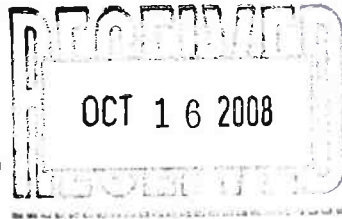


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October 14, 2008

To: **Select Committee on Human Rights**  
C/O Yukon Legislative Assembly

Re; **Submission of Recommendations towards new Yukon Human Rights Act**

Reference; "Improving the Yukon Human Rights Act"  
Human Rights Commission Working Document  
October 01, 2008

Sub. Deadline: October 17 2008

On October 02, Nacho Nyak Dun Chief & Council received a copy of the Yukon Human Rights Commission Working document "Improving the Yukon Human Rights Act".

This document shall serve as (but not exclusively) a reference for Nacho Nyak Dun's recommendations to the Legislative Assembly's Select Committee on Human Rights, in hopes of offering meaningful input into the amendment of the Yukon Human Rights Act. Our recommendations also include comments towards Implementation of the new Act, as well as recommendations towards possible actions that can also be taken into consideration before the Act is amended.

The Commission has indicated they have 3 main goals;

- \*Enhancing Protection
- \*Preventing Discrimination & Promoting Responsibility & Accountability
- \*Improving Efficiency & Effectiveness

We consider these to be acceptable and attainable goals for the new Act, and hope these goals are achieved. We acknowledge the Commissions' time, effort, and financial outlay that led to these goals being identified.

As the Commission has formatted their recommendations into areas of concerns entitled "Issues" with accompanying "Recommendations", we shall endeavour to also respond in this format.

## Issue 1 - “Rights to Education about Human Rights & Responsibilities

### **NND Recommendations:**

- In agreement with the Commissions’ recommendations and also;

-Recommend a Public Education campaign be designed to educate all Yukoners on the changes to the Act, as well as to increase public awareness to the principles of respect & tolerance inherent to the spirit of any Human Rights legislation (a more in depth concept/view is provided in the “Additional Recommendations. Concerns” section below).

-Recommend that a program be designed to educate that target “Frontline” Public workers such as probation officers, social workers, teachers, health professionals, court workers, correctional officers.

-Recommend that a program be designed to educate First Nation peoples and those working for Yukon First Nation governments specifically (a significant percentage of the Yukon population).

-Recommend an education seminar to be designed to explain the changes to the Act to inmates at the Whitehorse Correctional Centre

## Issue 2 – Homelessness, Right to Housing, and Social Condition

### **NND Recommendations:**

- In agreement with the Commissions’ recommendations (including Section 37 Definition) and also;

-Explore linkage between First Nation Housing Departments on this section of the Commissions’ recommendations prior to the amendment of the Act. Being so that on First Nation Settlement land, the First Nation provides housing for its members, and also being that this would be the first inclusion of such a provision into a Human Rights Act in Canada, we recommend further consultation on the language of this provision, in the interest of avoiding potential conflicts, complaints, or confusion.

## Issue 3 – Direct Referral & Mediation

### **NND Recommendations:**

-In agreement with the Commissions’ recommendations, but would have to see the “language” of the Draft Act (and it’s accompanying Regulations) to comment further.

## Issue 4 – Add Protection for People Who Are Victims of Violence

### **NND Recommendations:**

-In agreement with the Commissions’ recommendations, but would have to see the “language” of the Draft Act (and it’s accompanying Regulations/ descriptions of functions of the Commission) to comment further.

## Issue 5 – Add Aboriginal Identity as a Separate Ground

### **NND Recommendations:**

-In agreement with the Commissions’ recommendations.

Issue 6 – Definition of Sexual Orientation

**NND Recommendations:**

– Agree with the Commissions’ recommendations on deleting the definition of “sexual orientation” in Section 37 of the current Act, while keeping the protection identified in section 7 of the current Act.

Issue 7 – Definition of a Disability

**NND Recommendations:**

– In agreement with the Commission’s recommendations to include a more current, meaningful, and socially relevant definition of mental disability, including the reference to Fetal Alcohol Spectrum Disorder, However would like to see more of the language of this change, as “FASD” is often undiagnosed, which is another issue.

