

COURT OF APPEAL FOR ONTARIO

BETWEEN:

THE ATTORNEY GENERAL OF ONTARIO

Appellant
(Intervener)

-AND-

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant
(Applicant)

-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 AND TO BE ASCERTAINED**

Respondents
(Respondents/Cross-Applicants)

**EXHIBIT BOOK OF THE
APPELLANTS (Vol. 13 of 15)**

August 7, 2026

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Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Sahil Gupta** on his affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 7, 2026.

APPEARANCES:

KARTIGA THAVARAJ, Ms. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHUITEMA, Ms. Counsel for the Respondents
JOANNA MULLEN, Ms.
CHARLOTTE CAHIL, Ms. Student-at-Law

MERCEDES PEREZ, Ms. Amicus Curiae

(i)

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1 JANUARY 7, 2026

2
3 DR. SAHIL GUPTA, AFFIRMED

4 CROSS-EXAMINATION BY MS. THAVARAJ:

5 1. Q. Good morning, Dr. Gupta.

6 A. Hi there.

7 2. Q. My name is Kartiga Thavaraj. I am the
8 lawyer for the Region. I am here with my colleague,
9 Greta Hoaken, who you will see on the screen as well.

10 A. Hi, both.

11 3. Q. Thank you for taking the time this
12 morning. I take it you are aware that this is a
13 cross-examination on your affidavit tendered in this
14 matter dated August 15th, 2025?

15 A. That's correct.

16 4. Q. Okay. And you have been an expert
17 witness before and curator for a witness before. So
18 this is likely just a refresher, but just a few ground
19 rules before we start. If there is anything that you
20 don't understand, please just ask me to repeat it or
21 rephrase.

22 A. Okay, that sounds good.

23 5. Q. Perfect. Do you -- looking at that
24 nod, you have to answer "yes" or "no" or whatever you
25 need to answer verbally for the purposes of the

1 transcript. Barbara is taking very diligent notes.

2 A. Understood.

3 6. Q. And we should try to avoid speaking
4 over each other where possible.

5 A. Understood.

6 7. Q. Thank you. Is your affidavit in front
7 of you today?

8 A. It is.

9 8. Q. Okay, and is there anything else in
10 front of you?

11 A. Just this kind of a notebook to make
12 some notes as needed.

13 9. Q. Okay. I briefly saw one that came on
14 the screen that there were already some notes on it.
15 So you're not allowed to have notes with you going
16 into the examination. And then you should also know
17 that if you take notes during the examination, I am
18 entitled to request production of those notes. Okay?

19 A. Sounds good, thank you.

20 10. Q. So you can have your affidavit with you
21 currently but nothing else, at least in terms of
22 nothing else that's already pre-prepared.

23 A. Yeah, that sounds good.

24 11. Q. And you reviewed or re-reviewed your
25 affidavit prior to testifying today?

1 A. I did.

2 12. Q. Okay. And are you familiar with an
3 affiant named Peter Sweeney in this case?

4 A. I am not.

5 13. Q. Okay. Are you familiar with an
6 affiant, Dr. Sharon Koivu?

7 A. I know about Dr. Koivu.

8 14. Q. Okay.

9 A. But I am not personally familiar with
10 her.

11 15. Q. Have you read Dr. Koivu's expert report
12 of this case?

13 A. I have read her expert report on this
14 case.

15 16. Q. Okay. Thank you. And you, yourself,
16 are being tendered by WRCLS as an expert, correct?

17 A. I am.

18 17. Q. I am going to take you, sir, to your
19 Form 53 that you signed in this matter. And Ms.
20 Hoaken is just bringing it up on the screen.

21
22 --- SCREENSHARE

23
24 18. Q. Please let us know at any point as
25 well, by the way, if there are any tech issues. Those

1 tend to happen in the Zoom world.

2 A. I see the screen being pulled up there.

3 19. Q. And you see the document that says
4 "Acknowledgment of Expert's Duty?"

5 A. That's correct.

6 20. Q. And I can -- I will ---

7 MS. SCHUIITEMA: Sorry. We can see the other
8 tabs. Like I don't know if that's a problem
9 for you, or the bookmarks?

10 MS. THAVARAJ: No issue, but thank you for
11 letting us know, Ashley.

12
13 BY MS. THAVARAJ:

14 21. Q. We'll have you just focus, Dr. Gupta,
15 just on the actual body of the document. We're taking
16 you now to the second page. Is that your signature?

17 A. That is.

18 22. Q. Okay, and you agree that it is your
19 duty to provide evidence that is fair, objective and
20 non-partisan, correct?

21 A. That's correct.

22 23. Q. And within your area of expertise,
23 correct?

24 A. Within my area of expertise only.

25 24. Q. Okay. And that this duty prevails over

1 any obligation you may owe to any party who engages
2 you in this case, WRCLS. You agree?

3 A. That's correct.

4 25. Q. Okay. And like I said, this is not the
5 first time you've been an expert so you're fairly
6 familiar with these rules?

7 A. That's correct.

8 26. Q. Thank you, we can take this down. Now,
9 Dr. Gupta, you've identified your expertise in your
10 affidavit. I'll call it an affidavit; it's your
11 expert report for these purposes. You've identified
12 it at Paragraph 3 and the scope you've identified is:

13 "... The health risks associated with
14 living unsheltered; barriers patients
15 face in accessing emergency shelter;
16 the health benefits to having some form
17 of shelter; harms associated with
18 evictions and displacements, and any
19 relative advantages to living in an
20 encampment ..."

21 Is that correct?

22 A. That's right.

23 27. Q. Okay. Now before we turn to those
24 topics, I wanted to confirm you are not personally
25 aware of the specific circumstances at the encampment

1 at 100 Victoria Street North in Kitchener, correct?

2 A. Not personally aware of the Kitchener
3 encampment circumstances.

4 28. Q. Okay. You have never treated any of
5 the residents of that encampment?

6 A. I have never treated any of the
7 residents of that particular encampment.

8 29. Q. Okay, and you have not reviewed any of
9 their medical records, for example?

10 A. I have not reviewed any of their
11 medical records.

12 30. Q. You haven't visited the encampment?

13 A. I have not visited that particular
14 encampment.

15 31. Q. Okay. And you haven't spoken to any
16 person residing in or occupying that encampment?

17 A. I have not spoken to anybody in that
18 encampment.

19 32. Q. Okay. Now if you will allow me one
20 other preliminary point before we get started. I need
21 to have a little bit of a semantic discussion with you
22 to ensure we're speaking the same language, so to
23 speak. Because there are a lot of similar words in
24 your affidavit and in the literature and I want to
25 ensure that during this examination we're speaking

1 precisely. Is that okay?

2 A. Yeah.

3 33. Q. Okay. And just so you know, when you
4 cover your hand with your mouth -- she hasn't raised a
5 concern so she will let you know -- but it may make it
6 harder for Barbara to hear you for the transcript.
7 Just -- it's a very common tic, we all do it.

8 A. Yes.

9 34. Q. Okay.

10 A. Thank you for clarifying and pointing
11 that out (indiscernible).

12 35. Q. So firstly, when discussing
13 homelessness in general, of course, the word "shelter"
14 comes up a lot. And there's obviously a distinction
15 between what I'll call a location and an organization,
16 a place providing food and accommodations for the
17 homeless. And the concept of sort of seeking a
18 protective space. Do you understand what I mean when
19 I refer to that distinction?

20 A. Could you repeat that for me?

21 A. Sure. So the use of the word
22 "shelter," I accept that in sort of common parlance
23 that can generally mean a place providing protection.
24 Do you agree, just a general place providing
25 protection?

1 A. Yes.

2 36. Q. Okay. But in the context of
3 homelessness specifically, would you agree that the
4 word "shelter" generally means either a specific
5 organized shelter system? So they've been described
6 in many ways in the materials. But an emergency
7 shelter, a homelessness shelter, a particular
8 location, an organization that's -- that provides food
9 and accommodations for people experiencing
10 homelessness.

11 Do you understand that there's that
12 definition of "shelter", of the word "shelter?"

13 A. I understand there's kind of varying
14 definitions of the word "shelter." And -- and, you
15 know, across kind of the spectrum of homelessness,
16 shelter can mean different things for different
17 people.

18 37. Q. Sure. But if I refer to something as a
19 homeless shelter or an emergency shelter, for example
20 -- let's say I use "homeless shelter," will you
21 understand that to mean a specific organization,
22 location, that's organized for the purposes of
23 providing accommodation and food to the homeless?

24 A. I can understand that. And if I may,
25 kind of, there's many forms of shelter and you've

1 already kind of referenced a few. And it may be
2 helpful to like during this discussion to understand
3 which one you're referencing. Like emergency shelter
4 which is a more permanent shelter versus transitional
5 shelter and so on which often helps determine kind of
6 the setting we're talking about more precisely.

7 38. Q. Yes, and actually we're going to get
8 into a longer discussion on this topic.

9 A. Perfect.

10 39. Q. But before we get there, I want to just
11 specify or at least let's see if we can agree on some
12 language to use around the concept of living -- and I
13 take your point about what the concept of -- the
14 larger concept of "shelter" means.

15 But I want to see if we can come to some
16 common language on the concept of someone living in a
17 physical space that is a permanent, physical building.
18 So not that the address is permanent for the person
19 but that the structure itself has a permanent roof and
20 walls.

21 If I say "living indoors" ---

22 A. Yes.

23 40. Q. --- will you understand it to mean that
24 description?

25 A. Yes. And just to clarify again, that I

1 did not mean that I should disagree with your point.
2 I just meant more within the shelter just under just
3 so many different -- I think we're both referencing
4 the shelter system as something organized, you know,
5 by a public health authority or under government
6 authority or, you know, like a non-governmental
7 organization.

8 But within that, is kind of what I meant,
9 there's just so many different variations of it. But
10 kind of broadly-speaking, that concept of shelter I
11 agree with.

12 41. Q. Okay, so, thank you. That's very
13 helpful. So broadly-speaking, you do understand the
14 concept of shelter. I take your point that within
15 that concept, there are different types of shelters
16 that might be organized by a ---

17 A. Sure.

18 42. Q. --- municipality or other organization.
19 And then if I say, "living indoors," will you
20 understand that to mean living in a permanent,
21 physical structure?

22 A. Sorry, just also kind of nuance that
23 "living indoors" may also mean things like living in a
24 setting option known as "couch-surfing" where somebody
25 doesn't have permanence in the way they live but it is

1 indoors. So it may kind of also be nuanced based on
2 that particular scenario in an individual's
3 circumstance.

4 43. Q. Okay. Let's say it includes that
5 definition though. Would that all fall within the
6 concept of "living indoors" for you? Having a ---

7 A. Sure.

8 44. Q. --- permanent -- and again by
9 "permanent," I mean, unfortunately, there are fewer
10 words in the English language to describe this. But a
11 roof and walls that is made of more permanent
12 materials, concrete and brick and other things.

13 A. Okay. Permanent and physical structure
14 not in the temporal -- yeah. And for a ---

15 45. Q. Okay.

16 A. --- physical structure. Absolutely,
17 yeah.

18 46. Q. Correct. Not that the address is
19 attached to that person permanently ---

20 A. Yeah.

21 47. Q. --- but that the structure itself is a
22 permanent one.

23 A. That's right, yeah.

24 48. Q. Okay, thank you. Yes, I understand and
25 that's why I wanted to do this at the outset. There's

1 ---

2 A. Yeah, I know, thank you.

3 49. Q. --- linguistic, at least, frontiers in
4 this case. So that's what I mean when I am saying --
5 say, "living indoors" is living in a physical
6 structure that is permanent. Okay?

7 A. Okay.

8 50. Q. Okay. So turning to your affidavit,
9 when you use the word "unsheltered" in your affidavit
10 -- so to continue this discussion -- this includes
11 living in encampments, correct?

12 A. In this particular affidavit, you know,
13 and that is one of the points I actually wanted to
14 bring up a little bit.

15 Is there -- to me, especially after reading
16 Dr. Koivu's thing, I think, you know, there is a
17 spectrum of homelessness that sometimes is under-
18 appreciated in the literature, and in clinical
19 contexts, that we see day-in and day-out, that I just
20 wanted to kind of bring some attention to.

21 So, you know, there's a couple of points,
22 actually, in the affidavit where I may reference
23 "unsheltered" where I am actually mentioning where
24 somebody is actually living without any even -- like,
25 the -- as you mentioned, the term "permanent

1 physically," but may be impermanent physically
2 setting. So whether that be an encampment, a tent,
3 you know, like a -- without any -- like, you know,
4 when I mentioned unsheltered there in a couple of
5 points in the affidavit, I may mean somebody without
6 any sort of, you know, barriers to the environment,
7 community, around them.

8 But, yeah, so I just wanted to actually
9 bring that up, we can discuss that further as needed.
10 But there is a differentiation that I make and comes
11 up in my clinical practice around people that, you
12 know, don't live in permanent physical structures.
13 But that differentiation based on kind of where they
14 live and where they conduct their day-to-day
15 activities.

16 51. Q. Okay, let me just make -- this is all
17 quite important, Dr. Gupta, so we're going to go
18 though it in some detail. Let me just make sure I
19 understood what you just said to provide the jumping-
20 off point for us.

21 So are you saying that at a couple of points
22 in your affidavit, when you use the word
23 "unsheltered," you are including somebody who lives in
24 an encampment versus other places in the affidavit
25 when you use the word "unsheltered," you may not be

1 including someone that lives in an encampment?

2 A. I am just going to reference exactly.
3 There's two points in the affidavit specifically that
4 I wanted to bring attention to.

5 52. Q. Okay. And maybe I can help you as
6 well. I was going to take you first to Paragraph 9 of
7 your ---

8 A. Sure.

9 53. Q. --- affidavit.

10 A. Yeah.

11 54. Q. And maybe this is what you were going
12 to bring up. I was going to ask you -- I was going to
13 put it to you that when you use the word "unsheltered"
14 at Paragraph 9 of your affidavit, that includes people
15 who live in encampments. Would you agree?

16 A. I'm just ---

17 MS. SCHUITEMA: So maybe you'll let him get
18 there for a second.

19 THE WITNESS: Yeah. If you wouldn't mind
20 actually even if you want to pull up the
21 affidavit and mention, like kind of go
22 through exactly which points?

23 MS. SCHUITEMA: Sure. Sorry, when I take a
24 sip of my coffee, I get a thumbs up on the
25 -- across the screen. I don't know how to

1 turn that off.

2 MS. THAVARAJ: Like I said, the Zoom world.

3
4 BY MS. THAVARAJ:

5 55. Q. So this is Paragraph 9 of your
6 affidavit, Dr. Gupta. And I am only raising it
7 because you said ---

8
9 --- SCREENSHARE

10
11 A. Yeah.

12 56. Q. --- that you had -- was this one of the
13 paragraphs that you said you sort of want to -- went
14 back and looked at Dr. Koivu's affidavit, you
15 reconsidered that maybe this paragraph -- or is this a
16 paragraph that you would say includes when you used
17 the word "unsheltered" in this paragraph that that
18 includes people living in encampments?

19 A. I'll just take a look. Yes, I would --
20 I specifically wanted to bring up one point after.
21 But, you know, in this particular paragraph, I am just
22 going to re-read it just for -- thank you for going
23 down for me, just one second.

24 Yeah, in -- yeah, in this particular
25 section, I would include people who are living in

1 encampments and people who are not living in
2 encampments.

3 But, you know, one of the points, if I may
4 clarify, is that even within that there are some
5 trends that I comment on here. That are much
6 different for people that reside in a tent-based or,
7 you know, some sort of physical barrier structure than
8 there are -- and again, I kind of go back to that
9 continuum where if somebody has a tent or even non-
10 permanent shelter, they -- the described risks vary
11 based on what level of protection they have from the
12 elements, what level of community they may have around
13 them. And the exposure risk they have to the -- to
14 kind of the different circumstances around them.

15 So I do -- that's kind of what I wanted to
16 kind of just as we go through this more deeply. Is
17 that, yes, these risks often compare permanent to non-
18 permanent shelter.

19 But what's inadequately described especially
20 in a -- for -- you know, as part of my clinical
21 experience seeing these individuals, is the
22 differences that exist across the continuum for people
23 that, you know, are -- don't have any sort of
24 protection. Whether that be in the sense of community
25 and in the sense of -- yeah, any kind of non-permanent

1 shelter barriers compared to people that do.

2 57. Q. Okay. Thank you, sir. I understand
3 all that and we are going to get there. For the
4 moment, I am going to ask you some very specific
5 focused questions. And I am going to ask that you try
6 to answer those questions just so that we can get
7 through the examination as we need to.

8 A. Sure.

9 58. Q. So I just want to confirm, you said
10 that this paragraph you would agree that it includes
11 -- the definition or the comments made in this
12 paragraph and the use of the word "unsheltered"
13 includes both people living in encampments and people
14 not living in encampments. Correct?

15 A. That's correct.

16 59. Q. Thank you. And that's because in the
17 literature -- and you cite one that we will go to
18 shortly -- encampments are often a form of unsheltered
19 living. Correct?

20 A. Yeah, and many -- not all literature
21 but some -- in some of the literature, in some of the
22 literature that I quote, they don't, unfortunately,
23 have the granularity to differentiate unsheltered
24 environments in the studies that they do. Correct.

25 60. Q. Right. And so they don't have the

1 granularity but they do put encampments within the
2 category of unsheltered?

3 A. And at some of the studies I quote,
4 correct. Not all.

5 61. Q. Thank you. We'll go to one of those
6 now. So you reference in your affidavit, a paper at
7 footnote 4, "Unsheltered homelessness and health: A
8 literature review" in the American Journal of
9 Preventative Medicine?

10 A. Correct.

11 62. Q. And you didn't author this paper, of
12 course?

13 A. I did not.

14 63. Q. But you have read it, I assume?

15 A. I have.

16 64. Q. And you didn't attach -- the paper
17 wasn't attached as an exhibit to your affidavit so we
18 didn't have it in the record. But we found it online.
19 Is this -- it's up on the screen currently in front of
20 you. Thank you, Ms. Hoaken.

21 Is this the same article as the article you
22 referenced in footnote 4 of your exhibit -- no, I'm
23 sorry, your affidavit?

24
25 --- SCREENSHARE

1 A. Can you just go to the first page as to
2 -- this is just the abstract (indiscernible).

3 65. Q. This is, yes.

4 A. Yeah.

5 66. Q. I'd ask if you can scroll down.

6 A. Yeah, perfect. Okay. It is correct,
7 yeah.

8 67. Q. Okay. Thank you. Ashley, we'd like to
9 mark this as Exhibit A to the examination.

10 MS. SCHUIITEMA: That's fine.

11 MS. THAVARAJ: Okay.

12
13 EXHIBIT NO. A: American Journal of Preventative
14 Medicine, article

15
16 BY MS. THAVARAJ:

17 68. Q. Dr. Gupta, this article aptly named,
18 is a study on unsheltered persons and the impact on
19 their health, correct?

20 A. That's correct.

21 69. Q. Okay. And this article in particular,
22 does include encampments within the definition of
23 being unsheltered. Correct?

24 A. That's correct.

25 70. Q. Okay. And I am going to take you

1 through just some findings in this study. We'll start
2 where we are right now which is the abstract and
3 evidence synthesis on Page 1 of the PDF.

4 And I appreciate, Dr. Gupta, it's hard to
5 read these PDFs, they're very -- the words are very
6 small and so if there is anything you can't see just
7 let us know. We'll try to highlight it for you and
8 I'll try to be specific.

9 But I'm looking right now, middle of the
10 page where it says "Evidence synthesis" where it says,
11 "Unsheltered populations" -- and again for the
12 purposes of this paper that includes persons living in
13 an encampment:

14 "... experience higher rates of chronic
15 disease, serious mental illness and
16 substance abuse than sheltered
17 populations. Unsheltered homelessness
18 is strongly associated with chronic
19 homelessness that exacerbates serious
20 mental illness and substance use which
21 is often co-occurring. Despite having
22 large unmet health needs, unsheltered
23 populations have lower health care
24 utilization and often lack health
25 insurance ..."

1 Do you see that?

2 A. I do.

3 71. Q. Okay. And you agree that for the
4 purposes of this paper, this applies to encampment
5 residents?

6 A. I do.

7 72. Q. Okay. I'll take you just to Page 4 of
8 the study, the second column. If we look at the third
9 paragraph in the second column on this page, you'll
10 see that starting at sort of the middle of the
11 paragraph. Unfortunately, there aren't paragraph
12 numbers. No, we were in the right spot. Perfect,
13 thank you.

14 You'll see that the middle of the paragraph
15 it says:

16 "... No tier-one studies provided support
17 for unsheltered individuals having
18 better health than sheltered
19 comparators ..."

20 Do you see that?

21 A. I'm just -- correct, yeah.

22 73. Q. Okay. And then across all the 48 tier-
23 one findings, 44 percent found that those who were
24 unsheltered had much poorer health. And 29 percent
25 supported moderately but -- sorry, moderately but

1 significantly poorer health.

2 A. Correct.

3 74. Q. And you'll see at the end of the
4 paragraph, it says:

5 "... Within each of the eight health
6 outcome groups, most findings indicated
7 significantly worse health for
8 unsheltered than sheltered ..."

9 A. That's correct.

10 75. Q. Okay. And you agree again that this
11 applies to encampments?

12 A. For the purposes of this study,
13 correct.

14 76. Q. Thank you. Now if we go to Page 7, if
15 we go to the heading, "Substance Use," if we look at
16 the -- on the screen in front of you right now, if you
17 look at the second column ---

18 A. Okay.

19 77. Q. --- the last paragraph after that
20 section. So it'll be the paragraph just above the
21 title, "Injuries." Do you see that?

22 A. Yeah.

23 78. Q. And I apologize for the nature of this.
24 In the "before world," we world, we would have just
25 handed you a piece of paper and been able to show you

1 what's on it. But here we are.

2 A. Absolutely.

3 79. Q. So this paragraph at Page 7 in the
4 second column, says:

5 "... There is evidence that substance use
6 may increase with the duration of
7 unsheltered homelessness ..."

8 And do you see that?

9 A. I do, yeah.

10 80. Q. Okay. And you agree again that this
11 applies to encampments?

12 A. Yeah, and again, one thing I will
13 mention that this does not compare people living in
14 encampments versus people living not in encampments.
15 But, yes, for these purposes of the study, it does --
16 it does include encampments in the unsheltered
17 population.

18 81. Q. In the unsheltered category. And we'll
19 come, sir, to the point about comparing those living
20 unsheltered but in encampments versus not in
21 encampments, shortly.

22 But just for the moment, you have, I think,
23 agreed with me that this applies. This point ---

24 A. Just to be clear, yes.

25 82. Q. --- applies to those living in

1 encampments? You also -- I appreciate that you're
2 saying for the purposes of this study. This actually
3 is not itself a study, correct? It's actually a -- in
4 the sense that it is a study that has ---

5 A. It's a systematic ---

6 83. Q. --- aggregated data from 42 other
7 studies?

8 A. Correct. Like many of which -- again,
9 I haven't read all 42 of those studies but again,
10 systematic reviews by definition. Unfortunately, like
11 what systematic reviews are, are they're aggregate
12 studies so they don't differentiate and provide,
13 unfortunately, like in a context about what's
14 happening at one particular site and one particular
15 setting. They're kind of broad stroke trends that are
16 gathered from those particular studies.

17 84. Q. Sure. But you relied on this study,
18 right, sir, in your -- in preparing your expert
19 report?

20 A. Yes, so in preparing especially kind of
21 that last point, Paragraph 9 point -- and point 4
22 specifically referenced this. But again, in my expert
23 testimony is also based on a direct frontline clinical
24 experience. Kind of working in the -- with patients
25 across the homelessness spectrum.

1 85. Q. Okay. On that point, actually I was
2 going to ask you and I can just -- I can ask your
3 lawyer if that's easier at this time which is
4 certainly fine.

5 I was going to ask you whether you're
6 relying on this study. It appeared to me at least
7 that you're relying on this study for your paragraph
8 -- your comments at Paragraph 9. If it is for 9, IV
9 in particular as well, maybe, Ashley, we can do this
10 by way of undertaking. I don't need Dr. Gupta to do
11 this right now. But it's just to tell us which
12 portion of the Martin's paper you're referring to.

13 MS. SCHUIITEMA: We can do that by way of
14 undertaking.

15 MS. THAVARAJ: Okay. Thank you. And sorry,
16 I said "Martin's," I meant "Richards," the
17 Richards Paper.

18 **UNDERTAKING**

19 BY MS. THAVARAJ:

20 86. Q. Okay, Dr. Gupta, I think you just
21 agreed with me that this was an aggregate literature
22 review of 42-some other studies. And I appreciate
23 your, you know, comments and critiques of the -- of
24 aggregate studies perhaps generally.

25 But the study which you have cited on --

1 cited, sorry -- notes overall that there are --
2 overall that there are a number of worse health
3 outcomes associated with being unsheltered.

4 A. Unsheltered.

5 87. Q. Correct?

6 A. Correct.

7 88. Q. And being unsheltered for these
8 purposes does include living in an encampment?

9 A. It does, yeah.

10 89. Q. Thank you. We can go to the next study
11 here. Dr. Gupta, I should have said at the beginning,
12 if you need a break at any point, please just let us
13 know.

14 A. No. Sounds good, thank you.

15 90. Q. Another study that you referred to in
16 your affidavit is at footnote -- at Paragraph 11,
17 footnote 5. And this is a study by Nyamathi and
18 Gelburg, "Sheltered Versus Non-Sheltered Homeless
19 Women" in the Journal of General Internal Medicine.

20 A. Correct.

21 91. Q. Okay. Now again, you're not an author
22 of this study but you did read it?

23 A. I did.

24 92. Q. Okay, and it also is not made an
25 exhibit to your affidavit but we have found a version

1 online. It's currently up on the screen. Can you
2 confirm that this is the study that you were referring
3 to in your affidavit?

4
5 --- SCREENSHARE

6
7 A. That's correct, yeah.

8 93. Q. Thank you. Ashley, I'd like to mark
9 this as Exhibit B to the examination.

10 MS. SCHUIITEMA: Okay.

11 MS. THAVARAJ: Thank you.

12
13 EXHIBIT NO. B: Study by Nyamathi and Gelburg

14
15 BY MS. THAVARAJ:

16 94. Q. And the objective of this study, Dr.
17 Gupta, it appears it was in the "Objective" section
18 right at the top of the beginning of the study here,
19 is to conduct an analysis between homeless women
20 residing in sheltered and non-sheltered environments,
21 correct?

22 A. That's right.

23 95. Q. Okay. And you just said, which is
24 correct, and which we will return to, that there
25 aren't studies. And this study is not about

1 encampments versus other forms of unsheltered living,
2 it's actually about sheltered and non-sheltered, that
3 is, street and outdoor living. Correct?

4 A. That's right.

5 96. Q. Okay. Would you say that this -- would
6 you agree that this article also includes encampment
7 residents within the category of unsheltered living?

8 A. Yeah, and again, they didn't
9 specifically mention but the way kind of the study is
10 written, absolutely, I think it will include
11 encampment residents. Yeah.

12 97. Q. Now, I am going to take you to some
13 findings from this article. If we can start, please,
14 at Page 5, bottom. I'll just start with the top
15 paragraph of this discussions section which says:

16 "... This study confirms previous
17 research findings that homeless adults
18 are at risk for poor physical health
19 and unsheltered homeless persons have
20 poorer physical health status and use
21 less medical care than their sheltered
22 counterparts ..."

23 Do you see that?

24 A. Yeah.

25 98. Q. Okay.

1 "... The worst health was reported by
2 women living on the streets ..."

3 A. Correct.

4 99. Q. "... Almost three-fourths of the
5 unsheltered homeless women reported
6 being in some degree of pain and 60
7 percent reported fair or poor health ..."
8 Correct?

9 A. Correct.

10 100. Q. Okay. And you agree that this finding
11 applies to people living in encampments?

12 A. Correct. And I will just briefly kind
13 of add, again, in the context of this particular study
14 and the patient population, this was a direct -- they
15 actually sampled the shelter environment. So kind of
16 it's referencing that particular environment.

17 101. Q. Okay. Would you disagree, sir, though
18 that these studies and this study in particular is
19 extrapolatable to other settings, the findings?

20 A. I do not. I just wanted to kind of
21 reference that. Because again, to me one of the
22 biggest challenges is in the literature right now is
23 comparing the point that you just brought up. Which
24 is comparing unsheltered individuals that are living
25 in encampments versus people that don't live in

1 encampments or other forms of unsheltered
2 environments.

3 102. Q. Okay. And sorry, just to make sure I
4 understand. You do agree that the studies can be
5 extrapolated?

6 A. Correct.

7 103. Q. But your concern is that there are ---

8 A. Yeah, I think it's a limitation of the
9 study essentially, unfortunately, yeah.

10 104. Q. Understood, okay. Okay, so let me see
11 -- perhaps let me see if I can maybe try to save us
12 some time here and save you some time.

13 We clearly agree and you've fairly stated
14 that homelessness is associated with a number of poor
15 medical outcomes. I don't think that's in dispute?

16 A. That's correct.

17 105. Q. Okay. And I think we agree, but please
18 let me -- or can we agree that there's evidence from a
19 medical perspective that living indoors is generally
20 associated with better outcomes than living unhoused
21 and outdoors, including in a tent or an encampment?

22 A. Yes, we can agree on that.

23 106. Q. Okay. And you are correct that none of
24 the research that you've -- well, none of the research
25 that you cited -- and I certainly understand you to be

1 saying that it's because it doesn't appear to exist --
2 compares health outcomes between living in an
3 encampment to otherwise living on the streets or
4 outdoors but not in an encampment, correct?

5 A. Correct. There's some rare
6 (indiscernible) some of the other literature we
7 referenced including Canada, MARCO study but -- but,
8 you know, that -- that evidence especially on a broad
9 level is quite limited.

10 107. Q. Okay. I think we can take down the
11 screenshare. And I think you've understood sort of
12 the distinction I was making, Dr. Gupta, which is also
13 that study is limited but also not about health
14 outcomes.

15 A. Correct.

16 108. Q. Okay. And of course, we've reviewed
17 your affidavit at Paragraphs 16 and 20 to 22 and other
18 places for which there is no -- or are no literature
19 citations. And so I am just going to confirm the
20 reason -- and, obviously, you're an expert and
21 knowledgeable about this issue and came here having
22 reviewed all the materials, you've clearly
23 demonstrated.

24 The reason you haven't cited a study on this
25 topic is that there is no literature and no basis in

1 the literature to suggest that encampment living is
2 better than otherwise living rough or otherwise living
3 outdoors or on the streets. Is that correct?

4 MS. SCHUIITEMA: I am sorry to interrupt but
5 I think if you're asking him about a
6 specific paragraph where he hasn't cited
7 literature, then I think you should take him
8 to that. Sorry, you just briefly mentioned
9 Paragraphs 16 and then you said 20 to 22.
10 And I think if your question is related to
11 that, you should give him an opportunity to
12 look at it.

13 MS. THAVARAJ: It's not. I am happy to
14 though.

15
16 BY MS. THAVARAJ:

17 109. Q. I am happy to show them to you on the
18 screen, Dr. Gupta. I was asking the more general
19 question which is that you've been saying that there
20 is no literature or there is very little literature.

21 A. There is limited -- there is limited
22 literature comparing the MARCO project and we can go
23 to that if it's helpful. But whenever you feel
24 comfortable. Kind of looks at probably one of the
25 closest literature examples of that.

1 But, yeah, like -- and I think if there's
2 particular paragraphs or things you want me to talk
3 about or reference, I am happy to go through those.

4 110. Q. Okay, let me ask you about the general
5 point first.

6 A. Okay.

7 111. Q. The MARCO study exists on encampments?

8 A. Correct.

9 112. Q. It's not about health outcomes?

10 A. It's -- like again, it does comment on
11 -- like, to me many of those -- and can we go through
12 the study itself? Whenever you want, like we can go
13 through kind of -- because there are components to it
14 around housing and other things that I think
15 reference, would be kind of relevant to health
16 outcomes.

17 But I don't actually know actually right now
18 which health outcomes and which particular elements
19 you might be referencing and talking about.

20 113. Q. Okay. We are happy to. Let's go the
21 MARCO study now. So this is Exhibit B to your
22 affidavit, sir. Do you recognize it?

23
24 --- SCREENSHARE
25

1 A. Correct.

2 114. Q. Okay. And I was just asking you a
3 series of questions because you were discussing
4 studies on encampment living specifically and studies
5 on encampment living, unsheltered encampment living
6 versus unsheltered non-encampment living.

7 A. Correct.

8 115. Q. (Indiscernible) look at it that way?
9 Okay. And your view is that this is a study on
10 unsheltered encampment living?

11 A. Yeah, it's an evaluation of, you know,
12 kind of work that took place during the pandemic to
13 support people that were living in encampments during
14 -- in Toronto, primarily.

15 116. Q. Okay. Let's go through, sir, some of
16 the components of this study, if you don't mind. So
17 we can scroll anywhere that you'd like to scroll. But
18 I am just going to ask you some questions about it.

19 A. Yeah.

20 117. Q. This study is -- I mean, number one,
21 this publication is actually not the full publication,
22 correct? It's a ---

23 A. It's a summary.

24 118. Q. --- summary report. And a summary
25 report that was prepared -- if we scroll to the first

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1 page, I think you'll see. A summary report that was
2 prepared -- if you see the "About this Report"
3 section. This is a brief summary of one of the MARCO
4 evaluations. The final full-length report will be
5 released in December of 2021. Do you see that?

6 A. I do, yeah.

7 119. Q. Okay, are you aware at all whether the
8 full-length report actually came out?

9 A. I -- I do believe it -- like I -- I --
10 it did come out.

11 120. Q. Okay. We took a look and we weren't
12 able to find it. But, Ashley, can I get an
13 undertaking that if Dr. Gupta is able to find that and
14 provide it to you, that you provide it to us?

15 MS. SCHUIITEMA: Yes, as long as he is able
16 to find it, we can provide it.

17 MS. THAVARAJ: Absolutely, thank you.

18 **UNDERTAKING**

19 BY MS. THAVARAJ:

20 121. Q. In any event, Dr. Gupta, this is --
21 this extract, this summary is what is -- it has been
22 attached as an exhibit to your affidavit, correct?

23 A. Correct. This summary is what I know,
24 but, yeah.

25 122. Q. And so this evaluation included data

1 collection between March and June of 2021.

2 A. That's correct.

3 123. Q. Correct?

4 A. Yeah.

5 124. Q. Sorry, I spoke over you there.

6 A. That's correct.

7 125. Q. Okay. And the report itself was
8 compiled and published later that same year, in
9 November at least. Not the report but this summary
10 that we're looking at?

11 A. That's right.

12 126. Q. Okay. And the participants were
13 recruited through outreach engagement, correct?

14 A. That's right.

15 127. Q. Okay. Not random sampling?

16 A. Yeah.

17 128. Q. And you obviously have done and worked
18 on studies yourself, that's not a way that allows for
19 representation necessarily, correct, when you do
20 outreach rather than random sampling?

21 A. That's right. This is correct.

22 129. Q. And it also means that individuals who
23 are perhaps most disconnected from services and more
24 marginalized may be under-represented?

25 A. Often, you know, the nature of the work

1 that this particular study was undertaking, was
2 targeting people that would be most marginalized and
3 under-represented. But random sampling, generally, is
4 limited in its rigour.

5 130. Q. And it's representativeness.

6 A. Yeah. And its representativeness.
7 Correct.

8 131. Q. Okay. And it's also a fairly small
9 sample size, correct? A hundred and twenty-seven ---

10 A. Correct.

11 132. Q. --- queries.

12 A. Queries.

13 133. Q. And 23 interviews.

14 A. Correct.

15 134. Q. I would think that that limits its
16 generalizability even within Toronto, would you agree?

17 A. I agree that this -- again, is very
18 limited. Again, speaks to the very limited nature of
19 literature comparing living in encampments versus not
20 living in encampments, broadly-speaking.

21 135. Q. Okay. Thank you. And this was the
22 height of the COVID-19 pandemic. And sorry, this
23 study is about Toronto, is it not?

24 A. Is about Toronto, correct.

25 136. Q. Yes, okay. And was at the height of

1 the COVID-19 pandemic?

2 A. That's correct.

3 137. Q. Okay. And so the restrictions
4 described in the report would have been from the
5 pandemic time?

6 A. Correct.

7 138. Q. And specific and unique to that time as
8 well?

9 A. It's in -- I'm just going to go and
10 reference which restrictions particularly. Because
11 there are, unfortunately, since the COVID pandemic
12 time, the shelter environment have changed
13 dramatically in so many ways. So I don't know -- if
14 you can just quickly go over which restrictions they
15 were mentioning. I'll just see. Is there a
16 particular paragraph or section?

17 139. Q. Well, I'm just asking more generally,
18 sir, about the -- like given you didn't, you know,
19 author this study and all of that, I'm just asking
20 more generally, this study is about the pandemic and
21 about the pandemic time. About, actually, a
22 particular snapshot, March to June of 2021 at the
23 height of the pandemic. Would you disagree?

24 A. Yes, that's the -- this particular
25 study is studying that time period. But I think it

1 may be helpful to also -- yeah. That's correct,
2 that's when it's being started, the study period is
3 defined during at the height of the pandemic.

4 140. Q. Okay. And it also took place in early
5 summer, March to June of 2021. Responses may have
6 been different in the winter time, correct?

7 A. I cannot probably speak to that
8 particular component.

9 141. Q. I mean, you speak in your affidavit to
10 the winter time issues associated with homelessness,
11 frost bite, gangrene, trench foot, all those things.
12 Those impacts wouldn't at least be as relevant in
13 March to June of 2021, would you agree?

14 A. Again, I don't -- like, generally-
15 speaking, yes, like they may not be as relevant. But
16 the -- like unfortunately, the weather systems can
17 vary kind of dramatically. And, yeah, I am just
18 trying actually to see which point you're talking
19 about here.

20 MS. SCHUIITEMA: Maybe you can scroll on and
21 let him have an opportunity to look at it.
22 Or if you want to take him to what the
23 specific part that you're talking about,
24 Kartiga, in the study. That would be
25 helpful.

1 MS. THAVARAJ: I'm speaking generally about
2 the study.

3
4 BY MS. THAVARAJ:

5 142. Q. So if there's a particular point you'd
6 like to go to, Dr. Gupta, in the study, please let us
7 know? Like I can take you to -- we can go to the
8 first page if you like. We actually -- there you go.
9 Where it talks about ---

10 A. Yeah, I'm just -- I'm just going to
11 asking about the weather-related question because I
12 don't think that actually ---

13 143. Q. No, I'm merely referring to -- so do
14 you see at the bottom of column 1, it says:

15 "... We conducted 127 surveys and 23
16 interviews with encampment residents in
17 Toronto between March and June of 2021
18 ..."

19 So I'm just putting it to you, March to
20 June of 2021 would be different than November to
21 January of a particular year just as a matter of
22 course. The difference between early summer and the
23 winter time, for example.

24 MS. SCHUIITEMA: And what would -- could you
25 be specific about what would be different,

1 Kartiga? Like you need to articulate it
2 exactly what you're asking him. What would
3 be different?

4 MS. THAVARAJ: Well, I think I have, Ashley.

5 MS. SCHUIITEMA: So maybe ---

6 MS. THAVARAJ: (Indiscernible).

7 MS. SCHUIITEMA: --- explain, like what is
8 the question, what would be different in
9 that timeframe. Like is there something
10 specific in the study result that you -- or
11 you're asking him would be different in the
12 winter?

13
14 BY MS. THAVARAJ:

15 144. Q. Dr. Gupta, I am asking you whether
16 people's responses might be different in the winter
17 time than in the summertime or the pre-summertime,
18 March to June of 2021?

19 A. Yeah, I think really would depend on
20 the questions they were asking. And as far as I can
21 understand, like they're not asking questions related
22 to, you know, like the impact of the winter. Being
23 I'm not a study author as outlined earlier but they're
24 asking about needs being met and housing options and
25 support systems.

1 So it's hard to say that it wouldn't be
2 generalizable to, you know, other months. Because
3 again, like we're not talking about like colds-related
4 outcomes or cold-related injuries or things of those
5 nature, I suppose, in this particular -- or like
6 that's not what the authors are asking in this
7 particular study.

8 145. Q. Or that they're being asked about
9 living outdoors. And I am asking you simply whether
10 that would be different and you might get different
11 answers to questions about living outdoors in the
12 winter time versus in the early summer?

13 MS. SCHUIITEMA: I'm sorry. I'm going to
14 interrupt again, Kartiga. Can you take him
15 to what specific finding or outcome in this
16 MARCO report you're asking him to opine on,
17 the difference between the spring and the
18 winter or summer and winter?

19 MS. THAVARAJ: I'm not, Ashley, asking him
20 to opine on anything specific. I'm
21 literally asking the question that I just
22 asked.

23 MS. SCHUIITEMA: Okay. I mean, I think it's
24 unfair to be asking him to just generalize
25 about the difference between the -- if

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1 you're not putting a specific finding to him
2 that's in here. Maybe you can ask it again.
3 MS. THAVARAJ: Sure. I don't think it's an
4 unfair question, just for the record. So I
5 would appreciate the witness' response.

6
7 BY MS. THAVARAJ:

8 146. Q. But also let me just put this directly
9 to you, Dr. Gupta. This study, you've agreed it's a
10 small sample size, you've agreed it's not -- it's not
11 a study that is conducted in a way that's necessarily
12 -- or was conducted in a way that's necessarily
13 representative. And I think you agreed with my
14 assertion that it's of limited generalizability even
15 within Toronto.

16 I'm going to put it to you that ---

17 A. Yeah.

18 147. Q. --- this study is not generalizable to
19 other encampments?

20 A. I would respectfully disagree to that
21 because, again, it gives us -- you know, like there's
22 some -- there's often many shared experiences of being
23 homeless and shared experiences of people that live in
24 encampments and are dis-institutionalized and have
25 structural vulnerability.

1 So I think this is one of like, you know,
2 very few signals I think that we have to understand,
3 you know, why and what people's decision-making goes
4 in choosing encampments versus unsheltered
5 environments and kind of the benefits they may
6 experience for those.

7 148. Q. Okay. I understand that it's one of
8 the few signals we have, sir, but that doesn't mean
9 it's representative or generalizable, does it?

10 A. Again, I will like indicate to you
11 maybe outlined like -- like are you talking about
12 generalizability across Canada, North America or in a
13 particular context?

14 149. Q. So in this context, I would put it to
15 you, it's not generalizable to the encampment at issue
16 in this case. Would you agree with that?

17 A. I would respectfully kind of disagree
18 with the particular assertion. You know, like I --
19 you know, as an emergency provider, I've worked in
20 kind of many settings, many emergency departments.

21 And I also, for example, help with like a
22 health equity group across the country where we look
23 at impact of sort of homelessness in emergency care.
24 And often the experiences are surprisingly common
25 across sites, across cities, across things.

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1 Even so, you know, like this is -- this may
2 be downtown Toronto like you could have mentioned like
3 we're closer to downtown Toronto. But after people in
4 other smaller communities, you know, when we -- when
5 we discuss these matters in boardrooms and in
6 discussions with direct emergency providers,
7 surprisingly, even smaller communities like the one in
8 (indiscernible) and at hand, face remarkably similar
9 challenges and issues in access to shelter challenges
10 finding shelter.

11 And -- and, you know, that's why I -- I,
12 like you know, like, for example, I may assert this is
13 not representative to an encampment in Columbia, sure.
14 But clearly ---

15 150. Q. Would you agree that there are some
16 encampments that's not generalizable, too?

17 A. But the encampment -- so that's why I
18 pose the question back to you. Like can you ask which
19 kind of setting you think it might be. Like, you
20 know, like because -- we have to kind of look at what
21 question you're asking. Like what is the question
22 that we're trying to use the study to answer. And
23 maybe that might help us to understand how to answer
24 best.

25 MS. SCHUIITEMA: I mean, I think, Kartiga,

1 you did ask, it's not generalizable to the
2 encampment at issue and he disagreed with
3 that.

4 MS. THAVARAJ: Yeah, but then he spoke for a
5 bit and he said it's perhaps not
6 generalizable to an encampment in Columbia.
7 So I'd like to know what distinguishes.

8
9 BY MS. THAVARAJ:

10 151. Q. And that's one of the reasons, Dr.
11 Gupta, that I asked you about the winter time. So
12 perhaps we can go back to that question. Would you
13 agree that there's a difference between March and June
14 versus December to January of any given year?

15 MS. SCHUIITEMA: A difference in what,
16 Kartiga?

17
18 BY MS. THAVARAJ:

19 152. Q. In how someone might respond to
20 questions about living outdoors?

21 A. Sorry, did you -- I apologize, to kind
22 of labour the point and again, I hope that, you know,
23 like this is not to, you know, belabour the point.
24 But I just wanted to understand. Like I -- you're
25 talking -- are there different -- could you just

1 repeat that one more time. I apologize.

2 153. Q. No problem. Are there differences --
3 might there be differences in how a survey respondent
4 might respond to questions about living outdoors
5 between March and June of a given year and November to
6 January of a given year?

7 A. Yes. And there may be differences in
8 our -- somebody's response to a survey in November to
9 January versus March to June.

10 154. Q. Because of the winter time?

11 A. And it may be due to -- like, again,
12 that it may not just be due to winter time, it may be
13 due to other factors. But I think it would be helpful
14 before commenting on those particular factors you
15 might be mentioning in referencing.

16 155. Q. Okay. Sir, don't think I'm trying to
17 trap you in some unique -- you know, I'm really just
18 asking if the winter time is going to impact
19 somebody's experience of living outdoors. Can we
20 agree on that?

21 A. Yes, we can absolutely agree the winter
22 time change somebody's experience of living outside.

23 156. Q. Okay. Ashley, I think this might be a
24 good moment for a short break. We still have ---

25 MS. SCHUITEMA: Sure.

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1 MS. THAVARAJ: --- a bit of time to go with
2 Dr. Gupta.

3 MS. SCHUIITEMA: I think that's a good idea.

4 MS. THAVARAJ: How much time would you like?

5 MS. SCHUIITEMA: Do you want to take 10
6 minutes?

7 MS. THAVARAJ: Sure. Come back at 11:10?

8 MS. SCHUIITEMA: Okay, thanks.

9 MS. THAVARAJ: Okay.

10 THE WITNESS: Thanks everybody.

11 MS. THAVARAJ: Thank you.

12
13 --- BREAK
14

15 BY MS. THAVARAJ:

16 157. Q. Thank you, Dr. Gupta. Sorry, I should
17 have asked this before the break. But you're aware
18 that -- I take it you didn't speak with anybody on
19 your break?

20 A. I did not.

21 158. Q. Okay, and you're aware about that,
22 that's great, thank you.

23 Okay, so before the break, we were
24 discussing the MARCO study.

25 A. That's correct.

1 159. Q. You have agreed, sir, that the focus of
2 the study is on Toronto?

3 A. The -- yeah, the study, the sample
4 population from the study is from Toronto, correct.

5 160. Q. Okay. Toronto is a big city.

6 A. Correct.

7 161. Q. The study does not survey residents
8 outside of Toronto, and specifically not Waterloo
9 Region?

10 A. Correct.

11 162. Q. And it doesn't survey residents of
12 encampments in a similarly-sized population; it's
13 using Toronto's population?

14 A. Yeah, again, I don't know the exact,
15 you know, details of, you know, like which population
16 within Toronto they sampled. Because within Toronto,
17 like there's kind of geographically distinct areas
18 that exist and happen in local communities that
19 develop.

20 So I don't know exactly which particular
21 encampment and which particular areas that they focus.
22 But the study was definitely done in Toronto.

23 163. Q. Okay. And we were speaking earlier in
24 the examination, Dr. Gupta, you might recall about
25 whether this -- whether the MARCO study gives us

1 information about health outcomes.

2 Do you recall that?

3 A. That I do, yes.

4 164. Q. Okay. And I put it to you that the
5 study does not give us information on health outcomes.
6 And I think you disagreed.

7 A. I think for me, like, because health
8 outcomes can be narrowly defined and broadly defined.
9 So, you know, it does not give us information on
10 physical health outcomes such as, you know, cardio-
11 vascular disease, cancer, even things like frost bite
12 or hypothermia.

13 But it does give us, kind of some
14 information on things like outreach services and kind
15 of (Indiscernible) reports and -- and, you know, the
16 experience of social connection and things like that.
17 Which, you know, have impact on health as well.

18 165. Q. Okay, I understand. And from your
19 agreeing, it does not -- the study does not get us
20 information on physical health outcomes. It doesn't
21 measure communicable diseases or cardio-vascular
22 conditions, as you mentioned.

23 A. Correct, it does not. No.

24 166. Q. Okay. And it does measure, as you've I
25 think said, sort of the more subjective experiences of

1 people, do you agree?

2 A. Correct. Like, and again, like I will
3 take, like, you know, because -- and I apologize if,
4 you know, I am not trying to be difficult or anything
5 of the sort.

6 But often those experiences in my clinical
7 experience matter fairly -- like you know, favour very
8 strongly for the individual's experiencing
9 homelessness. Kind of like how they're treated, how
10 they're cared for or how, kind of, the mental and
11 social connection that they have at -- they are very,
12 very important actually, health outcomes.

13 So if I may, like, you know, like say that
14 that option favours even more than somebody's -- you
15 know, they may not want to get care for, you know,
16 like the broken bone they have. But they wanted to be
17 treated in a respectful way and they won't even get
18 seen in my emergency department until somebody kind of
19 addresses some of those social connections and other
20 -- like, with (indiscernible) references subjective
21 components of health. But I think those favour very
22 strongly in this particular -- or, like that's what's
23 focused on in the study, but not the -- the physical
24 outcomes, like cardio-vascular disease and health
25 outcomes.

1 167. Q. Okay, I understand, sir. And I
2 appreciate the point that you've just made. But I am
3 going to ask you but they also -- these also are
4 subjective views. Correct? By their very nature,
5 subjectivity means they are about that particular
6 person. Would you agree?

7 A. I apologize, I may kind of slow us down
8 and go back to the study again.

9 168. Q. Well, I am not asking about anything --
10 any particular wording used, right? I am just asking
11 about your -- the answer that you just gave. So these
12 are subjective answers, correct?

13 A. Like, so like, connection to mental
14 health supports, connection to, you know, outreach
15 services, too, are not subjective. They are
16 measurable outcomes and endpoints.

17 But I can't like kind of like talking about
18 like lay factors or lay -- like, you know, like, you
19 know, like in colloquially some people kind of
20 reference them as subjective. But they're measurable
21 endpoints. As far as I am aware, they're not --
22 there's no particular distinction about like
23 subjective versus like, you know, like there is
24 nothing subjective about I guess being offered a
25 support service or ---

1 169. Q. Yes.

2 A. Yeah. Okay.

3 170. Q. Fair enough, I was asking about your
4 comments about feeling respected. For example, you
5 said, you know, people might not even see you for a
6 broken bone if they don't feel ---

7 A. Right.

8 171. Q. Those experiences are subjective.
9 Correct?

10 A. Those particular, yeah, experiences are
11 subjective. Sure.

12 172. Q. Yeah, okay. And I think you -- we
13 spoke a little earlier, sir, about the fact that this
14 was during -- the study was conducted during the
15 pandemic.

16 At the time, in particular, public health
17 advice was to congregate outdoors rather than indoors
18 to limit the spread of COVID-19. Do you recall that?

19 A. I do.

20 173. Q. Okay. And that can help explain at
21 least why, at that time, some residents would have
22 felt safer being outdoors. Correct?

23 A. In part, yes, during that time they may
24 have. Yes.

25 174. Q. Thank you. And sorry, I appreciate

1 everything that you said about this study and your
2 views on its generalizability. But I'm just going to
3 have you confirm, you don't know anything about the
4 residents of the encampment at issue in this
5 litigation, the Kitchener encampment, correct?

6 A. I don't have direct clinical encounters
7 or experience. I've never visited this particular
8 encampment.

9 175. Q. And this MARCO study is not about that
10 particular encampment?

11 A. It is not about the Kitchener-Waterloo
12 encampment.

13 176. Q. Okay. And you did speak earlier about
14 the fact that there is a lack of literature on the
15 distinction between living unsheltered in an
16 encampment versus living unsheltered without an
17 encampment previously.

18 A. Yeah.

19 177. Q. I'm also going to put to you that there
20 is no basis in the literature to suggest that
21 encampment living is better than otherwise unsheltered
22 non-encampment living. Would you agree?

23 A. Yeah, so there is no strong literature
24 base. And there is very, you know, limited literature
25 base to do that. Which is often at least in -- you

1 know, and you're talking about health living, like
2 physical health impacts of encampment versus non-
3 encampment unsheltered living.

4 Would that be -- is that kind of what you're
5 asking me?

6 178. Q. Yes. So you ---

7 A. Yeah.

8 179. Q. --- said there's no strong literature
9 base and there's a limited literature base. So
10 there's some literature base though. Correct?

11 A. The -- yeah, and MARCO is one example
12 of that literature base.

13 180. Q. Okay. But there's no basis in --
14 excepting that it's very limited literature pool,
15 there's no literature to suggest that encampment
16 living, unsheltered encampment living is better than
17 unsheltered non-encampment living that compares those
18 two things, and states that the former is better?

19 A. That encampment living is better? No,
20 there is not. Yeah.

21 181. Q. Okay, sir, I am going to take you
22 briefly to some of the assertions in your affidavit.
23 And here, we will put them up on the screen for you.
24 If we can go to Paragraph 16 of affidavit.

25 I think you've agreed with me already that

1 living indoors, to use my term from earlier, is
2 associated with more positive health outcomes than
3 living outdoors.

4 And in this paragraph, at Paragraph 16, you
5 speak to what you say are the benefits of access to
6 some form of shelter. And you speak about a tent,
7 specifically.

8
9 --- SCREENSHARE

10
11 A. Correct.

12 182. Q. Okay. I see that there are no studies
13 cited for this. I assume that that's because no
14 studies exist to speak to the issues or to at least
15 make the points that you've made in this paragraph?

16 A. No studies that I am aware of. There
17 may be studies that I missed during my review. But no
18 particular studies that I am -- I'm referencing my
19 clinical experience.

20 183. Q. Okay. Although you seem very well-
21 versed with the literature. Sort of, you've testified
22 on similar topics in other cases as well, so I assume
23 you are well-versed in the literature. Would you
24 agree?

25 MS. SCHUIITEMA: Well, I mean -- sorry, did

1 you -- you didn't ask him about the other
2 times he's testified. I don't know if he's
3 testified on similar things, Kartiga. Has
4 that been established?

5
6 BY MS. THAVARAJ:

7 184. Q. Dr. Gupta, have you testified
8 previously on issues around homelessness?

9 A. Not on ---

10 185. Q. (Indiscernible)?

11 A. Yeah, so not -- I have not testified on
12 issues around encampments or unsheltered living in the
13 past.

14 186. Q. Okay. When you prepared for testifying
15 in this case then, I assume you were thorough in your
16 preparation?

17 A. Yeah, I was, you know, thorough. But,
18 you know, there is often, you know, literature that's
19 missed, there's free literature that we may not have
20 access to or always come across.

21 But broadly-speaking, you know, I am not a
22 very particular -- like, in this particular section
23 specifically, I am referencing my clinical expertise
24 and experience.

25 187. Q. Okay. And in your thorough review of

1 the literature, you did not come across any literature
2 that would buttress the points that you've made in
3 Paragraph 16 of affidavit to cite to them. Correct?

4 A. I think I've answered the question
5 sufficiently that I am relying on clinical experience
6 and expertise, so ...

7 188. Q. Okay. I accept that answer but I'd
8 like you to answer the question of you did not find
9 any academic literature to cite to this paragraph?

10 A. Correct.

11 189. Q. Thank you. Now, you have said here
12 that -- I understand the point that you've made. I
13 think it would be helpful if we maybe go through them.

14 A. Yeah, absolutely.

15 190. Q. You would agree, I take it, based on
16 our conversation earlier, that a tent is an inferior
17 form of protection against the elements, than sleeping
18 indoors?

19 A. I would agree.

20 191. Q. Okay. Would you agree that a tent can
21 offer less protection than its inhabitant might think
22 it can?

23 A. Yes.

24 192. Q. Okay. You said earlier you had
25 reviewed Dr. Koivu's affidavit. And she speaks in her

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1 affidavit about medical injuries that can arise for
2 persons living in a tent when they think that the tent
3 can offer them protection.

4 Do you recall that section of the affidavit?

5 A. I do not. I would ---

6 193. Q. Okay.

7 A. We can go over it if appropriate.

8 194. Q. That's fine. Yeah, I am happy to just
9 ask you those questions then.

10 Let's start. Do you agree that there are
11 medical issues associated with living outdoors that
12 can still arise when someone lives inside a tent?

13 A. Yes.

14 195. Q. Okay. Frost bite, hypothermia ...?

15 A. Yeah, and again, I'll just kind of
16 mention that often here what I am doing is in
17 comparing against somebody who does not have access to
18 physical, permanent, structured shelter because of
19 lack of access, lack of other things especially kind
20 of the protection from the elements bit. Like Section
21 A kind of which is I think which you are referencing
22 right now.

23 I am not denying that, you know, living in a
24 permanent, physical structure provides more elements
25 and more safety than living in an encampment. What I

1 am comparing against is the (indiscernible) spectrum
2 of homelessness where so many patients that I see
3 don't -- cannot access shelter because they're full or
4 it doesn't meet their needs or other elements like
5 that.

