

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

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE, JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS, JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND PERSONS UNKNOWN

MOTION RECORD for MOTION FOR LEAVE TO INTERVENE
(Canadian Centre for Housing Rights, Proposed Intervenor)

October 21, 2026

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The Mental Health Legal Committee**

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

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NOTICE OF MOTION FOR LEAVE TO INTERVENE
(Canadian Centre for Housing Rights, Proposed Intervenor)

The Proposed Intervenor, the Canadian Centre for Housing Rights ("CCHR"), will make a motion to the Court on November 10, 11 or 12, 2026 at 10:00 AM (in accordance with the Directions of Case Management Judge Huscroft J.A., in follow up to the meeting on July 23, 2026) or as soon after that time as the motion can be heard, at Osgoode Hall, 130 Queen Street West, Toronto.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- ☐ In writing under subrule 37.12.1 (1) because it is on consent;
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference (zoom)

THE MOTION IS FOR:

1. An order permitting the Proposed Intervenor to intervene as a friend of the Court for the purpose of providing assistance to the Court by way of written and oral argument in this Appeal.
2. Such further and other order as this Court may deem appropriate.

THE GROUNDS FOR THIS MOTION ARE:

1. The Appellant challenges a finding of the Superior Court that its By-law 25-021 and its enforcement of that By-law – both of which relate to the eviction and displacement of persons residing in encampments – are in breach of sections 7 and 15 of the *Canadian Charter of Rights and Freedoms* and that the By-law and its enforcement cannot be saved by section 1 of the *Charter*. This case grapples with whether homelessness is an analogous ground for the purposes of section 15 of the *Charter*, and more broadly with the principles that govern government conduct that impacts peoples' ability to shelter, and the limits on government to breach constitutional rights under section 1.
2. CCHR is Canada's leading registered non-profit organization dedicated to promoting human rights in housing, eliminating housing discrimination, and

ensuring the right to adequate housing as guaranteed under domestic and international human rights law. Since its inception in 1987, CCHR has achieved its mission through direct individual and test case legal representation, public legal education, policy advocacy and development, academic research, and law reform.

3. Given CCHR's mandate, special knowledge, and deep expertise, as described in the Affidavit of the Executive Director, Jordan Gray, CCHR believes that it can assist the Court in its consideration of the appeal.
4. Specifically, CCHR seeks to assist the Court by offering a distinct perspective, grounded in its expertise in housing law, human rights, and international obligations. Its submissions will focus on how international human rights law informs the interpretation of section 15 (including how the analogous ground test should be applied to homelessness) and section 1 of the Charter in the context of forced evictions and encampment clearances.
5. CCHR will address how international human rights law, including international law with respect to the right to adequate housing, informs substantive equality provisions under the Charter. Specifically, CCHR will address how:
 - a) International law is instructive on interpreting s. 15 of the *Charter*;
 - b) International law is a helpful source for considering whether a new analogous ground of homelessness should be recognized;
 - c) International law can provide useful guidance on whether substantive discrimination has occurred under the second part of the s.15(1) test; and
 - d) International law can inform the minimal impairment and proportionality tests

under s.1 of the *Charter*.

6. This appeal raises matters of public importance, determining how the Charter safeguards the rights of persons experiencing homelessness from forced evictions in the absence of shelter alternatives. The outcome of this appeal will shape the analysis of discriminatory impact under section 15, and proportionality and minimal impairment assessment under section 1. It will further clarify the duties of municipalities to ensure that by-laws and enforcement practices respect both constitutional guarantees and Canadian's international commitments.
7. The outcome will have a direct impact on the work of CCHR and the rights of the clients it serves. Accordingly, CCHR seeks to intervene in the appeal in order to bring a unique perspective on the issues raised by the parties. The submissions that CCHR proposes to make are explained further in the corresponding Motion Factum of the Proposed Intervenor.
8. CCHR does not seek to repeat the arguments of other parties. Consistent with the role of intervenors, CCHR will take no position on the disposition of this appeal. Its participation will not cause prejudice to the parties and will not delay the proceeding. CCHR seeks to file a factum of up to 10 pages in length and make oral submissions of 10 minutes. CCHR will not expand the record, will not seek costs, and asks that it will not be subject to a costs order.
9. Rule 13.03(2) of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194.
10. Such further grounds as counsel may see fit to raise and may be permitted by this Honourable Court.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

11. The Affidavit of Jordan Gray, affirmed October 21, 2026; and
12. Such further and other material as counsel may advise and this Court permit.

October 21, 2026

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AFFIDAVIT OF JORDAN GRAY

I, **Jordan Gray**, of the City of Mississauga, in the Province of Ontario, hereby AFFIRM
THAT:

1. I am the Executive Director of the Canadian Centre for Housing Rights
("CCHR"), formerly known as the Centre for Equality Rights in Accommodation.
As such, I have personal knowledge of the facts and matters hereinafter deposed
to. Where specific CCHR activities are referred to below in which I have had no
personal participation, I have reviewed the relevant files, documentation or

submissions and base my account thereof on this knowledge. I make this affidavit in support of CCHR's application for leave to intervene in this appeal, and for no other, or improper, purpose.

2. In my role as Executive Director of CCHR, I provide strategic and organizational leadership to advance CCHR's mission of promoting and protecting human rights in housing. In close partnership with the Board of Directors¹, which governs CCHR, I develop and implement organizational strategy, oversee operations and financial management, support fundraising and partnership development, and represent CCHR in public, media, policy, and advocacy forums. I also work with governments, community organizations, and sector partners across Canada to advance housing rights, prevent homelessness, and strengthen housing policy and human rights protections.

The Canadian Centre for Housing Rights (“CCHR”)

3. Founded in 1987, CCHR is a national non-profit corporation with charitable status dedicated to promoting and protecting human rights in housing and addressing issues of homelessness and poverty.
4. Until 2022, CCHR was called the Centre for Equality Rights in Accommodation. A copy of CCHR's Letters Patent is attached and marked as **Exhibit “A”** to this Affidavit. Articles of Amendment, reflecting CCHR's name change, are attached and marked as **Exhibit “B”** to this Affidavit.

¹ Ontario Corporation Number: 730858; Charitable Registration Number: I 06897853RR000 I.

5. Since its formation, CCHR has provided direct services to, advocated on behalf of, and acted as counsel to thousands of people who face discrimination in housing, substandard housing conditions impacting their health, or eviction. The majority of CCHR's clients are either at serious risk of homelessness or are experiencing homelessness.
6. To advance its purpose, CCHR engages in rights-based housing policy through research, policy development, advocacy, and litigation, including:
 - 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 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 the groups CCHR serves in terms of protecting their rights and promoting access to or the ability to remain in adequate housing.

