

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant
(Applicant / Cross Respondent)

and

THE ATTORNEY GENERAL FOR ONTARIO

Appellant
(Intervenor)

and

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**FACTUM OF THE PROPOSED INTERVENOR
CANADIAN CENTRE FOR HOUSING RIGHTS
ON MOTION FOR LEAVE TO INTERVENE**

Date: October 21, 2026

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Table of Contents

	Page
PART I - OVERVIEW	1
PART II – STATEMENT OF FACTS	1
Overview of CCHR’s Work	1
PART III – ISSUES AND THE LAW	5
The Test for Leave to Intervene	5
CCHR has a Real, Substantial, and Identifiable Interest in the Appeal	6
CCHR brings a Distinct and Valuable Perspective	7
CCHR is a Well-Recognized Organization with Established Expertise in Housing and Human Rights	8
PART V – ORDER SOUGHT	9

PART I - OVERVIEW

1. The proposed intervenor, the Canadian Centre for Housing Rights (“**CCHR**”), is seeking leave to intervene as a friend of the court in this Appeal. CCHR seeks leave to file a factum and present oral argument.
2. CCHR should be permitted to intervene because:
 - a) The Appeal raises issues of public interest;
 - b) CCHR can make a useful contribution to the proceedings because of its expertise, interest and perspective relating to the issues; and
 - c) CCHR’s intervention will not cause injustice to the parties.

PART II – STATEMENT OF FACTS

3. CCHR will take the appeal record as is and will not seek to supplement the facts.

Overview of CCHR’s Work

4. Since 1987, the Canadian Centre for Housing Rights has been a registered non-profit organization dedicated to promoting and protecting human rights in housing and addressing issues of homelessness and poverty.¹
5. CCHR works with affected groups and individuals to address systemic or structural causes of homelessness or inadequate housing, including (but not limited to) unhoused persons, people with disabilities, women and gender diverse people, Indigenous, and racialized persons.²
6. To advance its mandate, CCHR engages in rights-based housing policy through research, policy development, advocacy, and litigation, including:

¹ Affidavit of Jordan Gray, (“Gray Affidavit”), at para 3, Motion Record of the Proposed Intervenor, Canadian Centre for Housing Rights (“CCHR MR”), Tab 2, p 14.

² Gray Affidavit at para 17d, CCHR MR, Tab 2, p 24.

- a) assisting individuals, households or groups facing discrimination in relation to access to or occupancy of housing;
- b) helping individuals avoid eviction or, if it cannot be avoided, to avoid homelessness;
- c) conducting research into issues of housing policy or practices which may lead to homelessness;
- d) identifying and attempting to address systemic barriers to accessing adequate housing faced by vulnerable or disadvantaged groups;
- e) conducting research and public legal education on issues of human rights in housing, housing policy and practices affecting access to adequate housing or ability to remain in existing housing;
- f) assisting governments and policy-makers in identifying causes of and solutions to homelessness or inadequate housing;
- g) providing evidence or expertise to courts, tribunals, human rights bodies, parliamentary and legislative committees, task forces, human rights commissions and other bodies on issues of housing, homelessness and human rights;
- h) participating in international human rights processes to enhance compliance with international human rights in Ontario and in Canada and to promote the right to adequate housing; and
- i) intervening in test cases under laws which CCHR judges to be helpful to the interests of groups CCHR serves in terms of protecting their rights and promoting access to or the ability to remain in adequate housing.³

7. CCHR regularly appears before human rights bodies, parliamentary and legislative

³ Gray Affidavit at para 6, CCHR MR, Tab 2, p 15.

committees, commissions, task forces, and all levels of government to advocate for effective housing strategies. Recent examples include collective advocacy with partners against the use of the notwithstanding clause to clear encampments, and human rights reviews of the City of Toronto's response to evictions and homelessness during the COVID-19 pandemic. Furthermore, in 2025, CCHR supported the City of Hamilton in developing tenant education materials on housing and human rights law, and the City of Hamilton's new Renoviction License and Relocation By-Law.⁴

8. Throughout its history, CCHR has represented clients and acted in an advisory capacity in many legal challenges to policies and practices on housing rights for disadvantaged groups.

