

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
(Intervener)

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

Respondents
(Respondents/Cross-Applicants)

**MOTION RECORD
OF THE PROPOSED INTERVENER**

CLINIQUE JURIDIQUE ITINÉRANTE / MOBILE LEGAL CLINIC FOR THE UNHOUSED

Date: October 19th, 2026

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Respondents (Respondents/Cross Respondents)

**NOTICE OF MOTION FOR LEAVE TO INTERVENE OF THE PROPOSED INTERVENER
CLINIQUE JURIDIQUE ITINÉRANTE / MOBILE LEGAL CLINIC FOR THE UNHOUSED**

**(Motion for leave to intervene returnable October 21st, 2026)
(Pursuant to Rules 13.02 and 13.03(2) of the *Rules of Civil Procedure*)**

THE PROPOSED INTERVENER THE CLINIQUE JURIDIQUE ITINÉRANTE / MOBILE LEGAL CLINIC FOR THE UNHOUSED, will make a motion pursuant to Rules 13.02 and 13.03(2) of the *Rules of Civil Procedure* to the Chief Justice/Associate Chief Justice for a hearing on the motion, as soon as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by visioconference.

THE MOTION IS FOR:

1. An Order granting the Clinique juridique itinérante / Mobile Legal Clinic for the Unhoused (CJI) leave to intervene in this Appeal as friends of the court, on the following terms:
 - (a) the proposed intervener may file a factum of no more than 10 pages;
 - (b) the proposed intervener may present an oral argument at the hearing of the Application, for 10 minutes ;
 - (c) the proposed intervener shall not be granted any costs, nor will costs be awarded against them; and,
 - (d) such further or other order as this Honourable Court may deem appropriate.

THE GROUNDS FOR THE MOTION ARE:

1. The CJI is a legal clinic, founded in 2014, with a mission to promote access to justice for, who are often helpless in the face of the justice system's complexity. It is the only clinic in Quebec dedicated to advocacy in the context of houselessness law. The CJI provides an array of services, including litigation, access to legal advice/information, referrals, social juridical accompaniment, and help in regularizing legal debts. In these ways, the CJI contributes to the social reintegration of unhoused citizens. It is called a 'mobile' clinic because the CJI student-volunteers (from four Quebec law schools and one in Ontario) travel on a monthly basis to twenty-five different shelters and day centres that work with the unhoused community and marginalized people in Montréal, Quebec City and, since the Fall 2025, in Ottawa. The student-volunteers' work is overseen by lawyers members of the Quebec Bar and the Law Society of Ontario. On an annual basis, 800 unhoused persons consult with the CJI about their legal issues.
2. The originality of the CJI's work lies in its innovative, community-based approach, which

allows it to offer a service *in situ* to those in need, providing legal information, support, and assistance in settling judicial debts. The CJI travels to meet unhoused persons in their living environment (outreach service), whether in shelters, day centers they frequent, or on the street where they live.

3. The CJI is a member of the *Mouvement pour mettre fin à l'itinérance à Montréal* (MMFIM), a coalition of non-profit organizations working with unhoused persons, representatives of government institutions and of the business community, researchers and service providers, who have joined forces to tackle the challenge of ending homelessness in Montreal.

4. In Quebec, the Superior Court has recognized that the CJI has public standing interest to engage in litigation on behalf of members of the unhoused community, as described below.

5. In 2021, during the Covid pandemic, the CJI filed an application for judicial review and interim stay in the Superior Court against the Attorney General of Quebec, challenging the constitutionality of a government-imposed curfew (from 8pm till 5am). The CJI argued that the unhoused population suffered serious and irreparable harm as a result of the said curfew. In a judgment dated January 22, 2021, Masse J. invalidated the said decree to the extent that it applied to individuals experiencing homelessness (*Clinique juridique itinérante c. Procureur général du Québec*, 2021 QCCS 182).

6. In April 2023, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of unhoused persons in the case concerning the eviction of members of the street community who lived under the Ville-Marie Highway in Montreal.¹

7. In October 2023, the Superior Court recognized that the CJI had the necessary

¹ *Clinique juridique itinérante c. Procureur général du Québec*, 2023 QCCS 1170, at para. 27.

standing, expertise and interest to act in the public interest on behalf of unhoused individuals in the case concerning the eviction of members of the street community who lived on property of the *ministère des Transports et de la Mobilité durable*, along Notre-Dame Street Est, in Montreal.²

8. In January 2024, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of unhoused persons in the case concerning the eviction of members of the street community in the City of Saint-Jérôme.³

9. In June 2025, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of unhoused individuals in the case concerning the eviction of members of the street community who lived on property of the *ministère des Transports et de la Mobilité durable*, along Notre-Dame Street Est, in Montreal.⁴

10. In May 2026, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of unhoused individuals in the case concerning the eviction of members of an encampment living on property of the Ville de Montréal, on Van Horne Avenue, in Montreal.⁵

11. The CJI also has experience related to interventions before the Supreme Court of Canada.

12. In February 2022, the CJI intervened in the *Ndhlovu* case after being granted intervener status to present its view on the impacts and difficulties for unhoused people sentenced to register on the National Sex Offender Registry (NSOR) whose constitutionality was being

² Minutes of October 23rd, 2023 audition, *Clinique Juridique Itinérante c. Procureur général du Québec*, court docket number 500-17-127379-231.

