

The background features a stylized landscape. At the top, light blue rays emanate from a central point, resembling a rising sun. Below this is a dark green horizon line. The foreground is composed of several curved, overlapping bands of green in various shades, from light to dark, separated by white lines, suggesting rolling hills or a field.

THIS LAND IS OUR LAND:

**African Nova Scotian Voices
from the Preston Area Speak Up**

**Angela Simmonds
Schulich School of Law/Summer Student
August 19, 2014**

Table of Contents

Introduction.....3

Methodology3

Historical trauma4

History on Land and Conflict5

Property taxes8

Land Titles Clarification Act9

Other possible options 10

Recommendations..... 11

 A Community Land Trust..... 11

 Education 11

 Advocacy 11

Conclusion 12

BIBLIOGRAPHY 13

 Legislation..... 13

 Secondary Material: Online Resources..... 13

 Secondary Material: Personally Conducted Interviews* 13

APPENDIX A: Interview questions 14

APPENDIX B: Whose Land is it anyway? 15

THIS LAND IS OUR LAND: African Nova Scotian Voices from the Preston Area Speak Up

INTRODUCTION

The African Nova Scotian communities in the Preston areas continue to face ongoing concerns regarding the expropriation of land, clarity of land titles and education regarding land ownership and inheritance. These challenges stem from a history fraught with racism, oppression and inequity. Today, fewer instances of overt racism occur and the problems are more systemic. However, racism and marginalization are still very real experiences for the residents of North and East Preston; and the encroachment of neighboring white communities is just one example of the struggles faced by citizens trying to keep their communities vibrant and thriving.

METHODOLOGY

This report contains the results from a series of interviews conducted during the months of June, July and August 2014. Interviews were held with African Nova Scotian community members who are well-informed of African Nova Scotian historical land ownership. Community members from North Preston, Cherry Brook, and East Preston provided information based on life experiences, struggles, and economical development within the community. Interviews were held in the following locations; The Cherry Brook Baptist Church, community homes, Watershed Association Development Office and Community Centers. Elders and community members provided information and spoke intimately about the importance of land ownership and preservation, within their communities.

“I feel like my community is being attacked – like predators are lying around waiting to gobble up our land.” – Elder from North Preston

Interviews were centered around three themes of inquiry:

- 1) What are the historical challenges and barriers faced by African Nova Scotian people when dealing with land ownership;
- 2) In what ways has the *Land Titles Clarification Act* been used in the process to acquire land by government and community members; and
- 3) In what ways can we move forward to address future land ownership, acquisition and community education around the process of land ownership. *Please see Appendix A for the list of questions asked.*

HISTORICAL TRAUMA

African Nova Scotia historical culture for North Preston originates back to 1796, when the Jamaican Maroons settled in the community of Preston. Facing the harshness of the Canadian climate and the unsuitability of farming to their trained military dispositions, the Maroons soon became intolerant to the conditions in which they were living.

“There are so many feelings of shame, anger and mistrust.” – Elder from Cherry Brook

The winters of 1796-98 were very severe. The Maroons suffered discomfort and grew restive and angry at their situation. The Maroons were not in favour of the suggested ways of supporting themselves in Canada and seemed likely to become a charge on the public purse. The Maroons concluded the best resolution would be to remove themselves from Nova Scotia to Sierra Leone in Africa.

Although the majority of the Maroons left Nova Scotia, there were a few who remained: a census done in 1817 of the Black community revealed that several persons living in the Preston area of Halifax County were descendants of the Maroons.

“Our community has always stuck together, good or bad we have to be there for one another – because no one else will be. Government placed us here to die and we have survived – with the grace of our Lord and savior we will continue to be strong” – Elder from North Preston

The communities of North and East Preston were settled on undeveloped land with little to no resources available for future survival. Community members experienced frustration and feelings of shame and anger. These feelings have led to mistrust which continue to this day and are deeply connected to the deplorable historical conditions. One elder in the community shared his experience and explained the land was not fertile and did not provide the basic necessities to survive. The people in the community felt dehumanized and that they were simply put on the land to die. The homes did not have running water, no proper crop and families used outhouses for

bathrooms.

