



February 28, 2017

Via Email: joseedesjardins@judicom.ca

Ms. Josee Desjardins
Acting Executive Director
Canadian Judicial Council
Ottawa, Ontario K1A 0W8

Re: Indigenous Bar Association complaint against the Honorable F.J.C. Newbould – CJC File:15-0171

Dear Ms. Desjardins:

Thank you for your letter of February 10, 2017 informing the Indigenous Bar Association (IBA) of the Canadian Judicial Council's (CJC) decision to constitute an Inquiry Committee for the above noted matter. As previously indicated, the IBA is concerned that the current Inquiry Committee will not be able to carry out a review of the allegations related to Justice Newbould prior to June 1, 2017.

In light of the CJC's decision to constitute an Inquiry Committee, and given that Justice Newbould has officially announced his retirement effective June 1, 2017, the IBA respectfully submits that the Inquiry Committee's review be expedited and resolved in advance of June 1, 2017.

In order to ensure public confidence and the integrity of the judiciary "not only must justice be done; it must also be seen to be done." It is the IBA's understanding that once Justice Newbould has retired the CJC will no longer have jurisdiction over the matter, and any findings of wrong doing will be *functus officio*. Such a result will not be in keeping with the CJC's mandate, "to promote efficiency, uniformity, and accountability, and to improve the quality of judicial service in the superior courts of Canada."

We now know that the CJC received several complaints about Justice Newbould's actions on this matter. None of the other complainants sought a reconsideration, likely because there is no rulebook for how such discipline investigations are conducted by the CJC. But that does not mean they are satisfied. Indeed, the former Mayor recently contacted the Indigenous Bar Association to support our call for justice in this matter. He reiterated his profound distress at the fallout caused in the community by Justice Newbould. It is important the CJC consider that the alleged actions of Justice Newbould will continue to prejudice a First Nation on an important land claim matter, and that this prejudice will last well beyond the Justice's pending retirement. Such a result is inconsistent with access to justice and not in keeping with the calls to action of the *Truth and Reconciliation Commission* and will only further erode the historical relationships between Indigenous peoples and the Crown in the Province of Ontario.

We urge the CJC to act expeditiously. It brings the system of justice into disrepute if a judge can evade a conduct inquiry because the process is slow and by merely announcing retirement.

We look forward to hearing that the CJC is moving quickly on this matter.

Sincerely,

Koren Lightning –Earle
President, Indigenous Bar Association

Cc: Norman Sabourin, Legal Counsel