6 196. Q. Okay, so I agree with you. So I think
7 we're both focused on the same things. So let me just
8 confirm, you are saying that Paragraph 16 of your
9 affidavit, you're focused on assessing the impacts to
10 somebody living outdoors in a tent versus living
11 outdoors, not in a tent?

12 A. Correct.

13 197. Q. Okay, and that is the universe within
14 which I am asking my questions currently, okay?

15 A. Okay.

16 198. Q. Okay, so do you agree that the medical
17 issues that I described, frost bite, hypothermia,
18 trench foot, those can all still occur when someone is
19 in a tent?

20 A. Yes, it's relative risk reduction. So
21 what I mean by that is that there's less -- less risks
22 of that, you know, like again, I don't have a
23 quantification.

24 But in my clinical experience, somebody
25 let's say who is, you know, sleeping on, you know, a

1 metal grate at, you know, because on a sidewalk, is
2 going to be different than somebody living in a --
3 somebody in a closed tent in a sleeping bag.

4 199. Q. In terms of the incurrence of ---

5 A. (Indiscernible) physical injury, frost
6 bite, you know, healing from wounds that they may
7 have. Risk of, you know, things like asthma
8 exacerbation, COPD's exacerbation, things like even
9 mental health kind of exacerbations.

10 If somebody like, you know, like as
11 mentioned in 16(b), exposure, you know, to people
12 walking by somebody and -- and ---

13 200. Q. Okay, so sorry. I've let you go on and
14 I am happy to, I just -- I really have to be able to
15 ask my questions.

16 A. Please.

17 201. Q. Your counsel have another examination
18 this afternoon so I don't want to take up our whole
19 day with you.

20 I am just going to ask you some focused
21 questions. We've sort of considered the universe,
22 right, this Paragraph 16 is talking about living
23 outdoors in a tent versus not living outdoors in a
24 tent. Right?

25 So I am not trying to cut you off, please

1 ---

2 A. Sorry, yeah.

3 202. Q. --- the evidence you think is
4 necessary. But I am just going to try to ask you some
5 focused questions that I am going to ask ---

6 A. Please.

7 203. Q. --- just respond to what I ask, okay?

8 A. Go for it.

9 204. Q. Okay. So with frost bite, hypothermia
10 and trench foot, you do agree that those things can
11 still arise when someone lives in a tent?

12 A. That's right.

13 205. Q. Okay. Do you agree that it puts -- a
14 tent could put somebody at a higher possible
15 predisposition to heat stroke by being in an enclosed
16 space?

17 A. Not in my clinical experience.

18 206. Q. Okay, but do you agree that it's a
19 possibility? You haven't observed it in your clinical
20 experience but you agree that it's a possibility?

21 A. So you're saying that somebody could
22 have a higher risk of heat stroke in a tent compared
23 to being not in a tent?

24 207. Q. Correct.

25 A. I would tend to disagree with that.

1 208. Q. Okay, but you don't have any direct
2 observational experience which is what this paragraph
3 is based on to suggest that that's incorrect?

4 A. But to me like - so, but I can -- let's
5 just -- if I can just pause for a second just to
6 discuss that particular assertion.

7 209. Q. I'm sorry, I'm just asking you if you
8 have any direct observational clinical experience.

9 A. That somebody ---

10 210. Q. (Indiscernible) that incorrect?

11 A. You said that somebody is at a higher
12 risk of heat stroke outside -- inside versus outside?

13 211. Q. Correct.

14 A. No.

15 212. Q. Okay, thank you. And I think we spoke
16 earlier about the fact that a person could think that
17 a tent might protect them from certain issues. And
18 there's a possibility that they can be wrong about
19 that. You agree?

20 A. That's correct.

21 213. Q. Okay. Would you agree that if a tent
22 is not properly maintained, for example, it could lose
23 its effectiveness against the elements that you speak
24 to in Paragraph 16(a)?

25 A. That's correct.

1 214. Q. Okay. And that would create additional
2 risks for the inhabitant then that they might not be
3 aware of?

4 A. Again, compared to somebody -- we're
5 talking again compared to them being outside? I'm
6 just -- I just wanted to clarify that point.

7 215. Q. I am asking whether if the tent is not
8 properly maintained and loses its effectiveness, would
9 you agreed might happen or could happen, whether this
10 could create additional risks for the inhabitant that
11 they might not be aware of?

12 A. Again, so I'll briefly actually just
13 step back.

14 216. Q. No, sir, I prefer you just answer my
15 question. Answer it yes or no and then if you have an
16 explanation, you can give it.

17 MS. SCHUIITEMA: Well, when you're talking
18 about properly maintained ---

19 MS. THAVARAJ: Ashley, if you could also not
20 interrupt when I'm asking ---

21 MS. SCHUIITEMA: I'm allowed to interrupt. I
22 mean, I don't know what "properly
23 maintained," is that clear to him. Is that
24 what you're asking him?

25 MS. THAVARAJ: He's already agreed to that

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1 part of the question, Ashley. So please
2 don't try to open up his evidence. He has
3 agreed that if a tent is not properly
4 maintained, it can lose its effectiveness
5 against the elements.

6 I then asked that this might create
7 additional risks for the inhabitant that
8 they might not be aware of. Yes or no, and
9 he has not answered the question.

10
11 BY MS. THAVARAJ:

12 217. Q. So, Dr. Gupta, yes or no, can this
13 create additional risks for the inhabitant that they
14 might not be aware of?

15 MS. SCHUIITEMA: And sorry, and I am going to
16 interrupt again, Kartiga. He is allowed to
17 explain his answer and I don't want you to
18 give him the impression that he's not
19 allowed. I appreciate that we're coming up
20 on time. But, yeah.

21 MS. THAVARAJ: I agree, Ashley, you can
22 interrupt once I'm done asking the question
23 by the way. Just don't please interrupt
24 when I am in the middle of speaking.
25

1 BY MS. THAVARAJ:

2 218. Q. Dr. Gupta, as I said, you're very free
3 to answer your question -- explain your answer,
4 rather. But I do want you to answer the question. So
5 please give me a yes or no. If you have an
6 explanation to the yes or to the no, feel free to give
7 it to me. But I am going to give you my question yet
8 again for the record.

9 A. Right.

10 219. Q. Which is if a tent is not properly
11 maintained, you've agreed that it can lose its
12 effectiveness against the elements. And my question
13 to you is, can this create additional risks for the
14 inhabitant of the tent, that they might not be aware
15 of?

16 A. I would say potentially and I am going
17 to just briefly kind of explain here. I am not -- I
18 am an emergency room doctor. I'm a -- you know, like
19 I don't maintain tents for individuals who were in
20 encampments.

21 You know, shelter providers and outreach
22 workers, they work with -- in, like you know, I've
23 come across individuals where they have -- you know,
24 like community members and other organizations help
25 people kind of maintaining encampments.

1 But I think this is where -- what I was
2 mentioning. This, you know, like particular specifics
3 about tent maintenance, tent upkeep may actually be
4 outside my scope of expertise.

5 And that's briefly what I wanted to mention.
6 Is that, you know, I -- I see the individuals in
7 emergency department. And that's kind of what I'm
8 basing this on. I am not -- and that's briefly what I
9 wanted to mention it, is that I don't maintain tents,
10 I don't go out and maintain tents for those
11 individuals.

12 So and that's, you know, like I think we're
13 at a place where I'm perhaps speaking outside of my
14 area of expertise and I did want to kind of bring that
15 in.

16 220. Q. Okay, sir, so I'm not -- I'm certainly
17 not -- I'm certainly not under the impression that
18 your expertise is in tent maintenance. I am very
19 simply asking you from your interactions with patients
20 -- which is what you said this Paragraph 16 is based
21 on and your interactions with their entire state.
22 Which is you have spoken in other portions of the
23 affidavit about the mental state, the physical state,
24 etcetera, of any of the people that you've dealt with.

25 I am very simply asking you, sir, whether if

1 a tent is not properly maintained, this can create
2 additional risks for the inhabitant that they may not
3 be aware of.

4 MS. SCHUIITEMA: Okay, and I am going to
5 interrupt now that you're done your
6 question, Kartiga, and say he's already
7 answered it. You've asked a number of times
8 ---

9 MS. THAVARAJ: He actually has not, Ashley
10 and ---

11 MS. SCHUIITEMA: He said "potentially."

12 MS. THAVARAJ: --- (indiscernible) interrupt
13 me before he ---

14 MS. SCHUIITEMA: His answer was
15 "potentially."

16 MS. THAVARAJ: Yeah

17 MS. SCHUIITEMA: And then he -- we could ask
18 if we want to get the answer back but he
19 said "potentially." And then he explained
20 that he's an emergency room doctor and he
21 thinks this is outside of his scope.

22
23 BY MS. THAVARAJ:

24 221. Q. Okay, so, sir, your answer is
25 "potentially." Is that correct?

1 A. Yeah, and, you know, one other kind of
2 caveat that I will also add is that we see this in any
3 continuum of homelessness. So upkeep of spaces is
4 something that we come across routinely. Like so
5 people, for example, are in sheltered environments and
6 they have, unfortunately, no support services or no
7 upkeep opportunities. And that can create risks for
8 them. So like non-airconditioned environments, you
9 know, with people. And ---

10 222. Q. I -- sir ---

11 A. --- in enclosed rooms ---

12 223. Q. --- I am not meaning to cut you off. I
13 understand all of that but that's not what I am asking
14 about.

15 A. Yeah.

16 224. Q. I'm asking about the tent ---

17 A. So, yeah. So -- yes, so in this, I
18 would say this is outside like my scope of expertise,
19 to be perfectly honest. And I think we're just doing
20 conjecture and ---

21 225. Q. Sure.

22 A. --- like hypothetical scenario.

23 226. Q. Can I ask you this?

24 A. Go ahead.

25 227. Q. The protection afforded by tents, writ

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1 large, is not within your area of expertise, is it?

2 A. I think -- could you dig into that a
3 bit more for me?

4 228. Q. That's the whole question. The
5 protection of tents -- the protection afforded by
6 tents, writ large, is not something you have expertise
7 in?

8 A. Yeah, I -- like for me, protection from
9 physical, you know, like exposure to environments is
10 something that I have expertise in. Which,
11 specifically whether that be, you know, physical
12 structures, tents, you know, barriers, to -- from like
13 the human body to the external environment, is kind of
14 what I'm referencing here and mentioning here.

15 But, you know, like tent's maintenance,
16 tent's like permeability ---

17 229. Q. No, but I'm not asking about tent
18 maintenance, sir, again. So I am actually going to
19 suggest that we go off the record for a second here,
20 Ashley.

21 MS. SCHUITEMA: Sure.

22

23 --- OFF THE RECORD

24

25

1 BY MS. THAVARAJ:

2 230. Q. Dr. Gupta, before our break, we were
3 talking about the comments you made at Paragraph 16 of
4 your affidavit.

5 A. That's correct.

6 231. Q. I am going to have you turn to
7 Paragraph 16(b) in respect of privacy. Would you
8 agree that privacy in a tent can be, in some respects,
9 a double-edged sword? For example, if someone
10 overdoses while sleeping in a tent and nobody else is
11 in there, they may be less likely to be found?

12 A. Yeah, if they're sleeping alone in a
13 tent, it's similar to if they're sleeping alone in
14 their own home or I think they're in a closed room,
15 they would be less likely to be found.

16 232. Q. Okay.

17 A. Yeah.

18 233. Q. And -- sorry.

19 A. Yeah, compared to let's say they're
20 found in a public space or something like that.
21 Correct.

22 234. Q. Exactly, speaking in the context that
23 we're speaking in about this paragraph which is living
24 outdoors in a tent versus not, they'd be less likely
25 to be found in a tent if they're in the tent alone.

1 Correct?

2 A. Correct. And if by itself. But again,
3 I'll, you know, like I do work with people that do
4 substances on a fairly regular basis. Often there's
5 something that is relevant, please stop me.

6 But often, people when they choose to use
7 alone outside, they do so in kind of like back
8 stairwells, alleys, individually. Whereas people
9 often say there's community that they find when they
10 use kind of in a group setting like in a tented
11 community. But I don't think that's exactly what
12 you're asking.

13 235. Q. Yeah.

14 A. But that -- that often reduces the
15 overdose risk is the ---

16 236. Q. Okay.

17 A. --- fact that people are in a communal
18 environment rather than kind of in a staircase
19 individually or in a back alley or so on.

20 237. Q. I understand but if someone overdoses,
21 you've agreed with me in that situation occurs?

22 A. Yeah, they haven't told anybody to
23 monitor on them and so on, correct. Yeah.

24 238. Q. Thank you. And do you agree generally
25 -- I think we did take down the affidavit, but you've

1 -- obviously speaking about this from a health
2 outcomes perspective.

3 Do you agree that generally the
4 research you cite acknowledges that an environment --
5 encampment can provide ample opportunity for the
6 transmission of communicable diseases?

7 A. Would you repeat that, sorry?

8 239. Q. Yes. Do you agree that the research
9 that you cite acknowledges that an encampment
10 environment can provide ample opportunity for the
11 transmission of communicable diseases?

12 A. Is it like -- so you're asking me like
13 do I cite -- did I cite some research that says that
14 there's more ample -- like more chance for
15 transmission of infectious disease in an encampment
16 environment?

17 240. Q. Yeah, let me just -- the research you
18 cite says that. Do you agree that an encampment
19 environment can provide opportunity ---

20 A. Yeah, yeah.

21 241. Q. --- (indiscernible) these diseases?
22 You do?

23 A. Correct, yeah.

24 242. Q. Just because they are outside settings
25 doesn't mean they're not congregate settings ---

1 A. Yeah, exactly, yeah.

2 243. Q. Okay.

3 A. And like you -- like often like and I
4 think some of the research actually kind of comments
5 on this. Like -- it's like it's very important to
6 have hygiene services and kind of toileting services
7 to prevent those risks.

8 244. Q. Okay. And even with those hygiene
9 services and toileting services, however, this is a
10 communal environment in which diseases can transfer?

11 A. Correct.

12 245. Q. Okay. Okay, sir, are you aware of the
13 bylaw itself that is in issue in this case?

14 Actually, I am so sorry, before we go to
15 that, can I just ask you one thing because you just
16 mentioned your sort of emergency room work and the
17 patients that you see in the hospital.

18 You would agree with me, correct, that those
19 interactions that you have, while I understand that
20 they inform the basis of your opinion in this report,
21 that those are not a representative sample of
22 interactions or of the experiences of these persons.
23 Correct?

24 A. Can you expand on that? I apologize.

25 246. Q. Yeah, I'll ask it more simply. Your

1 experiences as an emergency room physician are not
2 generalizable to the experiences of homeless persons
3 or persons experiencing those issues? Being in the
4 emergency room is not a representative sample of those
5 issues?

6 A. Of issues related to homelessness?

7 247. Q. Let's use the examples that you were
8 speaking about earlier, just to make it easier for
9 you. For example, frost bite and gangrene and trench
10 foot. But I am asking the question more generally but
11 if you'd like to use a specific example ---

12 A. Yeah.

13 248. Q. --- on that (indiscernible).

14 A. You know, one thing I'll mention is
15 that like as emergency providers, often we are the
16 only kind of the most frequent kind of point of
17 contact for people experiencing homelessness. And
18 interestingly, kind of for people experiencing
19 homelessness across the spectrum. So again, like --
20 like that's where I'm just trying to ask for some
21 clarification.

22 But from our vantage point, we see people
23 like across the spectrum, not just -- like there are
24 people, for example, who work in shelter settings that
25 work only see people in shelters settings. People --

1 they're outreach workers or encampment doctors that
2 only see encampment doctors -- encampment patients and
3 patients living in encampments.

4 But, you know, like kind of like from our
5 vantage point, we do see people across the spectrum.
6 So ---

7 249. Q. Similarly, just to (indiscernible) my
8 point to say ---

9 A. Yeah, go ahead.

10 250. Q. --- you only see people who come to the
11 emergency room?

12 A. Yes, I only see people who come to the
13 emergency department, correct.

14 251. Q. And from that perspective, it's not
15 representative or generalizable?

16 A. Like -- because like -- look -- like
17 there's well-documented literature that talk -- and
18 that I don't reference, I am happy to provide, that
19 says that like homeless patients frequent the
20 emergency department more frequently, often the only
21 point of contact.

22 And so, like I think as emergency providers,
23 we have probably one of the better bird's eye view of
24 kind of what's happening around homelessness in a
25 given community compared to non-emergency

1 (indiscernible) providers.

2 But to your point, I only -- like in the
3 experience where it's based on my experience working
4 with people in the emergency department.

5 252. Q. Okay. Thank you. I expect you would
6 agree, Dr. Gupta, that homelessness is a result of a
7 complex set interaction of factors?

8 A. Correct.

9 253. Q. It's a complex public health problem?

10 A. Correct.

11 254. Q. I take it you might also acknowledge
12 that the solutions to homelessness are complex?

13 A. That's correct.

14 255. Q. Okay. And, sorry, I cut you off before
15 you answered but are you aware of the bylaw at issue
16 in this case?

17 A. I am not directly familiar. I know it
18 kind of broadly like but not in the specifics that you
19 might want to comment upon.

20 256. Q. That's fine. You haven't read it then?

21 A. No, I haven't read the bylaw.

22 257. Q. Okay. Are you aware -- and it's very
23 okay if you don't know specifics -- are you aware that
24 the bylaw is specifically about this -- the Kitchener-
25 Waterloo encampment site?

1 A. Correct.

2 258. Q. Okay. And are you aware of the larger
3 context that the site is going to become a
4 construction site, it's intended at least to become
5 one in the next several months?

6 A. I am not aware and happy to like share
7 about like anything you need me to around that.

8 259. Q. Okay, so that is the context, sir, so
9 the Region's evidence, which I appreciate that you're
10 not aware of and that's what I'm telling you. The
11 Region's evidence is that the site is needed for the
12 building of a transit hub that's going to take place.
13 And that the site is needed for purposes related to
14 that construction within the next several months.

15 And that's the reason for the bylaw
16 providing a staged closure for the site. So that's
17 the Region's evidence. Do you understand?

18 A. I understand.

19 260. Q. Okay. And so now that you have that
20 information -- let me also say to you, I think, just
21 to make sure it's clear. The Region's evidence is
22 therefore that the bylaw is about transitioning
23 residents off of this space. It's not just about
24 closing the encampment or preventing people from
25 erecting tents or anything like that. But

1 transitioning residents to allow the site to be used
2 for the construction purposes that the Region needs it
3 for. Do you understand that?

4 A. (Indiscernible).

5 261. Q. Okay.

6 A. Thank you for explaining, yeah.

7 262. Q. Okay. And so I appreciate, sir, that
8 you don't have direct knowledge; I've just told you
9 the facts. I mean, your role as an expert is to
10 provide opinions on stated facts. So this is the
11 Region's evidence, WRCLS may not necessarily agree
12 with it, of course, but that's the Region's evidence.

13 And so I am going to ask you some questions
14 now based on that evidence, okay? And I just want to
15 make sure we're crystal clear about what I'm asking.
16 I am not asking if you have personal knowledge but
17 I've given you some of the facts and I'd like you to
18 answer some questions based on that, okay?

19 A. I will try my best.

20 263. Q. Thank you. Would you agree that if you
21 were going to close an encampment and transition
22 people away from it, you would want to give people
23 plenty of notice.

24 A. Yes.

25 264. Q. Okay. You were aware of -- and I think

1 you've at least spoken about a closure of a motel, so
2 not exactly the same thing. But you're aware of
3 displacements, let's say, of people that have taken
4 place in days or in a short number of months. You'd
5 agree?

6 A. Correct.

7 265. Q. Okay. And would you say or would you
8 agree rather, that that's different from the situation
9 where someone is being contemplated to -- or has been
10 given eight months and possibly more of notice?

11 A. I think you're saying like kind of like
12 a notice of two weeks is different than a notice of
13 eight months?

14 266. Q. Yes.

15 A. Okay. Yeah, I can -- from a timeline
16 perspective, yeah.

17 267. Q. And more notice is always going to be
18 better?

19 A. Again, like in the context of -- I am
20 not an eviction expert. I cannot comment on that kind
21 of to start off with.

22 So again, like, you know, like I will
23 mention eviction broadly like, you know, in my work,
24 is look like it as you mentioned kind of
25 (indiscernible) causes displacement and eviction can

1 cause health challenges. And that's kind of I think
2 kind of like what I would prefer to speak to.

3 Because that's what I see, that's kind of
4 what I experience. So but -- but so -- and like I
5 don't know if you're -- are you asking me is eight
6 months kind of adequate notice?

7 268. Q. Sure, I mean, that's not what I was
8 asking. But I am asking whether many months of notice
9 would be beneficial if you needed to close an
10 encampment?

11 MS. SCHUIITEMA: And Kartiga, would it be
12 helpful to explain what you mean by
13 "beneficial?" Or to give some examples so
14 that he can understand what you're asking?

15
16 BY MS. THAVARAJ:

17 269. Q. Dr. Gupta, do you need an explanation?
18 You didn't ask for one. But ---

19 A. Yeah, I'll just briefly mention, I
20 honestly like from my vantage point of like I don't
21 actually have expertise to comment on that.

22 270. Q. Okay, thank you. Okay, and so you've
23 made a number of points at Paragraph 17 of your
24 affidavit about the harms associated with evictions
25 and displacement.

1 I take it you're saying you only commented
2 or you only intended to comment on the health ---

3 A. Correct.

4 271. Q. --- outcomes (indiscernible).

5 A. And the health -- the health outcomes
6 and the -- and the -- yeah, exactly.

7 272. Q. Okay.

8 A. And the determinants of health kind of
9 related to those. Like, so, you know, like disruption
10 and things like kind of secondary victimization that
11 happens, trauma, forced displacement. Those are kind
12 of what I'm commenting on.

13 I am not commenting on kind of the
14 logistics, the adequacy or any of those.

15 273. Q. Absolutely. But in terms of the harms,
16 you have some it seems person experience with forced
17 displacements. Would you agree that in that context,
18 more notice would be beneficial to mitigating the
19 harms that you observed?

20 A. Again, I am just trying to -- so as
21 long as it's, you know, like meets the needs of the
22 individuals that are being displaced and has, you
23 know, plans that works to make, like adequately meet
24 their needs into like kind of arguably more permanent
25 supportive housing. Yes.

1 But time, unfortunately, can be very
2 variable for individuals experiencing homelessness.
3 So just in context, like we meet people that have been
4 chronically homeless for years and years. And until
5 they, you know, like meet their right plan with the
6 right provider, and, you know, a plan that works for
7 those -- that particular individual.

8 Often, they kind of go through this many
9 layers of revolving doors syndrome. Or they go
10 through some level of relative stability to only end
11 up homeless a few weeks, two months later.

12 274. Q. Okay. And so I am glad you actually
13 mentioned that. So you said they have plans to
14 adequately meet their needs because -- and again, you
15 may not be aware of this. Please let me know if you
16 are.

17 But the Region's evidence in this
18 application is that there's something called
19 "individual housing plans." And that these individual
20 housing plans were to be prepared for all of the
21 residents of the encampment that existed. They're
22 called "existing residents," the residents of the
23 encampment at the time the bylaw came into effect.

24 Were you aware of that, the individual
25 housing plans (indiscernible)?

1 A. You need -- like I don't, like what do
2 the individual housing plans include?

3 275. Q. So they include -- let me speak to that
4 in a second. Let me just ask you first, so you're not
5 aware or you weren't made aware of this in preparation
6 of your affidavit?

7 A. I knew -- I knew of the individual --
8 like, you know, the concept of that. But that's kind
9 of I think kind of why I was mentioning. I don't know
10 the contents of the individual housing plans. I was
11 not made aware of those.

12 276. Q. Okay. So there are individual housing
13 plans and effectively, it's the Region's evidence that
14 for residents, existing residents at the encampment,
15 there's a team of, they're called "USWs," Unsheltered
16 Support Workers or Unhouse Support Workers, that are
17 going to the site, meeting with residents, providing
18 them information and developing housing plans that are
19 tailored to them specifically.

20 So that's something that you were aware of?

21 A. And if I may ask a follow-up question,
22 can I -- like is it permanent supportive housing that
23 they're being offered, or ...?

24 277. Q. There's a variety of supports but it is
25 an individualized plan to move residents off the site

1 that responds to their needs at least.

2 A. Okay.

3 278. Q. And so that's -- I am just telling you
4 that's what the Region's evidence is. Okay?

5 A. Okay.

6 279. Q. Okay.

7 A. Okay, yeah. I -- I know kind of
8 broadly but I am not aware of the specifics or details
9 of the individual housing plans.

10 280. Q. Okay. Recognizing that you are not
11 aware of the details but now you are aware of the sort
12 of broad specifics, would you agree that that's the
13 type of plan that could assist with mitigating the
14 harms associated with displacement?

15 A. I may have to, unfortunately,
16 disappoint you again, where, like I am not in a --
17 again, I am -- I'll come back to an emergency room
18 doctor. The people that I meet often, you know, have
19 had like similar plans kind of -- at least kind of in
20 the emergency departments where I work -- that I
21 worked in, only to kind of come back to unsheltered
22 homelessness.

23 So I can't -- you know, like I can't like --
24 somebody like an expert that, you know, like the, you
25 know, works more specifically with individual to come

1 up and relative individuals -- individualized plans
2 may be better suited to comment on this than I am.

3 But -- but so like, to me like again, this
4 is a bit out of my area of expertise as an emergency
5 department provider.

6 281. Q. Okay, sir, I understand that. I do.
7 And I take your point about sort of breaking the cycle
8 of homelessness but I am really focused on -- and I'm
9 only asking these questions because despite you not
10 having this expertise, you did include Paragraph 17 in
11 your affidavit.

12 A. Correct.

13 282. Q. And so I am just asking -- you made
14 some points in here about the harms associated with
15 evictions and displacement.

16 A. Yeah. And sorry, I apologize. Can I
17 interrupt you. I apologize I interrupted you.

18 283. Q. Yeah.

19 A. I'll just briefly mention like so that
20 point -- like -- like I -- unfortunately, as an
21 emergency department provider, again we see the harms
22 but not necessarily the benefits of, you know, like
23 specific plans.

24 So that's why I mentioned those points like
25 as harms associated with displacement that we

1 experience. I did not -- and please let me know if
2 like you see somewhere -- where I comment on you know
3 like the specific plans causing these issues.

4 284. Q. Sure, no, that's fine. But you -- so
5 you're right, that you agree that there can be
6 benefits that you wouldn't see because that's not what
7 comes to the emergency room.

8 A. Correct, yeah.

9 285. Q. Yeah. And specifically in terms of
10 what you do see, my question is, is it possible that
11 individualized assistance with respect to a potential
12 eviction or displacement, can mitigate some of those
13 harms?

14 A. As long as it works with that
15 individual's needs and breaks the cycle of chronic
16 homelessness, yes.

17 286. Q. Okay, and in addition to breaking the
18 cycle of homelessness, specifically the harms that you
19 outline in Paragraph 17, they can mitigate those harms
20 as well?

21 A. Yes. If -- if -- again, that meets
22 those kind of criteria (indiscernible), yeah.

23 287. Q. Well, let's go through it in a little
24 bit of detail just to make it easy for you. So
25 paragraph, let's 17(e), "A perception of rights

1 violations."

2 A. Yeah.

3 288. Q. If an individual is spoken to, they
4 have discussions, they're made aware of their rights,
5 they're made aware of the various options available to
6 them, that can mitigate the harms associated with a
7 perception of rights violation. Correct?

8 A. Yeah, and as they're given the choice
9 to choose where they're going, absolutely.

10 289. Q. Thank you. Great. And, for example,
11 with respect to -- you make an important point at
12 Paragraph 17(b) about losing belongings.

13 If a displacement of someone was done in an
14 individualized way, you could mitigate or avoid that
15 harm, right, of losing your belongings?

16 A. Yeah, is again, as long as it's done
17 with that individual's kind of -- yeah, the same kind
18 of caveat as I mentioned earlier.

19 290. Q. Absolutely, yes, and, sir, if it was
20 done with their individual -- with discussions with
21 them and their individual input and consent, then you
22 could mitigate those harms?

23 A. Yeah, and, yes.

24 291. Q. Thank you. And you speak about the
25 impact on mental health very understandably in

1 Paragraph 17(a).

2 A. Mm-hmm.

3 292. Q. Similarly, if municipal authorities
4 took care and the teams took care to ensure that
5 people were going to a placement that was suitable for
6 them, that connections were maintained, etcetera, you
7 could mitigate those harms, the harms that you
8 describe in subparagraph, correct?

9 A. Yeah.

10 293. Q. Okay. And this kind of harm mitigation
11 does make a difference. You would agree it's -- it
12 creates a -- I mean, it's harm mitigation. And so I
13 assume you're not disagreeing that it's not beneficial
14 to the person receiving it?

15 A. Yeah, and, you know, like -- could you
16 actually repeat, sorry, the question that you ---

17 294. Q. No, that's okay. I was very simply
18 asking you to agree that these -- if harm in these
19 categories was reduced, that is beneficial for the
20 person. I don't think you disagree.

21 A. Correct.

22 295. Q. Okay.

23 MS. SCHUITEMA: I wonder if now would be a
24 good time to ask where you're at because we
25 do have -- I know Mercedes said she might

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1 have some questions and we'll have some
2 redirect.

3 MS. THAVARAJ: Maybe give us a minute,
4 Ashley, like ---

5 MS. SCHUIITEMA: Sure.

6 MS. THAVARAJ: --- literally? And we'll
7 come back to you.

8 MS. SCHUIITEMA: Okay.

9 MS. THAVARAJ: Those are all my questions
10 for you, Dr. Gupta, except if I have any
11 questions arising out of your counsel's re-
12 examination or Ms. Perez's examination if
13 she has any. I want to thank you for your
14 time and your very important work that you
15 are currently doing in the community. Thank
16 you.

17 THE WITNESS: Thank you.

18 MS. THAVARAJ: Everyone, I'll just go off
19 the record for a quick second and talk about
20 timing.

21
22 --- OFF THE RECORD

23
24 MS. SCHUIITEMA: Thank you. Okay, Dr. Gupta,
25 I have just a few like very brief re-direct

1 questions.

2
3 RE-EXAMINATION BY MS. SCHUIITEMA:

4 296. Q. You were just recently asked some
5 questions and in response you asked are they being
6 offered permanent supportive housing? And you talked
7 about how you have some patients who you've seen be
8 offered things and then they cycle back.

9 And you talked about breaking the cycle of
10 homelessness. Can you explain to us in your
11 experience about -- can you explain why you asked if
12 they were being offered permanent supportive housing?

13 A. Yeah, so again, in the emergency
14 department like I mentioned, we see people kind of
15 like across the spectrum of homelessness. And we see
16 a lot of people who are in crisis like especially
17 people like who are completely destabilized come in
18 frequently, repeatedly, repeatedly.

19 And then every so often, they stop coming
20 and after several weeks to months, they might present
21 for something completely unrelated.

22 And often if you ask them what changed? You
23 know, like what happened? It's usually one of two
24 things, either they got supportive housing or they
25 were incarcerated. It's usually one of those two

1 things.

2 But it speaks to kind of the power of
3 supportive housing and that's been well-validated in
4 the literature as kind of one of the few breakthrough
5 solutions to, you know, like the complex problem of --
6 and of kind of the chronic homelessness.

7 But as an emergency doctor, that's kind of
8 what informs me asking about that. Because all --
9 very frequently like, you know, the norm, like we see
10 somebody who is offered temporary housings or
11 temporary shelter.

12 Like housing is not something that I ever
13 like, you know, can see being offered out of the
14 emergency department with temporary shelter. And very
15 frequently, kind of, you know, it -- that doesn't
16 change the pattern of visits, pattern of the care that
17 we provide to them.

18 Because often, you know, like it's -- it's
19 -- it's described kind of the relative instability
20 that they're in.

21 297. Q. Thanks. And when you see that pattern
22 continuing, you talked about temporary forms of
23 housing. Could you elaborate on what those temporary
24 forms are that you see where people are cycling back?

25 A. Yeah, most frequently it's emergency

1 shelters or drop-ins and -- or things like that.
2 Sometimes they're often offered congregate shelter
3 settings. So shelters, for example, that's dorm room-
4 styled or the mat style kind of format.

5 And then, you know, like frequently people
6 will be like "This doesn't work for me" or, you know,
7 especially people kind of with mental health issues.
8 Or, institutional or structural challenges, meaning,
9 you know, they've had multiple sorts of restrictions
10 in the past.

11 Then they have, you know, a disability that
12 limits their mobility going upstairs or other things
13 or that. And they're usually kind of either choose to
14 leave the shelter or further displaced and further
15 disenfranchised from like the institutional system.

16 Frequently, like people say I would rather,
17 you know, not be in a shelter or, you know, get harmed
18 in an X, Y, Z way because of kind of what they are
19 being offered in that setting, and how unsafe it's
20 been for them.

21 298. Q. Okay, and this is, I think, probably my
22 last question. But in your clinical experience, do
23 you have patients who have been offered motels?

24 A. Yeah, again, at least kind of like
25 where I practice, there were kind of shelter motels

1 that were started especially in the context of the
2 COVID pandemic.

3 Many of them closed down after and, you
4 know, there's a few that may still be operating. I am
5 not actually fully aware. But there are few still
6 maybe operating. But, yes, I am aware of people that
7 were put into kind of like shelter motels.

8 299. Q. Okay, when you were speaking about ---

9 MS. THAVARAJ: I'm sorry, I am going to
10 interrupt. That wasn't a re-direct question
11 but I didn't object to it. But if there is
12 further questions resulting from his answer
13 just now, I am going to object. If you have
14 other re-direct questions though, I am
15 certainly not objecting.

16 MS. SCHUIITEMA: Okay. I am good, actually.
17 That's fine. Thank you, Dr. Gupta, very
18 much.

19 THE WITNESS: Thanks.

20 MS. THAVARAJ: I have no questions on my
21 end. So, thank you, Dr. Gupta. That wraps
22 up your examination at least by the Region.

23
24 --- ADJOURNED
25

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THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.

BarPollard

Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
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1990.

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Sahil Gupta** on his affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 7, 2026.

APPEARANCES:

KARTIGA THAVARAJ, Ms. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHUITEMA, Ms. Counsel for the Respondents
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MERCEDES PEREZ, Ms. Amicus Curiae

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1 JANUARY 7, 2026

2
3 DR. SAHIL GUPTA, AFFIRMED

4 CROSS-EXAMINATION BY MS. PEREZ:

5 1. Q. Good afternoon, Dr. Gupta. My name is
6 Mercedes Perez. I've been appointed by the court as
7 an Amicus in this matter. My role is to assist the
8 court from the perspective of people who may reside at
9 the encampment in Kitchener-Waterloo but who may lack
10 capacity or for some of the -- to retain counsel or
11 for some other reason, haven't been able to retain a
12 lawyer.

13 So my job is to -- I'm not representing
14 those people directly but my job is to assist the
15 court by ensuring that all evidence and legal argument
16 that might be relevant to that particular population
17 is before the court in this matter.

18 And just to -- for the purposes of the
19 record, I am just going to note that this cross-
20 examination is continuing at the same -- on the same
21 date and time as the Region of this cross-examination
22 of you on the affidavit.

23 And you were already sworn earlier in the
24 day, so we're not going to do that again. Okay?

25 A. Thank you.

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1 2. Q. And similarly, if I ask you a question
2 and you need me to rephrase or explain or repeat, feel
3 free to let me know.

4 A. Thank you.

5 3. Q. I don't think I'll have too many
6 questions because many of my questions were already
7 asked or answered in some way earlier today.

8 I just -- first of all, I wanted to clarify.
9 At Paragraph 4 of your affidavit, you list your expert
10 qualifications. And I am just wondering, as an
11 emergency medicine physician since 2018, have you also
12 assessed and treated persons experiencing serious
13 mental illness such as schizophrenia or bi-polar,
14 schizoaffective disorder, depression, anxiety
15 disorders?

16 A. Yes, that -- yes, I have.

17 4. Q. Okay. And in your work as an emergency
18 medicine physician, have you also assessed and treated
19 people who are coping or struggling with cognitive or
20 intellectual disabilities?

21 A. Yes.

22 5. Q. And is it part of your work as an
23 emergency medicine physician to assess and treat
24 people who might be struggling with co-morbid
25 conditions that may include a mental health and/or

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1 cognitive or intellectual issue along with the
2 addiction issues that you mentioned in your affidavit?

3 A. That is correct.

4 6. Q. And I also had some questions about
5 some of the studies you cited. They were already
6 asked but I did have a question that's a little bit
7 different.

8 It comes from the answer you gave earlier
9 that there is limited literature, either no literature
10 or limited literature that might compare the outcomes
11 of people living unsheltered outdoors and those living
12 in an encampment with some form of shelter, such as a
13 tent or some other type of similar shelter.

14 And my question is, in that context where we
15 have a specific problem without a body of academic
16 research to analyze it and help us understand it, what
17 are the well-recognized or accepted ways that we would
18 go about understanding the issue and coming up with
19 policy solutions?

20 A. Yeah, thanks for asking that question.
21 So first again, I am going to comment on kind of the
22 clinical ends around these issues rather than the
23 policy lens.

24 But it's -- to -- like, you know, there's an
25 evidence hierarchy that we often use in medicine at

1 least to guide answers and solutions. So often if
2 there's absence of kind (indiscernible) forms
3 literature or evidence, then we kind of go on things
4 like evaluations, reports. What we would call "grey
5 literature" to kind of guide. You know, some form of,
6 you know, like signals. Some sort of understanding of
7 how can we guide decision-making for individuals that
8 we see in our clinical practice.

9 And then we often ---

10 7. Q. Let me just jump in and did you say
11 "grey literature?"

12 A. G-R-E-Y, grey literature.

13 8. Q. Okay.

14 A. Yeah.

15 9. Q. Thank you.

16 A. Which like, broadly-speaking, you know,
17 may not be peer-reviewed literature. So which may not
18 exist in a journal, peer-reviewed journal or something
19 like that, but it exists in, like, a programmatic
20 evaluation, outcomes report, things like that. It's a
21 lesser form of evidence.

22 But it's when in the absence of kind of
23 well-established literature or forms of published
24 studies given in a clinical context, clinical
25 question, those kind of can help sometimes guide

1 decision-making.

2 But more frequently, it's relying on direct
3 clinical encounters and experience. So, you know,
4 day-in, day-out, kind of what you're seeing is to how
5 the individuals that, you know, speak to you, trends
6 as a clinician you start to observe, guide often the
7 decision-making that you're taking.

8 Sometimes those actual experiences are
9 published in things like case series or case reports.
10 I will be honest, I did not come across specific ones
11 for this particular scenario. But those are, like in
12 the absence of kind of published evidence or published
13 policy or literature, often in clinical context we're
14 relying on direct clinical experience.

15 10. Q. And would it also be a well-recognized
16 and accepted approach to rely on qualitative data?

17 A. Yeah, and qualitative data makes --
18 makes up that, like -- like at least in the medical
19 world, like -- like that evidence hierarchy may --
20 includes qualitative reports, qualitative studies.

21 So depending on that is not outside of that
22 evidence hierarchy that I am referencing.

23 11. Q. Right. And so a study like the MARCO
24 study which you agreed was not based on random
25 sampling but is a study that exists, would that --

1 would it still be a well-recognized and accepted
2 approach to rely on the findings of that type of study
3 to understand a problem? Yeah, to understand a
4 problem and come up with solutions.

5 A. Yeah, and I think one limitation, at
6 least of the kind of MARCO study is it's not
7 necessarily peer-reviewed. At least it's kind of, as
8 far as I see, so that's kind of where I was mentioning
9 the grey literature component.

10 So I differentiate in my clinical practice
11 peer-reviewed versus grey literature. Grey literature
12 includes programmatic evaluations, reports, summaries,
13 anything really that kind of helps us solve a problem.

14 And then you look at how it is done. You
15 look at kind of like, you know, what -- deep, you know
16 -- you know, like the understanding of the --
17 understanding of, you know, like the rigour of kind of
18 the approach they use, the qualifications of the
19 researchers, the reputation of the cite and the place
20 that's conducting the study, to kind of help inform
21 whether or not you're going to rely, especially on
22 nonpeer-reviewed information.

23 But a study like MARCO does that. Like it's
24 -- it's done by like a very reputable, you know, body
25 of -- that conducted it with well-established

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1 researchers undertaking kind of the work that they do.
2 So again, it's not -- it's one of many pieces of
3 elements that we're using to guide decision-making.
4 Or, more often, inform the clinic -- the context of
5 kind of the problem statement.

6 Like because often, like has been mentioned,
7 these are individuals that are hard to reach. These
8 are individuals that face structural vulnerability,
9 and they're hard to study. And the problem, yeah, you
10 know ---

11 12. Q. That goes to another question I am
12 going to have but before I get to that, just on the
13 same topic about sources of information in the absence
14 of a literature about -- an established literature
15 about a problem, would it also be well-recognized and
16 accepted that in addition to your own clinical
17 experience, collaboration with other experts who have
18 experience in the area, would also be an accepted
19 source of information?

20 A. Yeah, absolutely, it would be.

21 13. Q. So you mentioned, for example, in your
22 evidence, and I think it's in your affidavit about
23 some of your work with the health equity group, for
24 example. That would be a source of information to
25 help understand a problem that otherwise has not been

1 adequately studied?

2 A. That's right. Yeah, and again, the
3 evidence are -- often instructs us around, you know,
4 the expert decision-making, the expert consensus as
5 forms of evidence in the absence of, you know, other
6 forms of evidence when you're looking to help guide
7 and understand a problem.

8 14. Q. Okay. And then just going back to the
9 comment you just made about this population being
10 difficult to study.

11 So first of all, my understanding that a
12 gold-standard approach to conducting scientific
13 research would require, for example, double-blind
14 methodology with different cohorts being studied under
15 -- you know, with a placebo and not a placebo,
16 etcetera. Is that sort of a gold-standard approach?

17 A. Yeah. It's -- it's the highest form of
18 answering kind of a clinical question using scientific
19 inquiry in the health world.

20 15. Q. Right and then in this particular
21 context, in addition to maybe any practical problems,
22 there would be ethical problems with trying to impose
23 that kind of methodology on this population. Would
24 there not?

25 A. That's correct.

1 16. Q. Right, because it would require, for
2 example, having a group where you deny services and
3 you deny housing and then matching that with another
4 group that gets all those services. So that would
5 raise ethical concerns, correct?

6 A. That's correct.

7 17. Q. Okay, so this particular population, in
8 terms of the hierarchy of evidence that you mentioned,
9 there are limitations. But that doesn't mean that we
10 can't draw conclusions, right, based on the other
11 sources of information you mentioned, like clinical
12 experience or collaboration?

13 A. That's right. Like a study like that
14 would -- like, and again, to answer. I'd like to
15 confirm the question like because we're not comparing
16 shelter versus unsheltered. I think we're comparing
17 unsheltered, you know, like encampment or some sort of
18 physical structure versus no, nothing, like kind of
19 thing. Like, you know, like ---

20 18. Q. Yeah.

21 A. --- you know, like street or in front
22 of like a vent screen or something like that. Like,
23 that's not a study that would ever happen.

24 19. Q. Okay. And then just turning to
25 Paragraph 9, I also had some questions about

1 definitions. But I just -- Ms. Thavaraj asked you a
2 lot about this already. So I just wanted to be clear
3 for my own understanding.

4 For Paragraph 9, when you list common
5 medical and psychological conditions associated with
6 homelessness, in your affidavit you specifically say,
7 "associated with living unsheltered or rough."

8 So I am just trying to understand, this list
9 of risks, is that -- are you talking about homeless
10 people generally who are outside or are you speaking
11 specifically about homeless people with no shelter at
12 all? In other words, not in a tent, not in some sort
13 of shelter. I was just trying to understand your
14 answer.

15 Is this just a comment on just general risks
16 to homeless people?

17 A. So this does -- like, you know, like
18 these risks are higher for unsheltered homelessness,
19 both encampment and non-encampment, like -- like kind
20 of settings. But I think at least like -- I
21 appreciate it's not necessarily as well-delineated in
22 the affidavit perhaps.

23 But is that there's a spectrum around the
24 unsheltered component of those risks. So and like
25 again, individuals who are unsheltered and don't have

1 any kind of encampment, face higher kind of relative
2 risk around those particular issues compared to
3 individuals, in my clinical experience, than
4 individuals that do not.

5 20. Q. Okay, thank you. And then at Paragraph
6 9(e), you specifically speak about mental health
7 crises and situational distress. And you say that it
8 can lead to exacerbation of mental health symptoms
9 such as panic, anxiety, emotional distress and general
10 dysregulation.

11 And I am just wondering, if the exacerbation
12 of mental health symptoms would also include
13 exacerbation of other serious mental health symptoms
14 such as psychosis, delusional thinking, mania, for
15 example?

16 A. Yes, it would.

17 21. Q. Okay. And ---

18 MS. SCHUITEMA: Sorry, can I interrupt for
19 just one second. I just want to make sure
20 that Dr. Gupta still has like a version of
21 the affidavit in front of him because the
22 (indiscernible) is screensharing. Sorry to
23 interrupt but I just want to make sure.
24 Just in case if he wants to look at it. Do
25 you have a version in front of you, Dr.

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1 Gupta?

2 THE WITNESS: Yeah, I -- I do have it pulled
3 up ---

4 MS. SCHUIITEMA: Okay, perfect.

5 THE WITNESS: If it's helpful, we can
6 definitely screenshare alongside.

7 MS. PEREZ: Okay, so I have a copy in front
8 of me but you have a copy, too. If you need
9 a second or a minute to review anything I am
10 referring you to, just let me know.

11 THE WITNESS: No, I have it.

12 MS. PEREZ: I'm just assuming in my own head
13 you had it in front of you.

14 THE WITNESS: Yeah, I do. Yeah.

15 MS. PEREZ: Okay.

16
17 BY MS. PEREZ:

18 22. Q. And then also just staying with
19 Paragraph 9(e), the next point you put here is:

20 "... Severe sleep deprivation leading to
21 dysregulation of both body and mind ..."

22 So just correct me if I am wrong, but I
23 am taking this to mean that the mental health crises
24 that can emerge would be even further exacerbated by
25 the sleep deprivation?

1 A. That's right. Yeah.

2 23. Q. That's correct? That's the correct
3 understanding?

4 A. Very much.

5 24. Q. Okay. At Paragraph 16, so this is
6 where you are talking about the benefits of access to
7 some form of shelter. And in 16(a), you note that:

8 "... A tent can provide protection from
9 the elements ..."

10 And I heard you say earlier that you're
11 not an expert on tents. But just in your experience
12 as an ER physician and in your collaboration with
13 other ER physicians and experts who interact with this
14 population, does sleeping in a tent increase the risk
15 of someone developing trench foot relative to a person
16 who is forced to sleep unsheltered outdoors? Or can
17 you say, like ---

18 A. Yeah, again, probably I cannot say.
19 But like ---

20 25. Q. Okay.

21 A. --- clinically, if I -- yeah, I would
22 say I cannot say.

23 26. Q. Okay. So let me ask a question another
24 way and if you can't answer it, then just tell me you
25 can't answer it.

1 Does sleeping in a tent itself, does that
2 provide an environment that would increase the risk of
3 trench foot?

4 A. It would not increase the risk of
5 trench foot compared to sleeping (indiscernible).

6 27. Q. Okay. And then also at Paragraph
7 16(a), you note that having a shelter, like a tent,
8 can limit direct exposure to adverse weather
9 conditions and therefore provide some protection
10 against things like heat exhaustion.

11 So in your experience, does a tent -- I am
12 taking from this paragraph that your experience tells
13 you that being in a tent in summer when it's really
14 hot outside, doesn't increase the risk of someone
15 developing heat exhaustion?

16 A. Yeah, in my clinical experience, I, for
17 example, don't see more individuals come in who are in
18 tents with heat exhaustion compared to people that are
19 not in tents.

20 28. Q. Okay. And then are you able to comment
21 though on the risk of -- I might mispronounce this but
22 I am going to try my best. The risk of rhabdomyolysis
23 which I understand is a skeletal-muscle tissue
24 breakdown condition. You are aware of that condition?

25 A. Correct, yeah.

1 29. Q. Okay. And so in your clinical
2 practice, do you see a higher risk of that condition
3 developing in someone who is sleeping in a tent
4 outdoors in an encampment as opposed to people living
5 unsheltered in the street?

6 A. I don't see the difference.

7 30. Q. And what about kidney failure?

8 A. No.

9 31. Q. Okay. And in your clinical experience
10 and any other experience that you're bringing to this
11 proceeding, are you able to tell us about the risk of
12 Hepatitis A outbreaks in encampments?

13 A. I don't have the experience on that
14 particular ---

15 32. Q. Okay, so are you aware of any Hepatitis
16 A outbreaks within encampments, either in your region
17 or anywhere else in Canada?

18 A. I am not.

19 33. Q. And are you able to say whether there's
20 a greater risk within an encampment to the spread of
21 viruses, bacterial, fungal or parasitic infections
22 versus people who sleep unsheltered outdoors?

23 A. So compared to people that sleep
24 outdoors, so the congregation, whether that in an
25 encampment environment or elsewhere without good

1 hygiene services is a higher risk for infectious
2 diseases to develop.

3 But I -- could you repeat your question? So
4 like that's something that is very factual and well-
5 studied.

6 34. Q. Right.

7 A. But ---

8 35. Q. And so the answer to that I think you
9 mention this in your affidavit is that encampments
10 require hygiene services?

11 A. They require a good hygiene, toileting,
12 handwashing services to prevent infectious disease
13 from spreading.

14 36. Q. So if you have an encampment with good
15 hygiene services like Porta Potties and handwashing
16 stations, would that make the risk at the encampment
17 less than the risk of the spread of viruses,
18 bacterial, fungal and parasitic infections among
19 people sleeping rough outside?

20 A. I don't -- if I may apologize from
21 being obstructive but ---

22 37. Q. No, that's okay.

23 A. You know, I don't really know like if
24 Porta Potties are sufficient, for example, versus as
25 -- but generally-speaking, good hygiene services or

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1 requirements improve, like, you know, the reduction of
2 communicable disease spread in encampments.

3 38. Q. Okay. And as a doctor, can you tell us
4 whether Tuberculosis spreads more easily within an
5 indoor shelter environment versus an outdoor tent
6 encampment?

7 A. And without any direct clinical
8 experience of that, with like having medical knowledge
9 of Tuberculosis, it would spread more rapidly in an
10 indoor environment than an outdoor tenting
11 environment.

12 39. Q. And is it true that the risk of
13 transmission of Tuberculosis outdoors is actually
14 quite rare?

15 A. That's correct.

16 40. Q. Okay, and even if, for example, there's
17 someone who has infectious Tuberculosis who is sharing
18 a tent with another person, the risk would be
19 contained to that other person?

20 A. Outside my clinical expertise
21 (indiscernible).

22 41. Q. Okay. Okay. Can you talk about some
23 of the benefits to persons who have addiction issues
24 if they're residing in an encampment? And I am just
25 wondering if residing at an encampment, would that --

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1 and if it's not a question you can answer, just let me
2 know.

3 But the -- would it increase the risk of
4 transmission of infections, for example, just by
5 virtue of being in an encampment as a drug user?

6 A. No, like compared to an indoor
7 environment or compared to unsheltered or just
8 generally?

9 42. Q. I guess with -- those are our two
10 scenarios so maybe you can address both relative to
11 using within a shelter and using outdoors ---

12 A. Yeah.

13 43. Q. --- unsheltered.

14 A. Yeah, I don't know if it actually would
15 impact much of the risk. We do know, for example,
16 many sheltered environments -- this is something I can
17 comment on -- don't have -- have fairly restrictive
18 policies around substance use.

19 So, for example, there's no substances
20 allowed on-site or other things like that. And often
21 use is rushed or not done in a safe manner and which
22 increases both overdose and non-overdose risks like
23 infections and transmission and things like that.

24 But I think that's probably all I can
25 comment on there.

1 44. Q. Okay. And I am almost at the end.
2 There was some evidence from Dr. Koivu in her
3 affidavit and we can find this if you need it, but
4 just generally, she made the suggestion that residing
5 in an encampment can increase a person's drug use or
6 negatively impact their recovery because they're
7 exposed to drug use or drugs that are more accessible.

8 And I am just wondering if you can comment
9 on that based on your experience?

10 A. Unfortunately, like, you know, like I
11 don't personally know any evidence to kind of guide
12 that. But like I think right now at least the
13 practice settings that I work in are -- often operate
14 in drug use and substance use is kind of at a crisis
15 level. And so I -- I -- I haven't noted kind of
16 differentiations clinically necessarily.

17 But like there's exposures to substance use
18 in shelters and outside shelters both in my clinical
19 experience.

20 45. Q. And have you seen in your clinical
21 practice any examples or evidence that people using
22 drugs within an encampment, even if they're opioid
23 users, are going to turn to methamphetamine, just to
24 help them stay awake? Because they have, for example,
25 a fear of falling asleep within the encampment?

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1 A. I have not.

2 46. Q. Those are all my questions, thank you.

3 MS. SCHUIITEMA: I am just going to take one
4 minute to look at my notes. Just give me
5 one second. Okay, I don't have any redirect
6 from that. Thank you, Dr. Gupta. I
7 appreciate your time.

8 THE WITNESS: Thank you, all.

9 --- ADJOURNED

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

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EXHIBIT “A”

AJPM FOCUS

INCLUSIVITY IN PEOPLE, METHODS, AND OUTCOMES

REVIEW ARTICLE

Unsheltered Homelessness and Health: A Literature Review

Jessica Richards, PhD, Randall Kuhn, PhD



Context: In recent years, cities across the world have seen widespread growth in unsheltered homelessness, in which a person sleeps in a place not meant for human habitation such as cars, parks, sidewalks, and abandoned buildings. It is widely understood that people experiencing homelessness have poorer health outcomes than the general population. Less is known about the health of people who are unsheltered, yet they may be exposed to greater health risks than their sheltered counterparts. The purpose of this literature review is to evaluate and summarize the evidence on unsheltered homelessness and health.

Evidence Acquisition: A literature search was conducted using PubMed to identify publications on unsheltered homelessness and health. A total of 42 studies were included for review.

Evidence Synthesis: Unsheltered populations experience higher rates of chronic disease, serious mental illness, and substance abuse than sheltered populations. Unsheltered homelessness is strongly associated with chronic homelessness that exacerbates serious mental illness and substance use, which is often co-occurring. Despite having large unmet health needs, unsheltered populations have lower healthcare utilization and often lack health insurance.

Conclusions: Evaluating the impact of shelter status on health outcomes has important implications for the allocation of housing and health services. Longitudinal studies are needed to examine the relationship between the duration of sheltered and unsheltered homelessness and health outcomes and explore the mediating mechanisms that lead to poor health among unsheltered populations. Despite these limitations, our results also suggest an urgent need to address the unique and severe challenges facing unsheltered populations and the need for intervention approaches that are sensitive to these unique disease burdens.

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CONTEXT

In recent years, cities across the world have seen widespread growth in unsheltered homelessness.¹ Above and beyond the epidemiologic risks associated with homelessness itself,^{2–4} unsheltered individuals may experience additional disease burdens relating to exposures such as violence, exploitation, weather, pollution, and poor sanitation. Yet, few studies have established the health consequences of unsheltered homelessness, much less their

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extent or underlying mechanisms.⁵ This literature review evaluates and summarizes the small but growing body of literature on health outcomes among unsheltered homeless adults, specifically in comparison with those who are sheltered.