The Preston communities’ disadvantages and lack of education has left individuals bitter with a lack of trust for people in power, more specifically government. It was felt many I interviewed, that all levels of government, with their powers sourced in law, have allowed the expropriation of land to exist and persist and that racialized communities in this province are left to bear the burden of the environmental degradation and a lack of economic development. These perceptions are rooted in experiences of systemic racism and cause many community members to feel isolated from the rest of society.

“I fear that we lose our community - land is all the community has ever had. I feel as though the government will ambush their way into taking over our community land and historical culture.” – Elder from East Preston

The stigma of poverty associated with the Preston communities still exists and the community continues to feel the injustice of actions against their people and the African Nova Scotian communities as a whole. The complex history has resulted in mistrust with laws and authority due to the fact that the community has been segregated from the dominant society for so long. The challenge to survive in impoverished neighbourhoods has left the community in crisis and disadvantaged.

Through the struggles of racism, poverty, stereotypes, and lack of cultural understanding the community has had to govern itself and build sustainable lives by whatever means was available to them.

It is to no surprise that trust continues to be one of the biggest problems in the community. There is no trust that the government will do the right thing in ensuring the land stays in the community. This lack of trust stems from a history of expropriation of land and promises regarding government programs focusing on economic development within the communities. In the next section, I highlight a few instances where land expropriation and broken promises have left community members feeling defeated.

HISTORY ON LAND AND CONFLICT

Between 1970 and 1974 the water being pumped from Lake Major, which was a main source of water for the city, became contaminated. The living conditions for the people in the Preston areas were a contributing factor to the poor water quality. There were animal corpses being improperly disposed of, outhouses, and land being used as a garbage dump, with no place to decompose. The topography of the land on which the community was established, specifically Upper Governor Street and Old Settlement Road, caused debris to flow into the lakes and created a major concern for the community. However, according to community members, because the problem seemed isolated in the North Preston community there was no corrective action taken by government. It was not until issues of water contamination were reported in Eastern Passage, and the Cole Harbour area that the municipality began to address the issue and developed a plan to rectify the water contamination problem.

There were not a lot of options offered to the community as one community member remembers; the initial meetings involved the municipality and community members. She said they were working with two plans – plan A was to have people removed from the community, or plan B to try and rebuild the community.

From the meetings, evaluations of the existing living conditions and ongoing strategic planning work with people in the community occurred and a partnership was formed between the provincial and municipal governments, and Lake Major Joint Action Committee. This is the organization responsible for the Municipal Development Plan for Communities and was responsible for creating the Watershed Association Development Enterprise (WADE). WADE was incorporated in March 1983, as the vehicle responsible for economic development in the communities of Cherry Brook/Lake Loon, Lake Major, North Preston and East Preston communities.

The goal of the WADE office was to develop an economic base within the communities, coordinate services, encourage cooperation between the communities and to monitor the Development Plan & Zoning By-laws for the Communities. Some of the responsibility designated to WADE by the community included maintaining and implementing financial resources development, employment opportunities, public information/safety, community development, housing, water and sewer.

“Now there was no way they were going to remove us or take what little we had from so they had to work with us. But now I think the government knew exactly what they were doing, make us feel like they were helping us but really helping everyone else and lying to us.” – Elder from North Preston

One of the first initiatives developed for the community involved funding to help improve the housing conditions within the community. Through the WADE office the provincial government agreed to provide funding to rebuild homes that were deemed condemned. The applicant would have to provide proof of ownership and of their ability to maintain the home. After five years of consistent income and maintaining all household tasks, the family would be in a position to apply to gain clear title to the property. WADE is still actively involved in this housing program and consistently provides support to applicants in the community.

