

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

-and-

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICANT'S FACTUM

Date: October 31, 2022

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Part I – Overview

1. This is an Application by the Applicant, The Regional Municipality of Waterloo (the "Region"), pursuant to section 440 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act*") for an order that persons be restrained and enjoined from breaching By-law Number 13-050 of The Regional Municipality of Waterloo, A By-law Respecting the Conduct of Persons Entering Upon Buildings, Grounds and Public Transportation Vehicles Owned or Occupied by The Regional Municipality of Waterloo (the "By-law") by remaining and/or re-entering onto the property municipally known as 100 Victoria Street North, City of Kitchener (the "Property") which is owned by the Region.
2. The Respondents to this Application have given Notice of a Constitutional Question questioning the constitutional validity of the trespass notices issued under the By-law as well as the By-law itself on the basis of section 7 (right to life, liberty and security of the person) and subsection 15(1) (equality) of the *Canadian*

Charter of Rights and Freedoms (the “*Charter*”). The Respondents have not brought a Counter-Application to quash the By-law or enjoining the enforcement of the By-law.

3. Ultimately, this Application relates to the complex and widespread social issue of homelessness and the large encampment currently located on the Property. The Region has expended significant efforts since the encampment began in approximately December, 2021 through a “service first” approach that has included offers of emergency shelter for the persons at the encampment and significant resource investments in housing and social supports. The Region’s position is that there is currently daily capacity in the emergency shelter system for all persons at the encampment with more capacity coming on-line by the end of 2022. Notwithstanding these efforts and investments, the encampment on the Property continues and has caused significant health and safety hazards for both the residents of the encampment and the community, as well as a nuisance for neighbouring businesses and property owners.
4. The Region submits that it does not need a Court Order to assert its legal rights to evict trespassers on Regional property who are breaching the By-law. The reason the Region is bringing this Application is to seek the assistance and direction of the Court in how it enforces these legal rights, not to determine its legal rights. Once the Court gives that direction, including clear direction to the Waterloo Regional Police Service, and a ruling that the *Charter* does not apply, then the Region will

use that as a precedent and apply it to how it deals with other encampments, if necessary, on other Regional properties.

Part II – Summary of the Facts

5. On December 11, 2013, the Region enacted the By-law pursuant to the *Municipal Act* that regulates the conduct of persons entering upon buildings, grounds and public transportation vehicles owned or occupied by the Region. The By-law prohibits persons from carrying out a Prohibited Activity on Designated Premises, which includes grounds that are owned by the Region. Schedule “B” of the By-law includes the following as Prohibited Activities:
- Committing any nuisance, disturbing the peace or acting contrary to public order;
 - Erecting, without authorization, any structure, tent or temporary structure on the Property;
 - Bringing goods onto the Property, without authorization, which may be dangerous, toxic, corrosive, illegal, flammable or explosive in nature and likely to cause injury or damage to property;
 - Loitering on the Property;
 - Obstructing, preventing or hindering the rights of others, including the Region, to use the Property;
 - Obstructing, preventing or hindering the operations of the Region or any of its employees, agents or contractors;
 - Urinating, littering or otherwise creating any unsanitary conditions on the Property; and
 - Engaging in any activity contrary to the *Criminal Code*, federal, provincial laws or regulations or municipal by-laws.¹
6. The Region’s remedies under the By-law are to lay a charge and/or to exercise the Region’s remedies pursuant to the *Trespass to Property Act*, R.S.O. 1990, c. T.21,

¹ Affidavit of Ellen McGaghey, sworn July 5, 2022, paras. 3 – 4. Tab 2 of the Application Record.

as amended (the “TPA”). Specifically on the latter, a Designated Personnel may issue a verbal direction, issue a written notice or post a sign prohibiting a Prohibited Activity and/or requiring a person to leave the Designated Premises as a result of carrying out a Prohibited Activity.²

100 VICTORIA STREET NORTH, KITCHENER

7. The Region is the registered owner of the Property. The Property was acquired in November, 2012 for the purposes of constructing the Weber Street Grade Separation with the Region paying the owner the sum of \$2,535,000 in market value.³
8. The Property, which is approximately one-half acre in size, is located at the corner of Victoria Street and Weber Street, two major Regional roads, and consists of a gravel parking lot. The Property has the VIA Rail Train Station (which includes GO trains / a GO bus transfer station and a Region owned parking lot for transit customers) to the east, a commercial plaza municipally known as 70-84 Victoria Street North (the “Plaza”) directly to the west, a Metrolinx owned rail corridor to the north, and businesses and a church to the south.⁴
9. On May 7, 2018, the Region and the Province of Ontario, through the Ministry of Transportation, entered into a Transfer Payment Agreement for the partial funding of the King Victoria Transit Hub (the “Hub”). The Hub is the planned new train station / bus depot for Kitchener-Waterloo that will be located at the corner of King

² Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 5. Tab 2 of the Application Record.

³ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 6. Tab 2 of the Application Record.

⁴ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 7. Tab 2 of the Application Record.

Street and Victoria Street, City of Kitchener, in close proximity to the Property.

The Hub will entail construction on Region lands as well as construction by Metrolinx within the rail corridor. Part of the rail corridor works will be a new rail platform that will extend from King Street to the rear of the Plaza, adjacent to the Property. Also, as a term of the Transfer Payment Agreement, the Region is required to provide approximately 100 dedicated transit customer parking spaces.⁵

10. In the short term, it is the Region's intention to use the Property for the following uses: (a) Additional motor vehicle parking for the VIA Rail Train Station and GO services across the street based on increased use with the decline of the COVID-19 pandemic; and/or (b) A lay down area for the construction of the Hub, including the new Metrolinx rail platform adjacent to the Property, with construction expected to commence in spring 2023.⁶
11. In the long term, it is the Region's intention to use the Property for the approximately 100 dedicated transit customer parking spaces that are required pursuant to the Transfer Payment Agreement. Stage 1 of the Hub is expected to be completed by late 2024 with the contractually required parking needed at this time.⁷

⁵ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 8. Tab 2 of the Application Record.

