

Ta'an Kwäch'än Judicial Council

Decision on Charge of Compromising Dignity or Effectiveness of Office

Date: January 12, 2005

Case Number: TKJC 04-05

Notice of Charge

filed by: Doreen Grady
Whitehorse, Yukon

This matter relates to a charge set out in a written notice dated July 13, 2004, filed by Doreen Grady pursuant to 12.2 of the Constitution of the Ta'an Kwäch'än Council. The charge alleges that Ta'an Kwäch'än Council Board member, Bonnie Harpe, compromised the dignity and effectiveness of her position and asks that the Judicial Council remove Ms. Harpe from office.

The charge is based on Ms. Harpe's alleged conduct when dealing with Directors, Elders, Ta'an Kwäch'än citizens and Board staff when she was Acting Chair of the Ta'an Kwäch'än Council Board of Directors and her public and private reactions to the results of the April 2004 election for Chief.

In a letter dated July 18, 2004, Ms. Harpe provided the Judicial Council with a written response to the July 13, 2004, written notice filed by Ms. Grady. As required by 12.2.3 of the Constitution, the Judicial Council also provided Ms. Harpe with an opportunity to make a statement to it prior to rendering a decision on this matter. Ms. Harpe initially indicated to the Judicial Council that she wished to make an oral statement but subsequently elected not to make such a statement.

In considering this matter, the Judicial Council has taken into account the detailed provisions Part 8 of the Constitution that address the rules and procedures for Board membership, including eligibility, selection, recall and replacement. Read in the context of the Constitution as a whole, it is clear that the authority bestowed on the Judicial Council to remove a Board member from office is extraordinary. This authority, in the Judicial Council's view, should only be exercised when there is clear and convincing evidence established on a balance of probabilities that a Board member has compromised the dignity or effectiveness of their office. The burden of proof lies on the party making the charge.

