a belief that homeownership will help solve complex social and political problems associated with poverty and increase socio-economic mobility. The following excerpt by the federal government illustrates this point. Ottawa takes the position that:

The benefits of market solutions are many, including increasing housing production, and better quality homes; encouraging greater contributions by occupants, not only towards the cost of their housing, but also in terms of improving maintenance; reducing First Nations governments' direct responsibility for owning and managing housing; and, allowing communities to focus scarce financial resources on the needs of lower income members (Canada, 2005a, p. 14).

The popular belief that private housing investment increases quality of life and social mobility is evident in the following statement by Ottawa:

As with all Canadians, in Aboriginal populations housing provides an important foundation for obtaining and maintaining employment, building local skills and capacity, creating a secure and supportive environment for raising children, accessing support services, generating wealth and contributing to long-term financial security, and as an essential building block for inclusive communities (Canada, 2005a, p.3).

The Inuit organisation, ITK, adopt a similar belief, showing support for the socio-economic benefits for housing; with an implicit reference to market behaviour. They explain that:

Housing is the basic building block of a healthy and productive society, and business activity associated with house building is one of the main indicators of a healthy economy (ITK, 2004, p.3).

However, the following text from the Nunavut Ten-Year Inuit Housing Action Plan points to the disadvantages of homeownership for Inuit people. They contend that:

Independent home ownership is very costly and is a historically unfamiliar concept for much of the population (Government of Nunavut, Nunavut Housing Corporation and Nunavut Tunngavik Inc., 2004, p.7).

It is interesting to note the contradiction in the previous two statements. On the one hand, the Inuit endorse private homeownership but on the other hand say that owning is costly and foreign to traditional Inuit culture. The juxtaposition of these statements shows a willingness to adopt a conventional understanding of market behaviour and the concerns that may accompany market housing.

Stimulates care for the community

Stimulating care in the community through homeownership taps into the notion of 'ownership pride'. The assumption that people who own have a sense of pride invested in their property is reasonable. However, a problematic outcome of ownership pride (i.e., market ownership) has been the division of neighbourhoods rather than supporting cohesion (Skelton *et al.*, 2006). As Skelton and colleagues (2006) point out, the shift from renting to owner occupation opens new opportunities such as "benefits of subsidized renovation and purchase prices". The experience, they argue, "tends to focus social cleavages along tenure lines" (Skelton *et al.* 2006 as quoted in Skelton and Ribeiro, 2006, p.23). Nevertheless, the Kelowna texts show a belief that markets will be universally accepted and inevitably lead to increased self-determination. However, evidence from market development elsewhere shows that very few low-income earners can sustain the costs of market housing (Basolo, 2007; Shlay, 2006; Rohe and Stewart; 1996).

The following excerpt from the “New Canadian Housing Framework” (a collective effort by Aboriginal groups, government officials and housing providers) seems to ignore this reality. They conclude that a new housing framework should:

Help [Aboriginal peoples] move along the continuum and into affordable, supportive housing that restores their dignity and provides a necessary base from which to rebuild their lives and to make progress towards self-reliance (GPC Public Affairs and the Intersol Group, 2005, p. 8).

However in the same document, a few pages later, there is a shift to accommodate the diversity of needs at both the individual and the community levels in order to foster greater cohesion.

Participants said that housing need must be viewed as only one aspect of the full range of needs – both at the level of the individual, who is often experiencing a number of needs at the same time, and at the community level, to keep communities whole and avoid creating ghettos (GPC Public Affairs and the Intersol Group, 2005, p. 11).

In most cases, good quality housing is essential to healthy living and a better quality of life. However, homeownership does not guarantee positive outcomes. As suggested in the Government of Nunavut’s housing plan, homeownership is not always financially viable or contextually relevant.

On-reserve context

First Nations living on-reserve face severe economic and social challenges unlike anywhere else in Canada. The geographic remoteness of most First Nation communities means higher costs of living, lack of employment opportunities and access to fewer resources, such as healthcare and post-secondary education. The Kelowna texts show an understanding that housing markets attempt to restore financial ability and improve socio-economic conditions in First Nations. However, one of the biggest challenges will be developing land markets in areas where they have not traditionally existed and where there is immense poverty.