⁶ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 9. Tab 2 of the Application Record.

⁷ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 10. Tab 2 of the Application Record

THE ENCAMPMENT

12. In or about December 2021, a tent / temporary shelter had been erected on the Property and a person or persons were living there without permission of the Region.⁸

13. Between approximately December 2021 and June 6, 2022, numerous more tents / temporary shelters (approximately 70) had been erected on the Property with unknown persons living there (the “Encampment”). Initially, the Region did not take steps to remove these persons from the Property during this time because the Region was engaged in assisting individuals believed to be homeless with alternative housing and social supports.⁹ In or about March 25, 2022, the Region assigned security guards through Barber Collins Security near the Property to monitor and respond to issues at the Encampment. The Region did this because the Encampment had become very large with numerous disruptions and complaints from the public, specifically from the businesses located at the neighbouring Plaza.¹⁰

14. The Region’s monthly costs as of July 5, 2022 associated with the response to the Encampment were approximately \$80,000 per month inclusive of on-site security provided by Barber-Collins Security, daily garbage pick-up, washrooms and security associated with provision of washrooms and cleaning.¹¹

⁸ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 11. Tab 2 of the Application Record.

⁹ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 12. Tab 2 of the Application Record.

¹⁰ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 13. Tab 2 of the Application Record.

¹¹ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 14. Tab 2 of the Application Record.

15. In May, 2022, the Region developed a risk assessment tool to address the growing size and risks of the Encampment. The risk assessment addressed 15 categories of risk with a low / medium / high risk rating for each. These risk categories considered surrounding uses, structures and other items on site, conflict / violence, illegal activity, biohazards and fire. The risk assessment tool also had a section with empirical information on the number of inhabitants, reported disturbances etc. to allow the Region to determine if any upward or downward trends were occurring.¹²

16. On or about May 12, 2022 and May 26, 2022, a first and second risk assessment was completed. The general observation was that there was high risk in relation to the number of individuals on the site which at that time was 50 residents. The risk assessment tool defines greater than 20 residents as indicative of high risk. There was also a significant increase in the number of incidents that had occurred between March 25 – May 16 and a significant increase in the involvement of Waterloo Region Police Services between May 3 – May 16 in responding to these incidents. Overall, the conditions at the site pose a risk to the health and safety to individuals at the Encampment and others that venture onto the Property.¹³ This caused the Region to decide that the Encampment had to be disbanded and vacated from the Property pursuant to the By-law and the *TPA*.¹⁴

¹² Affidavit of Arran Rowles, sworn July 6, 2022, paras. 7 - 11. Tab 5 of the Application Record.

¹³ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 15. Tab 2 of the Application Record.

¹⁴ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 16. Tab 2 of the Application Record.

17. On June 6, 2022, as a result of the risk assessments, the Region posted two large signs at the perimeter of the Property pursuant to the Code of Use By-law and the TPA. The signs stated that persons on the Property would have to vacate by June 30, 2022 at 9:00 am.¹⁵
18. On July 4, 2022, persons, tents and belongings remained on the Property notwithstanding the trespass notices as posted by the Region.¹⁶
19. On or about July 5, 2022, the Region commenced this Application and the Order of the Honourable Mr. Justice M.J. Valente, dated July 7, 2022, was made regarding the service of the Application on the Respondents, all which was completed by the Region.

EMERGENCY SHELTER CAPACITY

20. The Region operates the Emergency Shelter Program (“ES Program”) which includes six third party service providers to operate emergency shelter sites. The ES Program offers immediate access when people have no other safe and appropriate place to stay overnight. The ES Program provides a safe, temporary place where people can stay while they work to find housing.¹⁷
21. The number of people in Waterloo Region experiencing chronic homelessness increased by 69% over the past two years. To meet the increased demand for emergency shelter, the Region has increased capacity. Service providers

¹⁵ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 17. Tab 2 of the Application Record.

¹⁶ Affidavit of Ellen McGaghey, sworn July 5, 2022, para. 20. Tab 2 of the Application Record.

¹⁷ Affidavit of Kelly-Anne Salerno, sworn July 6, 2022, paras. 17 - 20. Tab 6 of the Application Record.

operating emergency shelters provide daily reports of emergency shelter availability and this is tracked by the Region. Since January, 2022, there was a week over week surplus of capacity.¹⁸

22. Despite having high numbers, the Region continues to maintain capacity in its emergency shelter system for people to access. An updated emergency shelter occupancy report compiled by the Region as of October 19, 2022 is below:¹⁹

Service Provider	October 19, 2022	Total Beds / Capacity
University Avenue Interim Housing	80	80
House of Friendship Interim Housing	26	26
Kinsmen Isolation Facility	7	24
Cambridge Shelter	69	80
Cambridge Shelter Overflow	14	30
YW Shelter	75	78
The Working Centre Emergency Shelter (King Street)	61	70
oneROOF	18	18
oneROOF overflow	3	10
Safe Haven	6	10
EMERGENCY SHELTER TOTALS	359	426
Future Shelter Sites	Projected Opening Date	Projected Capacity
SHIP Men's Shelter	November, 2022	50
Hybrid Outdoor Shelter Site (Location TBD)	TBD	50
House of Friendship Shelter Care Site (will replace House of Friendship Interim Housing)	January, 2023	100

¹⁸ Affidavit of Kelly-Anne Salerno, sworn July 6, 2022, paras. 35 - 36. Tab 6 of the Application Record. Suppl. affidavit of Kelly-Anne Salerno sworn September 14, 2022, para 13. Tab 2 of the Applicant's Responding Record.

¹⁹ Affidavit of Kelly-Anne Salerno, sworn July 6, 2022, paras. 21. Tab 6 of the Application Record. Cross-examination of Kelly-Anne Salerno, lines 29-56, 63-72 & 78; Ryan Pettipiere, lines 90-97 & 124-125.

Undertakings Brief of the Applicant, Tab 11.

