



huu ay aht

ANCIENT SPIRIT, MODERN MIND

Huu-ay-aht First Nations Tribunal

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**ANNUAL REPORT
OF
HUU-AY-AHT FIRST NATIONS TRIBUNAL
SEPTEMBER 30, 2019**

TO: EXECUTIVE COUNCIL

TO: HA'WIIH COUNCIL

TO: PEOPLE'S ASSEMBLY

TO: TRIBUNAL MEMBERS

This Annual Report is written pursuant to Section 16 of the *Tribunal Act*, covering the period from the date of the last Annual Report, September 11, 2018, to September 30, 2019.

Establishment and Term of the Tribunal

The Tribunal is established by Section 3 of the *Tribunal Act*. The Tribunal consists of the Chair, the Vice-Chair, three members and one alternate member.

Chair

John Rich was re-appointed as Chair in November 2016 for a five-year term, which expires in November 2021. (*Tribunal Act*, Sections 3(2)(a), 6(1)(a))

Vice-Chair

Brent Mullin was appointed to the position of Vice-Chair by Executive Council, June 6, 2018, for a four year term which expires in June 2022. (*Tribunal Act*, Section 3 (2)b, 6(1)b)

Members

- Florence Wylie was reappointed by the Ha'wiih Council effective November 2017, for a three-year term which expires in November 2020. (*Tribunal Act*, Sections 3(2)(c), 6(1)(c))
- Karen Haugen was appointed by the Ha'wiih Council in November 2017, for a three-year term, which expires in November 2020. (*Tribunal Act*, Section 3(2)(c))

- Andrea Pettigrew was appointed by the People's Assembly in September 2017 for a three-year term, effective November 2017, which expires in November 2020 (*Tribunal Act*, Sections 3(2)(c), 6(1)(c))

Alternate Member

Ayanna Clappis was appointed as an alternate Tribunal Member by the People's Assembly in February 2019 for a three-year term which expires in February 2022. (*Tribunal Act*, Sections 3(2)(c), 6(1)(c))

Tribunal Administration

Tribunal Independence – In order to ensure that the Tribunal is fully independent of HFN government administration, all Tribunal administration is now the responsibility of the Chair. The Chair and his assistant maintain all Tribunal files and receive enquiries and applications. A separate email address, hfntribunal@gmail.com, has been established for contact with the Tribunal.

Website – The HFN website has a link which provides members with easily accessible information about the Tribunal.

Adjudication Matters

One application was made to the Tribunal in 2019.

In May 2019, Duane Nookemis made an application to the Tribunal to challenge the *Huu-ay-aht Elections Act*, section 7(3).

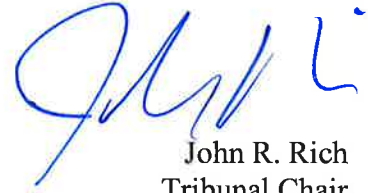
Section 7(3) of the *Election Act* requires that if a *Huu-ay-aht* employee is a candidate for election, he or she must take a leave of absence from his or her position. Mr. Nookemis' grounds for his application were that the rule created a hardship for employees, and was impractical from the organization's perspective.

The application resulted in a hearing before Tribunal Vice-Chair Brent Mullin on May 21, 2019. Mr. Mullin provided his decision June 28, 2019, following the election. (Mr. Nookemis and the respondent *Huu-ay-aht* Government had agreed that it was appropriate that the decision be delayed until after the election).

The Tribunal concluded that the blanket nature of the requirements of section 7(3) created a hardship for Mr. Nookemis and were of no force or effect in respect to his position as Community Maintenance Supervisor. However, the Tribunal did not go so far as to find that section 7(3) of the *Elections Act* was invalid generally. On the more general issue of the applicability of section 7(3) to all *Huu-ay-aht* employees, the Tribunal found it was most appropriate that the matter be returned to the *Huu-ay-aht* legislative process to determine which positions should be subject to the unpaid leave requirement in section 7(3), and which should not.

Full reasons for the decision may be found on the Tribunal website (Application 2019-01).

Submitted: September 30, 2019

A handwritten signature in blue ink, appearing to read 'J. Rich', is positioned above the printed name and title.

John R. Rich
Tribunal Chair