CCHR's Expertise on Issues Relevant to this Appeal

A) CCHR's Participation in Several Legal Challenges Related to Housing

7. CCHR has represented clients and acted in an advisory capacity in many ground-breaking [legal challenges](#) to policies and practices on housing rights for disadvantaged groups. These have included challenges to:

- (a) the termination of a rent-geared-to-income subsidy in *Mackenzie v. Ottawa Community Housing Corp.*, [2023 ONCA 43](#), where CCHR intervened;
 - i. the use of rent-to-income ratios to screen out low-income tenants: *Kearney v Bramalea Ltd. (No.2)*, [1998 CanLII 29852 \(ON HRT\)](#) and *Vander Schaaf v M & R Property Management Ltd.*, [2000 CanLII 20867 \(ON HRT\)](#);

- ii. credit and reference requirements that disadvantage recent immigrants and refugees: *Ahmed v 177061 Canada Ltd (Shelter Canadian Properties Ltd.)*, [2002 CanLII 46504 \(ON HRT\)](#);
 - iii. occupancy rules that deny families access to housing: *Cunanan v Boolean Developments Ltd.*, [2003 HRTO 17](#);
 - iv. questions on tenancy applications that target families with children: *St. Hill v VRM Investments Ltd. and Ray Milosevic*, [2004 HRTO 1](#);
 - v. the use of job tenure to screen out young, first-time renters and newcomers: *Sinclair v Morris A. Hunter Investments Ltd.*, [2001 CanLII 26232 \(ON HRT\)](#);
 - vi. social housing subsidy rules that apply only to social assistance recipients: *Iness v Caroline Co-operative Homes Inc.*, [2006 HRTO 19](#); and
 - vii. inadequate levels of assistance for housing costs within social assistance benefits: *C B v Her Majesty the Queen in Right of Ontario*, as represented by the Minister of Community, Family and Children's Social Services (Unreported, Ontario Human Rights Commission, File No JWIS-5JUR3L, 17 March 2004).
8. CCHR has also worked at a national level to promote interpretations and applications of the law, in particular the *Canadian Charter of Rights and Freedoms*, to address the rights of equity-seeking groups in need of housing. Such work has included:

- a) Intervening at the Ontario Court of Appeal in a matter closely related to this case: *Heegsma v. Hamilton (City)*, [2026 ONCA 726](#).
- b) Leading a coalition of organizations and serving as a plaintiff on *Tanudjaja v. Canada (Attorney General)*, [2014 ONCA 852](#),² a challenge to the federal and Ontario governments for violations of section 7 and 15 of the Charter for creating and maintaining conditions that lead to and sustain homelessness and inadequate housing;
- c) Providing legal research and argument in *Toussaint v Canada (Attorney General)*, 2011 FCA 213 on the question of whether poverty is an analogous ground of discrimination under section 15 of the Charter;
- d) Providing legal research to the Poverty and Human Rights Centre for *Victoria (City) v Adams*, [2008 BCSC 1363](#), the leading case on the “right to shelter” for individuals living in encampment
- e) Coordinating the Charter Committee on Poverty Issue (“CCPI”) on several interventions at the Supreme Court of Canada, including:
 - i. *Gosselin v Québec (Attorney General)*, [2002 SCC 84](#), which addressed the government’s obligations to provide social assistance;
 - ii. *Lovelace v Ontario*, [2000 SCC 37](#); *New Brunswick (Minister of Health and Community Services) v G. (J.)*, [\[1999\] 3 SCR 46](#) dealing with access to legal aid for those living in poverty;

² *Tanudjaja v. Canada (Attorney General)*, [2014 ONCA 852](#).

- iii. *Baker v Canada (Minister of Citizenship and Immigration)*, [\[1999\] 2 SCR 817](#), on the status of international human rights law in the exercise of administrative discretion;
 - iv. *Eldridge v British Columbia (Attorney General)*, [\[1997\] 3 SCR 624](#) on positive obligations to address needs of disadvantaged groups under section 15 of the Charter;
 - v. *Thibaudeau v Canada*, [\[1995\] 2 SCR 627](#) on the rights of single mothers;
 - vi. *Walker v Prince Edward Island*, [\[1995\] 2 SCR 407](#) and *R v Prosper*, [\[1994\] 3 SCR 236](#) on the right to state-funded counsel for impoverished accused; and
 - vii. *Symes v Canada*, [\[1993\] 4 SCR 695](#) on the application of section 15 of the *Charter* to socio-economic policies and taxation.
- f) Intervening in *Duncan v Toronto Community Housing Corp.*, [2015 ONSC 4728](#) (CanLII), a Divisional Court decision concerning the Landlord and Tenant Board's failure to properly consider whether a tenant's addiction issues had prevented him from attending a hearing.

B) CCHR's Expertise in Supporting Groups in Accessing or Maintaining Adequate and Secure Housing

9. In addition to the legal challenges outlined above, CCHR has also performed individual case work and eviction prevention. These services are provided at no cost to low-to-middle income people who are already vulnerable to housing

precarity and who otherwise would be unable to afford legal services.

10. These services include individualized legal services, including legal advice, completing Landlord and Tenant Board applications, and representation, to approximately 800 individuals per year in the City of Toronto and the Regional Municipality of York. Supports that CCHR provides include, among other things, help with maintenance applications, and representation before the Landlord and Tenant Board on no-fault evictions and above guideline rent increases.
11. CCHR also runs a helpline for tenants throughout Ontario that provides legal information to approximately 2,000 individuals and families each year who are facing housing precarity in Ontario. CCHR's main goal is to help tenants understand their rights with the goal of helping them stay in their homes.

C) CCHR's Public Education and Advocacy Work

12. CCHR has worked extensively on law reform and policy initiatives at all levels of government, bringing forward evidence and human-rights based recommendations to address housing barriers that perpetuate and exacerbate housing insecurity, precarity, and homelessness for equity-deserving groups. A priority area of work in recent years for CCHR has been to assist governments and reviewing bodies to better understand the need for housing strategies based on human rights principles and how to put those principles into practice.
13. Such examples include:
 - a) Submission to the [Federal House of Common Standing Committee on Finance for the 2025 Federal Pre-Budget Consultations](#), including

recommendations to provide immediate support to renters and people experiencing homelessness (August 2025);

- b) Submission to the Ontario Ministry of Municipal Affairs and Housing and Ministry of the Attorney General on [housing-related bills passed during the 44th Parliament, 1st session](#), including on Bill 6, *Safer Municipalities Act, 2025*, which will increase policing, impose fines and jail time, and evict encampment residents suspected of possessing illegal drugs (June 2025);
- c) Submission to the City of Toronto Council on [“Identifying and Addressing Pressures in the Refugee and Emergency Shelter System”](#) (March 2025) alongside the Right to Housing Toronto Network;
- d) Submission to the National Housing Council Review Panel on [“The right to housing for women, Two-Spirit, and gender diverse people”](#) (March 2024);
- e) In 2024, collective advocacy with partners in the housing, homelessness, and harm reduction sectors against the use of the notwithstanding clause to clear encampments;³
- f) Co-writing the reports “Setting a national standard on gender-sensitive and human rights approaches for emergency shelters” (2024)⁴ and Ending Homelessness and Preventing Evictions in Toronto – Rights Review

