

**REPORT OF HUU-AY-AHT FIRST NATIONS TRANSITIONAL TRIBUNAL
DECEMBER 19, 2011**

TO: EXECUTIVE COUNCIL

TO: HA-WIIH COUNCIL

TO: PEOPLE'S ASSEMBLY

TO: TRIBUNAL MEMBERS

This report is written pursuant to Section 41(4) of the *Tribunal Act*, covering the period from Effective Date to the date of appointment of the full Tribunal, December 14, 2011.

Establishment and Term of the Transitional Tribunal

The Transitional Tribunal was established pursuant to Section 41 of the *Tribunal Act* on Effective Date, by the appointment of John Rich as Interim Chair. The Transitional Tribunal consisted of the Interim Chair, and pursuant to Section 41(2), had all of the powers, duties and functions of the Tribunal.

Administrative Matters

Appointments

1. On Effective Date John Rich became Interim Chair of the Transitional Tribunal.
2. On May 10, 2011, Connie Waddell was appointed as Tribunal Registrar.
3. On October 19, 2011, John Rich was appointed as Chair of the Tribunal by the Executive Council.
4. On November 23, 2011, Florence Wyle and Marie Nookemus were Appointed as Tribunal Members by the Ha-wiih Council.
5. On November 26, 2011, Trudy Warner was appointed as a Tribunal Member by the People's Assembly.
6. On December 14, 2011, Hugh Braker was appointed Vice-Chair of the Tribunal by the Executive Council.

Directives

1. In May 2011, the Transitional Tribunal issued a public notice to establish addresses for the filing of appeals.
2. On November 24, 2011, the Transitional Tribunal issued Directive 2011-1, to provide for the filing of applications to the Tribunal by email, in addition to delivery in person or by regular mail.
3. On November 28, 2011, the Transitional Tribunal issued Directive 2011-2, adopting *Rules of Practice and Procedure* for the Tribunal.
4. On November 28, 2011, the Transitional Tribunal issued Directive 2011-3, setting the usual times for steps to be taken in proceedings before the Tribunal.

Consultation

1. In May 2011, the Interim Chair consulted with Executive Director Connie Waddell respecting her appointment as Registrar to the Tribunal.
2. In May 2011, the Interim Chair consulted with Registrar Connie Waddell respecting administrative matters, including the establishment of Tribunal letterhead, dedicated office space and provisions for public contact with the Tribunal.
3. In May 2011, the Interim Chair consulted with the Commissioner under the *Election Act* respecting potential procedural issues.
4. In June 2011, the Interim Chair met with Executive Council respecting the respective roles of the Tribunal and the Executive Council under the *Tribunal Act*.
5. In October 2011, the Interim Chair delivered draft Tribunal Rules of Procedure to the Executive Council for review and comment.
6. In November 2011, the Interim Chair consulted with the Ha-wiih Council respecting the appointment of two Tribunal members, pursuant to Section 3 of the *Tribunal Act*.
7. In November 2011, the Interim Chair consulted with the Executive Council respecting the appointment of a Vice-Chair, pursuant to Section 3 of the *Tribunal Act*.

Adjudication Matters

Only one matter was brought before the Transitional Tribunal for adjudication. This was a complaint delivered to the Tribunal on August 17, 2011 pursuant to the *Code of Conduct* and *Conflict of Interest Act*, by a Huu-ay-aht member respecting:

- (a) alleged disrespectful conduct by a member of the Executive Council in July 2011; and
- (b) alleged failure of the Chief Councillor to take action respecting the same complaint made to the Executive Council, July 29, 2011.

The Tribunal considered this complaint and concluded:

I have concluded that the Tribunal does not have jurisdiction to consider this complaint. The Tribunal can only consider and decide matters which are referred to the Tribunal in accordance with legislation. Section 24 of the Act sets out the process required to bring matters regulated by the Act before the Tribunal, providing that certain officials may refer matters to the tribunal, as well as the right of 10 members to refer a matter. However, there is no provision in s. 24, nor elsewhere in the Act, for an individual member to refer a complaint to the Tribunal. Consequently, the Tribunal has no jurisdiction to consider complaints lodged by individual members, regardless of the merits of the complaint.

Thus, since the complaint was not brought in accordance with the provisions of the *Code of Conduct and Conflict of Interest Act*, the Tribunal had no jurisdiction to consider the complaint, and the complainant member was advised that the Tribunal could not consider the merits of the complaint nor otherwise adjudicate on the matter.

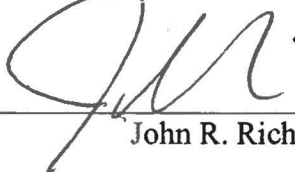
Termination of Transitional Tribunal

Pursuant to Section 41(3) of the *Tribunal Act*, the Transitional Tribunal was terminated upon the appointment of the full Tribunal December 14, 2011.

The Tribunal, appointed pursuant to ss. 3-6 of the Act, now consists of:

Chair, John Rich (five year term)
Vice-Chair, Hugh Braker (four year term)
Members:
Florence Wylie (three year term)
Marie Nookemus (three year term)
Trudy Warner (three year term)

Submitted: December 19, 2011



John R. Rich, Tribunal Chair