The process described above was part of the strategy to create economic development and stability for the community, however not all community members felt that the initiatives for economic development were an advantage. One person said he felt that because of a lack of access to education, poverty and little other resources, there were people who owned land that saw this process as an opportunity to make a little money. Therefore, land that was administered through this process was sometimes sold to the government and because community members were poor and struggling they sold their land for very little profit. Some community members also felt they had received misleading information that led them to decide to sell their land.

The land that was sold to the government frequently became the property of the Department of Community Services (DCS). For example, parts of the land surrounding Cain Street, Donald Lane and Clarence Street were sold to the Department of Community Services. DCS expressed its plans for the land and advised that there would be homes built for the community. People in the community understood that they would be able to rent the homes they lived in at a low price and later be able to purchase and own the home. Unfortunately, this initiative did not stimulate economic growth or create stability for the people. In my interviews, community members expressed the sentiment that they felt “cheated” by the provincial government.

Currently, the homes still belong to DCS, and only recently have some people been in a position to be able to buy the homes in which they are living. This process continues to be a struggle in the community and the opportunity to buy one’s home is still difficult. Part of the problem was that the families living in the houses were led to believe the rent they were paying was a down payment towards the purchase of the house; however, this was not the case. The money previously paid as rent was not directly credited towards the purchase of the home. With the lack of established credit, employment instability and lack of resources, people were unable to get loans to buy their homes. Today this continues to be a hardship for some people in the community.

“The government knew all we had was our land that we needed money to live and provide for our family, he just took it. Yes, I understand it was sold but, sold for cheap and because of our people’s lack of education and opportunities in this particular community – it made it that much easier for the process to buy the land easier and seem fair. We all know it was not fair – those houses today are not fit to live in, garbage everywhere, windows broke, floors a mess. For some people, the living conditions are just as bad today. It is just so sad.” – Elder from North Preston



(Photos by Angela Simmonds)

Properties in the communities were considered family land – divided among families to share. Some individuals had legal documents and passed the original deed to one child in the family; unfortunately, most did not have legal title. Gaining legal title to the land remains a problem for people in the community. It makes it difficult for family land to be passed on when there is conflict and controversy within and between families and community members.



During this process of interviewing members in the community I inquired about the lack of wills for some community members. Community members explained that elders in the community affiliate death with wills. To many in the community, wills represent death and with such strong religious beliefs and faith it is not something that is discussed in the home.

“That would be showing a lack of trust in my lord – I don’t plan for my death, I try to live my life to please the eyes of my lord” – Elder from North Preston

Historically it is known that the land would go to the youngest child of the family or the child who was residing in the home when the parents pass away. Without legal title it becomes difficult and can result in conflict.

PROPERTY TAXES

Taxes are an immense concern in the Preston communities. There have been a number of homes up for tax sale and people are losing their properties without the resources to fight the process. One issue is that families are building on property without proper subdivision approval and without having a land survey done. In some cases, five houses are on one plot; this makes it difficult for the municipality to properly assess the property for tax purposes and to bill the appropriate person or family. This results in taxes falling behind because of the uncertainty as to who is responsible for what portion and causes undue stress and conflicts between family members.



Illustration of plots located on one property but have several buildings.



Above illustrates the confusion of one tax bill with several homes on one plot of property.

Another common issue around property taxes that came up in conversations with community members is that when land has not been developed people were not aware that they have to pay taxes on the land. With no proper

title there are no bills or tax assessments that can be delivered and the bill goes into arrears and property goes up for tax sale. The land can then be purchased through this tax sale. It is important for community members to be educated about the ability to purchase one's land back once it has gone up for tax sale.