³ “Joint statement: Ontario must respect the human rights of encampment residents, not deny them through the notwithstanding clause” (29 November 2024) <https://housingrightscanada.com/joint-statement-ontario-must-respect-the-human-rights-of-encampment-residents-not-deny-them-through-the-notwithstanding-clause/>

⁴ “Setting a national standard on gender-sensitive and human rights approaches for emergency shelters” (3 July 2024) <https://housingrightscanada.com/reports/setting-a-national-standard-on-gender-sensitive-and-human-rights-approaches-for-emergency-shelters/>

(2023),⁵ a review of the City of Toronto's response to evictions and homelessness during the COVID-19 pandemic.

g) Submission to the Regional Council of the Municipality of Peel on [“Improving Health Care Services for the Homeless in Peel”](#) (March 2022);

14. In addition to its broader advocacy work, CCHR also provides public legal education to tenant and service provider groups throughout Ontario (particularly in the Greater Toronto-Hamilton Area) on a wide-range of housing and human rights law topics. In 2024, these training sessions reached nearly 4,500 people. In 2025, CCHR supported the City of Hamilton in developing tenant education materials on housing and human rights law, as well as on Hamilton's new Renoviction-prevention bylaw

CCHR has an Interest in this Appeal

15. The issues raised in this appeal are significant to CCHR, its members, and those it serves.

16. Firstly, the law surrounding shelter, housing rights, evictions and homelessness is of central concern for CCHR and has long been a focus of CCHR's research and advocacy, as outlined in detail above.

17. Secondly, CCHR represents a constituency directly affected by housing issues, including for example individuals facing imminent eviction. Our organization and members are actively engaged in promoting housing rights across Canada,

⁵ “Ending Homelessness and Preventing Evictions in Toronto – Rights Review” (February 2023) <https://right2housingto.ca/wp-content/uploads/2023/03/Rights-Review-Homelessness-and-evictions-Feb.-2023.pdf>

including in Ontario. Clients who use CCHR's individualized services are predominantly low-income members of equity-deserving groups who face significant discrimination. Some of the major client-groups with whom CCHR works with include the following:

- a) People Experiencing Homelessness: These individuals face several barriers to obtaining tenancy, including deeply entrenched stigma associated with homelessness; low social assistance rates paid to those living in a shelter which prevent them from meeting income qualifications required by most landlords; and lack of access to internet, a computer, or a direct phone line. These barriers leave these individuals trapped in chronic homelessness.
- b) Women and gender diverse people: The majority of CCHR's clients are women. CCHR investigates the economic and social conditions that contribute to gender inequality in housing. In July 2024, CCHR engaged with partners in a project and ultimate report entitled "Human Rights-Based, Gender Sensitive National Standards for Emergency Shelters Across Canada,"⁶ which demonstrated the extent to which women and gender-diverse people are more likely to have trouble finding safe and secure places to live, such as due to being denied access to emergency shelters as a result of over-capacity; experiencing difficulties leaving abusive relationships; experiencing difficulties meeting credit and rental history

⁶ "Human Rights-Based, Gender-Sensitive National Standards for Emergency Shelters across Canada" (July 2024) <https://womenshomelessness.ca/wp-content/uploads/National-Standards-for-Emergency-Shelters-Across-Canada.pdf>

requirements, in particular when leaving abusive relationships; and facing gender-based discrimination and violence, including in shelters

- c) Indigenous People: Due to colonization, forced displacement, and dispossession of Indigenous peoples from their lands and territories, there is currently a disproportionate rate of housing need and homelessness among Indigenous people.⁷
- d) People with Disabilities: As illustrated in CCHR's March 2025 report "Measuring Discrimination in Rental Housing Across Canada,"⁸ people with disabilities are one of the groups most widely and openly discriminated against by landlords, many of whom are also in receipt of social assistance or living on a very low income. CCHR is also leading a multi-year, multi-sectoral research project on the "Right to Housing for Disabled People in Canada".⁹
- e) People who Are Racialized: In CCHR's experience and research, discrimination based on race and its related characteristics represent serious barriers to housing. CCHR has In a 2025 report, CCHR found racialized individuals were over 9% more likely to be rejected from a landlord than white individuals.¹⁰ Housing providers who do not want to rent

⁷ See, e.g. this article from Homeless Hub: <https://homelesshub.ca/collection/population-groups/indigenous-peoples/>, and this report from CMHC: <https://www.cmhc-schl.gc.ca/professionals/housing-markets-data-and-research/housing-research/research-reports/housing-needs/indigenous-housing-needs-conditions>.

⁸ "Measuring Discrimination in Rental Housing Across Canada" (4 March 2025) https://housingrightscanada.com/wp-content/uploads/2025/03/Report-Measuring-Discrimination-in-Rental-Housing-Across-Canada-M.Earle_G.Hodson_S.OManique-March-2025.pdf

⁹ "Research Project: The Right to Housing for Disabled People in Canada" (9 December 2024) <https://housingrightscanada.com/research-project-the-right-to-housing-for-disabled-people-in-canada/>

¹⁰ "Measuring Discrimination in Rental Housing Across Canada," *supra* note 8.

to racialized persons use indirect ways of discriminating. Among other things, racialized groups are more likely to be disqualified by landlords' income requirements as they are more vulnerable to poverty and low income.

18. Thirdly, CCHR's expertise in ensuring Canada complies with its international human rights obligations with respect to housing issues further motivates its participation in this appeal. CCHR has a long history of assisting international human rights bodies who are participating in the review of Canada's human rights record to ensure they are provided with adequate information regarding Canada's compliance with its international human rights obligations:

- a) In [2005, 2006](#), and [2008](#), CCHR worked in partnership with approximately twenty non-government organizations across Canada to prepare joint submissions to the UN Committee on Economic, Social and Cultural Rights and the UN Committee on the Elimination of Discrimination Against Women about Canada's performance with respect to addressing women's poverty and housing disadvantage.
- b) In 2011, CCHR collaborated with [UN-HABITAT](#) – a specialized agency of the United Nations dealing with issues of housing and homelessness – and drafted a policy guide on land and property rights for Indigenous peoples.
- c) More recently, CCHR has made several submissions to international bodies that highlight the violations of the right to housing in Canada. For example, CCHR has:

- i. Co-authored a submission to the UN Committee on the Elimination of All Forms of Discrimination, entitled [“Equality, the human right to housing and women and gender-diverse people in Canada”](#) (September 2024)
- ii. Co-authored a submission to the UN Special Rapporteur on Adequate Housing in 2021 with the National Right to Housing Network (“NRHN”) and Social Rights Advocacy Centre for the Report to the UN General Assembly and Human Rights Council, entitled [“Housing Discrimination & Spatial Segregation in Canada”](#) (May 2021)
- iii. Co-authored a submission with the NRHN 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,”](#) which assessed the housing and homelessness crisis in accordance with Articles of the International Covenant on Civil and Political Rights (May 2021).

Assistance to be Provided by CCHR

19. This appeal concerns the constitutionality of sheltering restrictions and park encampment evictions enacted by the Region of Waterloo By-law 25-021. At issue on appeal is whether the Gibson J. correctly determined that By-law 25-021 violates sections 7 and 15 of the *Canadian Charter of Human Rights and Freedoms* (“the *Charter*”) and cannot be justified by section 1. One of the specific issues on appeal is whether homelessness is an analogous ground for the purposes of s. 15.

