



huu ay aht

ANCIENT SPIRIT, MODERN MIND

**HUU-AY-AHT FIRST NATIONS  
TRIBUNAL**

June 21, 2022

**TRIBUNAL APPLICATION #2022-01**

BETWEEN:

Huu-ay-aht First Nations Executive Director, Connie Waddell

APPLICANT

And:

Government Member, Trevor Cootes

RESPONDENT

**TRIBUNAL DECISION**

***In Respect of Application of Respondent, Trevor Cootes,  
for Reimbursement of Costs of Legal Representation***

Decision Pursuant to *Tribunal Act*, s. 15

**BACKGROUND**

1. By letter of May 31, 2022, counsel for the Respondent, Trevor Cootes, has applied on his behalf to have the Tribunal recommend to the Executive Council that his legal costs for representation in the preparation for and attendance at the hearing of Application #2022-01 be reimbursed, pursuant to section 15 of the *Tribunal Act*.
2. This decision is based on the provisions of the *Tribunal Act*, and the application and response of the respective parties.
3. This decision is not based on an assessment of the merits of the application.
4. Section 15 of the *Tribunal Act* provides:
  - 15 (1) If the chair reasonably believes that a matter before the tribunal is unusually complex or has significant implications for the Huu-ay-aht, the chair may recommend to Executive Council that an individual be provided with independent legal advice and representation for the matter.
  - (2) Executive Council must take the steps necessary to pay the cost of independent legal advice for an individual under subsection (1).

5. The submission of Respondent's counsel in support of this application addresses the complexity of the matter, arguing that hearing the matter will involve credibility issues which were not explored by the investigators, and asserting there were numerous deficiencies in the material before the investigation which was conducted in February-March 2022. The submission is summarized by arguing that Mr. Cootes requires legal counsel to ensure his right to a fair hearing.
6. The submission then goes on to assert that the allegations against Mr. Cootes have serious implications for the Huu-ay-aht First Nation. The submission focuses on the assertion that the allegations against Mr. Cootes have had a significant impact on the wellbeing of the staff and the community and concludes by asserting that Mr. Cootes has not yet been provided a full and fair opportunity to respond.

### ***THE TRIBUNAL ACT***

7. Pursuant to section 15(1), a recommendation to provide legal representation must be based on an application being either:
  - a) unusually complex or,
  - b) having significant implications for the Huu-ay-aht First Nation.

### ***Unusually Complex***

8. The Tribunal has concluded that the matters before it in Application #2022-01 are not unusually complex.
9. Adjudication of the application and response will require assessing a large body of evidence and assessing credibility in the face of substantial conflicts in testimony. Thus, it cannot be said that the application is not complex. However, the requirement of section 15 is that the matter be "unusually complex".
10. The law respecting abuse of power and sexual harassment is largely settled in Canadian caselaw. The Huu-ay-aht Oath is straightforward and speaks for itself. Applying the law to the disputed facts in the application may be complex, but it cannot be said it is unusually complex.

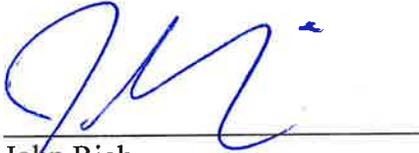
### ***Significant Implications***

11. The Respondent argues that the allegations which underlie the application have caused, or continue to cause, trauma in the Huu-ay-aht community. The Tribunal has not investigated that assertion, but assesses the "significant implications" on the assumption that such trauma indeed exists.

12. However, trauma within the Huu-ay-aht community does not equate to “significant implications for the Huu-ay-aht” as required by the legislation.

## CONCLUSION

13. The Tribunal concludes that Application #2022-01 is neither unusually complex nor has significant implications for the Huu-ay-aht, in the context of section 15 of the *Tribunal Act*. Thus, the Tribunal declines to make a recommendation to the Executive Council as requested by the Respondent.
14. Since the Tribunal has determined that the application of the Respondent does not fall within section 15 of the *Tribunal Act*, it has been unnecessary to seek submissions from the Applicant on this question.



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John Rich  
Tribunal Chair  
June 21, 2022