23. Motels are also used by the Region as emergency shelter space. The Region's service providers have agreements with motels which can be utilized when there is not capacity in a specific emergency shelter. Service providers use motels as set out below:²⁰

Agency/Provider	Additional Information
Cambridge Shelter Corporation	<ul style="list-style-type: none"> - When the Cambridge Shelter site is nearing/at capacity, individuals are sent to the motel. - Cambridge Shelter has an agreement to secure a minimum number of rooms, but additional rooms can be used/booked, if needed, and if they are available.
YW	<ul style="list-style-type: none"> - There is no dedicated Emergency Shelter building/facility for families. Motels are accessed/booked for families experiencing homelessness. - The YW books and uses motel rooms at several Kitchener motels to temporarily accommodate families who are experiencing homelessness. - Rooms are booked as available and as needed.
The Working Centre	<ul style="list-style-type: none"> - The Working Centre, through their Street Outreach (Regionally funded) and Specialized Street Outreach (SOS) health teams (non-Regionally funded) book and support people in motel rooms. - These are individuals who cannot/will not access emergency shelter locations due to mental health, primary health care, or service restrictions. - Rooms are booked as available and as needed.

²⁰ Cross-examination of Kelly-Anne Salerno, lines 127-135; Ryan Pettipiere, lines 84 &100-101.

OFFERS OF EMERGENCY HOUSING TO THE RESPONDENT AFFIANTS

24. The Region has offered, and continues to offer, emergency shelter for people at the Encampment. On multiple occasions, seven affiants (Aylott, Draper, Tugwood, Duke, Flanagan, Mason, Simepell) for the Respondents residing at the Encampment were offered emergency shelter and these offers were refused.²¹

EFFORTS TO ADD RESOURCES FOR HOMELESSNESS

25. The Region continues to expand resources not only to the ES Program but also to numerous Region administered programs aimed at preventing or assisting individuals experiencing homelessness. ²² First, the Region doubled the spaces available in the ES Program to 440 with new spaces becoming available throughout 2022. Second, in addition to the new spaces, the Region expanded its Home-Based Support Program with an additional \$1.3 million to help 50 more people experiencing chronic homelessness find and keep a home in the private rental market. Third, the housing-focused Street Outreach services program funding was doubled to help people experiencing unsheltered homelessness connect to services. Fourth, the Region extended the interim housing program at an annual cost of \$2.8 million to fund the lease of space at 139 University Avenue in Waterloo. These additional spaces will be available to persons in emergency shelters. Fifth, the Region has accelerated the

²¹ Suppl. affidavit of Kelly-Anne Salerno, sworn Sept. 14, 2022, paras. 3 - 12. Tab 2 of Applicant's Responding Record.

²² Affidavit of Ryan Pettipiere, sworn Sept. 14, 2022, paras. 16 – 29. Tab 1 of Applicant's Responding Record.

development of affordable housing tenfold with 837 new affordable homes in development and 153 occupied as of 2022.²³

26. On August 18, 2022, Regional Council supported staff recommendations and approved further funding to expand services to address homelessness including:
- (a) Expand the transitional housing program by adding 125 new beds including one Indigenous led site;
 - (b) Expand the home-based support program by adding 100 new units;
 - (c) Expand the ES Program; one new 50 bed site;
 - (d) Permit a temporary managed hybrid shelter/outdoor model - one property for up to 50 residents;²⁴
27. The Region has undertaken a plan to significantly increase the development of new affordable housing. This plan is backed by an investment of \$20 million in 2021/2022 with a plan to develop up to 2500 new affordable homes over a period of 5 years.²⁵
28. The Region is also funding the operating costs of The House of Friendship's new shelter building located at 190 Weber St. North, Waterloo. When operational, in January of 2023, this program will have capacity for up to 100 people. This site will operate under the model of ShelterCare, which is a coordination of emergency shelter and dedicated health care supports. The Region is funding the emergency shelter that opened in October 2022 located at 1668 King Street East, Kitchener, being operated by The Working Centre. The Region is further funding a 60 bed emergency

²³ Affidavit of Ryan Pettipiere, sworn Sept. 14, 2022, paras. 16 – 29. Tab 1 of Applicant's Responding Record.

²⁴ Affidavit of Ryan Pettipiere, sworn Sept. 14, 2022, paras. 16 – 29. Tab 1 of Applicant's Responding Record.

²⁵ Affidavit of Ryan Pettipiere, sworn Sept. 14, 2022, paras. 16 – 29. Tab 1 of Applicant's Responding Record.

shelter in downtown Kitchener at 84 Frederick Street, Kitchener and will be operating by Services and Housing in the Province (“SHIP”).²⁶

29. The Region is actively seeking service providers to implement Council approved programs. Expression of Interests for the implementation of the Council supported Interim Housing Solutions including additional emergency shelter, transitional housing and a hybrid shelter/outdoor model were released by the Region in September and closed on October 17th. The purpose of these Expressions of Interests is to find additional service providers for supports and services and locations for these supports and services. The intent of the Region is to have one or more hybrid outdoor managed shelter properties, managed by a third party, available for individuals experiencing homelessness for this coming winter.²⁷

ADVERSE IMPACTS OF THE ENCAMPMENT

30. The Encampment has created a chaotic and dangerous living environment with the following problems, issues and adverse impacts:
- (a) A congested site on the Property with people, tents, belongings and debris with evidence of numerous rodent burrow holes and rodent (rat) droppings that create a health hazard²⁸;

²⁶ Affidavit of Ryan Pettipiere, sworn Sept. 14, 2022, paras. 16 – 29. Tab 1 of Applicant's Responding Record.

²⁷ Affidavit of Ryan Pettipiere, sworn Sept. 14, 2022, paras. 16 – 29. Tab 1 of Applicant's Responding Record.

²⁸ Suppl. affidavit of Chis Komorowski, sworn Sept. 13, 2022, para. 5. Tab 3 of Applicant's Responding Record.

