

Member Update Regarding Court Decision on Financial Administration Laws

On January 13, 2026, the LKB received the Court's decision in a judicial review application brought by an LKB member that raised several issues related to the Nation's Financial Administration Laws.

A full copy of the Court's decision is available online: <https://canlii.ca/t/khjfj>. This update is intended to provide members with a summary of the decision and its implications.

Background

- In 2012, the LKB was seeking financing to pursue major development projects at the Nation. As part of this process, the Nation explored borrowing through the First Nations Financial Authority ("FNFA"). Financing through the FNFA required the adoption of a Financial Administration Law. The LKB therefore adopted a Financial Administration Law in 2012 ("2012 FAL").
- The 2012 FAL was later replaced with the 2014 Financial Administration Law ("2014 FAL"). Both the 2012 FAL and the 2014 FAL were based on standard templates provided by the federal government. They were not developed based on input from LKB members or an assessment of the Nation's specific needs.
- Ultimately, the LKB obtained financing from another source on more favourable terms and no longer required FNFA financing to proceed with the projects it was exploring. As a result, the FNFA was not involved in the transaction, and neither FAL was ever implemented.
- Chief and Council later decided to repeal the 2014 FAL because it was not necessary, was not being used, and was based on a federal government template rather than the Nation's own governance priorities.

Court Decision

- The Applicant commenced a court proceeding seeking to revive the Financial Administration Law and asked the Court to impose various obligations on the LKB based on provisions of the 2014 FAL. The LKB opposed these arguments on the basis that the key provisions relied upon by the Applicant had never come into force.
- The Court accepted this position and found that the key provisions of the 2014 FAL relied upon by the Applicant had never been in force. As a result, the majority of the Applicant's claims concerning the 2014 FAL were rejected.
- Despite this finding, the Court determined that portions of the 2012 FAL remained in force. Contrary to the submissions and evidence presented by the LKB, the Court found that "the LKIB Council did not intend to repeal the 2012 FAL in its entirety" (para. 45). On that basis, the Court concluded that certain provisions of the 2012 FAL continue to apply.

- Chief and Council disagree with this finding and maintain that there was a clear intention to repeal the 2012 FAL.
- The Applicant also advanced a number of arguments involving serious allegations against Chief and Council, including claims related to decision-making and fiduciary duties owed to members. These arguments were rejected by the Court. For example:
 - The Applicant argued that the repeal of the 2014 FAL was undertaken in bad faith, for the purpose of interfering with the court proceeding, in breach of fiduciary duties owed to members, and contrary to federal legislation (para. 23 and 62).
 - The Court rejected these arguments, finding that “the LKIB Council did not act in bad faith and did not breach its fiduciary duty towards the LKIB members” (para. 69). The Court further found that the Applicant did not establish “that the LKIB has failed to consult the members or mismanaged the LKIB funds” (para. 71).
 - The Court also accepted that “other measures have been put in place to ensure financial accountability” (para. 73).
- The Court found that the 2012 FAL imposed certain obligations related to the establishment of a finance and audit committee. The Court directed that the LKB proceed with creating such a committee unless the 2012 FAL is repealed. While Chief and Council disagree with the Court’s conclusion that the 2012 FAL remains in force, the Court confirmed that the LKB retains the authority to repeal the 2012 FAL if it chooses to do so.

Moving Forward

- Chief and Council prefer that issues of this nature be addressed internally within the community rather than through public court proceedings. However, the Nation was required to respond to this application.
- Chief and Council are pleased that the Court rejected the serious allegations made against them. The decision affirms the Nation’s authority to adopt and repeal its own laws. Chief and Council remain committed to advancing financial transparency and accountability measures that are appropriate for the LKB and reflect community priorities, rather than relying on one-size-fits-all federal templates.
- If members have questions about the decision, they are encouraged to contact the LKB.