LAND TITLES CLARIFICATION ACT

In the 1970s, the provincial government established a program to aid community members in addressing land ownership issues – to assist with court costs and certificate of title fees. WADE was, and continues to be, part of this process and has provided support in navigating through the Department of Natural Resources processes. There were many lawyers that worked on this for a small fee and assisted the community through the application process. Once all of the information was gathered, applications were filled out and submitted. Through my research I had the opportunity to speak to a lawyer who was instrumental in providing this service. To date he continues to receive phone calls about applications he filed for community members many years ago.

As a result of funding cutbacks over the years, it has been increasingly difficult for people in the community to get a response regarding their applications. The Land Services Branch is one of the four branches of the Department of Natural Resources and oversees the application process, as well as coordinating and approving all activities within the branch relating to the administration of Crown land. The *Land Titles Clarification Act* is included in this branch.

In a few of my interviews community members indicated that they found it difficult to get answers from the Department of Natural Resources (DNR). One family in particular discussed with me their frustrating dealings with this department. They submitted an application on January 28, 1997 and have still received no reply from

“I want my children to have a piece of history and own their land. I can't do anything with my property I own and pass onto my children until I receive information back on my application. I fear that someone will just try to take it, if I am unable to prove it is mine. I don't want my children to have to fight my same battles – we try to do right and this is what happens.” –
Elder from North Preston

DNR. Despite numerous calls to the Land Services Branch, I was unable to gain any information or feedback in relation to this particular application or the status of other applications where community members are still waiting to hear decisions.

Dealing with the bureaucracy of government system has made it difficult to get answers. Access to legal services continues to be vastly more complicated while placing barriers on disadvantaged groups and communities who seek possible solutions. With little knowledge of their rights and the law, the Preston communities continue to be excluded from obtaining fair access to justice. I spoke with one community member who shared his experience with trying to hire a lawyer to help with this process. He discussed the disappointment of not being able to make contact with her and constantly wonders what, if anything, has been done on his application. In his view, the communication from the lawyer has been inadequate

and he is not pleased with the service or the treatment provided to him.

The current process under the *Land Titles Clarification Act* does not appear to be operating effectively; the community would like education and information on an affordable process of obtaining proper title to their land.

OTHER POSSIBLE OPTIONS

I was able to speak with a lawyer who provided some insight and options the community could consider when addressing some of their land concerns. To have land title rectified four suggestions were provided: one option was to have a group of lawyers look into the Clarification of Titles process and assist in securing land ownership for community members without clear title. Clarity of title would provide legal certainty about who owns what property. In most cases, it is clear who owns property but sometimes more than one person has a claim of ownership.

A second option is that anybody who claims they have a right to certain property can go to court to have a judge decide who owns the property under the *Quieting Titles Act*. A judge can decide if all the property belongs to one person or they may divide up the property between different people. The major challenge with this option is that it is very costly and completely inaccessible for most community members.

A third option was to purchase one's home back through a tax sale. Some lawyers have suggested to their clients who do not have legal title to their home that they should let their house go up for tax sale and buy it back. This would eventually provide the home owner with legal title.

When you have established clear title and have registered your land it is secure. Even if another person comes along later claiming to own the land they will have no right to the property you have registered.

The fourth option provided was to prove adverse possession after living on or using a piece of land for more than twenty years. In theory this is a good idea, but it is a very costly and time consuming process. Most lawyers prefer to avoid this process and do not recommend this to their clients. That said, there were a few community members I spoke with who were able to prove adverse possession and had gained title through this process. The time commitment was well over two years with many challenges and controversies. The most challenging part was ensuring that anyone and everyone who was thought to have rights to the property had to be willing to sign off on the required documentation.

“Soon our community will be like Beechville, all the houses, stores and undeveloped land will be owned by white people who are not from our community and will not appreciate the struggles of Black people.” – Elder from East Preston

“It was very long and stressful process on my family. I had to put requests in the newspaper, talk to family members I had never met, and waiting to hear back and get signatures for well over 100 people.” – Elder from Cherry Brook

RECOMMENDATIONS

The communities of North and East Preston are at risk of being lost. One has only to look at the current states of Beechville and Lincolnville to know that this is a very real possibility. The loss of these beautiful historic communities would be a tragedy not only for community members but for everyone in this province. It is also clear that community members do not feel like they are being adequately consulted and included in policy developments with respect to their land. These experiences have led to growing feelings of deep distrust and animosity with the provincial and municipal government. There is a real fear that Nova Scotia Power and the Halifax Water Commission may continue to take private land for public purposes with little or no consultation of the community.