- (b) Evidence of human feces and urine in the alcove area on the Property
(although problem potentially eliminated through the Region's placement of two portable toilets on the Property)²⁹;
- (c) The consumption of alcohol and drugs by occupants on the Property³⁰;
- (d) The continued presence of BBQs and propane tanks in and around various tents with the potential of a fire hazard³¹ as well as incidents of open fires on the Property³²;
- (e) Physical altercations between occupants of the Encampment³³;
- (f) Incidents at or near the Encampment where fire arms are present³⁴;
- (g) Repeated trespasses onto the neighbouring Plaza by occupants of the Encampment with numerous and ongoing complaints from the business owners at the Plaza³⁵;
- (h) An increase of youth attending the Encampment with adults observed giving youth controlled substances³⁶; and
- (i) Repeated attendances by the Waterloo Regional Police Service, Kitchener Fire Department and Regional Paramedic Services as a result of incidents at

²⁹ Suppl. affidavit of Chis Komorowski, sworn Sept. 13, 2022, para. 4. Tab 3 of Applicant's Responding Record.

³⁰ Suppl. affidavit of Chis Komorowski, sworn Sep. 13, 2022, para. 5. Tab 3 of Applicant's Responding Record.

³¹ Suppl. affidavit of Chis Komorowski, sworn Sept. 13, 2022, paragraph 5. Tab 3 of Applicant's Responding Record.

³² Suppl. affidavit of Shannon Walls, sworn Sept. 13, 2022, paragraph 3. Tab 4 of Applicant's Responding Record.

³³ Affidavit of Shannon Walls, sworn July 5, 2022, para. 8. Tab 3 of Application Record.

³⁴ Affidavit of Shannon Walls, sworn July 5, 2022, para. 8. Tab 3 of Application Record.

³⁵ Affidavit of Shannon Walls, sworn July 5, 2022, para. 8. Tab 3 of Application Record.

³⁶ Suppl affidavit of Kelly-Anne Salerno, sworn Sept. 14, 2022, para. 26. Tab 2 of Applicant's Responding Record.

the Encampment³⁷ with concerns raised about the safety of Regional Paramedic Services staff when attending at the Property³⁸.

EXPERT EVIDENCE OF THE RESPONDENTS

31. The Region does not attempt to disqualify the opinion evidence set out in the Affidavits filed by the Respondents' experts, but submits they have little relevance to the specific issues in this Application. With the exception of Dr. Laura Pin, who only observed the Encampment from the sidewalk, and spoke to none of the residents, the Cross-Examinations confirmed that none of the Respondents' experts attended at the Encampment site, spoke to any of the Encampment residents or even reviewed the Region's Affidavit materials in order to have any appreciation of the Region's policies and procedures and the changes to the Region's policies and procedures since May of 2022.³⁹

32. The Respondents' experts' evidence is based on general noncontroversial opinions about systemic racism, discrimination of people with disabilities, gender issues including specific violence against women issues all of which exist in Canadian society and contribute to homelessness. None of the expert evidence, however, is linked to the specific residents of this Encampment.

³⁷ Affidavit of Shannon Walls, sworn July 5, 2022, para. 8. Tab 3 of Application Record.

³⁸ Affidavit of Edward Besenschek, sworn Sept. 13, 2022, paragraph 4. Tab 5 of Applicant's Responding Record.

³⁹ Cross-examination of Dr. A. Sereda, line 20; Dr. A. Joseph, lines 6, 25, 44; Dr. L. Pin, line 33.

33. All the Respondents' experts agreed that the new initiatives being put into place by the Region are good and helpful initiatives to deal with the homelessness issue, which is a complex and multi-faceted problem that exists throughout Canada.⁴⁰

Part III – Issues in Law

Issue 1: Does the Region Have the Legal Authority to Regulate the Use of The Property?

34. The *Municipal Act* gives a municipality natural person powers and the ability to govern its affairs as it considers appropriate. The *Municipal Act* also gives a municipality the express authority to pass by-laws respecting its public assets and the protection of persons and property.⁴¹
35. Further, the *Trespass To Property Act*⁴² (“TPA”) allows an occupier of premises to prohibit or regulate entry onto the premises with the courts recognizing that an occupier may include a municipality.⁴³
36. Pursuant to the authority in the *Municipal Act*, the Region enacted its Code of Use By-law in 2013 which prohibits certain activities on lands owned by the Region. These prohibited activities include erecting a tent or other shelter on vacant lands of the Region with the authority of the Region's designated persons to lay a charge pursuant to the By-law or to remove offending persons pursuant to the *TPA*.

⁴⁰ Cross-examination of Dr. A. Sereda, line 123; Dr. A. Joseph, line 38; Dr. L. Pin, lines 167 - 208

⁴¹ *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, sections 8, 9 and 11(2).

⁴² *Trespass to Property Act*, R.S.O. 1990, c. T. 21, as amended. Sections 3 – 8.

⁴³ *Batty v. City of Toronto*, 2011 ONSC 6862 (CanLII), at para. 59.

Issue 2: What is the Legal Test for an Injunction Pursuant to Section 440 of the *Municipal Act*?

37. Section 440 of the *Municipal Act* gives a municipality, as an additional remedy, the ability to bring an application to restrain the contravention of its by-law, including the By-law.⁴⁴
38. The Courts have held that the legal test for a statutory injunction, which includes an order under section 440 of the *Municipal Act*, is narrower than the legal test for an equitable injunction under the common law. Specifically, the public authority will not ordinarily have to establish inadequacy of damages or irreparable harm and that the balance of convenience favours the granting of the injunctive relief because the public authority is presumed to be acting in the best interests of the public and a breach of the law is considered to be irreparable harm to the public interest.⁴⁵
39. Accordingly, the legal test for a statutory injunction, which includes an order under section 440 of the *Municipal Act*, only requires the public authority to establish a strong *prima facie* case, on a balance of probabilities, that there is a breach of the applicable statute. There is no obligation on the public authority to provide “compelling evidence” that an injunction is warranted.⁴⁶

⁴⁴ *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, section 440.

⁴⁵ [THE CORPORATION OF THE CITY OF WINDSOR v. PERSONS UNKNOWN, 2022 ONSC 1168](#), at paras. 51 – 56.

⁴⁶ [THE CORPORATION OF THE CITY OF WINDSOR v. PERSONS UNKNOWN, 2022 ONSC 1168](#), at paras. 51 – 56.