Despite these challenges, policy preference for land markets continues, raising the issue that what might be regarded as the 'best' course of action also involves some kind of value judgement. This appears to be the case in the trail of policy-related documents. For instance, the documents show the position that markets have come to define a particular set of social and political ideologies. The following quote supports the claim that reforms to housing policy with market initiatives emerge out of a high-profile recommendation at the ministerial level. In a draft memorandum to cabinet, the financial investment of housing is considered an "essential building block" (Canada, 2005a, p.3) to sustainable Aboriginal communities. Considering the realities associated with developing housing in remote areas, this recommendation becomes problematic.

The overarching theme of 'on-reserve context' uses two major themes as supporting evidence. "Costs related to remoteness' and the 'implications of low-market areas' to show the concerns related to developing markets in an on-reserve context.

Costs related to remoteness

A great number of Aboriginal communities are located just south of the 60th parallel where road access is limited. As a result, construction costs far exceed those in the south or even neighbouring non-Aboriginal communities with road access, making homeownership less desirable. The Métis organisation, MNC, raised the following concern in their housing policy:

In many parts of Canada, including most of the rural and remote communities where Métis, First Nations and Inuit people often form the majority of the population, construction costs exceed the market value of the home that is to be built. (MNC, 2004, p.3).

To address this, First Nations ask that "programming be flexible enough to accommodate the diversity of communities" (GPC Public Affairs and the Intersol Group, 2005, p.8). In the Kelowna texts First Nations take the position that:

Continued federal funding is necessary in order to cover operating costs to deliver housing programs, and that longer-term funding is necessary

to plan with any degree of certainty (GPC Public Affairs and the Intersol Group, 2005, p.9).

The MNC argues that affordable housing is under threat of disappearing and a renewed commitment by the federal government is necessary. Since 1993, Ottawa ceased making new commitments to social housing and reduced subsidies to First Nations in place of mortgage incentives. This shift, the MNC says, was motivated by the need to reduce the federal budget deficit (MNC, 2004, p. 4) rather than addressing effective program delivery. In response the MNC calls on the federal government:

To commit to subsidizing operating and maintenance expenditures of existing social housing units targeted at Aboriginal people, even after mortgage retirement (MNC, 2004, p. 4).

However, the federal government takes a difference stance, blaming legislative barriers and the inability of First Nations to access private investment as key concerns preventing transformative change. The federal government responds that in First Nations:

Problems with land tenure limit the long-term potential for the development of a sustainable construction industry and market-based housing activity. (Canada, 2005a, p. 10).

According to the previous statements, the texts show a belief that it is costs of living, lack of flexible programming and funding, and a shortage of affordable housing, not tenure, that limit long-term sustainability. As mentioned, the emphasis on market-based solutions has ignored the underlying causes that have created poverty in First Nations. The Aboriginal participants involved in drafting the “New Canadian Housing Framework” stressed that “Aboriginal people, face systemic problems, well beyond the issue of income, that are at the root of their heavy housing needs” (GPC Public Affairs and the Intersol Group, 2005, p. 11).

Implications of low-market areas

Another concern in the development of land markets is the existence of low-market areas. This was a serious factor in considering market housing as a viable option for Métis communities. While the majority of current federal funding for homeownership is for First Nation initiatives, the MNC has been involved in the negotiations. Their grievance is that housing markets are volatile and “can become a liability instead of an asset” (MNC, 2004 p. 3) and therefore should take shape according to context and place. The following excerpt illustrates this concern, demonstrating the need for an alternative to conventional market approaches.

The consequence is that the private housing market cannot be relied upon to provide housing in these non-market and low-market areas.

Mortgage lenders do not normally lend in these areas without excessive loan guarantees; those who do build find that their home has next to no equity value once the mortgage is paid off” (MNC, 2004, p.3).

Federal policy aimed at homeownership does not address issues of poverty nor does it reach those in most need. This is evident in the following excerpts from the MNC, who see homeownership as a potential liability.

Shelter is a basic human need; but housing is a commodity. The ability to access adequate and suitable housing is as a consequence largely linked to income (MNC, 2004, p.2).

Fewer can afford or can qualify for the down payment on a house – and more remain renters as a result (MNC, 2004, p.2).

