VOLUME 2 OF 5

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

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

JOINT TRANSCRIPT BRIEF

(Application Hearing, returnable April 16, 17, and 20, 2026)

March 13, 2026

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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 **Peter Sweeney** on his affidavits dated June 6, 2025, and July 2, 2025, taken via Zoom videoconference on consent of the parties on July 11, 2025.

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ASHLEY SCHIUTEMA, Ms. JOANNA MULLEN, Ms. SHANNON DOWN, Ms.	Counsel for the Respondents
MERCEDES PEREZ, Ms.	Amicus Curiae

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July 11, 2025

PETER SWEENEY, AFFIRMED

CROSS-EXAMINATION BY MS. PEREZ:

1. Q. Good afternoon, Mr. Sweeney. My name is Mercedes Perez, I've been appointed as *amicus curiae* in this court proceeding. My role is to assist the court by putting forth evidence and submissions on behalf of persons living at the encampment whose capacity to instruct a lawyer may not be present, or who otherwise haven't retained a lawyer in this proceeding.

My understanding is that you've affirmed two affidavits in this court proceeding so far: your first affidavit sworn on June 6th, 2025, as well as a second affidavit, sworn on July 2nd, 2025, is that correct?

A. It is.

2. Q. And you have those two affidavits in front of you?

A. I do.

3. Q. Okay, and just to let you know, the other document that I'll probably be referring you to during my cross-examination is the PECH Report.

A. Okay.

4. Q. Which I believe is exhibit A or B. I think

it's exhibit A to your first affidavit, so if you just want to have that in ready access that would be great.

The first thing I want to do is draw your attention to a December 2024 CBC news article, and Ashley is going to help me by pulling that up on the screen so you can see it.

MS. SCHIUTEMA: Is it up now?

BY MS. PEREZ:

5. Q. It is. I can see it. Mr. Sweeney, can you see it?

A. I can.

6. Q. Thank you. This is an article from the CBC online. It's dated as having been posted on December 13, 2024. And it's titled, "Advocates call for more shelter beds as cold weather sets in; region says it knows there aren't enough." Now it looks like you were interviewed for this news article, do you recall that?

A. With Aastha? Yes, I recall this.

7. Q. Okay.

A. I don't recall all of the specifics, but I do recall having the conversation, yes.

8. Q. Okay, and do you recall seeing this news article after the fact?

A. I don't, actually.

9. Q. Okay, do you want to take a minute to read through it?

A. Sure, if you'd like -- find that helpful.

10. Q. It's up to you.

A. Okay.

11. Q. I'm going to point you to a couple of statements that are attributed to you.

A. That's fine.

12. Q. But if you want to read the whole thing first, that's fine.

A. Okay.

13. Q. Okay, so if we go to page 2 of this article, towards the bottom of the page, you're quoted as saying that:

"The Region is currently facing a complex situation where the number of homeless individuals vastly exceeds the housing supports the Region can provide."

Do you recall making a statement like that?

A. I do.

14. Q. Okay. And is that still true today?

A. Yes. The number of individuals experiencing homelessness is -- remains higher than we

currently have the resources to find permanent housing for everybody.

15. Q. Thank you. And also, just staying on this same page, at the bottom of the page, there's another statement attributed to you that:

"This complex situation where the number of homeless individuals vastly exceeds the housing supports that the Region can provide, has in turn caused an increase in encampments over the last few years."

Do you recall making that statement?

A. I do.

16. Q. Okay. And is that still true today?

A. I believe so, yes.

17. Q. Okay. And finally, if we go to page 3 of this news article, just at the top of the page, again you're quoted as having said that:

"The inflow into homelessness in the Region will continue to increase until there is an adequate amount of affordable and accessible housing to meet the needs of homeless individuals."

Do you recall making that statement?

A. I do.

18. Q. Okay. And is that still true today?

A. The PiT count would suggest the inflow continues to be a challenge, which is why our Plan to End Chronic Homelessness is hoping to address both the inflow and the outflow.

MS. PEREZ: Okay, I'd like to have this CBC article marked as exhibit 1 to this cross-examination.

MR. LOKAN: That's fine.

MS. PEREZ: Thank you.