40. Further, the Courts have held:
- (a) There is no need for other enforcement remedies to have been pursued.
 - (b) The factors considered by a Court when considering equitable relief will have a more limited application. For example, hardship from the imposition and enforcement of an injunction will generally not outweigh the public interest in having the law obeyed.
 - (c) There is a strong public interest in ensuring that all citizens in our society obey the law. Therefore, there is a presumption that the courts will grant interlocutory injunctions to compel compliance with the law as opposed to denying the injunction so that a defendant may continue to break the law. Any Court tolerance of a continuing breach of the law will be extremely rare.⁴⁷
41. The Court maintains residual discretion as to whether to grant the injunction even if there is a clear breach of the statute. However, the Court's residual discretion is limited. Where a public authority seeks an injunction to enforce a by-law that it establishes is being breached, any discretion the court may have to permit unlawful conduct is narrow and arises only in circumstances that are truly exceptional. The onus to raise the exceptional circumstances lies with the respondent, and those circumstances are limited to: the offending party has ceased the activity; the injunction is moot and would serve no purpose; the offending party has provided clear and unequivocal evidence that the unlawful

⁴⁷ *THE CORPORATION OF THE CITY OF WINDSOR v. PERSONS UNKNOWN*, 2022 ONSC 1168, at paras. 51 – 56.

conduct will cease; there is a right that pre-existed the enactment that was breached; there is uncertainty that the offending party is flouting the law or where the conduct is not what the enactment was intended to prevent.⁴⁸

Issue 3: Do the Trespass Notices and/or the By-law Breach Section 7 and/or 15(1) of the *Charter* to the Extent Not Justified Pursuant to Section 1 of the *Charter*?

42. Section 7 of the *Charter* provides that “(e)veryone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”⁴⁹
43. Subsection 15(1) of the *Charter* provides that “(e)very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”⁵⁰
44. Section 1 of the *Charter* “guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”⁵¹
45. Subsection 24(1) of the *Charter* provides that “(a)nyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court

⁴⁸ [THE CORPORATION OF THE CITY OF WINDSOR v. PERSONS UNKNOWN, 2022 ONSC 1168](#), at paras. 51 – 56.

⁴⁹ *Canadian Charter of Rights and Freedoms, 1982*, section 7.

⁵⁰ *Canadian Charter of Rights and Freedoms, 1982*, section 15.

⁵¹ *Canadian Charter of Rights and Freedoms, 1982*, section 1.

of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances."⁵²

46. Subsection 52(1) of the Charter provides that "(t)he *Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.*"⁵³
47. The onus is on the rights claimant under section 7 of the *Charter* to establish on the balance of probabilities that the impugned legislation deprives him or her of security of the person, and that the deprivation is not in accordance with the principles of fundamental justice. If the claimant succeeds in doing so, then the burden shifts to the respondent, under section 1 of the *Charter*, to justify the deprivation as a "reasonable" limit that is "demonstrably justified in a free and democratic society".⁵⁴ The same principles apply in regard to subsection 15(1) of the *Charter*.⁵⁵

Section 7 of the *Charter*

48. It has generally been held that section 7 of the *Charter* does not protect property rights or purely economic rights⁵⁶ or confer a positive general free-standing right to adequate housing⁵⁷.

⁵² *Canadian Charter of Rights and Freedoms, 1982*, section 24(1).

⁵³ *Canadian Charter of Rights and Freedoms, 1982*, section 52(1).

⁵⁴ *R. v. Michaud*, 2015 ONCA 585 (CanLII), at para. 60.

⁵⁵ *Abbotsford (City) v. Shantz*, 2015 BCSC 1909 (CanLII), at para. 236.

⁵⁶ *Gosselin v. Quebec, (Attorney General)*, 2002 SCC 84, [2002] 4 S.C.R. 429 at paras. 81-83 and 311 (in dissent).

⁵⁷ *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852 (CanLII) at paras. 30 - 31.

49. The Region acknowledges that there is a line of cases from the Province of British Columbia where section 7 of the *Charter* has been applied in regard to municipal by-laws and homelessness *but* with these cases been distinguished in recent Ontario cases on the basis that the Ontario municipalities had shown that adequate shelter space had been provided for the homeless persons in need.
50. In the leading case of *Victoria (City) v. Adams*, the British Columbia Court of Appeal dealt with a municipal by-law that prohibited persons from taking up a “temporary abode over night” without a permit in the municipality’s parks. The Court of Appeal upheld the trial decision that the provisions breached section 7 of the *Charter* and that such were not saved by section 1 of the *Charter*. The Court of Appeal stated the following in regard to section 7 of the *Charter* at paragraph 109:

“[109] ... We agree with the trial judge that prohibiting the homeless from taking simple measures to protect themselves through the creation or utilization of rudimentary forms of overhead protection, in circumstances where there is no practicable shelter alternative, is a significant interference with their dignity and independence. The choice to shelter oneself in this context is properly included in the right to liberty under s. 7.”⁵⁸

51. It is important to note, however, that the Court of Appeal specifically stated that its finding in regard to a breach of section 7 of the *Charter* may have been different if there was a finding of adequate shelter space for the homeless. In fact, the Court of Appeal, when declaring portions of the City’s by-law to be inoperative pursuant to subsection 52(1) of the *Charter*, included a remedy for the City to apply to the Province’s Superior Court at a later date for a declaration that it had provided

⁵⁸ *Victoria (City) v. Adams*, 2009 BCCA 563, at para. 109.

sufficient resources for the homeless so that section 7 of the *Charter* was no longer contravened.⁵⁹