The high cost of home maintenance discourages homeownership for those on modest incomes, and is prohibitive for low-income households (MNC, 2004, p. 3).

In the remote region of Nunavut, the operating costs of homeownership far outweigh the economic benefits. Those who own have struggled with the costs of maintenance and affordability.

Independent home ownership is inhibited by the cost of materials, the lack of available contractors and developed lots in some communities, and by the significant expense of operating a home in any community (Government of Nunavut, Nunavut Housing Corporation and Nunavut Tunngavik Inc., 2004, p.12).

Over twenty years of varied homeownership programs offered by the former NWT created approximately 2,200 new homeowners in what is today Nunavut...Many of these people struggled to keep up with the ongoing operating and maintenance costs associated with homeownership, and were compelled to give back their units and attempt to find their way back into public housing (Government of Nunavut, Nunavut Housing Corporation and Nunavut Tunngavik Inc., 2004, p.12).

Alternatives to the conventional market may include reinvesting in social housing, increasing the affordable housing stock and investing in low-risk areas. Regardless of the options, Aboriginal peoples argue that continued federal funding is a treaty right. However, the federal government has said that social housing will be provided on the “basis of need” moving away from a rights-based distribution of housing funds. In contrast, the MNC explain:

Owing to the high cost of maintaining a house in rural and remote areas, the MNC believes that the Government of Canada must focus primarily on increasing the stock of affordable, publicly subsidized rental housing in these areas. Low-income households cannot sustain the high cost of maintaining home ownership (MNC, 2004, p. 8).

The colonisation of Aboriginal housing policy

The theme 'colonisation of Aboriginal housing policy' reflects the contemporary power relations between Aboriginal peoples and the Canadian state. It reveals that despite the federal government's proposal for a 'renewed relationship' with Aboriginal peoples, federal policy still appears to be inherently colonial. For example, the documents studied tend to support land markets as 'common sense' and the 'natural' course of events. This largely develops under the pretext that First Nations are better off using the market and therefore policy shapes according to popular beliefs. The support for homeownership by the National Aboriginal Organisations adopts the language commonly seen in popular discourse on homeownership, thus leading to the understanding that the statements by the organisations used to promote homeownership originate from a pro-homeownership discourse, rather than from within the communities. This appears evident in the case when phrases like "closing the gap", a phrase used extensively in the government documents, appears in a similar context in the Aboriginal documents. The following sub-themes shape the results in this section showing an understanding that a desire to enter homeownership appears to be constructed by popular discourse.

Creating an environment of investment

The following excerpts illustrate this point. The first is from Ottawa, followed by statements from three of the Aboriginal organizations. The intention in nurturing "an environment of ownership" (AFN, 2005a) is in:

Closing the gap in quality of life between Aboriginal Peoples...and other Canadians, while recognizing and respecting historic rights and agreements. The ultimate goal of these efforts is to enable...Aboriginal peoples to contribute to and benefit from Canada's prosperity. (Canada, 2005b, p. 2: emphasis added).

While federal efforts have worked towards improvements to Aboriginal housing conditions, the continued disparity between the housing conditions of Aboriginal versus non-Aboriginal households demonstrates the need for new mechanisms and additional investments to *close the gap*. (CAP, 2004, p. 5: emphasis added).

Ultimately, *transformative change* will be judged to be successful not only when the backlog is completely addressed and the gap in living conditions between First Nation communities and the rest of Canada is closed, but when the full transfer of jurisdiction for housing and infrastructure to First Nations has occurred. (AFN, 2005a, p. 3: emphasis original)

The [housing] strategy must focus on producing results and *closing the "gap"* between Métis and Non-Aboriginal Canadians. (MNC, 2004, p.10: emphasis added).

Mainstreaming (homeownership as a social norm)

In addition, the term 'transformative' (as in the example above with the AFN) implies a number of positive changes that improve the lives of First Nations, ultimately leading to a post-colonial world. However, before the organization uses this term, the document develops its context, which supports the notion that

many of the statements seem to be influenced by a pro-homeownership discourse. The excerpt reads:

Our vision articulates a shift in focus from dependence to a sustainable continuum of First Nation housing and infrastructure systems that will respond to the *need for social housing and create opportunities for home ownership, employment and economic development* (AFN, 2005a, p.2: emphasis original).