Issue 8 – Duty to Accommodate

**NND Recommendations:**

-In agreement with the Commissions’ recommendations.

Issue 9 – Pay Equity

**NND Recommendations:**

-In agreement with the Commissions’ recommendations, and to expand the pay equity provision to include private sector employers.  
-To also include Yukon First Nation Governments in the definition of “All employers” if found to be necessary.

Issue 10 – Preventing Discrimination through Public Education & Policy Development

**NND Recommendations:**

-In agreement with the Commissions’ recommendations, providing adequate changes to allow the Commission to be able to Act without a complaint should the Commission wish to investigate and to allow the Commission to make recommendations to the Legislative Assembly that are meaningful and relevant to the spirit of the Act. Also allowing the Commission to make these recommendations towards the review and development of potential amendments of any Yukon policy, program, or legislation that may be inconsistent with the new Act.

(Provided that the “language of this section (16) be available for review by interested parties)

Issue 11 – Funding for the Commission

**NND Recommendations:**

-In agreement of the Commissions’ recommendations for the Commission to submit to “MLA’s (Member’s Services Board) for the Commissions financing, and to break the direct linkage between the Commission and the Department of Justice. This is indeed perceived by Nacho Nyak Dun as having conflict potential, as the Department of Justice (or any department) has the potential to be named a respondent in Human Rights complaints to the Commission. This would also allow for the Commissions’ budget to be reviewed and approved in a more fair and “arms’ length” fashion.

## Issue 12 – Merit Based Appointments

### **NND Recommendations:**

-That the language of this section be available for review prior to the adoption of the new Act. While we acknowledge that “lawyers” bring knowledge of process and consequences that may not be reconsidered by the general public, we also feel that the Committee may benefit from having representatives (particularly First Nation) that are not lawyers, to potentially provide the Commission with additional general insight/perspective.

## Issue 13 – Reasonable Belief Required to File a Complaint

### **NND Recommendations:**

-In agreement with the Commissions’ recommendations. Including “reasonable grounds to believe” in section 20 shall hopefully serve to keep trivial, vexatious, or other “inappropriate” complaints from investigation.

## Issue 14 – Who May File a Complaint

### **NND Recommendations:**

-In agreement with the Commissions recommendations, in alignment with other jurisdictions in Canada, and for reasons of public interest.

## Issue 15 – Direct Dismissal Powers

### **NND Recommendations**

-In agreement with the Commissions recommendations. Adding provisions for the Director to act (power to dismiss) in the event of abandonment of complaint, failure to cooperate on behalf of the complainant, declination of offer to the complainant, or other venues being available to the complainant that could be deemed more suitable by the Director.

### **ADDITIONAL RECOMMENDATIONS/CONSIDERATIONS:**

1. That further consultation with First Nation Governments be provided prior to the adoption of the new Act (and accompanying Regulations), in the interest of “seeing the language”, which would give Yukon First Nations Chiefs, Councils, staff and members a stronger understanding of the changes of the Act, and its subsequent potential effects on First Nation governments and peoples in the Yukon.
2. That the Commission provide Educational seminars to First Nation Governments, Yukon employers (especially service providers & Non-Governments Organisations), Yukon Territorial Government staff (particularly “front line” workers such as Social workers, correctional staff, probation officers) the RCMP, and the general public which explains how the changes to the new act may affect their personal and professional interactions with others.
3. That the new Act be subject to a review process and allowances be made to allow “Yukoners” the ability and venue to provide additional recommendations towards future amendments of the Act

4. That Yukon First Nation Governments be allowed the opportunity to “recommend” new members to the Commission in a meaningful way, which may allow the Commission to more accurately reflect the Demographics of the Yukon.

5. That a “What we Heard” document be compiled after this Select Committees request for recommendations is complete, and to have that document made available to the public and/or on the “YHRC” website (much like the document provided upon completion of the public portion of the Yukon Corrections Consultations)

6.

7.

Thank you for the Opportunity to provide recommendations towards a new Yukon Human Rights Act. We look forward to ongoing dialogue and continued transparency with the Select Committee and the Yukon Human Rights Commission regarding these amendments, before, during, and after the Act & Regulations are amended.

Sincerely,



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