20. CCHR would bring a unique perspective to bear on the issues raised by the parties, specifically with respect to the status of homelessness as an analogous ground under s. 15 and the role that international law has in informing the legal analysis of ss. 15 and s. 1 of the Charter. Given CCHR' s mandate, special knowledge, and expertise as described above, I believe that CCHR can assist this Honourable Court in making useful and distinct submissions in this Application.

21. As set out in greater detail in CCHR's Draft Factum, if granted leave to intervene, CCHR proposes to make submissions relating to the following:

- a) International law is instructive on interpreting s. 15 of the *Charter*;
- b) International law is a helpful source for considering whether a new analogous ground of homelessness should be recognized;
- c) International law can provide useful guidance on whether substantive discrimination has occurred under the second part of the s.15(1) test;
- d) International law can inform the minimal impairment and proportionality tests under s.1 of the *Charter*.

22. I have reviewed the draft factum for intervening to this affidavit and confirm that this consists of an outline of the submissions that CCHR proposes to make if we are granted leave to intervene. A copy of the draft factum is attached as **Exhibit "C"** to this affidavit.

23. CCHR believes these submissions will be helpful to the Court in interpreting the

Charter obligations of municipalities when engaging in forced evictions, which is at issue in this appeal.

24. CCHR believes its submissions will not duplicate those of the parties to the appeal.

25. CCHR seeks leave to file a factum of up to 10 pages and make oral argument of 10 minutes at the hearing of this appeal.

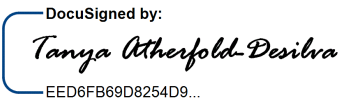
26. If granted leave to intervene, CCHR would not:

- a) take any position on the order that should be made by the Court.
- b) seek costs. CCHR respectfully requests that no costs be awarded against it.
- c) take a position on the ultimate disposition of the appeal.

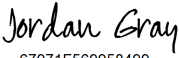
27. I believe that CCHR's proposed intervention will not cause any injustice to the parties or otherwise prejudice their interests, because CCHR will:

- a) not file any additional evidence or add to the appeal record;
- b) not unduly expand the issues or raise new issues;
- c) not unreasonably delay or lengthen the hearing of the appeal;
- d) work with the parties and any other intervenors to avoid duplicative submissions and to ensure an efficient presentation of its position;
- e) abide by any schedule set by the Court; and
- f) comply with any terms, conditions, or limitations that this Court imposes on its participation in the appeal as an intervenor.

28. This Affidavit is made in support of this motion for leave to intervene and for no improper purpose.

AFFIRMED REMOTELY by Jordan Gray)
in the City of Mississauga in the Province)
of Ontario, before me at the City of)
Brampton, in the Province of Ontario on)
the 21st day of October, 2026 in)
accordance with [O. Reg. 431/290](#))
Adminstrating Oath or Declaration)
Remotely)
)
_____))
Commissioner for Taking Oaths, etc)
)

Tanya Atherfold-Desilva, a Commissioner,
etc. Province of Ontario for Goldblatt Partners
LLP, Barristers and Solicitors. Expires
September 9, 2027.

Signed by:

67971F569958499...

Jordan Gray

Exhibit "A"
CCHR Letters Patent
October 8, 1987

This is Exhibit "A" to the Affidavit of Jordan Gray affirmed before me remotely at
Toronto, in the Province of Ontario, on this 21st day of October 2026

DocuSigned by:
Tanya O'herfold-Desilva
EED6FB69D8254D9...

Commissioner for Taking Oaths, etc.



Ministry of
Consumer and
Commercial
Relations

Ministère de la
Consommation
et du
Commerce

31

Ontario Corporation
Number

730858

Numéro ontarien de
l'association

Letters Patent

By virtue of the powers vested in me under the Corporations Act, I do by these Letters Patent issue a charter to the applicants named in the application attached hereto and which forms part of these Letters Patent, constituting them a corporation without share capital under the name

Lettres patentes

En vertu des pouvoirs qui me sont conférés par la Loi sur les compagnies et associations, j'accorde par les présentes lettres patentes une charte aux requérants(es) dont les noms figurent dans la demande ci-jointe, qui fait partie intégrante desdites lettres patentes, les constituant en association portant le nom de

CENTRE FOR EQUALITY RIGHTS IN ACCOMMODATION IN ONTARIO

The Letters Patent are subject to the following terms and conditions:

Les lettres patentes sont soumises aux modalités suivantes:

- (a) The corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects;
- (b) The directors shall serve as such without remuneration, and they shall not directly or indirectly receive any profit from their position as such; provided that directors may be paid reasonable expenses incurred by them in the performance of their duties;
- (c) Upon the dissolution of the corporation and after the payment of all debts and liabilities, its remaining property shall be distributed or disposed of to charitable organizations which carry on their work solely in Canada.

- (a) L'association poursuivra ses activités sans objectif de profit pour ses membres et tous les bénéfices ou la plus-value revenant à l'association seront utilisés de façon à promouvoir ses objets;
- (b) Les administrateurs(trices) rempliront leurs fonctions sans rémunération et ne devront pas en tirer profit, directement ou indirectement; mais ils peuvent être défrayés de dépenses raisonnables qu'ils auront encourues dans l'exercice de leurs fonctions;
- (c) A la dissolution de l'association et après liquidation de toutes ses dettes et de son passif, les biens restants seront distribués aux organismes de bienfaisance qui poursuivent leurs activités seulement en Canada.

Dated/Daté: October 8 octobre 1987.

William Wrye

Minister
Ministre

per par:

Henry H. Ozolins
Director/Directeur

730858

1

Trans Code	Line No.	Stat	Comp Type	Method Incorp.
A	0	0	B	1
18	20	28	29	30
Share	Notice Rec'd	Jurisdiction		
N	Y	ONTARIO		
31	32	33	47	

APPLICATION FOR INCORPORATION OF A CORPORATION WITHOUT SHARE CAPITAL
REQUÊTE EN CONSTITUTION D'UNE ASSOCIATION

Form 2
Corporations
Act
Formulaire
numéro 2
Loi sur les
compagnies et
associations

1. The name of the corporation is/Nom de l'association:

[illegible]

2. The address of the head office of the corporation is/Adresse du siege social:

229 College Street, Suite 308

(Street & Number or R.R. Number & if Multi-Office Building give Room No.)
(Rue et numéro ou R.R. et numéro et, s'il s'agit d'un édifice à bureaux, numéro du bureau)

Toronto, Ontario

(Name of Municipality or Post Office)
(Nom de la municipalité ou du bureau de poste)

M	5	T	1	R	4
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(Postal Code/Code postal)

3. The head office of the corporation is situated in/Le siège social se trouve à:

Municipality of

Metropolitan Toronto

(Name of Municipality, Geographical Township;
(Nom de la municipalité, canton)

in the Judicial District of York

dans le _____
(County District, Regional Municipality)
(Comté, district, municipalité régionale)

4. Address of clubhouse or similar premises (if any) is:

Adresse du local de l'association ou autre endroit utilisé aux mêmes fins, s'il y a lieu:

The corporation shall not maintain a clubhouse or similar

(Street & Number or R.R. Number & if Multi-Office Building give Room No.)
(Rue et numero ou R.R. et numero et, s'il s'agit d'un edifice à bureaux, numero du bureau)

premises.

