

ANNUAL REPORT

NUNAVUT LIQUOR LICENSING BOARD

2011 – 12

June 30, 2012

THE HONOURABLE DANIEL SHEWCHUK
MINISTER OF JUSTICE
GOVERNMENT OF NUNAVUT

JUNE 30, 2012

Annual Report of the Nunavut Liquor Licensing Board: 2011 - 12

On behalf of the Nunavut Liquor Licensing Board, I am pleased to submit the Annual Report for the Nunavut Liquor Licensing Board and the audited financial statements for the Board's operations for the fiscal year ended March 31, 2012. This report is submitted pursuant to section 9(1) of the *Nunavut Liquor Act*.

A handwritten signature in blue ink, appearing to read 'D. Wilman', with a horizontal line underneath it.

David Wilman
Chair
Nunavut Liquor Licensing Board

The Mission of the Nunavut Liquor Licensing Board is to foster an environment that guides and regulates the legal and responsible use of alcohol in Nunavut.

Duties and Powers of the Nunavut Liquor Licensing Board

1. All Board decisions must be made and business conducted in a manner consistent with the *Nunavut Liquor Act* and Regulations, other applicable legislation, and the policies of the Board.
2. The Minister is authorized to set out guidelines not inconsistent with the Act, and the Board must act in accordance with those guidelines.
3. The Board must control:
 - a. the conduct of licence holders;
 - b. the management and equipment of licensed premises;
 - c. the conditions under which liquor may be sold or consumed on licensed premises.
4. The Board may:
 - a. issue, renew and transfer licences;
 - b. after a hearing, cancel or suspend licences;
 - c. generally advise the Minister on all matters of policy, legislation and administration relating to the sale, distribution and consumption of liquor;
 - d. make rules or orders governing its proceedings.

Authority: *Nunavut Liquor Act*, s.6

Members of the Nunavut Liquor Licensing Board: 2011 - 12

David Wilman	Chair	Iqaluit	Appointed: October 2005 Reappointed: November 2007 * Reappointed: November 2009 Reappointed: September 2011
Jimmy Kilabuk	Member	Iqaluit	Appointed: September 2006 Reappointed: September 2008 Reappointed: September 2010
Ralph Porter Sr.	Member	Gjoa Haven	Appointed: December 2007 Reappointed: March 2010
Darrell Ohokannoak	Member	Cambridge Bay	Appointed: March 2010 **
Leesa Sowdluapik	Member	Pond Inlet	Appointed: December 2007 Reappointed: November 2009 Reappointed: September 2011
John Maurice	Member	Iqaluit	Appointed: September 2011

Notes:

* Dr. Wilman served as a member of the Board from November 2007 - 2009.

** Mr. Ohokannoak also served as a member of the Board from 2001 - 2005.

Chair's Report

The Nunavut Liquor Licensing Board (NLLB) is a public regulatory body established under the *Nunavut Liquor Act*. The Board's mission, duties and powers are outlined on Page 2 of this report and are set out in Section 6 of the *Liquor Act*. The Board is responsible for the control of the conduct of licensees, the management and equipment of licensed premises, and the conditions under which liquor may be sold or consumed in licensed premises. In order to carry out these responsibilities, the Act provides the Board with the power to issue, renew and transfer licences, and to hold show cause hearings that might lead to suspension or cancellation of a licence. The Board reports to the Minister of Justice and provides advice to the Minister on all matters of policy, legislation and administration relating to the sale, distribution and consumption of alcohol.

The Board's mission *'is to foster an environment that guides and regulates the legal and responsible use of alcohol'* in Nunavut. In pursuing this mission, the Board takes the position that licensees share the responsibility for this mission, and endeavours to maintain a positive relationship with the businesses and organizations to which it grants licences.

The Board normally holds four regular meetings each fiscal year in order to handle the business, requests, applications and issues that come before it. One meeting is scheduled in March each year to approve licence renewals for the following fiscal year, which is also the licensing year. During 2011 - 12, meetings were held in June and September 2011, and January and March 2012.

