

Ta'an Kwäch'än Judicial Council

DECISION

Date: November 14, 2016
Case Number: TKJC 16-10
Complainant: Bonnie Harpe
Respondent: Roberta Kufeldt

The TKJC received a complaint on November 4, 2016 from Ms. Bonnie Harpe in regard to the appointment of current Chair of the Ta'an Kwäch'än Elders Council in 2015. Ms. Bonnie Harpe is an Elder for the Susie Jim Boss Traditional Family and submitted in support of her complaint:

1. Pages 6 and 7 of the *Rules of Procedure* for the Elders Council
2. A note addressed to Stephanie from Elder Bobbie Kufeldt, Chair of the TKC Elders Council
3. "Minutes" (notes) of the Elders Council meeting of September 22, 2015

ISSUE

At issue is that at a special meeting of the Elders Council on September 22, 2015 an election for new chair was held. The complainant alleges that this election was improperly conducted. The "vote" was tied, six votes to each of two candidates and subsequently the tie was broken by a vote from the acting Chair.

LEGAL FRAMEWORK

Section 13 of the *Rules* says: "The Elders Council shall identify a chair to oversee the activities of the Elders Council."

Section 42 stipulates "The Elders Council may make such rules of procedure not inconsistent with these rules of procedure in respect of matters not specifically provided or, as it may be necessary from time to time."

The jurisdiction of the TKJC is set out in the *Constitution*. The judges are appointed by the Elders Council and serve at the pleasure of the Elders Council.

ANALYSIS

Previous decisions have established that the TKJC lacks of authority to direct how Traditional Families name their representatives to the TKC. The scope of our jurisdiction goes only so far as we may make recommendations or suggestions on processes where requested. Similarly, the TKJC have no direct authority over the Elders Council including who sits on the Elders Council, how

the Chair is identified, how elections are conducted or how the Elders Council conducts their business, which is ultimately the substance of Ms. Harpe's request.

Based on the information provided, the TKJC does not believe it has jurisdiction to accept the request to become involved in the conduct of the Elders Council internal operating processes. It appears there is no option for any appeals of decisions made by the Elders Council in the *Rules of Procedure* for the Elders Council. There, however, may be areas where the TKJC does have jurisdiction as an appeal body arising out of Sections 13 and 14 of the *Constitution*. The scope of this authority remains constitutionally limited.

DECISION

The request submitted by Ms. Harpe is not accepted. The TKJC does not have the jurisdiction to hear this complaint.

Issued by the Ta'an Kwäch'än Judicial Council this 14th day of November 2016.



Michael Dougherty, Judge



Barbara Evans, Judge