Study after study has shown that communities with adequate housing and infrastructure are healthier, better educated, and safer communities. Moreover, poor housing and infrastructure translates into a poor start in life leading to increased difficulties and the need for increased interventions later in life. (AFN, 2005a, p. 3).

In short, the examples above show the power relationships between Ottawa and the Aboriginal organisations and how the dominant discourse on homeownership has influenced the decisions by the organisations. The next section shows how some of these organizations have resisted such influences as portrayed in statements that raise several concerns over land titling and homeownership.

Liability of homeownership

The sub-theme liability of homeownership acknowledges that we are far from a post-colonial world, and government interventions remain inherently colonial. The following excerpts illustrate this point, beginning with the Métis National Council questioning the reliability of the market to provide housing.

Relying on the private market to house those most in need is tantamount to relying on the “trickle down” effect, where those on lowest incomes occupy the worst and hence cheapest housing or are not housed at all (i.e., the homeless). Only the public sector can build and maintain housing for the lowest income groups that ensures adequate, safe and suitable accommodations for these households. (MNC, 2004, p. 7).

The Native Women’s Association of Canada adds that:

Home ownership when achieved can be fraught with similar concerns although in the ownership context they will usually arise directly from lack of funds over and above household subsistence costs to address household repair problems arising. (NWAC, 2004, p. 10).

As noted earlier, there are associated costs with homeownership in remote areas that far exceed the market value of housing. Under these conditions, social housing should continue to play a major role. However, federal policy objectives are to reduce funding for social housing and replace it with market incentives.

Right to housing

However, the shift to market housing contradicts the ‘right to housing’ as argued by Aboriginal peoples. This section explores the shift in the conventional understanding that housing is a ‘treaty right’ and that Aboriginal peoples are entitled to subsidized social housing. The following excerpt by Ottawa underscores the individual responsibility for housing.

There is also a need to address some of the prevailing attitudes in communities that on-reserve housing is a treaty obligation, that occupants do not have a responsibility to maintain their housing units, and that communities themselves do not have the overall responsibility for meeting their own housing needs. Changing these attitudes will be critical to achieving sustainable on-reserve housing (Canada, 2004b, p.7).

Devolution of housing responsibility

Associated with individual responsibility is Ottawa's intention to devolve housing matters to communities and individuals. In what marks a new era of Aboriginal housing policy, the federal government adopts a new approach to the funding based on need and individual responsibility. Individuals are now accountable for addressing their housing needs and support through innovative financing. This shift is evident in the following statement in which Ottawa claims that:

Current federal investments in housing are intended to assist with, rather than cover the entire, cost of housing. The federal role in housing is only one share of the partnership needed to develop housing options. Community solutions require community involvement and stewardship. Aboriginal organizations, other levels of government, and community partners play key roles in housing for Aboriginal people (Canada, 2004b, p. 9).

To conclude, the results of the discourse analysis in this chapter show that neoliberals privilege particular market forms. They seek the reproduction of these forms where they are absent, and their restoration where they have failed. The analysis of the Kelowna documents shows that, far from 'neutral', land markets promise to embody the contemporary power relations between Aboriginal populations and the state. The three overarching themes reveal that consequences to First Nations would include a deterioration of traditional rights to social housing; the displacement of local governance practices as the role of Chiefs and Councils in allocating housing is replaced by market mechanisms; and the disruption of social relations as market influences alter important social networks.

As well, the three overarching themes reveal particular nuances in the language of the policy documents and draw conclusions about the social and active nature of the neoliberal discourse supporting markets and homeownership. It is interesting to note that despite acknowledgment of the limitations of homeownership in First Nations the documents show faith that it will produce positive outcomes as suggested. This shows the ability of discourse to shape perceptions and ultimately influence decision-making that supports particular ideologies.

Discussion and recommendations for further study

In setting the stage for a final discussion and list of recommendations, it is first important to review the major components of the thesis thus far. These components include the literature review and the empirical work of the document analysis, whose findings ultimately shape the discussion and recommendations.

