

**THE NOVA SCOTIA HUMAN RIGHTS COMMISSION
BOARD OF INQUIRY**

BETWEEN:

Halifax Association of Black Firefighters ("HABFF")
-and-
Halifax Regional Municipality
-and-
Nova Scotia Human Rights Commission

Decision Approving Settlement Agreement

Case Number:51000-30-H07-2094

History of the Proceedings

This board of inquiry was appointed by Order of the Chief Judge of the Provincial Court on October 17, 2011. The appointment was, in part, in response to a complaint made in writing on June 24, 25, and 26, 2008, by 9 named individuals. They alleged individual and systemic discrimination on the basis of race and colour, against each of them individually and as a group, by the Halifax Regional Municipality - specifically within the Halifax Fire and Emergency Services. These complaints thus alleged s.5(1) (i) and (j) discrimination with respect to employment: s.5(1)(d) contrary to the *Human Rights Act*, R.S.N.S.1989, c.214. The complaint which came before me was in the name of the Halifax Association of Black Firefighters only, rather than any of the individually-named persons associated with the 2008 complaint.

Upon appointment, I consulted with representatives of the Human Rights Commission, Halifax Regional Municipality, and the Halifax Association of Black Firefighters, on several dates. These telephone consultations occurred on January 13, April 27, July 19, October 26, and December 7, 2012. Consultations continued on February 15, and April 12, 2013, which then led into a face to face encounter with the parties on April 25, 2013.

It had been the preference of all of the parties during the time between January 13, 2012, and April 25, 2013, to attempt among themselves, through a restorative process, to resolve the issues that had been referred to the board of inquiry. The seven telephone consultations addressed whether resolution efforts were continuing, and whether all parties continued to have a reasonable expectation that resolution efforts would be successful. The board of inquiry, though mindful of the continuing passage of time, allowed that restorative process to occur so long as all involved parties continued to be willing to participate in it.

For their part, the parties to this matter provided the board of inquiry with assurances over the last several months that progress was being made on the

individual and systemic complaints of discrimination in employment based on race and colour. Their efforts were ultimately rewarded by the articulation among the parties of a settlement agreement. On April 12, 2013, the parties advised the board of inquiry that a comprehensive resolution of the issues of complaint had been reached, a resolution that also included a process for continued resolution on ongoing and future issues of this type in the workplace. It was their common desire that this inquiry could appropriately be concluded on April 25, 2013. Subsequently, a copy of that settlement was provided to me, attached to this decision as Appendix "A".

Statutory Authority

My appointment as a board of inquiry was made pursuant to s.32A of the *Act*. Pursuant to s.34(1) of the *Act*, I am required to conduct a public hearing. However, 34(5) of the *Act* also provides that:

Where the complaint referred to a board of inquiry is settled by agreement among all parties, the board shall report the terms of settlement in its decision with any comment the board deems appropriate.

This provision of the *Act* permits the parties to maintain control and responsibility for the resolution of a matter of concern, so long as that resolution is recognized by the board of inquiry to be in the public interest.

Submissions Received

The specific wording of the settlement agreement was provided to the board of inquiry on April 23, 2013, which gave the board an opportunity to review it and to consider the public interests addressed by that agreement. Representatives of Halifax Regional Municipality, the Halifax Fire and Emergency Services, the International Association of Firefighters, Local 268, and the Halifax Association of Black Firefighters, and the Nova Scotia Human Rights Commission, spoke to those public interests at a public session on April 25, 2013, held at the Gottingen Street YMCA.