³ Minutes of January 5th 2024 audition, *Clinique Juridique Itinérante c. Ville de Saint-Jérôme*, court docket number 700-17-020156-245.

⁴ *Clinique juridique itinérante c. Procureur général du Québec - Ministère des Transports et de la Mobilité durable du Québec*, 2025 QCCS 2087, para 9.

⁵ *Clinique juridique itinérante c. Ville de Montréal*, 2026 QCCS 2069 at paras. 2, 12.

challenged (*R. v. Ndhlovu*, 2022 SCC 38).

13. In May 2026, the CJJ intervened in the *Richard Leonard Walker v. His Majesty the King* case (docket number 41703). The CJJ submitted that the Supreme Court should restrict police discretion to ensure that statutory infractions are prioritized over criminal charges whenever both avenues are legally available to avoid overcriminalizing unhoused persons. The court has reserved its decision.

14. In 2026, the CJJ intervened in *His Majesty the King v. Abdel Karim Chemlal* case (docket number 41766), which raised significant questions regarding the expectation of privacy for individuals in public spaces, particularly amongst the unhoused population. The CJJ submitted that relaxing the standard for searching an individual in a public space would disproportionately facilitate intrusions into the private lives of unhoused people, amounting to repeated and systemic encroachments upon their privacy. The court has reserved its decision.

15. This Appeal raises questions of national importance about how municipalities write and enforce bylaws concerning encampments for the unhoused, about how municipalities interact with provincial law in the context of houselessness (and vice-versa), and about the harmful results that can flow from such laws and processes. The Appeal will have a deep impact on laws beyond the Waterloo Region, and beyond Ontario.

16. The CJJ has real, extensive, and identifiable interest in the issues raised in this Appeal, which will have a distinct impact on houseless and precariously housed people impacted upon by the Appeal.

17. The issues raised in this Appeal are of profound importance to the community of clients the CJJ serves, and whose rights the CJJ seeks to advance.

18. The CJJ submission will provide a unique, useful, and distinct perspective based on special experience and expertise that is not otherwise available to the Court. If granted leave

to intervene by this Court, the CJI proposes to make submissions concerning the following points:

- a. The CJI submits that this Court should adopt a *dignity-centered* approach when defining the scope of the rights protected by the *Canadian Charter*, drawing on the Quebec’s legal scholarship and jurisprudence on dignity under the *Charter of Human Rights and Freedoms* (the “Quebec Charter”) to enrich that interpretation.⁶
- b. The Canadian and Quebec Charters share a common conception of human dignity.⁷ Jurisprudential interpretations of the right to the safeguard of dignity under s. 4 of the *Quebec Charter* can therefore provide valuable insight into the analysis under the *Canadian Charter*.
- c. Dignity as understood in Quebec legal scholarship and jurisprudence rests on the premise that every human being possesses an intrinsic worth that warrants respect.⁸ The threshold for violating s. 4 of the *Quebec Charter* is understood as one where interference “debases, subjugates, objectifies, humiliates or degrades”⁹ in a way that “does no less than outrages the conscience of society.”¹⁰
- d. The analysis must also consider the manner in which legal rules may reinforce the stigmatization and social exclusion of already marginalized groups in order to adequately recognize and protect the equal human worth of every person.¹¹

⁶ *R. v. Bissonnette*, [2022 SCC 23](#) at para 98.

⁷ *Québec (Curateur public) c. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at para 102.

⁸ *Québec (Curateur public) c. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at paras 104-105 ; *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 56 ; Christian Brunelle, “[La dignité dans la Charte des droits et libertés de la personne : de l’ubiquité à l’ambiguïté d’une notion fondamentale](#)” (2006) RB Hors série at p. 152.

⁹ *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 58.

¹⁰ *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 58.

¹¹ *Procureur général du Québec v. Centre de lutte contre l'oppression des genres*, [2024 QCCA 348](#) paras 126-134.

e. The ability to meet the need for shelter is a fundamental attribute of human existence, as recognized by many stakeholders including the AJ.¹² Thus, preventing already marginalized individuals from erecting shelters, where no adequate alternative is available, strikes at the core of their dignity and reaches the high threshold of gravity necessary to conclude that there is a violation to the right to safeguard one's dignity under the *Quebec Charter*.¹³

f. Accordingly, the CJI respectfully submits that where a state interference clearly strikes at the core of human dignity, as the evidence here overwhelmingly demonstrates,¹⁴ it provides compelling grounds for finding both a deprivation of rights protected by s. 7 and that the effects of such deprivation are grossly disproportionate to the regulation's objective.¹⁵

g. The CJI therefore submits that the analysis under the *Quebec Charter* gives weight to the AJ's finding that the Municipal Site-Specific By-Law of the Waterloo Region infringe on ss. 7 and 15 rights of the unhoused individuals gathered in the encampment, as no adequate alternative is available.

19. The CJI has been in communication with Appellants' counsel to avoid duplication of submissions. If granted leave to intervene, CJI will continue those efforts and ensure that its submissions are useful and relevant, and will not seek to expand the existing record.