The past decade has seen a sizable increase in the proportion of the U.S. homeless population who are unsheltered. The U.S. Department of Housing and Urban Development defines an individual as homeless if they lack a fixed, regular, and adequate nighttime residence.¹ Within this category, those who sleep in a public or private place not meant for human habitation (e.g., street, tent, or other makeshift shelters) are considered unsheltered. According to the U.S. Department of Housing and Urban Development's Annual Homeless Assessment Report, the unsheltered homeless population increased by 30% from 2015 to 2020, even as the sheltered homeless population declined by 10%. Therefore, the share of unsheltered persons nationwide rose from 31% to 39%. Aggregate data mask wide geographic variations in the distribution of unsheltered homelessness, with higher rates in the Western U.S. Although it is widely assumed that unsheltered homelessness results from warmer weather, Figure 1 suggests a simpler relationship whereby localities with more shelter beds will have a lower share of their homeless population unsheltered.⁶ Indeed, New York City had much higher rates of unsheltered homelessness in the 1990s, which were reduced because of a concerted effort to build

shelters and engage clients.⁷ Recent increases in unsheltered homelessness partially track a series of rulings by the U.S. 9th Circuit Court of Appeals, which struck down urban camping prohibitions until shelter beds were made available to house the entire homeless population.⁸

Countries define and measure homelessness differently, making cross-country comparisons of unsheltered homelessness difficult. The definition of homelessness varies by country, and identification of the unsheltered homeless population is beset by limited data sources and methodologic challenges.⁹ In some countries, the definition of homelessness may include only people who are unsheltered (e.g., Japan) and unsheltered and sheltered populations (e.g., U.S.) or be applied broadly to also include precariously housed populations (e.g., Australia). Countries with a more inclusive definition of homelessness tend to report a higher incidence of homelessness.¹⁰ Although unsheltered persons are commonly included in official definitions of homelessness, they are often not separately identifiable in national indicator data outside of the U.S.¹¹ Unsheltered homelessness has been referred to as street homelessness,¹² absolutely homeless,¹³ rooflessness, sleeping rough,¹⁴ or long grassing,¹⁵ and in turn, individuals have been referred to as rough sleepers, street/pavement dwellers, and encampment residents. Many individuals may also live in both sheltered and unsheltered locations at different points in time or even at the same time.¹⁶ These differences in operationalizing

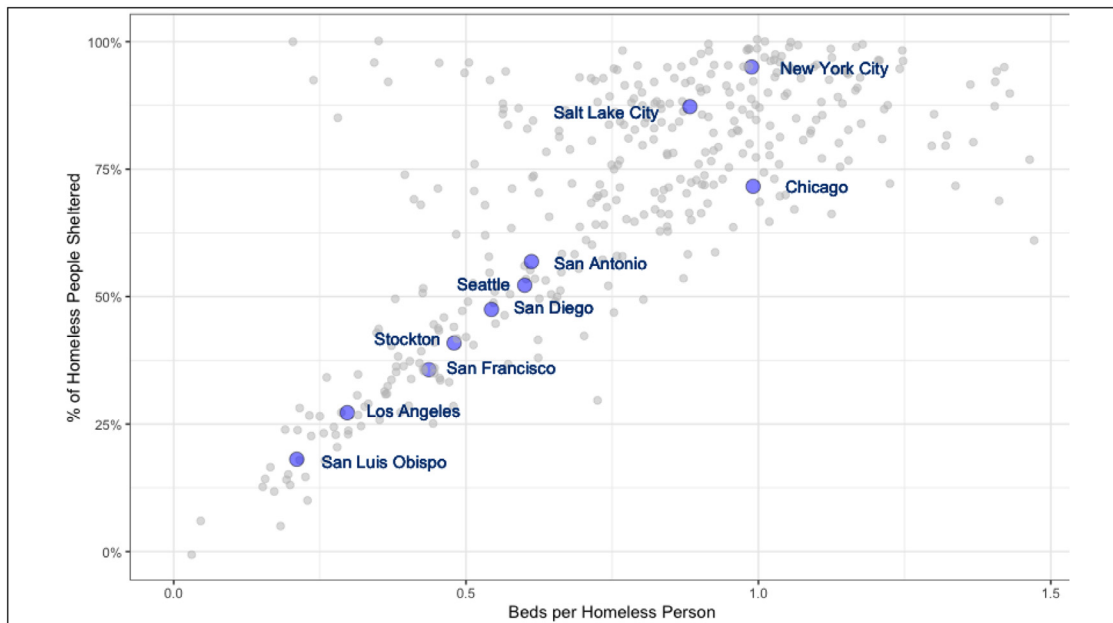


Figure 1. Relationship of homeless shelter bed inventory with unsheltered homelessness, U.S. Continuums of Care, 2020.

Source: U.S. Department of Housing and Urban Development. Point-in-time count and housing inventory Count Data; 2020. HUD Exchange. <https://www.hudexchange.info/programs/hdx/pit-hic/>.

homelessness will be considered when drawing comparisons across studies.

Where possible, we focus on studies that disentangle the impacts of unsheltered homelessness from confounding factors associated with unshelteredness. Unsheltered persons are more likely to be non-Hispanic White, male, and veteran than those who are sheltered and have a history of incarceration or foster care.^{5,17–20} Duration may also serve as a confounder because unsheltered homelessness is associated with prolonged and more frequent episodes of homelessness.^{5,17,18,20}

This review pays particularly close attention to chronic health conditions affecting older adults. Recent studies have framed the long-term consequences of homelessness in terms of accelerated aging because of repeated exposure to deprivation and disease, as reflected in the early onset of geriatric conditions and surgical complication risks often occurring decades sooner than in housed older adults.^{21,22} The population of older homeless adults (aged ≥50 years) is also growing in the U.S. owing to ongoing cohort effects.²³

EVIDENCE ACQUISITION

We organized this literature review following Fazel and colleagues' 2014 review of health outcomes for the broader homeless population.² Results were grouped into the following health outcomes: mortality, noncommunicable diseases, reproductive health, communicable disease, mental health, substance abuse, health services utilization, and injuries.

Search Strategy

The literature search strategy and study selection are summarized in [Figure 2](#). A literature search was conducted in May 2020 using PubMed to identify publications on unsheltered homelessness from 1990 through 2020. Combinations of relevant keywords including unshelter* and rough sleeper* and street homeless* were used to capture variations of unsheltered homelessness. A total of 13,415 publications were identified. Keywords for each search are listed in [Appendix Table 1](#) (available online). Grouping, deduplication, and coding were conducted in EndNote to minimize the risk of errors or lost data. The reviewer (JR) consulted with an experienced biomedical staff librarian to translate PubMed searches into EndNote smart groups ([Appendix Table 2](#), available online). Publications on unsheltered homelessness were identified as the intersection of publications identified using keywords for homelessness and publications identified using

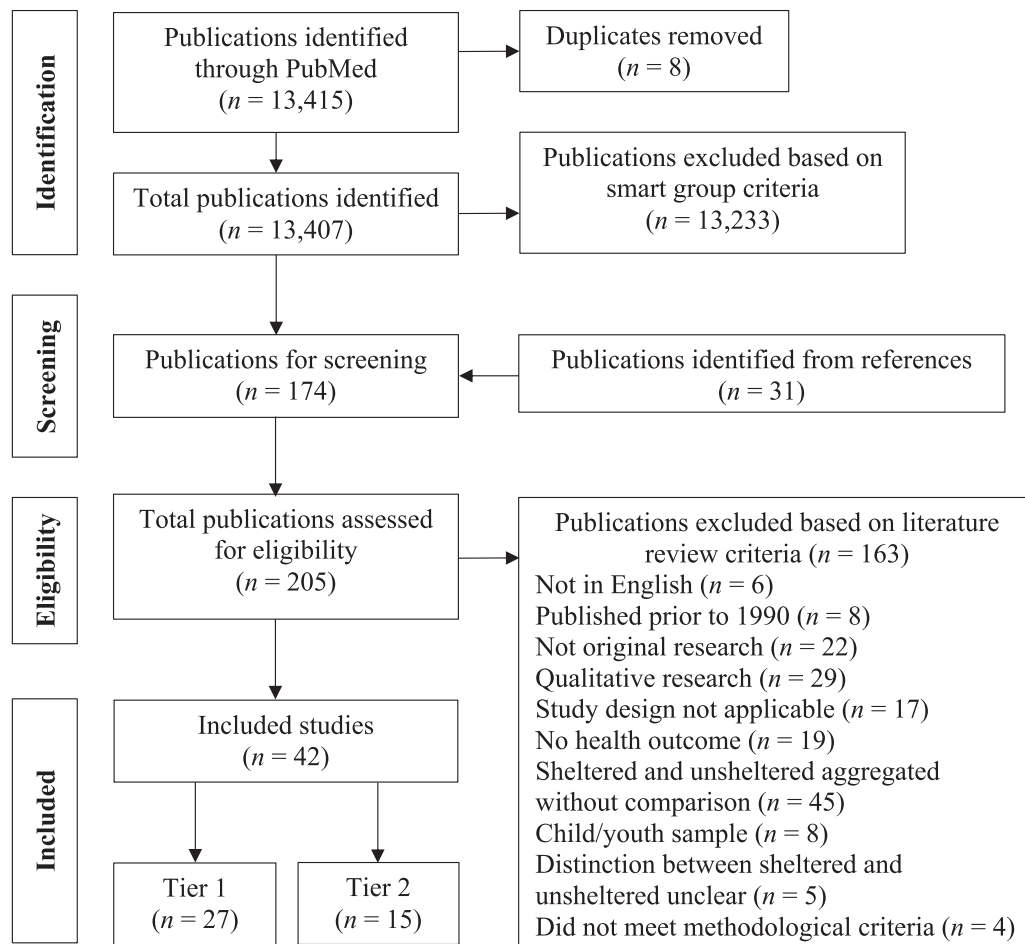


Figure 2. Summary of search strategy and study selection.

keywords for unshelteredness ([Appendix Table 2](#), available online). A total of 174 publications were identified for screening to identify studies in which a health or health utilization measure was the outcome of interest. To address the potential risk of publication bias, we conducted parallel searches of the gray literature using Google Scholar and found no additional studies.

Study Selection

The full text for all the 174 publications was located and read to determine eligibility for review. Reference lists were also searched to identify relevant publications and an additional 31 publications were screened for review. Following earlier studies, the review included only studies that estimated an association between unsheltered homelessness and a health-related outcome.²⁴ Studies that did not clearly meet the inclusion criteria were discussed with a second reviewer (RK) and any disagreements were resolved by consensus. For transparency, the list of 132 excluded studies is included in [Appendix Table 3](#) (available online), along with the criteria for exclusion.

Study Coding

Included studies were grouped into 2 tiers: (1) comparative studies of unsheltered and sheltered homelessness and (2) studies with an exclusively unsheltered sample. Tier 2 evidence was only reported if it contradicted Tier 1 evidence or if Tier 1 evidence did not exist for a health domain.

Owing to a wide range of methodologic rigor within the included studies, a scoring system was developed to evaluate study quality within each tier. Specifically, papers were scored on (1) the rigor of the sampling strategy, (2) the use of validated health measures, and (3) efforts to control for or otherwise account for (e.g., through standardization) the role of population composition. Initially, sampling rigor was coded using probability sampling of a known population. However, few studies met this requirement. Thus, the standard was relaxed to code studies on the basis of the following hierarchy: (1) probability sampling or quota sampling occurred at a mix of known venues, and/or efforts were taken to compare the resulting sample with more representative samples of the population of interest (e.g., point-in-time homeless counts); (2) convenience samples where the sample was not selected on the basis of health or health risk (i.e., certain neighborhoods of a city); and (3) convenience samples where the sample was selected on the basis of health risk (i.e., substance abuse program). Studies were independently scored by both reviewers (JR and RK), and discrepancies were resolved by consensus. Studies with a score of 1 were excluded from analysis. The inclusion criteria and scoring are listed in [Appendix Table 4](#) (available online). In all, 42 publications were selected for review (Tier 1: 27, Tier 2: 15).

EVIDENCE SYNTHESIS

The review includes 42 studies. Thirteen of them were Tier 1 comparative studies with quasi-representative sample design, 14 were Tier 1 comparative studies with convenience samples, and 15 were Tier 2 studies with unsheltered samples only ([Supplementary Electronic Appendix](#), available online). Results for Tier 1 studies are reported using adjusted (if available) odds/risk ratios for the

unsheltered versus sheltered comparison. For Tier 2 studies, we report unadjusted estimates for the unsheltered population.

[Figure 3](#) shows that more than half of the studies, including all Tier 1 representative studies, were conducted in the past decade. Nearly half of the studies (20 of 42) were published since 2016, including 10 of the 13 comparative quasi-representative studies. Nearly three quarters of the studies took place in the U.S. (29 of 42), including 85% of studies published in the past 5 years (17 of 20) and 85% of comparative quasi-representative studies (11 of 13).

We extracted 48 unique directional associations from the 27 Tier 1 comparative studies we reviewed ([Figure 4](#)). We summarized the type of relationship supported for each finding for all health outcomes. We classified results as those supporting substantially poorer health for unsheltered (statistically significant with $RR/OR \geq 2.0$), somewhat poorer health for unsheltered (significant with RR/OR between 1.0 and 2.0), and not statistically significant. No Tier 1 studies provided support for unsheltered individuals having better health than sheltered comparators. Across all the 48 Tier 1 findings, 44% (21 of 48) found that those who are unsheltered had much poorer health, 29% (14 of 48) supported moderately but significantly poorer health, and 27% (13 of 48) found no significant relationship. Within each of the 8 health outcome groups, most findings indicated significantly worse health for unsheltered than sheltered, although the number and quality of findings varied by outcome.

Mortality and Cause of Death

Mortality rates are significantly higher among those experiencing unsheltered homelessness. Compared with that of a sheltered homeless cohort, the standardized mortality ratio (SMR) for an unsheltered homeless cohort in Boston was nearly 3 ($SMR=2.7$; 95% $CI=2.3, 3.2$) times higher.²⁵ After grouping the unsheltered sample by mortality risk factors, the SMR for unsheltered versus that for sheltered was 4.0 (95% $CI=3.0, 5.2$) times higher for a high-risk group and 2.2 (95% $CI=1.8, 2.8$) times higher for the lower-risk cohort.²⁶ A national study using data from the 100,000 Homes campaign found a significant but much smaller effect of unsheltered status on the odds of mortality ($AOR=1.12$; 95% $CI=1.05, 1.19$).¹⁷

Three papers addressed the cause of death.^{25–27} Common causes of death among those who were unsheltered included chronic disease, substance use, and injuries.²⁵ Compared with nonpoisoning injuries among a sheltered cohort, nonpoisoning injuries (e.g., motor vehicle accidents, falls, drowning) were high ($SMR=7.1$; 95% $CI=4.4, 11.0$) and were associated with high rates of chronic substance

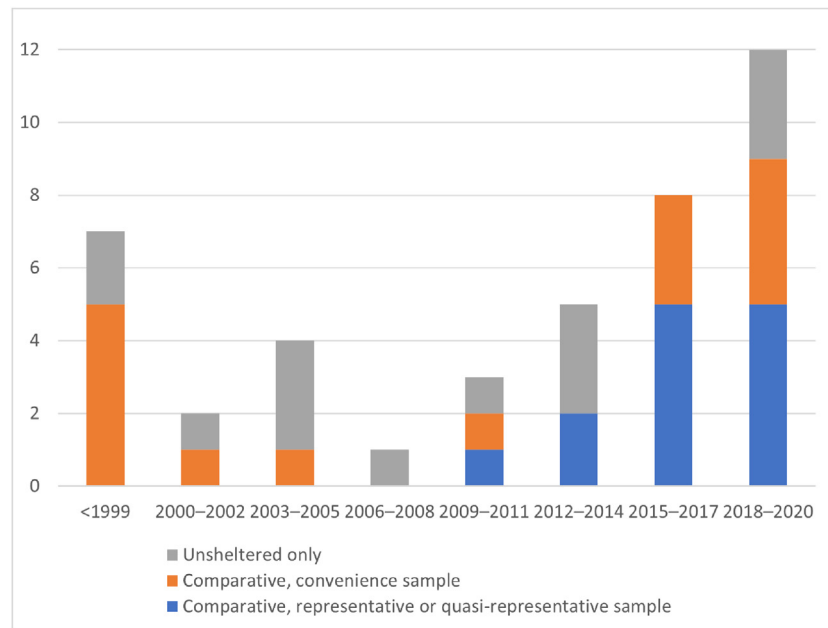


Figure 3. Included studies by year and quality.

use (SMR=4.2; 95% CI=2.5, 6.7).²⁵ Unsheltered adults classified as high risk had substantially higher mortality rates for HIV/AIDS (SMR=122.3; 95% CI=44.8, 271.1), chronic substance use (SMR=104.2; 95% CI=38.1, 231.0) primarily caused by alcohol abuse, chronic liver disease (SMR=86.0; 95% CI=45.0, 150.0), and injuries (SMR=44.0; 95% CI=17.8, 91.6) than a sheltered high-risk cohort.²⁶

Noncommunicable Diseases and Associated Markers

Unsheltered populations often experience poor adult health outcomes. A cross-sectional study of homeless women in Los Angeles found that after controlling for sociodemographic factors (e.g., age, education, ethnicity, number of times homeless, and length of time homeless),

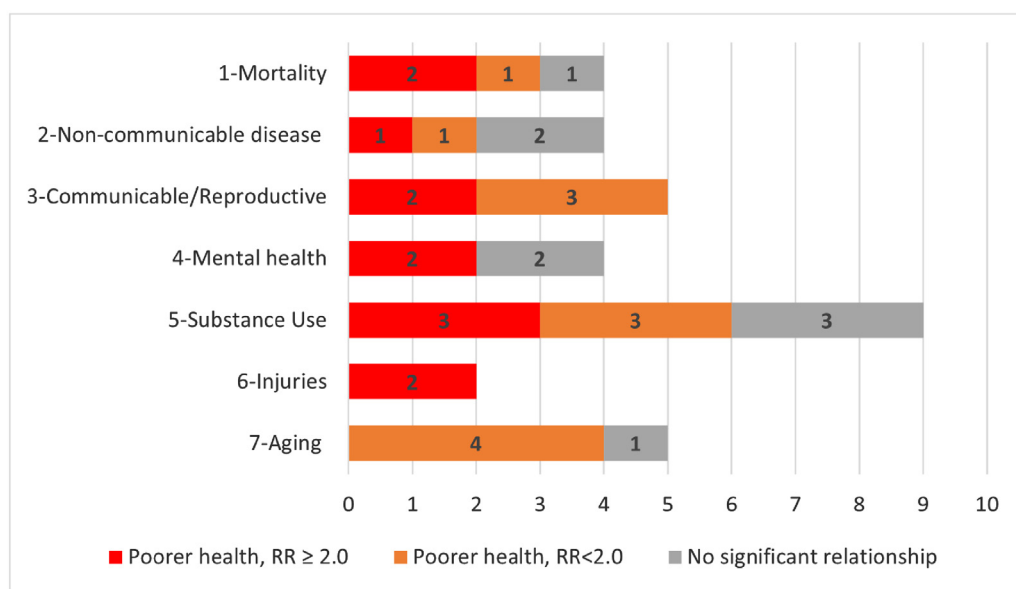


Figure 4. Classification of single associations for each health outcome by type of relationship support and outcome of interest.

unsheltered women had greater odds of fair or poor physical health (AOR=3.40; 95% CI=2.34, 4.94; $p=0.001$) and experiencing pain in the last 6 months (AOR=2.28; 95% CI=1.54, 3.37; $p=0.001$) than sheltered homeless women.²⁸ The association between unsheltered status and worse health status remained significant for women who used substances (AOR=3.0; 95% CI=2.02, 4.45) and women with poor mental health (AOR=2.24; 95% CI=1.49, 3.37).²⁸ Another study conducted in Wales found that oral health-related quality of life was significantly poorer among rough sleepers than among sheltered homeless adults ($p=0.004$).²⁹ Other common self-reported medical problems among the unsheltered include orthopedic problems and arthritis.³⁰

Evidence is mixed regarding the impact of shelter status and chronic homelessness on chronic health conditions.^{17,31,32} A study of chronically homeless veterans found that sheltered veterans were more likely to have a chronic health condition than unsheltered (43.4% vs. 40.8%; $p=0.001$), although this result was not controlled for confounders.¹⁹ Although a comparative study of chronically unsheltered and not chronically unsheltered adults did not find significant differences in the rates of serious medical conditions, chronically unsheltered adults were significantly more likely to report trimorbidity (e.g., serious medical issue, lifetime mental illness, lifetime substance abuse) than not chronically unsheltered adults (OR=1.65; 95% CI=1.11, 2.45).²⁰ A study of air pollution-related health outcomes among people experiencing homelessness found that breathing difficulty and headaches did not vary significantly on the basis of shelter status (shelter versus unsheltered) or chronicity (chronic versus nonchronic homelessness).³³

A number of studies focused on older homeless adults.^{19,20} One study found significantly higher rates of vision impairment among unsheltered older adults ($p=0.04$).²¹ However, *mobility impairment* (defined as self-reported difficulty in walking) and other geriatric conditions (activities of daily living impairment, instrumental activities of daily living impairment, one or more falls in the past 6 months, cognitive impairment, hearing impairment, urinary incontinence, or depression) did not vary significantly by living environment.²¹ Among unsheltered older adults, 34% reported falling once or more in the last 6 months,²¹ and spending any night unsheltered (compared with none) was significantly associated with increased odds of falling (AOR=1.42; 95% CI=1.10, 1.83).³⁴ Unsheltered older adults had more than twice the odds of very low food security than older adults who were recently homeless or staying in temporary accommodation or institution.³⁵

Communicable Disease

Just 4 papers addressed communicable diseases, with just 2 Tier 1 studies and 2 conducted in the U.S. One paper addressed unsheltered–sheltered differences in tuberculosis risk and treatment.³⁶ People living on the street had the greatest risk of tuberculosis compared with those housed and other homeless groups (sheltered and transient), and the average number of days hospitalized and required for follow-up care was 4 times as high as that of sheltered homeless.³⁶ Two descriptive studies conducted in Ethiopia observed that 44%–68% of street dwellers had 1 or more intestinal parasites.^{37,38}

Sexual and Reproductive Health

Although only 3 studies examined sexual and reproductive health, results suggest that some high-risk sexual behaviors and rates of sexually transmitted diseases may be more common, particularly for women. In the Los Angeles study, unsheltered women had greater odds of having multiple sex partners (AOR=2.79; 95% CI=1.93, 4.03; $p=0.001$) and having a sexually transmitted disease (AOR=2.10; 95% CI=1.05, 4.21; $p=0.036$) in the past 6 months.²⁸ They were also more likely to have experienced an unwanted pregnancy (AOR=1.53; 95% CI=1.07, 2.19; $p=0.021$).²⁸ Among unsheltered women experiencing reproductive health problems in India, most (78.5%) did not seek care.³⁹ A descriptive study of street dwellers in Ethiopia indicated that 39.4% had experienced sexually transmitted disease symptoms in the past year.⁴⁰

Mental Health

Unsheltered homelessness is often accompanied by high rates of mental health illness, including major depression. In the Los Angeles study, unsheltered women had much greater odds of being in poor mental health (AOR=12.69; 95% CI=6.68, 24.13; $p=0.001$) than sheltered homeless women.²⁸ A study of unsheltered adults in Japan found that street homelessness was significantly associated (OR=2.64; 95% CI=1.15, 6.06; $p<0.05$) with recent suicidal ideation after controlling for depression.¹² In addition, in a descriptive study of unsheltered adults in Ethiopia, 41.8% wished to die, 21.7% had persistent suicidal thoughts, and 14.8% had attempted suicide in the past month,¹⁴ but another study found that the rates of lifetime major depression did not vary significantly between unsheltered and sheltered men.⁴¹ A study of older homeless adults found that the rates of depression and suicidal thoughts did not vary significantly between unsheltered and those in other living groups, but the study did not include a clearly sheltered comparison group.²¹

In addition to major depression, schizophrenia and mood disorders are common mental health diagnoses among unsheltered populations. High prevalence rates have been found in descriptive studies across 3 countries. Most Brazilian unsheltered adults had a psychiatric diagnosis (98.8%); an Ethiopian study found that 41.0% had psychosis; and among a small sample of rough sleepers in Dublin, 31.3% had a severe mental illness.^{14,42,43} Among those with mental illness, the most common diagnoses were schizophrenia (88% in Ethiopia, 25% in Dublin, and 9.6% in Brazil) and mood disorders, including major depression (32.5% in Brazil).^{14,42,43}

Chronicity may contribute to the rates of mental illness among unsheltered persons. Exploratory analysis indicated that adults with psychosis in Ethiopia were more likely to be older and to have longer durations of street homelessness.¹⁴ Chronically unsheltered individuals were more likely to have *lifetime mental illness* (defined as either a history of psychiatric hospitalization or current mental health counseling or treatment) (OR=1.57; 95% CI=1.19, 2.08) than not chronically unsheltered persons.²⁰ In contrast, a recent study found mental health illness did not vary by shelter status (shelter versus unsheltered) or chronicity (chronic versus nonchronic homelessness).³³

Substance Use

Experiencing unsheltered homelessness can significantly increase the likelihood of substance use disorder and worsen existing substance use. In 1 study, unsheltered women were more likely to use alcohol or noninjection drugs in the past 6 months (AOR=2.95; 95% CI=1.94, 4.50) than their sheltered counterparts, but no significant differences were found regarding recent injection drug use.²⁸ Among opioid-using veterans in New York City, being unsheltered was a significant predictor (adjusted incidence rate ratio=2.08; 95% CI=1.39, 3.13) of greater engagement in opioid overdose risk behaviors after adjusting for demographics and prescription medications.⁴⁴ A study of sheltered and unsheltered tobacco users found few differences in tobacco use in the previous month, with the exception that unsheltered smokers were significantly more likely to report using large cigars (AOR=2.35; 95% CI=1.05, 5.23).⁴⁵ A study of young adults found that sheltered young adults were significantly less likely to have used alcohol (AOR=0.53; 95% CI=0.34, 0.82), marijuana (AOR=0.53; 95% CI=0.34, 0.83), and synthetic marijuana (AOR=0.46; 95% CI=0.25, 0.84) in the past month than unsheltered participants after controlling for other factors. The rates of stimulant and opioid use were also lower but were not statistically significant.⁴⁶

Among a cohort of out-of-treatment substance users, a composite HIV risk score (number of times injecting drugs, number of days using crack, and number of days having sex) was significantly higher for all unsheltered subgroups (Black males, Hispanic males, White males, Black females, Hispanic females) except for White females ($p<0.05$) than for sheltered participants.⁴⁷ Another national study of substance users found that unsheltered homelessness was strongly associated with frequent public drug use (AOR=17.44; 95% CI=9.5, 32.0) compared with stably housed participants after controlling for age and use of heroin or injection drugs.⁴⁸

Comorbid mental health and substance use disorder is also common among unsheltered populations.^{14,42,43} Chronically unsheltered adults were more likely to have a dual diagnosis of mental illness and substance use ($p=0.002$) than not chronically unsheltered adults.²⁰ In addition, veterans with a substance use disorder, alone or in combination with a mental illness, were significantly more likely to be unsheltered, although this did not apply to veterans with only a mental illness.¹⁹ The Los Angeles study found that unsheltered women with recent substance use had much greater odds (AOR=11.09; 95% CI=5.62, 21.88) of poor mental health than sheltered women with recent substance use.²⁸

The most used substance among unsheltered populations is alcohol.^{30,49,50} The rates of alcohol use were high, with 68% of rough sleepers in London⁴⁹ and 72% of encampment residents in Los Angeles³⁰ reporting using alcohol in the past month. Other commonly used drugs among the unsheltered include crack cocaine, heroin, and cannabis.^{30,49,50} Drugs are often used in combination among unsheltered individuals, using an average of 3 or 4 drugs.⁵⁰

There is evidence that substance use may increase with the duration of unsheltered homelessness. Among unsheltered adults in London, longer durations of unsheltered homelessness were accompanied by increased daily substance use, injection drug use, and dependency.⁵⁰ Substance use was a commonly reported cause of homelessness, and 80% reported using at least 1 additional drug since homelessness onset.⁴⁹

Injuries

Little evidence documents levels of injury risk for unsheltered and sheltered individuals. In the Los Angeles study, unsheltered women were more likely to have experienced victimization in the form of physical assault (AOR=2.74; 95% CI=1.91, 3.94; $p=0.001$) and robbery (AOR=5.37; 95% CI=3.64, 7.92; $p=0.001$) than sheltered women.²⁸ Although half of the unsheltered homeless adults in Manhattan reported a history of repeated trauma, the rates did not significantly vary

between chronically unsheltered and not chronically unsheltered homeless adults.²⁰

Health Services

Healthcare access and utilization. Unsheltered homelessness has been associated with lower rates of healthcare utilization. Not residing on the streets was significantly associated with recent health services utilization (AOR=11.39; 95% CI=3.58, 36.24) after adjusting for socioeconomic factors and other covariates in a study based in South Korea.⁵¹ After adjusting for sociodemographic and homelessness characteristics, women experiencing unsheltered homelessness were less likely to have seen a dentist in the past year (AOR=0.34; 95% CI=0.21, 0.53; $p=0.001$) and to have received a Pap test (AOR=0.40; 95% CI=0.28, 0.59; $p=0.001$) or a tuberculosis test (AOR=0.22; 95% CI=0.15, 0.33; $p=0.001$) than their sheltered counterparts.²⁸ After adjustment, unsheltered individuals in England were less likely to be registered with a general practitioner (AOR=0.45; 95% CI=0.30, 0.66) than sheltered participants but were not less likely to utilize primary care services.⁵² Unsheltered older adults had significantly lower rates of primary care services than older homeless adults in other residential categories.⁵³ Yet, regarding follow-up care, unsheltered clinic users were more likely (1.45 times) to return for care than those staying in a sheltered environment after controlling for other factors.⁵⁴

Findings for hospital-related health service use among unsheltered homeless individuals are mixed. Homeless veterans in Los Angeles with a history of sleeping unsheltered had lower odds of using inpatient services (OR=0.34; $p=0.002$) than sheltered veterans,⁵⁵ whereas a bivariate analysis found no difference in the use of outpatient services among homeless veterans on the basis of shelter status.¹⁹ Another study found higher rates of outpatient services among an unsheltered cohort but less use of emergency services and fewer hospital admissions than among sheltered adults.⁵⁶ One study found higher rates of health services utilization among the unsheltered, including emergency department and outpatient services, but this effect was primarily explained by high levels of chronic health conditions.⁵ A study of rough sleepers in England also found no association between shelter status and use of hospital care, hospital admissions, emergency services, or ambulance use after adjusting for covariates.⁵² Unsheltered populations are also less likely to have health insurance.¹⁹

Among current or past drug users, unsheltered women were less likely to have sought formal treatment in their lifetime than those sheltered (AOR=0.31; 95% CI=0.21, 0.47).²⁸ In an unadjusted analysis, unsheltered homeless persons were significantly more likely to report

not receiving needed substance use treatment than sheltered homeless persons (61.0% vs. 45.6%; $p<0.001$).⁵⁷

DISCUSSION

Despite the mixed quality of reviewed studies, our review suggests a consistent and strong association between unsheltered homelessness and higher levels of health risk, above and beyond the well-documented negative consequences of homelessness.² Unsheltered populations experience high rates of chronic disease, serious mental illness, and substance abuse compared with sheltered populations. Despite having many unmet health needs, unsheltered populations have lower healthcare utilization and often lack health insurance. These health disadvantages manifest in significantly higher burdens of mortality.²⁶ Unsheltered homelessness is strongly associated with chronic homelessness, which exacerbates serious mental illness and substance use, which are often co-occurring.

Limitations and Future Studies

We note a number of concerns surrounding methodologic quality. First, few studies addressed the critical outcomes of injuries, communicable diseases, and sexual and reproductive health. Second, we observed substantial variation in the definition of unshelteredness and of comparison groups, so comparisons between sheltered and unsheltered populations should be interpreted with care. A variety of measures have been used to determine shelter status. Unsheltered homelessness has been based on current living situation,⁵⁸ previous night location,⁴⁶ and having slept within a certain area.⁴⁰ Other studies incorporate duration data by gathering residential histories to identify where participants sleep most of the time. Residential time windows range from within the past 1 week,⁴⁵ 1 month,²⁸ 3 months,⁵⁷ and even 6 months.³¹ Finally, we note the variable quality of the sampling methods. Few studies used a probability sample. Only half of the comparative studies reviewed employed methods for gaining quasi-representativeness, either by sampling through multiple venues or comparing the sample to point-in-time estimates of target population composition. Some recent studies with consistently higher-quality evidence have produced more mixed results.

Future studies must employ longitudinal designs to address causal mechanisms linking unsheltered homelessness to health through specific pathways of risk. The potential for reverse causality underscores the need for longitudinal studies to explore temporal relationships. During the pandemic, many jurisdictions have targeted vulnerable individuals for placement in shelters or

hotels, potentially altering the temporal relationship between health and unshelteredness.^{59,60} Yet, at the same time, homeless services systems often impose rules or restrictions that cause vulnerable groups to avoid or be removed from shelters. This can include well-known restrictions such as sobriety requirements as well as more subtle barriers such as pet ownership restrictions that may exclude even those with service animals.⁶¹

An even more important need is to identify and address the specific social–ecologic exposures that drive poor health among the unsheltered and how these exposures interact with shelter status. Only 1 paper in this review attempted to isolate a causal factor in the relationships between health and sheltered/unsheltered homelessness.⁴¹ Notably, risk factors such as chronic exposure to low-quality food and sleep disruption because of light and noise pollution have not been addressed at all. Future studies should leverage longitudinal data where possible and disaggregate people experiencing homelessness by shelter status to further explore the mechanisms that drive poor health among unsheltered populations. A better understanding of these mechanisms would improve the ability to target street medicine and other street-based services toward impactful interventions.

We also note that homeless individuals with multiple marginalized identities (e.g., racial/ethnic, gender, and sexual minorities) may be at heightened risk of poor health.^{62,63} More research is needed to understand how social inequalities by race, gender, and sexuality interact to shape health outcomes among people experiencing homelessness, especially unsheltered homelessness. This will require samples of adequate size to conduct stratified analysis and more rigorous methods to ensure representation.

A number of interventions offer the potential to improve the welfare of unsheltered individuals while also engaging clients on a pathway to housing. Street medicine programs can deliver much-needed services and engage clients with service systems, although challenges remain, including identification of high-impact service packages, coordinating care across fragmented service providers, and ensuring sustainability.⁶⁴ Mobile phones are widely used among unsheltered individuals and can serve as a lifeline for emergency services and case worker outreach,^{65–67} but interventions are needed to improve access to connectivity and charging⁶⁸ and to develop equity-sensitive digital service delivery models.⁶⁹ Some interventions can increase the safety of unsheltered living arrangements, such as safe parking or camping areas.⁷⁰ Finally, evidence from Japan suggests that cash transfers delivered through basic income programs or benefit enrollment initiatives may hasten the

transition from the streets.⁷¹ Ultimately, however, any durable solution will require increased shelter inventory and a better understanding of the barriers to shelter entry.⁶¹

CONCLUSIONS

Unsheltered populations experience high rates of chronic disease, serious mental illness, and substance abuse than sheltered populations. Unsheltered homelessness is strongly associated with chronic homelessness that exacerbates serious mental illness and substance use, which are often co-occurring. The rates of premature mortality are high relative to sheltered populations, and older adults are particularly vulnerable owing to accelerated aging while on the street. Despite having high unmet health needs, unsheltered populations have lower healthcare utilization and often lack health insurance. Results are consistently positive for most health conditions, but the evidence quality is mixed. Future research should include longitudinal studies that account for the timing and duration of homelessness; explore specific causal mechanisms of impact; and address intersectionality with race, ethnicity, sex, gender, sexual orientation, and other marginalized identities. Although further research is desperately needed, our results also suggest an urgent need to address the unique and severe challenges facing unsheltered populations and the need for intervention approaches that are sensitive to these challenges.

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SUPPLEMENTARY MATERIALS

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EXHIBIT “B”

Sheltered Versus Nonsheltered Homeless Women

Differences in Health, Behavior, Victimization, and Utilization of Care

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OBJECTIVE: To contrast sociodemographic characteristics, physical and mental health status, substance use, sexual behaviors, victimization, and utilization of health services between homeless women residing in sheltered and nonsheltered environments.

DESIGN: Cross-sectional survey. A structured scale was used to measure mental health status. Physical health status, substance use, sexual behavior, history of adult victimization, and health services utilization were measured by content-specific items.

SETTING: Shelters ($N = 47$) and outdoor locations in Los Angeles.

PARTICIPANTS: One thousand fifty-one homeless women.

RESULTS: Homeless women living on the streets were more likely than sheltered women to be white and longer-term homeless. Controlling for sociodemographic characteristics, multiple logistic regression analyses revealed that unsheltered women had over 3 times greater odds of fair or poor physical health, and over 12 times greater odds of poor mental health than sheltered homeless women. They were also more likely than sheltered women to report using alcohol or noninjection drugs, to have multiple sexual partners, and to have a history of physical assault. About half of the overall sample reported utilization of a variety of health services; however, unsheltered homeless women were less likely to utilize all of the health services that were assessed, including drug treatment.

CONCLUSIONS: There is a critical need for aggressive outreach programs that provide mental health services and substance abuse treatment for homeless women on the streets. Comprehensive services that also include medical care, family planning, violence prevention, and behavioral risk reduction may be particularly valuable for homeless women, especially those living in unsheltered environments.

KEY WORDS: homeless women; shelter status; health service utilization.

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Homeless women represent a rapidly growing population at risk for poor health outcomes.^{1,2} However, they are not a homogeneous group and relatively little is known about differences in the health status, victimization profiles, and health services utilization of homeless women who reside in emergency or sober living shelters as compared with those who live in alternative, unsheltered places, such as the streets. A reasonable assumption is that homeless women living on the street do not have organized living arrangements and close contact with other people, and consequently, they may be more emotionally distressed, more likely to engage in risky behaviors, more likely to experience poor health and victimization, and less likely to use health services than homeless women who reside in shelters. Thus, in addition to homeless status, clinicians may need to take living arrangements into account when prescribing treatment for homeless women.

The literature has shown that, in comparison with the general population, homeless persons have higher rates of physical morbidity.^{3,4} Moreover, despite being sicker, homeless persons are also known to be less likely to use outpatient health services than those in the general population.⁵ However, relatively little is known about the physical health or health service utilization of homeless individuals living in different environments.

One study that did assess the physical health status and substance use of homeless adults as a function of sampling site found startling differences.⁶ For example, shelter residents compared with homeless persons sampled elsewhere were less likely to suffer skin problems, to have elevated liver enzymes, to have been victimized, and to have used illegal drugs. Interestingly, while no site differences were found in many of the reported symptoms, the outdoor homeless were more likely to have medical problems because of exposure to the elements, poor hygiene, malnourishment, and drug use. However, this study did not examine mental health, sexual risk behaviors, and health care utilization for these subgroups of homeless adults, the sample was predominantly male, and it was not clear whether or not individuals actually lived where they were sampled.

Health services utilization has only recently become an area of targeted focus among the homeless who suffer with a number of physical and mental health problems.^{3,7} While authors of a recent study reported that only one third of homeless adults obtained tuberculosis skin tests, sexually transmitted disease (STD) screening, and Pap tests,⁸ these authors also found that providing health care in a model program designed to address the special

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needs of the homeless did result in homeless persons returning for follow-up visits as often as a low-income, domiciled group. Thus, a continuing investigation of the homeless, and of the varying needs of different subgroups, is critical to ensure appropriate utilization of health systems.

As part of an effort to identify subgroups of homeless persons with different levels of health service needs, this paper describes similarities and differences in sociodemographic characteristics, physical and mental health status, substance use, sexual behaviors, victimization, and utilization of health care services between homeless women residing primarily in shelters during the previous month and those who did not reside in a sheltered environment, but were found in close enough proximity to shelters that they might be willing and able to avail themselves of outreach programs targeted to their needs.

METHODS

Subjects and Setting

The study was part of a larger study examining initiation and continuation of substance use that used a purposive sample of 1,325 homeless women who resided in 1 of 47 traditional or sober living shelters or who were sampled through street outreach in Los Angeles.⁹ The sampling plan, as specified by the granting agency, was designed to recruit 64% of women as current substance users (defined as drug and/or alcohol use within the preceding 90 days), while 36% would be past or never users. Women were considered eligible if they were aged 18 or over, and homeless. A homeless woman was defined as one who had spent the previous night in a shelter, hotel, motel, or home of a relative or friend, and was uncertain as to her residence in the next 60 days or stated that she did not have a home or house of her own in which to reside.¹⁰ Data were collected between 1994 and 1996.

Among the original sample, 1,051 women had complete residential history information indicating primary residence in shelters or on the streets. Women with primary residence in shelters were defined as those who reported usually living in an emergency shelter or sober living shelter/residential treatment program during the past 30 nights and had spent at least half of that time in these facilities. Women with primary residence on the streets were defined as those who reported usually living on the streets during the past month and had spent at least 15 of the past 30 nights there. Women who did not fit into either of these categories were excluded from this report. These excluded women did not differ from those who were included in terms of age, length of time homeless, or number of homeless episodes. However, the excluded women were somewhat better educated (12 years vs 11 years), less likely to be Latina (15% vs 34%), and more likely to be African American (60% vs 45%) ($P < .001$). The 2 groups of women also resembled each other on all the

study outcomes, with the exception of injection drug use and sexual assault. In particular, women who were excluded were less likely to be injection drug users than their study peers (9% vs 15%) and more likely to report sexual assault (37% vs 29%) ($P < .01$).

Procedures

Initial contacts in homeless shelters were made to site directors. Homeless women residing within the participating shelters or who were obtained through street outreach were then recruited through presentations provided by research staff to groups of women or on a one-on-one basis. All women interested in participating in the study notified the project nurses and outreach workers. Those who met the inclusion criteria were informed of the study and required to read and sign an informed consent. Only 4% of women who met the eligibility criteria declined to participate.

For sheltered women, appointments were made for instrument administration to take place in a room set aside by the director of the shelter. Outreach interviews were conducted in a variety of places considered convenient by the subjects. These places included restaurants, outdoor areas, cars, parking lots, and drop-in shelters. A trained nurse or outreach worker of the subject's ethnicity administered a face-to-face, structured interview that took approximately 60 minutes to complete. Women received \$10 for their time.

Measures

Sociodemographic characteristics obtained using the structured interview included ethnicity, age, education, usual living place, length of time homeless, number of times homeless, and number of nights during the past 30 spent in various living arrangements (shelters, streets, friends' homes, etc.).

Substance use was assessed by the slightly revised Drug History Form.¹¹ Revisions reflected reordering of frequency of use questions. Drugs on the form included alcohol, marijuana, hallucinogens, crack/freebase, other cocaine, heroin, and street methadone. Items included lifetime use and frequency of use in the past 30 days, in the past 6 months, and in the past 12 months. Favorable results regarding the reliability and validity of data collected in this format have been reported by others.^{12,13}

Health status was measured by 2 individual items inquiring about the women's physical health and the 5-item Mental Health Index (MHI-5).¹⁴ Respondents were asked to rate their general health on a scale of 1 (excellent) to 5 (poor) and their bodily pain on a scale of 1 (none) to 6 (very severe). The first item has been used in a number of health surveys as a valid overall indicator of physical health.¹⁵ Both items were used as part of the health assessment in the RAND Medical Outcomes Study.¹⁶ The 5 items comprising the MHI-5 all have identical response

sets on a 6-point scale ranging from "all of the time" to "none of the time." The MHI-5 has well-established reliability and validity, and has been shown to detect significant psychological disorders including major depression, general affective disorders, and anxiety disorders.¹⁷ Cronbach's α in this sample was 0.82. Mean item scale scores were computed and linearly transformed to a 0 to 100 range in order to evaluate them in terms of an established clinical cut point. Higher scores indicate greater psychological well-being.

Sexual behavior was measured by 3 items. Women were asked how many sexual partners they had in the past 6 months and whether they had any unwanted pregnancies in their lifetime. They were also asked whether they had been told they had a "sexual disease" in the past 6 months.

History of adult victimization was assessed by 3 items using a yes/no response format that asked women if, since they started living on their own, they had been physically assaulted or attacked, not including sexual assault; sexually assaulted; or robbed (i.e., something belonging to them was taken from them personally against their will).

Health services utilization was measured by items inquiring about both preventive health services such as Pap, tuberculosis (TB), and HIV testing, as well as necessary or discretionary health services, which included talking with a doctor or other health professional at any time from the past 2 weeks (1) to never (7), seeing a dentist at any time from the past 12 months (1) to 5 or more years ago (4), and having ever participated in a drug treatment program.

Analysis

Sheltered and unsheltered homeless women were contrasted on the categorical study variables by χ^2 tests and on continuous variables by *t* tests. For analytic purposes, the MHI-5 score was dichotomized at 66 when it was used as an outcome. Individuals may be at high risk for mental health problems if they score less than 66 out of 100.¹⁸ Multiple logistic regression analysis was used to assess the impact of shelter status on physical and mental health, substance use, sexual behaviors, victimization, and health service utilization, controlling for possible confounding effects of sociodemographic characteristics. The logistic regressions were also rerun with women who reported living primarily in sober living shelters or residential treatment programs removed to examine possible effects of this important subcategory of women who had undergone some rehabilitation and were presumably more functional. Further, injection and noninjection substance use and the continuous MHI-5 score were added as predictors to the original logistic models for physical health, sexual behaviors, victimization, and health services utilization to determine whether substance use and mental health had a major impact on shelter status effects.

Finally, the logistic regressions were rerun separately for 2 groups of women: those who reported recent substance use and those whose MHI-5 scores suggested poor mental health. The small numbers of unsheltered women who did not report recent substance use and who had MHI-5 scores of 66 or greater did not permit separate analyses for nonsubstance-using women or for those with relatively good mental health. To partially compensate for the large number of comparisons, the significance level for all tests was set to .01.

RESULTS

The sample consisted of 472 African Americans, 207 Caucasians, 362 Latinas, and 10 women of other ethnicities. Almost 82% of the women reported their usual place of residence to be sheltered; 16% of this subgroup resided in sober living shelters or residential drug treatment programs. On average, the women were about 33 years of age and had less than a high school education (Table 1). Women living in unsheltered environments were somewhat younger than their sheltered counterparts, and they were more likely to be white and to have been homeless for a year or more.

As shown in Table 2, 38% of the sample reported fair or poor health, and those living in unsheltered environments were especially affected. Women living on the streets were also more likely to report some degree of pain. Over half of the sample was at risk for poor mental health, which characterized almost all of the street women.

Homeless women living on the streets were also more likely than their sheltered peers to report use of noninjection drugs or alcohol, and having multiple sexual partners, a recent STD, unwanted pregnancies, and a history of victimization. However, while large differences in rates of physical assault and robbery were found between the 2 groups of women, the difference in sexual assault rates was not significant.

Almost all of the women reported seeing a health care professional in the past year and about 60% said they had a Pap or TB test. Women living on the streets were less likely to report these two tests, but no difference was found in HIV testing rates. However, sheltered women were far more likely to have seen a dentist in the past year. Among current or past drug users, sheltered women were also more likely to have sought formal treatment.

Table 3 shows the results of multiple logistic regression analyses on our health and utilization outcomes to examine the effect of shelter status when the sociodemographic characteristics listed in Table 1 were controlled. As compared to sheltered women, those living primarily on the streets had over 3 times greater odds of fair or poor physical health and over 12 times greater odds of poor mental health. They were also more likely to experience pain, to report alcohol or noninjection drug use, to have multiple sexual partners, and to have been physically assaulted or robbed. In contrast, unsheltered women were

Table 1. Sociodemographic Characteristics of Sheltered Versus Nonsheltered Homeless Women

Characteristics	Sheltered* Homeless (n = 860)	Nonsheltered† Homeless (n = 191)	Total (N = 1,051)	P value‡
Mean age, y (SD)	33.1 (8.8)	31.0 (9.1)	32.7 (8.9)	.003
Mean education, y (SD)	11.0 (2.6)	10.9 (2.6)	10.9 (2.6)	.772
Race, %				
African American	47.4	33.5	44.9	.001
White	13.8	46.1	19.7	
Latina	37.9	18.9	34.4	
Other	0.8	1.6	1.0	
Homeless for the first time, %	42.6	36.7	41.5	.132
Homeless for at least 1 year, %	43.6	73.8	49.4	.001

*Sheltered homeless women are those who report usually living in a homeless or sober living shelter and have spent less than half of the previous 30 nights on the street.

†Nonsheltered homeless women are those who report usually living on the street and have spent at least 15 of the past 30 nights there.

‡P values for comparisons between sheltered and nonsheltered homeless women.

less likely than their sheltered counterparts to report utilization of any health service. No significant differences were found with respect to injection drug use, recent STDs, unwanted pregnancies, or sexual assault.

Eliminating women who resided in sober living shelters or residential treatment programs from the models produced relatively minor differences. When mental health and substance use were controlled, the adjusted association

Table 2. Comparison of Patient Characteristics as a Function of Residential History

Characteristic	Sheltered* Homeless, % (n = 860)	Nonsheltered† Homeless, % (n = 191)	Total, % (N = 1,051)	P value‡
Health status				
Fair/poor physical health	33.0	59.5	37.8	.001
Some pain in past 6 months	57.0	73.8	60.0	.001
Poor mental health	48.0	93.2	56.2	.001
Substance use				
Injection drug use in past 6 months	14.5	18.2	15.2	.187
Alcohol or noninjection drug use in past 6 months	56.2	79.6	60.5	.001
Sexual activity and pregnancy				
Multiple sex partners in past 6 months	29.4	56.3	34.3	.001
Sexually transmitted disease in past 6 months	3.3	11.5	4.8	.001
Any unwanted pregnancies	34.5	48.7	37.1	.001
Adult victimization				
Physically assaulted	27.9	56.8	33.2	.001
Robbed	28.0	72.8	36.2	.001
Sexually assaulted	27.1	35.5	28.6	.021
Access to services				
Talked with health care professional in past year	89.8	83.4	88.7	.013
Saw dentist in past year	41.0	14.7	36.2	.001
Pap test in past year	68.2	48.6	64.7	.001
TB test in past year	65.3	34.8	59.8	.001
HIV test in past 6 months	47.1	42.4	46.2	.242
Drug treatment program (lifetime)§	47.7	28.3	43.8	.001

*Sheltered homeless women are those who report usually living in a homeless or sober living shelter and have spent less than half of the previous 30 nights on the street.

†Nonsheltered homeless women are those who report usually living on the street and have spent at least 15 of the past 30 nights there.

‡P values for comparisons between sheltered and nonsheltered homeless women.

§Among 931 women with a history of drug use.

Table 3. Comparison of Adjusted Odds Ratio* for Homeless Women in Unsheltered Versus Sheltered Environments† (N = 956)

Outcome	Adjusted Odds Ratio	95% Confidence Interval	P value
Health status			
Fair/poor health	3.40	(2.34 to 4.94)	.001
Some pain in past 6 months	2.28	(1.54 to 3.37)	.001
Poor mental health	12.69	(6.68 to 24.13)	.001
Substance use			
Injection drug use in past 6 months	1.14	(0.69 to 1.88)	.618
Alcohol or noninjection drug use in past 6 months	2.95	(1.94 to 4.50)	.001
Sexual activity and pregnancy			
Multiple sex partners in past 6 months	2.79	(1.93 to 4.03)	.001
Sexually transmitted disease in past 6 months	2.10	(1.05 to 4.21)	.036
Any unwanted pregnancies	1.53	(1.07 to 2.19)	.021
Adult victimization			
Physically assaulted	2.74	(1.91 to 3.94)	.001
Robbed	5.37	(3.64 to 7.92)	.001
Sexually assaulted	1.08	(0.74 to 1.59)	.687
Utilization of services			
Talked with health care professional in past year	0.44	(0.26 to 0.75)	.002
Saw dentist in past year	0.34	(0.21 to 0.53)	.001
Pap test in past year	0.40	(0.28 to 0.59)	.001
TB test in past year	0.22	(0.15 to 0.33)	.001
HIV test in past 6 months	0.58	(0.40 to 0.84)	.004
Drug treatment program (lifetime)‡	0.31	(0.21 to 0.47)	.001

*Adjusted for the linear effects of age, education, ethnicity, number of times homeless, and length of time homeless.

†Sample sizes range from 845 to 957, depending on missing values.

‡For 845 women with a history of drug use.

between fair/poor health and shelter status became weaker (odds ratio [OR], 1.99; 95% confidence interval [CI], 1.33 to 2.98), as did that for pain (OR, 1.78; 95% CI, 1.17 to 2.70). Similarly, the sexual activity and victimization measures were not as strongly related to shelter status. However, the health services utilization results were almost identical.

Table 4 shows logistic regression results for 2 subgroups of women: those who reported substance use in the past 6 months and those who were at risk for poor mental health. Although the associations between shelter status and fair or poor health were weaker than in the overall sample, unsheltered women still had over twice the odds of poor physical health outcomes as sheltered women. Further, among women at risk for poor mental health, those lacking shelter were still more likely to use noninjection drugs and alcohol, and among substance-using women, the unsheltered group was still at far greater risk for poor mental health.

Turning to sexual activity and pregnancy, having multiple sexual partners was significantly associated with shelter status in both subsamples, and the odds ratios were similar to that in the overall sample. Similarly, shelter status findings in the 2 subsamples with respect to victimization and health services utilization generally mirrored those in the total sample. In particular, among substance-using women and those at risk for poor mental health, those living in unsheltered environments were

more likely than their sheltered counterparts to have experienced nonsexual victimization and they were less likely to use most health services.

DISCUSSION

This study confirms previous research findings that homeless adults are at risk for poor physical health, and unsheltered homeless persons have poorer physical health status and use less medical care than their sheltered counterparts.^{6,19} The worst health was reported by women living on the streets. Almost three fourths of the unsheltered homeless women reported being in some degree of pain, and 60% reported fair or poor health. The latter figure contrasts with a rate of 38% for the sample as a whole and a 36% rate of fair/poor health found in a representative sample of homeless adults in Los Angeles.¹⁹ By way of comparison, only 10% of the general population report fair or poor health.²⁰

While homeless populations are known to have relatively high rates of serious mental illness,^{21,22} the fact that virtually all of the unsheltered homeless women were at risk for poor mental health is still remarkable. Even among substance users, unsheltered homeless women still had 11 times greater odds of poor mental health than sheltered homeless women, controlling for covariates. Thus, it would appear that the streets are becoming a congregating place

Table 4. Comparison of Adjusted Odds Ratio* for Homeless Women in Unsheltered Versus Sheltered Environments for Key Subgroups of Women

Outcome	Substance-Using Women [†] (n = 713) [§]		Women with Poor Mental Health [‡] (n = 548)	
	Adjusted Odds Ratio (95% Confidence Interval)	P Value	Adjusted Odds Ratio (95% Confidence Interval)	P Value
Health status				
Fair/poor health	3.00 (2.02 to 4.45)	.001	2.24 (1.49 to 3.37)	.001
Some pain in past 6 months	2.33 (1.54 to 3.53)	.001	2.14 (1.38 to 3.33)	.001
Poor mental health	11.09 (5.62 to 21.88)	.001	—	
Substance use				
Injection drug use in past 6 months	—		1.28 (0.74 to 2.22)	.382
Alcohol or noninjection drug use in past 6 months	—		2.21 (1.39 to 3.52)	.001
Sexual activity and pregnancy				
Multiple sex partners in past 6 months	2.37 (1.61 to 3.49)	.001	2.56 (1.69 to 3.86)	.001
Sexually transmitted disease in past 6 months	1.76 (0.86 to 3.59)	.124	1.95 (0.90 to 4.24)	.091
Any unwanted pregnancies	1.31 (0.90 to 1.91)	.162	1.38 (0.93 to 2.05)	.113
Adult victimization				
Physically assaulted	2.40 (1.64 to 3.51)	.001	2.61 (1.75 to 3.88)	.001
Robbed	4.97 (3.31 to 7.48)	.001	5.10 (3.33 to 7.80)	.001
Sexually assaulted	.097 (0.65 to 1.46)	.894	1.07 (0.70 to 1.64)	.744
Utilization of services				
Talked with health care professional in past year	0.52 (0.30 to 0.91)	.021	0.47 (0.25 to 0.89)	.020
Saw dentist in past year	0.41 (0.25 to 0.65)	.001	0.35 (0.21 to 0.56)	.001
Pap test in past year	0.38 (0.26 to 0.57)	.001	0.45 (0.30 to 0.69)	.001
TB test in past year	0.22 (0.14 to 0.33)	.001	0.25 (0.16 to 0.38)	.001
HIV test in past 6 months	0.58 (0.39 to 0.86)	.007	0.59 (0.40 to 0.90)	.013
Drug treatment program (lifetime)	0.033 (0.21 to 0.50)	.001	0.36 (0.23 to 0.56)	.001

*Adjusted for the linear effects of age, education, ethnicity, number of times homeless, and length of time homeless.

[†]Women who reported use of injection or noninjection drugs or alcohol within the past 6 months.

[‡]Women with MHI-5 scores <66.

[§]Sample sizes range from 704 to 713, depending on missing values.

^{||}Sample sizes range from 511 to 548, depending on missing values.

for persons with poor mental health. Women living on the streets also had higher rates of noninjection drug and alcohol use; however, we do not know if substance-using women lived outdoors because they had been refused entrance to or evicted from shelters due to their active substance use.

As in previous studies of homeless women,^{23,24} many participants in this study engaged in risky sexual activity. About one third of the sample, and half of the unsheltered women, reported multiple sexual partners and an unwanted pregnancy at some point in their lives. Although high, the rate of unwanted pregnancy in the sample is

less than the 50% rate in the general population.²⁵ This discrepancy may be due to the fact that homeless women frequently lack an adult network for social support and view their children as a primary source of support.²⁶ Both sheltered and unsheltered homeless women had relatively high rates of sexually transmitted diseases in the past 6 months, with those in the unsheltered group more than 3 times as likely to report them. When covariates were controlled, the impact of shelter status on unwanted pregnancies and STDs was markedly reduced. Nonetheless, even among substance-using women and women with poor mental health, those living on the street still had over one-and-a-half times the odds of having a recent STD as those living in shelters. This finding may reflect a greater need to engage in survival sex or sex for drugs, or it may just be a consequence of having more sexual partners. In any case, unsheltered women clearly need outreach programs that target risky sexual behaviors.

Victimization was reported by close to a third of women in the sample. This finding is in accord with other research indicating that victimization is frequently experienced by homeless women, because of the lack of protection on the street and because many of them engage in street activities such as panhandling, dealing drugs, and prostitution in order to survive.²⁷ Rates of robbery and physical abuse were particularly high among women living on the street. Even after restricting analyses to substance-using women and those at risk for poor mental health, and controlling for sociodemographic disparities between women living in sheltered and unsheltered environments, street residence was a strong independent predictor of robbery and physical assault. Interestingly, reported rates of sexual assault did not differ between sheltered and unsheltered women. Since we do not know when the women were sexually assaulted or their living situation at the time, it is difficult to explain this finding.