Notable housing issues raised in CCHR's past cases include:

- a. the use of rent-to-income ratios to screen out low-income tenants: *Kearney et al v Bramalea Ltd., et al.*, 1998 CanLII 29852 (ON HRT) and *Vander Schaaf v M & R Property Management Ltd. and Gerald Pearlstein*, 2000 CanLII 20867 (ON HRT);
- b. credit and reference requirements that disadvantage recent immigrants and refugees: *Ahmed v 177061 Canada Ltd (Shelter Canadian Properties Ltd.)*, 2002 CanLII 46504 (ON HRT); and
- c. occupancy rules that deny families access to housing: *Maria Cunanan v Boolean Developments Ltd.*, 2003 HRTO 17 (CanLII).⁵

9. CCHR has also coordinated interventions on leading cases to promote interpretations and applications of the *Charter* to address the rights of disadvantaged groups in need of housing.

These cases include:

- a) *Gosselin v Québec (Attorney General)*, [2002] 4 SCR 429,

⁴ Gray Affidavit at paras. 6, 13, CCHR MR, Tab 2, p 15, 20-22.

⁵ Gray Affidavit at para. 7, CCHR MR, Tab 2, p 16.

- b) *Lovelace v Ontario*, 2000 SCC 37 (CanLII), [2000] 1 SCR 950;
- c) *New Brunswick (Minister of Health and Community Services) v G. (J.)*, [1999] 3 SCR
- d) *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817
- e) *Eldridge v British Columbia (Attorney General)*, [1997] 3 SCR 624
- f) *Thibaudeau v Canada*, [1995] 2 SCR 627
- g) *Walker v Prince Edward Island*, [1995] 2 SCR 407 and *R v Prosper*, [1994] 3 SCR 236
- h) *Symes v Canada*, [1993] 4 SCR 695.⁶

10. CCHR also intervened at the Ontario Court of Appeal in a matter closely related to this case:

Heegsma v. Hamilton (City), 2026 ONCA 726.⁷

11. Finally, CCHR has a long history of providing its expertise on the application of international law to housing. In 1993, CCHR co-ordinated and represented the first domestic NGOs to appear before any United Nations human rights treaty monitoring body to make oral submissions with respect to the periodic review of a state party. CCHR has made several submissions to international bodies that highlight the violations of the right to housing in Canada. Recent submissions include:

- a) Co-authoring a submission to the UN Special Rapporteur on Adequate Housing in 2021 with the NRHN and SRAC for the Report to the UN General Assembly and Human Rights Council, entitled “Housing Discrimination & Spatial Segregation in Canada”
- b) Co-authoring a submission with the NRHN in 2021 to the UN Committee on Civil and Political Rights for the International Covenant on Civil and Political Rights (“ICCPR”), 132nd Sess, entitled “The Right to Life, Protection of the Home & Non-Discrimination in Canada,” and

⁶ Gray Affidavit at para. 8evii, CCHR MR, Tab 2, p 19.

⁷ Gray Affidavit at para. 8a, CCHR MR, Tab 2, p 18.

- c) Co-authoring a submission to the UN Committee on the Elimination of All Forms of Discrimination Against Women, 89th session, entitled “Equality, The Human Right to Housing, and Women & Gender-Diverse Persons in Canada,” in 2024.⁸

PART III – ISSUES AND THE LAW

12. The issue on this motion is whether CCHR should be granted leave to intervene. CCHR’s proposed submissions as an intervenor in this manner are grounded in the organization’s experience in promoting and protecting human rights in housing and addressing issues of homelessness and poverty.⁹

The Test for Leave to Intervene

13. It is respectfully submitted that CCHR meets the requirement for intervenor status in this Appeal.
14. Rule 13.03(2) of the *Rules of Civil Procedure*, RRO 1990, Reg 194 governs leave to intervene as a friend of the Court in the Ontario Court of Appeal and provides that the Court considers the following factors when determining whether the grant leave to intervene:¹⁰
- a. the nature of the case;
 - b. the issues which arise; and
 - c. the likelihood of the applicant being able to make a useful contribution to the resolution of the appeal without causing injustice to the immediate parties.
15. A proposed intervenor in constitutional litigation must generally meet one of the following

⁸ Gray Affidavit at para. 20, CCHR MR, Tab 2, p 27.

⁹ Gray Affidavit at paras. 3, 22, Exhibit “C” – CCHR Draft Factum, CCHR MR, Tab 2, p 14, 27, 14-56.