EXHIBIT NO. 1: CBC article titled, "Advocates call for more shelter beds as cold weather sets in, region says it knows there aren't enough." Dated December 13, 2024

BY MS. PEREZ:

19. Q. Now, Mr. Sweeney, I'd like to ask you to turn to paragraph 30(b). So "B" as in "Bob" of your first affidavit.

A. All right, let me just get my first one.

20. Q. Yeah, your first affidavit.

A. Sorry, what was the number, again, Mercedes?

21. Q. 30(b) as in "Bob".

A. Yeah.

22. Q. 30, three-zero. Yeah.

A. Correct, yes.

23. Q. Okay, so in this paragraph you're stating that one purpose of the site-specific bylaw is to respect the *Charter* rights of those persons who were residing at the encampment, as of the date that public notice of the bylaw was provided. In other words, as of April 16, 2025, correct?

A. Yes, that's correct. That's in the affidavit.

24. Q. Okay. And in order to avoid *Charter* violations, the site-specific bylaw requires identification of those persons who were residing at the encampment as of April 16th, correct?

That's not in that specific paragraph but that's part of the ---

A. Sorry, can you repeat the question for me? I was looking for something and wasn't (indiscernible).

25. Q. Okay. So in order to avoid *Charter* violations, the site-specific bylaw requires identification of those persons who were residing at the encampment as of April 16th?

A. I'm not -- there's no question there,

I'm sorry.

26. Q. That's the question. So in order to avoid *Charter* violations the site-specific bylaw requires that all persons who were residing at the encampment as of April 16th, 2025, are identified?

A. So I would -- my response to that is that in order for us to provide the services intended for the existing residents, there needs to be a mechanism to identify who those people are.

27. Q. Okay. You've indicated at paragraph 49 of your affidavit ---

A. Mm-hmm.

28. Q. --- that, "Site management by limiting population growth in the encampment is, therefore, an important element of the bylaw from my team's perspective." So that means that in order to ensure that the *Charter* rights of existing residents as of April 16th are not violated, you can't let anyone else in, is that correct?

A. I don't see a reference to *Charter* rights in this particular section of the affidavit. I can tell you the practical reasons for why we feel that way.

29. Q. Okay.

A. (Indiscernible).

30. Q. Sorry, I had asked you whether one purpose of the bylaw was to avoid *Charter* violations of the existing residents, which is a statement you seem to agree with at paragraph 30(b) of your affidavit. And ---

A. Correct, and yes, I understand what you're asking me. I'm not understanding the referencing back to *Charter* rights as I'm not a *Charter* rights expert. I can give you an answer as to why 49 is in there.

31. Q. Okay. Well, let me just move on. Exhibit B to your affidavit is the site-specific bylaw, which I'm sure you're familiar with, right?

A. I am.

32. Q. Okay. The bylaw is designed to facilitate the site management goal that you reference at paragraph 49 of your affidavit by prohibiting any person who was not resident at the encampment, as of April 16th, from erecting a shelter, or otherwise residing at 100 Victoria Street, is that correct?

A. That's correct.

33. Q. Okay. Now, at paragraph 25 of your first affidavit you've written that:

"On April 16th of this year, there were approximately 40 people regularly residing

at the property and approximately 23 tents counted by security personnel that day."

So I note that you use the word "approximately" to describe the number of people as well as the number of tents. So does that mean that you don't know the exact number of people who were residing at the encampment on April 16th?

A. No, the word "approximately" in this case is acknowledging that there are individuals throughout the period of time that have come and gone, and do not always stay every day at the encampment. And so the reference there is an attempt to capture that, as it exists with the tents and the structures that are on the site.

34. Q. So in other words, on April 16th, 40 people may have been counted, but that may have missed some residents who just happened not to be on the premises that day?

A. So on April 16th, through the documentation that my outreach staff have, we were confident that there were approximately 40 individuals who would be considered as current residents at 100 Victoria.

35. Q. Okay, but you're acknowledging that there may have been people missed on that day, who may not

have been on site, for whatever reason?

A. I'm acknowledging that in that 40, that we considered through our case notes to have been existing residents, not all of those 40 stayed at 100 Vic at a regular basis, night after night.

36. Q. Okay. So you agree that fluctuations of people residing at encampments is actually a very typical feature of encampments? The numbers can be dynamic; they can change from day-to-day? You agree with that?