The good news from this study is that the vast majority of sheltered homeless women were able to obtain at least some needed medical care and receipt of preventive care was common. In fact, about two thirds of the sheltered homeless reported that they had received Pap and TB testing in the past year, and almost half said they had been tested for HIV in the past 6 months. Even among the unsheltered group, one third to one half reported these preventive care measures. Seeing a dentist in the past year was reported less frequently, especially by unsheltered women, as was lifetime treatment for drug abuse (among women whose histories suggested a need for this service). Regardless of varying levels, a common thread among all of the health services measures examined here is that unsheltered homeless women were less likely than their sheltered counterparts to use them. This failure to utilize health care with comparable frequency is particularly striking in view of the fact that women living on the street had greater need for care and they were more likely to be longer term homeless and thus perhaps more knowledgeable about the homeless health care system.¹⁹

Further, although psychological distress has been shown to be associated with greater barriers to obtaining medical care,²⁸ and substance use has been found to be associated with failure to seek health care,²⁹ the relatively low use of health care services by unsheltered homeless women found in this study cannot be explained by either poorer mental health or greater substance use. One positive note is that the 2 groups of women differed less on HIV testing than on other health services utilization measures. This finding supports the effectiveness of community outreach efforts to detect HIV infection. It also suggests the need for similar efforts directed to other health service areas. While homeless women can obtain medical care in outpatient departments, community clinics, and some clinics associated with homeless shelters, those who reside primarily on the streets do not have access to the drop-in services offered to some shelter residents by visiting health care providers or to the case management many shelters provide. Further, they are not eligible to participate in the substance abuse counseling and treatment programs that shelters may provide for their own residents. A somewhat unexpected finding was that homeless women living in sober living and residential treatment shelters did not fare substantially better than those living in emergency shelters. However, we did not assess how long women had resided in the shelters or length of time in drug recovery. Further, sober living/residential treatment shelters may not emphasize other forms of health promotion, and victimization may have occurred prior to entry.

The cross-sectional design of this study limits inferences about cause-and-effect relationships between shelter status and the outcomes examined here. The exclusive use of self-report data is also a limitation, although self-reports are the only practical way to obtain much of the information reported. In addition, this study was conducted in Los Angeles and the participants were part of a directed sample, so the findings may not be generalizable to all homeless women in Los Angeles or to those in other cities. The use of specific services, such as TB and HIV testing, and dental and drug abuse treatment, as a proxy for overall health services utilization is also a limitation. Further, we did not inquire about important sexual risk behaviors, such as trading sex for food, drugs, shelter, or protection, and our measure of mental health is not a diagnostic tool and thus may exaggerate the seriousness of the mental health problems reported here. It should also be noted that the unsheltered women in this study were found near shelters and may have been better off than most women living on the street.

CONCLUSIONS

Homeless women, especially those found on the streets, have major health problems in all domains—physical, mental, violence, and drug and alcohol use. Yet virtually all of these women have had contact with the health system. This contact clearly needs to be strengthened and

expanded among homeless women on the streets who have poor health and limited health care access and clinicians need to use patient visits as opportunities to screen for shelter status and shelter-related health problems, to educate patients about other needed services, and to attempt to make appropriate follow-up plans for treatment and evaluation.

Homeless women are clearly willing to use available health services, including preventive services for conditions for which they are not currently experiencing symptoms. However, aggressive outreach programs that address mental health and substance use problems are needed for homeless women living on the streets. Ideally, these programs should include comprehensive services such as family planning, violence prevention, and STD risk reduction. In some cases, incentives may be needed to encourage women to avail themselves of future-oriented care if they feel overwhelmed by just obtaining the daily necessities of life. This is particularly likely to be the case for women living in unsheltered environments.

The high levels of access to many health services found among sheltered homeless women suggest that existing shelter resources may be an important link for outreach programs attempting to improve health care for unsheltered homeless persons. Further, as health care for the homeless is being increasingly transferred to managed care systems, the agencies involved may need to establish cooperative arrangements with neighborhood shelters to assure that their homeless enrollees have adequate access to health care providers who understand their special needs, as well as services they are willing and able to use. The beliefs and attitudes of health care providers toward homeless persons merit investigation as well.

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Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Marie Josee Houle** on her affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 7, 2026.

APPEARANCES:

GORDON CAPERN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

JOANNA MULLEN, Ms. Counsel for the Respondents
ASHLEY SCHUITEMA, Ms.
CHARLOTTE CAHILL, Ms. Student-at-Law

MERCEDES PEREZ, Ms. Amicus Curiae

(i)

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1 JANUARY 7, 2026

2
3 MARIE JOSEE HOULE, AFFIRMED

4 CROSS-EXAMINATION BY MR. CAPERN:

5 1. Q. And just a couple rules of engagement
6 for both of us, Ms. Houle, as we go through the what I
7 think will probably take an hour this afternoon, it's
8 that it's very important for our reporter, Ms.
9 Pollard, that you and I don't speak over each other.
10 And so as a courtesy to her and to make sure that the
11 record stays clean, it would be useful if you can just
12 wait until I finish my questions before you answer
13 them. And, conversely, I will do my best to make sure
14 I don't interrupt the answers that you're giving and
15 that I don't speak over you as well. If that's okay?

16 A. Thank you, yes.

17 2. Q. And the other thing is that you won't
18 be surprised to learn that even the best of the
19 lawyers in the room will mumble our words periodically
20 and ask questions that don't make any sense. And
21 that's not because we're trying to be devious, it's
22 because we made a mistake. And so if I ask you a
23 question that doesn't make any sense to you, please
24 just tell me that it doesn't make any sense to you.
25 And I'll see if I can say it in a way that's better.

1 A. Okay, thank you.

2 3. Q. Thank you very much. I'd like to
3 start, if I can, Ms. Houle, with your CV which I think
4 was appended to as Exhibit A to your affidavit. Do
5 you recall that?

6 A. Yes, yeah.

7 4. Q. Thank you. And just to orient you on
8 things. On your screen, Greta is going to be putting
9 up the documents that I am referring to as we go. And
10 if you need her to move the document around or you
11 want to see another document as part of your -- in the
12 course of answering the questions, just let us know
13 and we'll accommodate that. Okay?

14 A. Thank you. I also have written copies.
15 I made printed -- printed copies of all of the
16 documents ---

17 5. Q. That's great.

18 A. --- that was submitted.

19 6. Q. Thank you.

20 A. Yeah.

21 7. Q. Okay. Then this is purely -- the stuff
22 that's on screen may be purely for my benefit then
23 because I don't have printed copies of this out in
24 front of me. And just while we're on that topic, Ms.
25 Houle, do you have anything in front of you other than

1 the copy of your affidavit and the exhibits to it?

2 A. No, no. I was told that I should not
3 and therefore, I don't.

4 8. Q. Okay. Thank you.

5 A. I closed everything on my computer as
6 well, including Outlook and Teams so that I am just
7 purely focused on this.

8 9. Q. Okay, thank you very much and, yeah,
9 it's obviously preferable that you not be taking notes
10 or making notes or receiving any communications from
11 anybody in the course of the examination. Do you
12 understand that?

13 A. Yes.

14 10. Q. Thank you. And so when I go to your
15 CV, I think we can spin down to your employment
16 history which is a little bit further down in the
17 document here.

18 I see that your current position is that of
19 the Federal Housing Advocate, is that correct?

20 A. Yes.

21 11. Q. And that's a role that you've filled
22 since February of 2022?

23 A. That's right.

24 12. Q. And prior to that, you were the
25 executive director of an organization called "Action

1 Logement," is that correct?

2 A. That's right.

3 13. Q. And that was a position that you held
4 from 2017 to 2022?

5 A. Yes. Yeah.

6 14. Q. And you'll forgive me for not having an
7 exhaustive knowledge but what is Action Logement?

8 A. Action Logement is a housing loss
9 prevention organization. It is a francophone
10 organization in Ottawa but the organization provided
11 paralegal services as well as social -- social work
12 services to help people either stay housed or to find
13 better housing.

14 My role as executive director was to ensure
15 the well-functioning of the organization and answer to
16 a board of directors and to ensure that the paralegals
17 and the social workers had the resources that they
18 needed in order to do their work.

19 This was a job that had me cross the floor
20 because before that, I was a landlord in the non-
21 profit and co-op sector. So Action Logement also did
22 a lot of -- it provided me as a professional in this
23 field kind of an opportunity to learn more about the
24 bird's eye view of the total housing system, and not
25 just from the housing providers perspective.

1 And learned a lot about housing and
2 homelessness on the ground as well as bylaws and
3 legislation that affected the system, and landlords
4 and house -- or housing providers as well as people
5 who are precariously-housed and experiencing
6 homelessness alike.

7 And so it kind of well-rounded my -- all of
8 my previous experience.

9 15. Q. Okay, thank you for that. And I think
10 I had it from your answer but aside from reporting to
11 the board of directors, that's an organization that
12 you led as the executive director, is that fair?

13 A. That's right, yes.

14 16. Q. Thank you. And prior to that, I have
15 it from your CV that you were the executive director
16 of something called, "OCISO," O-C-I-S-O, non-profit
17 housing corporation?

18 A. That's right.

19 17. Q. And when you said that you were on the
20 "landlord side," was that one of the -- was that a
21 landlord, this organization, OCISO?

22 A. OCISO non-profit housing corporation is
23 now called Unity Housing. It is a non-profit housing
24 corporation meaning that it is governed by a board of
25 directors which are community members. And at the

1 time, had 200 units of non-market housing.

2 Some of them had rent-geared-to-income
3 subsidies, some had what they called the below-market
4 rent subsidies. And some didn't have subsidies but it
5 is not government-owned, it is owned by the community.
6 It's an independent corporation.

7 18. Q. Thank you. And its mandate I take it,
8 is to offer housing outside of the conventional
9 housing market. Is that fair?

10 A. No, the subsidies, the units with the
11 subsidies are needed to be filled through a waitlist
12 and a process determined by the City of Ottawa, as the
13 service manager on behalf of the Ontario Government.

14 But the non-subsidized units were open to
15 anyone from the public.

16 19. Q. Okay, thank you. And just to make sure
17 I understand the timing, you were in that role. But
18 it looks like -- and Greta, I am sorry to interrupt.

19 But it looks like someone named Sarah
20 (indiscernible) is going into the Teams that was part
21 of your appointment, so you might want to drop her a
22 note to let her know that you're -- we're over in the
23 Zoom.

24 A. You would like me to contact ---

25 20. Q. No, no. Greta will do that.

1 A. Yeah, okay.

2 21. Q. Okay.

3 A. Okay, thank you.

4 22. Q. Thanks very much. And so just I have
5 the timing on your job with OCISO, that was in -- from
6 2015 to 2017. Correct?

7 A. As executive director, yes.

8 23. Q. Okay.

9 A. Because before that, I was their
10 development consultant because I built a Phase III as
11 their development consultant and their project manager
12 for the organization. And I also was a junior project
13 manager for their Phase II.

14 24. Q. Okay, thanks very much. And just to
15 touch very briefly on your past before that, I
16 understand that you had a bit of stint as a
17 professional musician, is that fair?

18 A. Yes. Yes.

19 25. Q. And I get it from my good friends at
20 Gemini, that you had produced or at least recorded two
21 albums, one in 2007 and one in 2008 called, "Our Lady
22 of Broken Souls and Monsters." Is that -- do I have
23 that right?

24 A. Yes. Yes, that's me.

25 26. Q. Okay. Thank you very much. And so I

1 want to turn if I can to your role as the Federal
2 Housing Advocate. That's a role, I understand, Ms.
3 Houle, that is created by the *National Housing*
4 *Strategy Act*. Is that correct?

5 A. Yes.

6 27. Q. And your role as the National -- or
7 sorry, the Federal Housing Advocate, is set out in
8 Section 13 of that *Act*, is that correct?

9 A. Yes.

10 28. Q. And the office of the Federal Housing
11 Advocate itself is housed at the Canadian Human Rights
12 Commission, is that correct?

13 A. Yes.

14 29. Q. And if I can just turn up briefly the
15 -- I went to the website for the Federal Housing
16 Advocate which is also I think hosted by the Canadian
17 Human Rights Commission, if that's correct?

18 And, Greta, if I could get you to put up the
19 CHRC website page for the Federal Housing Advocate. I
20 am not sure is that -- that's the biography, I think,
21 Greta.

22 I think I wanted to go to the -- it's the
23 actual page that deals with the Federal Housing
24 Advocate itself rather than Ms. Houle's biography
25 which we'll come to separately.

M. J. Houle (Cr.-Ex.) - 11

1 MS. HOAKEN: Right, just give me a quick
2 second.

3 MR. CAPERN: Sorry, Ms. Houle, we're trying
4 to be a bit organized but it's been a bit of
5 frenetic morning on other fronts I
6 understand.

7 THE WITNESS: It's okay, I've got all
8 afternoon for you. So that's fine.

9 MR. CAPERN: So if you could just scroll up
10 at the top of that.

11
12 BY MR. CAPERN:

13 30. Q. This, I understand having been there
14 myself this morning, that this is the web page for the
15 Federal Housing Advocate within the overall website of
16 the Canadian Human Rights Commission. Is that
17 consistent with your understanding of what we're
18 looking at, Ms. Houle?

19 A. Yes.

20 31. Q. Thank you. And if I can scroll down
21 the page to the section that says, "The Advocate's
22 Role." First of all, this is, at least given you're
23 in that role today, this is a correct description of
24 your role as the Federal Housing Advocate, I presume.
25 Is that correct?

1 A. That's right it is -- it is a, let's
2 just say, a condensed version of what's in the Act.

3 32. Q. Thank you. And is it fair to say that
4 you participated in finalizing this description of
5 your role?

6 A. No. No, that was done by the
7 Commission.

8 33. Q. But it's fair to say that you don't
9 take any issue with the way your role is characterized
10 on the website, correct?

11 A. No.

12 34. Q. Okay, thank you. And, sorry, just to
13 make sure I'm -- I'm asking questions with double
14 negatives and that's not going to help the record. So
15 let me just make sure I've got that right. I am
16 correct that you agree with the description that is
17 found in front of us on the screen, is that fair?

18 A. Yes.

19 35. Q. Thank you. And for the first line, I
20 don't need to read the whole thing. You could do it
21 but well let's take these bit by bit. It says:

22 "... The goal of the Advocate's work is
23 to drive change on key systemic housing
24 issues and advance the right to housing
25 for all in Canada ..."

1 That correctly describes one aspect of
2 what you are charged with doing as the Federal Housing
3 Advocate, is that fair?

4 A. Yes.

5 36. Q. Okay, and then I would -- I see here a
6 little -- if we could -- if you don't mind, we'll mark
7 this, counsel, as an exhibit, this webpage. Any
8 objection to that, Joanna?

9 MS. MULLEN: No objection, thank you.

10 MR. CAPERN: Thank you.

11
12 EXHIBIT NO. A: Webpage of the Federal Housing
13 Advocate

14
15 BY MR. CAPERN:

16 37. Q. And under that same heading, the
17 Advocate's Role, there are then followed -- paragraphs
18 that follow which I won't read into the record but now
19 that we'll have it marked as an exhibit, they'll all
20 be there.

21 Is it fair to say that each of those
22 paragraphs accurately reflects one or more aspects of
23 your role as the Federal Housing Advocate?

24 A. Yes, yes.

25 38. Q. Thank you. And if I can now go to the

1 biography, Greta, if that's okay, which is where you
2 had been previously. You're familiar with -- this is
3 a document that I think is on a different website.

4 This appears, I think on the overall
5 Canadian Government website under the Housing and
6 Infrastructure section. You're familiar with this
7 biography, Ms. Houle?

8 A. Yes.

9 39. Q. And did you participate in its
10 drafting?

11 A. I did participate in its drafting.

12 40. Q. And so that the biography, at least as
13 far as you're concerned, is accurate -- was accurate
14 at the time it was made. Is that fair?

15 A. Yes.

16 41. Q. And it remains accurate today?

17 A. Yes.

18 42. Q. Thank you. Could we mark that as an
19 exhibit, please, Joanna?

20 MS. MULLEN: Yes, Exhibit B.

21 MR. CAPERN: Thank you.

22
23 EXHIBIT NO. B: Webpage of Canada Housing and
24 Infrastructure
25

1 BY MR. CAPERN:

2 43. Q. And in your biography, it says you have
3 been -- and I'm -- it says that you have been:

4 "... Actively involved in advocacy work
5 at a national, provincial and community
6 level ..."

7 That's accurate?

8 A. Yes.

9 44. Q. It also says that you have:

10 "... Advocated for tenant rights and the
11 non-profit housing sector at all three
12 levels of government ..."

13 That's correct?

14 A. Yes.

15 45. Q. And it also says that you've:

16 "... Worked with diverse partners in the
17 sector to foster innovation and
18 entrepreneurship, improve efficiencies,
19 influence key opinion leaders, levered
20 strategic partnerships and addressed
21 gaps in human rights violations related
22 to housing and access to housing ..."

23 And that's also something that's
24 accurate, correct?

25 A. Yes.

1 46. Q. Thank you. If I can turn to Page 40 or
2 sorry, Paragraph 40 of your affidavit, Ms. Houle. I
3 am happy to pull that up if but I am going to pull it
4 up on screen but you'll have it in front of you. Let
5 me know when you're there.

6 A. I have it and thank you.

7 47. Q. Okay, and just to be clear, did you
8 review your affidavit again in advance in preparation
9 for your examination today?

10 A. Yes.

11 48. Q. All right. And is it fair to say that
12 your affidavit was true and complete at the time that
13 you swore it?

14 A. Yes.

15 49. Q. And it remains true and complete today?

16 A. Yes.

17 50. Q. Thank you. And in Paragraph 40, and I
18 am paraphrasing slightly, but in that paragraph, you
19 urge municipalities to work with people living in
20 encampments to find solutions that include access to
21 permanent and adequate housing that meets their needs.
22 Is that a fair observation?

23 A. Yes.

24 51. Q. And you agree with me that persons
25 living in encampments may have needs that are unique

1 to their individual circumstances?

2 A. Yes.

3 52. Q. And to the greatest extent possible,
4 making assessments of those needs should be done on an
5 individual basis?

6 A. Yes. For their independent needs, yes.

7 53. Q. Yes. And also to the greatest extent
8 possible, housing plans for these individuals should
9 meet their individual needs and circumstances?

10 A. Yes. Yes.

11 54. Q. Thank you. And to the extent that
12 municipalities are working with residents in
13 encampments to develop individualized plans for
14 housing for them, you agree that that's a good thing
15 to do?

16 A. Yes, that's part of the solution.

17 55. Q. Thank you. And I want to ask you about
18 two adjectives that you use in that paragraph. And
19 those adjectives are "adequate" and "permanent." And
20 you agree with me that those words have different
21 meanings?

22 A. Yes.

23 56. Q. And when applied to your use of them in
24 Paragraph 40 of your affidavit, I am correct that you
25 intend them to mean different things. Correct?

1 A. Yes. However -- however, the term
2 "adequate housing" stems from the UN definition of
3 adequate housing which includes security of tenure and
4 security of tenure does mean permanent housing.

5 57. Q. Okay. But you agree with me, Ms.
6 Houle, that speaking practically for a moment, that
7 housing can be adequate without being permanent?

8 A. Not by the UN definition. No.

9 58. Q. Well, I'm asking ---

10 A. The reason ---

11 59. Q. --- for your views of this. So, for
12 example, any of us who rent accommodations as tenants,
13 may not have security of tenure in those places. Do
14 you agree with that?

15 A. No.

16 60. Q. Okay.

17 A. No, people who rent have a lease and
18 they have security of tenure.

19 61. Q. Right, but they can be asked to leave
20 at the end of their term. Correct?

21 A. Depends on what province but to my
22 knowledge, no province has fixed term leases anymore.

23 62. Q. Okay, but to be said there are clearly
24 circumstances in which landlords of regular
25 accommodation can ask and require people to leave that

1 accommodation. Do you agree with that?

2 A. There are processes in place in order
3 to make that happen but it's not because the lease has
4 come to an end. And it usually has in place
5 protections for tenants from arbitrary eviction.

6 So technically, these count as security of
7 tenure.

8 63. Q. Ms. Houle, in your ---

9 A. So (indiscernible).

10 64. Q. So in your mind then, if I can put it
11 that way, that even rental accommodations have some
12 element of permanency to them?

13 A. Yes. Yes.

14 65. Q. Okay. Thank you. I just want to make
15 sure I had it clear. But when you use the two
16 adjectives in your -- in Paragraph 40 of your
17 affidavit, I am going to suggest to you that you
18 appreciate, particularly in the existing circumstances
19 in which we find ourselves in Canada, that we may be
20 in circumstances in which we need to find adequate
21 housing that is not permanent. Do you agree with
22 that?

23 A. According to the *National Housing*
24 *Strategy Act* is the human right to adequate housing
25 has been enshrined in domestic law in Canada, applies

1 to all levels of government.

2 And the term "adequate" has, as I said, a UN
3 definition and it includes security of tenure. The
4 reason why I parse them out in this affidavit is
5 because quite often most people don't understand that
6 adequate housing includes permanent. But it cannot be
7 considered adequate housing without security of
8 tenure. And that security of tenure includes a lease,
9 includes housing rates that every other individual in
10 that province will enjoy.

11 And therefore, a lot of housing, temporary
12 housing is a misnomer. It's an oxymoron and it cannot
13 be considered to be adequate in the same thing that
14 shelter or emergency shelters cannot be considered
15 adequate housing either. Because they do not hold a
16 lease that gives them the same tenancy rights as
17 everyone else in the province.

18 66. Q. All right. So what I'm taking from
19 what you're saying is that they are -- for the
20 purposes of your affidavit, I am to read those
21 synonymously. That "adequate" and "permanent" mean
22 the same thing. Is that what you're saying?

23 A. No. "Adequate" includes "permanent."

24 67. Q. Okay.

25 A. But "permanent" doesn't include

1 "adequate." "Adequate" also includes being habitable,
2 having enough bedrooms for everyone, being in good
3 condition and free of pests, it's located in an area
4 that is close to resources. And in case of Indigenous
5 folks, to be culturally-appropriate.

6 68. Q. And so if it had all -- if housing had
7 all of those attributes but was not permanent, in your
8 view, it would still be adequate?

9 A. No. No, it needs to include security
10 of tenure.

11 69. Q. Okay, do you consider security of
12 tenure and permanence to mean the same thing?

13 A. Yes. Yes.

14 70. Q. So without security of tenure, housing
15 is fundamentally inadequate in your view?

16 A. That's right.

17 71. Q. Okay. And that's the case irrespective
18 of a municipality's ability to provide that security
19 of tenure at any given point in time. Is that your
20 evidence?

21 A. That all levels of government have a
22 responsibility to the -- profess a realization of
23 adequate housing.

24 72. Q. Right, but ---

25 A. Human right to housing.

1 73. Q. Right, but I'm talking about
2 municipalities that have to deal with this on the
3 ground, Ms. Houle. Right, I am not talking about a
4 pipe dream about what we're going to have in 20 or 25
5 or 30 years when your work is done as the Federal
6 Advocate. I am talking about what we're dealing with
7 on the ground, right now. And I am asking you for
8 your evidence in those circumstances.

9 Is your evidence that housing is inadequate?
10 Housing as it is supplied today by municipalities is
11 inadequate if it does not have security of tenure
12 attached to it?

13 A. Yes. That's what I'm saying.

14 74. Q. That's your evidence. Okay, thanks.
15 And I want to then turn you to Paragraph 50 of
16 affidavit which I think deals more with the real
17 politic of the day.

18 Do you have that in front of you?

19 A. Yes. Yes.

20 75. Q. Now you say in there that these
21 permanent solutions -- and I take it that the
22 permanent solutions you are returning to there, are
23 permanent solutions for housing for people in
24 encampments. That's what you're referring to?

25 A. Yes.

1 76. Q. And you say in your affidavit that:
2 "... These permanent solutions are costly
3 and time-consuming to implement. They
4 cannot meet the urgent and immediate
5 needs of people experiencing
6 homelessness. In the short term,
7 encampment residents must be supported
8 safely including by providing them with
9 basic services such as toilets,
10 showers, drinking water, etcetera ..."

11 And you agree with me, Ms. Houle, that
12 the number of individuals in any given community
13 experiencing homelessness can fluctuate from time to
14 time?

15 A. Yes.

16 77. Q. And indeed there can be circumstances
17 in which the number of such individuals can increase,
18 right?

19 A. Yes.

20 78. Q. And indeed, it can periodically do so
21 rapidly, correct?

22 A. Yes.

23 79. Q. And in fact, we experienced some of the
24 during the pandemic, correct?

25 A. Yes.

1 80. Q. And you agree with me that it is
2 possible that municipalities may not have available to
3 them, at a particular point in time, sufficient
4 permanent housing to be made available to house
5 persons experiencing homelessness. Do you agree with
6 that?

7 A. Yes.

8 81. Q. That's in fact our lived experience
9 across communities in Canada today, isn't it?

10 A. Yes. Yes.

11 82. Q. And you agree with me that there may be
12 differing views on what constitutes adequate temporary
13 housing? Do you agree with that?

14 A. I'm not sure what you mean by that.

15 83. Q. Well, what I mean is that different
16 people might hold different views than you do about
17 what constitutes adequate housing that is temporary in
18 nature. Do you agree with that?

19 A. Again, I'm not sure what -- if we -- if
20 you and I agree on what is considered to be adequate
21 housing through the UN definition, through the
22 *National Housing Strategy Act*, maybe are you talking
23 about accommodation rather than housing, adequate
24 accommodation? Was that what you're referring to?

25 84. Q. Well, you're the expert in the field,

1 Ms. Houle, so you're going to have to help me with
2 what you mean by this. Because what I am
3 understanding you to mean is that without some
4 security of tenure ---

5 A. Mm-hmm.

6 85. Q. --- housing is inadequate.

7 A. That's right.

8 86. Q. That's what I understood your evidence
9 to be.

10 A. Yes.

11 87. Q. Right? And inherently then, any form
12 of temporary accommodation that does not have security
13 of tenure, on your evidence, that would be inadequate
14 housing.

15 A. That's right. Yes.

16 88. Q. Okay, and so when you use the word
17 "accommodation," is that something different than
18 housing?

19 A. Yes. Yes. What it means is that
20 people are given a place to stay where that's not
21 adequate, that does not meet the seven definitions of
22 adequate housing. However, it is -- it can be various
23 forms of roofs over their heads. Including temporary
24 accommodation, emergency shelters, you know, sleeping
25 (indiscernible), couch-surfing. It is -- it falls

1 into the definition of homelessness because they don't
2 have the security of tenure piece. But it is a -- it
3 can be a roof over their heads. So that's why I use
4 the term "accommodation."

5 89. Q. And you agree with me that at least in
6 some circumstances, having a roof over your head,
7 however, impermanent it may be, can be in some
8 circumstances, preferable to living in an encampment.
9 Do you agree with that?

10 A. That is up to the individual to make
11 that choice for themselves.

12 90. Q. Okay, on that we have an agreement. So
13 you agree with me that, for at least at a minimum, to
14 the extent that a person accepts temporary
15 accommodation or a temporary roof over the head, that
16 that's -- that that -- it's up to them to decide
17 whether that's preferable to living in an encampment?

18 A. It is up to them. Yes.

19 91. Q. Thank you. If I can ask you about this
20 -- the concept in your affidavit about forced
21 evictions from encampments, I take it from your
22 affidavit that as a general proposition, you are
23 opposed to forced evictions from encampments?

24 A. Yes.

25 92. Q. Right. And that is particularly the

1 case in circumstance in which encampment residents are
2 not provided with notice that the encampment is
3 closing? Is that fair?

4 A. It's more than that.

5 93. Q. No, yeah, I wasn't -- I wasn't
6 suggesting that that was the extent of it. I'm just
7 going to take these one bit at a time, if that's okay.
8 So let's start with them doing this piece by piece.

9 So let's start with, you'll agree with me
10 that -- at least your evidence is that you're opposed
11 to forced evictions in circumstances where no notice
12 is given, that's fair?

13 A. That is one of the elements.

14 94. Q. Right, and another one would be where,
15 for example, the residents are not provided with
16 alternative housing options concurrent with their
17 eviction from the encampment. Right?

18 A. That they choose to take.

19 95. Q. Right. Okay, all right, let's leave it
20 at that. And in your affidavit, as I've read it, you
21 expressed some of your concerns. And I am not
22 pretending this is exhaustive but you've expressed at
23 least some concerns about the potential impact of
24 forced evictions on residents of the encampments?
25 That's part of the subject of your affidavit?

1 A. Yes.

2 96. Q. And I'd like to ask you some questions
3 that relate to some of those, as I understand, as one
4 of those concerns.

5 So first of all, if encampment residents are
6 removed from a given site, being provided with secure
7 storage of their belongings, that may assist them in
8 alleviating part of the burden on them as that arising
9 from the eviction. Is that a fair observation

10 A. Yes, if I may. I think the fundamental
11 part about the forced eviction is about meaningful
12 engagement with the people living in the encampment to
13 find solutions that meet their needs. Not necessarily
14 on a one-to-one basis in form of a housing plan.

15 Because a housing plan is about their
16 future, where they're going to live as individuals.
17 But as an encampment which is a collective of people,
18 can be an individual. What the first thing that needs
19 to happen if the encampment is to be moved, or shut
20 down, is that meaningful engagement piece.

21 So that meaningful engagement piece will
22 help determine the proper notice, will help determine
23 where people's things are going to be held, what kinds
24 of options that people are going to be offered in
25 terms of alternative shelter, and whether or not those

1 will meet their needs as a collective and as
2 individuals.

3 And it's -- or if an alternative site needs
4 to be found. And what that alternative site needs to
5 have in order to not make the situation worse for
6 people in encampments.

7 Because what's key here is like so a human
8 rights-based approach is about meaningful engagement.
9 So the meaningful engagement will enumerate what
10 people want and need and it's not a top-down approach,
11 first of all.

12 But that the other part is -- sorry, I'm
13 sick today, I've lost my train of thought. But it is
14 -- it's -- it's so that they are part of the solution-
15 making. If I can direct you, if allowed, to ---

16 97. Q. If I can, Ms. Houle, I just ---

17 A. Yeah.

18 98. Q. I mean that the purpose of the
19 afternoon here was actually for me to ask you
20 questions. I'm sorry to cut ---

21 A. Sure.

22 99. Q. --- you off from that.

23 A. Sure.

24 100. Q. And I just want (indiscernible) to the
25 answer that you had. And your counsel or Ms. Mullen

1 will have an opportunity to re-examine you at the end
2 of this if she thinks I've been unfair in any way been
3 ---

4 A. Okay.

5 101. Q. --- cutting off your evidence. And so
6 I apologize for doing that. I just -- as I've said on
7 a couple of the other cross-examinations, this topic
8 is near and dear and of great concern to all of us.
9 And it's one that would invite extensive conversations
10 that could go on ad infinitum.

11 And so unfortunately, I'm just -- what I
12 would ask you to do is just stay with my questions if
13 you can and give the answer. Just to go back to the
14 question that I asked you. I appreciate your evidence
15 that meaningful engagement with the encampment
16 residents is important. And I appreciate that's your
17 perspective. But I had asked what I think a fairly
18 straight-forward question.

19 I think you agreed with me that, for
20 example, to the extent that municipalities provide for
21 the secure storage of the belongings of encampment
22 residents in the course of moving them, that that may
23 alleviate some of the -- at least part of the concern
24 that you enumerate in your affidavit. And I think you
25 agreed with that.

1 A. Well, my response to that is if that is
2 what the people living in encampment have identified
3 as something that they need and that they want.

4 102. Q. Thank you and I think one of the other
5 issues you raise with some of the various bylaws that
6 have been enacted in order to clear encampments, one
7 of the things that you took exception to was the
8 punitive nature and the application of fines, for
9 example, on encampment residents who don't leave or
10 who violate the bylaw. That was a concern of yours,
11 if I've understood it correctly. Is that ---

12 A. Yes.

13 103. Q. And so, for example, the removal of
14 fines or not pursuing fines is something that would
15 also alleviate the impact of the closure of an
16 encampment. Is that a fair observation?

17 A. What it would do is remove the
18 criminalization of being homeless.

19 104. Q. Yeah, and that's ---

20 A. That would be -- but that would not
21 necessarily alleviate the burden of the closure of the
22 encampment.

23 105. Q. Yeah, no, I think that's -- I
24 understand your point. But certainly stepping away
25 from fining people for staying in an encampment and

1 for staying on a property after the encampment has
2 been closed, that -- you would view as a good sign.
3 Is that fair?

4 A. I wouldn't use the word "good." I
5 would use as bare minimum of not having an approach
6 that's criminalizing, again, poverty and homelessness.

7 106. Q. Thank you. So certainly a preferred
8 approach, if I can put it that way?

9 A. Yes.

10 107. Q. Yeah, thank you. And if efforts are
11 made to find alternative accommodation for residents
12 closing an encampment, rather than evicting them with
13 nowhere to go, you agree that that's preferable?

14 A. The solution to encampments is
15 permanent, adequate housing. That's been clear in my
16 affidavit. It's clear in all of my reports.

17 108. Q. All right. But certainly, you'll agree
18 that as between a municipality simply evicting people
19 from an encampment versus closing the encampment and
20 seeking alternative accommodation for them, the latter
21 is to be preferred. Is that fair?

22 A. It is -- the context is important to
23 understand whether or not this is housing that people
24 choose. Or these are accommodations that people
25 choose.

1 So it's not just an act of giving people a
2 choice of things that they don't want.

3 109. Q. Okay. I understand that, but I'm
4 asking you to pick perhaps the lesser of two evils,
5 Ms. Houle, which is, unfortunately, I think where we
6 find ourselves in this particular era.

7 If I can ask you to go back to my question
8 which is to say closing an encampment with no
9 alternative accommodation strategy versus closing an
10 encampment and seeking to make arrangements for
11 alternative accommodation for residents, the latter is
12 preferable to the former. Is that fair?

13 A. Again, it is baseline. It is the
14 minimum of what municipalities should be doing.

15 110. Q. All right. And just the last one which
16 may be self-evident but -- from your earlier answer.
17 But I just ask you to confirm that you agree with me
18 that providing residents of an encampment that must
19 close with several months of notice is preferable to
20 providing them with no notice at all. Correct?

21 A. Yes. Yes.

22 111. Q. Right. And you agree with me that it
23 is possible that the provision of such notice may
24 alleviate the burden of the closure of the encampment,
25 not eliminate but alleviate the burden of the closure

1 of the encampment on some residents. Do you agree
2 with that?

3 A. What's interesting about the -- any
4 kind of notice, is with the people living in
5 encampments that have been given notice, is that it
6 increases the stress that they're experiencing.
7 Because most of the time, they don't have anywhere
8 else to go. And that just in giving a notice, whether
9 it's short term or long term, also causes a lot of
10 harm.

11 People have chosen to live in the encampment
12 because they have nowhere else to go or this is the
13 least of the bad choices that they have. It is
14 usually close to amenities, close to resources that
15 they need in order to survive.

16 People living in encampments are people that
17 are surviving. And so when they're told that this
18 place where they have found at least just the least
19 terrible of the terrible options that they are
20 afforded, and it causes an extreme amount of stress,
21 regardless of that threat of eviction coming true.

22 This is where we're going to see increase in
23 overdoses, we're going to see an increase of
24 aggravated mental health, aggravated physical health
25 issues as well. Because then people become desperate.

1 112. Q. Right.

2 A. They don't know where to turn. So
3 whether ---

4 113. Q. So you're ---

5 A. --- it's a short-term notice or a long-
6 term notice, just the fact that their home is being
7 threatened, it's their home, causes them so much harm.
8 And this has been consistent from coast to coast to
9 coast.

10 114. Q. Like but certainly as between providing
11 no notice and providing some notice, particularly if
12 that notice is accompanied by assistance in providing
13 alternative accommodation, that is preferable.
14 Correct? It's preferable to provide -- to do the
15 latter than the former? You agree with that?

16 A. Yes, but it's important to note the
17 cause -- the harm that it's still causing people.

18 115. Q. I understand. Well, I mean, I want to
19 ask you about something I think you've appreciated at
20 least as I've read your affidavit which is that you
21 appear to acknowledge, including at Paragraph 52 of
22 your affidavit, that municipalities are on the
23 frontlines of addressing homelessness in Canada.
24 That's a fair observation?

25 A. Yes.

1 116. Q. And you also observe in that paragraph
2 that municipalities have limited resources.

3 A. Yes. Most of them do.

4 117. Q. Yeah, and you observed in that, I think
5 that -- I'm including in that, financial resources.
6 That's included in your broader use of the word
7 "resources." Correct?

8 A. Yes.

9 118. Q. Thank you. And I'd like to take you to
10 one of the reports that you issued in your capacity as
11 the Federal Housing Advocate. And this one is found
12 -- it's found at least in my version -- there's a --
13 we have a PDF version of your affidavit that includes
14 the affidavit. So it's at Page 615 of the PDF.
15 Greta, what exhibit is that in? Is that Exhibit J?

16 MS. HOAKEN: Let me see. Am I on the
17 correct page here?

18 MR. CAPERN: I think so. It was at 615 of
19 the PDF. I am going to put that back.

20 We're going to ---
21

22 BY MR. CAPERN:

23 119. Q. Okay, so it's at Page 60. So we're
24 just engaging other levels of government. I think
25 it's found in there.

1 And I am just going to read this to you
2 because I'm just -- I am having trouble seeing it on
3 my screen in here at the moment. But this is what I
4 took from your report if you can just hear my words on
5 this, Ms. Houle. It's in your report stating that:

6 "... Encampments are an issue of growing
7 concern. Responses to encampments have
8 been largely left to municipal
9 governments which have limited
10 resources to appropriately support
11 encampment residents. However, all
12 levels of government share obligations
13 to respect and protect the rights and
14 dignity of encampment residents and
15 people experiencing homelessness ..."

16 A. Yes.

17 120. Q. I see the intrepid Ms. Hoaken has found
18 what I was looking for and unable to see.

19 And then you go on to say, I think in a
20 separate part of this:

21 "... The conditions that lead to people
22 living in encampments are systemic and
23 complex and it will take all levels of
24 government to address them ..."

25 A. That's right.

1 121. Q. That those are -- that assembly of
2 things that I just read, those are your words, Ms.
3 Houle, correct?

4 A. Yes. Yes.

5 122. Q. And obviously, you agree with them or
6 at least you agreed at the time you made your report,
7 correct?

8 A. Yes.

9 123. Q. And you agree with them today?

10 A. Yes.

11 124. Q. And you agree with me that the current
12 level of financial and other support coming from other
13 levels of government to municipalities is insufficient
14 to address issues of homelessness adequately in all
15 municipalities in Canada?

16 A. That's making a leap.

17 125. Q. Yes, it is and I am asking you to make
18 it with me. Based on your experience as the Federal
19 Housing Advocate.

20 A. I think in general, yes. I cannot make
21 a comment about the budget that isn't in the Waterloo
22 Region.

23 126. Q. Yeah, no, I appreciate that. I am just
24 asking -- was asking for the broader proposition.
25 Because what I didn't see in your affidavit was

1 significant reference to the resources of the Region
2 of Waterloo.

3 But I am going to take you to another report
4 at PDF Page 710. And at that, you'll see that Ms.
5 Hoaken has just highlighted the portion I am going to
6 ask you about.

7 You can read that. It's the paragraph that
8 begins:

9 "... While municipalities largely have
10 primary jurisdiction over encampments,
11 they often lack the resources and
12 competencies to adequately address the
13 underlying structural causes driving
14 homelessness and encampments ..."

15 And you'll see -- I'll let you read the
16 rest of that. It's that entire paragraph. Do you see
17 that?

18 A. Yes. Yeah.

19 127. Q. But that statement at the time you made
20 it was true, right?

21 A. Yes.

22 128. Q. And remains true today, right?

23 A. Yes.

24 129. Q. And then I am going to get you to turn
25 up -- we located -- and I just wanted to get you to

1 confirm, there's an article we found in the Ottawa
2 Citizen which Ms. Hoaken is going to pull up.

3 MS. MULLEN: Sorry, Gord, before we move on,
4 were you able to find out what exhibits
5 those two pages were from, 615 and 710?

6 MR. CAPERN: We will send you an email
7 afterword, Joanna. The answer is, no, we
8 didn't. Because it didn't write it down
9 when I made my outline because I'm like
10 that.

11 MS. MULLEN: All right, thank you.

12 MR. CAPERN: Sorry. It's why Greta's life
13 is so difficult.

14
15 BY MR. CAPERN:

16 130. Q. If you could just have a look at this,
17 Ms. Houle. I'll get you to confirm this. This
18 appears to me to be an article from the -- that was
19 published in the Ottawa Citizen newspaper which I got
20 to deliver back in the old days. Dated February 26,
21 2024. Can I get you to confirm that that's an article
22 that you wrote for publication in the Citizen?

23 A. Yes.

24 131. Q. All right, thank you. And, Joanna, do
25 you mind if we mark that as an exhibit?

1 MS. MULLEN: Yes. It's Exhibit C.

2 MR. CAPERN: Thank you.

3
4 EXHIBIT NO. C: Ottawa Citizen article,
5 dated February 26, 2024
6

7 BY MR. CAPERN:

8 132. Q. And that article, I am happy to have
9 you review it again, Ms. Houle, if you'd like to do
10 so. But that article accurately reflected your views
11 at the time you wrote it?

12 A. Yes.

13 133. Q. And it accurately reflects your views
14 now about two years later, is that fair to say?

15 A. I am going to admit to you that I've
16 been quoted and I've written multiple op eds and I've
17 been quoted in multiple media interviews. So I would
18 require a few minutes to read it. I don't remember
19 it. Well, I remembered writing it but I don't
20 remember exactly what it says.

21 134. Q. Okay, so why don't you take a moment
22 and read it and just tell me whether there's anything
23 in it that you view as being inaccurate today. Wait,
24 just let me put it differently: whether it continues
25 to reflect your views, is what I would like.

1 A. Sure. If you could scroll down,
2 please. If you could scroll down. Okay. Okay, thank
3 you. So there's -- this -- the nature of an op ed is
4 to have a minimum -- or a maximum amount of words in
5 order to get a message across.

6 So the main message of this is about putting
7 political pressure on politicians to find an -- to
8 address the underlying causes of encampments as
9 opposed to directing the anger directly at people in
10 encampments. And refusing to be polarized or
11 weaponized in the conversation.

12 There -- there are a few things missing from
13 that piece, if that was going to be used as the only
14 evidence that -- of -- it doesn't mention municipal
15 governments. That is something that also needs to be
16 at the table in terms of finding solutions.

17 And the other piece that's missing or that
18 you and I have not elaborated on, is that the human
19 right to housing is intertwined and cannot be
20 extracted from the basic human rights that people
21 have. The right to life, dignity of the person and
22 safety.

23 And in -- in the event that governments
24 cannot provide adequate housing in the definition that
25 I have provided for this testimony, governments still

1 have an obligation to meet the basic human needs of
2 people such as around the right to life, security and
3 safety of the person.

4 So the right to have access to clean
5 drinking water, for example. To have access to heat
6 and cooling, to have access to sanitation, to access
7 to food. And so what these pieces are very explicit
8 about is, you know, there is encampments, there is
9 recognizing that people in encampments have the human
10 rights and human right to housing.

11 That the solution is adequate housing and
12 that in absence of that or to get to that, the human
13 rights-based approach is about meaningful engagement
14 with people to find the solutions and to continue to
15 engage with them to make sure that their solutions are
16 actually part of the solutions. And it's not a top-
17 down approach or a box-ticking exercise.

18 But at the same time, while what I think
19 you're getting at is that housing, adequate housing,
20 there's not enough of it to address the need,
21 governments still have a responsibility around
22 ensuring that people are safe. And they get to
23 understand what those are and what people are willing
24 to take through meaningful engagement.

25 135. Q. Okay, thank you. My question was a

1 little different than that.

2 A. Okay.

3 136. Q. Which are -- and if I can -- let's just
4 leave aside for the moment, your call on the federal
5 government to convene a national encampments response
6 plan by August 31st of 2021, leaving aside that
7 paragraph in your article, is it fair to say that that
8 article, while not exhaustive of your views, reflects
9 at least some of your views?

10 A. Yes.

11 137. Q. Today?

12 A. Yes, absolutely.

13 138. Q. Thank you. And if I can ask you
14 because I don't know the answer to this, did the
15 federal government, in fact, convene a national
16 encampments response plan by August the 31st as you
17 asked?

18 A. Not exactly as I had hoped. What the
19 federal government did was find new funds, it was \$250
20 million to be matched by the provinces or
21 municipalities for an encampments -- human rights-
22 based encampments response.

23 So those funds were doled out, they were
24 doled out very quickly. It was meant to be, while a
25 drop in the bucket, it was, as far as we know, the

1 funds end in March of this year. But they were, at
2 the time, meant to be the beginning ---

3 139. Q. Okay.

4 A. --- of support.

5 140. Q. Right. And certainly from your
6 perspective, that is not an adequate or a complete end
7 of the responsibilities of the federal government in
8 this area. Can you agree with that?

9 A. No, it was supposed to be the
10 beginning. Yeah.

11 141. Q. Okay, and so your expectation would be
12 that there would be more resources made available by
13 our federal government to work with the solution to
14 create -- to help create a solution for encampments.

15 A. With other levels of government, yes.

16 142. Q. Yeah, no, I'm going to take these one
17 at a time. Again, unfortunately, with cross-
18 examinations, I have to do things stepwise.

19 But certainly, your expectation as the
20 Federal Housing Advocate is that the federal
21 government would play a role, correct?

22 A. The federal government would play the
23 leadership role.

24 143. Q. Okay, thank you and then the provincial
25 governments would also play a role, correct?

1 A. Yes.

2 144. Q. As would the municipalities themselves?

3 A. Yes.

4 145. Q. Okay. Thank you. And so just to make
5 sure I've captured my understanding of your evidence
6 correctly then. It's fair to say that you agree, just
7 going back to where we were a couple of minutes ago,
8 you agree that municipalities are currently limited in
9 their ability to address homelessness?

10 A. I think many of them are, yes.

11 146. Q. And those include limits on the
12 financial resources that they have at their disposal?
13 Right?

14 A. Well, they -- it can. It can.

15 147. Q. Thank you and that's why, among other
16 things, you've called for the federal government to be
17 involved in addressing the issues of homelessness on a
18 nation level. Is that fair?

19 A. On the national level because of the
20 issues that, well, first that the human right to
21 housing has been enshrined at the federal, at the
22 national level. And that those rights are being
23 realized disproportionately or not the same due to
24 invisible lines. Due to municipal lines, provincial
25 territorial lines, it's not being done equally and

1 that's why we need federal leadership in this.

2 And terms in municipal budgets or municipal
3 prioritization of spending, it needs to be clear that
4 again, the UN Covenant to Economic, Social and
5 Cultural Rights, calls on all levels of government to
6 address homelessness as a matter of priority. And to
7 have maximum resources allocated to address the
8 systemic issues.

9 And I'm going to give you an example of
10 where Ottawa had done their part. In the early 2000s,
11 the City of Ottawa under Jim Watson as a mayor at the
12 time, had allocated over a million dollars in new
13 rights supplements in order to provide permanent,
14 adequate housing for people experiencing homelessness.

15 So this is one of the mechanisms that any
16 municipality can, should they allocate all maximum
17 resources and treat as priority. So it's a matter of
18 choice. I have not seen again the Waterloo --
19 Kitchener-Waterloo budget. I am not in a position to
20 comment on the amount of resources or what they can
21 cut. But municipalities have done this without the
22 expectation of getting more funds from the federal
23 government.

24 148. Q. Understood. All right. So I am going
25 to ask you by way of undertaking, please, Ms. Houle,

1 if you can. I don't need to get a copy of every
2 article in which you've been quoted. I am sure they
3 are myriad in number.

4 But if you would produce for me, please, any
5 op eds that you've written in addition to the one that
6 we've marked as an exhibit here that you wrote for the
7 Citizen. Would you produce those, please, to Ms.
8 Mullen so that we can review those?

9 A. Sure, absolutely.

10 **UNDERTAKING**

11
12 149. Q. Thank you. I want to speak to you --
13 ask you a few questions about your role as an expert
14 or as a proposed expert in this case, Ms. Houle.

15 If I can go to -- you'll recall that in the
16 course of swearing your affidavit, you also were asked
17 and did deliver what we refer to as an expert's
18 certificate for the benefit of the court. You're
19 familiar with having done that?

20 A. Yes.

21 150. Q. Okay, thank you. And sorry, I missed
22 -- I called it a certificate, it's actually an
23 acknowledgement, Ms. Houle. And this, I put that in
24 front of you here and this is the acknowledgement that
25 you signed together with your affidavit. Is that

1 correct?

2 A. Yes. Yes.

3 151. Q. Right. And then if I can take you to
4 the Paragraph 3, you've acknowledged that your duty
5 was to provide opinion evidence that is fair,
6 objective and non-partisan, do you agree with me?

7 A. That's right. Yes.

8 152. Q. To provide opinion evidence that is
9 related only to matters that are within your area of
10 expertise, right?

11 A. Yes.

12 153. Q. And to provide such additional
13 assistance to the court as the court may reasonably
14 require to determine a matter in issue. You agreed to
15 do that as well, right?

16 A. Yes. Yes.

17 154. Q. And that you understand that you're, in
18 discharging your obligations to the court, that you
19 should be honest and forthright with the court, right?

20 A. Absolutely.

21 155. Q. Right. And you agree with me that it's
22 fair that you should disclose to the court anything
23 that might impact on your impartiality or
24 independence?

25 A. Oh, yes, absolutely.

1 156. Q. Right. And you agree with me that it's
2 not your role in this matter or any matter indeed, to
3 express opinions on matter of law? You understand
4 that, correct?

5 A. Yes.

6 157. Q. Okay. And you understand that that's
7 the role of the judge in the case, right?

8 A. Right.

9 158. Q. And to the extent that your affidavit
10 encroaches intentionally or otherwise into expressing
11 opinions on matters of law, you agreed that the court
12 should disregard them?

13 MS. SCHUITEMA: I am going to object to that
14 question, Gord. I don't know if that's an
15 appropriate question for her to even be
16 answering.

17 MR. CAPERN: Oh, okay.

18
19 BY MR. CAPERN:

20 159. Q. I am going to take you to Paragraph 54
21 of your affidavit, Ms. Houle, if I can.

22 A. Yeah, I'm here.

23 160. Q. Thank you. In Paragraph 54, you say
24 that during 2023 you wrote open letters to several
25 municipal governments including Prince George,

1 Vancouver and Barrie, to express your concerns about
2 their responses to the issues raised by encampments?
3 Do you see that?

4 A. Yes.

5 161. Q. And in saying that, you disclosed to
6 the court that you had been active in writing letters
7 directly to certain municipalities to express your
8 concerns. Right?

9 A. Yes.

10 162. Q. And your affidavit, if I'm recalling
11 correctly, was sworn -- in this matter was sworn on
12 August the 15th of 2025, is that correct?

13 A. Yes.

14 163. Q. Okay, thank you. I am going to show
15 you a letter that is dated July 16th of 2025, about a
16 month before you swore your affidavit. You can take a
17 moment and review this letter, if you'd like, Ms.
18 Houle.

19 A. Thank you.

20
21 --- SCREENSHARE
22

23 164. Q. I am going to get you to confirm it at
24 the end of it that this is a letter that you sent to
25 the Region of Waterloo on that date.

1 A. Okay. Okay, hold on, hold on. Wait,
2 wait, wait. Okay, thank you. Take your time and move
3 down to the next page. If you could scroll down,
4 please. Yeah, thank you. And if you can scroll down,
5 please. Okay, stop, stop. If you can go up just a
6 little bit. Okay, thank you. Yeah, you can scroll
7 down, please. Thank you.

8 165. Q. So now you've had an opportunity to
9 review this, Ms. Houle, you'll confirm that this is a
10 letter that you wrote to the Region of Waterloo on
11 July 16th, 2025?

12 A. Yes.

13 166. Q. All right, can we mark that as the next
14 exhibit, please?

15 MS. MULLEN: Yes, Exhibit D.

16 MR. CAPERN: Thank you.

17
18 EXHIBIT NO. D: Letter to the Region of Waterloo,
19 dated July 16, 2025

20
21 BY MR. CAPERN:

22 167. Q. And that letter was not disclosed in
23 your affidavit, Ms. Houle, correct?

24 A. No, I don't think so, no.

25 168. Q. No, and indeed to the best of your

1 knowledge, that letter has not been disclosed to the
2 court at all in this proceeding, correct?

3 A. I don't think so.

4 169. Q. Yeah. And did you inform Ms. Schuitema
5 or anybody else at Waterloo Community -- or sorry,
6 Waterloo Region Community Legal Services that you had
7 written this letter to the Region of Waterloo?

8 A. Most of the consultation around my
9 affidavit was done with my colleagues. So I did not
10 mention this and I don't know if my colleagues have.

11 170. Q. Okay. Well, I am going to assume that
12 neither you nor anybody on your team disclosed this to
13 Ms. Schuitema or anybody, unless you tell me
14 otherwise.

15 MS. SCHUIITEMA: Is it possible for me to
16 give some context for this, Gord, or is that
17 not appropriate?

18 MR. CAPERN: I don't think that's
19 appropriate.

20 MS. SCHUIITEMA: Okay.

21
22 BY MR. CAPERN:

23 171. Q. In any event, this is something that
24 you chose not to disclose in your affidavit, correct?

25 A. That is not exactly right. I -- it's

1 not that I didn't choose to, it just isn't. I wasn't
2 part of the consultation or part of the -- the basis
3 of the primary discussions around what should and
4 shouldn't be part of my affidavit.

5 172. Q. Okay, but you understood your duty to
6 the court, Ms. Houle, was to provide -- to be candid
7 with the court. Right?

8 A. Yes.

9 173. Q. And you understood that part of that
10 was disclosing to the court information that might
11 affect the court's view of your independence and
12 impartiality. Right?

13 A. Yeah, again, I am not aware of the
14 discussion that took place around this -- this letter.

15 174. Q. But whatever the circumstances, you
16 agree with me that this letter was not disclosed in
17 your affidavit, right?

18 A. Why -- yes.

19 175. Q. Okay, thank you. I don't have any
20 further questions. Thanks very much.

21 MS. MULLEN: Can we take a 10-minute break
22 and come back at 2:55?

23 THE WITNESS: Sure.

24 MR. CAPERN: That's fine. Ms. Houle, you
25 are -- while -- you're not permitted to

1 speak with anybody during this interlude.

2 THE WITNESS: Okay, great, thank you.

3
4 --- A BRIEF RECESS

5
6 RE-EXAMINATION BY MS. MULLEN:

7 176. Q. All right, Ms. Houle, one question I
8 think for you. You talked a lot in the earlier part
9 of your evidence about security of tenure. Can you
10 explain why security of tenure is so important in
11 addressing homelessness?

12 A. Security of tenure means that people
13 have the same rights as renters, as everyone else in
14 every province. You know, one could argue whether or
15 not the tenancy rights in Canada in particular
16 provinces are better than others. But it's ensuring
17 that everyone has the same tenancy rights.

18 And that includes security of tenure in that
19 the process for eviction is the same for everyone
20 regardless of -- you know, so it's not discriminatory.

21 So that part is very important because the
22 home is the beginning of everything in terms of the
23 hierarchy of needs. And where they can have access to
24 a job and economic and cultural and social
25 opportunities. Without that, without a home, an

1 adequate home that meets their needs, it's -- it's --
2 it's virtually impossible for anyone to be able to
3 enjoy all of the rest of their human rights.

4 177. Q. All right, thank you. Those are all of
5 my questions.

6 MR. CAPERN: Okay, are we done then or
7 Mercedes did you ---

8 MS. PEREZ: Yeah, thank you, I am not going
9 to have any questions for Ms. Houle.

10 MR. CAPERN: Great. Good. Thank you very
11 much, Ms. Houle. A pleasure to meet you and
12 thank you for your work as the Federal
13 Housing Advocate.

14 THE WITNESS: Well, thank you very much.
15 Take good care, everyone.

16
17
18
19
20
21 --- ADJOURNED
22
23
24
25

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
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the original signature of Barbara A. Pollard, C.C.R.,
and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

EXHIBIT “A”



The Federal Housing Advocate

On this page:

- [The Advocate's role](#)
- [The Advocate's work](#)

The Federal Housing Advocate is an independent, nonpartisan watchdog, empowered to drive meaningful action to address inadequate housing and homelessness in Canada.

The Office of the Federal Housing Advocate, housed at the Canadian Human Rights Commission, supports the Advocate in carrying out their mandate.

Together, we promote and protect the human right to housing in Canada, including the progressive realization of the right to adequate housing.

The Advocate's role

The goal of the Advocate's work is to drive change on key systemic housing issues and advance the right to housing for all in Canada.

The Advocate is responsible for making recommendations to improve Canada's housing laws, policies and programs so that they enable people and families in Canada to have access to adequate, affordable and safe housing that meets their needs. The Advocate monitors the human right to adequate housing and Canada's national housing strategy.

The Advocate sits as an ex-officio member of the National Housing Council.

The Advocate also promotes a meaningful voice and role for individuals and communities affected by inadequate housing and homelessness. The Advocate's mandate is guided by a human rights-based approach, which values human dignity, participation, accountability, inclusion, non-discrimination, transparency, access to justice, and respect for human rights laws and obligations.

The Advocate's work

Driving change on systemic housing issues: The Federal Housing Advocate holds governments to account on their obligations to address housing need and homelessness across Canada. The Advocate makes recommendations to the government and other decision makers to improve Canada's housing laws, policies and programs.

Receiving submissions: The Advocate receives submissions from people or organizations across Canada on the systemic housing issues they are facing and makes recommendations on how to address them.

