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Yukon News
211 Wood Street
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To Whom It May Concern:

I am writing to correct some misperceptions about the Yukon Human Rights Commission that have been circulating, particularly in light of the media coverage surrounding the human rights case of Susan Malcolm and Sarah Baker against Yukon College. Yukon News published a story about this case on October 14 in which it incorrectly stated that the Human Rights Commission made a ruling with respect to Ms. Malcolm and Ms. Baker's human rights complaint, and that it took seven years for this to happen. The body that actually conducted a hearing into this complaint and made the decision about whether discrimination occurred was the Human Rights Board of Adjudication, a separate entity from the Human Rights Commission. Although this information was somewhat corrected in a subsequent Yukon News article, it is clear that there is much confusion about the human rights system in the Yukon.

When a human rights complaint is filed with the Yukon Human Rights Commission, which exists by virtue of the Yukon *Human Rights Act*, Commission staff investigates those complaints, eventually producing a report that is presented to the members of the Human Rights Commission (who are appointed by the Legislature) to make a decision to either dismiss the complaint, or refer it to settlement, or refer it to a hearing before the Board of Adjudication. The Commission does not perform a final decision-making role. This is done by the Board of Adjudication.

In the case of Ms. Malcolm and Ms. Baker, their complaints were filed with the Commission on December 29, 2004. Contrary to reports in the Yukon News, the Commission never refused to take their complaints, whether because of a conflict or not. The Commission has a policy in place to deal with conflicts of interest. Ms.

Malcolm's and Ms. Baker's complaints were investigated and referred to the Board of Adjudication on February 2, 2007. This process, which took two years, included several months during which the parties were engaged in settlement discussions.

The Commission is equally concerned with the issue of delay in its process and is always striving to improve the experience of both Complainants and Respondents in human rights complaints. The Commission is required by law to conduct an investigation into a complaint that is both neutral and thorough and the Commission takes this responsibility seriously. The Commission has recently been provided with some tools to improve its efficiency. In 2009, the Yukon Legislature amended the *Human Rights Act* and these changes have resulted in the Commission having more control at the stage where a complaint is made to determine whether there are reasonable grounds for someone to file a complaint. This and other powers in the *Human Rights Act* have resulted in a smaller caseload for the Human Rights Commission, as well as shorter investigation periods.

Once Ms. Malcolm's and Ms. Baker's complaints were referred to the Human Rights Board of Adjudication in February 2007, the matter was before this adjudicative body for four years. The Adjudicator appointed to hear the matter was Barbara Evans and her term on the Board of Adjudication expired on December 10, 2010. Unfortunately, Ms. Evans did not issue her decision until May 2011, well after her term had expired. It is this issue of jurisdiction that is at issue in the appeal of Ms. Evans' decision before the Yukon Supreme Court. The issue of jurisdiction was incorrectly characterized in the Yukon News as a "technicality". The issue of a decision-maker's jurisdiction is a serious issue of law and has been considered by courts across the country and is rightly before the Court in this case. It is an issue that deals directly with the integrity of the human rights process in the Yukon.

The Human Rights Commission welcomes inquiries and feedback with regard to its process by telephone, email or in-person, and appreciates the opportunity to correct some of the misperceptions surrounding the Commission and this case.

Sincerely,
YUKON HUMAN RIGHTS COMMISSION

Fia Jampolsky, Co-Chair