20. The CJI will abide by the terms of any timetable of this Appeal if granted leave to

¹² [Decision](#) at para 143 ; The Office of the Federal Housing Advocate, [Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments - Final report](#) (Ottawa: The Office of the Federal Housing Advocate, 2024) at p 2 ; Ontario Human Rights Commission, ["Submission of the OHRC to the UN Human Rights Committee ahead of its review of Canada's 7th periodic report: Encampments and shelters"](#) (February 2, 2026) ; Commission des droits de la personne et de la jeunesse, CDPDJ, ["Les droits des personnes en situation d'itinérance"](#) ; Nova Scotia Human Rights Commission, ["Urgent calls to action from Canada's Federal Housing Advocate"](#) (February 13, 2024) ; British Columbia's Office of the Human Rights Commissioner, ["Responding to homeless encampments"](#) at p. 2-4.

¹³ *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 58.

¹⁴ [Decision](#) at paras 58-59, 139, 142-149, 153.

¹⁵ *R. v. Bissonnette*, [2022 SCC 23](#) at para 64.

intervene, and will not cause delay or prejudice to the parties.

21. The CJI's proposed intervention satisfies the requirements of Rules 13.02 and 13.03(2) of the Rules of Civil Procedure for intervention as a friend of the court.

22. The applicants will also rely on other grounds as counsel may advise and as this Honourable Court may permit.

October 19, 2026

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PART I – OVERVIEW

1. A regulation that prohibits unhoused individuals from sheltering in encampments where no other adequate and accessible shelter is available infringes their rights under ss. 7 and 15 of the *Canadian Charter of Rights and Freedoms* (the “**Canadian Charter**”), as the Application Judge (the “**AJ**”) rightly concluded¹⁶ in accordance with prior jurisprudence.¹⁷ Shelter is an essential need for any human being.¹⁸ By depriving unhoused persons of their ability to meet this basic need, regulations that prohibit encampments undermine the respect owed to every person by virtue of their humanity.¹⁹ Such dehumanizing treatment strikes at the core of human dignity²⁰ and can only be seen as grossly disproportionate,²¹ contrary to the principles of fundamental justice²².
2. The Clinique juridique itinérante / Mobile Legal Clinic for the Unhoused (the “**CJI**”) submits that this Court should adopt a *dignity-centered* approach when considering the rights of unhoused individuals living in encampments, since the protection of all of the rights guaranteed by the *Charter* has as its lodestar the promotion of human dignity.²³ It will also draw on the understanding of dignity put forth in the Quebec *Charter of Human Rights and Freedoms* (the “**Quebec Charter**”), unique to Quebec in its quasi-constitutional nature, to

¹⁶ [Décision](#) at paras 102-103 & 154.

¹⁷ *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, [2023 ONSC 670](#) at paras 108-119 ; *Quebec (Attorney General) v. Kanyinda*, [2026 SCC 7](#) at paras 216-228 (per Chief J. Wagner concurring).

¹⁸ The Office of the Federal Housing Advocate, [Upholding dignity and human rights: the Federal Housing Advocate’s review of homeless encampments - Final report](#) (Ottawa: The Office of the Federal Housing Advocate, 2024) at p 2.

¹⁹ *Québec (Curateur public) v. Syndicat national des employés de l’hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at para 105.

²⁰ *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 58.

²¹ *R. v. Bissonnette*, [2022 SCC 23](#) at para 64.

²² *Canada (Attorney General) v. Bedford*, [2013 SCC 72](#) at para 120.

²³ *R. v. Kapp*, [2008] 2 S.C.R. 483, [2008 SCC 41](#) at para 21.

support its *dignity-centered* argument. Specifically, the scope of the right to the safeguard of dignity under s. 4 of the *Quebec Charter* can inform the interpretation of the fundamental value of human dignity underlying ss. 7 and 15 of the *Canadian Charter*,²⁴ which supports the conclusion that unhoused individuals should be permitted to shelter in encampments where adequate housing or shelter spaces are unavailable.²⁵

PART II – THE RELEVANCE OF THE QUEBEC CHARTER IN UNDERSTANDING THE NOTION OF DIGNITY

3. Human dignity is a fundamental value deeply rooted within the *Canadian Charter* which is reflected in the Supreme Court’s longstanding recognition of its importance in defining the scope of constitutional protections.²⁶ Thus, although dignity is not a free-standing right, it underlies every right and freedom that the *Canadian Charter* expressly protects²⁷:

64. (...) The Court must be guided by the values and principles essential to a free and democratic society which I believe embody, to name but a few, respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society. The underlying values and principles of a free and democratic society are the genesis of the rights and freedoms guaranteed by the *Charter* and the ultimate standard against which a limit on a right or freedom must be shown, despite its effect, to be reasonable and demonstrably justified.²⁸ [Our emphasis.]

4. By concluding that the unhoused individuals’ rights under ss. 7 and 15 were infringed, the AJ correctly applied the legal tests in light of the evidence before him and adopted a reasoning that was “duly attentive to the dignity and rights of the unhoused”²⁹—an approach

²⁴ *Québec (Curateur public) v. Syndicat national des employés de l’hôpital St-Ferdinand*, [1996] 3 SCR 211 at para 102 ; *R. v. Bissonnette*, 2022 SCC 23 at para 98.

²⁵ *Decision* at para 250.

²⁶ *R. v. Bissonnette*, 2022 SCC 23 at para 59 ; *R. v. Morgentaler*, [1988] 1 SCR 30 at p. 166 (per J. Wilson concurring) ; *R v. Ewanchuk*, [1999] 1 SCR 330 at para 73 ; *Carter v. Canada (Attorney General)*, 2015 SCC 5 at paras 64-65.

²⁷ *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 at para 77.