If you have experienced homelessness or had problems with your housing, you can [make a submission to the Advocate](https://www.chrc-ccdp.gc.ca/find-help/make-submission-federal-housing-advocate) (<https://www.chrc-ccdp.gc.ca/find-help/make-submission-federal-housing-advocate>). Sharing your experience will help the Advocate drive change and advance the right to housing for all in Canada.

Amplifying people's voices: The Advocate raises awareness on the most common and critical housing issues that people across Canada are facing. The Advocate plays a key role in amplifying the voices of those impacted by housing need and homelessness. Public engagement and input are critical to informing the work of the Advocate.

The Advocate is committed to a broad and ongoing engagement process with Indigenous peoples, people with lived experience of housing need and homelessness, civil society organizations, governments and experts across Canada.

Making recommendations on systemic housing issues: The Advocate may review a systemic housing issue, or request that the National Housing Council establish a Review panel to hold a hearing to review any systemic housing issue within federal jurisdiction.

The findings and recommendations brought forward by the Advocate or the Review Panel will help to identify solutions and necessary reforms to laws, policies and programs that affect housing and homelessness in Canada. This mechanism is a way to target the most critical systemic issues, as well as urge the government to take action on them. It also gives members of affected communities an opportunity to be included and participate in the process, and to contribute to housing policy and solutions.

Monitoring the right to housing: The Federal Housing Advocate is responsible for monitoring and reporting on the right to housing and systemic housing issues in Canada. This work includes stakeholder engagement, analyzing and conducting research, initiating studies, and consulting on systemic housing issues. The Advocate can initiate studies as they see fit into economic, institutional, or industry conditions in federal jurisdiction that affect the housing system.

The Advocate is also responsible for monitoring the progressive realization of the right to adequate housing in Canada, and assessing the impacts of legislation, policies and programs that affect housing. The Advocate monitors the progress, goals and timelines of the government's national housing strategy, and is directed to pay close attention to the impact of housing policies and programs on groups and people in greatest housing need or experiencing homelessness.

Reporting to Parliament: The Advocate is responsible for reporting annually to the Minister responsible for housing. The Annual Report will include a summary of the Office's activities and contain recommendations to address systemic housing issues. The Advocate can also submit recommendations at any time to the Minister, who must table the Advocate's report in both houses of Parliament and respond within 120 days.

Related links

Biography of Marie-Josée Houle, Federal Housing Advocate
(<https://www.chrc-ccdp.gc.ca/about-our-people>).

Video: Housing submission tool – your voice matters!
(<https://www.youtube.com/watch?v=8hLqKeU4Kis&p%3Blist=PL1YTVzZgEvo7mzacd1wmWRQaPa23EngRx&p%3Bindex=4>).

Make a submission to the Federal Housing Advocate
(<https://www.chrc-ccdp.gc.ca/find-help/make-submission-federal-housing-advocate>).

EXHIBIT “B”



Government
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[Canada.ca](#) › [Housing, Infrastructure and Communities Canada](#)

Biography - Marie-Josée Houle

From: [Housing, Infrastructure and Communities Canada](#)

Backgrounder



Ms. Houle was appointed as Canada's first Federal Housing Advocate in 2022, marking a new chapter in a career defined by her work in the affordable housing and homelessness sector. Ms. Houle is an experienced leader who is recognized for her community activism, expertise in human rights, and extensive knowledge of the housing and homelessness system.

Prior to her appointment as Canada's first Federal Housing Advocate, Ms. Houle held a number of roles that inform her broad experience, including frontline work in housing coops, consulting and project management for affordable housing development, by-law review, housing-related research projects, developing educational programs for housing co-ops and non-profits, and senior leadership roles.

She has been actively involved in advocacy work at a national, provincial and community level. She has advocated for tenant rights and the non-profit housing sector at all three levels of government. She has worked with diverse partners in the sector to foster innovation and entrepreneurship, improve efficiencies, influence key opinion leaders, leverage strategic partnerships, and address gaps and human rights violations related to housing and access to housing. Building a sense of community among diverse partners is particularly important to her.

Search for related information by keyword: [Transport](#) | [Housing](#),
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EXHIBIT “C”

Sleep better tonight — Canada's top-rated pillows, mattresses and sleep essentials, reviewed [Explore Sleep Week >>](#)

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Houle: Yes, you should be angry about homeless encampments

People are living in tents on the street because they have nowhere else safe to go. By making homelessness visible, encampments expose our failure to act.

By [Marie-Josée Houle](#)

Published Feb 26, 2024 Last updated Mar 05, 2024 4 minute read [57 Comments](#)



A homeless encampment beside St. Stephen-In-The-Fields Anglican Church in Toronto is shown in November, 2023. PHOTO BY JACK BOLAND /Toronto Sun

People in Canada have every right to be angry about the tent encampments popping up across this country.

But no one should be angry at the people living in them.

As federal Housing Minister Sean Fraser said recently, responding to my new report on encampments, “I think it’s a generational moral failure that there are people who are sleeping without a roof over their head in a country as wealthy as Canada.”

STORY CONTINUES BELOW

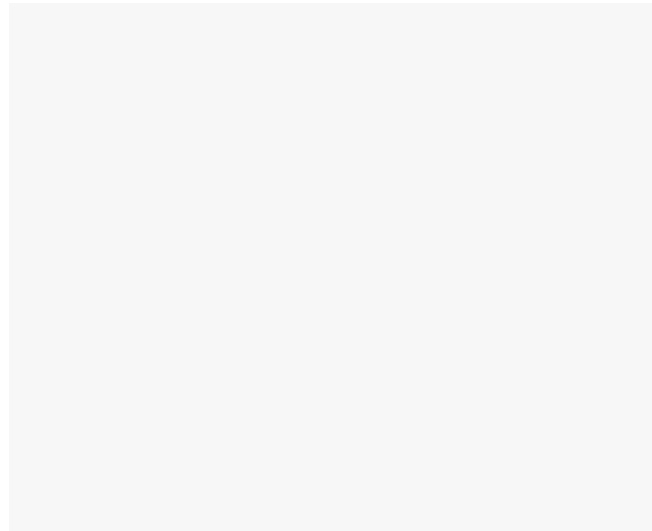
People experiencing homelessness are living in tents on the street because they have nowhere else safe to go. They are exposed to the cold, to violence, and to aggression from the state. Encampments expose our failure to act on homelessness by making it visible.

In turn, many of us are blaming encampment residents — who are bearing the brunt of decades of Canada’s housing crisis — for not having anywhere to live.

Those who think the solution is to break up encampments want to push these problems out of sight. Where they can ignore the uncomfortable reality of human suffering and of our failure to act. Others think they can simply impose solutions without actually consulting anyone who has experienced homelessness. These top-down approaches do not work.

In developing the new report, I met with encampment residents across the country. I wanted to hear directly from them about their lives, their living situations, and what they need. People told me stories of how they were failed, again and again, when they asked for help.

STORY CONTINUES BELOW



I met a man in Victoria who suffered a workplace accident that ultimately ended with him living in an encampment. He had worked and paid taxes all his life. He lost his

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1  Someone wearing a

New Ottawa bakery mills fresh heritage flour that might change how you think about bread

2  Jake Sanderson

Ottawa Senators will be without top defenceman Jake Sanderson indefinitely

wife to cancer, and after the accident, the system failed to protect him at work, then protect him from poverty, then protect him from homelessness.

Read More

Tent City Nation: Are Canada's homeless encampments here to stay?



Tent City Nation: Mapping stories of homeless encampments across Canada



Living in the encampment, he desperately did not want people in the community nearby to fear him, and he desperately did not want to be evicted from his campsite, where he had access to washrooms, food and some community support. He was terrified because he was older. At the end of the conversation, he started to cry because he did not want to die in this camp. This is not where he wanted to end his years.

I heard people explain how they were forced from encampments and told to move along, their items of survival taken away: tents, sleeping bags, warm clothes. I heard heart-

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3



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5



A reader
asks how do

Four ways to push innovation in the public service

wrenching accounts of people losing
irreplaceable photos of family and friends —
even the ashes of their loved one.

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People said they felt unsafe in emergency shelters, where theft, crowding and violence are common. Sleeping in a shelter meant no privacy or autonomy, and it meant being separated from their friends, families, and partners. Every person I spoke to said encampments were the best choice out of a bunch of bad ones.

Canada prides itself on treating people with dignity and respect. This must include people living in encampments. Homelessness is not new. But a human rights approach to it is. That's what I am calling for.

What we need to do is listen to the people in encampments to make sure we're meeting

their needs and finding them permanent, adequate housing. To respect their dignity by providing them with basic needs such as water to drink, food to eat, health care. To give people the security of knowing they will not be thrown out of their encampment, where they have found safety and community, at a moment's notice. To involve them in making decisions and finding solutions. This is how we will make a lasting difference to solve homelessness.

STORY CONTINUES BELOW

Encampments are not a solution. But whether we like it or not, encampments exist. So, what is the solution? Permanent, adequate housing. Every person I spoke to said they would like to move into a permanent home.

Canada has the capacity to solve this national crisis. What we need is an urgent, national response. What we need is co-ordination,

new resources and political will. We need everyone at the table — the federal government, provinces, territories and Indigenous governments — and most importantly, people with lived experience of homelessness.

We also need to end this generational moral failure by investing in our housing system and addressing the root causes of homelessness.

We have called on the federal government to convene a National Encampments Response Plan by Aug. 31, 2024.

For people living in encampments, every day is a matter of life and death.

So yes, you should be angry about encampments. But you should be angry that in a country like Canada, we have not done everything we can to make sure everyone has a safe, adequate place to call home. The time for action is now.

Marie-Josée Houle is Canada's Federal Housing Advocate, a non-partisan, independent human rights watchdog for housing and homelessness that provides advice and recommendations to the federal minister responsible for housing.

Spencer stays warm with a friend's dog in his camp along the Bow River in Calgary on Feb. 1, 2023. PHOTO BY GAVIN YOUNG /Postmedia

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EXHIBIT “D”



July 16, 2025

BY EMAIL

Ms. Karen Redman
Regional Chair
Region of Waterloo
Regional Chair's Office
1st Floor, 150 Frederick Street
Kitchener, Ontario N2G 4J3

Dear Regional Chair Redman and Members of Regional Council:

I write today to express my concerns about the plan to evict the homeless encampment to build a new transit hub at 100 Victoria Street North, Kitchener by December 1, 2025. As the Federal Housing Advocate, my mandate to review systemic housing issues across the country was established by the National Housing Strategy Act (2019), which also reaffirmed housing as a fundamental human right in Canada.

I appreciate that municipalities like Region of Waterloo are on the frontlines of the homelessness crisis and responses to encampments but do not necessarily have the powers and financial resources to address all the systemic factors contributing to homelessness. Nevertheless, municipal governments – just like all other orders of government – have obligations to respect, protect, and fulfill human rights and to adopt a human rights-based approach to encampments.

In February 2024, I released the final report and recommendations following a year-long review of homeless encampments across the country. My report, [Upholding dignity and human rights: The Federal Housing Advocate's review of homeless encampments](#) included recommendations aimed at all levels of government to fulfill their human rights obligations. You can consult the [specific recommendations for municipalities](#) online. I concluded that forced evictions and enforcement approaches do not address the underlying systemic issues and put people at risk of even greater harms. I also called on municipalities to develop human rights-based policies related to encampments and to ensure that their responses to encampments prioritize upholding the human rights of encampment residents.

.../2

Human rights-based approaches to encampments

A human rights-based approach calls on municipalities to ensure that they are doing all that they can to protect people living in encampments from harm and violations of their human rights. It requires:

- Meaningfully engaging with people living in encampments and those who support them on an ongoing basis.
- Finding solutions that offer adequate housing and the supports people may need.

The use of a human rights-based approach, which includes people living in encampments in the design and delivery of durable solutions, is a win-win for a community. This approach not only improves the quality of life and health of people living in encampments, but it also helps to find long-term solutions that address people's real needs. Furthermore, meaningful engagement that is truly rooted in human rights principles provides more effective and sustainable rights-based solutions than time-consuming court proceedings.

Earlier this month, my Office published [A Guide to Meaningful Engagement and Integrating a Human Rights-Based Approach into Encampment Responses](#). This resource has been developed to provide additional guidance to municipalities and other levels of government on how to put into practice a human rights-based approach when it comes to encampment responses. Recognizing that forced evictions of encampments are a violation of human rights and that they are inherently harmful, this guide encourages municipalities to explore alternatives rooted in human rights principles and to value meaningful engagement of people living in encampments.

Permanent, adequate housing

People should be provided with a variety of housing options and locations that meet their needs, are accessible and are adapted to their personal situation. It is important to allow people to make choices and take control of their lives.

During my review, I heard repeatedly that spaces in an emergency shelter or other temporary accommodation are not necessarily a better solution for someone living in an encampment. Spaces in emergency shelters do not offer security of tenure and may be inaccessible or unsafe for many people. They do not always consider the cultural needs of Indigenous people, the needs of people with disabilities and can be unsafe for women and members of the 2SLGBTQQA+ community.

Emergency shelters should not be seen as a mandatory step before someone can access permanent and adequate housing. People have the capacity to transition directly to permanent housing without going to a shelter first. This underlines the need to assess the individual and collective needs of people living in encampments and avoid putting in place obstacles to their social integration and ability to access adequate housing.

It is also critical to ensure that the transitional and supportive housing that is offered is compliant with human rights principles. Residents in these buildings should be afforded the same rights as tenants as per the landlord and tenant regulations in force in the province.

Continued engagement and solutions in Waterloo Region

I understand that the Region of Waterloo recently passed a Site-Specific By-law, Bylaw 25-021, related to the encampment that requires it to be cleared by December 1, 2025, and that consideration of this By-law is currently before the courts. I am concerned that there was no consultation with the encampment residents in developing and passing Bylaw 25-021, or in developing its plan to clear the encampment in the coming months.

I understand that the Region has a team dedicated to working with residents of the encampment. However, the fact that there is a pre-determined outcome (i.e., clearing out the encampment by November 30, 2025) undermines trust and the possibilities for meaningful engagement. Consultations are a mere formality when decisions have already been made, making it clear to encampment residents that their input is not important. It is not enough to claim to adopt a human rights-based approach; it is essential to take actions that lead to rights being protected and a real improvement in the lives of people living in encampments. This must not be limited to efforts to ensure access to adequate housing but must also include immediate measures to respect human dignity and protect lives until adequate long-term housing solutions are available in sufficient quantities and adapted to meet people's needs.

Building and maintaining the trust of people living in encampments is an essential component of a human rights-based approach. These relationships must demonstrate transparency, accountability and integrity. Although the Region on the one hand has a team of support workers to assist encampment residents in accessing housing, on the other hand, the Region is bringing harmful litigation against the residents of the encampment. It is impossible to build trust in this context. The process the Region of Waterloo has undertaken undermines the authenticity required to bring about positive change through a genuine engagement process.

In addition, I find it troubling that Bylaw 25-021 requires the Region to only engage with encampment residents that were living at the encampment prior to the Bylaw being passed and says nothing about the need to engage with any people who entered the encampment after the Bylaw was enacted.

Before proposing solutions, it is important for municipalities to take time to learn about and understand the experiences of people living in encampments and to consider that people choose to live in encampments because housing and emergency shelters are unavailable, inaccessible or do not provide the safety and security they need.

Durable solutions will only come about when the responses address the real issues and needs identified by the people living in encampments. This cannot be done without a commitment to meaningful engagement. Meaningful engagement takes time and requires investment of resources. However, when such engagement processes are implemented authentically with genuine intention to bring about positive change, there is a much greater chance of identifying concrete solutions that respect the rights of people living in encampments – instead of band-aid fixes that waste time and taxpayer money, and further harm the people affected.

Indigenous rights

I also feel compelled to highlight that, as a direct result of colonization and displacement, Indigenous Peoples are acutely over-represented in Canada's population of people experiencing homelessness and living in encampments. Encampment responses must recognize and respect the rights found in the United Nations Declaration on the Right of Indigenous Peoples. Métis, Inuit, and First Nations governments must be supported in managing and implementing housing solutions that reflect self-governance and community-specific needs.

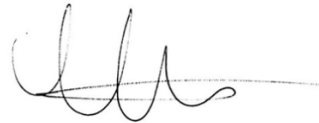
Urban Indigenous populations face distinct housing challenges, including inadequate access to culturally appropriate services as well as systemic barriers to affordable housing. Local Indigenous governments and leadership should be consulted in the design, delivery and monitoring of encampment responses. It is also critically important to ensure that the meaningful engagement with Indigenous people living in encampments is Indigenous-led to promote genuine dialogue guided by mutual respect, good faith and the sincere desire to reach agreement.

In closing, when a human rights-based approach to encampments is put in place, it will build trust, encourage participation and engagement. It can also empower people to contribute to solutions that will provide appropriate, accessible and adequate long-term housing solutions and services as well as measures to address their immediate needs.

As you continue to plan for the construction of the new transit hub, I urge you to review my reports and recommendations so that you are fully aware of your human rights obligations and are able to ensure that your actions respect the human rights of people experiencing homelessness in the Region of Waterloo.

I would welcome an opportunity to engage in further dialogue with you to explore how my office and the findings in my recommendations can contribute to a human rights-based response to encampments in the Region of Waterloo.

Yours sincerely,



Marie-Josée Houle
Federal Housing Advocate

Enclosures: Upholding dignity and human rights: The Federal Housing Advocate's review of homeless encampments
Guide to Meaningful Engagement and Integrating a Human Rights-Based Approach into Encampment Responses

c.c.: Jan Liggett, City of Cambridge
Doug Craig, City of Cambridge
Pam Wolf, City of Cambridge
Berry Vrbanovic, City of Kitchener
Colleen James, City of Kitchener
Michael Harris, City of Kitchener
Matt Rodrigues, City of Kitchener
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Sue Foxton, Township of North Dumfries
Joe Nowak, Township of Wellesley
Natasha Salonen, Township of Wilmot
Sandy Shantz, Township of Woolwich

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Kaitlin Schwan** on her affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 9, 2026.

APPEARANCES:

GORDON CAPERN, Mr.	Counsel for the Applicant
GRETA HOAKEN, Ms.	
JOANNA MULLEN, Ms.	Counsel for the Respondents
SHANNON DOWN, Ms.	
CHARLOTTE CAHILL, Ms.	Student-at-Law
KAREN STEWARD, Ms.	Amicus Curiae

(i)

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1 JANUARY 9, 2026

2
3 DR. KAITLIN SCHWAN, AFFIRMED

4 CROSS-EXAMINATION BY MR. CAPERN:

5 1. Q. Dr. Schwan, good morning. Thank you
6 for joining us today.

7 A. Thank you for having me.

8 2. Q. A couple of rules of engagement for the
9 examination which apply both to you and to me. One is
10 that as I described off the record, Ms. Pollard is our
11 court reporter and in order for the record to be as
12 intelligible as possible, it's going to be important
13 for me to ensure that I give you enough latitude to
14 answer your question without speaking -- answer my
15 questions without speaking over you.

16 And conversely, I would be grateful if you
17 would afford me the same courtesy which is to allow me
18 to finish my question before you begin your answer.
19 If that's okay.

20 A. Absolutely.

21 3. Q. That way we'll avoid Ms. Pollard
22 becoming cross with either of us, I think, as we go
23 this morning. And I hope to have you out of here in
24 about 15 or 20 minutes subject to any questions for
25 you that my friends have. So you can get on with what

1 I hope is a beautiful sunny day in southern
2 California. First of all, thank you for your
3 affidavit and the expert report that you've delivered
4 in this proceeding which I've read carefully.

5 I have a few questions for you about that
6 affidavit. And I'd like to begin if I can with
7 Exhibit C to your affidavit which I think is -- you
8 refer to as the "Project Willow Report." You're
9 familiar with that?

10 A. I am.

11 4. Q. I don't think I need to put it up on
12 screen for the purposes of these questions but if you
13 would like to see it, please just yell and we'll make
14 sure it gets on screen for you immediately through the
15 magic of Ms. Hoaken.

16 So a few questions for you about that. I am
17 correct, Dr. Schwan, that you are not one of the
18 authors of that report, is that correct?

19 A. That's correct, I am not one of the
20 authors.

21 5. Q. Thank you and it's correct that you did
22 not participate in its preparation, is that correct?

23 A. That is correct.

24 6. Q. And I have it from Paragraph 33 of your
25 affidavit that, at least up to the date that you swore

1 your affidavit, you had not visited the encampment
2 that's in issue in this case, is that correct?

3 A. That's correct, yes. My affidavit
4 speaks to broader patterns of experiences within
5 encampments across Ontario, across Canada and in North
6 America more broadly. But doesn't speak to this
7 specific encampment.

8 7. Q. Right, that's what I had understood
9 from your affidavit but thank you for confirming that.
10 And I am correct that that remains the case up today?
11 In other words, you have not visited this particular
12 encampment up until today as I am cross-examining you,
13 is that correct?

14 A. That's correct.

15 8. Q. Thank you. And it's correct,
16 therefore, I think that it's fair to say that you have
17 no first-hand knowledge of the current demographics of
18 that encampment?

19 A. I don't have first-hand knowledge of
20 those demographics. I have done research and engaged
21 with encampments across North America and have seen
22 consistent patterns around demographics.

23 9. Q. Right, I think what I am just going to
24 ask you to do, Dr. Schwan, if that's okay, is if we
25 can stick to the questions that I've -- like I read

K. Schwan (Cr.-Ex.) - 6

1 your affidavit carefully and I thank you for that.
2 And I gathered from that that you have done extensive
3 review and understands. You can take it that I've
4 read your affidavit carefully and I've understood it
5 as best as I am able. Thank you.

6 So just to go back to my next question then
7 which is, it's correct to say then as well that you
8 have no first-hand knowledge of the individual
9 experiences of any resident of this particular
10 encampment. Is that fair to say?

11 A. It is.

12 10. Q. Thank you. It's correct to say that
13 you have not reviewed reports of violence at this
14 particular encampment, is that correct?

15 A. That's correct.

16 11. Q. And that includes, if I can call it,
17 intra-resident violence, at this particular
18 encampment, is that a fair observation?

19 A. Yes.

20 12. Q. And it's fair to say that you are not
21 at any place to comment specifically on any -- on the
22 prevalence of violence at this particular encampment,
23 is that fair to say?

24 A. That's correct. I can speak to broader
25 patterns of violence experienced by encampment

1 residents. But not to this particular encampment.

2 13. Q. Thank you and I take it as well that
3 you have no first-hand knowledge of how many violent
4 incidents have occurred at the encampment at 100
5 Victoria in the Region of Waterloo, is that fair?

6 A. That is fair.

7 14. Q. All right. It's fair to say that you
8 have not undertaken any quantitative work comparing
9 rates of violence in specific Waterloo shelters versus
10 the encampment at 100 Victoria. Is that fair to say?

11 A. Yes, it is.

12 15. Q. Thank you. And you haven't taken --
13 conducted any research which is specific to shelter
14 availability in the Waterloo Region, is that fair to
15 say?

16 A. Yes.

17 16. Q. I'd like to take you to the, if I can
18 call it the "Tape Measure Example" that you gave in
19 your affidavit. Are you familiar with what I am
20 talking about there?

21 A. I am.

22 17. Q. Thank you. And that's, just for the
23 record, that's where you've pointed out that -- I
24 think the example you gave was a woman who was living
25 in a tent who took the opportunity to place a tape

1 measure outside to, in effect, if I've got your
2 evidence right -- the point of her doing that was to
3 elevate the chances that she would be alerted if there
4 was someone who was trying to enter her tent without
5 her consent. Is that -- have I got it about right?

6 A. Yes. That's correct.

7 18. Q. Thank you. And part of that, I take
8 it, is that your observation is that also increased
9 the resident's ability to alert others in the
10 encampment to the fact that someone was trying to
11 enter her tent. Is that -- have I got that right?

12 A. That's correct, yes.

13 19. Q. And then I guess the extension of that
14 was that would also allow her to seek assistance to
15 deal with any person seeking to enter her enclosure
16 without consent?

17 A. Correct.

18 20. Q. And you'll agree with me, Dr. Schwan, I
19 hope, that being able to control access to one's
20 space, including who comes in or out of it, is an
21 element of maintaining safety for an encampment
22 resident?

23 A. Yes, yes. And that encampment
24 residents go to extensive measures to try to secure
25 their safety through the means that they have

1 available to them.

2 21. Q. And I understand that. And I assume
3 that when we say that includes any women that are
4 living in an encampment, correct?

5 A. Correct.

6 22. Q. And also any gender-diverse people that
7 are living in an encampment?

8 A. Correct.

9 23. Q. Thank you. And you would agree with me
10 that being able to control access to one's space is an
11 important element of safety, generally. Is that fair
12 to say?

13 A. Yes. I would agree with that.

14 24. Q. Thank you. And would you agree with me
15 that having a door that can be locked might be one way
16 to improve safety?

17 A. Yes, I would agree with that.

18 25. Q. And that a locked door, for example,
19 would mitigate the risk of an unwelcome entry into
20 your space. Is that a fair observation?

21 A. Yes, in general for folks experiencing
22 homelessness when gender-diverse people in particular
23 who are experiencing intimate partner violence, in
24 some cases, that's occurring behind closed doors or
25 exploitation is occurring behind closed doors.

1 But it remains the case that being able to
2 close a door is critical to safety for all people.

3 26. Q. Okay. And thank you, that's helpful.
4 And then just to go to a second thing that people
5 living in encampments need to deal with is going to
6 the washroom, for example. That having one's own
7 washroom could also be part of an improved safety
8 environment for a person living at an encampment. Is
9 that fair?

10 A. Yes, access to water and sanitation and
11 hygiene facilities are critical to the right to
12 adequate housing and safety.

13 27. Q. And having access to one's own washroom
14 would be part of that, in your view, is that fair?

15 A. Yes, that's fair.

16 28. Q. Good. And a part -- if I can just do a
17 comparison, that then avoids -- in the case of an
18 encampment resident, if they had their own washroom,
19 that would avoid the need for them to leave their
20 enclosure to go to the washroom. Is that a fair
21 observation?

22 A. Correct, yeah.

23 29. Q. Thank you. I want to ask you just a
24 few questions about your observations about
25 encampments generally. One of the benefits I think --

1 and if I'm paraphrasing this unfairly or
2 inappropriately, just please correct me.

3 But one of the benefits I took from your
4 affidavit of an encampment, is that there isn't
5 typically a waitlist to get into one, is that a fair
6 comment? Comparing it, for example, to a shelter
7 where there might be capacity restrictions, just to
8 bring home the question more ---

9 A. Mm-hmm.

10 30. Q. More helpfully.

11 A. I -- yeah, I think one of the benefits
12 is there's not a waitlist. And as you saw in my
13 research, in many cases folks experience a range of
14 barriers for accessing shelters related to disability
15 or substance use, for example.

16 And so in some cases often don't have an
17 opportunity to go to a shelter and then are forced to
18 reside in an encampment for their own survival and
19 protection.

20 31. Q. Right. And I think I had from your
21 affidavit that one of the concerns that you raise, is
22 that many people who end up in encampments are people
23 who are turned away from shelters because of capacity
24 issues at those shelters. I think it's just a -- if I
25 got that right?

1 A. That's correct.

2 32. Q. And one of the other things I think
3 that you say -- again, correct me if my paraphrasing
4 is unfair or inappropriate -- but one of the other
5 things I think you say is that encampments generally
6 are not subject to the imposition of conditions that
7 might apply -- entry conditions that might apply at
8 shelters. Is that a fair observation?

9 A. Yes. That's correct.

10 33. Q. Thank you. And that means -- and the
11 extension of that is, I take it that people who show
12 up at an encampment can, provided there is space,
13 pitch a tent or otherwise take shelter there?

14 A. Correct.

15 34. Q. And that includes, for example, couples
16 who might show up at an encampment, correct?

17 A. Yes.

18 35. Q. And that includes couples who may
19 indeed be in an intimate relationship with one
20 another, is that fair?

21 A. Yes. Correct.

22 36. Q. And among that group, you'll agree with
23 me that that group would include couples where there
24 has been intimate partner violence. Is that fair?

25 A. Yes, it could.

1 37. Q. And for the person who has been subject
2 to intimate partner violence, an aspect of escaping
3 that violence is a physical separation from their
4 partner, do you agree with that?

5 A. Yes.

6 38. Q. And so being able to access housing
7 where their partner can be excluded, can be an
8 important component of getting away from that
9 violence. Is that fair?

10 A. Correct, yes.

11 39. Q. And if I can call it this, a women's-
12 only shelter might assist in providing that
13 separation?

14 A. Yes, in some cases, yes.

15 40. Q. Thank you. And so sometimes, you'll
16 agree with me that it is a good thing for couples --
17 you know, we'll focus on couples where there has been
18 a history of intimate partner violence. It could be a
19 good thing for those couples to be separated in
20 shelters where -- in those circumstances, you'll agree
21 with that?

22 A. I would agree with it generally. I
23 would say that my experience in the research is such
24 that women and gender-diverse people experiencing
25 intimate partner violence have to choose amongst a

1 range of unsafe options, including remaining in an
2 intimate partner violent situation or going to a
3 shelter where they may experience violence from other
4 residents. Or may experience discrimination or maybe
5 separated from their pet.

6 So in -- in an ideal world, that separation
7 would be possible. In my experience, it's been that
8 women are often choosing between different kinds of
9 violence or exclusion or discrimination.

10 41. Q. I think the point you made in your
11 affidavit was that they were frequently put in a place
12 where they were choosing the least bad option.

13 A. Yes, correct.

14 42. Q. Okay, thank you. And just to touch on
15 that, for example, to the extent that a municipality
16 that is seeking to help people who are in an
17 encampment find housing to the extent, for example,
18 that the municipality assists them by finding housing
19 that can accommodate a pet if they had one, that would
20 be something you would view as a positive thing, is
21 that fair?

22 A. Yes, housing that is adequate and
23 appropriate and safe for the individual as they define
24 it for themselves is critical to exiting a situation
25 such as intimate partner violence in resolving

1 homelessness.

2 43. Q. Yeah, understood. Thank you very much.
3 And is it fair to say that in a shelter that --
4 particularly in a women's-only shelter, that staff
5 might be trained to watch out for abusive and coercive
6 patterns of behaviour and to intervene where
7 necessary. Is that fair?

8 A. I would say my experience is that many
9 shelters have training in those areas, not all of them
10 -- and not all staff may be trained -- in order to
11 identify signs of abuse or to intervene.

12 But in general, I would say that is true.

13 44. Q. Okay. Thank you. And you'll agree
14 with me that -- and I wasn't suggesting that all
15 shelters, but certainly some of the shelters that that
16 would be an issue in which staff would retain -- would
17 receive training, right?

18 A. Correct.

19 45. Q. And you'll agree with me, I take it,
20 that the flipside is that -- of that is typically
21 people who are residents of encampments do not receive
22 that type of training, is that fair?

23 A. Correct.

24 46. Q. Okay, thank you. I don't have any more
25 questions, Dr. Schwan. And I wanted to say thank you

1 for your time today.

2 A. Thank you very much.

3 MS. DOWN: I just have I think one or two in
4 redirect. Can you hear me okay?

5 THE WITNESS: I can, thank you.

6 MS. DOWN: Okay.

7
8 RE-EXAMINATION BY MS. DOWN:

9 47. Q. So Mr. Capern's questions seem to be
10 comparing the situation of a woman or a gender-diverse
11 individual or a person who is part of a couple, who
12 are in an encampment, and their safety versus what
13 their relative safety or situation would be if they
14 were in a woman's shelter or a gender-specific
15 shelter.

16 And can you tell me, based on your research,
17 what is your experience of what happens if that isn't
18 an option? Like what happens if the shelters in that
19 area are full and there are no housing options or
20 aren't that supportive or appropriate housing?

21 A. Yeah, absolutely. So if there aren't
22 accessible shelter or housing options available for
23 women or gender-diverse folks, regardless of whether
24 they're in an intimate partner violent situation or
25 not, what we find women or gender-diverse people doing

1 is at first relying on as many kind of social supports
2 or community members that can to couch-surf. And in
3 some cases, relying on trading sex for housing, doing
4 labour for housing.

5 One of the things that I've documented
6 extensively in my research is that hidden homelessness
7 is very common among women and gender-diverse people
8 when they first fall into homelessness. Because
9 they're trying to prevent being alone out on the
10 streets because of the high risk of violence and
11 harassment that they experience.

12 So if there weren't a shelter bed available,
13 they would likely first try to rely on those informal
14 supports, couch-surfing and then would become, what we
15 call, "experience unsheltered homelessness," be out on
16 the streets. And in -- use a variety of methods to
17 try to remain safe and survive.

18 So in some cases, people would be sleeping
19 in doorways, sleeping in hospitals, again, trading sex
20 for housing.

21 And I have met many women and gender-diverse
22 people that have amongst their constrained choices,
23 elected to reside in an encampment because it provides
24 an ability to protect each other, identify risks,
25 share resources and trying to survive the conditions

1 outdoors.

2 48. Q. Okay, and so in a circumstance where an
3 encampment is being closed and there aren't shelter
4 options, there aren't housing options, what is your
5 experience or what does your research tell you about
6 what they relative -- how does the relative safety of
7 that person change when that encampment is closed?

8 A. Yeah, so I want to -- there's a number
9 of things that we consistently see when encampments
10 are closed, both in my research and research across
11 North America.

12 So the community or mutual aid that is
13 established, typically gets dispersed. So people's
14 access to food, their ability to care for a partner
15 who might have a disability, their ability to access
16 transportation or any kind of basic survival tasks,
17 often goes down. Because there is mutual care that is
18 happening in the encampment so people struggle to --
19 have an increased struggle to access food and water.

20 There's usually pretty significant safety
21 impacts for women and gender-diverse people.
22 Especially if there's repeated encampment closures
23 where women retreat into areas that are less visible
24 and they're more vulnerable to experiences of sexual
25 violence, physical violence.

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1 I met a woman in Toronto who the day after
2 her encampment had been closed, experienced a rape
3 that night because she was on her own. And so those
4 kinds of experiences are across encampments I engaged
5 with in North America are fairly typical.

6 So the ability to survive decreases --
7 increases in challenges to safety. And it's also the
8 case that we see a range of kind of health impacts,
9 depending on how the encampment closure goes.

10 I am happy to speak to those if helpful.

11 49. Q. Yeah, I think, you know, your answer
12 was very helpful. Can you also -- so Mr. Capern also
13 was asking you about the Project Willow site.

14 A. Mm-hmm.

15 50. Q. And the fact that your research, your
16 work is not specifically on the encampment that's in
17 the Waterloo Region at 100 Victoria Street. But is
18 there -- do you have any reason to think that the
19 findings of Project Willow are not -- are not in line
20 with sort of the work that you've done more broadly
21 across Ontario, across Canada. And that this
22 encampment is in any way different from other
23 encampments that you've looked at across the country
24 so that your body of work wouldn't apply?

25 MR. CAPERN: Well, hang on. I am going to

K. Schwan (Re-Ex.) - 20

1 object to -- that's a very long question,
2 first of all, Ms. Down. And so, the first
3 part of it is I think fine, although
4 encroaches into stuff that could easily have
5 been dealt within Dr. Schwan's affidavit,
6 that is, is Project Willow consistent with
7 -- is the findings in the Project Willow
8 report consistent with her overall findings?

9 And I think Dr. Schwan has already said
10 in her affidavit that she endorses it. But
11 I am content to let her answer the question
12 of whether -- I guess maybe the slightly
13 more specific question of whether or not the
14 report extends into, you know, something
15 that is more broadly consistent with her
16 research.

17 Dr. Schwan has already testified that
18 she has no first-hand information about
19 what's going on in the encampment here. And
20 so the second question, in my view, is
21 completely inappropriate and should not be
22 answered.

23 So I want to object to that and I am
24 content to let Dr. Schwan answer the first
25 question but not the second one.

1 BY MS. DOWN:

2 51. Q. All right. Dr. Schwan, can you answer
3 my first question then regarding Project Willow?

4 A. Whether it's consistent with the
5 research findings more broadly?

6 52. Q. Yes.

7 A. Yes, yes. Absolutely, both
8 methodologically I found it to be a sound study and
9 the findings do mirror in many ways the largest survey
10 we have on women's homelessness in Canada, which I
11 led.

12 And is within my affidavit with respect to
13 experiences of violence, the demographics, a range of
14 -- on a range of criteria, it is a strong study, and
15 reflects the broader literature.

16 53. Q. Okay. That's great. Thank you very
17 much, those are my questions. I don't know if Amicus
18 has any questions in redirect?

19 MS. STEWARD: No. Thank you.

20 MR. CAPERN: Thank you very much Dr. Schwan
21 and very much appreciate your time and hope
22 you have a great weekend.

23 THE WITNESS: Thank you very much. I
24 appreciate that.

25 MS. DOWN: Thanks everyone.

K. Schwan (Re-Ex.) - 22

THE WITNESS: Thank you. Bye.

MR. CAPERN: Barb, do you need anything from
us or are you okay?

MADAM REPORTER: I just need the date of the
doctor's affidavit.

MR. CAPERN: That's a good question.

MS. HOAKEN: It's the 15th of August, 2025.

MS. DOWN: Thanks, Greta.

MADAM REPORTER: Thank you, Greta, and
that's all I need. Thank you so much.

MR. CAPERN: Thanks so much, have a great
weekend everybody.

MS. DOWN: Thanks everyone.

MS. HOAKEN: Bye.

MADAM REPORTER: Bye.

--- ADJOURNED

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
certified and have not been paid for unless they bear
the original signature of Barbara A. Pollard, C.C.R.,
and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Mr. Aaron Moss** on his affidavit dated January 16, 2026, taken via Zoom videoconference on consent of the parties on February 13, 2026.

APPEARANCES:

ANDREW LOKAN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHIUTEMA, Ms. Counsel for the Respondents
SHANNON DOWN, Ms.
JOANNA MULLEN, Ms.
CHARLOTTE CAHILL, Ms.

(i)

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1 FEBRUARY 13, 2026

2
3 MR. LOKAN: So just before the cross-
4 examination starts, I'm just going to put a
5 couple of corrections on the record to the
6 affidavit as sworn on January 16th, 2026.

7 In paragraphs 31 and 32 there is a
8 reference to the Sanguen -- that's S-A-N-G-
9 U-E-N -- van no longer attending the
10 encampment that is out of date. The Sanguen
11 van is now attending weekly; I understand
12 Wednesdays from 1:00 to 2:15 p.m.

13 And at paragraph 37 there is a
14 reference to there being one existing
15 resident who remains, that's within the
16 meaning of the context someone who was there
17 April 16, 2025. The updated number there is
18 there are no remaining existing residents.

19 In paragraph 38 there is a reference to
20 there being 10 to 12 current occupants. The
21 updated number is there are 10 to 12 current
22 occupants on any given day of whom
23 approximately one to three stay overnight on
24 any given night.

25 And in paragraph 39 there is a

A. Moss (Cr.-Ex.) - 4

1 reference to the region having placed 19
2 individuals who are not existing residents
3 as defined having been placed by the region.
4 That is now 22 individuals who have been
5 placed in alternative accommodation by the
6 region. So those are all the corrections.
7 MS. DOWN: Okay, great. So we'll get
8 started.

9
10 AARON MOSS, AFFIRMED

11 CROSS-EXAMINATION BY MS. DOWN:

12 1. Q. Good morning, Mr. Moss. My name is
13 Shannon Down. I'm one of the lawyers representing the
14 encampment residents. Before we get started, do you
15 want me to call you, "Mr. Moss" or "Aaron?"

16 A. Aaron is fine, yeah.

17 2. Q. Okay.

18 A. Mr. Moss is my dad.

19 3. Q. Okay, thanks, Aaron. Just before we
20 get into my substantive questions, I just want to
21 remind you of a couple of things. One, is it that you
22 can't communicate with your legal counsel or with
23 anyone else during the time that you're under cross-
24 examination. And that includes communicate by text
25 messages or email or any other method.

A. Moss (Cr.-Ex.) - 5

1 You can't have any other documents. Do you
2 have any other documents other than your affidavit
3 with you right now?

4 A. No, I've got nothing right now. I
5 turned my phones off and, you know.

6 4. Q. Okay. Do you have a copy of your
7 affidavit?

8 A. Up on my screen. I can ---

9 5. Q. Okay.

10 A. --- pull it up on my screen.

11 6. Q. Okay, that's fine. If there's
12 questions that you need to refer to, you have it
13 handy. And I am just going to just mention that we're
14 going to confine what we're talking about today to the
15 parts of your affidavit that weren't struck by the
16 court.

17 So there was a motion and Paragraphs 11 to
18 21 and then 33 to 36, have been struck from your
19 affidavit by the court. So we won't be referring to
20 any of those paragraphs or to the exhibits that
21 reference that. So all of the safety reports were
22 part of the exhibit that relates to those. So they're
23 not -- they're no longer part of your affidavit.

24 So I'll try to make sure that my questions
25 don't go there but also please make sure that your

A. Moss (Cr.-Ex.) - 6

1 answers don't drift into those materials.

2 I am going to start just by going through
3 some of your resume or your qualifications. And I am
4 going to ask Charlotte, could we screenshare the
5 LinkedIn profile for Mr. Moss?

6
7 --- SCREENSHARE

8 7. Q. Okay, so I am just going to confirm.
9 So you've been with the Region since March of 2024 as
10 the Director of -- is it Fleet and Fleet Facilities?

11 A. Yeah. Facilities and Fleet.

12 8. Q. Okay, and looks like before that, you
13 were in a similar role at the City of Brampton?

14 A. Yes. That's correct.

15 9. Q. Okay, and you were there for six years.
16 And then there's a teaching position; was that a part-
17 time position or a full-time position?

18 A. No, that was a part-time position I did
19 as a part of my fleet work.

20 10. Q. Okay, and what were you teaching?

21 A. So I was actually teaching hybrid
22 vehicles to ---

23 11. Q. Okay.

24 A. --- first year apprentices.

25 12. Q. Okay, and then from November of 2011 to

A. Moss (Cr.-Ex.) - 7

1 April 2017, you were with Waste Management as a fleet
2 manager?

3 A. Yeah, Waste Management Canada. There
4 was two -- there's two, U.S. and Canada.

5 13. Q. Okay. Perfect. And your education.
6 So what was your -- what's your formal education from
7 Mohawk College?

8 A. So I -- I went to the -- I started out
9 as a heavy equipment mechanic. Went through a college
10 course to get my 310-T license.

11 14. Q. Okay.

12 A. Yeah.

13 15. Q. And that ---

14 A. And then I just -- sorry, go ahead.

15 16. Q. That was in the 90s, late 90s?

16 A. Yeah.

17 17. Q. Okay. Sorry, I don't mean to age you
18 or out you. And then is there -- do you have any
19 other post-secondary college diplomas or university
20 degrees other than the Mohawk College education that's
21 listed here?

22 A. No, nothing that I would bring up here.
23 Like I've done courses and stuff like that on
24 different things but, yeah.

25 18. Q. Okay, that's fine. Can you just

A. Moss (Cr.-Ex.) - 8

1 briefly describe what your main responsibilities are
2 as Director, Facilities and Fleet Management?

3 A. So my main, I guess, area that I look
4 after is the facilities that the Region owns. So all
5 the facilities with capital renewal work, which is
6 keeping the buildings up and then working with
7 different program areas to build new buildings if they
8 need new buildings or new space. And then on the
9 obviously, the maintenance of those buildings. And
10 then on the flip side with Fleet, it's the purchase
11 and maintenance and disposal of all vehicles and
12 equipment that the Region owns.

13 19. Q. Okay, that's a big role.

14 A. Yeah.

15 20. Q. And it must keep you busy.

16 A. It's exciting. Yeah.

17 21. Q. Yeah. How many people report to you?

18 A. The last -- off the top of my head, we
19 have 147.

20 22. Q. Okay. And when you were at Brampton as
21 Manager of Fleet Services, what was involved in that
22 role?

23 A. So a similar type of scenario. Looked
24 after the fleet of the -- dispose -- the purchase, the
25 maintenance, the disposal, and then -- of the fleet.

A. Moss (Cr.-Ex.) - 9

1 And as well looked after like some buildings.

2 So there was like stand-alone buildings with
3 car washes or, you know, like that type of thing.

4 Looked after the shops, looked after the maintenance,
5 looked after stuff like that.

6 23. Q. Okay. Thank you. Charlotte, we can
7 probably stop sharing the screen now, I think. I
8 think I'm done at that. And then, when you -- your
9 position at Waste Management, can you just briefly
10 describe what was involved with that?

11 A. So similar on the fleet side with the
12 garbage trucks, the loaders, the quality equipment but
13 with the -- it had a lot more to do with facilities.
14 Like so like transfer stations, the actual buildings,
15 all of that type of stuff fell under the fleet manager
16 as well.

17 24. Q. Okay, and ---

18 A. So ---

19 25. Q. --- waste management, they're -- it's
20 largely garbage facilities, right? Like waste
21 management facilities. When you say transfer
22 stations, like I would call that a -- like a -- a
23 garbage dump of that ---

24 A. No, that's a little bit different.

25 Yeah, a ---

A. Moss (Cr.-Ex.) - 10

1 26. Q. Okay.

2 A. --- transfer station is like -- so, I
3 don't know like on Northfield Drive.

4 27. Q. Okay.

5 A. So they bring the garbage in, they dump
6 it there. And then if it doesn't go to a landfill
7 here, we transport it out to like the -- I think it's
8 called Twin Pines Landfill in Sarnia or it goes across
9 the border. It's just a transfer from there to some
10 place it's going to end up.

11 28. Q. Okay. So before working for the
12 Region, none of those previous roles were really
13 related or involved with -- or involved dealing with
14 encampments, were they?

15 A. Correct, yeah.

16 29. Q. Okay. And is it fair to say ---

17 MS. SCHIUTEMA: (Indiscernible).

18 MS. DOWN: Yes?

19 MS. SCHIUTEMA: I am sorry, do you want to
20 make the other document an exhibit? I'm
21 sorry to interrupt.

22 MS. DOWN: Oh, yeah. Sorry, thanks for
23 reminding me. I always forget that. So I
24 think that would be Exhibit 1.

25 MR. LOKAN: Yeah.

1 MS. DOWN: Thanks.

2
3 EXHIBIT NO. 1: LinkedIn Profile

4
5 BY MS. DOWN:

6 30. Q. And so again, going back to your
7 previous roles in Brampton and at Waste Management, is
8 it fair to say that working with vulnerable people,
9 say people with mental health disorders or substance
10 use disorders, was not part of your duties or part of
11 the -- your work experience while you were Fleet
12 Manager at Brampton or at Waste Management?

13 A. Correct.

14 31. Q. Okay.

15 A. So the only time -- I don't know, can I
16 -- I don't know if I can reply back or ...?

17 32. Q. If you have something to add.

18 A. Yeah, so the only time I got involved
19 in that is during COVID. So a part of my upgraded
20 job, I guess you would say, was to deal with the -- I
21 want to call them soup kitchens, the places where
22 people would go.

23 And that was kind of my eye-opening
24 experience with that type of scenario. So I was
25 talking to a lot of people that were going through a

1 very difficult time.

2 33. Q. Okay, and that was when you were at
3 Brampton?

4 A. Brampton, yeah.

5 34. Q. Okay, and was -- the soup kitchen was
6 part of the Brampton's, like, part of their
7 facilities?

8 A. Right, so we did like -- like food
9 donations. I delivered food donations to these
10 different places, interacted with the people there.
11 And it was kind of like an eye-opening experience for
12 me, right?

13 35. Q. Okay. And eye-opening in that just
14 very different, like the people using those
15 facilities, very vulnerable population, a lot of
16 complex mental ---

17 A. Yeah.

18 36. Q. --- health issues.

19 A. Yeah.

20 37. Q. Okay, and is it fair to say that the
21 majority of your current role has very little to do
22 with that population of people? Like other than
23 supervising your team who are involved with this
24 encampment, like, you know, when you described your
25 role, it's a pretty -- a pretty massive role. This is

A. Moss (Cr.-Ex.) - 13

1 a pretty small discrete part of it.

2 A. Yeah, I would -- but again, I would
3 never -- I would never ask my team to do anything that
4 they don't want -- I wouldn't want to do. So I make
5 sure that I am there with them if there is, you know,
6 working with the vulnerable people.

7 38. Q. Okay, fair enough. Do you have any
8 involvement in your role with other parts of the
9 housing stability system that the Region manages?

10 A. With ---

11 39. Q. Like, for example, Region-funded
12 shelters or transitional housing?

13 A. Yes, so we look at -- so if we do
14 anything with building, like renovating, building, the
15 needs of the residents that live there, we work
16 closely with Peter Sweeney's group.

17 40. Q. Okay. But your focus -- you're focused
18 on the side of like if there is a facility that ---

19 A. Right.

20 41. Q. --- what do we -- what do we need to do
21 with the facilities.

22 A. Right.

23 42. Q. Not so much working with the --
24 directly with the people who are living there?

25 A. Correct.

A. Moss (Cr.-Ex.) - 14

1 43. Q. Okay. And that's because like -- that,
2 like as you said, that is -- that falls under Peter
3 Sweeney's responsibility as community -- and his team
4 in Community and Social Services, correct?

5 A. Correct, yeah.

6 44. Q. Can we agree that like when you're --
7 when you're looking at behaviour -- like the types of
8 behaviours that you might see vulnerable people
9 exhibiting, that it's -- context is really important.
10 Like knowing -- understanding the context.

11 MR. LOKAN: Shannon, I'm just going to ask
12 that you could give a little bit more --
13 speaking of context, just a little bit of
14 idea of what you're talking about when you
15 say, "behaviour that people might be
16 exhibiting?"

17 MS. DOWN: Yeah, so I mean -- well, I'm
18 going to -- maybe I'll step back.

19
20 BY MS. DOWN:

21 45. Q. Just I'll say if we're talking -- if
22 we're assessing just general human behaviour,
23 understanding the context that behaviour is happening
24 in, is sort of important.

25 And I can give you an example, if that

1 helps.

2 A. Sure, please.

3 46. Q. So, just as an example, something -- if
4 I were to be in an office environment and I'm swearing
5 or yelling, that would probably -- likely be perceived
6 as being very inappropriate in that context. Fair?

7 A. Yeah, I -- yeah.

8 47. Q. Okay. Whereas maybe in a soup kitchen
9 or a homeless shelter, in that context, a person may
10 be swearing or yelling, wouldn't be as unexpected or
11 as inappropriate. Is that fair to say?

12 A. I would say, yeah.

13 48. Q. Okay. And so you mentioned -- you sort
14 of alluded to this I think when you talked about an
15 eye-opening experience, someone who has only maybe
16 worked in an office environment might feel
17 uncomfortable or unprepared if they were dropped into
18 a homeless shelter to work for the day. Is that fair
19 to say?

20 A. I -- yeah, I ---

21 49. Q. Because they haven't had any experience
22 with that.

23 A. If they've had -- never had any
24 experience, yes.

25 50. Q. Okay. So following on that, can we

A. Moss (Cr.-Ex.) - 16

1 agree that it's really important to maybe to
2 understand and have familiarity with a particular
3 context to be prepared for, you know, or understand
4 what kind of behaviours to expect?

5 A. Right, yeah.

6 51. Q. Okay. And so, not having worked --
7 direct experience working with people who had, say,
8 mental health disorders or substance use disorders,
9 might make it hard for that person to assess the
10 seriousness of those behaviours?

11 A. Correct, if you've never had that
12 experience, yeah.

13 52. Q. Right. And I understand that you've
14 had some peripheral experience dealing with those
15 people but I am going to suggest to you that, you
16 know, there's nothing in your -- what you've described
17 as your direct experience that really has prepared you
18 for working with that population.

19 Like there, you know, compared to say
20 someone who is a social worker who's been trained and
21 has experience working in that environment. Is that
22 fair?

23 A. The only thing that I would say with
24 myself is like you said, when I said about an eye-
25 opening experience, I took the -- like the Psychology

A. Moss (Cr.-Ex.) - 17

1 101 courses, the mental health first aid courses. And
2 then got more into that and when I was at the City of
3 Brampton. That's kind of why I went down that path, I
4 guess you would say.

5 53. Q. Sure.

6 A. Because I did see a need for it for
7 people.

8 54. Q. Right.

9 A. When we were there, we started a mental
10 health first aid group, we started -- you know, and
11 there was a lot of circumstances that was -- that was
12 good training for myself to deal with -- or to talk to
13 at least talk and understand.

14 55. Q. Right, because these -- I mean, these
15 can be, in fairness, these can be really challenging
16 behaviours to ---

17 A. Oh, yeah.

18 56. Q. --- address.

19 A. Oh, for sure, absolutely. Yeah.

20 57. Q. Yeah, and people -- like I am just
21 going to suggest that people in the social work world,
22 for example, like they spend months in placements
23 during their education.

24 A. Yeah.

25 58. Q. Because it's not just the educational

A. Moss (Cr.-Ex.) - 18

1 component, it's the actual like day-to-day experience
2 working one on one with people that would provide you
3 with the kind of experience that you need to build a
4 really ---

5 A. Yeah.

6 59. Q. --- understand those behaviours. Is
7 that fair to say?

8 A. That's fair, yeah.

9 60. Q. Okay. So, you know, I think is it fair
10 to say that your assessment of the encampment might
11 differ, for example, from someone who is like a social
12 worker who has worked in the shelter system for years?
13 And is very familiar with that context of working with
14 people with mental health disorders, substance use
15 disorders, your assessment and their assessment of
16 what's happening at a, you know, at a shelter or at
17 the encampment might be different.

18 MR. LOKAN: Can I just -- there was a lot in
19 that question. It was quite compounded.

20 MS. DOWN: Yeah.

21 MR. LOKAN: (Indiscernible) to break it up.
22 And also are you talking about facts, this
23 is a fact witness, what happened. Or are
24 you asking about the reasons for why things
25 happened?

A. Moss (Cr.-Ex.) - 19

1 MS. DOWN: No, I mean, I think I am allowed
2 to. He's made some assessments in his
3 affidavit about the situation in the
4 encampment and I am allowed to ask him about
5 that. And maybe we'll let -- see if he
6 understood my question because I think, so
7 far, he's be going really well answering
8 them.

9 MR. LOKAN: Yeah, sure but the question --
10 the question had a lot of parts to it. I
11 would ask you to break it down.
12

13 BY MS. DOWN:

14 61. Q. So I'm asking if, Aaron -- I am just
15 asking if your assessment of safety at the encampment
16 might differ from someone else who works in the
17 shelter system? Like someone like a social worker who
18 has been dealing with this population for years as
19 part of their job?

20 A. Yeah, I don't -- I don't know if my
21 assessment would be different than anybody else's,
22 right? I'm looking at it as a -- if you're talking
23 about safety or like the safety of my staff, like the
24 -- that I was talking about in there. I don't know it
25 is would be different.

A. Moss (Cr.-Ex.) - 20

1 62. Q. Okay. But I am just going back to --
2 like so the office environment and I can draw on like
3 my own experience. I know when I was a lawyer in
4 private practice and then I went to the community
5 legal aid clinic.

6 Like the behaviours of the community legal
7 aid clinic would have had someone in my private
8 practice office calling the police. Whereas it was at
9 the legal aid clinic, it's just -- it's just another
10 day. Some of them in the lobby yelling, we're just
11 going to deal with it.

12 So I'm just trying to -- again, I am just
13 suggesting that it is -- sometimes it takes practice,
14 experience, to get used to these challenging
15 environments.

16 A. Okay, yeah. I am not sure how to
17 answer that.

18 63. Q. Okay. That's fine. Just back to -- I
19 mean, at the end of the day, your main role, your main
20 focus is the property, the fleet, the buildings, that
21 is the bulk of your role and your experiences dealing
22 with vehicles, buildings, not people with mental
23 health issues. Is that fair to say?

24 A. I would say it's fair to say up until
25 the point where it starts affecting the staff where I

A. Moss (Cr.-Ex.) - 21

1 have an obligation to make sure our staff is safe.

2 64. Q. Okay, so that's your main -- that's
3 your main focus ---

4 A. Mm-hmm.

5 65. Q. --- is your staff?

6 A. My staff (indiscernible) ---

7 66. Q. When it comes to those challenging
8 behaviours?

9 A. Yeah.

10 67. Q. Okay. That's fine. I'm now going to
11 turn to the -- I am going to be asking you some
12 questions about sections 22 -- Paragraphs 22 to 27 of
13 your affidavit and that's the part that deals with the
14 pictures of the tents in the sidewalk.

15 A. Okay.

16 68. Q. So Charlotte, are you able to put up
17 the Exhibit B which shows -- which is the photographs?

18

19 --- SCREENSHARE

20

21 69. Q. So, Aaron, in your affidavit -- just
22 give me one moment here. In your affidavit, you say
23 that you're concerned about the tents being on the
24 sidewalk and the impact.

25 When I am looking at this photograph, I am

A. Moss (Cr.-Ex.) - 22

1 not seeing that tent. Like is that tent not on an
2 embankment next to the sidewalk?

3 A. You -- you can't tell very well because
4 of the snow that's there. But that is a -- I don't
5 know if there is a -- like that's a stepped sidewalk
6 area on there. So it's not -- like there's steps
7 right there.

8 70. Q. Yeah, I ---

9 A. (Indiscernible).

10 71. Q. Like at the very front?

11 A. Yeah, so where you're -- you see the
12 green? I guess that's green, a tent, or the blue
13 tarp?

14 72. Q. Yeah.

15 A. In front of there, that's steps. And
16 then that's all concrete there.

17 73. Q. Okay. But it's not -- I mean, it
18 doesn't look -- like even if that tent's there, I am
19 having a hard time imagining someone walking down
20 there when there's a plowed pavement area right next
21 to it.