Chair's Involvement in the Ministerial Task Force Reviewing the *Nunavut Liquor Act*

As described in the Board's Annual Report for 2010 - 11, in April 2010, the Honourable Keith Peterson, Minister Finance and Minister of Justice, announced the formation of a Ministerial Task Force to review the *Nunavut Liquor Act*. The Chair of the NLLB was appointed as one of the ten member Task Force that was given the mandate to conduct hearings in every community in Nunavut and conduct research into alcohol related issues in Nunavut over a period of eighteen months to two years prior to reporting its findings and recommendations to the Minister during 2012.

Following the public consultation and research phases, the Task Force is to provide the Minister with two reports:

- an Interim Report that highlights the major concerns raised by stakeholders and sets out the information that has been collected by the Task Force.
- a Final Report detailing the recommendations of the Task Force based on the community consultations and a consensus among the Task Force members, specifically in regards to:
 - The Nunavut Liquor Licensing Board and its reporting requirements;
 - The Nunavut Liquor Commission and its reporting requirements;
 - Licences and Permits;
 - Cancellation and suspension of licences;

- Plebiscites concerning licences;
- Plebiscites concerning restriction or prohibition;
- Penalties for contravention of the Act.

The Interim Report was submitted to the Department of Finance for translation in April 2012 prior to submission to the Minister, just two years after the establishment of the Task Force. The interim report is titled *What we Heard* and, as its name suggests, is a synopsis of what the Task Force members were told at public and private meeting held during the consultation phase, and in briefs or other submissions submitted to the Task Force. This material is summarized in the Interim Report without interpretation or comment from the Task Force.

The Final Report will include recommendations for changes to the *Act* that will reflect the dynamic needs of the people of Nunavut today, and are representative of their values and wishes. This report is currently in the final stages of preparation and will be submitted to the Minister before the Fall 2012 sitting of the Legislative Assembly.

During 2011 - 12, the Chair of the NLLB, David Wilman, was heavily involved in the community consultations and in the Task Force's deliberations. In all, the Chair visited thirteen communities during this reporting period and attended each meeting of the Task Force. This involved travel in each region of Nunavut and over thirty days of involvement in the work of the Task Force. During the whole of the community consultation phase from May 2010 to March 2012, the NLLB Chair took part in public hearings in twenty Nunavut communities.

The NLLB Chair, accompanied by the Board's Legal Counsel, Merrilee Rasmussen, QC, and Manager of Quasi-Judicial Boards, Janine Budgell, presented a brief to the Task Force in November 2011. The NLLB also arranged a meeting involving its members, holders of liquor licences, and the Task Force in January 2012. At this productive meeting, representatives of the licensees present raised a number of interesting and practical ideas for consideration by the Task Force.

In April 2011, Minister Keith Peterson and the Deputy Minister of Finance, Chris D'Arcy joined Task Force members for the community consultations in Resolute Bay and Grise Fiord, and so heard, first-hand, many of the critical issues that were being raised with the Task Force in communities across Nunavut.

The NLLB is looking forward to the completion and submission of the Final Report and recommendations of the Task Force within the next few weeks, and to its subsequent involvement in implementing the changes that will eventually come about as a result of this major and critically important initiative.

Public Hearings on Licence Applications

Under Section 28(1) of the *Liquor Act*, the Board is required to hold a public hearing when it receives an application for a new liquor licence or for significant changes to an existing licence. During 2011 - 12, the Board held two public hearings. The first was held in Cambridge Bay on

May 30, 2011, to receive input from community members on the Ikaluktutiak (Cambridge Bay) Elks Lodge's application for a Club Licence. Three NLLB members and the Board's Legal Counsel attended the public hearing in Cambridge Bay, while two other Board members participated by a telephone link. There was strong public support for the application, and the new licence was approved.

The second public hearing was held in Iqaluit on October 4, 2011, to receive community input on a application by licensees Donna and Kim Waters for an increase of twenty (20) seats, from 60 to 80, at the Waters' Edge Kicking Caribou Lounge located at the Hotel Arctic, Iqaluit. This was a second application for this increase. The first had been denied in 2009 when the licensees had failed to follow Board's direction in the advertising of the hearing. At this second hearing, there was strong and vocal support both for and against the increase in seating capacity. After careful consideration of the information and comments presented at the meeting, the Board approved a smaller increase in the seating capacity for the Kicking Caribou Lounge and reinstated twelve seats that had been lost three years earlier as a result of structural changes made to the licensed facilities by the licensees.