A. That's my understanding from my experience in this work and conversations with my team.

37. Q. Okay. And one thing that's well known is that typically those numbers can increase in the spring and summer, for example?

A. Yes.

38. Q. Okay. And another possible and frequent scenario is that a person may leave the encampment where they've been residing for whatever reason, for a day or night or two, but then return in a couple of days?

A. That's my understanding.

39. Q. Okay. And sometimes the reason for that is they may have secured a shelter bed for one or two

nights, and then it's no longer accessible to them, so they come back to the encampment?

A. That could be a reason. I don't have information to explain all of the unique circumstances for that behaviour.

40. Q. So if one intended purpose of the site-specific law is to respect the *Charter* rights of persons residing at the encampment as of April 16th, is there not an implicit acknowledgement that the *Charter* rights of persons who were resident at the encampment, either on April 17th, or just were missed in the count, their *Charter* rights are not being respected?

A. So I think it's clear in my overall narrative of my -- both of my affidavits, we are committed to supporting and providing the supports necessary and needed, and to the degree that we have them for all people who are experiencing chronic homelessness across Waterloo Region, within the full envelope of our budget. And whether or not, or where an individual is residing does not preclude them from being -- from engaging with our outreach staff to develop individualized housing plans.

41. Q. Right, but the site-specific bylaw permits prohibiting people from erecting shelters at 100 Victoria street after April 16th, correct?

A. Correct.

42. Q. Okay. And it doesn't group those -- it doesn't classify those people as existing residents as of April 16th, correct?

A. Can you repeat the question, please? I'm not ---

43. Q. Well, the site-specific bylaw only recognizes, "existing residents" as people who were there as of April 16th. So anyone who arrives on April 17th doesn't fall within that group?

A. By that definition, that's correct.

44. Q. Okay. And so your specific mandate -- I know you say that your, of course, your team is going to try and help as many people as possible, but that's not actually required under the site-specific bylaw? Or it's not mandated under the site-specific bylaw?

A. The site-specific bylaw is only one component within the scope of our work. We are a service system manager for housing and homelessness, and are provincially legislated, and mandated to coordinate the housing stability system across Waterloo region, and that is where we have the delegated authority and responsibility to support all of those who are experiencing chronic homelessness to the level of resources that we have made available to

us through various sources.

45. Q. Paragraph 48 of your first affidavit, you talk about how if there's an inflow of new individuals arriving at the encampment as of December 1st, it would be increasingly difficult, if not impossible, for your team to re-settle these individuals appropriately because of the tight time constraints. And then you note:

> "I want to avoid causing unnecessary trauma to individuals who join the encampment and then are forced to move somewhere else shortly after, especially in circumstances where there has not been sufficient time for an IHP to be developed and implemented for that individual."

A. Mm-hmm.

46. Q. So you acknowledge that it is traumatizing for an individual to be rushed into an IHP?

A. No, that's not what I'm acknowledging.

47. Q. Sorry, so you've written:

> "I want to avoid causing unnecessary trauma to individuals who join the encampment and then are forced to move somewhere else shortly after, especially in circumstances where there has not been sufficient time for

an IHP to be developed and implemented for that individual."

So are you not acknowledging that for some individuals, being rushed into an IHP can be traumatizing?

A. What we are saying in this part of the affidavit is that the potential of showing up to an encampment that is about to be deemed inaccessible makes it difficult to develop a fulsome IHP in the timeframe available to us before that particular location is no longer available to them.

48. Q. Right, and that would be traumatizing?

A. The reference to avoiding unnecessary trauma is to not have a situation where individuals only have a few days or a short period of time before where they are staying is no longer available to them.

49. Q. Okay, so in other words non-residents, as opposed to existing residents as of April 16th, but non-residents, so everyone else who might find themselves at the encampment after April 17th, they might be traumatized by that process? Because they don't have access to sufficient time for an IHP to be developed and implemented.

A. There will be -- in the particular case of the number 48, we're referring to individuals who

may arrive at the encampment where there is insufficient time available to develop either the relationship, or the necessary components of an Individual Housing Plan before that location is no longer a place they can stay.

50. Q. And so to avoid that situation and that potential trauma, the Region's approach is to exclude non-residents from the group of existing residents and all the opportunities they may get in terms of USW support, IHPs, guaranteed access to some form of housing?

