



huu ay aht

ANCIENT SPIRIT, MODERN MIND

Huu-ay-aht First Nations Tribunal

500 – 221 West Esplanade

North Vancouver, BC, V7M 3J3

hfntribunal@gmail.com

**ANNUAL REPORT
OF THE
HUU-AY-AHT FIRST NATIONS TRIBUNAL
October 15, 2024**

TO: EXECUTIVE COUNCIL

TO: HA'WIIH COUNCIL

TO: PEOPLE'S ASSEMBLY

TO: TRIBUNAL MEMBERS

TO: EXECUTIVE DIRECTOR

This Annual Report is written pursuant to Section 16 of the *Tribunal Act*, covering the period from the date of the last Annual Report, October 18, 2023 to October 15, 2024.

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 by the Executive Council as Chair in December 2021 for a five-year term, which expires in December 2026 (*Tribunal Act*, Sections 3(2)(a), 6(1)(a)).

Vice-Chair

Brent Mullin was re-appointed to the position of Vice-Chair by Executive Council in June 2022, for a four-year term which expires in June 2026 (*Tribunal Act*, Section 3(2)b, 6(1)b).

Members

- Mel Edwards was appointed by the Ha'wiih Council on July 29, 2024, for a three-year term which will expire in July 2027 (*Tribunal Act*, Section 3(2)(c)). Ms. Edwards is replacing Sherri Cook.

- Peter Colenbrander was appointed by the Ha’wiih Council on December 3, 2020, for a three-year term (*Tribunal Act*, Section 3(2)(c)). On September 26, 2023, the Ha’wiih Council appointed Mr. Colenbrander for another three-year term, which will expire in September 2026.
- Andrea Pettigrew was appointed by the People’s Assembly in September 2017 for a three-year term, effective November 2017, which expired in November 2020 (*Tribunal Act*, Sections 3(2)(c), 6(1)(c)). Ms. Pettigrew was reappointed by the People’s Assembly on December 5, 2020 for a three-year term, and again on November 18, 2023 for a further three-year term, which will expire November 2026.

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 expired in February 2022. (*Tribunal Act*, Sections 3(2)(c), 6(1)(c)). Ms. Clappis was reappointed on November 19, 2022 by the People’s Assembly, for a three-year term which expires in November 2025.

Tribunal Administration

Tribunal Independence – In order to ensure that the Tribunal is fully independent of HFN government administration, all Tribunal administration is the responsibility of the Chair. The Chair and his assistant, the Tribunal Registrar, 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

The Tribunal has dealt with one application since the date of the last Annual Report.

Application #2024-01 by the Executive Director on behalf of the Ha-wiih Council, to disqualify Derek Peters

Executive Director, Karen Haugen, on behalf of the HFN Executive Council and Ha-wiih Council, applied pursuant to the HFN *Code of Conflict and Interest Act* (“COCCIA”) for a determination that Derek Peters be disqualified from holding the position of Public Officer.

The Application alleged that the conduct of Mr. Peters constituted an assault and intimidation and thereby violated section 4(1)(a) and (e) and section 12(3) of COCCIA.

The Application alleged specific facts:

- (a) In or about March or April 2020, Mr. Peters physically assaulted the complainant by pushing her in the chest and then with his forearm pressed against her chest, threatened the complainant by stating words to the effect: Do you fucking know who I am? I can take your house away. I can take your husband away. I can make sure you never work. I can rape you. (“Allegation 1”)
- (b) In or about November 2021, Mr. Peters, against the wish of the complainant, forcibly named the complainant with an indigenous name. (“Allegation 2”)
- (c) In or about the summer of 2022, Mr. Peters gathered his family and the complainant together and told them he had received a letter from Ha’wiih Council which stated that there were allegations against him by a female. Mr. Peters, in an intimidating fashion, directed his family and the complainant on what to say if any of them were ever asked about the allegations. He required that they all be loyal to him no matter what. (“Allegation 3”)

The Tribunal heard the application at Port Alberni on May 28, 2024. Both the Complainant, who had made the allegations, and Mr. Peters testified. A number of documents, including correspondence with Mr. Peters and public notices respecting Mr. Peters were entered into evidence.

Following the hearing, the Tribunal concluded:

- a) That Mr. Peters had breached s. 12(3) of COCCIA which provides that public officers must not intimidate, harass or assault anyone.
- b) That Mr. Peters’ conduct in Allegation 1 was an assault of Ms. Carwithen.
- c) That Mr. Peters’ conduct in Allegations 1 and 2 involved intimidation and harassment of Ms. Carwithen.
- d) That Mr. Peters’ conduct in respect of Allegations 1 and 2 was in breach of the Huu-ay-aht Oath in all respects.

The Tribunal considered the assault, intimidation and harassment of Ms. Carwithen to be particularly serious given Mr. Peters’ status in the community as Tayii Ha’wiih. The Tribunal also noted that Mr. Peters does not accept responsibility for his conduct and has failed to apologize or exhibit remorse, and that Mr. Peters’ conduct toward Ms. Carwithen has had consequences on her life beyond the incidents themselves.

The Tribunal declared that Mr. Peters is disqualified from holding any position as a public officer for a period of eight (8) years and must pay a fine in the amount of \$4,000 to the Huu-ay-ah government.

The Reasons for Decision of the Tribunal may be found here on the HFN website.

Tribunal Rules

In February 2024, the Tribunal was requested to review the recommendations of the Panel of Inquiry Report, dated May 15, 2023, which reported on a panel inquiry into allegations of abusive power, intimidation, harassment, assault, sexual harassment, and sexual assault committed by members of government.

Following review of the Recommendations of the Panel Report, the Tribunal added a new section N. 7. to the Tribunal Rules:

“7. Notwithstanding the intent of these Rules to make all Tribunal proceedings available to the public, where applications involve allegations of sexual misconduct, and the Tribunal is of the opinion that the administration of justice would be served by varying these rules, the Tribunal may make orders:

- a) Prohibiting publication by any means the identity of the Complainant;
- b) That records of Tribunal proceedings, including without limitation documents, transcripts, and recordings be kept under seal, not available to the public;
- c) That the Complainant be permitted to testify behind a screen or by Closed Circuit TV from another room in proximity to the hearing;
- d) Otherwise ensure the Complainant is provided with protection necessary to obtain a full and candid account of the acts complained of.”

Submitted: October 15, 2024



John R. Rich
Tribunal Chair