22 A. Yeah, and a part of the clean-up is the
23 staff go down that and make sure it's cleaned up.
24 They ask the residents if there's a resident there, if
25 they can move their items, I guess you would say.

A. Moss (Cr.-Ex.) - 23

1 74. Q. Okay, but this area that we see to the
2 -- when we're looking at the left side of the
3 photograph, like pedestrians can walk along there.

4 A. Yeah, when it's cleared like this,
5 correct. Yeah.

6 75. Q. Right. No one is going to be walking
7 along the area where the snow has covered that area.
8 No one is ---

9 A. No.

10 76. Q. --- walking along there?

11 A. Not with the snow. No.

12 77. Q. Okay.

13 MR. LOKAN: (Indiscernible)?

14 THE WITNESS: Sorry, I didn't -- I didn't
15 catch that?

16 MR. LOKAN: I'm sorry, I shouldn't ---

17 MS. DOWN: Yeah, it's all right.

18
19 BY MS. DOWN:

20 78. Q. I mean, I think my point is, my next
21 question is, this doesn't -- this doesn't show that --
22 that pedestrians are being impacted because there's --
23 it's clear that they're not going to walk on the snowy
24 part. They're going to walk on the cleared pavement
25 part. Is that fair to say?

A. Moss (Cr.-Ex.) - 24

1 A. In this particular circumstance, yes.

2 79. Q. Yeah, okay. And it doesn't -- this
3 does not show that the tent -- this doesn't seem to
4 show a dangerous situation of proximity to the road
5 because there's a pretty wide area. And then it looks
6 like there's an actual physical barrier between the
7 bike lane or walkway and the road. Is that accurate?

8 A. Sorry, is that a question?

9 80. Q. Yeah, that -- I'm just -- I'm just
10 saying, I don't -- I don't see where it's proximate to
11 the -- like, it doesn't seem to be very close to Weber
12 Street because there's a wide of area of pavement and
13 then a physical barrier before someone is on the road.
14 Is that not what you're seeing in this photograph as
15 well?

16 A. Yeah, so if you take the angle from the
17 other side, this is looking at one angle. If you take
18 it on the other corner where the resident, Tony, was,
19 there was a lot of debris and a lot of belongings that
20 would spill out onto Victoria.

21 81. Q. Okay, but this is -- this photograph is
22 not showing that.

23 A. Right, this is one angle, yeah.

24 82. Q. I am going to move now to Paragraph 32.
25 So, in Paragraph 32, you mentioned -- that's dealing

1 with Sanguen with the health community mobile health
2 van.

3 A. Right.

4 83. Q. In Paragraph 32, you say that:

5 "... Sanguen informed the Region
6 that it will no longer be
7 providing services at the
8 encampment due to escalating
9 violence ..."

10 That's in Paragraph 32.

11 A. Correct, yeah.

12 84. Q. Okay.

13 A. (Indiscernible) ---

14 85. Q. We had been advised ---

15 A. Sorry.

16 86. Q. --- that it was actually the Region who
17 called Sanguen to advise them that there was a
18 security concern. And then in response to that
19 regional communication that Sanguen temporarily paused
20 to assess the risk themselves.

21 A. So I can't -- oh, sorry, are you done?

22 I didn't know ---

23 87. Q. No. So I just -- so my question is, so
24 it is inaccurate to say that Sanguen temporarily
25 withdrew its services on its own initiative.

1 A. So I can't really comment on that
2 because that falls under -- I -- I've got to look up,
3 sorry, if you look up, Mr. Pettipiere may look after
4 that aspect with Sanguen.

5 88. Q. Okay. So you have ---

6 A. (Indiscernible).

7 89. Q. --- no direct knowledge ---

8 A. No, I don't.

9 90. Q. --- of that?

10 A. I don't get involved with the -- like
11 that Sanguen group or -- so I can't comment on that.

12 91. Q. Okay, so it was Mr. Pettipiere who
13 informed you about that?

14 A. Yes.

15 92. Q. Okay. And so, you know, our suggestion
16 is that Mr. Pettipiere's comment to you was inaccurate
17 because we have an affidavit that we're going to be
18 filing where Sanguen says no -- the Region -- we
19 didn't say we're not coming back because we've decided
20 it's dangerous or there's escalating violence, we got
21 a call from the Region telling us there was a problem,
22 and then we did our own assessment.

23 You don't have any information that
24 contradicts that?

25 A. I can't, no. Like I couldn't speak to

1 that because like I said, I don't get involved in that
2 aspect.

3 93. Q. Okay.

4 MR. LOKAN: These two paragraphs are on
5 information and belief from Mr. Pettipiere
6 so if you ---

7 MS. DOWN: Yeah, it didn't actually say that
8 in the affidavit and so ---

9 MR. LOKAN: It actually does ---

10 MS. DOWN: Oh, it does say -- it does say,
11 yeah, okay. But it's still -- it's still
12 open for us to cross-examine him on these.

13 MR. LOKAN: Of course, but I was -- what I
14 was going to say that if you have any
15 request by way of undertaking to take a
16 question back to Mr. Pettipiere given that
17 he was the source of information and belief
18 ---

19 MS. DOWN: Okay, I mean we could get an
20 undertaking for him to confirm that it was
21 the Region that contacted Sanguen and that
22 it wasn't the other way around, it wasn't
23 Sanguen informing the Region.

24 THE WITNESS: I'm sorry, that's not for me,
25 right? Is that ---

A. Moss (Cr.-Ex.) - 28

MS. DOWN: That's right, you're off the hook
for that part.

THE WITNESS: Okay.

MS. DOWN: That's affirmative
(indiscernible) answer.

THE WITNESS: Okay.

MR. LOKAN: I'm just getting that down, yes,
we'll give that undertaking.

UNDERTAKING

BY MS. DOWN:

94. Q. Okay, I guess, just in follow-up, so
you can't -- just Aaron, this is for you.

A. Yes.

95. Q. You can't say that it's -- whether it's
true or not about -- you have no way to know whether
it's true or not that -- like the suggestion that
Sanguen permanently withdrew to escalating violence?

We're suggesting that's not true. You don't
really have any information to contradict that?

A. No, I don't. I couldn't -- yeah, I
don't know.

96. Q. Okay.

A. Yeah.

97. Q. And just further on that, our

1 suggestion -- our information is that we've been
2 advised that Sanguen, after assessing it -- the
3 situation, they made the decision to resume services.
4 And you have -- that has been put on the record by
5 your counsel. So you would agree with that?

6 A. Yes.

7 98. Q. Okay. Give me one moment here. I am
8 going to just pause for this one but almost done.
9 Yes. Just a few more questions.

10 So at paragraph -- well, I have it as
11 Paragraph 37. It's the paragraph where you say that
12 -- Mr. Pettipiere informed you that:

13 "... There are no existing residents and
14 that 39 individuals who were existing
15 residents have left the encampment and
16 are no longer residing there ..."

17 Do you know where those people are now?

18 A. No, I wouldn't -- yeah, no, I wouldn't
19 know. I haven't asked the question where they've
20 gone.

21 99. Q. Okay.

22 A. Yeah.

23 100. Q. So it is possible that they could be
24 back on the street and living in a tent?

25 A. I wouldn't be able to answer that. I

1 don't know.

2 101. Q. Okay. You don't know, that's fine.
3 And similarly the 25 individuals that were assisted by
4 the Region in finding alternate indoor accommodation,
5 is there any information you can provide to us about
6 where they are now?

7 A. No, I think that would be more of a
8 question for Mr. Pettipiere or Mr. Sweeney. That
9 would be their aspect -- or their -- I don't what you
10 call that, their forte? I don't know.

11 102. Q. Okay.

12 A. Yeah.

13 103. Q. Can we get an undertaking that Mr.
14 Pettipiere provide us with -- if whether -- if --
15 sorry.

16 Can we get an undertaking for Mr. Pettipiere
17 to provide us with any information that the Region has
18 on the whereabouts of the 39 existing residents who
19 have left the encampment and are no longer residing
20 there?

21 Or the 25 individuals who were assisted in
22 finding alternate -- I guess they're part of the 39.

23 MR. LOKAN: Yeah. I'll give that
24 undertaking.

25 **UNDERTAKING**

1 BY MS. DOWN:

2 104. Q. And Paragraph 38, there's the updated
3 information that there's 10 -- well, 10 to 12
4 individuals regularly on-site and only one to three
5 are staying.

6 One of the things I wanted to ask you about
7 that is it's sometimes -- would you agree that
8 sometimes it's very hard for people to know who is at
9 the encampment at any given time because of the
10 ability to enter or exit the encampment from different
11 parts of the property?

12 A. So again, yeah, but again that would
13 fall under the purview of the unsheltered support
14 workers.

15 105. Q. Okay.

16 A. No, I don't -- yeah.

17 106. Q. But you've been down there.

18 A. Yeah.

19 107. Q. So you probably are familiar with the
20 fact that, you know, you can come onto the encampment
21 from the Weber Street side. You can come onto the
22 encampment from the Victoria Street side.

23 It's almost -- I am going to suggest it's
24 almost impossible to be monitoring all parts of the
25 property to know, you know, to see who is coming on

A. Moss (Cr.-Ex.) - 32

1 and who is leaving. Is that fair to say?

2 A. Yeah, again, I -- it would be a
3 complete guess on my part on how that -- how they work
4 that. I don't know.

5 108. Q. Right. I am just asking you based on
6 your knowledge of how the property is set up in the
7 tents.

8 Like do you agree it is hard to tell -- you
9 know, it's hard to -- if you're standing at one side
10 of the property, you can't necessarily see what's
11 happening if you were over by the, say the port-a-
12 potties.

13 You can't really see what's happening on the
14 Weber Street side of the encampment because of the
15 structures and the tents that are there.

16 A. Yeah, it would be hard to see on the
17 one side to the other. Yeah.

18 109. Q. Yeah. And is it your experience that
19 it's a feature of the encampment that the number of
20 people who use it, it varies day to day, weekly,
21 monthly, seasonally?

22 A. Yeah, like the summertime would be more
23 -- well, what I've seen and the numbers that is
24 provided by the unsheltered support work, that group,
25 is that the numbers fluctuate through the year.

A. Moss (Cr.-Ex.) - 33

1 110. Q. Right. And you probably observed that
2 first-hand yourself because you've been there on a
3 number of occasions?

4 A. Talking to the residents that are there
5 one day and then not there the next time or they're
6 back, type of deal. Yeah.

7 111. Q. Right. So there's a -- I think it's
8 fair to say that there's a lot of movement in and out
9 of the encampment, not just day-to-day but, you know,
10 month-to-month and season-to-season?

11 A. Yeah, it fluctuates. Yeah.

12 112. Q. Okay. And is it, in your experience in
13 the time that you've been working at the Region -- and
14 I think you just mentioned that in the spring and
15 summer, the population tends to grow significantly?

16 A. Yeah, it fluctuates from wintertime to
17 summertime, to fall to ---

18 113. Q. Okay.

19 A. It fluctuates, yeah.

20 114. Q. And the fluctuation from winter to
21 spring is that it's trending upwards. It's as the
22 weather gets nicer, there's more and more people who
23 are moving into the encampment?

24 A. Yeah, like there's more people based on
25 the -- I would have to look at the numbers to confirm.

1 I don't want to tell you something that is not ---

2 115. Q. Yeah, I just ---

3 A. --- true.

4 116. Q. I'm just -- I'm just like ---

5 A. Yeah.

6 117. Q. I'm asking you based on your
7 experience, say last spring ---

8 A. Okay.

9 118. Q. --- like, you know, when you were going
10 there in May, like the difference between, say, going
11 there at this time of year in February and being
12 there, say, at the -- in April or in May. Did you
13 notice a trend upwards in the numbers?

14 A. Yeah, I'd have to go back and look at
15 -- yeah. But like I said, it fluctuates, right? It
16 fluctuates at any given time.

17 119. Q. Okay. I am just going to take a brief
18 pause. I think we're done but just give me a brief
19 one minute. And then I'll be right back.

20 A. Okay.

21
22 --- BRIEF PAUSE

23
24 120. Q. A couple more questions. So,
25 Charlotte, can you put up the Exhibit C, the other

1 photograph?

2
3 --- SCREENSHARE

4
5 121. Q. All right, so this is from a different
6 angle. It's almost -- it's not exactly the opposite
7 angle of the other photograph.

8 A. Yeah.

9 122. Q. But I am trying to see -- so again, I
10 am having a hard time seeing where the tent is
11 spilling onto the sidewalk or close to the road.

12 A. Yes. So if you -- I don't know, do you
13 see the structure to the left of the pylons?

14 123. Q. Yes.

15 A. So right behind there, there -- one of
16 the residents that lived there, his name is "Tony," he
17 is a fantastic person. That whole corner there, it's
18 bad -- it's not a good angle.

19 But that corner right there, that's where he
20 has his belongings and it was coming out onto the
21 sidewalk to a -- like you actually had to walk close
22 to the road to get around it.

23 Now we work with Tony, he's great. He does
24 what he can but there was a lot of stuff spilling out.

25 124. Q. Okay. But the sidewalk there is

A. Moss (Cr.-Ex.) - 36

1 actually -- it, like closer -- like so the sidewalk is
2 the corner, right? That's showing us the corner of
3 Victoria and Weber and the crosswalk going up to the
4 sidewalk.

5 So that structure -- I don't know what that
6 is, it's something that says something about this
7 area. But the sidewalk is on our side ---

8 A. Yeah, it goes ---

9 125. Q. --- like on the viewer's side.

10 A. Yeah, it goes around there and as soon
11 as it goes around that corner, that whole corner there
12 -- again, it gets cleaned up every -- I normally go
13 there and clean it up, push it, the stuff back off the
14 sidewalk.

15 126. Q. Okay, so he -- I mean, he has -- you're
16 saying Tony has been compliant, he's -- he's trying to
17 help when he can.

18 A. He -- he tries. He's one of the
19 residents that tries very hard to work with us. Yeah.

20 127. Q. Okay. I appreciate that comment, so
21 thank you for that.

22 Those are my questions, subject to any
23 questions in -- so I am done. I don't know if,
24 Andrew, you have anything in reply?

25 MR. LOKAN: I have a couple of brief

A. Moss (Re-Ex.) - 37

1 questions in re-exam. Mercedes, is there
2 anything from the Amicus?

3 MS. PEREZ: Not from me. All the areas I
4 would have asked about have been covered.
5 Thank you.

6 MR. LOKAN: Okay. I just want to go back to
7 Exhibit B, if we can put the Exhibit B photo
8 up.

9
10 --- SCREENSHARE

11
12 RE-EXAMINATION BY MR. LOKAN:

13 128. Q. And I am seeing a line down the middle
14 of the clear path to the left of the tents. Is that a
15 pedestrian or is that a bike path or is that
16 (indiscernible)? Could you tell us what that is?

17 A. Sorry, just for clarification, like to
18 where the snow is or where -- right in front?

19 129. Q. Right in front. So what's showing no
20 snow and ---

21 A. Oh, sorry.

22 130. Q. --- and a gold yellow line down the
23 middle?

24 A. Yes. Sorry, that's a -- yes. That's a
25 pedestrian walkway and a bike path.

1 131. Q. Combined?

2 A. Combined, yes.

3 132. Q. Okay. You mentioned in your cross-
4 examination that at the moment, it's showing clear.
5 Is it always clear?

6 A. No, it is not always clear. It just --
7 the day that this picture was taken, it was cleared
8 and salted by the city or ---

9 133. Q. Okay. And just to help orient us, you
10 talked about Tony and Tony's tents and belongings
11 spilling out onto the sidewalk.

12 Is it possible to indicate where in this
13 picture it would be? Is that the corner that the path
14 leads to, if you just go along a little further to the
15 right?

16 A. So where that van is turning ---

17 134. Q. Yeah.

18 A. --- if you go to the right, that --
19 there's that structure right there. To the right of
20 that, that's where Tony's residence was.

21 135. Q. And by residence, you mean his tent?

22 A. His tents, his -- he had a couple of
23 structures. He had a -- a wooden structure and then a
24 tent over top of the one side and then his belongings,
25 like tables and chairs and so on and so forth.

A. Moss (Re-Ex.) - 39

136. Q. Okay, and it's the belongings that were
spilling out onto the ---

A. Correct.

137. Q. Okay.

A. Yeah.

138. Q. Okay. I don't have any further
questions in re-exam.

MS. DOWN: Okay, thank you very much, Mr.

Moss. I appreciate your assistance today.

THE WITNESS: Okay, it was nice meeting you
all.

MS. DOWN: Nice meeting you.

MR. LOKAN: Thank you.

--- WITNESS EXITS ZOOM

MR. LOKAN: So we are done.

--- ADJOURNED

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.

BarPollard

Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
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the original signature of Barbara A. Pollard, C.C.R.,
and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

EXHIBIT “1”

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Top Skills

Operations Management
Environmental Awareness
Waste Management

Certifications

Coach Your Team to Learn, Stretch, and Grow
Coaching and Developing Employees
Coaching Employees through Difficult Situations
Contracting for Consultants
Change Leadership

5754

Aaron Moss

Director of Facilities and Fleet at the Region of Waterloo
Greater Kitchener-Cambridge-Waterloo Metropolitan Area

Summary

Experienced Fleet Manager with a demonstrated history of working in the government administration industry. Skilled in Operations Management, Environmental Awareness, Fleet Management, Environmental Services, and Business Development. Strong support professional graduated from Mohawk College.

Experience

Region of Waterloo
Director
March 2024 - Present (2 years)
Canada

City of Brampton
Manager of Fleet Services
May 2017 - March 2024 (6 years 11 months)
Brampton Ontario

Conestoga College
Teacher
January 2020 - November 2020 (11 months)
Guelph, Ontario, Canada

Waste Management
Senior District Fleet Manager
November 2011 - April 2017 (5 years 6 months)

Education

Mohawk College
310T License , Heavy Equipment Maintenance Technology/
Technician · (1995 - 1999)

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Sara Escobar** on her affidavit dated February 20, 2026, taken via Zoom videoconference on consent of the parties on March 2, 2026.

APPEARANCES:

ANDREW LOKAN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHIUTEMA, Ms. Counsel for the Respondents
JOANNA MULLEN, Ms.

MERCEDES PEREZ, Ms. Amicus Curiae

(i)

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1 MARCH 2, 2026

2
3 SARA ESCOBAR, AFFIRMED

4 CROSS-EXAMINATION BY MR. LOKAN:

5 1. Q. Good afternoon, Sara.

6 A. Good afternoon.

7 2. Q. And just to remind you, I'm Andrew
8 Lokan, a lawyer for the Region in this matter. And I
9 just have some questions for you on your third
10 affidavit which I think was affirmed on -- I'll just
11 check the date -- February 20th?

12 A. Yes.

13 3. Q. Thank you. And you have that affidavit
14 accessible to you?

15 A. I do.

16 4. Q. And you don't have any other materials
17 accessible to you at the moment?

18 A. No, I just have Peter Sweeney's
19 affidavit and his fifth affidavit and just the
20 Schedule C, the transitional protocol in front of me.
21 That's all.

22 5. Q. Okay, and sorry, the Peter Sweeney
23 affidavit, did you mean the -- just the fifth or
24 you've got ---

25 A. Yes, just -- just the fifth.

1 6. Q. Fifth, okay, right. Thank you. I am
2 just going to remind you of a couple of ground rules.
3 The first is if you're unclear on any question, you
4 can ask to have it repeated.

5 A. Okay.

6 7. Q. If you don't understand something, you
7 can ask for a clarification. Also we should try not
8 to talk over each other because the transcript doesn't
9 work out very well if that happens. And, finally,
10 that's -- you should answer always with a "yes" or a
11 "no," if you mean yes or no and avoid using "uh-huh"
12 because that's ambiguous on the transcript.

13 A. Okay.

14 8. Q. Thank you. So, Sara, I take it you are
15 still working at the YWCA Women's Shelter in
16 Cambridge?

17 A. I am.

18 9. Q. Okay, and that is -- that's a facility
19 that's fully funded by the Region?

20 A. I think the opening was, yes.

21 10. Q. Okay, thank you. Now you've given some
22 evidence about something called "HIFIS" which stands
23 for Homeless Individuals and Families Information
24 System?

25 A. Yes.

1 11. Q. Thank you. I understand that from your
2 position working with the Cambridge YWCA Women's
3 Shelter, you have access to HIFIS but it's of limited
4 access, is that right?

5 A. Correct.

6 12. Q. Okay. And the Region would have full
7 access to those numbers on an ongoing basis?

8 A. I would imagine that's a difference.

9 13. Q. Okay. And you appended to your
10 affidavit as Exhibit A an analysis of HIFIS numbers.
11 And you say that's done by First Connect?

12 A. That -- First Connect also has access
13 to those numbers, yes.

14 14. Q. Right. And First Connect is another
15 agency also funded by the Region?

16 A. I don't know who they are funded
17 through.

18 15. Q. Okay. But you don't yourself work with
19 First Connect? You're not an employee of First
20 Connect?

21 A. No. First Connect is the number that
22 we call whenever folks -- or people -- community can
23 call when they need an emergency shelter bed.

24 16. Q. Right. I just want to go through to
25 understand some of the numbers on the capacity of the

1 system. And you gave some information in your
2 affidavit which was drawn from the First Connect
3 analysis. And I take it from what you told me a
4 little before, you have had a chance to look over the
5 -- the fifth Sweeney affidavit? And ---

6 A. Correct. Yes.

7 17. Q. So there is a slight discrepancy and
8 it's not very big so I am not going to get too excited
9 about it. But you reported 351 emergency shelter beds
10 and Peter Sweeney in his affidavit says it's 356?

11 A. I would agree.

12 18. Q. Yeah. But I just want to make sure
13 that I understand what is not -- what is and is not
14 included in that.

15 In your Paragraph 11, you outline a further
16 175 transitional housing spaces.

17 A. Mm-hmm, yes.

18 19. Q. And that's in addition to the 351 or
19 356? Is that right?

20 A. Transitional housing spaces operate a
21 bit slightly different than emergency shelter beds.
22 So that is correct.

23 20. Q. Okay. And you also didn't include in
24 the 356 -- and I am just trying to understand the
25 categories. We can later talk in court about what has

S. Escobar (Cr.-Ex.) - 7

1 what importance and for what reasons. But just to get
2 an idea, a bit of a census here, you didn't include
3 the motel and family category.

4 A. No, in which numbers?

5 21. Q. That's not included in the 356 and it's
6 not included in the 175.

7 A. Those function differently than the
8 emergency shelter beds that an individual, male or
9 female or gender-diverse person would be accessing.

10 22. Q. Right. And when you say, "those
11 function differently," it's fair to say that the
12 Region deals directly with the motel -- with the
13 motels for motel placements?

14 A. Some of them. I think what it's fair
15 to say is that it's, at best, confusing to how any of
16 the programs can sometimes be accessed.

17 23. Q. Right. But they are -- they are in
18 addition to the categories we talked about so far?

19 A. Yeah. And in -- for a very specific
20 category of people.

21 24. Q. For a specific category?

22 A. Correct. For the family transition is
23 for families.

24 25. Q. Right.

25 A. For example.

1 26. Q. Is that run by YWCA Kitchener?

2 A. I don't know.

3 27. Q. Okay.

4 A. It's various agencies.

5 28. Q. Okay, and the numbers on that, it's my
6 understanding they -- there's not a set capacity.

7 That varies according to the needs and according to
8 what's available. Do you have any understanding of
9 that?

10 A. Of which beds?

11 29. Q. The motel and for family categories?

12 A. Those -- yeah, they would change
13 however the agency that is managing them would want to
14 or need to.

15 30. Q. Okay. You included in your affidavit
16 as Exhibit B, a slide deck presentation. And in your
17 Exhibit B, I understand that -- the source of that was
18 the Region of Waterloo?

19 A. Yes.

20 31. Q. Okay. And if we look at the fourth
21 page in -- so I think that's PDF 86?

22 A. Sorry, which -- which page on that
23 document? Are you talking -- what's the title of the
24 document?

25 32. Q. We can screenshare that. The title of

1 the document is your Exhibit B.

2 A. Mm-hmm.

3 33. Q. Per 2025 HSS Data Update.

4 A. Okay.

5 34. Q. And the fourth page in. I'm just
6 pulling it up to screenshare. Can you see that?

7
8 --- SCREENSHARE

9
10 A. Yeah. Okay, yes.

11 35. Q. Yes. And we have talked about
12 emergency shelter and that's the 356. We talked about
13 transitional housing and your description, actually,
14 in Paragraph 11, comes to 175 transitional housing
15 places. And you agree with me on that, yes?

16 A. Yes.

17 36. Q. And then just to get an idea of the
18 numbers, the average number of individuals reported
19 here for motel and family are 81 and 59, respectively.

20 A. Mm-hmm.

21 37. Q. Do you see that?

22 A. I see that.

23 38. Q. Now, I don't know across how many dates
24 that's the average but that's -- that's what's
25 reported in a source that you relied on in your -- in

1 preparing your affidavit. Correct?

2 A. Correct.

3 39. Q. So between these two, they account for,
4 at least at this time, November of 2025, approximately
5 140 people?

6 A. That's if you're -- are you adding the
7 number of transitional motel and family? Is that how
8 you got that number?

9 40. Q. No, I'm adding the number of motel and
10 family.

11 A. Okay.

12 41. Q. I wasn't adding ---

13 A. I'll trust your math.

14 42. Q. Okay. And you may not know -- you may
15 not have any sense of how many people are in motels at
16 any one time or in the family program at any one time?

17 A. It fluctuates.

18 43. Q. Okay. And you don't run either of
19 those programs. And you may not have visibility into
20 how many rooms there are?

21 A. Correct.

22 44. Q. Okay. And just to understand "the
23 family," is that also a -- that category also a motel
24 program but it's family rooms?

25 A. Correct.

1 45. Q. Okay, thank you. Now, I'll take that
2 down. There is also something called "A Better Tent
3 City" that you're aware of?

4 A. Yes.

5 46. Q. And in the Sweeney affidavits, his
6 Exhibit F, he gives an occupancy number for "A Better
7 Tent City," or a capacity number for a "A Better Tent
8 City" of 50.

9 A. Okay.

10 47. Q. And I take it that that is something
11 you're generally aware of, the existence of "A Better
12 Tent City?"

13 A. I am aware of the existence of "A
14 Better Tent City."

15 48. Q. But you may not, yourself, know the
16 number of spots that represents?

17 A. It fluctuates, yeah. You're right, I
18 don't know how they run it.

19 49. Q. But in any event, that's in addition to
20 what we looked at so far. The 356 emergency, the 175
21 transitional, the approximately 140 motel and family,
22 there is another capacity about (indiscernible) 50
23 reported by the Region for "A Better Tent City?"

24 A. That -- that are -- like that are
25 people that spaces that are full. Is that what you

1 mean? Fifty spaces ---

2 50. Q. That's ---

3 A. --- that people live in now?

4 51. Q. That's their capacity?

5 A. Yes.

6 52. Q. Okay. Thank you. And also in your
7 affidavit, you didn't include Peter's reports on --
8 which are "warming centres" and he gives a number as
9 of his affidavit, February 27th of 177?

10 A. Okay.

11 53. Q. And is that -- again, if you don't know
12 those numbers, that's fine. But is that in line with
13 your understanding?

14 A. Yeah, no, I understand that those
15 numbers tend to go up in the winter and then they'll
16 eventually will -- those spaces will close in the
17 spring.

18 54. Q. Right, yeah. But ---

19 A. They are scheduled on close.

20 55. Q. They're winter warming centres and when
21 winter is over ---

22 A. I think it's just important to name
23 that they will close.

24 56. Q. Yeah. We're agreed on that.

25 A. Mm-hmm.

1 57. Q. Peter says in his affidavit. We also
2 dealt with that in the previous -- in the previous
3 round. But, yes, there is no dispute on that.

4 A. Mm-hmm.

5 58. Q. Could I take you to Paragraph 14 of
6 your affidavit?

7 A. Okay, I am there.

8 59. Q. And it just looked like something might
9 have gotten garbled there. Because if you look at the
10 second sentence after Footnote 2, just after Footnote
11 2.

12 A. Mm-hmm.

13 60. Q. You should be saying "yes" or "no."
14 That one didn't really count but do you see that?

15 A. Sorry. I see Paragraph 14. Are you
16 speaking where it says "The Region's website also
17 states?"

18 61. Q. Sorry.

19 A. Is that where you are?

20 62. Q. No, that's all first sentence. The one
21 starting with, "It's my understanding."

22 A. Okay, I see that.

23 63. Q. "... It is my understanding that the
24 general waitlist is eight to ten years
25 long. Police do not have access to the

1 waitlist in my experience ..."

2 That looks like something got garbled
3 there.

4 A. Typo, yeah.

5 64. Q. Okay.

6 A. It's supposed to -- I think it's -- it
7 should read "the public."

8 65. Q. The public does not have access to the
9 waitlist?

10 A. Correct.

11 66. Q. So you don't have -- you don't know
12 about that number?

13 A. Correct. Well, we know that that is
14 how long the waitlist is. By "the public," I mean if
15 I'm supporting somebody that would like to know --
16 they've been on the list for six years and they'd like
17 to know how close they are to receiving an offer of
18 housing, they cannot tell us that.

19 So we don't know where people are actually
20 on the list. But we do know that it's an average of
21 ten to -- eight to ten years right now.

22 67. Q. And you say, "It's my understanding,"
23 and what's that understanding come from?

24 A. My experience of the work and being
25 able to accompany folks through this process.

1 68. Q. So at least in the past leading up to
2 now, it's been eight to ten years?

3 A. We -- yeah, yes.

4 69. Q. Okay.

5 A. And then it has significantly grown.
6 When I first started this -- well, if I go back about
7 ten years or so, the list was somewhere between three
8 to five, and it steadily grew from there.

9 70. Q. Right. We know that we've had
10 increases in numbers in unhoused individuals. There
11 is some suggestion that the numbers may be now getting
12 lower. But we know that there was a big change
13 between 2021 and 2024 in Point in Time counts.

14 So that would coincide with that increase,
15 is that fair?

16 A. I think it -- yes.

17 71. Q. Okay. Now, you understand -- do you
18 ever visit the encampment yourself, Sara?

19 A. I do. I haven't in a little while.

20 72. Q. Okay. Do you understand that as of
21 last April 16th, there were approximately 40 people
22 residing at 100 Vic?

23 A. Yes.

24 73. Q. Okay. And you also understand that --
25 I am not talking about the amendments but prior to the

1 amendments -- there was a plan that went with the
2 bylaw that added capacity to the system?

3 A. To the what system, sorry?

4 74. Q. To the system for being able to
5 accommodate unhoused individuals.

6 A. Sure, yes. There is always changes.

7 75. Q. There's always changes but ---

8 A. Mm-hmm.

9 76. Q. --- it's Peter Sweeney's evidence that
10 the -- that under that plan, the capacity being added
11 was that it would be enough to account for
12 approximately 40 people.

13 A. Okay.

14 77. Q. So if that evidence is believed, do you
15 accept that closing the encampment is not a net loss
16 in capacity? That is to say, you're taking away a
17 place where 40 people are residing but you're adding
18 room for 40 people to system?

19 A. I think for me, it's really important
20 to also know that if the 40 people from whatever area
21 are getting housed ---

22 78. Q. Yes.

23 A. --- and they are being prioritized,
24 there are other 40 people who have been on that
25 waitlist who are continuously getting bumped down.

1 That's how I ---

2 79. Q. (Indiscernible).

3 A. --- understand the system.

4 80. Q. That's what I was going to ask you
5 about. Because if you're reducing the system by 40,
6 but adding 40 back in, there's no need for people to
7 be de-prioritized, is there?

8 A. There's an eight to ten-year waitlist.

9 And this -- I think if the math that you're trying to
10 -- and I'm trying to figure out if this is what you're
11 saying.

12 Because if you added 20 new units, it should
13 also alleviate the pressure of the ten -- eight to ten
14 years.

15 81. Q. Right.

16 A. Right. Because those folks have been
17 already in that wait list.

18 If you prioritize a new group on top of that
19 group, it doesn't matter if they are new units or not.
20 Because the new units are not sufficient to house
21 everybody in the 10-year waitlist.

22 82. Q. Okay, so ---

23 A. So if you're prioritizing, you're
24 always prioritizing them above somebody else. That's
25 all I am saying.

1 83. Q. Okay. But just take a hypothetical.
2 Let's say we're dealing with the eight to ten-year
3 waitlist.

4 A. Mm-hmm. Yes.

5 84. Q. Add 40 new units to that.

6 A. Yes.

7 85. Q. And then you put 40 people in them.

8 A. Yes.

9 86. Q. You haven't changed the position of
10 anyone below them on the waitlist at all, have you?
11 They still face the same eight to ten years.

12 A. That's the point.

13 87. Q. It's neutral, is what I am suggesting
14 to you. It doesn't leave anybody any worse off, it's
15 neutral. That's what I am suggesting to you.

16 A. I am going to have to disagree. Sorry.

17 88. Q. Okay.

18 A. I am not agreeing with your neutral
19 statement. And the neutrality is what's killing
20 people now. So any "neutral" decisions that people
21 are making, it's always leaving somebody else behind.

22 89. Q. Okay. Let me just see if I understand
23 what you're saying. Who is being left behind?

24 A. If you're prioritizing 40 new people
25 that are -- let's they're in position 100 in a

1 waitlist of a hundred people ---

2 90. Q. Yeah.

3 A. --- there's 99 people ahead of them and
4 there's 40 new units come up, say there was 40 already
5 existing. So the first 80 people will get housed on
6 that list including the 40 people that were just
7 prioritized.

8 Which means that the rest of that -- they
9 have been prioritized ahead of the other people that
10 -- so 40 housed -- there was still 60 left. But if
11 you move these 40 in ---

12 91. Q. Yeah.

13 A. --- the 60 get pushed down.

14 92. Q. They don't get pushed down if there's
15 40 new units though.

16 A. Okay.

17 93. Q. I mean, yeah, am I missing something?

18 A. I don't -- I don't know.

19 94. Q. Okay.

20 MS. SCHIUTEMA: I mean, I think she said she
21 disagreed with you, Andrew, right?

22 MR. LOKAN: She did. And what sense we make
23 of the explanation will be for the court.

24 Thanks.

25

1 BY MR. LOKAN:

2 95. Q. Are you aware, Sara, that there are
3 other encampments in the Region of Waterloo besides
4 100 Vic?

5 A. I am aware that there are community
6 members who are needing to camp and tent in different
7 spaces, yes.

8 96. Q. Okay, so just factually. And I am not
9 asking about legal status but factually, there are
10 other encampments, smaller ones.

11 A. Yes. I am aware of folks camping other
12 places.

13 97. Q. Do you have any sense of how many there
14 are?

15 A. I could take a guess but this isn't the
16 place to take guesses so I can't ---

17 98. Q. Okay.

18 A. Yeah. They continue to grow; that I
19 can say. The number of encampments continue to grow.

20 99. Q. Okay. In your affidavit towards the
21 end, you expressed some views on the position of those
22 who are of the encampments and who do not meet the
23 definition of resident.

24 So this would be in your section called,
25 "Support for Non-Residents." And that's ---

1 A. Okay.

2 100. Q. --- Paragraph 24 -- 24 to 26.

3 A. I see it.

4 101. Q. Okay. And again, I just want to
5 understand your evidence. What I understood you to be
6 saying is that it does not help this particular group
7 to be taken into the housing stability system because
8 that probably means just adding them to HIFIS.

9 A. Sorry, what is it that you're -- which
10 paragraph in particular? Or are you just rephrasing
11 -- paraphrasing what I wrote here?

12 102. Q. You say -- in Paragraph 24 you
13 describe:

14 "... Being taken into the housing
15 stability system as a very meaningless
16 offer ..."

17 A. Okay. Yeah, I see that.

18 103. Q. And so why do you say it's
19 "meaningless?"

20 A. Our system is at capacity. Our system
21 as it exists and we sit right now, is at capacity.

22 104. Q. Okay, well, there's the evidence of
23 both you and Peter and we're -- depending on the
24 particular night and depending on the particular
25 count, it looks like around about 95 percent capacity

1 most nights.

2 A. Correct.

3 105. Q. Or so.

4 A. Okay.

5 106. Q. So you're aware that people from the
6 encampment who are not original residents as of April
7 2025 have been placed over the last year?

8 A. I am aware that the Region's position
9 is that they are no longer residents of the encampment
10 and that's how they are described.

11 107. Q. Right, and I wasn't actually asking you
12 that question. Are you aware that there are those
13 that don't qualify as residents under the definition
14 but who have been placed in alternative accommodation?

15 A. Sorry, what's your question?

16 108. Q. Are you aware of that?

17 A. Yes. There's -- outreach workers are
18 doing their jobs all the time.

19 109. Q. Right.

20 A. There are 2,300 people that are
21 accounted for that need housing.

22 110. Q. And it's the Region's evidence about 22
23 of those occupants who do not qualify as residents
24 under the original bylaw have been placed in the last
25 10 or 11 months.

1 A. Okay.

2 111. Q. You wouldn't know about those numbers;
3 that's not part of your job?

4 A. It's part of what we hear -- I know
5 that we've received -- we've -- at the -- people go
6 all over the place and so I am sure that some of those
7 folks have also been offered different spaces and
8 given different spaces, yes.

9 112. Q. Okay, thank you.

10 A. Lots of people have come through there.

11 113. Q. Were you aware of a series of fires at
12 100 Vic ---

13 A. Yes.

14 114. Q. --- earlier this month?

15 A. Yes.

16 115. Q. And how were you aware of that and from
17 -- learning from other people, from people at the
18 encampment?

19 MS. SCHIUTEMA: I mean, I am going to
20 interrupt for just a second and say like
21 this is completely outside of the scope of
22 Sara's affidavit. So I don't know if it's
23 appropriate to be asking her these
24 questions.

25 MR. LOKAN: I am just going to put a

1 position on the record which you're free to
2 look at and agree or disagree with. There
3 is no rule of evidence that says that you
4 cannot ask questions beyond the four corners
5 of an affidavit.

6 There is a rule of evidence that says
7 you can't ask irrelevant questions,
8 questions that are irrelevant to the
9 application. But there's nothing that says
10 you can't -- that you're bound by what an
11 affiant has put before the court. That's
12 the Region's understanding of what the
13 relevant rule of evidence is. Now ---

14 MS. SCHIUTEMA: Okay.

15 MR. LOKAN: --- (indiscernible) will note
16 your objection for the record and I'll go
17 on.

18 MS. SCHIUTEMA: So I mean, I guess you can
19 put the questions to her but if she can't
20 answer them, she can't answer them.

21 MR. LOKAN: That's understood.

22
23 BY MR. LOKAN:

24 116. Q. So I was asking about the source of
25 your knowledge. Is this from reading in the media or

1 is this from hearing on -- from people on the sites?

2 A. Community members.

3 117. Q. Okay. And I am going to show you a
4 newspaper article and just ask about that. We're just
5 screensharing.

6 MS. SCHIUTEMA: And I am probably going to
7 likely be objecting to -- like, you're not
8 going to be able to enter this for the truth
9 of the content of the article, right?

10 MR. LOKAN: That all depends but if you feel
11 like, Ashley, to have a mutual understanding
12 that no article or document can be relied
13 upon for the truth of its contents. We can
14 always do that.

15 MS. SCHIUTEMA: I mean, you can give her an
16 opportunity to look at it but like we're
17 going to be disputing whether or not this is
18 allowed in.

19 MR. LOKAN: Okay, that's fine. So I am
20 going to give you a minute, Sara, to look at
21 this article. And we can scroll down, it's
22 not very long.

23
24 --- SCREENSHARING
25

1 BY MR. LOKAN:

2 118. Q. I think that's the extent of it. First
3 of all, Sara, what is your understanding of the fire
4 that happened?

5 A. I don't have any understanding other
6 than I know that it happened.

7 119. Q. Okay, and have you been by the site
8 since the fire?

9 A. No.

10 120. Q. Okay. Had you taken note of this
11 article; had you read it at the time that it was
12 reported?

13 A. No.

14 121. Q. Okay. I am going to ask that we give a
15 letter and not a number for this document and call it
16 Exhibit A to the cross-examination.

17 MS. SCHIUTEMA: Well, she hasn't been able
18 to identify it. She hasn't -- she's not
19 aware of it so I don't think it should be
20 entered as an exhibit.

21 MR. LOKAN: It isn't entered as an exhibit
22 when you give it a letter. That's the whole
23 point of the letter.

24 A numbered exhibit is part of the
25 evidence. A lettered exhibit is for

1 subsequent identification.

2 MS. SCHIUTEMA: Okay.

3 MR. LOKAN: So we'll refer to this as
4 Exhibit A but that doesn't mean it's
5 evidence. And that's what we followed
6 through the earlier cross-examinations as
7 well.

8
9 EXHIBIT NO. A: Newspaper article

10
11 MR. LOKAN: Okay, you can take this down.

12
13 BY MR. LOKAN:

14 122. Q. Sara, you expressed a view in your
15 affidavit that -- and I am paraphrasing again here --
16 that once somebody is placed, the supports stop once
17 they have indoor shelter, the supports stop?

18 A. On the unsheltered workers.

19 123. Q. On the unsheltered workers. Okay, so
20 maybe it's -- maybe that's the source of the
21 disagreement. I am wondering if we could put up Peter
22 Sweeney's fifth affidavit, Paragraph 16.

23
24 --- SCREENSHARE
25

1 124. Q. Now, Peter Sweeney says that:
2 "... USW support continues when someone
3 comes indoors but remains in the
4 emergency shelter system. When someone
5 is housed in a market housing unit with
6 the assistance of a Canada-Ontario
7 Housing Benefit, a rental subsidy, the
8 USWs will support the person with
9 light-tech support regarding that
10 program for requirements for up to one
11 year to ensure a smooth transition ..."

12 Are you saying that he's wrong in that
13 or are you just saying that's not something you're
14 aware of?

15 A. I am stating that what I see on the
16 ground in real life in real-time, sees -- it's
17 slightly different than that.

18 125. Q. Okay, and when you say what you see on
19 the ground, I take it your source is unhoused
20 individuals who you've maintained contact with?

21 A. Correct. Unhoused individuals and
22 frontline workers.

23 126. Q. And when you say "frontline workers,"
24 who are you -- are you talking about the USW ---

25 A. A mixed -- a mix of -- a mix of workers

1 within the system.

2 127. Q. But you're not talking about the USWs
3 themselves?

4 A. Some of them, yes.

5 128. Q. Okay, so the USWs have told you that
6 there are no supports once people come indoors?

7 A. So I think -- so what I have heard from
8 -- from different workers is that the number of people
9 kept growing that they were supporting and there was
10 lots of really great things that were intended, like
11 what Peter has described.

12 And when the reality of the numbers really
13 began to hit, there was pressure that they needed to
14 just support folks -- there -- they had to concentrate
15 their work in the folks that were unhoused. So
16 anybody coming indoors was no longer considered
17 unhoused.

18 129. Q. So ---

19 A. And from the title of the worker,
20 that's how we understand the workers' role as well.

21 130. Q. So I just want to understand your
22 evidence. Despite what Peter says, you say there is
23 no such thing as My Touch Support as set out in
24 Paragraph 16 of Peter's affidavit?

25 A. Well, what I said was that the work

1 looks very different on the ground for me in real-time
2 and in real life.

3 131. Q. I understand what ---

4 A. Mm-hmm.

5 132. Q. No need to repeat that part but I just
6 want to understand what you're saying. Are you saying
7 it never happens or are you saying it happens perhaps
8 less frequently than it should?

9 A. Sure, we'll say it happens less
10 frequently than it should.

11 133. Q. Okay. And I take it you would say the
12 same thing about individuals in scattered site
13 supported housing and the ongoing regular support for
14 a minimum of one year that Peter speaks of?

15 A. Yes.

16 134. Q. And that would be true as well for the
17 fixed site supportive housing and where he says they
18 receive ongoing support for as long as they're living
19 in the unit and engaged with the team. Again, you'd
20 say not that it never happens, it's just that it's not
21 at the level it should be?

22 A. That people really need it, the -- the
23 USWs, right? The unsheltered support workers. We're
24 still speaking specifically about that role?

25 135. Q. I'm actually talking more generally

1 here because my understanding -- I may be wrong, but
2 people in fixed site supported housing, it may not be
3 only the USWs, there may be other resources available
4 to them?

5 A. It depends on the agency that is
6 providing that service.

7 136. Q. Okay. And do you disagree that for
8 those in transitional housing that they're getting
9 24/7 support from the staff team of the building
10 they're in?

11 A. I will agree that there is a staff
12 available for residents.

13 137. Q. Okay. And on cooperative housing, have
14 you heard of the position called "Tenancy Liaison
15 Specialist?"

16 A. For which housing, sorry?

17 138. Q. For cooperative housing?

18 A. Yeah, we don't have a lot of folks that
19 have moved into co-op housing so I know very little of
20 how co-op housing works.

21 139. Q. Okay. Thank you. Thank you, those are
22 my questions.

23 MS. SCHIUTEMA: I am just going to take a
24 couple of minutes to review my notes and see
25 if I have any redirect.

1 MS. PEREZ: I actually have one question but
2 Andrew already asked it. It was about
3 Paragraph 14 and clarifying that typo. So I
4 don't have anything else.

5 MS. SCHIUTEMA: Okay. I actually don't have
6 any redirect questions for Sara.

7 MR. LOKAN: Okay, Sara, thank you. We're
8 done with -- you're finished for today.

9 THE WITNESS: Okay.

10 MR. LOKAN: We were going to have a counsel
11 discussion. Maybe we can have a brief
12 discussion with Barbara.

13 MS. SCHIUTEMA: Sure.

14
15
16 --- ADJOURNED
17
18
19
20
21
22
23
24
25

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.

BarPollard

Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
certified and have not been paid for unless they bear
the original signature of Barbara A. Pollard, C.C.R.,
and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

EXHIBIT “A”



[Kitchener](#) | News

Two fires reported at Kitchener encampment

By [Shelby Knox](#)

Published: February 12, 2026 at 2:02PM EST



A damaged structure was photographed at 100 Victoria Street North in Kitchener, Ont. on Feb. 12, 2026. (Dan Lauckner/CTV News)

Emergency responders were called to a large encampment in Kitchener for two separate fires.

Both incidents happened on Thursday at 100 Victoria Street North, with the first call coming in shortly after 9:30 a.m.

According to the City of Kitchener, four trucks from the Kitchener Fire Department responded to a tent fire involving large flames and heavy black smoke.

Two people suffered minor injuries and paramedics were notified.

The cause of that fire is still unknown.

Just over two hours later, at 11:33 a.m., a second call about a fire at the encampment came in. This one involved an enclosed structure.

The city said that fire was smaller and quickly extinguished.



Waterloo Regional Police Service vehicles were seen at 100 Victoria Street North in Kitchener, Ont. on Feb. 12, 2026. (Dan Lauckner/CTV News)

There were no occupants inside the structure at the time of the fire and no injuries were reported. The cause of that fire is undetermined.

Photos taken from the site around 1 p.m. show blackened and charred bits of wood surrounded by other undamaged structures.

Related Stories

- > [Court hearing on Waterloo Region's encampment bylaw pushed back](#)
- > [Workers tear down tiny home built illegally inside Guelph, Ont. park](#)
- > [A Better Tent City asks Waterloo Region for more funding to hire two new staff members](#)

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Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Julie Kalbfleisch** on her affidavit dated February 12, 2026, taken via Zoom videoconference on consent of the parties on March 4, 2026.

APPEARANCES:

ANDREW LOKAN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHIUTEMA, Ms. Counsel for the Respondents
JOANNA MULLEN, Ms.

JENN DANCH, Ms. Amicus Curiae

(i)

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1 MARCH 4, 2026

2
3 JULIE KALBFLEISCH, AFFIRMED

4 CROSS-EXAMINATION BY MR. LOKAN:

5 1. Q. First of all, is it okay if I call you
6 Julie? If I refer to you as Julie?

7 A. Can you not pronounce my last name, or
8 ...? Yes, you can refer to me as Julie. That's fine

9 2. Q. Your last name, I was actually going to
10 say, Kalbfleisch because I studied German at one
11 point.

12 A. Well, there you go. And, I mean, I
13 think they have lots of different ways to pronounce
14 it, but we'll go with Julie. That sounds good.

15 3. Q. Okay. That's good. So just to
16 confirm, I'm Andrew Lokan. I'm a lawyer for the
17 Region, and I have some questions for you on your
18 affidavit. And this is your affidavit that was sworn
19 February 12th of 2026, is it?

20 A. Yes.

21 4. Q. Okay. Just a couple of ground rules.
22 The first is that if you don't understand a question
23 or don't hear a question, please ask me to repeat it.
24 Second is that we should try to avoid talking over
25 each other because it makes it very difficult on the

J. Kalbfleisch (Cr-Ex) - 4

1 transcript. And third is if you want to answer "yes,"
2 or "no," try to use those words and not "mm-hmm" or
3 nodding your head as you currently are, because
4 neither of those show up in a way on the transcript
5 that can be understood later. Are you ...

6 A. Got it. Yes. Got it.

7 5. Q. Okay. So Julie, I understand you are
8 the Director of Public Engagement at Sanguen. Is that
9 right?

10 A. Yes.

11 6. Q. And how long have you been in that
12 position?

13 A. Two years.

14 7. Q. And that is an agency that's funded by
15 the region?

16 A. In part. We are funded by a number of
17 different private donors, provincial government,
18 federal.

19 8. Q. Okay. And the association with the
20 region, is that a long-standing arrangement?

21 A. Can you clarify that? You mean the --
22 the funding relationship?

23 9. Q. Yes.

24 A. I -- I can only go back to my knowledge
25 with the Consumption and Treatment Services site back

J. Kalbfleisch (Cr-Ex) - 5

1 to 2017. I know there was funding agreement there.

2 10. Q. Okay.

3 A. Yeah. Depends on the -- the program.
4 There's been a variety of programs that have been
5 funded by the Region over the years.

6 11. Q. Okay. So the funding arrangements go
7 back at least to 2017?

8 A. Correct.

9 12. Q. Okay. And you yourself used to be an
10 employee of the region?

11 A. Yes.

12 13. Q. And just roughly what year or years was
13 that?

14 A. I worked with public health from 2013
15 to 2021.

16 14. Q. Okay. And in terms of the arrangement
17 -- sorry, the services provided by Sanguen to the
18 encampment, first of all, I'm going to just refer to
19 the encampment 100 Victoria Street North as the
20 encampment or 100 Vic, okay?

21 A. Okay.

22 15. Q. The services that Sanguen provides,
23 it's a community health van that visits weekly. Is
24 that right?

25 A. Yes. That's one of the services that

1 we provide there.

2 16. Q. Okay. And the visits from the van, the
3 community health van, were weekly up until, it looks
4 like, about late November or early December?

5 A. It was, I believe, December 18th when
6 there was a change in the schedule. The week of
7 December 18th.

8 17. Q. Okay. And then you said in the
9 affidavit that the van did not go on-site for a few
10 weeks and on-site service resumed the week of January
11 19th. Do I have that right?

12 A. Correct.

13 18. Q. Okay. Now you refer to a Ms. Steingart
14 in your affidavit, and there being a phone call from
15 somebody at the Region. Is it Ms. Steingart that
16 received the phone call?

17 A. Yes.

18 19. Q. Okay. You don't actually know who it
19 is that it was from the Region who passed on the
20 information?

21 A. I -- I don't know who passed on the
22 information to us. It came in an email after that
23 call to Michelle.

24 20. Q. Okay. When you say, "Came in an
25 email," the email you're referring to was the one that

J. Kalbfleisch (Cr-Ex) - 7

1 was sent around by -- and you have this in paragraph
2 four, if you need to look at it. Yes, "By Michelle
3 Steingart." She sent the email around.

4 A. Correct.

5 21. Q. Okay. What was the date of that email?

6 A. November 28th.

7 22. Q. Okay. Would it be possible for that
8 email to be produced to me?

9 A. Yes.

10 23. Q. Okay. I'm going to ask that Counsel
11 provide that via an undertaking. Is that okay?

12 MS. DANCH: Yes, we can do so.

13 MR. LOKAN: Thank you.

14 **UNDERTAKING**

15 BY MR. LOKAN:

16 24. Q. So, Julie, are you aware of documented
17 fights between residents at 100 Vic?

18 A. No.

19 25. Q. Okay. Are you aware of a documented
20 incident with a person onsite wielding a machete and
21 threatening security?

22 A. No.

23 26. Q. Okay. Are you aware of documented
24 reports of an assault with a baseball bat at 100 Vic?

25 A. No.

1 27. Q. Okay. Are you aware of a documented
2 incident where a person at 100 Vic threatened another
3 with a metal pipe?

4 A. No.

5 28. Q. Are you aware of a documented assault
6 by a person at 100 Vic on another person there with a
7 hammer?

8 A. No.

9 29. Q. Okay. Are you aware of a person at 100
10 Vic throwing stones at a security guard?

11 A. No.

12 30. Q. Are you aware of a resident reporting
13 to security that they believed another resident had a
14 firearm?

15 A. No.

16 31. Q. So what was in the email that went
17 around? What was the specific thread?

18 A. Can I -- would it be okay if I can pull
19 the email up since I'm going to share it with you? I
20 have it right here.

21 32. Q. Sure. Sure.

22 A. Okay. Just so I can read it to you.

23 33. Q. Is there a way you can screenshare the
24 email?

25 A. Oh boy.

J. Kalbfleisch (Cr-Ex) - 9

1 34. Q. If you can't, then you and I are in the
2 same boat.

3 A. I mean I can but it never goes well.
4 It's a very short email from Michelle on November 28th.

5 35. Q. Okay.

6 A. And it says:
7 "Got a call from ROW Housing
8 Services to make us aware that
9 there have been reports of weapons
10 amongst the community at 100 Vic.
11 There have not [in capital] been
12 any incidents, but she wanted us
13 to be aware as we provide service
14 there. Please reach out to me if
15 you have any questions or
16 concerns. I have the ROW person's
17 contact information for
18 information."

19 36. Q. Okay. Are you aware of residents at
20 100 Vic uttering death threats?

21 A. No.

22 37. Q. Okay. Now you say in your affidavit
23 that there's a person who has the position of Manager
24 of Harm Reduction.

25 A. Yes, correct.

1 38. Q. And who is that?

2 A. Violet Umanetz.

3 39. Q. Okay. And you say that she did an
4 assessment and then service was restored on-site as of
5 the week of January 19th.

6 A. Correct.

7 40. Q. And what kind of assessment or
8 investigation did she do?

9 A. She spoke with the team that -- that
10 provides service at 100 Vic to get a sense of their
11 feelings about or concerns about this email that came
12 from -- or, sorry, the phone call that came from the
13 Region, and if there was any concern that she needed
14 to be aware of. She spoke with other agencies that
15 deliver ---

16 41. Q. Okay. But just to -- the first that
17 you spoke of spoke to the team. That's the Sanguen
18 team?

19 A. Correct, yeah.

20 42. Q. And spoke with other agencies. Did she
21 speak to anyone at the Region?

22 A. I'm not sure.

23 43. Q. Okay. Did she reach out to Waterloo
24 Region Police Service?

25 A. I believe so.

1 44. Q. Okay. And why do you say you believe
2 so? Is that in some kind of written report or
3 something?

4 A. There's no written report. Violet has
5 -- is not someone who reports to me; however, in our
6 leadership meeting, I believe that her director said
7 that the police would be contacted.

8 45. Q. Okay. Her director is who?

9 A. Lindsay Sprague.

10 46. Q. Okay. And were you present at this
11 meeting when Lindsay Sprague said that WRPS would be
12 contacted?

13 A. Yes.

14 47. Q. Okay. Do you know if Violet reached
15 out to on-site security at 100 Vic?

16 A. I don't know.

17 48. Q. Okay. Is there any reason why it's you
18 who provided this affidavit rather than Violet
19 Umanetz?

20 A. We both had conversations with Ashley,
21 and I said I would do it so Violet didn't have to be
22 burdened with it.

23 49. Q. Okay. I'd just like to ask for any
24 written records of Violet's assessment that's referred
25 to in paragraph 6, if those could be produced?

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1 A. Okay.

2 MS. SCHIUTEMA: I think that we'll take that
3 under advisement, Andrew.

4 MR. LOKAN: Okay.

5 **UNDER ADVISEMENT**

6
7 BY MR. LOKAN:

8 50. Q. Now I've just taken you through a
9 number of different questions about whether you were
10 aware of incidents, okay?

11 A. Yes.

12 51. Q. And I'm just going to ask -- I know you
13 don't know about those incidents. I'm just going to
14 ask if those incidents had, in fact, occurred, you
15 would accept, wouldn't you, that it would be
16 appropriate for the Region to pass on a warning to
17 Sanguen?

18 A. Yes. As a service partner.

19 52. Q. Okay. And just generally, if the
20 Region itself has safety concerns for people onsite,
21 it should advise its service providers of its
22 concerns.

23 A. Sure. Yes.

24 53. Q. Okay. Thank you. I have no further
25 questions.

J. Kalbfleisch (Cr-Ex) - 13

A. Okay.

MS. MULLEN: Okay. We'll just take a brief moment to see if there's any redirect.

MR. LOKAN: Yes.

--- BRIEF PAUSE

MS. MULLEN: No questions on redirect from us.

MR. LOKAN: So thank you, Julie. You're done.

MS. KALBFLEISCH: Okay. See you later.

--- ADJOURNED

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THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.

BarPollard

Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
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Regulation 587/91, Courts of Justice Act, January 1,
1990.