A. So the outreach support and the IHPs that are being developed by my staff on 100 Vic is only one portion of the work we're doing across Waterloo Region. And so IHPs and outreach support is being provided, to the extent we can do so, across Waterloo Region, including at 100 Vic and in other locations as well.

And so individuals residing, or experiencing chronic homelessness elsewhere, will still have the opportunity to engage with our staff, to develop IHPs within the limits of the resources we have available to us. And that is true across the Region, and across the communities in Ontario.

51. Q. And so you're saying that would also be

true of people who arrive at the encampment after April 17th?

A. That's correct.

52. Q. Right, so then the site-specific bylaws focus on separating out existing residents from non-residents is not that necessary, because you're still doing your work?

A. We're still doing our work, and in this particular case, we know that 100 Victoria, as has been directed to us and told to us, is required for another use so we are now able to say to people, "This location is no longer available to you as of this date." And we can start working towards developing plans that are consistent with that date. And if individuals arrive after that, that becomes more challenging within the context of that date, and that is the extent of the reason for the bylaw being set up the way that it is.

53. Q. Okay. So when is the date where it might become practically impossible to engage in this UHW, IHP process with someone? Is it November 1st? Is it October 1st? Is it July 1st? Is it April 17th? In other words, if you have people coming into the encampment, and I'm just thinking of comments in your affidavit where you said enforcement, at least thus

far, has been approached with a light touch. So you have people coming in; they're erecting shelters. If they arrive on April 30th, are you saying you could probably still get through the process with them of developing an IHP, but August 30th is too late, or September 30th is too late? I'm just trying to understand, when does it become too late?

A. So I'm -- as I referenced in my affidavits, I can't and won't generalize how Individual Housing Plans can be applied to a population. Individuals whose unique and individual circumstances have to be taken into account. They are complex and each of the individuals that we do our best to support have their own unique needs, and there is not a one size fits all in terms of how long that can take to develop those plans.

54. Q. Right, so for some individuals it might not take very long, and then for others it could take a few weeks, maybe? Or two months? And then for other individuals it might be much more challenging?

A. That's correct. Each individual has their own unique needs and timeline.

55. Q. And in terms of the work of your USW team, is it not of great benefit to them in carrying out their work, in trying to help people and develop

these IHPs that they are able to attend at the encampment, which is a defined space, at a specific location where they likely have a better chance of meeting up with the people they're trying to find?

A. So our USWs are -- do their work in a mobile way and have the ability and the skills to access folks where they're at, and that can include 100 Vic as a current encampment, or other locations around the community. So they engage where people are at and that's how they approach the work.

56. Q. Sure, and I know that they are professional and doing they're very best, but in terms of meeting people where they're at, you have to know where they're at. And it is true that for unsheltered individuals living rough on the street, they're not always at the same place. They might be sleeping in one place one night, and then another place another night, it's not exactly easy to find them during the day either. But at the encampment there's a greater chance that you're going to find the people that you're working with, is that not the case?

A. So again, that's a broad generalization, in my view, of the work. And there are circumstances where individuals, regardless of

where they're choosing to spend the night, can be on some days more accessible than others. So we don't have a broad generalization of how accessible people are or are not depending on where they are residing, given some of the transient nature or behaviours.

57. Q. Okay. And do you agree that being forcefully evicted from your home, even if that home is a tent on a vacant municipal property, can be harmful and traumatizing to people?

A. I think, in my personal view, the work that we're trying to do here is to build enough time and resources so that nobody experiences a -- has an experience that feels forced in any way. We are -- we know through our efforts as professionals and those who consult with individuals across the community that these things take time and that they're complex which is why, from a housing perspective and a social services perspective, the bylaw included a request to council for both time and additional resources to support people off -- as best we can, knowing that we had a date where this location would no longer be available.

58. Q. So I understand that the plan is to try and avoid forced evictions from 100 Victoria Street, but my question was do you agree that being

forcefully evicted from your home, even if it's a tent on a vacant municipal property is harmful and traumatizing, or can be harmful and traumatizing to people?

A. I think any experience, in my view, of chronic homelessness and all of the adjacent challenges with that, the whole experience can be traumatizing. And we acknowledge that that might be the case and we try to approach this work, as much as we can, with a dignified and trauma informed lens.