52. This line of reasoning was followed in two recent Ontario Superior Court of Justice decisions that related to *Charter* challenges and municipal by-laws that prohibited homeless encampments on municipal lands. Specifically, the Ontario courts reviewed the efforts of the municipalities to provide shelter options for the homeless with a finding that such were sufficient thus undermining the *Charter* challenges pursuant to section 7.
53. In the case of *Black v. Toronto (City)*, homeless persons and advocacy groups brought a motion for an interlocutory injunction to prevent the City, during the COVID-19 pandemic, from enforcing its by-law prohibiting camping and the erection of tents or other structures in City parks on the basis of sections 7, 12 and 15 of the *Charter*. On the one side, the Court reviewed factual evidence from the homeless persons, who had various mental health and/or drug addiction issues, outlining their concerns about the shelter system (especially during the both COVID-19 pandemic) with statements about their feelings of greater safety and community in encampments. The Court also reviewed expert evidence from the applicants regarding the benefits of encampments in regard to community, reasons homeless persons resist going to emergency shelters and the medical risks of clearing encampments. On the other side, the Court considered factual evidence from the City concerning its efforts to provide sufficient housing for the

⁵⁹ *Victoria (City) v. Adams*, 2009 BCCA 563, at para. 165 - 166.

homeless persons and the adverse impact on the encampments on the City parks, including garbage, human waste, rodents (rats), fires, with complaints from City residents. Ultimately, however, the Court, citing the British Columbia Court of Appeal case of *Victoria (City) v. Adams*, dismissed the applicants' motion for an interlocutory injunction largely on the basis that the applicants had failed to provide evidence that safe shelter spaces were not available to the homeless population.⁶⁰

54. In the case of *Poff v. Hamilton (City)*, five homeless persons also brought a motion for an interlocutory injunction relying in part on section 7 of the *Charter* restraining the City from enacting and enforcing its By-Law to remove the applicants and other homeless individuals from encampments in City parks. Again, the Court considered the factual and expert evidence of the applicants in regard to the reasons for homelessness and the impacts of removing encampments and the factual evidence of the City in regard to its significant efforts to provide shelter space for homeless persons. The Court considered the British Columbia cases and the principle that sufficient shelter spaces negates any breach of section 7 of the *Charter*. The Courts stated at paragraphs 233 - 234⁶¹:

[233] The finding of unconstitutionality is expressly linked to the factual finding that the number of homeless people exceeds the number of available shelter beds. However, it must be that noted that the court expressed its view of a “significant shortfall” of shelter spaces (emphasis added).

[234] In Adams, there were more than 1000 homeless people living in the city of Victoria, with only 141 shelter beds (expanding to 326 in extreme conditions) leaving hundreds without the option to seek shelter space: Adams BCSC, at paras. 4 and 69. This is not nearly the same situation in Hamilton. Further, it

⁶⁰ *Black et al. v. City of Toronto*, 2020 ONSC 6398 (CanLII), paras.145 – 150.

⁶¹ *Poff v. City of Hamilton*, 2021 ONSC 7224 (CanLII), at paras. 230 - 250.

appears that in that case, the issue was simply whether homeless people could erect overnight shelter at all, rather than remain in one place for prolonged period of time as in this case.”

Subsection 15(1) of the *Charter*

55. The Courts in Ontario and British Columbia have dealt with the issue of homelessness and subsection 15(1) of the *Charter*. In the Ontario case of *Tanudjaja v. Canada (Attorney General)*, the applicants, consisting of homeless persons and an advocacy group, brought an application alleging that the provincial and federal governments had breached sections 7 and 15 of the *Charter* by making decisions and implementing changes to programs which eroded access to affordable housing. The application was ultimately dismissed on the basis that the issue was not justiciable as it was political rather than legal in nature. Of significance, however, is that the Superior Court of Justice also found that homelessness and being without adequate housing, as referred to in the case, is not an analogous ground pursuant to subsection 15(1) of the *Charter*.⁶² The Ontario Court of Appeal upheld the Superior Court’s ruling on the justiciable issue but did render any ruling on the issue of subsection 15(1) of the *Charter*.
56. In the case of *Abbotsford (City) v. Shantz*, the British Columbia Superior Court also found that homelessness was not an analogous grounds pursuant to subsection 15(1) of the *Charter*. The Court also declined to find a breach of subsection 15(1) of the *Charter* with the following statement at paragraphs 234 – 236⁶³:

⁶² *Tanudjaja v. Attorney General (Canada) (Application)*, 2013 ONSC 5410 (CanLII), at paras. 122 - 137.

⁶³ *Abbotsford (City) v. Shantz*, 2015 BCSC 1909 (CanLII), at para. 227 – 236.

“[234] Although, s. 15 requires equal treatment of disparate groups, I am not persuaded that an infringement of any of DWS’ members’ s. 15 Charter rights has been made out.

[235] The Impugned Bylaws are regulatory prohibitions, subject to exemptions, and are neutral on their face. While there has been historic mistreatment of Aboriginal people and the disabled, it does not follow that they, as compared to other groups, have been prejudiced in some manner that is connected to the Impugned Bylaws. Nor is the enforcement of the Impugned Bylaws against the homeless treatment that differs from the enforcement of the Impugned Bylaws against anyone else.

[236] While the effect of the Impugned Bylaws may have a greater impact on those who are homeless, that is not because they are being treated any differently than those who are not homeless, disabled or due to their racial backgrounds. DWS has not established that the Impugned Bylaws have the effect of perpetuating disadvantage or prejudice. I am not persuaded that an infringement of any of DWS’ members’ s. 15 Charter rights has been made out on the evidence before me.”

Issue 4: Is There Legal Authority for Police to Enforce the Requested Order?

57. Subsection 11(2) of the *Courts of Justice Act* reflects the inherent jurisdiction of this Court with the provision that the “*Superior Court of Justice has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario*”.⁶⁴
58. Section 144 of the *Courts of Justice Act* provides that “*orders requiring persons to be apprehended or taken into custody shall be directed to police officers for enforcement*.”⁶⁵
59. Rule 1.05 of the *Rules of Civil Procedure* provide that the Court may impose such terms and give such directions as are just when making an Order.

⁶⁴ *Courts of Justice Act*, R.S.O. 1990, c. C.43, section 11(2).

⁶⁵ *Courts of Justice Act*, R.S.O. 1990, c. C.43, section 144.

60. Notwithstanding the above, the Courts have recognized that police should retain operational discretion in the enforcement of Court orders⁶⁶.

