**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**
**Tribal Court**
**Civil Division**

**Court Mailing Address:** 911 Spring St., Petoskey, MI 49770 **Phone:** 231-242-1462 ~ **Fax:** 231-242-1470

David M. Harrington, In Pro Per
Frank Bernard, In Pro Per
Dexter McNamara, In Pro Per
**Petitioners,**

Case No. C-240-0719

**v.**

LTBB Election Board,
**Respondent,**

David M. Harrington, **In Pro Per**
Frank Bernard, **In Pro Per**
Dexter McNamara, **In Pro Per**

**Attorney for the Respondent**
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## Order on Request for Stay of Proceedings Pending Appeal

The Petitioners in case C-240-0719, Frank Bernard, Dexter McNamara, and David Harrington have filed with the Tribal Court a request for a stay of proceeding pending Appellate Court review. The Tribal Court denied the request for injunction by order dated August 12, 2019.

The Petitioners cite irreparable harm and the mootness of an appeal if the Oath of Office of incoming Council members takes place before the matter is heard in the Little Traverse Bay Bands of Odawa Indians (LTBB) Appellate Court. The Oath of Office for incoming members is scheduled for August 22, 2019.

## Discussion

This Court, the Lower LTBB Tribal Court, issued an opinion and order denying the request to enjoin the Oath of Office of incoming Tribal Councilors. Petitioners and Respondent Election Board were heard and a decision made based upon the facts and the law as determined by the Tribal Court. The issues were presented clearly by the parties, highlighted by the various Constitutional provisions that were discussed. The Tribal Court focused upon the Tribal Council's own statute relative to member terms commencement and expiration.

The LTBB Rules of Civil Procedure for Stay of Proceedings as set forth in Rule XXVIII (2) generally govern the Tribal Court's handling of money judgments entered by the Court, and do not speak to situations such as requested here. (Execution on property, Bond requirements, time limits, etc…)

As to appeals to the LTBB Appellate Court, the Rules of such Court are separate and apart from the Rules of the Trial Court. In this instance, any consideration is addressed in the Appellate Court Rules such as Rule 7.407 (Request for Stay). See also Federal Rules of Civil Procedure Rule 62 (g).

## Decision

**For the reasons stated above, the Request is denied as to the Lower LTBB Tribal Court, and the prior order remains in full force and effect.**

**IT IS SO ORDERED.**

8-19-19
Date

Hon. John J. Lemire, LTBB Associate Judge

## CERTIFICATE OF SERVICE

I certify that on this date a copy of this ***Order on Request for Stay of Proceedings Pending Appeal*** was served on the parties by First-Class Mail, and/or by LTBB Internal Mail.

8.19.19
Date

Cynthia Bouchard
Tribal Court Officer