59. Q. You've told us in your affidavit that there's this December 1st start date for the Region to take over the property and start preparing it for the eventual construction and whatever other work Metrolinx will be doing in March of 2026. So as of November 30th, if there are still either existing residents or non-residents on the property, they'll be forcefully evicted?

A. My role and my understanding, and the acknowledgement within my affidavit, is it has been communicated that the site is required by Metrolinx by March 31st. My colleagues in facilities and transit have indicated that in order for the Region to turn that site over by the end of March of 2026, they would need the period of time from December 1st onward to do

site remediation.

My responsibility and my mandate is to provide housing supports within the envelope of resources that we have, and our goal is to ensure that everybody who is at 100 Vic is aware that at a certain they will no longer be allowed to -- or be permitted to tent there. And we're going to be providing those services up to and including that point in time. And if individuals are no longer residing at 100 Vic and still experiencing chronic homelessness on December 1st and afterwards, we will continue to offer the supports and services that we can through our mandate in housing and social services.

60. Q. Okay, but my question was about any resident, existing resident, or non-resident who's still on the property with their tent on November 30th. So is your answer that you just don't know what will happen to them because it's not your role? Or do you know what will happen to them as of that date?

A. My answer to that is my responsibility to is to provide for all of those who wish to take us up on offers. The option is to move somewhere else because that is no longer going to be available to them. I am not responsible or neither have the mandate within my portfolio for bylaw enforcement, or

security, or transit, or any other items related to the site or site management. Simply the housing and social services, and so that is what we're focusing on.

61. Q. You said in your affidavit that you've visited the encampment yourself, and you get regular updates from your team of USWs. Do you agree that there are people currently residing at the encampment who struggle with symptoms of serious mental illness?

A. So I don't have access to the specific case notes, so I can't comment on the clinical -- any clinical diagnoses or clinical conditions of anybody residing at 100 Victoria. I do know however, in the three years of being in this role that the overlap between mental health and addictions, and chronic homelessness is significant and often times they are co-present in a number of the folks that we are trying to support. But I can't comment on the specifics of any single individual living at 100 Vic in the last three years, or currently.

62. Q. Right, so I wasn't asking you for specific information about specific diagnoses, but just based on what you know, would you agree that currently at the encampment there are people who are struggling with mental health, cognitive and/or addiction issues?

A. Yeah, we know through the time to end chronic homelessness, the point-in-time count, and the work that we do with funded partners that many individuals who are experiencing chronic homelessness and living in encampments, or in any other sort of transient scenario -- many of those individuals, I don't have a percentage, can also have -- can be dealing with mental health, addictions, and acquired brain injury. So we know that exists in the population we serve, but I can't comment or predict to what degree that exists in a specific site or location. Whether that be a shelter or a specific encampment.

63. Q. Okay. Your team of USWs, they've interacted with at least some of the people residing at the encampment, correct?

A. Correct.

64. Q. They've been able to talk to them, sometimes more than once, is that correct?

A. Yes.

65. Q. Okay. And so, just based on their observations, would it be fair to say that there are people residing at the encampment who face challenges in managing their activities of daily living? So things like bathing, dressing, ensuring that they're

drinking, eating properly, maintaining their mobility?

A. So again, my understanding and my experience is that individuals residing in encampments often exhibit those challenges, which is why one of the reasons that it's important to ensure we both have time to develop the relationships, and understanding the unique needs of individuals to support them through an experience of chronic homelessness is really important.

66. Q. Okay. And then just on a similar vein, has it been the observation of the members of the USW team that there are people at the encampment currently who are struggling with their ability to manage instrumental activities of daily living? So things like managing their finances, keeping appointments including medical appointments, taking their medication, managing their transportation needs?

A. Again, those sound like challenges that my team experiences or sees within the general population of people they serve at locations across Waterloo Region, regardless of location.

67. Q. Okay. And struggles with activities of daily living and/or instrumental activities of daily living, that would also make it challenging in the development and implementation of an IHP because it

requires people to keep appointments, fill out paperwork, undertake the range of administrative tasks that might be involved in that process. Would you agree there's some challenges there?

A. The development of IHPs can range from relatively easy to incredibly complex, based on a whole host of unique circumstances that individuals present themselves with.