²⁸ *R. v. Oakes*, [1986] 1 SCR 103 at p. 136.

²⁹ *Decision* at para 5.

consistent with the recognition in *Ewanchuk* that both rights “embody the notion of respect of human dignity and integrity.”³⁰

5. Although human dignity is a central feature of the *Canadian Charter*, few decisions have attempted to define it. *Law* was among the first to shed light on its meaning, explaining that “human dignity means an individual or group feels self-respect and self-worth.”³¹ The Court further emphasized that dignity is harmed “when individuals and groups are marginalized, ignored, or devalued.”³² As the Court later acknowledged in *Kapp*, human dignity remains an “abstract and subjective notion,”³³ making it difficult to apply as a legal standard in the context of the s. 15 analysis.³⁴ Nevertheless, Chief Justice Wagner’s concurring reasons in *Kanyinda* illustrate how dignity continues to inform the s. 15 analysis, not as a standalone criterion, but as an underlying guiding principle.³⁵ Likewise, dignity remains a fundamental value underlying the analysis of s. 7 of the *Canadian Charter*,³⁶ as the AJ correctly recognized.³⁷

6. While dignity is an inherently complex notion, it remains fundamental to the interpretation of constitutional rights and freedoms and should therefore not be overlooked simply because it is difficult to define. Because the *Quebec Charter* expressly guarantees the right to the safeguard of one’s dignity, the CJI submits that this Court should draw on its interpretation of human dignity.³⁸ This distinct protection provides additional legal articulation

³⁰ *R v. Ewanchuk*, [1999] 1 SCR 330 at para 73.

³¹ *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 SCR 49 at para 53. See also *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 SCR 203 at para 73.

³² *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 SCR 49 at para 53.

³³ *R. v. Kapp*, 2008 SCC 41 at para 22.

³⁴ *R. v. Kapp*, 2008 SCC 41 at para 22.

³⁵ *Quebec (Attorney General) v. Kanyinda*, 2026 SCC 7 at paras 32 (per j. Karakatsanis for the majority) & 216 (per Chief J. Wagner concurring).

³⁶ *R. v. Morgentaler*, [1988] 1 SCR 30 at p. 166 (per j. Wilson) ; *Carter v. Canada (Attorney General)*, 2015 SCC 5 at paras 64-65.

³⁷ *Decision* at para 109.

³⁸ *Charter of Human Rights and Freedoms*, CQLR c C-12, s 4.

and comparative examples on the meaning and implications of human dignity.³⁹ Quebec's legal scholarship and jurisprudence may thus assist this Court in adopting a *dignity-centered* approach to interpreting the rights protected by the *Canadian Charter*.

PART III – THE CANADIAN AND QUEBEC CHARTERS SHARE A COMMON CONCEPTION OF HUMAN DIGNITY

7. Quebec's contributions to defining the meaning and scope of dignity prove useful given that the Supreme Court has expressly rejected any conceptual distinction between the "dignity" protected under the *Quebec Charter* and the fundamental value of "human dignity" recognized in its jurisprudence:

102. The concept of "dignity" has been explored in the context of the *Canadian Charter of Rights and Freedoms*. In the opinion of the appellants, given that the decisions under the *Canadian Charter* refer to "human dignity" and the *Quebec Charter* refers only to "dignity", we cannot draw any analogy between these two concepts. This argument is without any merit. Section 4 of the Quebec Charter provides that "[e]very person has a right to the safeguard of his dignity" (emphasis added). The dignity to which s. 4 refers cannot be anything other than "personal dignity", that is, in other words "human dignity".⁴⁰ [Our emphasis.]

8. The CJI therefore submits that, because the *Quebec Charter* and the *Canadian Charter* draw upon the same underlying conception of human dignity, jurisprudential interpretations of the right to the safeguard of dignity under s. 4 of the *Quebec Charter* can provide valuable insight into the analysis under s. 7 of the *Canadian Charter*.⁴¹ Such an approach is consistent

³⁹ *R. v. Bissonnette*, [2022 SCC 23](#) at para 98.

⁴⁰ *Québec (Curateur public) v. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at para 102.

⁴¹ *Québec (Curateur public) v. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 21](#) at para 102 ; *Québec (Commission des droits de la personne et des droits de la jeunesse) v. Montréal (Ville)*; *Québec (Commission des droits de la personne et des droits de la jeunesse) c. Boisbriand (Ville)*, [2000 SCC 27](#) at paras 45-47 ; *Québec (Procureur général) c. Commission des droits de la personne et des droits de la jeunesse*, [2013 QCCA 141](#) at para 45.

with the purposive interpretation of human rights protections.⁴² In particular, a finding that state interference strikes at the very core of human dignity may not only inform whether there has been a deprivation of life, liberty and security of the person, but also underscore the gravity of that deprivation when assessing whether it is grossly disproportionate to the law's objective⁴³.

Part IV – DIGNITY UNDER THE QUEBEC CHARTER

9. Dignity first appears in the *Quebec Charter* in its preamble as a foundational value that informs the statute's objectives.⁴⁴ Section 4 further guarantees an express right to the safeguard of one's dignity, the breadth of which is clarified by examining circumstances in which courts have found an infringement. Rather than confining s. 4 to a single category of harm, Quebec jurisprudence has applied it to a wide range of conduct affecting different dimensions of dignity.