The literature review drew attention to a neoliberal based discourse that supports the development of markets as the necessary means to increase wealth and improve social conditions among marginalised populations. However, evidence shows that where markets have developed poverty still exists and the advancement of social rights has been limited. In addition, a review of First Nations housing policy and practice showed the influence of neoliberalism, as programs for social housing have been gradually replaced by homeownership initiatives. As noted, the decision to introduce markets and private homeownership to First Nations is ideologically based. The discussion of the literature review also pointed to critical dialogue challenging many of the assumptions of markets, namely the fact that markets are not neutral and consequences to First Nations include those which affect social rights, Aboriginal governance and social relations. Nevertheless, markets are portrayed as the effective vehicle for social change as policy preference for their development continues.

With the literature review acting as a backdrop for further discussion, the Kelowna Accord documents were used to confirm the findings in the literature review and assess the level of inequality and marginalisation that may result in the development of land markets. In order to do so, the method of CDA was employed. This method of language interpretation revealed the dominant attitudes about markets and homeownership inherent in the literature review. CDA tools enabled a deeper analysis, and identified that underlying motivations were generally based on assumptions rather than uncontested facts. It also exposed prejudice and bias as determinants for influencing decisions. This is a key observation since language is considered to be a reflection of thought and a prelude to action (Yauk, 2005). Understanding the power and influence of language in texts is essential in appreciating the issues embedded in the Kelowna documents.

This thesis began with the intent of showing how Aboriginal housing policy generally adopts a conventional approach to housing needs, and how this may ignore locally based alternatives that are sensitive to community, culture and place. In addition, a central aim was to assess the level of inequality and marginalization that may accompany markets, and how this might inform the role of planners who work with First Nation and marginalised communities.

In order to address these aims, the thesis set out to explore what the initiative of land markets attempts to achieve; explore the relationship of power and

inequality in language as it presents itself in the negotiation between Ottawa and First Nations in relation to land markets; and finally to foster discussions that may build alternatives to the conventional market-based approach for housing.

The findings of the analysis show that in addition to social rights, Aboriginal governance and social relations there are other areas of concern in the development of land markets. The documents show the influence of a neoliberal discourse on market initiatives whereby First Nation housing policy has been manipulated to promote the ideological interests of political forces. As a result, on-reserve housing policy plays a key role in sustaining the discourse on homeownership as the likely means to improve socioeconomic conditions.

A key finding of the analysis is that emphasis on market development tends to ignore the underlying causes of poverty. This is demonstrated in the documents tabled by the Aboriginal organisations, which, on the one hand, argue that markets may address housing shortages and increase wealth, but on the other hand do not address the root causes of poverty. In response, the federal government blames communal land tenure and legislative barriers, such as the *Indian Act*, as impediments to First Nation investment. However, evidence of market development in Indigenous land shows little improvement to economic conditions of marginalised populations, including the advancement of social rights.

In addition, the findings illustrate an understanding that markets are not practical in the northern periphery where high unemployment and high costs of living are common. The documents refer to these areas as low-market, meaning there is insufficient wealth to sustain homeownership or operate a sustainable housing market.

Similarly, the findings identify a sense of an inherent liability associated with land markets, which may lead to conflict. This view is shared by most of the Aboriginal organisations (less so with the AFN) that have their doubts about markets as a viable solution for all on-reserve housing needs. Further, markets open up the possibility of conflict and insecurity as individuals become divided along lines of tenure. This may be especially true for the lowest-income individuals, since they are least likely to afford homeownership. Also, an implicit concern shared by some of the Aboriginal organisations is the possibility of “opportunistic behaviour” by the elite in the community at the expense of poorer groups. This will likely have an effect on social relations and social networks as these individuals may manipulate the process to their own advantage (see for example Platteau, 1996; Sjaastad and Cousins, 2008).

Finally, the analysis found that Aboriginal housing policy remains inherently colonial based on the previous findings. This is partly because housing policy continues to operate within a rational-based planning paradigm, which does not account for ‘other ways of knowing’. These ways of knowing are the customs,

traditions and practices of individual Aboriginal groups, whose local experience would help create contextually relevant alternatives to conventional markets.