¹⁰ *Christian Heritage Party of Canada v. Hamilton (City)*, 2025 ONCA 700 at [para 7](#), see also *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd.*, 1990 CanLII 6886 (ON CA), 74 O.R. (2d) 164, at p. 167; *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 29, at [para 8](#); and *Caruso v. Law Society of Ontario*, 2025 ONCA 270, at [para 6](#).

criteria:

- a) the applicant has a real, substantial, and identifiable interest in the subject matter of the proceedings;
- b) the applicant has an important perspective distinct from the immediate parties; and
- c) the applicant is a well-recognized group with a special expertise and a broadly identifiable membership base.¹¹

16. In constitutional litigation, more relaxed standards apply to granting leave to intervene.

Constitutional cases can often have a “wide impact on the rights of others who are not parties to the litigation.”¹² Interventions provide affected individuals with the opportunity to be heard and give the court perspective on the important historical and sociological context of the issues raised.¹³

17. In constitutional litigation, the nature of the case weighs in favour of granting leave to intervene.¹⁴ This appeal raises profound constitutional and human rights concerns regarding the rights of unhoused persons to shelter themselves in the absence of accessible and adequate shelter spaces. The issues engage sections 7 and 15 of the *Charter*, the extent of protection against forced evictions, and the nature of municipalities’ duties regarding adequate housing options in light of international human rights obligations and legal instruments.

CCHR has a Real, Substantial, and Identifiable Interest in the Appeal

18. CCHR’s mandate and daily work directly engages the legal and policy questions before this Court. CCHR is a national non-profit organization dedicated to advancing the right to adequate housing and preventing homelessness and discrimination in housing across Canada. Its legal

¹¹ *Christian Heritage Party of Canada v. Hamilton (City)*, 2025 ONCA 700, at [para 9](#); *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 29, at [para 8](#).

¹² *Animal Justice v. Ontario (Attorney General)*, 2024 ONCA 941, at [para 12](#).

¹³ *Christian Heritage Party of Canada v. Hamilton (City)*, 2025 ONCA 700, at [para 8](#).

¹⁴ *Jones v. Tsige*, 2011 CanLII 99894 (ONCA), 106 O.R. (3d) 721, at [para 23](#).

and policy work focuses on the intersection of housing, human rights, and international law, including how the international right to housing informs the interpretation of domestic human rights and constitutional guarantees.

19. This appeal will determine how the *Charter* safeguards the rights of persons experiencing homelessness from forced evictions in the absence of appropriate shelter alternatives. The Court's decision will shape the analysis of discriminatory impact under s. 15 and proportionality and minimal impairment assessment under s. 1. It will also clarify the duties of municipalities to ensure that by-laws and enforcement practices respect both constitutional guarantees and Canada's international commitments.
20. CCHR provides direct legal assistance to tenants and unhoused persons who routinely face eviction, shelter inaccessibility, and discrimination. The laws surrounding shelter, housing rights, and evictions are a central concern for CCHR. The outcome of the appeal will have an impact on both the communities it serves, and the work CCHR engages in with its public education, outreach, policy development, and law reform activities. Therefore, CCHR has a substantial and identifiable interest in the subject matter of this appeal.

CCHR brings a Distinct and Valuable Perspective

21. CCHR is well-positioned to contribute a perspective that is legally grounded and distinct from the submissions of the parties. Drawing on its national and international expertise in housing and human rights, CCHR will focus its submissions on:
 - a. The use of international instruments in interpreting the rights and protections guaranteed by s. 15 of the *Charter* and in determining whether homelessness ought to be recognized as an analogous ground;

- b. International law and norms relating the right to housing will assist the Court in evaluating whether the bylaw amounts to substantive discrimination under s. 15 of the *Charter*; and
- c. International law and norms relating to proportionality in evictions will assist the Court in determining whether bylaw can pass the minimal impairment and proportionality tests of s. 1 of the *Charter*.

22. CCHR will assist the Court in situating the *Charter* issues within Canada's broader human rights framework, ensuring that constitutional interpretation reflects the foundational values of human dignity, equality, and social justice in a free and democratic society that underlie both the *Charter* and Canada's treaty obligations.

CCHR is a Well-Recognized Organization with Established Expertise in Housing and Human Rights

23. Finally, it is respectfully submitted that CCHR is a long-standing and highly respected authority on housing and human rights. It has collaborated with municipal, provincial, and federal governments, United Nations bodies, and civil-society partners to advance rights-based housing policy.¹⁵ CCHR has appeared before courts, tribunals, and legislative committees, has participated in landmark cases including *Kearney v Bramalea Ltd*, *Baker v Canada*, *Eldridge v British Columbia*, and *Gosselin v Quebec*.¹⁶ It has also contributed to numerous national and international processes concerning Canada's implementation of the right to housing, which binds both provincial and municipal governments.¹⁷

24. Given its established record, specialized expertise, and national reach, CCHR's intervention will assist the Court by offering authoritative context and principled submissions grounded in

¹⁵ Gray Affidavit at paras 12-14, CCHR MR, Tab 2, pp 20-22.

¹⁶ Gray Affidavit at paras 7-8, CCHR MR, Tab 2, pp 16-19.