10. Dignity rests on the premise that every human being possesses an intrinsic worth that warrants respect.⁴⁵ This understanding gives dignity a universal character, as it applies equally to every person regardless of their social position or individual characteristics.⁴⁶ The various manifestations of dignity in legal decisions can therefore be understood as expressions of a common concern for the recognition and preservation of the equal human worth of every

⁴² *Québec (Commission des droits de la personne et des droits de la jeunesse) v. Montréal (Ville); Québec (Commission des droits de la personne et des droits de la jeunesse) c. Boisbriand (Ville)*, [2000 SCC 27](#) at paras 45-47.

⁴³ *R. v. Bissonnette*, [2022 SCC 23](#) at para 64.

⁴⁴ *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Montréal (City); Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Boisbriand (City)*, [2000 SCC 27](#) at paras 33-34.

⁴⁵ *Québec (Curateur public) v. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 21](#) at paras 104-105 ; Giorgio Resta, "Human Dignity" (2006) 66:1 McGill LJ 85 at p. 85; Muriel Fabre-Magnan, "La dignité en droit: un axiome" (2007) 58 RIEJ 1 at pp. 10-11.

⁴⁶ Christian Brunelle, "[La dignité dans la Charte des droits et libertés de la personne : de l'ubiquité à l'ambiguïté d'une notion fondamentale](#)" (2006) RB Hors série at pp. 149-151 ; Dominique Goubau & Anne-Marie Savard, [Le droit des personnes physiques](#), 6th ed, (Montreal: Les Éditions Yvon Blais, 2019) at para 177.

person.⁴⁷ The Supreme Court's definition in *St-Ferdinand* offers a particularly compelling articulation of this shared understanding of dignity:

104. In *Commission des droits de la personne du Québec v. Lemay*, *supra*, the Quebec Human Rights Tribunal correctly, in my view, stated the essence of the right to the safeguard of personal dignity (at p. 1972):

[translation] Consequently, every human being has intrinsic value which makes him or her worthy of respect. For the same reason, every human being is entitled to recognition of the rights and freedoms of the person and to the fully equal exercise thereof. [Emphasis added.]

105. Having regard to the manner in which the concept of personal "dignity" has been defined, and to the principles of large and liberal construction that apply to legislation concerning human rights and freedoms, I believe that s. 4 of the *Charter* addresses interferences with the fundamental attributes of a human being which violate the respect to which every person is entitled simply because he or she is a human being and the respect that a person owes to himself or herself.⁴⁸ [Our emphasis.]

11. The nature of the *Quebec Charter's* section 4 right and the threshold for its violation was established by the Supreme Court of Canada in *Ward* at para 58.

[58] What s. 4 confers is not a right *to dignity* but, more precisely, a right *to the safeguard of dignity* [...] Where a person is stripped of their humanity by being subjected to treatment that debases, subjugates, objectifies, humiliates or degrades them, there is no question that their dignity is violated. In this sense, the right to the safeguard of dignity is a shield against this type of interference that does no less than outrage the conscience of society.⁴⁹ [Our emphasis.]

Ward also reflects the gravity of the interests it protects.⁵⁰

⁴⁷ *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Montréal (City); Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Boisbriand (City)*, [2000 SCC 27](#) at paras 33-34 ; *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 56 ; (*Québec (Curateur public) v. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at para 100.

⁴⁸ (*Québec (Curateur public) v. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at paras 104-105.

⁴⁹ *Ward v. Québec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 58.

⁵⁰ *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at paras 57-58 ; *V.M. c. Directeur de l'État civil*, [2025 QCCS 1304](#) at paras 197-199.

12. The Court of Appeal of Québec applied the threshold test elaborated in *Ward* to find that a rule preventing transgender and non-binary persons from changing the designation of sex on their civil status documents violates the safeguard of their dignity protected by s.4.⁵¹ In that case, the Court emphasized that transgender and non-binary persons already experience substantial stigmatization, discrimination, and violence⁵²; and that mismatches between their legal documents and gender identity can repeatedly force them to disclose their identity, thereby exacerbating those hardships and leading them to withdraw from society.⁵³ The Court is unequivocal in stating that this legislation is a violation of the right to the safeguard of dignity pursuant to s. 4.

13. The safeguard of the right to dignity under s. 4 has been raised in litigations in Québec relating to the dismantling of encampments of unhoused persons, because of the resulting exacerbation of marginalization and social stigma already attached to the condition of being unhoused.⁵⁴ In those cases, the Quebec Superior Court granted injunctions, recognizing that their eviction without any adequate alternatives would infringe their constitutional rights and undermine their dignity.⁵⁵ More particularly, the Court stated in its more recent decision on the matter that:

⁵¹ *Procureur général du Québec v. Centre de lutte contre l'oppression des genres*, [2024 QCCA 348](#) at para 127.

⁵² *Procureur général du Québec v. Centre de lutte contre l'oppression des genres*, [2024 QCCA 348](#) at paras 128-129.

⁵³ *Procureur général du Québec v. Centre de lutte contre l'oppression des genres*, [2024 QCCA 348](#) at paras 128-129.

⁵⁴ *Clinique juridique itinérante c. Ville de Montréal*, [2026 QCCS 2069](#) at para 12 ; *Clinique juridique itinérante c. Procureur général du Québec - Ministère des Transports et de la Mobilité durable du Québec*, [2025 QCCS 2087](#) at para 11 ; *Clinique juridique itinérante c. Procureur général du Québec*, [2023 QCCS 1170](#) at para 18.