“Preston has always been looked down on, it is now and always has been harder for our people to achieve. There is a lack of support from each other and outside the community.” – Elder from North Preston

A Community Land Trust

Perhaps it would be more effective to provide alternative routes or means of funding for concerns specifically around land ownership. The communities know what is needed and what is important. The proper guidance and support from collaborative agencies that will work together for the good of the African Nova Scotian communities would facilitate the progress of the communities with proper land ownership.

Education

The communities need to feel empowered and secure. In my opinion nothing could empower a community more than education and knowledge about their property rights. It is essential for community members to understand how the law works and to be empowered to create opportunities for their own people, particular in light of the historical lack of access to education, racism, inequalities, and injustices. There is a clear need for education programs in the communities to help people understand the laws that govern their land and the processes that exist to help them ensure that the land will not only remain in families but will protect the future of these communities. *See Appendix B – Draft education document for community*

Advocacy

It is useless to educate communities on the process to gain legal title to land if those processes are ineffective or unattainable. It is the responsibility of the legal community to advocate on behalf of the community members in the Preston area to ensure that there are straightforward, easy to access and, affordable methods to gain legal title to land that families have been living on for generations. This is a significant access to justice issue, as the long-term viability of these communities is currently at risk. Through my research, it appears that the *Land Titles Clarification Act* was designed for just this purpose, but it also appears that the process to secure title through this Act remains unattainable for many people.

“I want to know how and what I can do if there is a situation that comes up with my land, taxes or my property.” – Elder from Cherry Brook

CONCLUSION

When speaking with community members about some of their fears about the future of their community it is very clear that members in these communities want to own their land. There is also an extreme fear that the community will be lost forever. Community members need education and support from all levels of government to ensure that land remains in families and that the communities are able to thrive for future generations.

“Today, our communities have people with the knowledge to help with some of the issues the community faces; we just have to trust each other. We can be far more powerful together than if we stand alone.” – Elder from North Preston

“We need the right person who wants to help, not someone who thinks they are better than us or feel bad for our people. We are rich in culture... something no outsider can take from us.” – Elder from East Preston

BIBLIOGRAPHY

LEGISLATION

- Land Titles Clarification Act. *R.S., c. 250, s. 1.*
- Crown Lands Act. *R.S., c. 114, s. 1*

SECONDARY MATERIAL: ONLINE RESOURCES

- African Nova Scotian: in the Age of Slavery and Abolition, online: <http://novascotia.ca/archives/virtual/Africans/archives>.
- Watershed Association Development Enterprise: Preston Area Community Development, online: <http://wadens.ca/>
- Black Cultural Centre for Nova Scotia: Our History, online: <http://www.bccns.com/history/>

SECONDARY MATERIAL: PERSONALLY CONDUCTED INTERVIEWS*

- Community member, phone interview. 23 June, 2014.
- Community member, personal interview. 25 June, 2014.
- Community elder, personal interview. 3 July, 2014.
- Community elder, personal interview. 7 July, 2014.
- Community member, personal interview. 9 July, 2014.
- Community member, personal interview. 10 July, 2014.
- Community elder, personal interview. 14 July, 2014.
- Community elder, personal interview. 15 July, 2014.
- Community member, personal interview. 16 July, 2014.
- Community elder, personal interview. 17 July, 2014.
- Community elder, personal interview. 22 July, 2014.
- Community elder, personal interview. 23 July, 2014.
- Community elder, personal interview. 24 July, 2014.
- Community member, phone interview. 24 July, 2014.
- Community elder, personal interview. 28 July, 2014.
- Community elder, personal interview. 29 July, 2014.
- Community elder, personal interview. 6 August, 2014.
- Community elder, personal interview. 6 August, 2014.
- Community elder, phone interview. 8 August, 2014.