(Name of Municipality or Post Office)
(Nom de la municipalité ou du bureau de poste)

--	--	--	--	--	--

(Postal Code: Code postal)

5. The applicants who are to be the first directors of the corporation are:

Requérants appelés à devenir les premiers administrateurs de l'association:

Name in full, including all first, middle names
Nom et prénoms au complet

Residence address, giving Street & No. or R.R. No. & Municipality or Post Office and Postal Code
Adresse personnelle y compris la rue et le numéro ou la R.R. et le numéro, le nom de la municipalité ou du bureau de poste et le code postal

Kenneth Michael Sosa

40 Lark Street, Toronto, Ontario M4L 3M6

Barbara Agnes Hansen

27 Walmer Road, Apt. 409, Toronto M5R 2X2

Rosalind Mary Waters

110 Jameson Ave. Apt. 501 Toronto M6K 2X9

Merrie-Ann Mary McCrea

9 Crown Hill Place, Apt. 302, Etobicoke M8Y 4C5

6. The objects for which the corporation is incorporated are:
Objets pour lesquels l'association est constituée:
- a) To provide advice and assistance, representation and referral to victims of discrimination in accommodation in Ontario to help them to enforce their human rights.
 - b) To provide educational materials and programs in human rights in accommodation to groups who face discrimination, to landlords and to the public at large.
 - c) To promote attitudes which will encourage respect for equality rights in housing.
 - d) To prepare and offer training programs in human rights in accommodation.
 - e) To encourage and facilitate effective public education and enforcement of human rights in accommodation by the Ontario Human Rights Commission or by other agencies, organizations, institutions and levels of government.
 - f) To cooperate with other organizations, whether incorporated or not, which have objects similar in whole or in part to the objects of the corporation.
 - g) To solicit, receive and hold grants, donations, gifts, legacies and bequests and to expend the same in furtherance of the objects of the corporation.
 - h) To engage in fund-raising to assist in achieving the objects of the corporation.
 - i) To engage in other activities as may seem expedient in promoting respect for and enforcement of equality rights in accommodation.

TAB 2

34

7. The special provisions are/Dispositions particulières:
- a) The corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects.
 - b) The directors shall serve as such without remuneration, and no director shall directly or indirectly receive any profit from her or his position as such; provided that a director may be paid reasonable expenses incurred by him or her in the performance of his or her duties.
 - c) The borrowing power of the corporation pursuant to any by-law passed and confirmed in accordance with section 59 of the Corporations Act shall be limited to borrowing money for current operating expenses, provided that the borrowing power of the corporation shall not be so limited if it borrows on the security of real or personal property.
 - d) Upon the dissolution of the corporation and after the payment of debts and liabilities, its remaining property shall be distributed or disposed of to charitable organizations which carry on their work solely in Canada.

TAB 2

35

4.

8. The names and residence addresses of the applicants are:
Noms et adresses personnelles des requérants:

Name in full, including all first, middle names Nom et prénoms au complet	Residence address, giving Street & No. or R.R. No. & Municipality or Post Office and Postal Code Adresse personnelle y compris la rue et le numéro ou la R.R. et le numéro et la municipalité ou le bureau de poste et le code postal	Calling (occupation) Profession
Kenneth Michael Sosa	40 Lark Street, Toronto M4L 3M6	Community Worker
Barbara Agnes Hansen	27 Walmer Road, Apt. 409 Toronto M5R 2X2	Community Worker
Rosalind Mary Waters	110 Jameson Avenue, Apt. 501 Toronto M6K 2X9	Community Legal Worker
Merrie-Ann Mary McCrea	9 Crown Hill Place, Apt. 302 Etobicoke M8Y 4C5	Student

This application is executed in duplicate.
Cette requête est faite en double exemplaire.

Signatures of applicants/Signature des requérants

Kenneth M. Sosa
Barbara Agnes Hansen
Rosalind Mary Waters
Merrie-Ann Mary McCrea

Exhibit “B”
CCHR Articles of Amendment
August 19, 2024

This is Exhibit “B” to the Affidavit of Jordan Gray affirmed before me remotely at
Toronto, in the Province of Ontario, on this 21st day of October 2026

DocuSigned by:
Tanya Atherfold-Desilva
EED6FB69D8254D9...

Commissioner for Taking Oaths, etc.



Ministry of Public and
Business Service Delivery

Articles of Amendment

Not-for-Profit Corporations Act, 2010

Corporation Name (Date of Incorporation/Amalgamation)

CANADIAN CENTRE FOR HOUSING RIGHTS / CENTRE CANADIEN DU DROIT AU LOGEMENT (October 08, 1987)

1. The name of the corporation is changed to:

Not amended

2. The number of directors or the minimum/maximum number of directors are amended as follows:

Not amended

3. The purposes of the corporation are amended as follows:

Not amended

4. The special provisions of the corporation are amended as follows:

We have changed our articles to change the conditions for membership. Previously anyone could become a member of the organization by completing an "application for membership" and there was no term limits on membership. We have changed this so that now membership is limited to staff and volunteers of the corporation. Membership now must also be renewed annually.

Previously members could vote if they registered their membership 10 days prior to an AGM. Now members can vote if they have registered their membership 15 days prior to an AGM.

5. The amendment has been duly authorized as required by sections 103 of the Not-for-Profit Corporations Act, 2010.

The endorsed Articles of Amendment are not complete without the Certificate of Amendment.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar, Ministry of Public and Business Service Delivery

TAB 2
NFPCA - Articles of Amendment - CANADIAN CENTRE FOR HOUSING RIGHTS / CENTRE CANADIEN DU DROIT AU LOGEMENT - **39**
OCN:730858 - August 19, 2024

6. The resolution authorizing the amendment was approved by the members of the corporation on:
September 20, 2023

The articles have been properly executed by the required person(s).

The endorsed Articles of Amendment are not complete without the Certificate of Amendment.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar, Ministry of Public and Business Service Delivery

Exhibit "C"
CCHR
Draft Factum

This is Exhibit "C" to the Affidavit of Jordan Gray affirmed before me remotely at
Toronto, in the Province of Ontario, on this 21st day of October 2026

DocuSigned by:
Tanya Atterfold-Desilva
EED6FB69D8254D9...

Commissioner for Taking Oaths, etc.