As noted, if markets are introduced without deliberate attempts to shape them according to ethical practices, the above outcomes are inevitable. Recent work by Allmendinger (2006) adopts a political economy of institutionalism and argues that markets are contextually-specific social constructs, susceptible to change through planning. Susan Smith and colleagues (Smith *et al.* 2006) draw on substantial literatures and empirical work to argue that housing markets are performances whose natures can change; and Smith (2005) had previously pointed to the “possibility...of wresting a different ethic from markets” (p. 1).

In closing, I hope foster discussion of such ethics, and to help identify ways that these ethics can be inserted into practices through which land and housing circulate in the First Nations, constituting alternatives to conventional market-based approaches that are sensitive to community, culture and place. The role that planners may play in this discussion lies in what Sandercock (1998) calls “ethical inquiry” (p. 223). She contends that ethical inquiry fosters new ways of thinking and enables a decolonisation of the mind.

However, planners committed to social change must first acknowledge planning’s colonialist roots. This recognition will enable the development of new practices whereby planners acknowledge and create new paradigms that celebrate

diversity and planning with multicultural communities (see for example Sandercock, 1998). As Porter (2006) points out, “what remains absent from current critical theory is recognition of the colonial roots of planning’s epistemological and ontological position” (p. 393). The analysis of the Kelowna documents helps uncover the deeper structures of power embedded in our own thinking and ways of acting. For planners the process of transformation includes a decolonisation of planning methods and practices that fosters other ways of knowing and thinking.

Sandercock (1998) suggests six ways of knowing that constitute an epistemology of multiplicity for planning and practice. She suggests that this will happen through dialogue; from experience; through learning from local knowledge; through learning to read symbolic, non-verbal evidence; through contemplation; and through action planning. By using this interpretive lens, planners may transform planning practices so that they acknowledge diversity and alternatives to conventional approaches.

Similarly, Patsy Healey (1997) argues that planners must be aware of the power relations of everyday life experiences in order to develop critical responses that enable collaborative planning. As Forester (1989) emphasises, the capacity to listen involves not just listening to what people need, but also to what people feel and care about. As this thesis prepares the groundwork for further study,

planners can help identify ways to foster ethical outcomes in housing for First Nations that are responsive and culturally sensitive.

Recommendations for further study include:

- Conduct an analysis of the First Nations Market Housing Fund (FNMHF), which critically examines how First Nations access land, housing, and funds to create homeownership (note: CMHC introduced the FNMHF in March 2008, nearly a year after research for this project was undertaken).
- Develop a better understanding of Indigenous notions of property and land tenure. This would likely expand on Brobroff's (2001) review (see Chapter 1) by exploring how traditional systems of land tenure might shape new practices.
- Survey and assess current homeownership initiatives in First Nations. These initiatives predate the FNMHF, some of which are undocumented. An assessment would include examining legal frameworks used to develop homeownership and measuring their success in improving social conditions.
- Conduct interviews with community members in First Nations and compare the results in this analysis with data gathered from community members. This will allow for a comprehensive understanding of the potential concerns should markets develop, in order to foster discussions of how markets can be ethically shaped.

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Appendix A: Documents included with analysis