Part V – Order Requested

61. In conclusion, the Region respectfully submits that it has clear legal authority to regulate the use of the Property and to obtain an injunction pursuant to section 440 of the *Municipal Act*. As in the Ontario cases of *Black v. Toronto (City)* and *Poff v. Hamilton (City)*, the Respondents have failed to provide evidence that safe shelter spaces are not available to the homeless population in Waterloo Region to the point where enforcing the By-law would be a breach of section 7 of the *Charter*. In fact, the clear evidence from the Region is that emergency shelter capacity exists for all persons at the Encampment on the Property if they choose to access it.
62. The Region therefore asks for:
- a) A Declaration that the Respondents are in breach of the By-law;
 - b) An Order that any persons having notice of the Order are restrained and enjoined from breaching the By-law by remaining and/or re - entering onto the Property;
 - c) An Order that any police officer with the Waterloo Regional Police Service, and any other police authority (the “Police”), shall have authorization to arrest and remove any person who has knowledge of the Order and who the Police have

⁶⁶ *Henco Industries Limited v. Haudenosaunee Six Nations Confederacy Council*, 2006 CanLII 41649 (ON CA), at paras. 113 – 114.

reasonable and probable grounds to believe is contravening or has contravened any provision of the Order;

d) An Order that the Police or designated agents shall have authorization to remove any vehicles, personal property, equipment, structures, or other objects that are located on the Property;

e) An Order that the Police shall retain discretion:

i) as to the timing and manner of enforcement of the Order, and specifically retain discretion as to the timing and manner of arrest and removal of any person pursuant to the Order;

ii) to detain and release any person without arrest who the Police have reasonable and probable grounds to believe is contravening, or has contravened, any provisions of the Order, upon that person agreeing to abide by the Order; and

iii) to lay any charges or take any other lawful action;

f) An Order that any peace officer and any member of the Police who arrests or arrests and removes any person pursuant to the Order shall have authorization to release that person from arrest upon that person agreeing in writing to obey the Order;

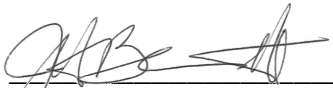
g) An Order that notice of the Order shall be given by posting a copy of it along the perimeter of the Property on Victoria Street and Weber Street at intervals of nine (9) metres;

h) An Order that notice of the Order may also be given in the following manners:

i) by posting copies of the Order in or around the City of Kitchener;

- ii) reading the Order to any person, including but not limited to reading the Order over an amplification system;
 - iii) publishing the Order online; and
 - iv) any other manner deemed appropriate by the Region or the Police
- i) An Order that the Order shall not apply to persons acting in the course of, or in the exercise of a statutory duty, power or authority;
- j) An Order that the terms of the Order shall remain in force until varied or discharged by a further Order of the Court; and
- k) An Order that the terms of the Order bind the Respondents and every other person or legal entity who is subject to the Order and is given notice of the Order, as of the time such Respondents, person or legal entity first receives notice of the Order, and whether or not such Respondents, person or legal entity has been served with a copy of the Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 31st day of October, 2022.



James Bennett

Lawyer for the Applicant, The Regional Municipality of Waterloo

SCHEDULE “A”

AUTHORITIES CITED

1	<i>Batty v. City of Toronto</i> , 2011 ONSC 6862 (CanLII)
2	<i>THE CORPORATION OF THE CITY OF WINDSOR v. PERSONS UNKNOWN</i> , 2022 ONSC 1168
3	<i>R. v. Michaud</i> , 2015 ONCA 585 (CanLII), at para. 60
4	<i>Abbotsford (City) v. Shantz</i> , 2015 BCSC 1909 (CanLII)
5	<i>Gosselin v. Quebec, (Attorney General)</i> , 2002 SCC 84, [2002] 4 S.C.R. 429
6	<i>Tanudjaja v. Canada (Attorney General)</i> , 2014 ONCA 852 (CanLII)
7	<i>Victoria (City) v. Adams</i> , 2009 BCCA 563
8	<i>Black et al. v. City of Toronto</i> , 2020 ONSC 6398 (CanLII)
9	<i>Poff v. City of Hamilton</i> , 2021 ONSC 7224 (CanLII)
10	<i>Tanudjaja v. Attorney General (Canada) (Application)</i> , 2013 ONSC 5410 (CanLII)
11	<i>Henco Industries Limited v. Haudenosaunee Six Nations Confederacy Council</i> , 2006 CanLII 41649 (ON CA)

SCHEDULE "B"**STATUTORY PROVISIONS**

1	<p><i>Municipal Act, 2001, S.O. 2001, c. 25, as amended</i></p> <p><u>Section 8</u></p> <p>Scope of powers 8 (1) The powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues. 2006, c. 32, Sched. A, s. 8.</p> <p>Ambiguity (2) In the event of ambiguity in whether or not a municipality has the authority under this or any other Act to pass a by-law or to take any other action, the ambiguity shall be resolved so as to include, rather than exclude, powers the municipality had on the day before this Act came into force. 2006, c. 32, Sched. A, s. 8.</p> <p>Scope of by-law making power (3) Without limiting the generality of subsections (1) and (2), a by-law under sections 10 and 11 respecting a matter may,</p> <p>(a) regulate or prohibit respecting the matter;</p> <p>(b) require persons to do things respecting the matter;</p> <p>(c) provide for a system of licences respecting the matter. 2006, c. 32, Sched. A, s. 8.</p> <p>Scope of by-laws generally (4) Without limiting the generality of subsections (1), (2) and (3) and except as otherwise provided, a by-law under this Act may be general or specific in its application and may differentiate in any way and on any basis a municipality considers appropriate. 2006, c. 32, Sched. A, s. 8.</p> <p>Exception (5) Subsection (4) does not apply with respect to a by-law made under Parts VII, VIII, IX, X, XI and XIII. 2006, c. 32, Sched. A, s. 8.</p> <p><u>Section 9</u></p> <p>Powers of a natural person</p>
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9 A municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act. 2006, c. 32, Sched. A, s. 8.

