

Further Amended Applications March 17, 2014

Application of Charlene Kruse 2013-006

Decision Appealed

Ongoing and unlawful reliance by the Executive Council on s. 56(4)(a) of the *Government Act* (i.e. waiving the requirement for reports on substantive matters to be considered in Executive Council meetings).

Respondent

Executive Council

Relief Sought

Declaration that the Executive Council has been overusing and therefore unlawfully relying upon its waiver power under s. 56(4) of the *Government Act* (pursuant to s. 24(a) of the *Tribunal Act*).

Grounds for Appeal

Section 56(1) of the *Government Act* requires the Executive Director to prepare a written report for any substantive matter to be considered by the Executive Council.

Section 56(4) allows the Executive Council to waive this requirement, but only “[i]n an emergency, or in special circumstances where Executive Council reasonably believes that a delay in consideration of the matter is not in the best interests of the Huu-ay-aht.”

Between January 2013 and November 2013, when I originally filed this Application, the Executive Council used the s. 56(4) waiver at all or nearly all of its Council meetings. Although s. 56(4) provides the Executive Council with discretion, it also sets limits to this discretion, and it is unlawful for the Executive Council to be relying on the waiver as a matter of course in all or most of its meetings.

Request for Late Filing of Application if such Permission Required

This Application is being filed within the time requirements of the *Tribunal Act*, s. 21(1) as it concerns a systemic overreliance on the s. 56(4) waiver that is ongoing.

In the alternative, if this Application is late, I am requesting that the Tribunal nevertheless agree to hear it, pursuant to *Tribunal Act* s. 21(2). I believe that there are special circumstances that justify this request.

The Executive Council’s minutes are not consistently posted online, and often are only posted after significant delays. I only discovered the extent of the Executive Council’s reliance on s.

56(4) when I reviewed Executive Council Minutes at the Port Alberni Huu-ay-aht Government Office on October 25, 2013.

I filed my original Application on or about November 26, 2013. Prior to filing my Application, I notified the Chief Councillor of my concern about the failure of the Huu-ay-aht Government to post its records in a timely and consistent manner by discussing it with him on October 31, 2013, the meeting that I describe in Application 2013-002.

Furthermore, I have explained in Application 2013-002 my lack of familiarity with the Tribunal's procedures and in particular the 60 day time limit for filing appeals in my Application 2013-002.

In these circumstances, I believe I acted with reasonable diligence in pursuing this Application and that it deserves to be heard.