



HUU-AY-AHT TRIBUNAL NOTICE OF RESPONSE RESPONSE OF ADMINISTRATIVE DECISION MAKER

FORM B1

NOTES: This form is to be used for a Response by or on behalf of an administrative decision maker responding to an Application.

If there is not sufficient space on this form for any of the information required, you may attach a schedule and reference it in the space provided. You may also attach documents if necessary.

Responses must be filed with the Tribunal within 14 days of service of the Notice of Application.

APPLICATION RESPONDED TO

This is the Further Amended Response to Application # 2013-006.

RESPONSE TO GROUNDS

Briefly set out your position on the Grounds for Appeal advanced in the application, including any relevant additional facts.

1. It is agreed that, subject to its powers to waive reporting requirements as set out in the *Government Act*, s. 56(4), Executive Council must not decide any substantive matter until a report has been received and considered by Executive Council (*Government Act*, s. 56(3)).
2. Executive Council can and does use its abilities to waive the requirements of the *Government Act*, s. 56 (1)-(3) when it reasonably believes that a delay in consideration of the matter is not in the best interests of the HUU-ay-aht, as required by *Government Act* s. 56(4).

Additional Facts

3. Executive Council has a regular meeting once per month and sometimes has one or more special meetings during the month.

RESPONSE TO RELIEF SOUGHT

Set out your position on the relief sought in the Application.

The Respondents object to the relief sought on the following bases:

1. The Further Amended Application and particulars provided fail to identify the specific situations in which it is alleged Executive Council improperly exercised the discretion afforded it to waive the reporting requirements set out in s. 56 of the *Government Act*. Rather, the Applicant takes the position Executive Council has unlawfully relied on the provision, based solely on the number of times that it has been used. It cannot be that every exercise of the discretion afforded Executive Council was unlawful, but the Respondents cannot respond effectively without knowing what uses it is alleged were unlawful.
2. Further, it is incorrect in principle to suggest that simply because one or more of the reporting requirements were waived at almost every meeting of Executive Council the waiver provisions must be being overused. Executive Council considers a number of matters at each of its meetings. In the significant majority of cases, the reporting requirements are met. It is entirely conceivable that special circumstances exist in respect of at least one matter to be considered at almost every meeting where Executive Council reasonably believes a delay of several weeks in the consideration of the matter is not in the best interests of the HUU-ay-aht, as is required by the provision.

**THIS FORM HAS TWO SIDES
YOU MUST COMPLETE BOTH**



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RESPONDENT

Huu-ay-aht First Nation Executive Council; and
Executive Director/Law Clerk, James Edwards

LAST NAME GIVEN NAME(S) POSITION

MAILING ADDRESS CITY/TOWN POSTAL CODE

PHONE FAX EMAIL ADDRESS

RESPONDENT'S AGENT To be completed only if an agent will be acting on behalf of the Respondent.

Skeels Melinda

LAST NAME GIVEN NAME(S)

Suite 500 -221 West Esplanade North Vancouver V7M 3J3

MAILING ADDRESS CITY/TOWN POSTAL CODE

(604) 988-5201 (604) 988-1452 mskeels@ratcliff.com

PHONE FAX EMAIL ADDRESS

ADDRESS FOR DELIVERY This will be used to deliver any notices in relation to the Application. Note: the Tribunal's preferred means of communication is through email.

CHECK ONE: Applicant's Email Applicant's Fax Applicant's Mailing Address
 Agent's Email Agent's Fax Agent's Mailing Address Use Email or Fax or Address **provided in space below:**

SIGNATURE This notice must be signed by the Respondent or Respondent's agent.

Melinda Skeels

FIRST AND LAST NAMES OF PERSON SIGNING

March 31, 2014 

DATE SIGNATURE

For Office Use Only Date Received: _____