**Due to the sensitivity of the topic, community members have requested to remain anonymous.*

APPENDIX A: Interview questions

Community interviews to be guided by the following questions:

1. What has been your lived experience with the land you live on? Where did it come from? (Did you just decide to build on this land?)
2. What type of deeds/type of ownership is associated with your land historically?
3. What are your fears about the land?
4. What are your hopes? What do you think we should focus on to assist in you feeling comfortable with the ownership of your land?
5. What information would you find helpful?
6. Do you have a will? If not discuss some options about a will?

Once having had the opportunity to meet with some of the elders and historians in the community, and understanding the background of the land and ownership rights. There would be a slightly different set of questions I would ask – if there is clear and consist legal proof of the land.

1. Where did you get your deed (was it passed down) what is the history with your land?
2. Have there been any struggles/issues with migrating to the new system or not done that yet? If not why?
3. What has been your relationship been like with HRM? Are there any other government agencies that you have had historic experience with expropriation of land?
4. What are your hopes for the land? What would help you feel secure about your ownership
5. There have been several homes in the past and currently that have been sold or up for sale because of taxes, are you familiar with this process? Why do you think those houses don't sell?
6. What impact has the Rate Payers Association had?
7. Do you have a will? Discuss options
8. Have you ever heard of something called "quieting of titles"?
9. If so in what context? Have you tried to go through this process?
10. Have you ever heard of or used the "*Land Clarification of Titles Act*"?

When meeting with the Pastors in the community – I will frame the questions specifically to the land ownership historically about the deeds and how the land was purchased.

1. How long have you preached at this church? Did the church have a deed already in place? Was the land migrated to the new system?
2. Did church purchase or sell any land?

APPENDIX B: Whose Land is it anyway?

What is clarity of title?

- Clarity of title means there is legal certainty about who owns what property. In most cases, it is clear who owns property but sometimes more than one person has a claim of partial or exclusive ownership. There are laws that are used clarify property ownership and resolve disputes in Nova Scotia. Anybody who claims they have a right to certain property can go to court to have a judge decide who owns the property under the *Quieting Titles Act* or the *Land Titles Clarification Act*. A judge can decide if all the property belongs to one person or they may divide up the property between different people.

What do I need to prove I own my property?

- There are two main ways to prove property ownership. One is with documents such as deeds, wills, and paper titles. It may also be possible to prove ownership if you have been living on the property for a long time (at least 20 years.) If you own property you may want to register your land with the Land Registry.

What is land registration?

- Nova Scotia is moving towards using a Land Registry system to keep track of who owns property in the province. Registering your land costs between \$500-1,000. Once land has been “migrated” over to the Land Registry title to your land is protected against most claims that it is owned by someone else. Registration is triggered by sale, mortgage or court order. You can also voluntarily register your land.
- If you buy property that has not been migrated you must have it registered.

Does it matter if I clarify the title on my property?

- Clear title will make it possible for you to sell your property or to leave it to others in a will. Clear title can also help prevent family conflict. Even when everyone has the best intentions, legal rules about property can be complex and misunderstandings can create serious family divides.

Once I get clear title for my property can someone else take it away?

- When you have established clear title and have registered your land it is very secure. Even if another person comes along later claiming to own the land they will not get the property you have registered with rare exceptions.

Can the government take away my property?

- Provincial and municipal governments, NS Power, Halifax Water Commission, Bridge Commission and MT&T can take private land but only if it is for a public purpose. Usually this is to build roads, expand or improved services, but it can also be for economic development purposes. The government will compensate you for your land.
- The Halifax government can force you to sell your house if you do not pay your property tax bill.