

DITIDAHT FIRST NATION
NOTICE OF ELECTION APPEAL

BETWEEN:

JERRY PETER

APPELLANT

AND:

ONEFEATHER, AS REPRESENTED BY Benjamin Turner

ELECTORAL OFFICER

NOTICE OF APPEAL

To: OneFeather, as represented by Benjamin Turner

And to: Members of Ditidaht First Nation

And to: Candidates who ran in Ditidaht First Nation’s 2023 Chief and Council Election

WHEREAS Ditidaht First Nation’s former Council, composed of Chief Councillor Brian Tate, and Councillors Paul Sieber, Kelly Sport, and Darryl Tate, had a four year term in office, commencing July 15, 2019 and expiring on July 15, 2023;

AND WHEREAS between July 8, 2023 and July 15, 2023, Benjamin Turner conducted the 2023 Election of Ditidaht First Nation’s Chief and Council;

AND WHEREAS on July 15, 2023, Benjamin Turner issued a Statement of Elected Candidates declaring that he conducted an election in accordance with the *Ditidaht First Nation Election Regulations, 2011* [**Regulations**], and declared the following persons elected into the offices of Chief and Council, taking effect July 16, 2023:

- To the Office of Chief - Judi Williams (Thomas), and
- To the Office of Councillor – Robert Joseph, Tina Joseph, Mike Swilyk, and Derek Thompson;

[the “**Current Council**”]

TAKE NOTICE THAT on July 18 and 21, 2023, Jerry Peter, who is the Appellant, filed an appeal in accordance with s.14.03(b) of the *Regulations*, opposing the results of the 2023 Election on the grounds that those *Regulations* were violated as follows:

- Nominations did not remain open for the minimum one hour required under section 7.02 of the *Regulations*.
- The Electoral Officer failed to post an alphabetical list of voters' names for inspection at the DFN office no less than 28 days before the nomination meeting, in contravention of section 6.02 of the *Regulations*.
- Persons were permitted to vote who were on the Voters List but who do not have status cards.
- Persons were permitted to vote in person who were not on the Voters List and who did not have status cards:
 - These persons were added to the Voters List in pen, but the Electoral Officer did not have specific written authority from the Ditidaht Membership Clerk to do so in contravention of section 6.03 of the *Regulations*.
 - The Electoral Officer allowed persons to vote who were not on the Voters List and who did not present identification in contravention of section 10.03. Instead of presenting identification, a DFN member “vouched” for these persons.
- A council member was present at the hall during voting and was “vouching for people with no status card”.
- Persons eligible to vote, many of whom are youth members, were not on the Voters List. These persons were prevented from voting online.
- Electronic voting is not permitted by the *Regulations*.

AND ATTACHED to this Notice of Appeal as **Schedule A** is a true copy of the appeal filed by Jerry Peter;

AND TAKE NOTICE THAT pursuant to ss. 3.02 and 14.03(3) of the *Regulations*, the Current Council lawfully holds their seats in office until such time as the Appeal Panel makes its decision regarding the Appeal;

AND TAKE NOTICE THAT ss. 14.03(b) and 14.06(b) of the *Regulations* state that if the Appeal Panel upholds the Appeal (i.e. finds that the grounds of appeal are true and orders under s. 14.06 of the *Regulations* that the 2023 Election is set aside) then the Current Council will remain in office for up to 90 days, which allows time for a new election to be conducted;

AND TAKE NOTICE THAT DFN's interim administrator (the "Administrator"), Marina Rayner, has reviewed and validated the appeal in accordance with s.14.04 of the Regulations, and forwarded a copy of the appeal to the Appeal Panel in accordance with s.14.03(1) of the Regulations;

AND TAKE NOTICE THAT the Appeal Panel for the 2023 Election consists of 3 members: Graeme Drew, Robert Dennis, and Archie Little;

AND TAKE NOTICE THAT the Appeal Panel's authorities in conducting the appeal are set out in the following sections of the *Regulations*:

- S. 14.03(2), which provides the Appeal Panel an opportunity and authority to dismiss an appeal without conducting a hearing if they find that it is frivolous or lacks reasonable grounds.
- S. 14.03(c), which sets out a rule that during a valid appeal process (i.e. after the appeal is accepted for consideration up until the point a decision is made), Ditidaht voting members shall not have any contact with the Appeal Panel until it registers its decision on the appeal with the Administrator.
- S. 14.05, which sets out the Appeal Panel's authority to conduct a hearing.
- S. 14.06, which sets out the Appeal Panel's authority to and responsibility to write a decision regarding the appeal and deliver it to the Administrator. The Appeals Panel must decide whether the election of one or more persons is declared void and set aside, which would result in a need for a new election to be held.
- S. 14.07, which requires the Appeal Panel to operate based on majority consent.