¹⁷ Gray Affidavit at para. 13, 20, CCHR MR, Tab 2, p 20-22, 27.

domestic and international human rights law.

PART V – ORDER SOUGHT

25. The Canadian Centre for Housing Rights seeks an order granting it:

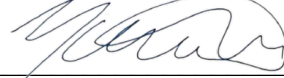
- a) leave to intervene as a friend of the Court in this proceeding on a without costs basis;
- b) leave to file a factum not to exceed 10 pages;
- c) leave to present oral submissions at the hearing of the appeal not to exceed 10 minutes;
- and
- d) such further and other relief as counsel may advise and this Honourable Court may permit.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 21st day of October, 2026.



per:

Canadian Centre for Housing Rights



Goldblatt Partners

Lawyers for the Proposed Intervenor,
Canadian Centre for Housing Rights

CERTIFICATE OF AUTHENTICITY

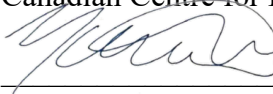
I, **Naomi Greckol-Herlich**, counsel for the proposed intervenor, the Canadian Centre for Housing Rights, certify that I am satisfied as to the authority of every authority cited in this factum, pursuant to Rule 4.06.1(2.1) of the *Rules of Civil Procedure*.

October 21, 2026



per:

Canadian Centre for Housing Rights



Goldblatt Partners

Lawyers for the Canadian Centre for
Housing Rights

SCHEDULE “A” — CASES

1. *Animal Justice v. Ontario (Attorney General)*, [2024 ONCA 941](#)
2. *Ahmed v 177061 Canada Ltd (Shelter Canadian Properties Ltd.)*, [2002 CanLII 46504](#) (ON HRT)
3. *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, [1999 CanLII 699](#) (SCC)
4. *Caruso v Law Society of Ontario*, [2025 ONCA 270](#)
5. *Christian Heritage Party of Canada v Hamilton (City)*, [2025 ONCA 700](#)
6. *Cunanan v Boolean Developments Ltd.*, [2003 HRT0 17](#)
7. *Eldridge v British Columbia (Attorney General)*, [1997] 3 SCR 624, [1997 CanLII 327](#) (SCC)
8. *Gosselin v Québec (Attorney General)*, [2022 SCC 84](#)
9. *Reference re Greenhouse Gas Pollution Pricing Act*, [2019 ONCA 29](#)
10. *Heegsma v Hamilton (City)*, [2026 ONCA 726](#)
11. *Jones v. Tsige*, [2011 CanLII 99894](#) (ONCA), 106 O.R. (3d) 721.
12. *Kearney v Bramalea Ltd. (No.2)*, [1998 CanLII 29852](#) (ON HRT)
13. *Lovelace v Ontario*, [2000 SCC 37](#)
14. *New Brunswick (Minister of Health and Community Services) v G. (J.)*, [1999] 3 SCR 46, [1999 CanLII 653](#) (SCC)
15. *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd.*, [1990 CanLII 6886](#) (ON CA), 74 O.R. (2d) 164
16. *R v Prosper*, [1994] 3 SCR 236, [1994 CanLII 65](#) (SCC)
17. *Reference re Greenhouse Gas Pollution Pricing Act*, [2019 ONCA 29](#)
18. *Symes v Canada*, [1993] 4 SCR 695, [1993 CanLII 55](#) (SCC)
19. *Thibaudeau v Canada*, [1995] 2 SCR 627, [1995 CanLII 99](#) (SCC)
20. *Vander Schaaf v M & R Property Management Ltd.*, [2000 CanLII 20867](#) (ON HRT)
21. *Walker v Prince Edward Island*, [1995] 2 SCR 407, [1995 CanLII 92](#) (SCC)

SCHEDULE “B” — LEGISLATION

Rules of Civil Procedure, RRO 1990, Reg 194, r 13.03 (2)

LEAVE TO INTERVENE AS FRIEND OF THE COURT

13.03 (2) Leave to intervene as an added party or as a friend of the court in the Court of Appeal may be granted by a panel of the court, the Chief Justice or Associate Chief Justice of Ontario or a judge designated by either of them. R.R.O. 1990, Reg. 194, r. 13.03 (2); O. Reg. 186/10, s. 2.

THE REGIONAL MUNICIPALITY OF WATERLOO
Appellant

- and -

THE ATTORNEY GENERAL FOR ONTARIO
Respondent

Court File Nos. COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

**FACTUM OF THE PROPOSED
INTERVENER CANADIAN CENTRE FOR
HOUSING RIGHTS**

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