Document	Description
Canada. 2004. Aboriginal housing background paper	Housing report prepared by Canada Mortgage and Housing Corporation in partnership with Indian and Northern Affairs Canada. Reported on the current Aboriginal housing situation, challenges, federal response, Aboriginal response, federal perspective and desired outcome.
Canada. 2005a. Transformative change in Aboriginal housing. Secret, draft memorandum to Cabinet.	Memorandum to Cabinet drafted by the Minister of Labour and Housing in partnership with the Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians. Reported on the ministerial recommendations, rationale, risks and strategies, considerations, and outcomes.
Canada. 2005b. First ministers and national Aboriginal leaders strengthening relationships and closing the gap.	Reported on the commitments to meet with Aboriginals leaders to discuss Aboriginal issues, including the key determinants of health, housing, education, and economic opportunities.
Canada. 2005c. First ministers meeting main document.	This document is a supplement to the previous document.
Canada. 2004a. Canada – Aboriginal peoples roundtable: Housing sectoral follow-up session facilitator's report.	Reported on the facilitator's findings from meeting during the Roundtable process with Aboriginal groups and organisations.
Canada. nd. <i>Briefing Note on Housing Agenda for Kelowna First Ministers Conference.</i>	Reported on the likely outcomes of the Kelowna negotiations between Ottawa and Aboriginal organisations.
Government of Nunavut, Nunavut Housing Corporation and Nunavut Tunngavik Inc. 2004. Nunavut ten-year Inuit housing action plan.	Reported on the goals and objectives of the 10 year housing action plan. Continued federal funding and increases for social housing is reported as necessary.
GPC Public Affairs and the Intersol Group. 2005. Toward a new Canadian housing framework. Final Report.	Reported on the collective efforts of by Aboriginal groups, government officials and housing providers on developing a national housing framework
Assembly of First Nations. 2005a. First Nations housing action plan (draft).	Recommended actions to be taken toward developing greater self-determination and economic self-sufficiency in First Nations. Market housing is suggested as a solution to unmet housing needs.
Congress of Aboriginal Peoples. 2004. Background paper on off-reserve Aboriginal housing issues.	Reviewed current challenges facing Aboriginal people off-reserve, also includes discussion on developing links with on-reserve communities.
Inuit Tapiriit Kanatami. 2004. Backgrounder on Inuit and housing.	Recommendations for addressing housing shortages and affordable housing.
Métis National Council. 2004. Metis National Council housing policy paper.	Explored options for Métis people to address their housing needs, including social housing and homeownership.
Native Women's Association of Canada. 2004. Background document on Aboriginal women and housing.	Reported on the proceedings from the Roundtable discussion and recommended solutions to address Aboriginal women's needs for housing.

Appendix B: FNMHF Access Criteria

The Access Criteria to apply to the FNMHF is based on the three pillars: Financial Management, Good Governance and Community Commitment and Evidence of Demand for Market-Based Housing. Within each of the three pillars a principle is established upon which a First Nation must demonstrate how it meets this principle. In addition, an Eligibility Framework outlines who can borrow, what reserve lands are eligible, and what the loans can be used for. The twelve principles are listed first, followed by the Eligibility Framework

Pillar 1: Financial Management

1. Audited Financial Statements
2. Qualified and/or certified individuals responsible for financial and loan management
3. History of Debt Repayment
4. Financial Flexibility

Pillar 2: Good Governance

5. Good Governance and Administration with the Community
6. Development and approval of a housing policy which supports market based housing
(i.e. governance considerations)
7. Demonstrated implementation of effective housing management (i.e. administrative considerations)
8. Quality and maintenance of housing are encouraged within the community
9. Security of land tenure, particularly as it pertains to market housing

Pillar 3: Community Commitment and Evidence of Demand for Market Based Housing

10. Community Commitment
11. Borrower Demand
12. Market Characteristics

Source: http://www.fnmhf.ca/english/elements/access_criteria.html

Eligibility Framework

Eligible Borrowers:

- First Nation Individuals;
- Wholly-Owned First Nation Entities;
- Partnerships where First Nation individuals or entities hold majority share.

For borrower qualifications, the Fund expects the lender to use their own due diligence based on normal and prudent market practices. The borrower must qualify financially.

Eligible Lands:

- First Nation Reserves
- Settlement Lands where there are loan security restrictions beyond the First Nation's control
- FNLMA Lands where there are loan security restrictions beyond the First Nation's control.

Eligible Loan Purposes:

- New construction
- Purchase of Existing Units
- Renovations (minimum \$5,000)
- Refinancing to increase the outstanding loan amount for housing purposes (i.e. Renovation — minimum \$10,000). Any refinancing of existing housing loans shall be limited to a maximum of 25% of the HLGC for the community.

Eligible Tenure:

- Homeownership
- Rental
- Cooperative
- Condominium

Eligible Loan Characteristics:

- All amortizing loans are eligible. No Lines of Credit or interest-only loans.
- Maximum amortization of 25 years.
- No minimum loan term.
- Fixed and variable rate mortgages eligible.
- Non-residential space limited to 20% of floor space and up to 20% of lending value.
- Homes built subject to applicable Building Code (with National Building Code being the minimum standard) and inspected by qualified professionals.
- Environmental Site Assessments (ESAs) for homeowner loans required only when lender or First Nation is aware of contamination. For rental loans, ESAs are required in all cases where there are seven or more units within the project.

Source: <http://www.fnmhf.ca/english/elements/credit.html>