

COMMUNITY DECISION-MAKING PROCESS
KAHNAWÀ:KE JUSTICE SYSTEM
Meeting #5 – First Hearing
Karonhianonha School Gym
8, Kentenhkó:wa/November 2012
6:00 – 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Kahente Horn-Miller (Lead - CDMP)
Joe Delaronde

RESOURCE PEOPLE:

Ron Skye (Lead – Resource Person)
Jeremiah Johnson
Richard Nolan

RECORDERS:

Leslie Skye (Lead/Logistics)
Sophia Dupont (Main Screen)
Brandi Meloche (Group 1)

6:00 P.M. OPENING – Kahsennenhawe Sky-Deer

6:05 P.M. INTRODUCTION/MEETING GUIDELINES – Ron Skye & Joe Delaronde

6:10 P.M. KAHNAWÀ:KE JUSTICE SYSTEM - Ron Skye

6:15 DELIBERATIONS/DISCUSSIONS –

8:15 NEXT STEPS – Ron Skye

8:30 CLOSING – Kahsennenhawe Sky-Deer

DISCUSSION SECTION V – 13. COURT OF KAHNAWÀ:KE DECISIONS

- 13.1 – No concerns or comments.
- 13.2 – Suggestion → Change the structure of the sentence to include “A dissenting opinion must be written.”

DISCUSSION SECTION V – 14. SENTENCING AND INTERLOCUTORY ORDERS

- 14.1 – The community didn’t want our court to just duplicate the outside system. There may have to be linkages, but it must remain within the original mandate.
 Suggestion → Change the title to “*Judgments and interlocutory orders*”
 Suggestion → Change “Sentences” to “*Judgments*”.
- 14.2 - No concerns or comments.
- 14.3 - No concerns or comments.

DISCUSSION SECTION VI – APPEALS FROM THE COURT OF KAHNAWÀ:KE IN CRIMINAL MATTERS

15. JURISDICTION FOR APPEALS IN CRIMINAL MATTERS

- 15.1 - No concerns or comments.
- 15.2 - No concerns or comments.

DISCUSSION SECTION VII – 16. APPEALS FROM THE COURT OF KAHNAWÀ:KE IN PENAL MATTERS

- 16.1 - No concerns or comments.
- 16.2 - No concerns or comments.
- 16.3 - No concerns or comments.

DISCUSSION SECTION VIII – APPEALS IN CIVIL MATTERS

17. JURISDICTION FOR APPEALS IN CIVIL MATTERS

- 17.1 - No concerns or comments.
- 17.2 - a) Concern with “*except in a case where the value of the object of the dispute in appeal is less than \$50, 000.*”

- 17.2 - b) “From any judgment” → Others clauses state “From any final judgment” consistency required.
- 17.3 - No concerns or comments.
- 17.4 - No concerns or comments.

18. COMPOSITION OF THE KAHNAWÀ:KE COURT OF APPEAL

- 18.1 - Concern with “*Judges from other Mohawk communities*” → This may become an issue with capacity. We should not limit ourselves. Reword section to allow more flexibility on who can be recommended to be a judge.
- In regard to the above concern (18.1) → It should be in conformity with section 8.
- Discussion continued on concern with “*Judge from another Mohawk community*”.
- 18.1 Move section to 17.1

19. KAHNAWÀ:KE COURT OF APPEAL HEARINGS

- 19.1 – No concerns or comments.
- 19.2 - **Suggestion** → If both attorneys agree, Judge may continue- (Dictated by circumstances).
- 19.3 - **Suggestion** → Add – “Unless there is no objection by both Attorneys”.
- 19.4 - **Suggestion** → After “conflict of interest → remove “including, but not limited to” and continue with “Relating to family or economic ties”.
- **Suggestion** → Definition required for “Immediate family”.

20. DECISIONS OF THE KAHNAWÀ:KE COURT OF APPEAL

- 20.1 - No concerns or comments.
- 20.2 - Consistency – Change the structure of the sentence to include “*A dissenting opinion must be written.*”
- 20.3 - **Suggestion** → Remove “*without appeal*”.

21. REMUNERATION AND BUDGET FOR JUDGES OF THE COURT OF KAHNAWÀ:KE

21.1 - See Questions/Answers section.

21.2 - **Suggestion** → The justice portfolio is responsible for the application of this act and ensuring that the act is reviewed.

QUESTIONS/ANSWERS:

Question → 21.1-“What if we don’t have money for court operations?”

- After review of first draft a financial budget will begin to be prepared with estimated cost. This will also be a determining factor on how and when the Act will be implemented and phased in.

23. AMENDMENTS

- **23.1 - Suggestion** → Change everything that states “Law” to “Act”.
- Once a case is being heard any amendments to, or suspension of, this act cannot change the decision in this case. (This will be noted in section 12)
- **Suggestion** → Remove – “*This act may not be amended to affect the hearing of cases being heard at the time of the amendment*”.
- **Suggestion** → After CDMP, add “or other community decision making process”. (8.2)

24. COMING INTO FORCE

- **24.1 - Suggestion** → Change “MCR” to MCED.
Comment → MCR is used for enactment of Laws whereas an MCED is used for directives from Council to specific organizations, units, etc.

25. HISTORY

- **25.** – No concerns or questions.

26. TRANSITIONAL MEASURES

- **26.** – **Suggestion** → Remove “*not inconsistent*” to “consistent”.

27. GENDER

- **27.** - No concerns or questions.

FINAL RECORD OF DISCUSSION