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Laura Pin** on her affidavit dated February 20, 2026, taken via Zoom videoconference on consent of the parties on March 4, 2026.

APPEARANCES:

ANDREW LOKAN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHIUTEMA, Ms. Counsel for the Respondents
JOANNA MULLEN, Ms.

JENN DANCH, Ms. Amicus Curiae

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1 MARCH 4, 2026

2
3 DR. LAURA PIN, AFFIRMED

4 CROSS-EXAMINATION BY MR. LOKAN:

5 1. Q. Dr. Pin, I'm Andrew Lokan, I'm a lawyer
6 for the Region, and I'll be asking you some questions
7 this afternoon. And I just want to go over a couple
8 of ground rules. I think you've been through these
9 before, but just as a reminder.

10 First is, if I ever ask a question where you
11 don't hear or you're unclear of what I mean, please
12 don't hesitate to ask for clarification. Second is
13 that we should avoid talking over each other because
14 it makes it very hard for the court reporter to make
15 an intelligible transcript out of that. And third is
16 that if you want to answer, "yes" or "no," you need to
17 use your words. Neither shake your head or say "uh-
18 huh" or "uh-uh" because none of that will show up
19 clearly on the transcript.

20 So you're okay with all of those
21 things?

22 A. Yes.

23 2. Q. Okay. Thank you. In your second
24 affidavit -- and just to confirm, you're going to be
25 questioned on your second affidavit which was sworn, I

1 think, February 20th. Is that right?

2 A. Yes.

3 3. Q. I'm just going to check the date here.
4 Yes. Okay. You refer to adopting your first
5 affidavit and in particular Exhibit A which is your
6 curriculum vitae.

7 A. Yes.

8 4. Q. Okay. And what you have before you, at
9 the moment, is that affidavit, the February 20th
10 affidavit?

11 A. Yes.

12 5. Q. Do you have any other materials with
13 you?

14 A. No. I downloaded the exhibits to the
15 affidavit as well.

16 6. Q. Of course.

17 A. Yeah.

18 7. Q. Okay.

19 A. And I have a blank piece of paper and a
20 pen.

21 8. Q. Okay. And this may have come up last
22 time. There is nothing to stop you from taking notes
23 while I ask questions, but I am entitled to see them.
24 So many witnesses prefer not to take notes but that's
25 up to you. Okay?

1 A. Okay.

2 9. Q. I just wanted to understand, if I can,
3 a bit about your expertise. And sorry, I have a copy
4 here somewhere for my own purposes of your CV.

5 A. Sure.

6 MS. MULLEN: So, Andrew, I will just
7 interject at this point. Kartika did go
8 over this with Dr. Pin during the first
9 cross-examination and it's my understanding
10 that we're not here to go over things that
11 have already been examined, that Dr. Pin has
12 already been examined on.

13 MR. LOKAN: I'm not going to examine on
14 anything that has already been examined on.
15 I mean there, Dr. Pin made a point of
16 reaffirming Exhibit A. I have just some
17 slightly different questions.
18

19 BY MR. LOKAN:

20 10. Q. You have a PhD in Political Science,
21 correct?

22 A. Yes, that's correct.

23 11. Q. And you are an associate professor in
24 the Department of Political Science at Wilfred
25 Laurier?

1 A. That is correct.

2 12. Q. Okay. And so it's fair to say that
3 your basic discipline is political science?

4 A. Yeah, I think that's accurate.

5 13. Q. Okay.

6 A. I would say that I find a lot of my
7 work -- a lot of my work is interdisciplinary, but my
8 core concentration is political science.

9 14. Q. Right. And that's true of many
10 academics these days. But you don't have any legal
11 qualifications, do you?

12 A. No.

13 15. Q. And it follows from that you're not a
14 lawyer.

15 A. No.

16 16. Q. Okay. You're also not a linguist.

17 A. No.

18 17. Q. And you don't claim to have any
19 expertise in the meaning of words.

20 A. What do you mean? Could you clarify
21 what you mean by that?

22 18. Q. Sometimes people are put forward as
23 experts on what a word means, and that's not part of
24 any expertise that you're claiming.

25 A. I'm still not really clear on that,

1 because I was asked to interpret both the Plan to End
2 Chronic Homelessness, so, the regional plan, which is
3 a document with words, and so I would assume that part
4 of my expertise, for example, involves drawing meaning
5 from that. So, you know, in the sense of being asked
6 to interpret the plan to end chronic homelessness as
7 well as being a scholar that works with qualitative
8 research methods, so interviews, focus groups,
9 discourse analysis. So I engage with words in those
10 ways, but I certainly am not a lawyer in terms of the
11 legal meaning of words, if that's where you're going.
12 So I just wasn't clear on the question. I hope you
13 don't mind. Does -- is that where you were trying to
14 ...?

15 19. Q. Actually, I think the question
16 (indiscernible) itself, and your answer is something
17 we will be taking up with the judge, whether you can
18 actually ask a witness to interpret the meaning of a
19 document, but we'll get to that a little later.

20 Could we turn to the very end of your CV?
21 And I'm wondering if we can get that screenshared.
22 You have a community service ...

23
24 --- INTERRUPTION
25

1 20. Q. Sorry for the interruption there, that
2 was Siri. Something I said triggered something from
3 Siri.

4 Anyway, under community service, you have an
5 item. Since 2023 you've been a member of the National
6 Encampment Litigation Strategy Working Group. Do you
7 see that?

8 A. I do. Just let me make this -- are you
9 able to make that a bit bigger for me, please?

10 21. Q. Sure. Sure we can. Can you just tell
11 us, Dr. Pin, what is the National Encampment
12 Litigation Strategy Working Group?

13 A. Sure. It's a group of lawyers and
14 folks working in legal-adjacent organizations, so
15 legal advocacy groups, that meet to talk about
16 encampment litigation.

17 22. Q. Right. And so would I be right in
18 assuming that the membership on the lawyer side is
19 those that are opposing initiatives to close
20 encampments?

21 A. I wouldn't say that I know exactly the
22 interest of all of the lawyers that attend.

23 23. Q. Okay. Are they lawyers from clinics?

24 A. Some of them are.

25 24. Q. Okay. And the lawyer-adjacent people

1 that you've mentioned, that's people like yourself who
2 have acted as expert witnesses?

3 A. Not necessarily. So I don't know if
4 anyone else that attends the meetings has acted as an
5 expert witness. I couldn't tell you.

6 25. Q. Okay.

7 A. Some of the adjacent folks might be
8 other academics with an interest in homelessness or
9 encampment governance. Some of the adjacent folks
10 might be from government organizations -- arms-length
11 government organizations like human rights bodies that
12 might attend as well. Yeah.

13 26. Q. And the title talks about litigation
14 strategy. So is this a group that discusses
15 litigation strategies?

16 A. Sometimes it does.

17 27. Q. Yes. And would these be strategies on
18 how to defeat government efforts to close down
19 encampments?

20 A. Sometimes they are, but I would say not
21 exclusively.

22 28. Q. Okay. What other kinds of litigation
23 strategies are discussed?

24 A. Well, to be honest, when the group
25 discusses litigation strategies, that's often when I'm

1 least attentive or present because I'm not a lawyer,
2 so that's not my particular interest in the group.

3 29. Q. Okay. But you have confirmed that in
4 the group you've heard people discuss strategies to
5 keep encampments open. Do you have recollections of
6 anything else, any other litigation strategies that
7 have been discussed?

8 A. Let's see. And, again, I don't --
9 let's make two points. First is that the group meets
10 infrequently and I don't always attend meetings. And
11 the second, as I mentioned, is some things are more of
12 interest to me than others, and so I don't always pay
13 attention to some of the pieces of litigation. So
14 sometimes, I believe, there's discussion around policy
15 changes, either at the provincial or local level. So
16 policy changes that have occurred and implications
17 that might have for work with clients.

18 Sometimes there's discussions around
19 strategies to support clients, so not necessarily
20 focused on the litigation aspect but strategies around
21 how to work well with people who might be staying in
22 encampments or experiencing homelessness. So those
23 are two of the other pieces that I recall.

24 30. Q. Okay. Thank you. And the clients you
25 refer to are people experiencing homelessness?

1 A. Yes.

2 31. Q. Okay.

3 A. From my recollection.

4 32. Q. Okay. Thank you. And how often, to
5 your knowledge or recollection, does this group meet?

6 A. I would say quarterly.

7 33. Q. Okay.

8 A. And I would say I attend about half of
9 the meetings. So maybe once or twice a year.

10 34. Q. Okay. And I take it that there are
11 members from Waterloo Region Community Legal Services
12 as part of that group?

13 A. I have seen individuals from Community
14 -- Waterloo Region Community Legal Services attend the
15 meetings from time to time.

16 35. Q. Thank you. You have, in your
17 affidavit, a document appended as Exhibit C. And I'm
18 referring to the -- I'll make sure I get the right
19 title for this. "Municipalities Under Pressure One
20 Year Later," document.

21 A. Yes. The report from the AMO, I
22 believe.

23 36. Q. Okay. And AMO stands for Association
24 of Municipalities of Ontario?

25 A. Correct.

1 37. Q. Okay. There's a couple of other
2 organizations mentioned but I don't think we need to go
3 into that.

4 You cite this document for the fact that
5 there has been an increase in homelessness in Ontario
6 in the last few years.

7 A. Correct.

8 38. Q. Okay. And what I'd like to do is pull
9 up the document. I don't want to trip you up with
10 anything. I want to make sure that you're able to
11 refer to the document. So if we can screenshare, it's
12 page 8 of the document which I believe is going to be
13 PDF 132.

14 A. With, "Homelessness increased in 2025"
15 as the first line at the top?

16 39. Q. That would be correct. So front page
17 of the document is PDF 125, and if we go to 132, I
18 think we'll get to page 8.

19
20 --- SCREENSHARE
21

22 40. Q. Yes. So we're looking at the same page
23 here. "Homelessness increased in 2025." I believe
24 that this is the source for the 7.8% increase that you
25 cite in your affidavit.

1 A. (Indiscernible).

2 41. Q. Sorry, you cut out. I saw you say, I
3 think, "correct" but the sound cut out for a minute.

4 A. Yes. That's correct.

5 42. Q. Thank you. And, in fact, what this
6 document sets up is that this really is the
7 continuation of a trend that has happened from 2021 to
8 2025. And looking just below where the 7.8% is, we
9 see quite striking figures. From 2016 to 2020, there
10 was a 6.3% increase whereas from 2021 to 2025 there
11 has been a 49.1% increase. Do you see that?

12 A. Yes.

13 43. Q. Okay. And I take it that you would
14 accept those numbers as being accurate?

15 A. Yes, for the most part.

16 44. Q. And ---

17 A. Homelessness is extremely difficult to
18 measure. It's really difficult to enumerate or count
19 the number of people experiencing homelessness. I
20 think this is a fairly good measure. I wouldn't say
21 it's a definitive measure.

22 45. Q. Right. But you relied on the
23 methodology of this group for the 7.8%, so ...

24 A. Yes, that's correct. So I did -- yes.
25 I consider it reliable enough to include in that way.

1 46. Q. Okay. Yes. And that's all I need for
2 my purposes, and I do take your point about there
3 being difficulties in measurement.

4 This report also notes -- and if we can go
5 to PDF 134 page 10?

6 A. The page that starts with, "Lack of
7 Housing is Increasing?" That's the bolded line at the
8 top?

9 47. Q. That's right. And I'm actually going
10 to ask you about a couple of things. Sorry, if you'll
11 just give me a moment.

12 On the bottom part of that page, so under
13 the heading, "Housing and Homelessness funding has
14 increased but homeless grows faster." Do you see
15 that? If you need anything expanded, we can do that
16 for you.

17 So it's pointed out here that, "Public
18 funding for housing and homelessness in Ontario has
19 increased substantially, while homelessness continues
20 to rise." And I'm going to skip the next sentence,
21 but then continue on:

22 "However, while the number of people
23 experiencing homelessness increased by
24 49.1% between 2021 and 2025, total
25 funding increased by 32.1% over the

1 same period with municipal funding
2 increasing by 48.2%."

3 Do you see that?

4 A. Yes.

5 48. Q. And those numbers would be consistent
6 with your own research?

7 A. Yes. And they're also consistent --
8 the Ontario Auditor General did an audit of -- of
9 funding for homelessness, and they're consistent with
10 the findings from that report, which found that
11 municipal funding was increasing at a rate that was
12 greater than the increase in provincial or federal
13 funding.

14 49. Q. Right. And just looking at the
15 numbers, it looks like municipal funding has come
16 close to the percentage increase in number of
17 homeless, but it's a bit of an outlier, right? It's
18 48.2% as apposed to 49.1%, but the provincial and
19 federal governments haven't kept pace to the same
20 extent. Is that fair?

21 A. In terms of the increase of total
22 funding, that's correct, although the proportion of
23 total funding applied by different levels of
24 government, I believe, the province still, overall, if
25 you're looking at the amount of funding, the magnitude

1 rather than the rate of increase, the province
2 provides more overall. But in terms of rate of
3 increase, that's correct. Municipal funding has been
4 increasing more quickly and more closely in terms of
5 the number of people experiencing homelessness, that
6 increase.

7 50. Q. Okay. But that increase in spending by
8 municipalities has certainly not been enough to put a
9 dent in overall homelessness. It hasn't led to any
10 decrease, correct?

11 A. No, that's consistent with the numbers
12 from this report as well as point-in-time count
13 numbers from across Ontario which have shown an
14 increase.

15 51. Q. Yes.

16 A. And the point-in-time count numbers in
17 Waterloo Region which also have shown an increase from
18 2018 to 2021 and then to 2024, when the most recent
19 total point-in-time count was completed.

20 52. Q. And we actually have those numbers in
21 the records. We don't need to go over those.

22 A. Okay.

23 53. Q. And if we could just go to PDF 149?

24 And that should be page 25 of the document up on the
25 top right.

1 We've also had growth in the number of
2 encampments across the province. And what's reported
3 here is from the service managers that, province-wide,
4 there's approximately 2,000 encampments as of the time
5 of this report. Again, is that consistent with your
6 research?

7 A. In terms of my research, it wouldn't
8 allow me to provide an estimate of the number of
9 encampment sites across Ontario, but I would say based
10 on what I know about encampments, I suspect this is
11 likely an undercount.

12 54. Q. And in terms of the methodology, what
13 it looks like from this report is that the service
14 managers were surveyed and they each reported a number
15 of encampments within their municipalities and those
16 numbers were aggregated. And that's what I got from
17 looking at the report. And I assume you read it
18 before you appended it to your affidavit?

19 A. Yes, that's correct. That's my
20 understanding of their method of counting the
21 encampments as well.

22 55. Q. Okay. And understanding that it could
23 be an under-count because there can be encampments
24 that are not visible or for whatever reason are not
25 enumerated, you would accept that there's been an

1 increase in the number of encampments alongside the
2 increase in homelessness?

3 A. Yes. Since that -- I would say, that
4 same period, about 2020, 2021 to the present, I think
5 it's fair to say that there have been an increase in
6 the number of people in encampments in municipalities
7 of all sizes in Ontario.

8 56. Q. Right. And you would accept that the
9 increase in homelessness comes from a number of
10 different factors that have been exacerbated in the
11 pandemic and post-pandemic period?

12 A. Yes.

13 57. Q. And one of those factors, for example,
14 is the substantial increase in the cost of housing.

15 A. Yes. Although, I would say more than
16 the increase in the cost of housing, the lack of
17 affordable private market rentals, so lower-cost
18 private market rentals which are affordable for
19 people, as well as stagnation and decline in the
20 number of social housing units. So I wouldn't
21 necessarily, I mean, just sometimes when people talk
22 about the affordability of housing, the price of a
23 detached home that someone's looking at purchasing is
24 not the most relevant indicator of the situation.

25 58. Q. But there is an interconnectedness, and I'm

1 just going to give you an example. What a middle-
2 class person or couple might be planning on buying
3 goes up by a lot, and so they remain in rentals for
4 longer and that puts pressure on the rental market
5 which means rents increase. Is that a plausible
6 scenario?

7 A. Sure.

8 59. Q. And then that leaves behind more people
9 who have difficulty accessing the rental market
10 because it lifts rents across the board, and subsidies
11 have not kept pace, for example. Is that fair?

12 A. Sure.

13 60. Q. And there's also been under-investment
14 in social housing by, you would probably say, by all
15 three levels of government?

16 A. Yes, that's correct. And, in fact, in
17 some jurisdictions like the City of Toronto, we've
18 seen a number of social housing units overall actually
19 decline over the last five years.

20 61. Q. And there's also been factors such as
21 increase in unemployment with economic dislocation
22 following the pandemic?

23 A. Because that's not my area of research,
24 I couldn't say that definitively.

25 62. Q. Okay. You've seen that reported,

1 labour market disruption, as a factor in an increase
2 in homelessness?

3 A. Labour market disruption ...?

4 63. Q. Increases in unemployment, you've seen
5 that as a factor cited as something that is a factor
6 in the increase in homelessness.

7 A. I think challenges for people in
8 finding stable, well-remunerated work, for sure, is a
9 challenge. You know, I couldn't say in terms of
10 labour market dynamics or overall unemployment rates
11 or anything like that.

12 64. Q. Okay. And in fact, this report says
13 we're not done yet with the increase in the homeless
14 population. And when we looked on page 8 of the
15 report, I went to go back there but the headline
16 number was around about 85,000 as a cross-province
17 count that we're at, as of 2025.

18 And what I'd like to do now is if we
19 could look at PDF 161? You would have taken note when
20 you reviewed this report, Dr. Pin, of the three
21 scenarios for number of homelessness by 2035?

22 A. Yes. Would you give me a moment just
23 to pull that page up on my PDF viewer?

24 65. Q. Of course.

25 A. And in the document, it's page 37?

1 66. Q. That's right.

2 A. Okay. I've got it up. Thank you.

3 67. Q. Okay. And this report looked at
4 projections for 2035 under three scenarios. One would
5 be steady assumptions, another would be if there's an
6 upturn in the economy, and another would be if there's
7 a downturn in the economy. And the numbers are
8 reflected in this chart on page 37 of the document,
9 161 of the PDF. And if you need a moment to review,
10 I'm happy for you to take the time.

11 A. Yeah. Just let me take a moment to
12 review the -- the chart.

13 68. Q. Sure.

14 A. Okay. I can let you know when I -- I
15 just need one minute.

16
17 --- BRIEF PAUSE

18
19 A. Okay. I'm ready when you're ready to
20 continue.

21 69. Q. And I just want to make sure that I
22 understand the numbers and, again, that it's
23 consistent with your research. But under steady
24 economic assumptions, no particular change by 2035,
25 this report projects a homeless population of 177,000.

1 I just want to make sure I get the -- 177,000, 4-8,
2 the last one is obscured on my screen.

3 A. 483.

4 70. Q. Yes. And even if there is an upturn in
5 the economy and economic conditions get better, it's
6 still projected to reach 128,265. Am I reading that
7 correctly?

8 A. The numbers are correct. The one thing
9 that I might suggest is that the indicator that they
10 produced, it doesn't just look at the economy but it's
11 a composite measure looking at labour market
12 conditions, income, housing affordability, population
13 change, and housing need. So there's economic factors
14 but there's also policy-related factors that go into
15 the way they're modelling this.

16 71. Q. Okay. And I think some might refer to
17 all of those as economic factors, or a blend of
18 economic and policy. That doesn't matter to me. But
19 for completeness, if there's an economic downturn, the
20 projection is almost 300,000. So the chart's drawing
21 297,985. And again, are these numbers consistent with
22 your research?

23 A. I couldn't say whether they're -- my
24 research doesn't use this sort of modelling.

25 72. Q. Okay. Well let me ask something

1 slightly different. Do you accept, knowing what you
2 do about this report, that these are reasonable
3 projections?

4 A. Yes.

5 73. Q. Okay. And just looking at the middle
6 one, without either an upturn or a downturn in
7 economic conditions, the steady state, that's already
8 177,000. That's already more than double the current
9 number which was approximately 85,000. Is that
10 correct?

11 A. Yes.

12 74. Q. So there is increasing strain on the
13 system. Is that fair?

14 A. Yes, I think that's fair to say.

15 75. Q. Okay. If we can go back, please, to
16 PDF 136 or page 12 of the document? I'm going to draw
17 your attention -- we may need to increase the size a
18 bit -- to the third paragraph. It's one that begins,
19 "Because pressures move between systems." Are you
20 able to read that?

21 A. Yes. I have it up on my own screen
22 just because I find it a little bit easier, but I have
23 the -- I'm on page 12 and the, "Because pressures move
24 between systems," paragraph.

25 76. Q. Okay. And I just want to read it to

1 you so that it's clear in the record:

2 "Because pressures move between
3 systems, progress depends on a whole-
4 of-government approach rather than
5 isolated action. Decisions made in one
6 system can either increase or reduce
7 homelessness pressures elsewhere. A
8 coordinated, whole-of-government
9 approach, operating horizontally across
10 provincial services and mandates
11 delivered through service managers, and
12 vertically through federal, provincial,
13 and municipal systems, helps ensure
14 that effort in one area supports
15 outcomes in another."

16 And is that a concept that you would
17 endorse, that you really need coordination between all
18 three levels of government to hope to make inroads
19 into this very difficult issue?

20 A. Sure. I think there are specific roles
21 for each level of government but that those roles and
22 responsibilities are interconnected.

23 77. Q. Right. And each level of government
24 must do its part in order to make a serious effort to
25 combat homelessness. Is that fair?

1 A. Sure.

2 78. Q. Okay. And if you go to the next
3 paragraph, again, I'll read it:

4 "Yet housing availability remains a
5 central constraint. Increasing the
6 supply of housing, particularly deeply
7 affordable housing, is essential to
8 reducing homelessness and requires an
9 expanded federal role alongside
10 provincial and municipal action."

11 Again, is that something that you would
12 endorse?

13 A. Yes. Yes.

14 79. Q. If we can go to PDF 159? We get some
15 data here. Yes, that's 35. We get some data on where
16 the increases have come. And, in particular, I'm
17 looking at a paragraph that starts, "In a longer-term
18 context." Do you have that either on screenshare or
19 on your own version?

20 A. Page 35 of the document, "In a longer-
21 term context, homelessness spending ..."

22 80. Q. Yes.

23 A. Yes.

24 81. Q. Okay. And so, again, I just want to
25 read for the transcript what the document says and

1 then I'll have a question or two for you from it:

2 "In a longer-term context, homeless
3 spending increased from \$1.21 billion
4 in 2021 to \$2.27 billion in 2025, an
5 increase of \$1.06 billion. Over this
6 period, supportive housing accounted
7 for the largest absolute increase for
8 any homelessness program area, rising
9 by \$431.3 million while emergency
10 centre spending increased by \$387.1
11 million. Together, these two areas
12 accounted for most of the growths in
13 homelessness spending."

14 Now I don't know if you keep data on these
15 particular areas, but is it consistent with your
16 research that there has been an increase of which the
17 largest component is supportive housing?

18 A. I wouldn't -- I wouldn't really be able
19 to say. I don't have a reason to doubt the accuracy
20 of these numbers, but it's not, like, I don't conduct
21 research on the proportion of spending on supportive
22 housing, for example, across the province.

23 82. Q. Okay. But you have relied on this
24 report as a reliable source for other purposes and,
25 again, you would accept this to be a reasonable

1 account of the increase in spending?

2 A. Sure. Yes.

3 83. Q. Okay. And the document goes on to say:

4 "Increased investment in supportive
5 housing is necessary. Growth in
6 spending for this program area
7 recognizes its importance within the
8 homelessness response and the growing
9 number of people experiencing
10 homelessness who have complex needs
11 around mental health, substance use,
12 and physical health."

13 Is that a proposition that you would
14 endorse?

15 A. Yes.

16 84. Q. And just to unpack that a bit, we're
17 seeing, are we not, an increase in the number of
18 homeless individuals with complex needs. Is that
19 fair?

20 A. I think there's an increase in the
21 number of people experiencing homelessness. I
22 couldn't say if the proportion of people with complex
23 needs among that group has increased, but I think with
24 the growth in the number of people with complex needs,
25 especially because the experience of homelessness can

1 be debilitating for folks and can create new health
2 issues or exacerbate, excuse me, existing ones. So
3 yeah.

4 85. Q. Exacerbate.

5 A. Thank you. Exacerbate.

6 86. Q. Okay. Because the report, if you look
7 down to the last paragraph, does seem to suggest that
8 actually more of the spending is directed towards
9 people with increasingly complex needs. And so again,
10 I'll read that to you and see if that perhaps puts a
11 gloss on the answer you just gave.

12 "At the same time, the continued year-
13 over-year growth in spending on
14 emergency shelter and supportive
15 housing shows that demands on the
16 system are driven by increasingly
17 complex needs. This pattern
18 demonstrates the pressure is building
19 at the intensive end of the system,
20 drawing more investment in responses to
21 crisis than long-term, high support,
22 rather than reducing the flow of people
23 before they reach that level of need."

24 The suggestion in that paragraph -- first of
25 all, was that a paragraph that you would endorse?

1 A. I'm reading the paragraph. I wouldn't
2 agree with the oppositional framing of crisis response
3 and homelessness prevention initiatives. You know?
4 So there's an oppositional framing in the very last
5 sentence.

6 87. Q. Okay.

7 A. But generally speaking, I would agree
8 with the paragraph.

9 88. Q. Okay. And included in that, it
10 wouldn't surprise you to learn, especially since we've
11 seen supportive housing being the fastest growing
12 category, it wouldn't surprise you to learn that the
13 system is having to respond to increasingly complex
14 needs, and it's more at the intensive end.

15 A. Again, I -- I think maybe I'm being a
16 bit of a stickler, here, but I would -- I would frame
17 it slightly differently. I think there are more
18 individuals with complex needs because of the number
19 of people experiencing homelessness that has grown
20 significantly, but I couldn't -- I couldn't say that
21 those individuals are any more complex than
22 individuals that were in the system 10 years ago.

23 89. Q. Okay.

24 A. You know? And there's often
25 researchers talk about differences between people who

1 are experiencing episodic and chronic homelessness.
2 And individuals experiencing chronic homelessness do
3 tend to have higher and more complex needs, but
4 they've always been part of the -- our understanding
5 of who people are who are experiencing homelessness.

6 90. Q. But if it was just that the absolute
7 number was rising, you would expect the growth in
8 shelter spending and the growth in supportive housing
9 spending to be proportional rather than one growing
10 faster than the other. Is that fair?

11 A. No, I wouldn't, because the way that
12 governments make spending decisions is not necessarily
13 linked to need. There's a lot of factors that go into
14 how those decisions are made. For example, supportive
15 housing as seen as a more permanent type of solution
16 may be seen as more politically viable than emergency
17 shelter spending. There may be specific choices to
18 direct funding in ways that don't (indiscernible). So
19 that's not something I would necessarily agree with.

20 91. Q. Okay. I would like to go to PDF page
21 163 if we can.

22 A. Sure. What page of the document is
23 that?

24 92. Q. I'll tell you that in a minute. 39.
25 And if you want to take a moment to read, I'm happy to

1 give you that time. But I'm going to have questions
2 about the last two paragraphs on the page.

3 A. Sure. Let me just review those
4 paragraphs.

5 93. Q. Sure.

6
7 --- BRIEF PAUSE

8
9 94. Q. So we know from the numbers we looked
10 at earlier that we've had a sharp increase in demand
11 for services for a major increase since 2021 in the
12 number of homelessness. We've been through that,
13 right?

14 A. Yes.

15 95. Q. And these paragraphs talk a bit about
16 the reaction to that, that the system has been
17 reactive to the crisis and it's increasingly directed
18 to managing higher levels of demand, but has not
19 really been in a position to make in-roads into
20 reducing the numbers to date. Is that fair?

21 A. I think that perspective would be
22 supported by the evidence presented in this report.
23 Yes.

24 96. Q. Okay. And you would endorse the
25 proposition in the last paragraph:

1 "In these circumstances it's not
2 feasible for any single level of
3 government or homeless-related program,
4 under current system design, to produce
5 sustained reduction in homelessness."

6 A. Hmm. I don't know if I would fully
7 agree with that, to be honest.

8 97. Q. Okay. And it is important that you
9 should be being honest, because you have
10 (indiscernible) evidence as affirmed to be true.

11 A. Though, I think -- I mean, I think one
12 of the complexities is that this is an absolute
13 statement, so to agree with it, you would have to
14 agree that it applied in all circumstances and all
15 situations, and so I do think that -- and, again, I'm
16 not sure what exactly would constitute a, "sustained
17 reduction in homelessness." And I don't know if that
18 means 5% lower for six months or exactly what that
19 looks like. I do think each level of government can
20 make meaningful policy changes that impact the
21 experience of homelessness. And I think, yeah, I
22 think for me this is -- you know, I included this
23 report, and I think strongly of the AMO and OMSA and
24 the organizations that produced this report and the
25 methodology that they used. But one of the pieces to

1 remember is that these are advocacy organizations on
2 behalf of municipal governments. And so one of the
3 things they're trying to do with this report is
4 encourage all levels of government to up their
5 contributions in terms of addressing homelessness.

6 So I think, for me, I'm reading this
7 last line as less a part of the research in the report
8 and more of a call to action. And so, yeah, I would
9 suggest that, ideally, you would have multiple levels
10 of government working together. But saying that no
11 level of government can do anything, I think, is a
12 step too far ...

13 98. Q. But I'm not sure that it says, "No
14 level of government can do anything." But you ---

15 A. "Do anything to produce a sustained
16 reduction in homelessness on their own."

17 99. Q. "On their own." And you say that this
18 is because it's an advocacy group, sort of like a
19 litigation strategy group may advocate for the rights
20 of the homeless. Right?

21 A. I'm sorry, are you referring to the
22 Encampment Litigation Strategy Working Group?

23 100. Q. That is what I'm referring to. They
24 advocate for the rights of the homeless, don't they?

25 A. I don't think that there's a specific

1 mission statement associated with the group that
2 includes that language.

3 101. Q. It may not be a mission statement, but
4 that's what they do, isn't it?

5 A. I think that they do work with people
6 experiencing homelessness in terms of representing
7 them legally. Like I said, I can't -- I don't speak
8 on behalf of the group. I mostly attend and observe
9 when I'm able to.

10 102. Q. Well you were prepared a minute ago to
11 make a description or a characterization of the AMO in
12 this report. And to be fair, and you're sworn to the
13 Court to be objective and neutral as an expert, you
14 could say the same thing about the Encampment
15 Litigation Strategy Group, couldn't you? That it's a
16 group that advocates for results for the homeless.

17 A. I don't think I could and the reason
18 that I don't think I could is that the AMO is a formal
19 organization that includes a public website, detailed
20 statements of its purpose and goals, in a way that a
21 working group of people who -- who meet, they don't
22 have that same cohesion, right? And that same
23 formality. So like I said, that I don't -- I've
24 responded to some of the things that I've observed
25 happened in those meetings, but I wouldn't be

1 comfortable saying that I can ascribe a -- a purpose
2 in one line on behalf of that group in that way. As
3 far as I know, group members haven't agreed to any
4 sort of statement in that way.

5 103. Q. But they are an advocacy group.

6 A. They're a group of lawyers and legally
7 adjacent folks that meet to discuss encampment
8 litigation.

9 104. Q. On behalf of homeless clients?

10 A. What they do includes discussing both
11 litigation strategies as well as strategies for
12 working with clients who experience homelessness as
13 well as broader policy changes. Insofar as I
14 understand the content of the meetings that I've
15 attended.

16 105. Q. Okay. Can we go to PDF 165, please?
17 That should be 41.

18 A. "Previous municipalities under
19 pressure," that's the first line?

20 106. Q. Yes, that's right. So this report
21 calls for additional investments to change the
22 trajectory of homelessness. Do you see that?

23 A. Yes, I do.

24 107. Q. Okay. And it's actually a restatement
25 of what I understand was in the previous report. And

1 it breaks it down into a longer-term and a targeted
2 near-term investment. Do you see that?

3 A. Yes, I do.

4 108. Q. So this report calls for longer-term
5 investment of approximately \$11 billion over 10 years
6 and a targeted near-term investment of approximately
7 \$2 billion to address acute pressures such as
8 encampments and visible, unsheltered homelessness
9 intended to reduce immediate harm, et cetera. Do you
10 see that?

11 A. Yes, I do.

12 109. Q. And you would accept that investments
13 in the billions are necessary to fully address the
14 problems of homelessness in Ontario?

15 A. In terms of fully address, could I ask
16 you to clarify what you mean by that?

17 110. Q. Let's say, to get back to the levels
18 pre-2021.

19 A. Yes, I think that's fair to say. To
20 get back to the level of homelessness pre-2021 we
21 would need investments in the billions of dollars.

22 111. Q. Thank you.

23 A. Across Ontario.

24 112. Q. And these two, the \$11 billion and the
25 \$2 billion, we don't even know if that'll do the trick

1 because it's going to, in part, depend on the
2 trajectory we looked at earlier, whether we have a
3 weak economy, steady state, or economic downturn. And
4 if there's an economic downturn, it might require a
5 lot more. Is that fair?

6 A. Consistent with the modelling that they
7 did in the report, if there is a change in economic
8 circumstances as well as, you know, they also looked
9 at housing market dynamics and availability of
10 affordable units, then, yeah, depending on what
11 trajectory we see over the next 5 to 10 years, that
12 the amount of money required could be more.

13 113. Q. Okay. In your affidavit, you expressed
14 some thoughts at paragraph 30, and I wanted to ask you
15 about those.

16 A. Sure. I'm just going to click over to
17 my affidavit. Paragraph 30. Starting with the Petsch
18 (ph) references?

19 114. Q. Yes. I'm actually going to take you a
20 bit further down. You say:

21 "Similarly, a housing-first approach
22 requires setting up individuals
23 experiencing homelessness with housing
24 and living supports."

25 And I take it that you are an advocate for

1 the housing-first approach?

2 A. I wouldn't describe myself as an
3 advocate for the housing-first approach.

4 115. Q. Okay. Perhaps I'll try it slightly
5 differently then. You believe that the housing-first
6 approach is the best policy response?

7 A. Similarly, I don't know that I would
8 say that I believe it's the best policy response. I
9 would say that it is one of the policy responses to
10 homelessness with the strongest research, including
11 Canadian-specific research through the "At Home/Chez
12 Soi" study to support it. So -- and there have been
13 multi-year longitudinal studies that have shown that
14 housing-first produces more robust housing stability
15 outcomes for people experiencing homelessness. It's
16 an approach that's discussed in the Region of
17 Waterloo's Plan to End Chronic Homelessness and it's
18 an approach that's well known in the research
19 literature in terms of having the strong evidence
20 base.

21 116. Q. So I think I can take the answer you
22 gave as, "yes." You agree and it's your belief that
23 housing first is the best policy approach. And you
24 just gave me reasons why, but you didn't agree with
25 the opposition.

1 A. It's not that I -- I just, I don't want
2 it to rest on belief. It's not that I have my belief
3 in this. It's that it's my expertise as a researcher
4 leads me to, yeah, believe -- I guess not "believe,"
5 but to agree that it's an approach to homelessness
6 that has a strong evidentiary base.

7 117. Q. So what you say is most appropriate
8 would most of the unhoused living in encampments
9 should go straight to supportive housing?

10 A. That's a very difficult question. So
11 housing-first can look differently, depending on who
12 exactly you're working with. And so housing-first
13 approach with somebody staying in an encampment might
14 involve a supportive housing unit. For other
15 individuals, it might not involve supportive housing,
16 it might involve a subsidized housing unit or a
17 different sort of living arrangement.

18 118. Q. Okay. But you certainly would say that
19 people in an encampment, if they are to be placed
20 anywhere, should go to either subsidized housing or
21 supportive housing as long as it's permanent, and
22 that's as opposed to emergency shelter, transitional
23 shelter, or motels or hotels.

24 A. Yes, that's correct. Housing-first
25 requires placing individuals in permanent housing.

1 119. Q. Okay. And even if you, for example,
2 require a property in the short-term for other valid
3 purposes, what you're saying is that people that are
4 displaced because the property is needed should go
5 straight to permanent housing.

6 A. I think ideally, they should be offered
7 permanent housing option that meets their needs.

8 120. Q. Okay. And you've ruled out things like
9 emergency shelter, transitional shelter, or motels,
10 hotels, as meeting their needs. And so we're left
11 with supportive housing or subsidised housing, both
12 categories of permanent housing. Is that fair?

13 A. What I would say is if it's consistent
14 with the housing-first approach, emergency shelter,
15 transitional shelter, and motel, hotels are not the
16 kind of housing that's discussed in the housing-first
17 approach.

18 121. Q. I understand, but ---

19 A. Okay.

20 122. Q. They could be a stopgap, can't they? I
21 mean, if you need a property for valid purposes by a
22 certain date and there just doesn't happen yet to be
23 sufficient permanent housing available, you can use
24 those other options as a stopgap. It's not ideal, but
25 it's something you can do.

1 A. I guess my difficulty with that is
2 based on my experience working with people staying in
3 encampments, often these -- and sometimes, and again,
4 it's very individual. Sometimes they might be
5 realistic options for individuals. Sometimes they
6 might be options that people will accept as a stopgap,
7 but often there are really good reasons why those
8 options don't work for people. And part of that is
9 the lack of permanency. So for example if someone
10 goes from an encampment to an emergency shelter, they
11 often lose a lot of their survival equipment, they
12 can't take that equipment with them. They might know
13 that they don't do well in emergency shelters, and so
14 they're likely to experience a service restriction.
15 You know, they may not, after a few days in a past
16 experience, they've found that they become service-
17 restricted and they can't stay there any longer, and
18 then they end up cycling back to sleeping rough, being
19 on the street, except now they've lost a lot of their
20 survival equipment. So that's just one example.

21 So for some individuals, you know, if
22 that's presented as an option, it may find that to be
23 an option they could work with, but for other
24 individuals, those options feel very risky, very high-
25 risk in terms of destabilizing them.

1 123. Q. Okay. And what I'm taking from the
2 answer you just gave is that in your view, it should
3 be a matter of individual choice. Nobody should be
4 forced to go to a motel or transitional shelter or an
5 emergency shelter unless they've chosen that's an
6 option appropriate to them.

7 A. Yes, I agree. It should be a matter of
8 individual choice. And I think, given some of the
9 broader system pressures across Ontario, that the AMO
10 report, you know, really hammered home in terms of the
11 way that the system right now cannot deal with the
12 volume of people experiencing homelessness, the
13 reality is that even the emergency shelter and
14 transitional shelter and motel and hotel overflows
15 cannot deal with the number experienced -- of people
16 experiencing homelessness. And there is a need for
17 sites where people can safely encamp and tent.

18 124. Q. Okay. But what I'm asking you, in a
19 case like this, and you don't need to comment on
20 whether the property is or isn't needed or by what
21 date, I'm just asking you to accept, for the purposes
22 of my questions, that it is. And you will be aware,
23 it's just an assumption, but you will be aware that
24 the region's intended use of 100 Vic is for a public
25 transit project?

1 A. Sure. Yes, I'm aware.

2 125. Q. And you don't disagree that there is a
3 public good that comes from expanding public transit
4 facilities?

5 A. Of course.

6 126. Q. Okay. And that if what the region says
7 in its evidence is true, that the property is simply
8 needed for that project by a certain date, then those
9 who are at the encampment will have to move by that
10 date? So I'm just asking you to assume that. And
11 from the evidence you've given, there simply isn't
12 enough permanent housing available. Is that the case?

13 A. My understanding, and -- of the
14 situation in the region, and I don't know that the
15 evidence I gave in this affidavit was specific to the
16 availability of permanent housing in the Region of
17 Waterloo, but my understanding is that there is not
18 sufficient permanent housing in the region.

19 127. Q. Right. And so you would say that the
20 transit project has to wait until each and every
21 person in the encampment has chosen a permanent
22 housing or other of the temporary housing options that
23 suits their needs before it can proceed? Is that what
24 your position is?

25 A. No. My position is that,

1 realistically, there are going to be individuals that
2 cannot be accommodated in permanent housing or the
3 alternative accommodations in the -- the foreseeable
4 future because of the number of people experiencing
5 homelessness in the Region of Waterloo, and so there
6 needs to be a location where people can tent safely.
7 (Indiscernible).

8 128. Q. But let me ask you this. If you were
9 to take the current population of the encampment and,
10 again, this is just an assumption, let's say there's
11 25 people there. And you were to expand the capacity
12 of the system by 25 places, you would say you still
13 can't move those people experiencing homelessness to
14 those 25 places in order to proceed with the transit
15 project? Is that your position?

16 A. Would you mind restating that?

17 129. Q. Yes. So you've got, let's say, 25
18 people at the encampment and the region says, "Well we
19 want to do right by these 25 people, so we are going
20 to find the funds to expand our capacity in the system
21 by 25 places." Is it your position that the transit
22 project should still not proceed until you've got each
23 and every one of those people satisfied with the
24 options that they've been given?

25 A. My position probably would be that the

1 way that the scenario is set up is not realistic in
2 terms of the dynamics of homelessness in Waterloo
3 Region, so trying to consider the people who are
4 located at 100 Victoria in isolation from people
5 across the region experiencing homelessness makes it
6 very difficult. And that's because people -- because
7 of the system's lack of capacity, people are going to
8 need a place to tent and so if you expanded the
9 capacity of the site to the system to accommodate the
10 four people that the region states were on site as of
11 the date in April last year when they started counting
12 residents, that's not going to take away from the
13 broader need for a place where people can camp in
14 Waterloo Region simply because there are so many
15 people experiencing homelessness and the system cannot
16 find space for all of them.

17 130. Q. That may be ---

18 A. So, I would say the system has a duty
19 to all of the people experiencing homelessness in
20 Waterloo Region and not just the people that they have
21 enumerated as residents at 100 Vic.

22 131. Q. Okay, and so I understand your
23 position. And you can't do what I might refer to as a
24 localized solution where you've got a set number of
25 people, you just make sure that you expand the

1 capacity to be able to accommodate that set number of
2 people and then proceed with your transit project.
3 You're saying that, no, you can't do that because you
4 haven't looked after the other however many people
5 there are experiencing homelessness in the region.

6 A. That's correct and as one of my
7 research projects we did surveys with 65 people in
8 Waterloo Region who had stayed in encampments in the
9 last year.

10 132. Q. Yes.

11 A. And again people, you know, the need to
12 encamp -- people will shift. People might temporarily
13 be able to access a shelter bed for a couple of
14 nights. But really what we saw from that research was
15 about 80% of the folks we surveyed have been staying
16 in encampments for over a year. And so -- and that
17 wasn't just at 100 Vic. So there's this need for a
18 safe place to tent that I don't see disappearing
19 anytime soon.

20 133. Q. And I think we're probably -- we
21 understand.

22 A. Okay.

23 134. Q. And in the evidence so far that there
24 are more people than there are facilities available.
25 But when I asked about, "Couldn't you do a local

1 solution that found spots for people in this
2 encampment and increase capacity of the system to
3 accommodate them?" You say no because you have to
4 really look after the entire homeless population. Is
5 that fair? Is that a fair summary of where you got
6 to?

7 A. I think so, and I think that I would
8 add as well is that transitions to and from
9 homelessness aren't linear. So, for example, if you
10 set up individuals from the encampment with a housing
11 solution, which would be great, that's great. I think
12 that's what we, you know -- I certainly hope for
13 anyone experiencing homelessness that they are able to
14 find permanent housing and be there. But they
15 wouldn't necessarily still be there in six months,
16 right? Because this is complicated. This is a
17 complex issue. And so, somebody ends up back
18 experiencing unsheltered homelessness, the question
19 becomes where can they go safely to tent?

20 135. Q. My question is about your position,
21 because you have, I think now twice, rejected the idea
22 that you could find what I've referred to as a
23 localized solution that there are say 25 people,
24 you're at capacity, you find place spots for them.
25 You say, "That's not enough, you really have to

1 provide for the rest of the population." So, is it
2 then also your position that the transit project
3 cannot proceed until you have solved the homelessness
4 problem in the Region?

5 A. No, that's not my position at all. My
6 position is that there is a need -- there's only one
7 location right now in Waterloo Region where people can
8 tent and there's some legal protection. There are
9 bylaws across the region that make it illegal to tent
10 on public lands and my position is that in the
11 foreseeable future people need a location where they
12 can tent. And so I think if this particular location
13 is no longer available, I just don't know where people
14 would go in terms of being realistic about the fact
15 that there are still going to be hundreds of people
16 experiencing unsheltered homelessness in Waterloo
17 Region.

18 136. Q. And those are the people that -- you
19 just don't know where they would go. The people are
20 not currently at camp. Because under the localized
21 solution that I'm suggesting to you, and asking you to
22 assume, places have been found for them. Places will
23 be found for them. You're talking about the rest of
24 the homeless population. You're saying you don't know
25 where they would go, and so what you're saying is

1 that, yes, you can proceed with the transit project as
2 long as there's a place for the rest of the homeless
3 population to go. Is that fair?

4 A. No, again, because, you know, if
5 there's a localized solution, by which I'm taking you
6 to mean that there is a permanent housing option made
7 available to all of the individuals currently in 100
8 Victoria ---

9 137. Q. Okay, so just stop there.

10 A. Okay.

11 138. Q. In order to satisfy you, it has to be
12 permanent housing.

13 A. I don't think I'm the person that needs
14 to be satisfied in this scenario. So, I don't think
15 ---

16 139. Q. It is by cross-examination, because
17 we're trying to understand what you're putting forward
18 to the court. When you say you can't do this, you
19 can't do that, what can you do?

20 A. Sure. So if -- again, the reason that I
21 say I don't think it's me that needs to be satisfied
22 is because I think, again, thinking about the way that
23 the plan to end chronic homelessness references both
24 human rights as well as housing first, there's space
25 ---

1 140. Q. You don't have to get your talking
2 points across. We've read the report, we've read your
3 affidavit. You don't need to repeat things that are
4 already said, just to save us some time here. Okay?

5 A. Pardon me, do you mind if I -- you just
6 -- you cut me off. You've asked me what my ideal
7 solution would be, and so I'm trying to explain that,
8 which I would like to do because you seem to be
9 implying that I wouldn't be satisfied with anything
10 short than permanent housing for the entire homeless
11 population of Waterloo Region, and that's not my
12 position at all. I'm very realistic and I have a good
13 sense of the system capacity. So, I'm not just trying
14 to get talking points across. I'm trying to respond
15 to this narrow scenario you've presented and I'm not
16 sure how to do that.

17 141. Q. You may have misunderstood me because
18 the question I asked was for the people at the
19 encampment, for the localized solution, do they all
20 need to go to permanent housing? That was the
21 question I asked, not does the entire population
22 experiencing homelessness need to go to permanent
23 housing. So, it was a narrow question that I asked.
24 And let me take you back to what I think you're trying
25 to say ---

1 A. Right and then ---

2 MS. MULLEN: To interject, I think that Dr.
3 Pin deserves the time to actually answer the
4 question. I think she is going to answer
5 your question, but you are interrupting her
6 and cutting her off.

7 MR. LOKAN: Yes, and we were getting into
8 some very long responses to some fairly
9 short questions, but I'll simply restate the
10 question and allow Dr. Pin to answer it.

11
12 BY MR. LOKAN:

13 142. Q. Dr. Pin, what do you say is necessary
14 for the Region to do before it can proceed with its
15 transit project?

16 A. Sure. Again, I don't know that I'm the
17 -- theoretically, based on my research concerning
18 homelessness and people staying in encampments
19 locally, I think that people should be -- people who
20 are on site at 100 Victoria should be presented with
21 housing options, including permanent housing, with a
22 recognition, which is well supported in the
23 literature, that what a good housing option looks like
24 is going to vary for -- from individual to individual.
25 But the other piece that I think is important is a

1 place where people can camp, where people are legally
2 permitted to camp. And so, again, if individuals from
3 100 Victoria are all set up with housing options that
4 work for them, you know, and in this, you know, that's
5 great, it's likely that some of those individuals will
6 end up unsheltered again. And so, if there is no
7 place where they legally can camp, then it becomes
8 very difficult for them to survive in a lot of places.

9 143. Q. Okay, but I still haven't heard the
10 answer to the question. What must the Region do
11 before it can -- in your opinion, in your position,
12 before it can proceed with the transit project?

13 MS. SCHUIITEMA: Andrew, she just answered
14 that question. She just gave you her answer
15 to that question, you just don't like it.

16 MR. LOKAN: No, no, no. I don't ---

17 MS. SCHUIITEMA: No, she's given you her
18 answer for this question.

19 MR. LOKAN: (Indiscernible).

20 MS. MULLEN: Do you want me to read back her
21 notes?

22 MR. LOKAN: No, I do not because I was
23 listening very carefully. Let's unpack
24 that.

1 BY MR. LOKAN:

2 144. Q. So, the first element is that those who
3 are at the encampment have to give -- be given options
4 that they accept. Is that fair?

5 A. Given options that they accept.

6 145. Q. Yes.

7 A. Sure.

8 146. Q. Okay. And so, if it so happens that
9 there's not enough permanent housing and that those in
10 the encampment say, "Well, I don't want to go into a
11 motel, I want to go to permanent housing," that that's
12 not good enough?

13 A. My position isn't that they, you know,
14 inevitably a transit development should be delayed at
15 100 Vic, right? My position is that people may have
16 really good reasons why going to a motel or going to a
17 temporary form of shelter, that doesn't work for them
18 and so they need an alternative place where they can
19 camp. And there are other municipalities, for example
20 the City of London which has designated encampment
21 zones, the city of Thunder Bay as well, which doesn't
22 have a bylaw prohibiting camping on public lands. So,
23 I don't think this suggestion is so infeasible. I
24 think there are other municipalities that have adopted
25 it.

1 147. Q. Right. So is it -- I just don't know
2 what the position is. So, your position is people
3 that 100 Vic should be offered the range of
4 accommodation options and it should be their choice
5 whether they take them or not, and that in addition to
6 that, there should be other sites where people can
7 camp, where people can form an encampment? Is that
8 where you're getting that?

9 A. People staying at 100 Vic, like other
10 individuals experiencing homelessness, yes, should be
11 offered housing options that work for them and ideally
12 consistent with the human rights approach. That would
13 mean permanent housing. Where that's not available,
14 they certainly could be offered motels or emergency
15 shelters but, of course, we don't have mechanisms to
16 force people -- to force people to go to an emergency
17 shelter or a motel for example.

18 And as I mentioned, there's really good
19 reasons why people may be concerned about that option
20 including knowing that they are often service banned
21 from shelters and so they, you know, this may not be a
22 permanent solution and then they've lost all their
23 stuff, including people who use substances and are
24 nervous about going into hotels where they may be
25 isolated and using alone, putting them at a risk for

1 overdose and death so ---

2 148. Q. Again ---

3 A. --- I think people should have choice
4 over whether they take up those options. And again,
5 you know, the -- the emergency shelter system in
6 Waterloo Region is at capacity, and I'm sure you've
7 heard evidence in this case to that effect. And so,
8 yes, another component of a fulsome response is the
9 place where people can legally tent.

10 149. Q. Okay. So as long as people at the
11 encampment are given a choice of options that you
12 discuss in paragraph 30 and also have a place where
13 they can tent, then you would see the region can
14 proceed with its transit project?

15 A. Then I would say that there has been
16 more due diligence being done in terms of the criteria
17 outlined in the plan to end chronic homelessness
18 around the way we want to be responding to people
19 experiencing individual homelessness. I wouldn't say
20 the region's permission to go forward with the project
21 hinges on my view of it.

22 150. Q. Dr. Pin, I'm not asking you to say
23 there's been more or less due diligence done. I'm
24 asking you what your position is. What does the
25 region need to do? Pretend for a moment you're the

1 judge, and pretend that you don't need to have any
2 knowledge of the law or of the *Charter*, and you're
3 free just to make up what needs to happen before that
4 transit project proceeds.

5 MS. MULLEN: So, I think she has answered
6 this question now, several times.

7 MR. LOKAN: No, she didn't, she avoided
8 answering it scrupulously in the last answer
9 by saying it's a matter of, more or less,
10 due diligence.

11
12 BY MR. LOKAN:

13 151. Q. I just want you to confirm if you
14 provide the options referenced in your paragraph 30 of
15 emergency shelter, transitional shelter, motels,
16 hotels, supportive housing, or subsidized housing, you
17 provide those options and you also provide the ability
18 to tent elsewhere. If you've done all that can the
19 region proceed with its transit project?

20 A. Sure. With, I think, sufficient
21 notice, right? And assistance in moving people and
22 things like that. But, yeah, sure. If all of those
23 things were provided.

24 152. Q. Okay. So, you mentioned that you're a
25 member of the co-creators' group for the Petsch?

1 A. That's correct.

2 153. Q. And in your affidavit, you talk about
3 there being 60 organizations that are ---

4 A. That's correct.

5 154. Q. --- members of that group. And that
6 group includes Region of Waterloo representatives,
7 doesn't it?

8 A. What do you mean by representatives?

9 155. Q. People who are employed by the Region.

10 A. Okay. I wasn't sure if you meant
11 elected officials. Yes, it includes Region of
12 Waterloo Housing Services staff.

13 156. Q. Okay. And it's fair to say, isn't it,
14 that in your discussions, there's a range of
15 perspectives who are represented in the co-creators'
16 group?

17 A. Sure.

18 157. Q. Okay. You don't have any particular
19 mandate to speak for the group, do you?

20 A. No, I do not.

21 158. Q. Okay. Thank you. In your paragraph 21
22 of your affidavit, you talk about the -- and
23 following, you talk about the definition of
24 "resident," and you say it depends on a moment of
25 enumeration. You say:

1 "The definition of tents to fix
2 residency is a status that can be
3 definitively determined at a single
4 point in time based on presence on one
5 specific date, and at the moment of
6 enumeration."

7 Do you see that?

8 A. Yes.

9 159. Q. Are you aware of what the Region
10 actually did to count who it regards as residents at
11 the encampment?

12 A. Maybe not fully.

13 160. Q. Okay. And you're also not aware of how
14 important a tribunal might define whether somebody is
15 a resident or not?

16 A. Sorry, if which tribunal?

17 161. Q. Any court or tribunal might determine
18 whether somebody is a resident or not. That's beyond
19 your expertise.

20 A. I'm not sure about that.

21 162. Q. How a court would interpret a
22 definition of residence, whether it's enough for a
23 court that somebody was there the week before and the
24 week after, you have no knowledge of that.

25 A. No.

1 163. Q. By, "no," you're saying you agree with
2 me?

3 A. Yes.

4 164. Q. Okay. Thank you. Thank you. I have
5 no further questions.

6 A. I actually would like to clarify
7 responses. Am I able to do that?

8 165. Q. Yes. If there's a response, well,
9 you'd be asked in re-examination anyway, so why don't
10 I ask you?

11 What is the question or what is the response
12 you want to clarify?

13 A. Just the response around how aware I
14 was of how the Region enumerated individuals at 100
15 Vic.

16 166. Q. Yes.

17 A. And just what I wanted to clarify is I
18 have the same level of awareness as the region has
19 publicly reported in documents, but I don't have any
20 specific knowledge. For example, regional staff have
21 never told me exactly how they did that count or how
22 they had security do that count.

23 167. Q. Or how many times they visited, or
24 whether they cross-checked, or whether it was multiple
25 occasions. You don't know any of that.

1 A. Well, what I have seen in the publicly
2 posted documents is a statement that they counted the
3 individuals that were present at the site on this
4 particular date, and that's how they defined
5 residence. And so I just wanted to be clear that I
6 wasn't basing it on nothing but basing it on what I've
7 read. And, of course ---

8 168. Q. When you say what you've read, you mean
9 in one of the affidavits?

10 A. No, I mean in terms of public materials
11 around the initial bylaw.

12 169. Q. Not in the sworn or affirmed evidence
13 before the court?

14 A. No. No.

15 170. Q. Okay. No further questions.

16 MS. SCHUIITEMA: And, Andrew, I mean, the
17 evidence around what you were just saying
18 of, like, how often they were there and
19 those types of things, like, could you point
20 us to where that is in the record?

21 MR. LOKAN: I have a recollection, but I
22 don't have a specific reference.

 MS. SCHUIITEMA: Okay. So maybe we should
 ask her that, then.

 MR. LOKAN: But she says I wasn't her

source.

MS. SCHUIITEMA: Okay. I'm not sure that's in the record, so -- okay. We'll take a few minutes and think about re-direct.

--- BRIEF PAUSE

RE-EXAMINATION BY MS. SCHUIITEMA:

171. Q. So, Dr. Pin, one of your answers was talking about a component being a place where people can legally tent, and I was hoping you could describe to us what some of the components of a process or protocol or something like that might look like.

A. Sure. Thanks for the question. So -- or I shouldn't say, "Thanks for the question," I've been doing too many panel discussions lately. What I should say is, "Let me think about that." So, I think a place where someone could, like, a protocol where people could legally tent, where I've seen this work well is when there are a variety of spaces. So not a single location. There are some constraints put on those spaces and that can be partly for the safety of individuals encamping as well as to balance different public needs. So, for example, a common limitation might be around the number of spaces permitted, so

both London and Hamilton, which did have tenting protocols, had limits around five structures or tents being in place. And then also a plan for connection with services. So, for example, in the city of London where they have a tenting protocol, they also have a mobile service provision that regularly visited sites where they know people are encamped to make sure that they're able to access different sorts of social services as well as health services and basic needs. And so those are some of the pieces that I would see as being part of it.