⁵⁵ *Clinique juridique itinérante c. Ville de Montréal*, [2026 QCCS 2069](#) at para 69 ; *Clinique juridique itinérante c. Procureur général du Québec - Ministère des Transports et de la Mobilité durable du Québec*, [2025 QCCS 2087](#) at para 132 ; *Clinique juridique itinérante c. Procureur général du Québec*, [2023 QCCS 1170](#) at para 70.

[69] In the absence of an alternative that ensures the security and dignity of the residents, the City cannot force them to leave until the matter is adjudicated on the merits.⁵⁶ [Our emphasis.]

14. As recognized by international instruments⁵⁷, the *National Housing Strategy Act*⁵⁸, the work of the Federal Housing Advocate⁵⁹, various Human Rights Commissions across Canada⁶⁰ and ultimately, the AJ,⁶¹ sheltering oneself from the elements is a basic human need. The ability to meet this need is a fundamental attribute of human existence that lies at the heart of human dignity and must therefore be protected against state interference⁶². This is particularly true in contexts of rising homelessness and a lack of adequate alternative shelter options, as is the case in Waterloo⁶³. While the *Canadian Charter* does not yet recognize a universal right to housing, state regulation should not impede individuals' use of tents or encampments to protect themselves from the elements when no adequate alternative is available, as doing so would undermine an essential aspect of human dignity.⁶⁴

⁵⁶ *Clinique juridique itinérante c. Ville de Montréal*, [2026 QCCS 2069](#) at para 69.

⁵⁷ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 UNTS 3 at s. 11.

⁵⁸ *National Housing Strategy Act*, SC 2019, c 29, s. 313 at s 4.

⁵⁹ The Office of the Federal Housing Advocate, [Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments - Final report](#) (Ottawa: The Office of the Federal Housing Advocate, 2024) at p 2.

⁶⁰ Ontario Human Rights Commission, ["Submission of the OHRC to the UN Human Rights Committee ahead of its review of Canada's 7th periodic report: Encampments and shelters"](#) (February 2, 2026) ; Commission des droits de la personne et de la jeunesse, CDPDJ, ["Les droits des personnes en situation d'itinérance"](#) ; Nova Scotia Human Rights Commission, ["Urgent calls to action from Canada's Federal Housing Advocate"](#) (February 13, 2024) ; British Columbia's Office of the Human Rights Commissioner, ["Responding to homeless encampments"](#) at p. 2-4.

⁶¹ [Decision](#) at para 143.

⁶² (*Québec (Curateur public) v. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at paras 104-105.

⁶³ [Decision](#) at para 59.

⁶⁴ (*Québec (Curateur public) v. Syndicat national des employés de l'hôpital St-Ferdinand*, [\[1996\] 3 SCR 211](#) at paras 104-105 ; *Ward v. Québec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at para 56.

15. Moreover, preventing already marginalized individuals from erecting shelters where no adequate alternative is available meets the high threshold of gravity contemplated in *Ward* and therefore strikes at the core of human dignity. As the former Minister of Housing, Infrastructure and Communities, Sean Fraser, stated: “In a country as wealthy as Canada, it is very difficult to accept that people go to sleep without a roof over their head.”⁶⁵ The CJI submits that it is even more difficult to accept that a regulation actively impedes unhoused persons' ability to protect and shelter themselves. More importantly, by stripping them of the most basic means of safeguarding their own well-being and survival, it perpetuates existing patterns of stigma and exclusion.⁶⁶ Viewed objectively, depriving those who have nowhere else to go of their remaining means of self-protection constitutes a denial of their fundamental human worth, sufficiently grave to outrage the conscience of society.⁶⁷

16. Accordingly, the CJI respectfully submits that where state interference clearly strikes at the very core of human dignity, as the evidence here overwhelmingly demonstrates,⁶⁸ it provides compelling grounds for finding both a deprivation of rights protected by s. 7 and that the effects of such a deprivation are grossly disproportionate to the regulation's objective.⁶⁹

⁶⁵ Senate of Canada, [Standing Committee on Banking, Commerce and the Economy](#), Senate of Canada Debate, 44-1, No 61 (November 23, 2023) at p. 9.

⁶⁶ *Procureur général du Québec v. Centre de lutte contre l'oppression des genres*, [2024 QCCA 348](#) at paras 126-134 ; Terry Skolnik, “[Homelessness and Unconstitutional Discrimination](#)” (2019) 15 Journal of Law & Equality 69 at p 84.

⁶⁷ *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, [2021 SCC 43](#) at paras 57-58 ; Eddie Sheppard & David Coletto, Abacus Data, “[Canadians Are Worried About Homelessness, but Believe Progress is Possible. They Expect Governments to Deliver Visible, Effective Solutions](#)” (October 8, 2026).

⁶⁸ [Decision](#) at paras 58-59, 139, 142-149, 153.

⁶⁹ *R. v. Bissonnette*, [2022 SCC 23](#) at para 64.

Part V – CONCLUSION

17. Applying a *dignity-centered* approach to encampments and the rights of the unhoused persons is consistent with Supreme Court precedents.⁷⁰ This means recognizing that unhoused individuals are equal rights bearers, as the AJ rightly pointed out,⁷¹ and thus deserve the same respect for their intrinsic worth simply by virtue of our shared humanity.⁷²

18. A *dignity-centered* approach also requires this Court to be particularly vigilant against treatment that “debases, subjugates, objectifies, humiliates or degrades”.⁷³ This includes shielding unhoused individuals from regulations that interfere with their most basic acts of survival, namely sheltering in tents and encampments where no adequate alternative is available.