Parties to a discrimination allegation should always be commended and respected for bringing themselves to a resolution by agreement rather than through a litigated process. That demonstrates autonomy, personal and institutional responsibility, and a willingness to respect difference. In addition, the following elements of the resolution reached by the parties here were of particular interest and significance to me as the board of inquiry:

- a) a public apology from the Chief of the Fire Service acknowledging past wrongs and harms;

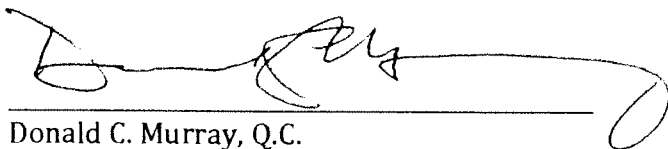
- b) the development of a framework for dispute resolution and harm reduction within the Fire and Emergency Services based on restorative justice principles;
- c) a commitment on the part of Fire Service leadership as well as front-line firefighters to engage with each other in a spirit of respect and trust; and,
- d) an acceptance of both public and institutional accountability that obligates the parties to maintain their commitment to this resolution.

There are also legacy components of the resolution that acknowledge the historical harms that, piece by piece, led up to the initial complaint, and have informed the resolution today. Those legacy components will continue to serve as a reminder to the parties and others of the human, and institutional, costs of discrimination.

Conclusion

With those comments, I am pleased to endorse the settlement agreement, attached as Appendix "A", as being very much in the public interest. Therefore, pursuant to s.34(5) of the *Human Rights Act*, I hereby conclude the inquiry into this complaint.

Dated this 29th day of April, 2013



Donald C. Murray, Q.C.
Board of Inquiry

RESTORATIVE PLAN

April 22, 2013

Introduction

The parties to this matter, Halifax Association of Black Firefighters (HABFF), Halifax Regional Municipality (HRM) including Halifax Regional Fire and Emergency (HRFE), Halifax Professional Firefighters/International Association of Firefighters Local 268 (HPFF) and the Nova Scotia Human Rights Commission (NSHRC) have worked collaboratively towards resolving the issues arising from a complaint initiated by HABFF under the Nova Scotia *Human Rights Act* against HRM and HRFE, alleging racial discrimination.

All parties agree that systemic racism is unacceptable in Nova Scotia and this issue is an important one to address. As greater insight and understanding are obtained of the historic harms and the underlying circumstances that allow them to replicate, greater healing should happen and greater care develop to prevent future harms. This restorative process has provided an opportunity for the parties to develop a deeper understanding of racism and its effects within HRFE, and to consider how to address the associated harms to work towards making the Halifax Regional Municipality an inclusive and healthy workplace.

This plan was jointly developed by the parties and benefited from the participation of members of the African Nova Scotia community. It represents the parties' plan to address the harms related to events and patterns of relationships affecting HRFE and its members. Through this plan, the parties seek to work together to respond to the lessons learned through the restorative process and to make HRM a stronger and healthier organization. The plan reflects this intention and commitment of the parties. It is to be implemented in the spirit of the goal of ensuring future relationships between and among the parties is reflective of the commitment to equality in human rights. The parties will work together to implement this agreement, assess their progress, and make necessary adjustments consensually as required to achieve the goals of the plan. The parties agree to the following:

Components of the Plan

This restorative plan is oriented to two primary interrelated goals: acknowledgement/reparation of past harms, and changes to be made building and supporting sustainable change in the relationships between and among the parties. The understanding and acknowledgement of what has happened in the past is intended to provide a firm foundation upon which to build and sustain a culture of respect for human rights and inclusion within the HRFE.

Acknowledgement

1. Chief Trussler of HRFE will publicly apologize to the members of the HABFF on behalf of HRM in recognition of the harms caused by the work environment.

The Chief will acknowledge that more could have been done to prepare the training environment and workplace culture for the inclusion and acceptance of a designated class of recruits, given the history of race relations within the broader HRM community. He will also acknowledge, on behalf of HRFE management, that more could have been done to ensure that leaders were better prepared to respond when issues arose, and that systems and processes were in place to support a more diverse, inclusive and culturally competent workplace.