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

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

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE, JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS, JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND PERSONS UNKNOWN

DRAFT

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

Date: November __, 2026

CANADIAN CENTRE FOR HOUSING RIGHTS
192 Spadina Avenue, Suite 323
Toronto ON MST 2C2

Princess Doe (LSO# 878580)

Tel: (416) 944-0087

Pdoe@Housingrightscanada.com

Margaret Flynn (LSO# 52240N)

Tel: (416) 995-6290

Mflynn@housingrightscanada.com

GOLDBLATT PARTNERS

20 Dundas St West,
Toronto, ON M5G 2C2

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Tel: (416) 979-4648
ngreckolherlich@goldblattpartners.com

Fatima Aamir (LSO #93746B)

Tel: (416) 979-4721
faamir@goldblattpartners.com

**Lawyers for the Proposed Intervener,
The Canadian Centre for Housing Rights**

TO THIS HONOURABLE COURT

AND TO:

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Greta Hoaken (LSO# 87903I)

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Email: greta.hoaken@paliareroland.com

Lawyers for the Appellant, The Regional Municipality of Waterloo

AND TO:

The Attorney General for Ontario

Civil Law Division, Constitutional Law Branch
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Toronto, ON M7A 2S9

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Lawyers for the Appellant/Intervenor, The Attorney General of Ontario

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Barrister & Solicitor

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Swadron Associates

Barristers & Solicitors

15 Wellesley St. W., Suite 321

Toronto, ON M4Y 0G7

Jen Danch (LSO# 74520I)

Tel: (416) 362-1234

Email: jdanch@swadron.com

**Amicus Curiae for Persons Unknown,
The Mental Health Legal Committee**

PART I - OVERVIEW

1. The Canadian Centre for Housing Rights (“CCHR”), intervenes as a friend of the court to make submissions in respect of the s. 15 *Canadian Charter of Rights and Freedoms* (“*Charter*”) issues before this Court on this appeal.
2. This appeal concerns the constitutionality of a municipal by-law relating to the displacement of people living in an encampment. It raises important questions concerning the scope of protections that people living in an encampment have under section 15 of the *Charter*¹ – including whether homelessness is an analogous ground under section 15, how to apply the section 15 test to the situation, and the application of the section 1 analysis.
3. CCHR submits that a purposive analysis of s. 15 *Charter* rights ought to consider and apply international instruments to aid in the interpretation of section 15 of the *Charter* and whether a violation of section 15 can be upheld under section 1.

PART II - STATEMENT OF FACTS

4. CCHR relies upon facts set out in the Appellant's factum.

PART III - POSITION ON ISSUES

5. CCHR makes submissions with regard to the application of international human rights law to the *Charter*, specifically sections 15 and 1.
6. CCHR submits that:
 - a) A purposive analysis of the scope of rights and protections under section 15 ought to consider and apply international instruments relating to the right to adequate housing;
 - b) International instruments can assist the Court in considering whether homelessness

¹ *Canadian Charter of Rights and Freedoms*, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1992, c. 11 [*Charter*].

should be recognized as an analogous ground under section 15;

c) International law and norms will assist the Court in evaluating whether the by-law amounts to substantive discrimination under section 15 of the *Charter*; and

d) International law and norms relating to proportionality in evictions will assist the Court in determining whether the impugned by-law can pass the minimal impairment and proportionality tests of section 1 of the *Charter*.

PART IV - STATEMENT ON LAW AND ARGUMENT

The court has a duty to consider and apply international law in *Charter* interpretation

7. The principle of conformity dictates that s. 15 *Charter* rights should be interpreted to provide *at least* as great a level of protection as is found in Canada's international legal obligations and commitments.² A purposive interpretation of s. 15 *Charter* rights must consider international instruments and Canada's obligations; they are a determinative factor in the interpretation of *Charter* rights.³

International law is instructive on s. 15 of the *Charter*

8. International law recognizes the right to adequate housing as a fundamental human right.

9. Canada is bound as a state party to and has ratified *The International Covenant on Economic, Social and Cultural Rights* ("ICESCR"), which was enacted prior to the *Charter* and ought to be given significant weight in the Court's interpretation of s. 15.⁴ Article 11(1) states:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and **housing**, and to the continuous improvement of living conditions. The States Parties will

² *Quebec (Attorney General) v. 9147-0732 Quebec Inc.*, 2020 SCC 32 [*Quebec (Attorney General)*]; *Quebec (Attorney General)*, at paras 31-34; see also: *Slaight Communications Inc. v. Davidson*, 1989 CanLII 92 (SCC) [*Slaight Communications*], and *Saskatchewan Federation of Labour v. Saskatchewan*, 2015 SCC 4, at para 64.

³ *R. v. Big M Drug Mart Ltd.*, 1985 CanLII 69 (SCC), at para 117; *R. v. Grant*, 2009 SCC 32, at para 15. *Reference re Public Service Employee Relations Act (Alberta)*, 1987 CanLII 88 (SCC) at para 59; *Quebec (Attorney General)*, *supra* note 2, at para 31.

⁴ *Quebec (Attorney General)*, *supra* note 2, at para 41.

take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.⁵

10. Article 2.1 of the ICESCR provides that each state party to the Covenant is obligated to take steps, “to the maximum of [its] available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant”.

11. In 1991, the Committee on Economic, Social and Cultural Rights (the “Committee”) issued General Comment No. 4 which declared that forced evictions are incompatible with the requirements of the ICESCR and identified the necessary elements of “adequate housing”⁶ as including: Legal security of tenure; Availability of services, materials, facilities and infrastructure; Affordability; Habitability; Accessibility; Location; and Cultural adequacy.⁷

12. The Committee later issued General Comment No. 7 – clarifying that forced eviction, even where individuals do not have legal right to occupy the land, is inconsistent with the rights enshrined in the ICESCR and should not result in individuals being rendered homeless;⁸ and General Comment No. 20 – indicating that, in addition to protected grounds, the ICESCR’s “other status” protections apply to “place of residence” including “an informal settlement” and “being

⁵ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 UNTS 3, at [art. 11](#). The UN Special Rapporteur on Adequate Housing prepared a report on the [Guidelines for the Interpretation of the Right to Adequate Housing](#), which provides clarification on the content of Article 11 of the ICESCR as follows:

The right to adequate housing has been recognized as a fundamental human right because it is **integral to core human rights values such as dignity, equality, inclusion, well being, security of the person and public participation**.

[...] **States often misunderstand the right to housing as merely a commitment to housing programmes, a matter of socioeconomic policy...** [T]he right to adequate housing should not be interpreted narrowly, as a right to mere physical shelter or to housing conceived as a commodity. **Rather, the right to housing must be understood in relation to the inherent dignity of the human person.**

(Leilani Farha, “Guidelines for the Implementation of the Right to Adequate Housing: report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context” (26 December 2019), [[Guidelines](#)]).

⁶ *UN Committee on Economic, Social and Cultural Rights (CESCR)*, General Comment No. 4: The Right to Adequate Housing, 13 December 1991, [[General Comment No. 4](#)] at [para 1](#).

⁷ General Comment No. 4, *supra* note 6, at [para 8a](#).