19. Although dignity is not be a free-standing right in the *Canadian Charter*, it remains fundamental to the interpretation of constitutional rights,⁷⁴ and the AJ’s reasoning clearly reflects this principle.⁷⁵ The CJI therefore submits that the analysis under the *Quebec Charter* further supports the AJ’s finding that the Municipal Site-Specific By-Law of the Waterloo Region infringes the ss. 7 and 15 rights of the unhoused individuals living in the encampment, as no adequate alternative is available.

⁷⁰ *R. v. Oakes*, [1986] 1 SCR 103 at p. 136 ; *R v. Ewanchuk*, [1999] 1 S.C.R. 330 at para 73 ; *R. v. Bissonnette*, 2022 SCC 23 at para 59 ; *R. v. Morgentaler*, [1988] 1 SCR 30 at p. 166 (per j. Wilson concurring) ; *Carter v. Canada (Attorney General)*, 2015 SCC 5 at paras 64-65 ; *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 at para 77.

⁷¹ *Decision* at para 12.

⁷² *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43 at para 56.

⁷³ *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43 at para 58.

⁷⁴ *R. v. Oakes*, [1986] 1 SCR 103 at p. 136.

⁷⁵ *Decision* at para 5.

20. All of which is respectfully submitted.

October 19, 2026

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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
(Intervener)

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

Respondents
(Respondents/Cross-Applicants)

AFFIDAVIT OF DONALD TREMBLAY

Affirmed October 19th, 2026

(In Support of the Motion for Leave to Intervene of the Proposed Intervener, Clinique juridique itinérante / Mobile Legal Clinic for the Unhoused

I, Donald Tremblay, of the City of Montreal in the Province of Quebec, do hereby AFFIRM:

- 1) I am the executive director of the Clinique juridique itinérante / Mobile Legal Clinic for the Unhoused (CJI). I have personal knowledge of the matters deposed to herein, except where my knowledge is based on information and belief, in which case I believe them to be true.
- 2) The CJI seeks leave to intervene in this matter by submitting that this Court should adopt a dignity-centered approach when considering the rights of unhoused individuals living in

encampments since the protection of all of the rights guaranteed by the *Canadian Charter of Rights and Freedoms* has as its lodestar the promotion of human dignity. The CJI will also draw on the understanding of dignity put forth in the *Quebec Charter of Human Rights and Freedoms* to support its dignity-centered argument.

- 3) As a specialized advocacy clinic focused on the rights of unhoused people, particularly including constitutional rights in the context of encampments, the CJI is expert in presenting appellate arguments. The CJI is uniquely positioned to assist this Court in understanding the deep implications of the present matter for unhoused people across Canada.
- 4) The Appeal raises questions of national importance about how municipalities write and enforce overhead shelter bylaws, about how municipalities interact with provincial law in the context of houselessness (and vice-versa), and about the harmful results for the unhoused community that can flow from such laws and processes. The Appeal will have a deep impact on laws beyond the Regional Municipality of Waterloo and the Province of Ontario.

A: Clinique juridique itinérante / Mobile Legal Clinic for the Unhoused : Mandate and Organization

- 5) The CJI is a legal clinic, founded in 2014, with a mission to promote access to justice for the unhoused, who are often helpless in the face of the justice system’s complexity. It is the only legal clinic in Quebec dedicated to advocacy in the context of houselessness law. The CJI provides an array of services, including litigation, access to legal advice/information, referrals, social juridical accompaniment, and help in regularizing legal debts. In these ways, CJI contributes to the social reintegration of unhoused citizens. It is called an “itinérante” (mobile) clinic because the CJI student-volunteers (from four Quebec law schools and one in Ontario) travel on a monthly basis to twenty-five different shelters and day centres that work with the unhoused community and marginalized people in Montréal, Quebec City and, since the Fall of 2025, in Ottawa. The student-volunteers’ work is overseen by lawyers members of the Quebec Bar and the Law Society of Ontario. On an annual basis, 800 unhoused persons consult with the CJI about their legal issues.

- 6) The originality of the CJI's work lies in its innovative, community-based approach, which allows it to offer a service in situ to those in need, providing legal information, support, and assistance in settling judicial debts. The CJI travels to meet unhoused persons in their living environment (outreach service), whether in shelters, day centers they frequent, or on the street where they live.
- 7) The CJI is a member of the Mouvement pour mettre fin à l'itinérance à Montréal (MMFIM), a coalition of non-profit organizations working with unhoused persons, representatives of government institutions and of the business community, researchers and service providers, who have joined forces to tackle the challenge of ending homelessness in Montreal.