Then another piece that is often part of public tenting protocols is a process of public consultation and engagement to try and work with those most affected by the issue. So, in this case it would be, in particular, individuals who are experiencing homelessness to identify suitable sites, and -- as well as clear communication of those sites to individuals experiencing homelessness and service providers.

172. Q. Okay. I think that's the only re-direct question I had. Thank you very much.

MR. LOKAN: So, we're done.

--- ADJOURNED

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
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and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Doug Spooner** on his affidavit dated June 6, 2025, taken via Zoom videoconference on consent of the parties on March 6, 2026.

APPEARANCES:

KARTIGA THAVARAJ, Ms. Counsel for the Applicant

ASHLEY SCHIUTEMA, Ms. Counsel for the Respondents
SHANNON DOWN, Ms.
JOANNA MULLEN, Ms.

MERCEDES PEREZ, Ms. Amicus Curiae

(i)

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1 MARCH 6, 2026

2
3 DOUG SPOONER, AFFIRMED

4 CROSS-EXAMINATION BY MS. DOWN:

5 1. Q. Good morning, Mr. Spooner.

6 A. Good morning.

7 2. Q. Would you like to be called Mr. Spooner
8 or Doug?

9 A. Doug works for me, if it works for you.

10 3. Q. That works for me and you can call me
11 Shannon.

12 A. Great.

13 4. Q. I am going to be asking you a few
14 questions this morning. I just want to go over a few
15 housekeeping items before we get started.

16 So just first of all, can you confirm that
17 that only document you have in front of you is your --
18 I am assuming you have a copy of your affidavit with
19 you?

20 A. I do not. I have blank white paper
21 with me. That's all I've got in front of me.

22 5. Q. Okay. Okay, well if we need to refer
23 to parts of your affidavit and you don't recall it, we
24 can put it up on the screen. Kelsey is going to
25 assist us with some screensharing.

D. Spooner - (Cr-Ex) - 5

1 And I just want to confirm that during the
2 course of your cross-examination, that you're not to
3 communicate with anybody during the cross-examination
4 and that includes if we take a break or adjourn for a
5 few minutes for, you know, a bathroom break or a lunch
6 or something and come back. Is that okay?

7 A. Okay, great.

8 6. Q. Okay. And if at anytime any of my
9 questions you don't understand what I'm asking you,
10 please just let me know and I'll try to rephrase or
11 repeat it, okay?

12 A. Will do.

13 7. Q. So I am going to start out with, can
14 you tell me how often -- so you've got this project
15 that you've been working on from the Region's side
16 with Metrolinx. Can you tell me how often do you meet
17 for the purposes of discussing this project with
18 Metrolinx, say starting in the 2024 timeframe?

19 A. Yeah, so myself, I don't join every
20 project meeting. So the team meets, you know, with
21 regularity. I don't know the regularity of that
22 meeting. I join in as a co-chair of the funding
23 meeting for the transfer payment agreement.

24 So that's co-chaired by myself and a rep
25 from the MTO that's reporting on progress and budget.

D. Spooner - (Cr-Ex) - 6

1 And then I join our internal briefings which happen
2 about monthly from our design and construction team
3 and facilities team to meet.

4 8. Q. Okay.

5 A. And obviously any other phone calls,
6 emails that we need to do to check in.

7 9. Q. Okay. And those progress and budget
8 meetings that you were talking about related to the
9 TPA, how often were those occurring, say starting in
10 2024?

11 A. Yeah, quarterly for those.

12 10. Q. Quarterly. And who attends those
13 meetings?

14 A. Myself, the project lead, our CFO and
15 then representatives from the MTO.

16 11. Q. So is there representatives -- so the
17 project lead, is that someone from the Region or is
18 that (indiscernible) ---

19 A. The Region's project lead, yes.

20 12. Q. Okay. So and when you say, "MTO," is
21 that -- are they there on behalf of Metrolinx?

22 A. So the TPA is split into two parts.
23 It's a \$43 million contract; 33 to the Region of
24 Waterloo, 10 million to Metrolinx. So Metrolinx does
25 not have a rep in that meeting. That is to cover the

D. Spooner - (Cr-Ex) - 7

1 Region's portion of that transfer payment agreement.

2 13. Q. Okay, but are the -- when you talk
3 about the progress in the budget because this -- my
4 understanding is the Region's work is tied very
5 closely to Metrolinx's work. So is the budget --
6 sorry, the progress in budget, does it -- do you talk
7 about what's happening on the Metrolinx side at those
8 meetings?

9 A. If there are any interface challenges.
10 But that is not the meeting where we do the interface
11 work and that's done in -- the meeting that I don't go
12 to, that is, the project meeting with the design and
13 construction folks.

14 14. Q. Okay, so those project meetings, you
15 said you don't go to those but do you know how often
16 they are meeting?

17 A. I do not.

18 15. Q. Okay.

19 A. Like it would be with great frequency
20 because we're obviously an integrated project but I
21 don't know the specific.

22 16. Q. Like it might be monthly?

23 A. I would guess, yeah, or greater than
24 that, yeah.

25 17. Q. Okay, monthly or more frequently.

1 Okay. And you get progress reports from that group
2 but even though you're not part of those meetings?

3 A. Correct.

4 18. Q. Okay. And are there minutes that are
5 produced from those meetings that get circulated?

6 A. None, that I've reviewed. I don't
7 know.

8 19. Q. Okay. Can I get an undertaking for you
9 to determine whether there are minutes from those
10 meetings? And if there are, we're asking for a copy
11 of minutes going back to December 1st, 2024.

12 MS. THAVARAJ: I will undertake to answer if
13 there are minutes.

14 **UNDERTAKING**

15 And then under advisement as to whether to
16 produce.

17 **UNDER ADVISEMENT**

18 MS. DOWN: Okay.

19
20 BY MS. DOWN:

21 20. Q. And so, do you have direct
22 communications with the people who are in charge of
23 this project at Metrolinx?

24 A. So my contact is the project sponsor
25 from Metrolinx. And so that is somebody who

D. Spooner - (Cr-Ex) - 9

1 effectively tries to keep the project moving, keep the
2 partnerships working. So, yes, I can have regular
3 contact if I need.

4 21. Q. Okay. And so would you have had
5 contact with them about the timing of this project
6 like in the timeframe since December 1st of 2024 until
7 now?

8 A. Yeah, that is one of the activities
9 that I try to support in my position.

10 22. Q. Okay. And so how would those
11 communications usually occur; like is that a telephone
12 call or is that an email?

13 A. Either/or, yeah.

14 23. Q. Okay. And so, do you have emails that
15 discuss the timing between December 1st and now?

16 A. Yes.

17 24. Q. Okay, can I get an undertaking to
18 provide copies of those emails?

19 MS. THAVARAJ: Under advisement as well.

20 **UNDER ADVISEMENT**

21 MS. DOWN: Okay.

22
23 BY MS. DOWN:

24 25. Q. And when did you last communicate with
25 Metrolinx about this project?

D. Spooner - (Cr-Ex) - 10

1 A. I am forgetting my -- roughly three
2 weeks ago.

3 26. Q. Three weeks ago? And that was with
4 this project sponsor?

5 A. Correct.

6 27. Q. Okay, and did you discuss the timing of
7 the commencement of the project?

8 A. Absolutely.

9 28. Q. Okay. And what was that -- can you
10 tell me about that?

11 A. Yeah, so they received board approval
12 to proceed to tender. So there was an update from
13 Metrolinx that they will proceed to tender in March.

14 29. Q. Okay. And so do they know when that
15 tender is going to be released?

16 A. The email said within two to three
17 weeks barring any other -- any other changes. So it
18 should be out this month.

19 30. Q. Okay. And what's your understanding of
20 what their tender process -- how long it takes?

21 A. I don't have a great understanding. I
22 would imagine it's (indiscernible) bill, receive
23 responses, and work through those responses. I don't
24 have a sense of timing for them.

25 31. Q. Okay, so you didn't actually -- did you

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1 talk to -- during that communication, did you have a
2 discussion about when the project would actually
3 potentially be starting?

4 A. Yeah, so we did ask the date on which
5 they would seek possession of 100 Victoria. And that
6 date is the end of October of this year.

7 32. Q. Okay. Okay, and, sorry, was that a
8 telephone meeting or a Zoom meeting or email
9 communication?

10 A. That -- the second part was an email,
11 yeah. Well, I guess both parts are an email. Them
12 informing me and me asking the question back, yes.

13 33. Q. Okay. Can I have an undertaking to
14 produce those emails.

15 MS. THAVARAJ: Yes.

16 **UNDERTAKING**

17
18 BY MS. DOWN:

19 34. Q. And the letter that came from Metrolinx
20 -- so there is a December 18th letter that's in your --
21 attached to your affidavit. It's from the person at
22 Metrolinx. I can't remember the person's name but the
23 person at Metrolinx who is in charge of the project
24 and it was directed to the CAO, I think, of the
25 Region.

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1 And it was saying we are going to need this
2 property in March. Was that -- was that letter -- is
3 that letter unusual; like why was that letter sent
4 from Metrolinx if there's these regular communications
5 between your team and Metrolinx?

6 A. Yeah, I think -- yeah, so that was from
7 Thomas Budd (ph) at Metrolinx to -- and if you're
8 correct and if it's the CAO, I believe it was Matthew
9 Getsky (ph). Not unusual and when we reach formal,
10 you know, kind of milestones to issue something like
11 that.

12 So I believe at that point they had reached
13 a design milestone, likely 90 percent design. So to
14 confirm, "here are the anticipated dates," that
15 wouldn't be irregular. We do have formal
16 communications and to both Metrolinx and MTO that we
17 often put in a formal letter.

18 35. Q. Okay. Has there been any other letters
19 like that one received during the course of this
20 project to your knowledge?

21 A. Not to my knowledge, no.

22 36. Q. Okay. I am going to turn now to some
23 questions about the transfer payment agreement.

24 A. Yeah.

25 37. Q. So that transfer payment agreement was

D. Spooner - (Cr-Ex) - 13

1 signed by the Region and the province in May of 2018.
2 It states that, "The project completion date" but the
3 whole project was supposed to be done December 1st,
4 2024. What has been the cause of that delay?

5 A. So as you know, Shannon, I joined the
6 Region in 2023 in February so anything predating that
7 time, I don't know. I know the Region had worked
8 through the collection of lands on the Kitchener
9 Central site.

10 There had been ongoing design work, a
11 community panel that had inputted but I am not sure
12 why we had moved off of a '24 -- a 2024 date. The
13 date that I've been working on since I arrived is
14 delivery by 2030.

15 38. Q. Okay. So you have no knowledge of what
16 the cause of those delays were? Because that's a
17 pretty substantial delay.

18 A. Absolutely, yeah.

19 39. Q. Okay. And, yeah, because under the
20 transfer payment agreement, it says that the
21 construction was supposed to commence in the summer of
22 2019. So, you know, coming up on almost seven years.
23 And so there's nothing -- there's nothing in sort of
24 the institutional knowledge that you would have
25 received from other people as to why that's happened?

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1 A. No, I -- when I began the project, I
2 was working with the Director of Facilities at the
3 time who is no longer with the Region. And she had
4 mentioned that we needed to get the project going.
5 But I am not aware of why it wasn't going previous.
6 So ...

7 40. Q. Okay. Had you been working at
8 Metrolinx prior to working for the Region?

9 A. Yeah, I had worked in a group called
10 Stations Planning in my role immediately before
11 joining the Region.

12 41. Q. Okay. Did you have any awareness of
13 what that project -- what was happening with that
14 project on the Metrolinx side during your time at
15 Metrolinx?

16 A. No, so it -- the planning group would
17 have worked on stations well before they were close to
18 construction. And so, I had a member of my team who
19 worked on Kitchener Station from a planning
20 perspective. But nothing related to the project or
21 the construction.

22 42. Q. Okay. So in that transfer payment
23 agreement, it talks about quarterly status reports.
24 Are those to be submitted? And subparagraph -- this
25 is at -- on Page 105 of your affidavit. And it talks

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1 about that those reports will include forecast and
2 actual construction start and end dates. Are those
3 quarterly status reports, have those been submitted
4 in, say, since December 1st of 2024?

5 A. Shannon, can I just ask that we pull up

6 ---

7 43. Q. Sure.

8 A. --- (indiscernible) synopsis.

9 44. Q. Kelsey, can you pull that up? It's at
10 Page 105 of Mr. Spooner's affidavit; if you can
11 screenshare that.

12
13 --- SCREENSHARE

14
15 45. Q. So if you looked -- yeah, so quarterly
16 status, this is part of the reporting and evaluation.
17 And it talks about these quarterly status reports and
18 that they would contain, amongst other things,
19 forecasts and actual construction start and end dates.

20 Are those quarterly reports being produced?

21 A. I haven't reviewed them. If it's part
22 of our commitment in the TPA, I would imagine that our
23 -- that our project lead is submitting them but I have
24 not reviewed any of these. These would be, you know,
25 points of discussion for me in a meeting rather than

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1 something I would review.

2 46. Q. Okay. Can we get an undertaking to
3 provide copies of those quarterly status reports, say,
4 starting December 2024 up until now?

5 MS. THAVARAJ: I'll take that under
6 advisement, Shannon.

7 MS. DOWN: Okay.

8 **UNDER ADVISEMENT**

9
10 BY MS. DOWN:

11 47. Q. And then, there is also just below that
12 at C2-2 there's this annual progress report. And so I
13 guess, same question about that. Is that a report
14 that you're aware of or you've seen?

15 A. I have not reviewed, no. But it has
16 not been told to me that we didn't produce it. So I
17 would assume we are producing these ongoing.

18 48. Q. Okay, so similarly, we'd like an
19 undertaking to produce a copy of those annual progress
20 reports.

21 MS. THAVARAJ: Also under advisement.

22
23 **UNDER ADVISEMENT**

1 BY MS. DOWN:

2 49. Q. So there's now an amending agreement
3 that's also in your affidavit. It actually -- it
4 originally -- I think the amending agreement says that
5 the completion date is December 31st of 2029.

6 So there's some confusion. I wasn't sure
7 whether -- like is -- it seems to talk about 2029 but
8 then I've seen 2030. So was that changed at some
9 point?

10 A. Can you show me the reference to 2029,
11 is that -- oh, it's there, it's okay.

12 50. Q. Yeah. Sorry, if you go back. Yeah.

13 A. Yes, so now what I -- what I don't know
14 in here is that referring to substantial completion or
15 final completion. The date that I work off is the
16 December 31st, 2030, we need to have achieved final
17 completion, and all our submissions to the MTO to get
18 this -- to get this funding.

19 51. Q. Okay. It talks about project
20 completion date. I don't know -- if you can scroll
21 down maybe it -- I am not sure if it defines that. So
22 what would the project completion date be?

23 A. Yes, so the project completion date
24 would be everything finished, wrapped up, facilities
25 in use, there are no more settlements claims, we've

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1 accepted all -- any and all deficiencies, they've been
2 remediated, etcetera.

3 52. Q. Okay, so how does that differ from the
4 other -- so what did you call the December 31st date?

5 A. Yeah. Substantial completion. So
6 substantial completion is there could be deficiencies,
7 there could be settlements outstanding but the
8 facility would be assumed by the Region and could be
9 starting to be used. We could outfit it; we could
10 take possession.

11 53. Q. Okay, is the project completion date
12 still contemplated as being December 31st of 2029?

13 A. No, we've said substantial completion
14 in 2029, final completion in 2030.

15 54. Q. Okay. So that -- so, sorry, again, I
16 am trying to -- because this is pretty specific.

17 A. Okay.

18 55. Q. It's talking about project completion
19 date and you're talking about substantial completion
20 date. So are those two different things?

21 A. Is there a definition in this document?
22 And I don't recall if there is, about the definition
23 of the ---

24 56. Q. I think the project completion date may
25 be -- is back in the other document. So maybe we have

D. Spooner - (Cr-Ex) - 19

1 to go back to the ---

2 A. Transfer agreement?

3 57. Q. --- original. What would -- I guess,
4 what would your understanding of this -- because we
5 have these two dates, the December 29th, 2029 date,
6 December 2030 date? Has that changed or is it -- is
7 it that same as what's contemplated in the amended
8 agreement?

9 A. My understanding is the same as what's
10 contemplated in the amended agreement. Yeah, I'm
11 using, obviously, a different word but ---

12 58. Q. Okay, so Kelsey, can you go back up
13 because it talks about substantial completement. I
14 want to go back up where it talks about project
15 completement. But it doesn't define it; it just gives
16 a date. That's not very helpful.

17 So you're saying your understanding is that
18 that project completement date is still -- is still
19 December 31st of 2029. Is that correct?

20 A. Yes, we plan to reach substantial
21 completion in 2029.

22 59. Q. Okay, so that's completion minus any
23 like additional like defects that need to be fixed?

24 A. Correct.

25 60. Q. Okay. Sorry. So at the December 18th

D. Spooner - (Cr-Ex) - 20

1 letter that's in your affidavit, refers to the current
2 project schedule. And I just want to -- I want to go
3 to Page 166 of your affidavit and just ask you if that
4 is the current project schedule?

5 A. No, so it would be off of this
6 schedule. They've got a tender date listed there as
7 October 31st and that is the date that I just told you
8 will be in March. So they are delayed from October on
9 the second tendering market. Yeah.

10 61. Q. Okay. And this has -- again, this has
11 slightly different dates that -- so is that -- this
12 has changed from the time that this was produced to
13 when the amendment agreement was signed?

14 A. Correct. This would have been what the
15 paragraph immediately in that -- in that letter that
16 addressed there may be changes in schedule. These
17 have been updated. There are new dates from
18 Metrolinx. I haven't requested those dates from them.

19 As far as I understand, they obviously --
20 the tendering market and the contractor dates have
21 changed. But substantial completion and total
22 completion have not.

23 62. Q. Okay, so is there an updated version of
24 this schedule that we're looking at right now?

25 A. Not that I've reviewed. We could

1 produce one. We could ask Metrolinx for one.

2 63. Q. Okay. Is it fair to say that the
3 schedule on this project has been a bit of a moving
4 target?

5 A. I think with all construction projects,
6 you know, especially ones that are integrated with
7 multiple constructors, there are delays that happen in
8 the design phase, yeah.

9 64. Q. Okay, this one seems to have had a lot
10 of delays so, I mean, we're looking at an original
11 agreement that was supposed to be where it was
12 contemplating the whole thing would be done in
13 December of 2024. And now we're talking about
14 December of 2030.

15 So I mean, is that normal for construction
16 projects to have delays of seven -- six, seven years?

17 A. And again, I don't know the reasons why
18 this one was delayed. My -- my dates I've been
19 working off are completion by 2030. I would say of
20 other projects I've looked at, it's not uncommon to
21 have, you know, delays that have crossed the entire
22 design phase through construction of, you know, five,
23 six, seven years.

24 65. Q. Okay. I took a look back at the cross-
25 examination that we did of Ellen McAughy (ph) who was

1 ---

2 A. Yeah, yeah.

3 66. Q. --- involved in the previous
4 litigation. In her evidence when we were preparing
5 for the case, this case, when we -- it was heard in
6 2023, was that the site was going to be needed in the
7 summer of 2023. So it seems that the, you know, the
8 Region's expectation of when this was going to happen
9 has changed several times. Is that fair to say?

10 A. Again, I can't -- I can't speak to what
11 was happening before I got here nor what Ellen was
12 working on prior to my arrival. So I don't know.

13 67. Q. Okay. But even now, like it seems like
14 it's -- I mean, it has changed because originally, we
15 were told that the site was -- that the region needed
16 the site December 1st of 2025. And that the Metrolinx
17 was going to be actually starting the work in March.

18 So again, it seems that it's a moving
19 target. Like it -- you know, I mean, I know you
20 weren't there in 2023 but the reason we were in court
21 was because the region said we need this property,
22 Metrolinx needs this as a lay down site.

23 That date has shifted time and time again.
24 Is that fair to say?

25 A. Oh, yeah, dates have moved in the

1 project, absolutely. I think the dates that are key
2 are when tenders are issued and those start to lock in
3 construction timelines. So while we've been working
4 through detail design, I'd say it's not uncommon for
5 dates to move.

6 68. Q. Okay. So in the -- in that letter,
7 that December 18th letter, it also talks about the
8 "Anticipated general mobilization of the future
9 contractor."

10 Can you tell me what that means? I
11 wasn't -- as I was reviewing that letter, I just
12 didn't understand that sentence.

13 A. Yes, okay, so the current project
14 schedule was the one we've just looked at. And then
15 "mobilization of the future contractor" would
16 reference the fact that they were pre-tendered, they
17 had not brought on a contractor-constructor. And then
18 the "mobilization" just means their activities to get
19 up and ready.

20 So this was effectively Metrolinx saying we
21 believe that our constructor-contractor will use these
22 timelines. But when they get here and start to
23 mobilize, they will make those decisions on reaching
24 the ultimate timeline.

25 69. Q. Okay. And they don't -- so just to be

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1 clear, they don't have a contractor yet because that
2 hasn't been tendered, is that correct?

3 A. Correct, that's the tender that will go
4 out this month.

5 70. Q. Okay. Has the final design been
6 provided to the Region for the Metrolinx works?

7 A. Metrolinx is at 90 percent design which
8 is where they should be for tender. I believe we're
9 in possession.

10 71. Q. Okay, can I get an undertaking to
11 provide a copy of that?

12 MS. THAVARAJ: A copy of what, Shannon?

13 MS. DOWN: Sorry, the design ---
14

15 BY MS. DOWN:

16 72. Q. What's involved in the design? Like
17 what does that look like? Is it -- like how many
18 pages are we talking about? Is it a massive document
19 or is it a CAD drawing?

20 A. It would be probably thousands of CAD
21 drawings. Because if it was in the 90 percent design,
22 you'd have HVAC drawings, electrical, you'd be done
23 to, you know, everything except furniture and
24 fittings.

25 73. Q. How about an undertaking just to

D. Spooner - (Cr-Ex) - 25

1 provide us with the percentage of the design that is
2 currently available to the region.

3 MS. THAVARAJ: That is currently available
4 to the region?

5 MS. DOWN: Yeah, has been provided to the
6 region by Metrolinx. So what percentage of
7 the design, like you're talking about 90
8 percent. Just confirm that they're at that
9 percentage or what percentage they are at.
10 If that makes sense.

11 MS. THAVARAJ: Okay, we'll take that under
12 advisement.

13 **UNDER ADVISEMENT**

14 BY MS. DOWN:

15 74. Q. During the time that you worked at
16 Metrolinx, like did you observe the issues like, you
17 know, we read the paper, there seems to be a lot of
18 delay with Metrolinx projects.

19 Is that something that you experienced when
20 you were working at Metrolinx?

21 A. Yeah, I mean, I was a client on a
22 number of projects. Those experienced the usual, you
23 know, delays through design and construction. But ---

24 75. Q. I guess I'm not talking about usual
25 delays, I'm talking about like things like the -- the

1 lengthy delays that some -- some of the Metrolinx
2 projects have been -- seem to have been plagued with.

3 Is that something that you observed?

4 A. Not directly, no. I would have
5 consumed media articles the same as everybody else.
6 But, no, I didn't work directly on any -- any projects
7 that I felt were significantly delayed.

8 76. Q. I want to look at the Page 171 of your
9 affidavit which shows the list of properties. I have
10 a question for you about 123 Breithaupt Street. On
11 this list it states that it's being used as a staging
12 area by Metrolinx.

13 A. Yes.

14 77. Q. Is that correct? Okay. And can you
15 tell me how long is this -- so this Phase 1 part where
16 Metrolinx is doing the track work, how long is that
17 supposed to take place?

18 A. I believe the rough timeline for that
19 is about two years.

20 78. Q. Okay, so up to 2028. And that laydown
21 site would only be needed during that time, is that
22 correct?

23 A. I am not into that level of detail of
24 the Metrolinx staging plan. Nor do I think they would
25 be at this point without a constructor.

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1 79. Q. Okay, good. So maybe we'll just back
2 up. So can you tell me what a staging area is?

3 A. Yeah. So in a project like this, where
4 Metrolinx is going to raise the rail corridor, they're
5 going to, you know, add platforms, we're talking about
6 significant amounts of gravel, rail ties, other
7 equipment and materials that they'll need.

8 So a staging area is simply that it's a
9 place to store materials as you are in active
10 construction so that they're close to the site where
11 you're constructing.

12 80. Q. Okay, so how does that -- how does that
13 compare to a laydown site?

14 A. It would be very similar. A staging
15 area could become a layby site. Effectively, it's
16 places where you can put things, you can move things,
17 you could use it for a variety of purposes. Laydown
18 would be materials, staging could include -- you could
19 put a site trailer there, you could put other things
20 there.

21 81. Q. Okay, so why does Metrolinx need the
22 other like 100 Victoria Street if they already have
23 123 Breithaupt as a staging area?

24 A. Yeah, it's the amount of materials that
25 they're going to need is the reason that they've asked

1 for both.

2 82. Q. Okay, could the staging -- so could the
3 laydown area though be like more use for more long-
4 term storage of materials? Is that -- is that why --
5 like when I -- I was trying to understand it, I
6 Googled -- I asked Google AI what the difference was
7 and it said that laydown sites are for storing large
8 quantities of material, whereas the staging areas are
9 almost immediately adjacent to the active work.

10 So it seemed to suggest that somehow, you
11 know, you could have an off-site laydown area because
12 it's more long-term and then the staging area is where
13 you're bringing materials in for the work that you're
14 working on. Is that sometimes the way it works?

15 A. I guess in theory it could. But with
16 the types of materials and the weight of the materials
17 we're talking about, I wouldn't suggest we would do it
18 in that way in this type of project.

19 83. Q. Okay. But is it possible, like, for
20 instance, let's say if we look at -- if we can turn to
21 Page 174 of your affidavit. I'm looking at -- so if
22 -- like, for example, Area 2, is that -- is it my
23 understanding is that where the actual building for
24 the transit hub is going to be at some point?

25 A. Correct, yes. That's where the transit

1 hub will be.

2 84. Q. Okay. And that's happening later, like
3 that's happening after a lot of this preliminary work
4 is done, is that correct? It says -- it talks about
5 August 2027 to March 2029?

6 A. It's in a later stage of the project,
7 yes.

8 85. Q. Okay. Is it possible that could be
9 used as a laydown site while the Metrolinx part of the
10 work which is happening at the beginning is occurring?

11 A. So I believe -- geographically, no.
12 It's too far. But also the Region has activities
13 there. We need to demolition, to demo the building
14 that you see in Area 4. And we need to build a bus
15 loop in Area 3 while Metrolinx is building the
16 retaining wall, so we will also need staging and
17 layby.

18 86. Q. Okay. So it wouldn't be possible for
19 the laydown site to be like a short distance away. So
20 you're saying laydown sites have to be immediately
21 adjacent to the project sites? Because we also have
22 -- remember we also have the staging site.

23 A. Yeah. Again, I use -- I use those
24 terms interchangeably. And I have not asked Metrolinx
25 directly about their plans. That would be done by my

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1 project lead. My sense from my discussions on the
2 project is, no, that area is not suitable due to the
3 project phasing and the proximity.

4 87. Q. But you don't know that for sure?

5 A. No, that's not my role in the project
6 to confirm those things, no.

7 88. Q. Okay. What are the approvals that are
8 required in order for that Phase 1 work to start?

9 A. The Region's Phase 1 work or
10 Metrolinx's Phase 1 work?

11 89. Q. Both because they're tied together,
12 right? Like my understanding is you're working sort
13 of in concert with each other.

14 A. Yeah, so I don't know Metrolinx's
15 approval process through the province. I would
16 imagine getting through -- getting board approval to
17 tender would be a critical one that they've gone
18 through.

19 Ours would be to reach a 90 percent design
20 and receive a project approval to proceed to tender.
21 And that could, depending on dollar amount, be done by
22 myself, the Commissioner, by the CAO or by Regional
23 Council.

24 90. Q. What about things like consultations
25 with Aboriginal peoples?

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1 A. Yeah, so we do have duty-to-consult.
2 We have done that on this project. It's a requirement
3 of -- I am going to forget if it's in the TPA or ICIP
4 Agreement but it is -- it is a requirement of the
5 project.

6 91. Q. And has that been completed? Is that
7 consultation completed?

8 A. I believe so.

9 92. Q. There's approval?

10 A. I don't know that, Shannon, as I sit
11 here today.

12 93. Q. Okay, can we get an undertaking to
13 provide us with the answer to that question?

14 MS. THAVARAJ: What's the question, Shannon?

15 MS. DOWN: The question is whether the
16 approval from the Indigenous consultation
17 has been received for the project.

18 But there are other ministry ---

19 MS. THAVARAJ: I am going to give an under
20 advisement. I'm just not -- some of these
21 questions are -- just to be clear why I am
22 taking a lot of these under advisement --
23 Doug is here on behalf of the Region and
24 some of these questions involve answers to
25 people -- from people that aren't the

UNDER ADVISEMENT

BY MS. DOWN:

A. Correct.

A. Shannon, I would say as a "Have you your approvals?" But I wouldn't ask from , unless it was causing significant delays. - while we're in an integrated project, we

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1 are separate corporations. So ...

2 96. Q. Okay. Are there other types of
3 approvals that the region or Metrolinx needs to
4 acquire like from the Ministry of the Environment or
5 from the City of Kitchener?

6 A. So for the Region of Waterloo, yes. We
7 would need the Ministry of the Environment, we would
8 need, obviously, a site plan approval from the City of
9 Kitchener. So, yes, there are other approvals.

10 97. Q. Okay, and what stage are those items at
11 right now?

12 A. Site plan approval from the City of
13 Kitchener is planned for later this year. I am not up
14 to speed on our approvals from MECP or any of the
15 other ministries. They haven't come up in this.

16 98. Q. And that's site plan approval for Phase
17 1?

18 A. I believe it's for the entirety of the
19 site.

20 99. Q. Okay, so that would be required for the
21 Metrolinx work as well?

22 A. It's an interesting question, Shannon.
23 I don't know because they are in an active rail
24 corridor and I don't know if the city's planning
25 permissions apply to an active rail corridor.

1 100. Q. Okay, can we get -- can I get an
2 undertaking for you to make inquiries about whether
3 Metrolinx requires the City of Kitchener site plan
4 approval. And also what the status of that approval
5 is ---

6 MS. THAVARAJ: Sorry, I didn't mean to cut
7 you off.

8 MS. DOWN: That's okay.

9 MS. THAVARAJ: I will take that under
10 advisement.

11 **UNDER ADVISEMENT**

12
13 MS. DOWN: I am going to ask Kelsey to put
14 up a staff report on the screen. It's not
15 in your affidavit, it's a document that is a
16 regional document, Staff Report EES-FFM-25-
17 002.

18 MS. MILLS: I am sorry, I am not sure what
19 happened. All the pages seem to be blank.
20 I don't know if you guys are also seeing
21 blank pages?

22 MS. DOWN: Yeah.

23 MS. MILLS: It was working this morning.
24 Let me just stop the screensharing and I'll
25 try it again.

1 MS. DOWN: Okay, thanks.

2
3 --- SCREENSHARE

4
5 BY MS. DOWN:

6 101. Q. All right. If we go to -- sorry, just
7 go back up to the top just so Doug can take a look at
8 this.

9 So this was the report produced for the
10 Sustainability Infrastructure and Development
11 Committee on October 7th, 2025. Are you familiar with
12 this report? Sorry, this is the agenda. But if we go
13 -- scroll down, there's a report attached to the
14 agenda. There we go.

15 So this is produced by Engineering
16 Environmental Services Facilities and Fleet
17 Management. Is that -- that group reports to you, is
18 that correct?

19 A. No, they do not.

20 102. Q. Oh, okay.

21 A. Yeah.

22 103. Q. Are you familiar with this report?

23 A. Could I ask Kelsey to just scan down to
24 the bottom, I want to see if I am a signee on it. I
25 mean, I would be -- I was in that meeting on October

1 7th. Yeah, I had reviewed the report prior to
2 publishing, yeah.

3 104. Q. Okay. So you're familiar with this
4 report. I just want to go back up to -- so this was a
5 report that was produced for -- to provide an update.

6 So this group does not report to you. Who
7 do they report to?

8 A. Which group specifically?

9 105. Q. Sorry, this is Facilities and Fleet
10 Management.

11 A. Yeah. So Director, Aaron Moss, and he
12 reports right now to our CFO, Wayne Steffler. The
13 previous commissioner is no longer with the Region as
14 of about two months ago, so ...

15 106. Q. Okay. Okay, so how does -- how does
16 this -- the work that this group is doing relate to
17 the work that your group -- the group that you oversee
18 does?

19 A. So I am the client on this project and
20 I am the executive sponsor. So I, you know, without a
21 direct reporting line, I oversee and support the
22 project manager.

23 107. Q. Okay. Okay, so if we scroll down, I
24 just want to take a look at the top of Page 3. Yeah.
25 So it says that:

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1 "... Following signing of the MOU,
2 several additional agreements are being
3 developed that include a grade
4 separation agreement and lease
5 agreements ..."

6 Who are those agreements between?

7 A. Various parties on these ones, grade
8 separation agreement would be Metrolinx, may also
9 include the City of Kitchener. And then lease
10 agreements are for various parties for parcels of land
11 we need.

12 108. Q. Okay, and is that -- are those in
13 relation to Phase 1 of this project?

14 A. I don't know that.

15 109. Q. Okay, so you don't know what those
16 agreements like what the purpose of ---

17 A. Yeah, so there are two -- there is a
18 grade separation at King Street and a bridge that
19 needs to be built over that. I don't know if this is
20 referencing that or the Duke Street Tunnel which would
21 also be in a grade separation agreement. And so,
22 depending on which of those two projects, they could
23 fall into the Phase 1 or Phase 2.

24 110. Q. Okay, so if we scroll back up, Kelsey,
25 let's just look at the part -- I think this is talking

D. Spooner - (Cr-Ex) - 38

1 about the Kitchener transit. So it's just saying --
2 it seems to be talking about coordination between the
3 Region and Metrolinx.

4 And then if you scroll down, so it seems to
5 be in relation to the work that is being done between
6 the Region and -- well, I don't know. I guess I am
7 trying to understand what this means.

8 This is an update on the Kitchener Central
9 Transit Hub to -- or to this committee.

10 A. Right.

11 111. Q. So do you -- can you explain -- can you
12 give us a sense of what this is talking about?

13 A. So obviously, it's referencing an MOU
14 that needed to be signed and then referencing again,
15 there are a number of additional agreements beyond
16 grade separation and lease that we need to execute.

17 You know, as we move through a project, you
18 know, there's pieces of land that we will lease to
19 Metrolinx while they construct. They will give it
20 back to us at the end, vice versa. Grade separation
21 agreement, same thing.

22 We make sure that we've got all the
23 agreements in place to -- for them or for us to
24 undertake, you've got activities in the case of the
25 King Street Bridge that are happening adjacent to a

1 rail corridor above a road.

2 And so those are agreements to make sure
3 that we've got everything in place for those to
4 happen. If there needs to be any -- any transfer of
5 property for those.

6 112. Q. Okay. But you don't know like whether
7 -- what the status of those agreements are right now?

8 A. Not -- no, I do not.

9 113. Q. Okay, so that might be. Is that
10 something -- to your knowledge, does that have to
11 happen before the Phase 1 work starts?

12 A. The grade separation agreement, if
13 we're talking about King Street, would be required for
14 us to start the King Street Bridge and then any of the
15 property agreements, obviously as we're starting those
16 phases of work. The Bridge is in Phase 1, the Bridge
17 (indiscernible) ---

18 114. Q. Would you normally be informed when
19 these agreements are signed or would you be involved
20 in getting them signed?

21 A. I would be involved if there was
22 problems with them, they weren't being signed or if we
23 needed to do some work with Metrolinx to solve
24 problems or get them signed. That's when I would be
25 involved. But if they were moving along as per usual,

1 I would not.

2 115. Q. Okay. Can we get an undertaking just
3 to let us know whether that grade separation agreement
4 is being referenced in this document has been signed
5 or what the status is of that agreement?

6 MS. THAVARAJ: We can give that undertaking.

7 **UNDERTAKING**

8 MS. DOWN: As well as those lease
9 agreements. Maybe just the particulars
10 about what lease agreements are being
11 contemplated and whether they're -- they've
12 been -- what the status is of those lease
13 agreements.

14 MS. THAVARAJ: We will take that under
15 advisement.

16 **UNDER ADVISEMENT**

17 MS. DOWN: Okay, I am going to go back to
18 your affidavit now.

19 MS. MILLS: Sorry, for interrupting,
20 Shannon. Was this entered as Exhibit 1?

21 MS. DOWN: Sorry, we should enter it as
22 Exhibit 1, yeah, thanks. As it's not part
23 of your affidavit.

24
25 EXHIBIT NO. 1: Facilities and Fleet Management Report

1 BY MS. DOWN:

2 116. Q. I am going to go back to your affidavit
3 now. I am going to look at Paragraph 18. So this is
4 -- documents some of the benefits for residents of the
5 region.

6 I just -- my question for you is that -- or
7 I am going to put it to you that this doesn't
8 necessarily have the same benefits to the residents
9 who are living at 100 Victoria Street that you're
10 mentioning. They may not be included in these
11 benefits. Is that your understanding?

12 A. No, I don't -- I haven't thought about
13 that, no.

14 117. Q. Okay. Just that it's if they can't
15 afford to use these transit services, then they're not
16 receiving any benefit from this. Is that fair to say?

17 A. Well, I don't know if they have the
18 ability to ride the service. We have a number of
19 programs and community partners that provide transit
20 fare so I -- I don't know.

21 118. Q. Okay, do you -- so those transit fares,
22 my understanding is that those programs are limited.
23 Like it's not -- not everybody gets a free transit
24 pass. Is that your understanding?

25 A. Yeah, so there's a number of programs

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1 through community services. There's two-ride cards
2 which are completely free provided to residents of the
3 region. There's the affordable transit program that
4 makes every fare 50 percent off.

5 So there are a number of programs. I do not
6 administer them. They're administered by the
7 Community Services Department. But I know we offer
8 those products.

9 119. Q. Okay, but if someone wasn't eligible
10 for it, they would have to pay the regular fare, is
11 that correct?

12 A. Yeah, as with any transit system, yeah.

13 120. Q. Okay. And that those programs are not
14 unlimited programs. They have a specific budget
15 attached to them and so that they serve -- like, for
16 example, there might be x-number of passes that are
17 provided. Once those have been provided, that program
18 is full for the year. Is that correct?

19 A. I am not as familiar with the two-ride
20 card program. I know on the portable transit program,
21 that's the 50 percent discount, there is no cap on
22 that. That is a -- the number of people who apply,
23 receive the product so I don't know if that is
24 mimicked in the two-ride card program.

25 121. Q. Okay. At Paragraph 19, you state that

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1 this project is going to dramatically improve transit
2 access. Is that something that's been modelled? Does
3 the region have empirical data to support that?

4 A. Not -- not that I've reviewed. I would
5 imagine that at the business stage we would have done
6 some work around travel times and reducing travel
7 times. I haven't reviewed that to date because I came
8 in to an approved project.

9 122. Q. Okay, so what -- I guess what I am
10 asking you is when you're saying this then, what are
11 you basing that statement on then?

12 A. Yeah, my experience in my time working
13 in transit. So, you know, you could imagine the walk
14 today from the ION Central Station to Kitchener
15 Central GO, you know, five to seven minutes, it's an
16 inconvenience for folks, it would limit the number of
17 people who chose that option.

18 So what I do know is that time-savings
19 through transit is a considerable contributor to
20 upticks in ridership.

21 123. Q. Okay, but in terms of saying like
22 "dramatically improve," that's just -- that's based on
23 your -- that's your gut instinct? Is that fair to
24 say?

25 A. No, I've worked on and designed

1 multiple GO Stations. I didn't do the design, as I
2 said, for Kitchener Central. But in other projects,
3 I've seen this for sure.

4 124. Q. Okay, seen it in terms of data that
5 shows the times are dramatically reduced?

6 A. Absolutely, yeah. We work on this
7 everyday. If I find a time-savings of one or two
8 minutes per second of a trip, I would say that's a
9 dramatic change that would result in four minutes for
10 that individual or the number of people who ride it,
11 you get into pretty significant time-savings for the
12 community very quickly.

13 125. Q. Okay, so you're saying a four-minute
14 time-savings would constitute a dramatically ---

15 A. Yeah, if you applied that across, you
16 know, 20,000 people who used it over a week or a
17 month, yes, absolutely it would be dramatic.

18 126. Q. Okay. So you're not basing this though
19 on this specific -- like any specific modeling or
20 empirical data that's been projected for this project?

21 A. Correct.

22 127. Q. Okay. If we look down at Paragraph 22,
23 you're talking about the potential to boost the
24 economic health of the surrounding Region of Waterloo
25 community significantly, including more businesses,

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1 investments, job opportunities. And then again, I
2 think there's talk about -- later on in your affidavit
3 -- about housing, supporting the housing development.

4 How does the -- how does the current
5 freeze on development, which is due to the water
6 shortage in the Region, how does that affect this --
7 this -- sort of these projected benefits?

8 A. So I am not an expert in the water
9 situation. My understanding is that is a -- a, you
10 know, in the world of development, a short-term
11 freeze, a number of years, but not that long-term.
12 The benefits that you get out of a central transit hub
13 would last long beyond that timeline.

14 So I don't believe the water issue will
15 impact on the benefits related to Kitchener Central.

16 128. Q. Okay, but it sounds like it might have
17 some short-term -- it might have some short-term
18 effect because, like, obviously, if there isn't the
19 ability to do any new development in the short-term,
20 that's -- some of these benefits are -- we're looking
21 at years down the road.

22 A. Yeah, and we're also looking at the
23 project timeline after 2030 so they, you know, when
24 the project is complete, we'll be -- again, I wouldn't
25 estimate when water permits again begin to be

1 reissued. But ...

2 129. Q. Okay. If we can just take a five-
3 minute break, I'm going to just confer with my
4 colleagues and then we'll be back. So if everyone can
5 just take a break for a couple of minutes.

6 MS. THAVARAJ: No problem. Back at 9:55,
7 Shannon, or you want to do just until 10:00?

8 MS. DOWN: Let's say 10:00.

9 MS. THAVARAJ: Okay.

10 MS. DOWN: Take a short recess, thanks.

11 THE WITNESS: Thank you.

12
13 --- RECESS

14
15 MS. DOWN: I just have a couple of follow-up
16 questions, Doug, and then we should be done.

17
18 BY MS. DOWN:

19 130. Q. So just going back to the communication
20 that you had with Metrolinx around the tendering that
21 they're planning to put this out to tender at the end
22 of March. Just based on your experience, I guess,
23 working at Metrolinx, like what is your experience of
24 what that tendering process -- how long it takes for a
25 project this size?

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1 A. I don't have an estimate, Shannon. I
2 wasn't involved in the construction group, so ...

3 131. Q. Okay. So, sorry. When you worked at
4 Metrolinx, that wasn't part of your like project --
5 putting projects out to tender didn't -- you weren't
6 involved in that at all?

7 A. No. So I worked in the Stations
8 Planning Group. So we would do functional design,
9 business cases funding. Once they were funded, we
10 would hand them over to the Capital Projects Group.
11 And we did 30, 60, 90 percent design and tender. I
12 would be the client. But again, there was -- at that
13 time, I was overseeing 64 GO Stations and my team were
14 monitoring progress.

15 132. Q. Okay. And so have you had any
16 experience with tendering of large projects during
17 your career?

18 A. Yeah. Always on the client side and in
19 an oversight role, yes.

20 133. Q. Okay, so from the client side though,
21 are you not aware of what's happening with the
22 tendering -- like when it's being tendered, how long
23 it takes, what the timelines are?

24 A. Yes, but not for an estimate of a
25 current Metrolinx tender. I have no idea what their

1 process is right now.

2 134. Q. I'm just -- like based on your
3 experience in the past, like what have you seen ---

4 A. Like on a general construction project?

5 135. Q. Yeah, yeah.

6 A. Sure. You know you put it out for a
7 number of weeks, likely a month. Give enough time for
8 a response on a project of this complexity. And the
9 bid they're looking at, they're probably going to be
10 in market for two months.

11 And then it's as fast as they can move
12 through the review of that with their internal team
13 and approval, and then, obviously, into mobilization.
14 So ...

15 136. Q. So it could take four to six months, is
16 that -- would that be an average?

17 A. I don't know if that's an average at
18 Metrolinx. That's a safe estimate on a project.

19 137. Q. Okay. In your experience, that
20 wouldn't be out of the question?

21 A. No.

22 138. Q. Okay, could be longer though?

23 A. Could be, yeah, if they ran into
24 problems, if there was failed bids, there's a number
25 of reasons that, you know ...

1 139. Q. Okay. And what are the kinds of
2 problems would there potentially be with a tendering
3 process that could delay things?

4 MS. THAVARAJ: Well, I am just going to say,
5 Shannon, Doug's not here as an expert on
6 construction, he's here to answer questions
7 on his affidavit on behalf of the region.
8 And just want to make sure that I put that
9 position on the record.

10 MS. DOWN: Yeah, it's just that the timeline
11 is sort of one of the really important parts
12 of his affidavit. So we're just trying to
13 ---

14 MS. THAVARAJ: And so ask him about this
15 tender or information he has from Metrolinx
16 with respect to the timing on this
17 particular ---

18 MS. DOWN: Yeah.

19 MS. THAVARAJ: --- tender or date. If
20 that's ---

21 MS. DOWN: I mean, I guess we can get a --
22 we could get an undertaking for you to make
23 the inquiries at Metrolinx to find out how
24 long they anticipate the tendering process
25 taking for this project.

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1 MS. THAVARAJ: Make inquiries of Metrolinx
2 how long they anticipate -- we can make
3 those inquiries. I'll take that under
4 advisement.

5 **UNDER ADVISEMENT**

6 MS. DOWN: Okay.

7
8 BY MS. DOWN:

9 140. Q. And in terms of the approvals that are
10 needed, we talked about the City of Kitchener's site
11 plan approval. But we also -- the Ministry of the
12 Environment, what does that approval process look like
13 and what's -- where is this project at to the best of
14 your knowledge?

15 A. So I know we've had some elements
16 reviewed because we've got chimney swifts that live on
17 the back side of the Rumpel Felt Building to be
18 demolished, and so we've got some work to do around
19 relocation of the birds.

20 I know when we -- we'll have to review site
21 condition; we've been doing bore holes and other
22 things now to see if there is any remediation
23 required. That would be an additional piece we would
24 submit to them.

25 But I am not aware of where we're at on that

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1 sufficient time to assess the remediation needs and
2 obviously complete it before handing over possession
3 to Metrolinx.

4 143. Q. Okay, and do you have a sense of what
5 is required for the remediation of the site?

6 A. Not at this point, no, we haven't been
7 able to do an assessment of the requirements of
8 remediation, so ...

9 144. Q. Okay, do you have sort of like minimum
10 and maximum estimates of what the Region thinks how
11 long it's going to take?

12 A. So, yeah, the timeline that my team
13 felt comfortable with is in and around three months.

14 145. Q. And that's an estimate, that could be
15 -- it could take less, it could take longer?

16 A. Correct.

17 146. Q. Okay. Subject to any redirect, those
18 are my questions.

19 MS. THAVARAJ: Mercedes?

20 MS. PEREZ: Yeah, thank you. I don't have
21 any questions for Mr. Spooner.

22 MS. THAVARAJ: All right, no redirect from
23 me.

24
25 --- ADJOURNED

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THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

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EXHIBIT “1”

Region of Waterloo**Engineering and Environmental Services****Facilities and Fleet Management**

To: Sustainability, Infrastructure, and Development Committee

Meeting Date: October 7, 2025

Report Title: Kitchener Central Transit Hub Update

1. Recommendation

For information.

2. Purpose / Issue:

The purpose of this report is to provide an update on the progress of the Kitchener Central Transit Hub (KCTH). As progress on this landmark project advances, it is timely to highlight project updates and upcoming project milestones. Council will start to receive these updates on a regular basis.

3. Strategic Plan:

The Region of Waterloo is on a journey of growth to an intentional and sustainable future. The Kitchener Central Transit Hub supports the Homes for All, Equitable Services and Opportunities and Climate Aligned Growth focus areas within the Region's 2023 – 2027 Strategic Plan.

Upon completion, the KCTH will enhance and integrate transit infrastructure, provide residential and commercial development opportunities and be a gateway for economic development for the Region and area municipalities.

4. Report Highlights:

- Staff are in the process of procuring a Construction Manager from a group of prequalified proponents to provide Preconstruction Services. The Construction Manager will provide insight on constructability, cost effectiveness, construction timelines and staging plans that are critical to the successful delivery of this project.
- The Rumpel Felt building located at 60 Victoria St. has been partially designated as heritage. The Region is intending to demolish the non-heritage component of this facility in late October 2025 to accommodate the bus entrance to the transit hub as well as incorporate a pick-up and drop off area.
- The Region continues to work with Metrolinx to finalize the design for the pedestrian Duke St. underpass. This pedestrian underpass will provide connectivity for the multi-use path to the north side of the rail corridor and will include a well lit tunnel with a designated area to integrate public art.

- The Region's Public Art Specialists are working with the Public Art Advisory Committee to advertise for a Call to Artists in early 2026. Several areas of the development are identified as preferred locations for a public art display that will showcase the convergence theme of the hub.
- Staff are exploring potential future uses for the retained portion of the Rumpel Felt building, including opportunities for its integration within a future mixed-use development that complements surrounding transit infrastructure.
- The KCTH project is an integrated project delivery with Metrolinx. As such, the Region has executed a Memorandum of Understanding (MOU) with Metrolinx that outlines the relationship between the two entities that will also guide future agreement. The MOU was fully executed in September 2025.
- The MOU provides the framework and determines the conditions under which the Region agrees to provide access to and use of identified lands on either side of the rail corridor to facilitate Metrolinx's construction program, including the parcel located at 100 Victoria Street.
- An application for funding through the Public Transit stream of the Investing in Canada Infrastructure Program (ICIP) was submitted in February 2023.

5. Background:

The Kitchener Central Transit Hub (KCTH) is a transformational project involving Metrolinx, Region of Waterloo, City of Kitchener and several other stakeholders focused on delivering an integrated transit network for the area.

Building off the success of ION light rail, KCTH is a project that will show Waterloo Region's commitment to sustainable transportation and spur economic development in the area.

KCTH will connect residents and visitors to the Toronto-Waterloo innovation corridor by providing access to Grand River Transit light rail and bus service, GO Transit rail and bus service, VIA rail and allow for inter-city bus service. The new transit hub will integrate active transportation options with separated cycling and pedestrian paths and include transit priority lanes.

The hub will lead to desirable opportunities for increased residential and commercial investments through better access to public transportation. It will also support sustainable transportation options for residents and visitors to Waterloo Region.

Project Updates

The Region will work collaboratively with Metrolinx to confirm the project schedule for construction. Design work for the KCTH building and other integrated projects is continuing and the projects are on schedule.

Work related to relocation of third party utility providers has been initiated and is expected to continue to 2026. Following the utility work, project construction is intending to be initiated in 2026 with completion by the end of 2030.

The Region and Metrolinx meet bi-weekly to review coordination items between parallel

designs. Following signing of the MOU, several additional agreements are being developed that include a Grade Separation Agreement and lease agreements.

The Region is concentrating their efforts on completion of the design by end of 2026 with the intention of obtaining all appropriate approvals in parallel.

Refer to Appendix A for renderings of the KCTH development.

Corresponding Projects

There are a couple key projects in the vicinity and in support of the transit hub that are noteworthy.

Rumpel Felt Partial Demolition

The Region has received approval to demolish the non-heritage building elements to accommodate the turning radius required for transit providers to enter and exit the bus loop off Duke St. and allow for a pick-up and drop-off for KCTH. The Region is currently procuring the services of a general contractor to complete this work and is targeting demolition to commence end of October 2025 with completion extending into 2026.

Staff are exploring potential future uses for the retained portion of the Rumpel Felt building, including opportunities for its integration within a future mixed-use development that complements surrounding transit infrastructure. As part of this review, staff are also considering how the building could best be incorporated into a larger phased redevelopment of the site in a way that aligns with future market conditions, community needs, and transit priorities.

70-84 Victoria Street North

The acquisition of 70-84 Victoria Street North (in March 2024) plays a pivotal role in the Kitchener Central Transit Hub lands project by expanding the site's footprint to enable comprehensive planning and development. This property is currently occupied with commercial tenants whose leases will be honoured. Ultimately, and once leases are completed, this additional land will enhance the project by providing opportunities for improved connectivity between future transit services and urban infrastructure, while also creating space for complementary uses such as mixed-use development and public amenities. This acquisition strengthens the vision of the hub as a regional anchor for sustainable, transit-oriented growth.

Victoria Street Modifications (King Street West to Weber Street West)

This project includes modifications to Victoria Street between King St. and Weber St. to provide multimodal links to KCTH. A preliminary design has been approved by Council through report TSD-TRP-24-019 which includes a reduction from four vehicle lanes to two vehicle lanes to allow for new transit priority lanes and active transportation infrastructure. The Victoria St. Modification design team is working closely with the KCTH team to align construction timelines and integrated elements. Coordination with utilities such as Enova Power, Bell, and Kitchener Utilities is also underway, with utility

relocations projected for early 2026. A geotechnical drilling program will commence in November 2025 to determine a preferred pavement structure and soils management strategy. The Victoria St. Modification project is intending to have their design completed in early 2026, such that work can be tendered and commenced later that year.

Budgetary and Agreement Updates

The Region has an amended Transfer Payment Agreement (TPA) with the Ministry of Transportation that extends the \$33 million of funding promised in 2018 to the end of 2030. This funding agreement will support Phase 1 elements such as the pedestrian bridge, pedestrian ramp, bus loop, on and off-site parking as well as site stormwater improvements. By delivering the Phase 1 and 2 elements in one construction project, the Region is expecting there will be cost savings.

The Region submitted a request to Investing in Canada Infrastructure Program (ICIP) February 2023. This funding would support the construction of the hub facility, expansion to the bus loop and development of the pedestrian plaza at the corner of King and Victoria St.

6. Communication and Engagement with Area Municipalities and the Public

Area Municipalities:

City of Kitchener staff have been consulted on design components of the multi-use trail, ownerships of Duke Street and associated utilities. In addition, the Region has been working closely with the City of Kitchener to review stormwater management for the site and surrounding areas and will be discussing public art in the Duke Street underpass. As part of the design process, the Region will be submitting a pre-submission consultation package to the City of Kitchener for review and comment this year.

As part of the Rumpel Felt Partial Demolition, the Region provided a brief update to City of Kitchener Heritage Committee May 6, 2025. This presentation followed with unanimous approval for the demolition project to proceed in support of the redevelopment of this area.

The Region has engaged the Mississaugas of the Credit First Nation consultation manager and assistant to provide feedback on the development plans for KCTH. In August, the Mississaugas of the Credit First Nation received communication from the Region's Project Lead notifying them of the Region's intent to progress the KCTH project. The Region will remain open to concerns and comments from the indigenous nation.

Public:

In April 2025, project updates were made to the EngageWR page. The Region provided an update to the Active Transportation Advisory Committee members on May 20th, 2025. Committee members were given an opportunity to provide feedback on cycling infrastructure of which they noted their request for secure bike storage. The

Region's design team has incorporated this element into the project and will continue to provide feedback to the Committee at appropriate intervals.

The Region presented to the Public Art Advisory Committee July 21, 2025, providing them with an update on the facility and pedestrian plaza with hopes of identifying the preferred location for public art. The Region's Public Art and Cultural Specialists will be advancing a call for artists in 2026 with the feedback from the committee members.

Staff are working on enhancing communications throughout construction activity related to KCTH. The Region has initiated quarterly communications meetings with Metrolinx staff to ensure information is being received and communicated to residents. Issues impacting residents will be communicated in advance through the project page on EngageWR and through the Region's communication channels.

7. Financial Implications:

	Current Year	Future Year(s)
Budget Impact?	N/A	N/A
Capital Plan Impact?	No new impact	No new impact

The 2024-2033 Facilities and Fleet Capital Program includes a budget of \$35 million for the Kitchener Central Transit Hub Project; of which \$2.53 million is allocated to 2025. Project is funded \$33 million from the Province (MTO) and regionally through RDC debenture. Of the \$33 million, \$4.9 million has been consumed to date.

8. Conclusion / Next Steps:

Coordination efforts with Metrolinx are ongoing to align both party's project plans. At the end of 2026, the Region anticipates having a complete design package, as well as tendering and constructing the Victoria St. Modification elements.

Staff will continue to work with Metrolinx to finalize agreements to facilitate the work being carried out.

9. Attachments:

Appendix A: Rendering of Kitchener Central Transit Hub

Appendix B: Scope of Work for Kitchener Central

Prepared By: Christa De Wys, Senior Project Manager (Facilities – Large Capital),
Engineering and Environmental Services

Reviewed By: Aaron Moss, Director, Facilities and Fleet Management, Engineering and Environmental Services

Matthew Chandy, Director, Build Waterloo Region, Planning, Development and Legislative Services

Frank Kosa, Director, Design and Construction, Engineering and Environmental Services

Approved By: Jennifer Rose, Commissioner, Engineering and Environmental Services

Doug Spooner, Acting Commissioner, Transportation Services

Rod Regier, Commissioner, Planning, Development and Legislative Services

**THE ATTORNEY GENERAL OF ONTARIO AND
THE REGIONAL MUNICIPALITY OF
WATERLOO**

Appellants

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

	COURT OF APPEAL FOR ONTARIO Proceedings commenced at Toronto
	EXHIBIT BOOK (VOL. 13 OF 15)
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