68. Q. Would it be fair to assume that the more complicated and complex IHPs are often for the higher acuity needs individuals?

A. They -- the reasons for the complexity of an IHP, in my understanding, are not always related to clinical conditions, but certainly would include those.

69. Q. Okay. And again, from the observations of the members of your USW team, would it be fair to say that there are people living at the encampment who struggle to even understand the requirements of the site-specific bylaw and what it might mean for them?

A. Again, I can't comment on the cognition levels of individuals who interact with my professional staff. Those are not case notes that I have access to, and nor that are shared beyond the clinical and professional designation -- or

relationships with our professional staff. So I can't make generalizations or assumptions on the individual and unique circumstances of individuals currently residing at 100 Victoria.

70. Q. Okay. At paragraph 15 of your first affidavit, you've described that the development and implementation of IHPs require the USW to be able to communicate and converse -- well, you've written that:

> "The USW will consider how an individual initially became unhoused, the specific factors in that individual's life which have prevented them from accessing housing, and the needs and preferences of that individual in accessing housing, and based on those considerations, the USW works with the unhoused individual to come up with an IHP."

So that process really does require the USW to be able to communicate and converse with people to understand their history, why they're homeless, what their housing and other basic needs are, what their housing preferences might be, what types of support they might need or want, correct?

A. Yes, that's my understanding.

71. Q. Okay. So if they can't do that it will be practically impossible for them to build rapport and

develop an IHP for a particular person?

A. So I -- the USWs are all trained, registered professionals with experience working with unhoused populations. And a part of their job is, to the greatest extent possible, to develop Individual Housing Plans for all those willing to engage in that process. I also understand that the complexities of the experience of homelessness can make the development of those plans challenging in some circumstances.

72. Q. Would you agree that the forced eviction, or even the prospect of forced eviction can be particularly harmful to persons who are already struggling with mental health, cognitive, and/or addiction challenges?

A. Yes, we hear stories of individuals in this community who are in situations similar to that, and they talk about some of the challenges that they face, which again is why, in this particular case, it was important from a housing perspective, to provide both the community and the residents who were existing there with as much notice as possible, and additional resources to support them off of that site. Much like we would do and have done, and I referenced in my affidavit when other locations where people were

residing no longer became viable or available to us, most recently the King Street shelter.

73. Q. In your first affidavit, and I can take you to the paragraph if needed, but you've said that IHPs recognize that individuals experiencing homelessness commonly require staged approaches to re-integration into more permanent forms of housing. You recall talking about that in your first affidavit?

A. I do.

74. Q. Okay. So you've included as exhibit A to your first affidavit the Plan to End Chronic Homelessness?

A. Mm-hmm.

75. Q. A Roadmap to Functional Zero by 2030. There's no mention or endorsement in that report on a staged approach to re-integration into more permanent forms of housing, correct?

A. I don't know. I'd have to re-read the entire report to confirm whether or not there is a reference to staged housing, or if it was referenced in a different way.

76. Q. Okay. So if I'm correct that it's not in there, it's not in there. You just can't confirm that right now?

A. Yeah, I can't confirm or deny that that

is the case without having to go back and re-read the entire Plan to End Chronic Homelessness document.

77. Q. Do you agree that a staged approach is not appropriate for everyone?

A. Could you rephrase that, please? That feels like a double negative.

78. Q. Do you agree that a staged approach is not always appropriate for every single person? In other words, for some people a staged approach where you start in a motel and then eventually move on to supportive housing of some sort, that's a good approach, but for some people that won't be a good approach. In other words, going to a motel first is not going to work for them?

A. I agree that a staged approach is not always necessary and is based on the unique needs of individuals. I will also acknowledge that in some cases a staged approach is what's required from an availability of resources and is always up to the individual that we're engaging with to accept or not.

79. Q. Okay, so you said that a staged approach is not always necessary based on the unique needs of an individual. But sometimes it's more than that, a staged approach would actually be harmful to an individual because they simply are not going to manage

in a shelter bed or a motel without the necessary supports. Would you agree with that?

A. No, I would say the idea of a staged report -- or sorry, staged support within the context of 100 Vic and the context of this affidavit is acknowledging that a broad set of tools is required and resources to support those tools, knowing that there is no one path that fits all. And we work with individuals, that's why they're called Individual Housing Plans, to understand those unique needs and try to develop a pathway that meets those needs. And those look different for different people under different circumstances.