Under the Act, the Board has the authority to waive the requirement for a public hearing, but only does so very occasionally when the effect of the changes will be minimal. Such a situation occurred during 2011 - 12 when the Board received an application for a Dining Room licence from Chan's Family Investments for the Captain's Table Restaurant and adjacent meeting rooms at the Navigator Inn in Iqaluit. The applicants had been running this restaurant for almost fifteen years under a contractual arrangement with the hotel owners who held a cocktail lounge licence at the Navigator Inn. Limited alcohol service had been provided in the restaurant during evening and weekend opening hours through the hotel's cocktail lounge. The owner of the hotel also held a licence for the dining room operated by Chan Family Investments but, essentially, that licence was dormant. In this case, the Board took the position that the Dining Room licence should be granted to Chan Family Investments since they were, in fact, running the dining room while the hotel owner held a dormant licence. Because there would be no change in either the level of alcohol service or the seating capacity, and because the facility was already licensed, albeit by another business, the Board opted to waive the requirement for a public hearing and then advised the hotel owner that the dormant dining room licence was cancelled. The licence was then transferred to the applicant, Chan's Family Investments.

Show Cause Hearings

At some meetings the Board deals with complaints brought to it by Liquor Enforcement through the Department of Justice when infractions of the *Act* or Regulations by licensees have been reported. In these cases, pursuant to its obligation under section 6(2)(a) of the *Liquor Act* which directs the Board to control the conduct of licence holders, the Board requires the licence holder to appear and show cause as to why their licence should not be suspended or cancelled pursuant to sections 35 to 37 of the Nunavut *Liquor Act*. Four show cause hearings were held during 2011 - 12. The alleged infractions and the Board's rulings on each hearing are summarized below.

On June 23, 2011 Nova Hotel, operating as the Chartroom Lounge at the Navigator Inn, Iqaluit, Licence # 011, appeared before the Board facing allegations of six violations of the *Liquor Act*. These were that the licensee allowed disorderly conduct to take place on its licensed premises on two occasions on March 17 and May 21, 2011, contrary to section 98(2)(a) of the Nunavut Liquor Act; allowed liquor to be sold to persons who were apparently intoxicated on two occasions on March 17 and May 21, 2011, contrary to section 98(1) of the Nunavut Liquor Act; allowed persons to consume liquor on licensee premises outside of licensed hours March 27, 2011, contrary to section 39 of the Nunavut Liquor Regulations; and allowed staff to consume liquor while working on March 27, 2011, contrary to section 35(b) of the Nunavut Liquor Regulations. These alleged infractions were similar to infractions that the licence holder had admitted and been penalized for at a show cause hearing held only a few months earlier on September 14, 2010.

The Licensee admitted the facts brought before the Board by the Counsel for Enforcement, GN Department of Justice, and an agreed statement of facts containing these admissions was filed with the Board. The Board agreed to strike out one count under section 98(1) and one count under 98(2)(a) of the allegations. The Board also heard joint submissions with respect to penalty from the Counsels for Enforcement and the Licensee. The Board ordered the holder of Licence #011 to pay a fine of \$20,000.00, the maximum penalty of \$5,000 on each of the four remaining counts, suspended the licence for eight days, and required the licensee to post a notice of the Board's order on the entrances to the Chartroom Lounge from the date of the hearing until the end of the period of suspension.

On March 22, 2012, the B.P.O. Elks Lodge, Branch # 570, Iqaluit, Licence # 003, appeared before the Board facing an allegation that on March 3, 2012, the licensee allowed intoxicated persons to remain on its licensed premises contrary to section 98(2)(a) of the Nunavut Liquor Act. The Licensee admitted the facts brought before the Board by the Counsel for Enforcement, and an agreed statement of facts containing these admissions was filed with the Board along with a joint submission with respect to penalty from the Counsels for Enforcement and the Licensee. The recommendation was for a fine of \$2,000 and a two-day licence suspension. In this instance, the Board was not in complete agreement with the recommended penalties, and ordered that the B.P.O. Elks Lodge, Branch # 570, Licence # 003, pay a total fine of \$2,000, suspended the Elks Club's licence for one day and required the licensee to post a notice of the Board's order on the entrances to the Elks Lodge from the date of the hearing until the end of the period of suspension.