AND TAKE NOTICE THAT s.14.03(d) of the *Regulations* provides that members harassing or attempting to influence the Appeal Panel shall be held accountable as per the law;

AND TAKE NOTICE THAT if members have any questions about the Appeal or the Appeal Panel, such questions must be directed to the Administrator;

AND TAKE NOTICE THAT s. 14.06 of the *Regulations* requires the Appeal Panel to render a written decision within 7 days after any hearing and to deliver its decision to the Appellant, each candidate in the election, the Electoral Officer and the Administrator;

AND TAKE NOTICE THAT ss 1.05 and 14.08 of the *Regulations* require the Administrator to provide a copy of the Appeal Panel's decision to any voter who cast a ballot in the election upon the voter's request and to publicly post it for inspection by:

- Posting it at DFN's administration office and any other public bulletin boards at Malachan Reserve (IR #11);

- Publishing it in *Ha-shilth-sa*;
- Publishing it in Uyxabs or any other DFN community newsletters as may exist; and
- Delivering it to every household at IR #11, and mailing it to all other voters whose addresses have been provided.

Schedule A

Appeal of Jerry Peter

2023-07-18

Ditidaht Elections Appeal Board

RE: Appeal by Jerry Dale Peter, former Ditidaht First Nation Councilor

Pursuant to the July 15, 2023 Ditidaht Elections for Chief and Council, this letter is to serve as my official appeal to the Ditidaht First Nation Appeal Board. I was one of 3 candidates running for Chief for DFN, and lost by one vote. However, I have concerns about the legitimacy of the election, in the context of a corrupt practice, violation of the Election Code, and candidate ineligibility. Specifically, I submit the following:

1. People were permitted to vote with no status card, and on band list, whereas some were not on band list but permitted to vote, while being added at the hall;
2. One council member was present at the community hall during voting, vouching for people with no status card;
3. Eligible voters were not permitted to vote online as they were not on band voters list;
4. Youth membership, with status cards could not vote online.

This is my appeal. This vote should not be eligible to go forward.
Jerry Dale Peter

From: Jerry Peter <nitinahtlakeshuttle@hotmail.com>
Date: July 19, 2023 at 6:22:30 AM PDT
To: Ditidaht Administrator <admin@ditidaht.ca>
Subject: Re: Appeal process

Appeal... from the voting for chief n council that took place July 15th .

Dfn community hall ..

- 1.people were aloud to vote ..with no status card ..but were on membership.list ?
- 2.others had no status card ..but wer not on the eligible voters list...added to list at hall in pen..?
- 3.eligiable voters mostly young..members had status card wrre not able to vote online computers says ineligible..VIOLATION of ELECTION.CODE....this is official appeal ..Jerry Dale Peter..ditidaht band member status number 6620029801..in. clear violation of election code

From: Jerry Peter <nitinahtlakeshuttle@hotmail.com>
Date: July 21, 2023 at 2:25:32 PM PDT

To: Ditidaht Administrator <admin@ditidaht.ca>

Subject: Re: Appeal process

Appeal...dfn election regulation that took place July 15th ..dfn hall.

Refers to Section.. 6.02. .election regulations .the electoral officer shall prepare an approved form in alphabetical order lost of voters with shall be posted for inspection at the ditidaht administration office no less than 28days of nomination meeting..THIS WAS NOT..DONE...2. Section.6.03-- The.electoral officer may ammend voters list only if specific written authority to do so is provided by the Ditidaht membership clerk...THIS WAS NOT Authorized by mbershio clerk or in writing from Membership clerk....just names added in pen to voter list in clear VIOLATiON.

7.02. Nomination shall remain open for a minum of. 1 hour...ALSO not followed SECTION.10.03..--- Any person who wishes to vote shall present current identification bearing a combination of photograph and signature and the electoral officer shall if satisfied .that the person is a voter...NOT FOLLOWED...----A dfn band member stood there and vouched for people who were not eligible by no identification or. Not onlist band or voter list .ViOLATION...

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LaSTLy.....electronic voting..or. online. Voting ISNOT..EVEN In VOTING Regulation.

...eligible voters who tried to use this form of. Voting had. Valid. I'd.. n status. Card ..computer said ineligible....not even in our election regulations.....Jerry dale peter status. Number 662 002 9801 ..concerned of these violations
...SECTIONS...6.02..6.03...7.02...10.03