Section 11(2)

By-laws

(2) A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality, including respecting climate change.
6. Health, safety and well-being of persons.
7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection. 2006, c. 32, Sched. A, s. 8; 2017, c. 10, Sched. 1, s. 2.

Section 440

Power to restrain

440 If any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened, in addition to any other remedy and to any penalty imposed by the by-law, the contravention may be restrained by application at the instance of a taxpayer or the municipality or local board. 2006, c. 32, Sched. A, s. 184.

2	<p><i>Trespass to Property Act</i>, R.S.O. 1990, c. T. 21, as amended.</p> <p>Prohibition of entry</p> <p>3 (1) Entry on premises may be prohibited by notice to that effect and entry is prohibited without any notice on premises,</p> <ul style="list-style-type: none"> (a) that is a garden, field or other land that is under cultivation, including a lawn, orchard, vineyard and premises on which trees have been planted and have not attained an average height of more than two metres and woodlots on land used primarily for agricultural purposes; or (b) that is enclosed in a manner that indicates the occupier's intention to keep persons off the premises or to keep animals on the premises. R.S.O. 1990, c. T.21, s. 3 (1). <p>Implied permission to use approach to door</p> <p>(2) There is a presumption that access for lawful purposes to the door of a building on premises by a means apparently provided and used for the purpose of access is not prohibited. R.S.O. 1990, c. T.21, s. 3 (2).</p> <p>Limited permission</p> <p>4 (1) Where notice is given that one or more particular activities are permitted, all other activities and entry for the purpose are prohibited and any additional notice that entry is prohibited or a particular activity is prohibited on the same premises shall be construed to be for greater certainty only. R.S.O. 1990, c. T.21, s. 4 (1).</p> <p>Limited prohibition</p> <p>(2) Where entry on premises is not prohibited under section 3 or by notice that one or more particular activities are permitted under subsection (1), and notice is given that a particular activity is prohibited, that activity and entry for the purpose is prohibited and all other activities and entry for the purpose are not prohibited. R.S.O. 1990, c. T.21, s. 4 (2).</p> <p>Method of giving notice</p> <p>5 (1) A notice under this Act may be given,</p> <ul style="list-style-type: none"> (a) orally or in writing; (b) by means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies; or
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(c) by means of the marking system set out in section 7. R.S.O. 1990, c. T.21, s. 5 (1).

Substantial compliance

(2) Substantial compliance with clause (1) (b) or (c) is sufficient notice. R.S.O. 1990, c. T.21, s. 5 (2).

Form of sign

6 (1) A sign naming an activity or showing a graphic representation of an activity is sufficient for the purpose of giving notice that the activity is permitted. R.S.O. 1990, c. T.21, s. 6 (1).

Idem

(2) A sign naming an activity with an oblique line drawn through the name or showing a graphic representation of an activity with an oblique line drawn through the representation is sufficient for the purpose of giving notice that the activity is prohibited. R.S.O. 1990, c. T.21, s. 6 (2).

Red markings

7 (1) Red markings made and posted in accordance with subsections (3) and (4) are sufficient for the purpose of giving notice that entry on the premises is prohibited. R.S.O. 1990, c. T.21, s. 7 (1).

Yellow markings

(2) Yellow markings made and posted in accordance with subsections (3) and (4) are sufficient for the purpose of giving notice that entry is prohibited except for the purpose of certain activities and shall be deemed to be notice of the activities permitted. R.S.O. 1990, c. T.21, s. 7 (2).

Size

(3) A marking under this section shall be of such a size that a circle ten centimetres in diameter can be contained wholly within it. R.S.O. 1990, c. T.21, s. 7 (3).

Posting

(4) Markings under this section shall be so placed that a marking is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies. R.S.O. 1990, c. T.21, s. 7 (4).

	<p>Notice applicable to part of premises</p> <p>8 A notice or permission under this Act may be given in respect of any part of the premises of an occupier. R.S.O. 1990, c. T.21, s. 8.</p>
3	<p><i>Canadian Charter of Rights and Freedoms, 1982</i></p> <p><u>Section 1</u></p> <p>Rights and freedoms in Canada</p> <p>1 The <i>Canadian Charter of Rights and Freedoms</i> guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.</p> <p><u>Section 7.</u></p> <p>Life, liberty and security of person</p> <p>7 Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.</p> <p><u>Section 15.</u></p> <p>Equality before and under law and equal protection and benefit of law</p> <p>15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.</p> <p><u>Section 24(1)</u></p> <p>Enforcement of guaranteed rights and freedoms</p> <p>24 (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.</p> <p><u>Section 52(1)</u></p>

	<p>Primacy of Constitution of Canada</p> <p>52 (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.</p>
4	<p><i>Courts of Justice Act</i>, R.S.O. 1990, c. C.43,</p> <p><u>Section 11(2)</u></p> <p>Same</p> <p>(2) The Superior Court of Justice has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. R.S.O. 1990, c. C.43, s. 11 (2); 1996, c. 25, s. 9 (17).</p> <p><u>Section 144</u></p> <p>Orders enforceable by police</p> <p>144 Warrants of committal, warrants for arrest and any other orders requiring persons to be apprehended or taken into custody shall be directed to police officers for enforcement. R.S.O. 1990, c. C.43, s. 144.</p>
5	<p>Rules of Civil Procedure R.R.O. 1990, Reg. 194</p> <p>Orders on Terms</p> <p>1.05 When making an order under these rules the court may impose such terms and give such directions as are just. R.R.O. 1990, Reg. 194, r. 1.05.</p>

THE REGIONAL MUNICIPALITY OF WATERLOO
Applicant

-and-
Respondents

PERSONS UNKNOWN AND TO BE ASCERTAINED

Court File No. CV-22-00000717-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
WATERLOO REGION

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RCP-F 4C (September 1, 2020)

THE REGIONAL MUNICIPALITY OF WATERLOO
Applicant

-and-
Respondents

PERSONS UNKNOWN AND TO BE ASCERTAINED

Court File No. CV-22-00000717-0000

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