80. Q. So a person who struggles with behavioural issues or addiction issues who's been to a motel before; they've been kicked out due to behavioural issues. Are you saying that staging them through a motel is still appropriate?

A. My response to that is that feels like a generalization of a scenario that I can't affirm one way or the other. What I can tell you, however, is that inherent in the additional resources that we asked council for and were granted, acknowledged that motels can be an effective short-term tool to help people off the street and are best utilized with

social supports attached to them, which is why the notional budget for any motels included resources for social supports, and they were not just for the nightly fee of a motel room.

81. Q. But the social supports that can be offered in a motel might be totally insufficient for some people who have a much higher level of support needs. And I'm thinking, for example, of the type of person who really needs a supportive housing placement in supportive housing, where there is staff on site 8 hours a day, 12 hours a day, some of them are 24 hours a day. That type of individual is not going to -- a motel where, you know, there might be a nurse coming in once a day, but she has to see everyone. You know, she might be seeing that person for 10 minutes. That's not sufficient for that type of person, would you agree?

A. I would agree that individuals require different levels of social supports and those social supports we build in to the Individual Housing Plans based on people's needs and the availability of those resources, whether or not -- regardless of where they're coming from or going to.

82. Q. Okay, but in other words, for some people a motel, even with some supports, is not going to be

sufficient even as an interim step to more supportive housing down the road?

A. I would argue that in circumstances in our experience, the opportunity and option to have a motel with a bed, a locked door, and a shower, is for some people preferrable to a tent in an encampment.

83. Q. It might be preferrable from their perspective and your perspective, but whether it's appropriate housing that's actually going to keep them housed may not actually end up being the case?

A. We have never suggested that motels are permanent housing. They are a form of interim shelter and supports to help people build a pathway to permanent, more supportive housing.

84. Q. The Plan to End Chronic Homelessness, which again, is exhibit A to your first affidavit discusses what is called, "deeply therapeutic housing," which is -- this is defined for example at page 14 of the report, which I believe is page 65 of the numbers at the top of the page, Ashley. I think it's page 65 if you're following those numbers.

MS. SCHIUTEMA: I've got a 114 at the top of the page, Mercedes. What's the page number -- oh, this is page 16 of the report, you said it's page 14?

MS. PEREZ: 14, yes.

MS. SCHIUTEMA: Okay.

BY MS. PEREZ:

85. Q. Okay. So there's a definition there of deeply therapeutic housing?

A. Mm-hmm.

86. Q. (Indiscernible) that's designed to provide support for people with the highest level of acuity. This includes, but is not limited to, individuals with significant, complex substance use, concurrent mental health needs, or who are otherwise medically fragile and are homeless. So that type of housing is what is necessary for some people who might be residing at the encampment. Would you agree?

A. Yes, I agree that that was a -- again, you can see that that this is part of the -- we refer to the PECH Report, including definitions for community and particularly for our council to understand what it is that we're talking about, and I believe the example -- or the definition is self-explanatory.

87. Q. Okay. And then if we just go down to page 57, that should be a reference to the number at the bottom of the page, but I don't know if we're looking

-- are you able to just make that a little bigger?

MS. SCHIUTEMA: Can you see it okay?

MS. PEREZ: Yeah. I'm just not seeing the c-- I think ---

MS. SCHIUTEMA: I can open the other version?

MS. PEREZ: Well, maybe I'll just ask Mr. Sweeney, he might remember this.

BY MS. PEREZ:

88. Q. If it's okay, I'll just ask you, you might remember ---

A. Give it a shot.

89. Q. --- this reference. So there's a section of the PECH Report which recognizes that there's a need to create new permanent, affordable, and supportive housing, and this includes a need for deeply therapeutic housing to ensure that those with the greatest depth of need are supported to stay housed. And there's a statistic that's cited that currently there are 570 supportive housing units, which are meeting 50% of the current need. Do you remember those figures? We can look for it if you don't.

A. No, I see it here in front of my screen.

90. Q. Oh, okay.

A. Yeah.

91. Q. (Indiscernible).

A. You've just highlighted it; I can see it.

MS. SCHIUTEMA: It's there, yeah (indiscernible) point three.