On March 22, 2012, representatives for Kim and Donna Waters operating as the Kicking Caribou Cocktail Lounge located at the Hotel Arctic in Iqaluit, Licence # 022, appeared before the Board facing allegations of five violations of the *Liquor Act*. These were that the licensees allowed intoxicated persons to remain on their licensed premises on February 3, 2012, contrary to section 98(2)(a) of the Nunavut Liquor Act; on February 3, 2012 sold or supplied alcohol to a person who was apparently in an intoxicated condition on the premises for which the licence is issued contrary to Section 98(1) of the Nunavut *Liquor Act* (2 counts); on February 6, 2012, allowed intoxicated persons to remain in the premises for which the licence is issued contrary to Section 98(2)(a) of the Nunavut *Liquor Act*; and, on February 14, 2012, allowed intoxicated

persons to remain in the premises for which the licence is issued contrary to Section 98(2)(a) of the Nunavut *Liquor Act*.

Representatives for the Licensees admitted the facts brought before the Board by the Counsel for Enforcement, and an agreed statement of facts containing these admissions was filed with the Board along with a joint submission with respect to penalty from the Counsels for Enforcement and the Licensees. The recommendation was for a fine of \$3,000 and a two-day licence suspension. However, the Board was of the view that the penalty jointly proposed by the parties was not adequate to address the charges to which the Licensees had pled guilty when compared to penalties assessed in other cases that have come before the Board. In this instance, the Board determined that a fine of \$1,000 for each count, in addition to the agreed two day suspension, would be more in keeping with the fines that have been imposed on other licence holders in similar circumstances, and ordered that the holders of Licence # 022, pay a total fine of \$5,000, suspended their cocktail lounge licence for two days, and required the licensees to post a notice of the Board's order on the entrances to the Kicking Caribou Cocktail Lounge from the date of the hearing until the end of the period of suspension.

On June 23, 2011 Nova Hotel, operating as the Chartroom Lounge at the Navigator Inn, Iqaluit, Licence # 011, appeared before the Board facing allegations of three violations of the *Liquor Act*. These were that on December 8, 2011, the licensee allowed intoxicated persons to remain in the premises for which the licence is issued contrary to Section 98(2)(a) of the Nunavut *Liquor Act*; that on January 4, 2012, the licensee allowed intoxicated persons to remain in the premises for which the licence is issued contrary to Section 98(2)(a) of the Nunavut *Liquor Act*; and that on January 4, 2012, the licensee sold or supplied alcohol to a person who was apparently in an intoxicated condition contrary to section 98(1) of the Nunavut *Liquor Act*. These alleged infractions were similar to infractions for which the licence holder had twice been penalized for at show cause hearings held on September 14, 2010 and June 23, 2011.

The Licensee admitted the facts brought before the Board by the Counsel for Enforcement, GN Department of Justice, and an agreed statement of facts containing these admissions was filed with the Board. The Board also heard joint submissions with respect to penalty from the Counsels for Enforcement and the Licensee. Accepting the submission with respect to penalty, the Board ordered the holder of Licence #011 to pay a fine of \$10,000.00, suspended the licence for eight days, and required the licensee to post a notice of the Board's order on the entrances to the Chartroom Lounge from the date of the hearing until the end of the period of suspension.

The Association of Liquor Licensing Authorities of Canada

The Association of Liquor Licensing Authorities of Canada (ALAC) is a national association of liquor licensing jurisdictions with representation from each province and territory. The Association meets twice a year and the Chair represents Nunavut as the voting delegate on decisions made by the Association. The Chair attended the Association's June 2011 meeting in Niagara Falls, Ontario, where the legal responsibilities of licence holders to their patrons, both while they are in and after they leave the licensed establishment, was a major topic of discussion.

In February 2012, the Manager of Quasi-Judicial Boards, Janine Budgell, who also serves as the Board's Executive Secretary, attended the semi-annual meeting of the Association of Liquor Licensing Authorities of Canada (ALAC) in Montreal representing the Chair who was unable to travel at that time. At this meeting, Michel Perron of the Canadian Centre on Substance Abuse presented information on the development of low-risk alcohol drinking guidelines that have been established to support a culture of moderation in alcohol consumption and to reduce alcohol-related harm. This information was of particular interest to the Task Force.