B. The Clinique juridique itinérante / Mobile Legal Clinic for the Unhoused's Work and Expertise

- 8) In Quebec, the Superior Court has recognized that the CJI has public standing interest to engage in litigation on behalf of members of the unhoused community, as described below.
- 9) In 2021, during the Covid pandemic, the CJI filed an application for judicial review and interim stay in the Superior Court against the Attorney General of Quebec, challenging the constitutionality of a government-imposed curfew (from 8pm till 5am). The CJI argued that the unhoused population suffered serious and irreparable harm as a result of the said curfew. In a judgment dated January 22, 2021, Masse J. invalidated the said decree to the extent that it applied to individuals experiencing homelessness.⁷⁶
- 10) In April 2023, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of homeless people in the case concerning the eviction of members of the street community who lived under the Ville-Marie Highway in Montreal.⁷⁷
- 11) In October 2023, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of homeless people in the case

⁷⁶ [*Clinique juridique itinérante c. Procureur général du Québec*, 2021 QCCS 182.](#)

⁷⁷ [*Clinique juridique itinérante c. Procureur général du Québec*, 2023 QCCS 1170, at para 27.](#)

concerning the eviction of members of the street community who lived on property of the ministère des Transports et de la Mobilité durable, along Notre-Dame Street Est, in Montreal.⁷⁸

12) In January 2024, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of unhoused people in the case concerning the eviction of members of the street community in the City of Saint-Jérôme.⁷⁹

13) In June 2025, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of unhoused people in the case concerning the eviction of members of the street community who lived on property of the ministère des Transports et de la Mobilité durable, along Notre-Dame Street Est, in Montreal.⁸⁰

14) In May 2026, the Superior Court recognized that the CJI had the necessary standing, expertise and interest to act in the public interest on behalf of unhoused people in the case concerning the eviction of members of the street community who lived underneath the Van Horne Overpass in Montréal.⁸¹

15) The CJI also has experience related to appeal. In 2023, the CJI asked the Quebec Court of Appeal⁸² for permission to appeal the interlocutory judgment of members of the street community who lived under the Ville-Marie Highway in Montreal.⁸³

16) On three occasions, the CJI was granted intervener status by the Supreme Court of Canada in order to highlight the effects of pending cases on people experiencing homelessness.

⁷⁸ Minutes of October 23rd, 2023 audition, *Clinique Juridique Itinérante c. Procureur général du Québec*, court docket number 500-17-127379-231.

⁷⁹ Minutes of January 5th 2024 audition, *Clinique Juridique Itinérante c. Ville de Saint-Jérôme*, court docket number 700-17-020156-245.

⁸⁰ [Clinique juridique itinérante c. Procureur général du Québec - Ministère des Transports et de la Mobilité durable du Québec, 2025 QCCS 2087, para 9.](#)

⁸¹ [Clinique juridique itinérante c. Ville de Montréal, 2026 QCCS 2069](#) at para 2 footnote 3.

⁸² [Clinique juridique itinérante c. Procureur général du Québec - Ministère des Transports et de la Mobilité durable du Québec, 2023 QCCA 855](#), permission to appeal not granted.

⁸³ [Clinique juridique itinérante c. Procureur général du Québec, 2023 QCCS 1949.](#)

- 17) In February 2022, the CJI intervened in the *Ndhlovu* case to present its view on the impacts and difficulties for unhoused people sentenced to register on the National Sex Offender Registry (NSOR) whose constitutionality was being challenged.⁸⁴
- 18) In May 2026, the CJI intervened in the *Richard Leonard Walker v. His Majesty the King* case (docket number 41703) and submitted that the Supreme Court should restrict police discretion to ensure that statutory infractions are prioritised over criminal charges whenever both avenues are legally available so as not to overcriminalize unhoused persons. The court has reserved its decision.
- 19) In October 2026, the CJI intervened in *His Majesty the King v. Abdel Karim Chemlal* case (docket number 41766), which raised significant questions regarding the expectation of privacy for individuals in public spaces, particularly amongst the unhoused population. The CJI submitted that relaxing the standard for searching an individual in a public space would disproportionately facilitate intrusions into the private lives of people experiencing homelessness, amounting to repeated and systemic encroachments upon their privacy. The court has reserved its decision.

C. Proposed Submissions

- 20) The CJI has been in communication with Appellants' counsel, and with counsel for other parties applying to intervene, to avoid duplication of submissions. If granted leave to intervene, the CJI will continue those efforts and will avoid duplication of arguments made by the Appellants, ensure that its submissions are useful and relevant, and will not seek to expand the existing record.
- 21) The CJI submissions will provide a unique, useful, and distinct perspective based on special experience and expertise that is not otherwise available to the Court.

⁸⁴ [*R. v. Ndhlovu*, 2022 SCC 38.](#)

D: Conclusion

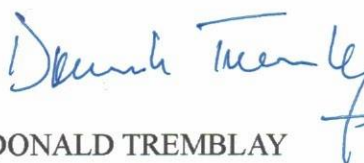
22) The CJI has demonstrated interest and expertise in ensuring that the needs and perspectives of the unhoused people it represents are considered by the Court in its Notice of Motion For Leave To Intervene.

23) I hereby verify that the facts contained in this Affidavit and the accompanying Motion For Leave To Intervene are true and accurate.

AFFIRMED REMOTELY BEFORE ME
in the City of Montreal, in the
Province of Quebec, this 19th
day of October, 2026.



Félix Lévesque
Commissioner of Oaths for the
Province of Quebec, # 250790



DONALD TREMBLAY

***THE REGIONAL MUNICIPALITY OF WATERLOO ET AL. v. DUGAS ET AL,
PERSONS UNKNOWN/TO BE ASCERTAINED***

COA-26-CV-0836 and COA-26-CV-0897

**COURT OF APPEAL OF ONTARIO
PROCEEDING COMMENCED AT KITCHENER**

NOTICE OF MOTION FOR LEAVE TO INTERVENE

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