⁸ *International Covenant on Economic, Social and Cultural Rights*, General Comment No. 7, 20 May 1997 [[General Comment No. 7](#)], at [art. 14](#).

homeless”.⁹

13. General Comments Nos. 4, 7 and 20 are relevant and persuasive interpretative aids.¹⁰

14. Canada has ratified several international human rights law instruments that engage the right to adequate housing.¹¹ These include the *International Covenant on Civil and Political Rights* (article 17),¹² the *Convention on the Elimination of All Forms of Discrimination Against Women* (article 14, para. 2(h)),¹³ the *Convention on the Elimination of All Forms of Racial Discrimination* (article 5(e)(iii)),¹⁴ *Convention on the Rights of Persons with Disabilities* (article 28),¹⁵ and *Convention on the Rights of the Child* (article 27).¹⁶

15. Canada is also a party to the *Universal Declaration of Human Rights*, which at Article 25(1) states that “everyone has a right to ...housing”.¹⁷

16. Recently, Canada codified its international legal obligations in the *National Housing Strategy Act*, S.C. 2019, c. 29, s. 313. This legislation is significant as it reflects Canada’s express recognition that the right to adequate housing is a fundamental human right and its commitment to the progressive realization of the right to adequate housing nationally.¹⁸

17. In *Victoria (City) v. Adams*, The British Columbia Court of Appeal affirmed that

⁹ *International Covenant on Economic, Social and Cultural Rights*, General Comment No. 20, 25 May 2009 [General Comment No. 20], at [art. 27, 34, 35](#).

¹⁰ *Quebec (Attorney General)*, *supra* note 2, at [paras 30-38](#); *Victoria (City) v. Adams*, 2008 BCSC 1363, at [paras 85-100](#) [Adams, 2008]; affirmed in *Victoria (City) v. Adams*, 2009 BCCA 563 at [paras 33-35](#) [Adams, 2009].

¹¹ *Adams*, 2008, *supra* note 14, at [paras 85-92](#); *Adams*, 2009, *supra* note 14, at [para 35](#); Government of Canada, “[Human Rights Treaties](#)” (last modified 15 August 2024).

¹² *International Covenant on Civil and Political Rights*, 19 December 1966, at [art. 17](#).

¹³ *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, at [art. 14](#).

¹⁴ *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, at [art. 5\(e\)\(iii\)](#).

¹⁵ *Convention on the Rights of Persons with Disabilities*, 12 December 2006, at [art. 28](#).

¹⁶ *Convention on the Rights of the Child*, 20 November 1989, at [art. 27](#).

¹⁷ *Universal Declaration of Human Rights*, GA Res 217A (III), 1948, at [art. 25\(1\)](#) [*Universal Declaration of Human Rights*]. While not binding, the *Universal Declaration of Human Rights* has been recognized as an informative tool in the interpretation of the meaning and scope of rights under the *Charter*: see *Adams*, 2008, *supra* note 14, at [paras 85-100](#); see also *Adams*, 2009, *supra* note 14, at [paras 33-35](#).

¹⁸ *National Housing Strategy Act*, S.C. 2019, c. 29, s. 313, s 4 [NHS Act].

international human rights law, including the right to adequate housing enshrined in the ICESCR and General Comment No. 4, ought to be considered in an analysis of Charter rights.¹⁹ The Court upheld the lower court’s reasoning that under international law, all persons should possess a “degree of security of housing tenure that guarantees legal protection against forced eviction and that forced eviction consists of a gross violation of human rights,” and “security of tenure takes a variety of forms, including informal settlements, such as occupation of land or property”.²⁰

International law can assist the Court in determining whether homelessness should be recognized as an analogous ground under section 15 of the *Charter*

18. In assessing whether a characteristic should be recognized as an analogous ground, the Supreme Court in *Corbiere* highlighted the importance of considering whether a group is “lacking in political power, disadvantages, or vulnerable to becoming disadvantaged or having their interests overlooked.”²¹

19. In the years since *Corbiere*, the courts have provided further guidance on the analogous grounds analysis with regard to issues akin to homelessness. In *Falkiner*, this Court found that “receipt of social assistance” is an analogous ground, because such a finding would further the protection of human dignity, because individuals receiving social assistance face “historical disadvantage and vulnerability,” and because receipt of social assistance is difficult to change. Crucially, this Court endorsed an expansive view of “immutability” and found that a

¹⁹ *Adams*, 2009, *supra* note 10, at paras 32-35.

²⁰ International law has been used to inform the analysis of the breadth and content of other *Charter* rights. This includes labour rights under s. 2(d) freedom of association [see *Reference Re Public Service Employee Relations Act (Alta.)*, 1987 CanLII 88 (SCC) and *Slaight Communications Inc. v. Davidson*, 1989 CanLII 92 (SCC)]; mobility rights under s. 6(1) [see *United States v. Burns*, 2001 SCC 7]; s. 10(b) right to retain and instruct counsel in criminal matters [see *R. v. Brydges*, 1990 CanLII 123 (SCC)]; freedom against cruel and unusual treatment and punishment under section 12 [see *Quebec (Attorney General) v. 9147-0732 Inc.*, 2020 SCC 32]; and the constraint that international law has on administrative decision makers [see *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 and *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21].

²¹ *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, 1999 CanLII 687 (SCC), at para 60.

“characteristic which is “difficult to change” or “that can be changed only at great personal cost or that can be changed only after a significant period of time” may be recognized as an analogous ground under s. 15(1).²²

20. The international instruments discussed above, including the ICESCR and General Comments Nos. 4, 7 and 20, provide support for a finding that homelessness, *per se*, is a factor associated with discriminatory treatment, and that the discrimination faced by people experiencing homelessness will not be fully captured by recognized grounds, even when intersections between them are taken into account.²³ These instruments should play a “persuasive role” in this Court’s determination of whether homelessness is an analogous ground under section 15 of the *Charter*.²⁴

International law and norms will assist the Court in evaluating whether the by-law amounts to substantive discrimination under section 15 of the Charter

21. The right to housing recognized in Article 11(1) of the ICESCR does not exclude persons experiencing homelessness, an identifiable historically disadvantaged group. The ICESCR does not draw distinctions between types of ownership or housing in its prescriptions on all peoples’ right of enjoyment to housing. To draw a distinction between the rights conferred by these international instruments along the lines of homelessness would reinforce, perpetuate or exacerbate the clear disadvantages individuals experiencing homelessness already face within present society.²⁵ General Comment No. 4 recognizes that *all* individuals should enjoy a security

²² *Falkiner v. Ontario (Ministry of Community and Social Services)*, 2002 CanLII 44902 (ON CA), at [para 85](#), [87-9](#).

²³ See: United Nations Human Rights Council (“UNHRC”) formal resolution stating that: “...inadequate housing, homelessness and forced eviction disproportionately affect [recognized groups], **and** ... homelessness and tenure insecurity **per se** might result in discrimination, criminalization and **further** exclusion, particularly social and economic exclusion.” (UNHRC Resolution 37/4, “Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context,” 9 April 2018, Preamble. See also Guidelines, *supra* note 5, stating: “States should prohibit and address discrimination on the ground of homelessness or other housing status and repeal all laws and measures that criminalize or penalize homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces.” (*Guidelines for the Implementation of the Right to Adequate Housing*, 26 December 2019, at [33](#)).

