

Moving Land from Fee Status to Trust Status

1. What is trust land?

Trust land is held by the United States of America for the benefit of an Indian tribe or a tribal member. The Tribe or tribal member retains usufructuary rights (right of use without ownership).

2. What is “fee-to-trust”?

Fee-to-trust is a process provided for by federal law for tribes to place tribally owned fee land into trust status. Trust status can only be conferred by an Act of Congress, a court decision or settlement, or, most commonly, through an application through the U.S. Department of the Interior. Land may be acquired for a tribe in trust status under several conditions, including when the Secretary determines that the acquisition of land is necessary to facilitate tribal self-determination, reservation economic development, or Indian housing.

Our Trust History

In 1838, the Tribe’s treaty with the US set certain boundaries. All of the property within those boundaries was trust land, controlled only by the Oneida Tribe. With the allotments of 1891, the opportunity to allow Tribal members to sell their allotment ushered in the change in ownership from trust to fee. For many, many reasons; the land within the 1838 Treaty boundaries became mostly fee land by 1936. The Tribe still held treaty/trust land and a few individuals held onto their trust allotments.

What We’re Doing Today

Today, one of the functions of the Tribe’s Division of Land Management is to put the Tribe’s fee properties into trust status. This process is moving forward and has shown great success over the past 4 years as shown by these figures:

Year	Parcels into Trust	Acres into Trust
2002	1	306
2003	0	0
2004	0	0
2005	1	26
2006	23	543
2007	10	758
2008	30	1456

We have submitted 273 parcels into the Trust process. Of those over 40 have made it through the system and we have about 230 being worked on now. Each year our applications are better, and it seems that they move through faster. The major road-blocks have been the turnover at the BIA office which brings in new staff that need to be trained, and the occasional change in BIA policies. With a steady staff at the BIA and our seasoned staff at Land Management, we could average 40 parcels each year. If that happens, we can get through the current group in the next six years.

What Are We Planning In The Future?

Our vision at Land Management, is to complete the current submissions by the year 2016. At the same time, we are expecting to submit all of our recent acquisitions and probably begin working with individual tribal members to assist them in getting their **individual fee** land into **individual trust**.

We suspect that in early **2013**, we will have made such good progress with Tribal Trust, our office can dedicate some time to assisting individual land owners with the fee-to-trust process. We presently can give a land owner a checklist to follow, but we do not have the resources to go further than this. Also, the BIA has determined that Tribal Trust is its priority due to the tremendous backlog it is attempting to address. However, if the processes continue to improve, and our parcels are addressed; the Tribe will then be able to assist individual members better in this process.

Individual Fee To Trust

Tribal members who have thought about starting the fee-to-trust process for their individual land should keep several issues in mind. First, individual trust is not a priority for our Tribe or the BIA. The BIA requires that the land be owned free and clear of all liens and taxes. The BIA requires an environmental assessment that shows the land has no environmental issues like underground tanks or oil spills. The BIA requires a survey. The BIA requires several other documents and explanations. The Oneida Tribe does not have the resources to assist with the costs of any of the reports needed. These costs are the responsibility of the landowner.

FEE TO TRUST FOR INDIVIDUALS

Prior to 1980, before the revised land acquisition regulations became effective, it was relatively simple to transfer fee lands into trust for individuals. Within the last decade, lands were taken into trust for very few individuals. **These individuals have very compelling justification and have a genuine need for their land to be accepted into trust**. Individuals requesting Trust Status must have a legitimate need to place their land into trust. Relief from paying their property taxes, alone, will not be sufficient reason.

The fee to trust process is a long process and could end up being very costly. All costs incurred for the fee to trust process is the responsibility of the individual requesting trust status for their land.

When you request trust status for your fee land, you are requesting the services of the United States Government, more particularly the Bureau of Indian Affairs, to manage your land. When you sign the deed to the United States of America in Trust for yourself, you are giving up your right to act independently.

Once your land has been accepted into trust, everything associated with that land; harvesting of timber, leasing all or a portion of the land, granting passage, selling, gifting or mortgaging, as well as basic utilization of the parcel, must now be approved by the Secretary of the Department of the Interior or his representative. All regulations must be met before the Secretary will approve a transaction. The transaction is not final until it

has been recorded with the Aberdeen Title Plant in South Dakota, it isn't unusual for the approval and recording of simple requests to take longer than a year.

This is a list of some of the information needed for the fee to trust process.

- \$ Your property must be located within the Oneida Reservation.
- \$ You must be enrolled in the Oneida Tribe of Wisconsin.
- \$ The property must be free and clear of all liens (*No Mortgages, etc*)
- \$ You must provide a detailed written explanation of the need for this land to be placed into trust.
- \$ You must provide evidence of the degree to which the applicant needs assistance in handling their affairs.
- \$ You must show NEPA compliance - NEPA/Environment Assessment, 602 DM 2 Environmental Site Assessment ASTM E 1527.
- \$ You must provide a plat of survey for your property containing a complete and accurate legal description.
- \$ You must provide a recent tax statement (*Taxes & special assessments must be paid.*)
- \$ You must provide a Title Commitment and, later, a Final Title Insurance Policy
- \$ You must complete a Warranty Deed and Transfer Return.

For a **more comprehensive list** contact Land Management at (920) 869-1890 ext 1810.