



AKWESASNE COURT

CIA #3 101 Tewesatani Road
Akwasasne, Ontario K6H-0G5
613-575-2250

Court File No. 001-APPL-REF-02/26

Rosebud Cook

Applicant

-vs-

Cheryl Jacobs, Chief Referendum Officer

Respondent

INTRODUCTION

On November 24, 2025, the Mohawk Council of Akwasasne passed Resolution MCR #2025-2026 #281 calling for a Referendum regarding a proposed amendment to section 16.2(a) of the Akwasasne Election Law. The Akwasasne Election Law Referendum was held on January 31, 2026.

On February 5, 2026, the Applicant, Rosebud Cook filed an Appeal of the Referendum results. On March 10, 2026, a hearing was held with both parties in attendance along with council for the Respondent.

JURISDICTION

Section 18.1 of the General Referendum Regulation¹ directs that any appeal of the Referendum results be filed at the Akwasasne Mohawk Court. Section 5 of the Akwasasne Court Law² establishes the Jurisdiction of the Akwasasne Court. Specifically, subsection 5.3(n) states that the Akwasasne Court has jurisdiction over “any other matter where jurisdiction is assigned to the Akwasasne Tekaiia’torehthà:ke (Akwasasne Court) under Akwasasne Law”.

¹ General Referendum Regulation, MCR 2015/2016-#263, dated December 3, 2015.

² Akwasasne Court Law, MCR 2015/2016-#332, enacted on February 12, 2016.

BACKGROUND³

The central basis for the Appeal according to the Applicant's Affidavit, is that she was incorrectly omitted from the Referendum Voter's List and was therefore, not allowed to vote in the Referendum. Upon learning that her name was not on the Referendum Voters List, the Applicant corresponded with the Respondent, the Chief Referendum Officer.

In that correspondence, the Chief Referendum Officer advised the Applicant that the Referendum was not open to members residing on the southern portion or off the Territory. The Chief Referendum Officer also indicated that she was using a past practice of the previous Akwesasne Election Law regarding the voters list. The Chief Referendum Officer further advised the Applicant that should her address change to show she resides on the northern portion, she would be added to the voters list pending proof of residency change of address.

The Applicant acknowledged in her Affidavit, that she did not reside in any of the three districts.

LEGAL REASONING

Section 19.9 of the General Referendum Regulation states that *"The result of the Referendum shall not be declared invalid by reason only of any irregularity or non-compliance with this Regulation or any mistake in the use of form if it appears to the Akwesasne Mohawk Court Justice that the Referendum was conducted in good faith, unless the non-compliance, irregularity or mistake materially affected the result of the Referendum."*

What is at the crux of this Appeal, is whether the Chief Referendum Officer acted in good faith in determining eligibility of the voters list and whether that decision materially affected the result of the Referendum. Generally, good faith is described as honesty in belief or purpose without intent to defraud or act maliciously.

³ The Court's recitation is based on the documents provided by the parties.

Section 4.4 of the General Referendum Regulation states “*Council may select one of the following options for eligibility to vote in the Referendum in addition to the criteria identified in subsection 4.3:*

- a) Residency in one of the Districts;*
- b) Residency in Canada; or*
- c) Other criteria specified in the Referendum Resolution.”*

MCR #2025-2026 #281 states in part “*BE IT FURTHER RESOLVED THAT, in accordance with the MCA General Referendum Regulations, the referendum on the Akwesasne Election Law Proposed Amendment to Section 16.2(a) will take place as follows:*

- *Referendum Polling stations will be open on January 31, 2026, at 9:00 a.m. Eastern Standard Time in each of the three (3) districts of the Mohawk Council of Akwesasne”*

In the Respondent’s Affidavit, the Chief Referendum Officer states that she “*interpreted the intention of Council to limit the eligible referendum voters to registered Members of at least 18 years of age residing in one of the three districts over which the MCA exercised jurisdiction.”*

The Respondent further states “*Mohawk Council Resolution 2025-2026 #281 omits a specific determination of eligible voters, the identification of the districts in which polling stations are located, in conjunction with the past practice regarding referendums, establishes the intention of Council to limit eligibility to vote as interpreted by the Respondent. “*

The General Referendum Regulation sets out how the Referendum Voter’s List is established and the parameters that may be applied by Council. In this case, a lack of clear direction in the Mohawk Council Resolution, opens up the conundrum of interpretation. The Court believes that the Respondent interpreted the information before her and conducted the Referendum based on that interpretation. To be clear, the Court is not acknowledging that the interpretation of the Chief Referendum Officer is correct, simply that it is what she based her decisions and actions on.

The Applicant’s assertion that a referendum is an exercise in collective sovereignty that concerns laws and policies affecting every member of Akwesasne, is not without merit. The Mohawk Council of Akwesasne by their own proclamation, is a community government within the

territory of Akwesasne and has inherent jurisdiction to make laws, regulations and policies to meet the needs and concerns of the Mohawks of Akwesasne.

The Court recognizes the importance of community input and feedback in the development, amendment and repeal of Laws, especially when the Laws and Regulations provide such an opportunity. It would be prudent of the Mohawk Council of Akwesasne to be mindful of community unity when determining voter eligibility while engaging in the exercise of enacting or amending laws that affect the members of the Mohawks of Akwesasne as a whole.

DECISION AND ORDER

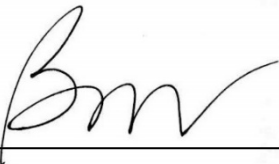
While the Court is satisfied that there was a demonstrated violation of the General Referendum Regulations regarding voter eligibility and the preparation of the Referendum Voters List, the Court finds that the Respondent did not act maliciously or fraudulently in the execution of her duties in carrying out the Referendum.

Further, the Court finds that the actions of the Chief Referendum Officer in her interpretation and application of the Referendum, did not materially affect the results of the Referendum.

THE COURT HEREBY ORDERS THE FOLLOWING:

- I. The Court HEREBY DECLARES** the results of Akwesasne Election Law Referendum held on January 31, 2026 to be valid.
- II. The Court HEREBY DENIES** the request to impose a fine on the Chief Referendum Officer.
- III. The Court HEREBY DENIES** an order for immediate amendment to any Laws, Regulations or policies.

Dated this 16th day of March, 2026



Justice Brooke Martin
Justice for the Akwesasne Court