Missing Annual Reports

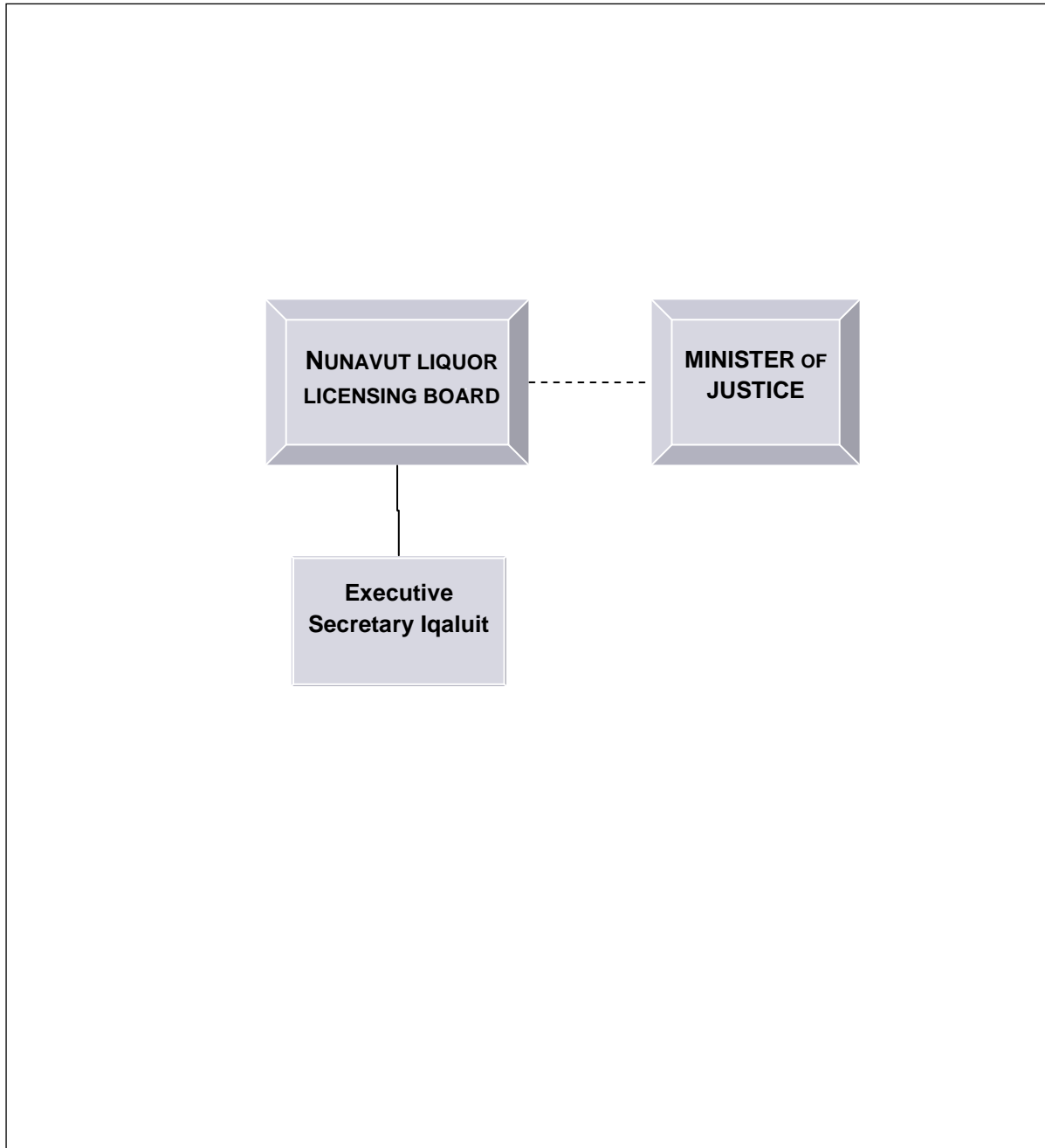
For a number of years, the NLLB has submitted the narrative of its annual report for tabling in the Legislative Assembly, but, because of the difficulties of disentangling the financial statement of the Board's operations from the operations of the its host department these reports have never been tabled. This situation is now resolved as a result of direction provided to the Board by the Minister of Justice, the Honourable Daniel Shewchuk, early in 2012. The Board appointed MacKay Landau of Iqaluit as its auditors in March 2012. The audit for 2011 -12 and the retroactive audits for prior years have all been completed and approved by the Board. This means that the NLLB Annual Report for 2011 - 12 will be submitted complete and on time, and that the Board's Annual Reports dating back to 2006 can also be completed by the addition of the audited financial statements.