2. Halifax Fire and Emergency will be open and transparent with respect to standards for recruitment of firefighters. As a part of the joint communications plan created by HRFE, HRM, HPPF, HABFF and the NSHRC, it will be re-confirmed that recruitment standards are not lowered for Blacks, women or other minorities; selection is based on the principles of merit, fairness and equity.
3. A letter of commendation will be placed by Chief Trussler on each HABFF leadership member's file, if they so wish, commending the contribution they have made to HRFE through this process and their commitment to address the issues.
4. A payment of \$5000 will be paid to each member (13 members) of the designated class representing a refund of fire school tuition, representing a lack of preparation and integration of the designated class during this time into the larger membership. Each member will be given the option of donating the money to the Community Foundation of Nova Scotia referenced below. Should this option be selected, the funds will not be paid directly to the firefighter, but will be paid to the Community Foundation of Nova Scotia.
5. HRM will establish a \$5000.00 endowment fund with the Community Foundation of Nova Scotia on behalf of HABFF. The foundation will be instructed to consult with HABFF in determining the focus and direction of the funds.
6. HRM and the Halifax Regional Fire and Emergency will work with HABFF and together make best efforts to give public recognition to the contribution of the first black firefighters through an enduring commemoration of public significance. HRFE will also immediately recognize the contribution of "trailblazers" within the fire service who were among the first to enter HRFE from designated groups – including African Nova

Scotians, women and First Nations people. The HRFE boardroom will be renamed and a plaque erected that describes these brave men and women of Halifax Regional Fire and Emergency. HABFF will be consulted with respect to the Black firefighters that might be included, for example: Billy Carter, Jeff Paris and Kevin Reid. The renaming and its significance will be communicated by the Chief to members of the fire service.

7. The NSHRC acknowledges that the more than three-year period it took to conclude its investigation was difficult for the parties. HABFF has shared with the NSHRC the harms they have identified. The fire service and HRM also shared with the NSHRC the detriments associated with a non-restorative traditional investigation in this case. Unfortunately both the length and form of investigation were both typical and unremarkable in the legal world, common to human rights commission processes in Canada.
8. The Commission expresses regret for the harms that have resulted from their previous processes. The Commission, through its CEO, will offer a public acknowledgment of this regret and identify the benefits of restorative processes and the shortcoming of traditional adversarial processes.
9. The NSHRC commits to meet with interested parties to review the timeline and processing of this particular file. The NSHRC will also provide information about the subsequent changes to its procedures and how a similar file would be handled differently under its new processes.
10. HABFF, HPFF, HRFE, HRM and the NSHRC commit to a joint communication plan regarding the process of resolving the Halifax Association of Black Firefighters Human Rights Complaint.

Towards Change

11. Firefighter Assistance Program (FFAP) support will be offered to member(s) of HABFF with a provider of their choice. If group sessions with members of HABFF are held, the FFAP will cover the cost of including all members of HABFF involved in the current case even if said members are no longer in the employment of the service. Such inclusion will be at the discretion of the current HABFF leadership.

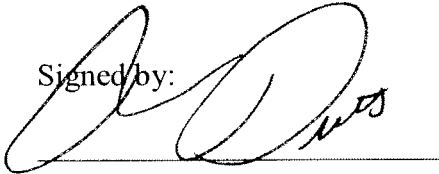
12. HRM will review the EFAP/FFAP programs to ensure that the provider is culturally sensitive and able to meet the requirements of a diverse workforce.
13. HRFE commits to the development of a dispute resolution plan and processes (capacity and support) reflective of a restorative approach. The NSHRC agrees to provide support in development of this conflict resolution model for the HRFE. HRM and HPFF pledge support for the development of such a model.
14. HRM commits starting May 1, 2013 to review corporate policies, systems, processes and structures to ensure alignment with the goal of building a safe, respectful and inclusive workplace culture.
15. The stewardship for the HRM Anti-Harassment Policy and its application is currently housed with HRM Human Resources, and staff will be auditing the effectiveness of the *Policy and Complaint Investigation* procedures over the next twelve (12) months. As a part of this process, HRM will consult with stakeholders, including HABFF, to provide input and feedback on the policy and proposed revisions. The roles and responsibilities of all stakeholders will be a significant part of the review (individual business units, employees, human resources, legal services, etc.).
16. Business Unit Directors within HRM will be required to report on diversity and inclusion goals and initiatives annually to the CAO.
17. HRM will establish mandatory training requirements within the next twelve (12) months for all leadership positions in the areas of diversity/inclusion, workplace rights, respect in the workplace and conflict resolution.
18. HRFE, with the support of HRM Human Resources, will complete an assessment of the workplace to determine where the organization is with respect to diversity and employment equity. The results of the assessment will form the basis for a diversity strategy and action plan to guide HRFE towards achieving a more inclusive, respectful workplace that reflects the community we serve.
19. HRFE, with the support of HRM Human Resources, will conduct an audit of the career development program within the next twelve (12) months to identify and remove any systemic barriers of racism and discrimination that exclude or disadvantage employees or applicants.
20. HRFE staff, with the support of HRM Human Resources, will conduct a thorough analysis of operational requirements, forecasted hiring needs and industry best practices