²⁴ *Quebec (Attorney General) v. Kanyinda*, 2026 SCC 7 (CanLII), at [para 226](#), concurring reasons of Wagner CJ.

²⁵ *Quebec (Attorney General) v. Kanyinda*, 2026 SCC 7 (CanLII), at [para 243](#), concurring reasons of Wagner CJ.

of tenure and be protected against forced eviction, and that “forced eviction constitutes a gross violation of human rights” whether or not an individual has a legal right to occupy the land or property.²⁶

22. In addition, international law and norms relating to adequacy with regard to the right to housing as outlined in General Comment No. 4 are contextual factors that will help the Court evaluate the impact of eviction on encampment residents, and whether that impact amounts to substantive discrimination under section 15 of the *Charter*.

International law provides guidance on the application of the *Oakes* Test

23. When a court finds a *Charter* infringement, international human rights law and its norms can helpfully inform the analysis of whether that infringement can be demonstrably justified in a free and democratic society under section 1 of the *Charter*.

24. International law and Canada’s international human rights obligations inform the interpretation of what constitutes a pressing and substantial objective that may justify restrictions upon those rights.²⁷ When a government objective aligns with a recognized international human right, that objective carries a high degree of importance in the section 1 analysis.²⁸

25. International human rights law, specifically international norms on adequacy in housing and proportionality in evictions, can guide this Court in the proportionality inquiry of the *Oakes* test, including whether the impugned law is minimally impairing, and whether it is proportional between the effects of the infringement and the importance of the government’s objective.

International Norms on Adequate Housing and Proportionality in Evictions

26. International human rights law provides analytical benchmarks for the proportionality

²⁶ *Victoria (City) v Adams*, [2008 BCSC 1363](#), at para. 89, aff’d [2009 BCCA 563](#).

²⁷ *Slaight Communications*, *supra* note 2, citing [Reference Re Public Service Employee Relations Act \(Alta.\)](#), 1987 CanLII 88 (SCC), at pg. 349.

²⁸ *Slaight Communications*, *supra* note 2.

inquiry. Principles promoting adequate housing and preventing forced evictions require that state actions affecting shelter be necessary, proportionate, and the least intrusive means available.²⁹ These principles directly parallel the minimal impairment and proportionality steps of the *Oakes* test and are useful in informing the Court's analysis under these steps.

27. International law and norms relating to adequacy and proportionality in evictions will help the Court evaluate whether the government's action in evicting the encampment residents and the government's failure to accommodate the needs of encampment residents amounts to a section 15 breach that cannot be upheld under section 1 of the *Charter*.

Minimal Impairment

28. Minimal impairment requires government to adopt a measure that falls within a range of reasonable alternatives.³⁰ International law and norms relating to adequacy and proportionality in evictions can guide the Court's interpretation of that "range of reasonable alternatives."

29. As discussed above, in international human rights law, forced evictions are seen as a "gross violation of human rights, in particular of the right to adequate housing."³¹ There are several international human rights instruments that recognize forced evictions as a threat to human rights.³²

30. The Committee's General Comment No. 7 prohibits evictions except where there are "exceptional circumstances," and the evictions are carried out in "full accordance with relevant provisions of international human rights and humanitarian law." It also requires that the state take "all appropriate measures, to the maximum of its available resources, to ensure that adequate

²⁹ General Comment No. 7, *supra* note 13, at [art. 14](#).

³⁰ *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1, at [para 149](#).

³¹ UN Commission on Human Rights, *Forced evictions*, 10 March 1993).

³² These include the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights* (art. 11, para. 1), the *International Covenant on Civil and Political Rights* (art. 17, 23 and 27), the *Convention on the Rights of the Child* (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h) of the *Convention on the Elimination of All Forms of Discrimination against Women*, and article 5(e) of the *International Convention on the Elimination of all Forms of Racial Discrimination*.

alternative housing, resettlement or access to productive land, as the case may be, is available.”³³

31. International law’s standards of “adequate housing,” as outlined in General Comment No. 4, can further inform this Court’s interpretation of whether alternative options offered to evicted encampment residents conform with international standards to which Canada is bound.³⁴

32. A Canadian Court’s engagement with international human rights law and norms might lead to the view that the range of reasonable alternatives available to the government is more constrained than if the Court did not engage with international human rights law at all.

Proportionality between the effects of the infringement and the importance of the objective

33. In *Oakes*, Dickson J. recognized that a wide range of rights and freedoms are guaranteed by the *Charter*, and that some limits imposed by government “will be more serious than others in terms of the nature of the right or freedom violated, the extent of the violation, and the degree to which the measures which impose the limit trench upon the integral principles of a free and democratic society.”³⁵ The more severe the deleterious effects of a law, the more important the government’s objective must be if the measure is to be reasonable and demonstrably justified in a free and democratic society. The deleterious effects analysis requires the Court to consider the impact in terms of *Charter* values, such as liberty, human dignity, equality, autonomy, and the enhancement of democracy.³⁶

34. International human rights law and norms can help the Court better understand the nature of the right or freedom violated, as well as what the international legal order considers to be

³³ General Comment No. 7, *supra* note 13, at [art. 16](#).

³⁴ These necessary elements include legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location, and cultural adequacy. See General Comment No. 4, *supra* note 11, at [para 8a](#).

³⁵ *R. v. Oakes*, 1986 CanLII 46 (SCC), at [para 71](#).

³⁶ *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37.

“integral principles” of free and democratic societies.

35. The understanding of how *Charter* values are engaged by state action evolve over time, and international human rights law and norms play an important role in reflecting these changes. For example they provide helpful guidance that the right to adequate housing should not be interpreted narrowly, but rather as “integral to core human rights values such as dignity and equality” and “in relation to the inherent dignity of the human person.”³⁷

PART V - ORDER REQUESTED

36. The Intervenor takes no position on the Order requested.

37. Pursuant to this Court's order of granting leave to intervene, the Intervenor seeks no costs and respectfully asks that no costs be awarded against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this [date]

DRAFT

Canadian Centre for Housing Rights

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³⁷ [Guidelines](#), *supra* note 5. In the same vein, international human rights law can play a crucial role in illustrating how *Charter* values may be engaged by the deleterious effects of state action. For example, if the deleterious effects of state action in clearing an encampment are only deemed to have an economic impact, that will lend itself to a very different analysis under section 1 than if the deleterious effects of state action are understood to engage the inherent dignity of an encampment resident, in addition to any economic impact.

CERTIFICATE OF AUTHENTICITY

I, DRAFT, counsel for the proposed Intervenor, the Canadian Centre for Housing Rights, certify that I am satisfied as to the authenticity of every authority cited in this factum, pursuant to Rule 4.06. 1(2.1) of the Rules of Civil Procedure.

[date]

DRAFT

SCHEDULE “A” – CASES

DRAFT

SCHEDULE “B” – LEGISLATION

DRAFT

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

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Appellant

- and -

THE ATTORNEY GENERAL FOR ONTARIO
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Court File Nos. COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

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