

Ta'an Kwäch'än Judicial Council Record of Decision

Case Number: TKJC 04-01

Applicant: Charlene Burns
35 McCandless Road
Whitehorse, YT.
Y1A 6H8

Respondents: Ta'an Kwäch'än Council
117 Industrial Road
Whitehorse, YT.
Y1A 2T8

Ruth Massie (Not Present)
Box 20975
Whitehorse, YT.
Y1A 6P4

Hearing Date: May 14, 2004

Location of Hearing: Boardroom 1, CYFN Building
11 Nisutlin Drive
Whitehorse, Yukon

Appearing on behalf of applicant: Charlene Burns, Kevin Adamson, Pamela Adamson, Barbara Hare, Ann Marie Miller, Hazel Bunbury

Appearing on behalf of respondent: Daryn Leas, Legal Counsel

Ta'an Kwäch'än Judicial Council Judges: Chuck Hume, Michael Dougherty (via speaker-phone), John Bailey

In these proceedings, the applicant asserts the following:

That the candidacies for election as Chief and Deputy Chief by Ruth Massie and Willy Asp were not valid as they contravened provisions 9.1.1.1 and 9.1.1.2 of the Constitution of the Ta'an Kwäch'än Council and 5.4 of the Ta'an Kwäch'än Election Rules.


At a pre-hearing meeting held on April 14, 2004, Ms. Burns informed the Judicial Council that she was dropping the complaint relating to Mr. Asp as he had withdrawn from the election.

The applicant provided considerable evidence indicating that Ruth Massie had not obtained written consent from each of the family lines represented by a Family Director for her candidacy for the election of Chief. This is a requirement of 9.1.1.2 of the Constitution of the Ta'an Kwäch'än Council where a potential candidate is not a direct descendant of a Traditional Family.

It was acknowledged by the applicant that Ruth Massie is a direct descendent of the Jenny Leberge Family. Provision 2.1 of the Constitution of the Ta'an Kwäch'än Council (2004) includes the Jenny Leberge family in the definition of "Traditional Family". Consequently, as a direct descendent of a Traditional Family, Ms. Massie qualifies for candidacy under provision 9.1.1.1 of the Constitution. As a result the Judicial Council dismisses the complaint that Ruth Massie's candidacy for election for Chief was invalid.

The Judicial Council notes that the concern which appears to have generated the complaint is related to the inclusion of the Jenny Leberge family in the definition of "Traditional Family" in the 2004 Constitution of the Ta'an Kwäch'än Council. The Judicial Council has no authority to make changes to the Constitution as amendments may only be made using the Amending Procedures of the Constitution which require consideration by a General Assembly.


Chuck Hume
Judge


John Bailey
Judge


Michael Dougherty
Judge