

TA'AN KWÄCH'ÄN JUDICIAL COUNCIL
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February 6, 2015

TKJC 14-05

Bonnie Harpe
[REDACTED]
[REDACTED]

Dear Ms. Harpe:

Re Request for financial investigation of TKC

The Ta'an Kwäch'än Judicial Council (TKJC) acknowledges receipt of your correspondence of November 18, 2014 received by the Judicial Council on November 24, 2014.

You have requested that the Judicial Council undertake an investigation of the irregularities of the 2011 Financial Audit of the Ta'an Kwäch'än Council and the Mundessa Development Corporation under the authority of the TKC Constitution section 12.1.3. Under our Rules of Procedure, 16.1, the Judicial Council may appoint the investigative committee upon the request of the Board, Elders Council or the General Assembly.

The appointment of an investigative committee is discretionary.

The Judicial Council is exercising its discretion to not order an investigative committee in this instance given that the Judicial Council appointed an investigative committee in the person of Kenneth J. Mulloy, CMA in 2012 to determine the existence of financial irregularities arising out of the 2011 Financial Audit.

On November 14, 2011 the Judicial Council received a Complaint from James MacDonald/Lori Duncan (TKJC 11-03) and arising from that complaint, established an investigative committee, and subsequently, under contract, Ken Mulloy commenced a forensic audit. Noting that the complete disposition of this complaint may be found on the Ta'an Kwäch'än website, the following is an excerpt from that disposition as it relates to the Financial Investigation:

In the report arising from his financial investigation, Mr. Mulloy concluded that "Financial irregularities appear to exist but do not appear to be malicious or self-serving. I did not find any misappropriation of public money. Internal controls and processes are not transparent although there does appear to be processes in place. The processes are inconsistently applied and authorities for financial dealings are not clearly defined."

Mr. Mulloy made the following recommendations:

- *A review of internal controls should be undertaken. I concur with the recommendation made by Blair Mackay Mynett Valuations Inc. that TKC “Conduct a review of internal controls. This should include cheque signing, authorization of purchase orders, ensuring adequate segregation of duties and preventing expenditures, monthly budget vs. actual reports for all departments’ managers and accountability by managers for budget overruns.” Blair Mackay Mynett Valuations Inc. report January 21st, 2011 (pg. 13).*
- *Reactivate the audit committee to add another dimension of financial control and accountability.*
- *Contract acquisitions and approvals should be investigated independently. The TKC appears to award many contracts and this process should be transparent and fair and in line with the Finance Administration Act.*
- *Identify the roles, responsibilities and authorities of TKC Board of Directors and the roles, responsibilities and authorities the Board members hold when they sit as Directors for 12028 Yukon Inc. or for any other company or holdings of TKC.*
- *Determine if the Directors for 12028 Yukon Inc. can make a financial decision — for instance, developing resolutions on behalf of the TKC Board of Directors.*
- *Identify a process that the TKC Board can meet to make “urgent” financial decisions.*
- *Clearly define the financial areas of authority, roles and responsibilities between TKC and 12028 Yukon Inc. because it appears to have a significant financial impact on TKC.”*


The seriousness of these concerns and recommendations make it crucial that these findings be given serious consideration by the TKC and that action be taken to address the identified shortcomings. The full report from the financial investigation is appended to this decision.

Recognizing that the Judicial Council has previously appointed an investigative committee to investigate irregularities identified in the 2011 audit and that recommendations to the TKC Chief, Board and Elders Council in regard to financial accountabilities and governance matters have been made, to accept your complaint would substantively duplicate work that has been done. Therefore, the Judicial Council cannot accept your complaint as submitted.

Your concerns may be more appropriately addressed at this time by the TKC Board and the Elders Council.

Sincerely,

TA'AN KWÄCH'ÄN JUDICIAL COUNCIL



Judge Barbara Evans

c. TKC Board
TKC Elders Council