Respectfully submitted,

David Wilman
Chair, Nunavut Liquor Licensing Board

Organization of the Nunavut Liquor Licensing Board

2011 - 12



Liquor Licences Approved for 2011 - 12

Under subsection 13(1) of the Nunavut *Liquor Act*, the Nunavut Liquor Licensing Board has absolute discretion in the granting of new liquor licences and in the renewal of existing licences. On March 21, 2012, the Board approved renewal of the following licences:

<u>Licence #</u>	<u>Operating As</u>	<u>Type of Licence</u>	<u>Licence Holder</u>
001	Granite Dining Room	Dining Room	Arctic Resources Ltd. Discovery Lodge Inn
002	Bathurst Inlet Lodge	Special	Bathurst Inlet Development Ltd.
003	B.P.O. Elks Lodge	Club	B.P.O. Elks Lodge, Branch # 570, Iqaluit
004	Arctic Club & Wolf's Den	Special	CFS Alert
005	Trading Post	Canteen	CFS Alert
006	Fort Eureka Canteen	Canteen	CFS Alert
008	Frobisher Racquet Club	Private Recreational Facility	Frobisher Racquet Club Ltd.
009	High Arctic Lodge Victoria Island	Special	High Arctic Sports Fishing Camps
011	Chartroom Lounge	Cocktail	994459 Nunavut Ltd
012	Captain's Table Dining Room	Dining Room	Chan's Family Investments Inc.
014	Royal Canadian Legion	Club	Royal Canadian Legion Branch # 168
015	Siniktarvik Hotel	Guest Room (No Application: Licence not Renewed)	Kissarvik Coop Rankin Inlet
017	Frobisher Inn	Guest Room	902776 NWT Ltd. Frobisher Inn

<u>Licence #</u>	<u>Operating As</u>	<u>Type of Licence</u>	<u>Licence Holder</u>
018	Gallery Dining Room	Dining Room	902776 NWT Ltd. Frobisher Inn
019	Storehouse Bar & Grill	Cocktail	902776 NWT Ltd. Frobisher Inn
020	Arctic Watch Somerset Island	Special	Canadian Arctic Holidays Ltd
021	Waters' Edge Seafood and Steakhouse	Dining Room	Donna & Kim Waters
022	Waters' Edge Kicking Caribou Lounge	Cocktail Lounge	Donna & Kim Waters
023	L' Association des Francophones du Nunavut	Club	L' Association des Francophones du Nunavut
024	Granite Dining Room Discovery Inn.	Guest Room	Arctic Resources Ltd
025	RCMP Iqaluit Mess	Canteen	RCMP
026	Ikaluktutiak Elks #593	Club	B.P.O. Elks Lodge, Branch # 593, Cambridge Bay

Audited Financial Statements for 2011 - 12

**Contact Information for Members of the
Nunavut Liquor Licensing Board: 2011 - 12
(As of March 31, 2012)**

David Wilman	Chair	P.O. Box 475 Iqaluit, NU X0A 0H0	867-979-1578	dwilman@northwestel.net
Jimmy Kilabuk	Member	P.O. Box 401 Iqaluit, NU X0A 0H0	867-979-0094	
Darrell Ohokannoak	Member	P.O. Box 2366 Cambridge Bay, NU X0B 0C0	867-983-2176	darrell@qiniq.com
Ralph Porter Sr.	Member	P.O. Box 111 Gjoa Haven, NU X0B 1J0	867-360-6705	
Leesa Sowdluapik	Member	P.O. Box 521 Pond Inlet, NU X0A 0S0	867-979-1578	lsowdluapik@gov.nu.ca
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