to build a comprehensive recruitment process. This process will be developed over the next 12-18 months and will consider:

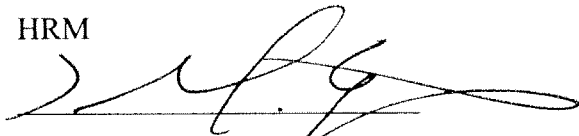
- Fairness, respectful workplace practices and transparency of the process, requirements and standards against which candidates will be measured
 - A robust outreach strategy aimed at attracting candidates from the various communities within HRM, including the protected groups (Aboriginal persons, women, racially visible persons, persons with disabilities and persons who identify as LBGTI)
21. To continue to build a workforce more representative of the community we serve, HRFE, with the support of HRM Human Resources, will make every effort to have a member of a designated group on selection panels (interview boards) when a candidate who has self-identified as a member of a designated group is within the pool of candidates.
 22. The NSHRC, in hearing the harms shared in this process and from other complaint processes, has enhanced its investigation and Board of Inquiry process is to make it more restorative and collaborative. It is anticipated that these processes will translate into more meaningful and effective way to create societal systemic change, and the NSHRC will continue to engage with and respond to the human rights needs for communities in Nova Scotia.
 23. The NSHRC agrees to undertake and facilitate further discussion regarding race issues identified and raised by this process with communities in Nova Scotia through restorative dialogue processes and other forms of community engagement over the next three years. In particular, the NSHRC commits to a process to hear from African Nova Scotian communities in the province about their past and present experiences with the Commission. Through such dialogue the Commission will seek to understand ways in which its processes might work better and the ways it has not better served members of African Nova Scotian communities. The Commission also commits to sharing and discussing its new restorative approach and processes with members of the communities, and how they might better meet their needs in future.
 24. The Commission agrees to work with HRM to support restorative approaches involving future complaints, judicial reviews or other initiatives.
 25. HABFF leadership team agrees to continue to share their insights with management and the union on race based issues as they have in the past.

26. The parties to this agreement commit to participate fully in reviews of progress towards the goals of the plan. Reviews will be done through a restorative process with all parties. They will be convened and facilitated by the NSHRC and the Chief of the HRFE. Reviews will be held at six, twelve and eighteen months. A party may also request a meeting.

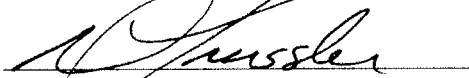
Signed by:



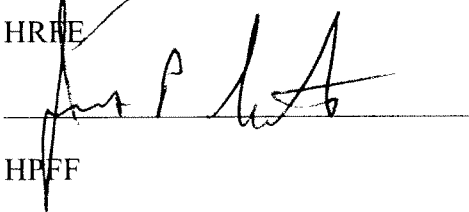
HRM



HABFF President on behalf of HABFF



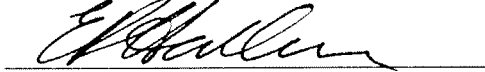
HRFE



HPFF

By the signature of its authorized agent under Section 32(1) of the Act, the NSHRC gives its approval to the terms of this restorative plan.

DATED at Halifax, Nova Scotia this **23** day of April ~~15~~ 2013.



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