BY MS. PEREZ:

92. Q. So it's just my eyes. Yes, I'm seeing it now too. Okay, so how long -- do you know approximately how long the wait list is to get one of these 570 supportive housing units?

A. I don't currently know the answer to that. I would have to reach out to my staff to find that out.

93. Q. Okay. So I'd like to ask for an undertaking that we be provided with the waitlist for getting a spot in one of these 570 supportive housing units.

MR. LOKAN: I take it, Mercedes, your question is how long the wait list is?

MS. PEREZ: Yeah, how long the waitlist is.

MR. LOKAN: As time, not the list itself, but how long a period of time?

MS. PEREZ: Yeah, how long is a person

typically on that waitlist before they can get one of these units?

MR. LOKAN: Okay, we'll give that undertaking to the best of our ability.

MS. PEREZ: Okay.

--- **UNDERTAKING**

BY MS. PEREZ:

94. Q. And, Mr. Sweeney, if a person at the encampment is given priority for any existing openings in some type of housing, whether it's a motel, or transitional housing, or deeply therapeutic housing where there's otherwise a waitlist, that means that the people who are already on that waitlist would get bumped down the list, correct? Because the encampment residents are being prioritized.

A. So I do not agree with the notion that the encampment residents are being prioritized relative to the waitlist.

95. Q. So are you saying that when a USW prepares an IHP for one of the encampment residents, if the plan is that they should get a transitional housing unit, they just -- their name just goes on the regular wait list? They're not prioritized?

A. So they are -- the additional time, and the additional resources were intended to create additional capacity across the entire housing stability system to provide a greater opportunity to ensure that the individuals residing at 100 Vic, as of April 16th, would have the opportunity to choose an alternative shelter option if they so choose.

96. Q. Okay. So you mentioned in your first affidavit, I think this is at paragraph 41, that the Region allocated an additional $814,333 in net new funding to provide additional accommodation for this specific group of people; in other words, the encampment residents, correct?

A. Yes, so the ---

97. Q. Yeah.

A. --- additional $814,333 is net new funding to the entire housing stability system. To our overall homelessness budget. We indicated to council, that if indeed this location was no longer going to be available by December the 1st, our recommendation from social services and housing in particular was to provide us with both time and additional resources across the system, to provide the best opportunity to support those who were currently residing at 100 Victoria to take up different offers,

knowing that it wouldn't be available to them as of December the 1st.

98. Q. Okay, but that money is not being used to build new housing, or is it?

A. No, we have a $500,000,000 capital budget to add 2500 new affordable housing units over 5 years. We've actually exceeded that target and we're now extending that. These dollars are not for capital builds of new affordable housing.

99. Q. Okay, so can you help me understand how this additional $814,000 creates capacity within the entire system as a whole so that there's more opportunity for the encampment residents to get housing without bumping anyone else down a waitlist?

A. Certainly. The calculus on the $814,000 was developed by adding net new resources for a suite of options that we knew would add capacity. Those could include additional funds for motel rooms for a transitional period of time. They include the option for additional, what we call, rent supplements, so these are for folks who, well, need a rent supplement. And additional resources for costs related to supportive housing beds. And so they are added to the overall system, which was intended to create an influx in capacity to be able to give us the

best chance to support individuals who are currently residing at 100 Victoria to take up alternative locations options by December the 1st.

100. Q. Okay, so if I understand your answer, the money can be used to fund additional motel rooms and add capacity to the system that way?

A. Motel rooms, rent supplements, and supportive housing specifically.

101. Q. Yeah.

A. However ---

102. Q. I was asking just about the motel rooms. So that's one thing, one area where you can build capacity. You can actually get more rooms, is that what you're saying?

A. That's correct.

103. Q. And then you also said, the third thing you said was additional resources for supportive housing beds. Does that mean additional beds somewhere in supportive housing?

A. So the idea is -- maybe I'll just take a step back. The net new resources are not tied specifically to X number of motel rooms, X number of rent supplements, or X number of supportive housing. We communicated to council that those three tools offer -- are very helpful in a situation like this,

for short-term transitions and this bucket of resources will likely be used for one of those three things, or a combination of those three things. They are not prescribed on how they will fully be utilized. Once we are -- once we've, you know, expended those resources, we will communicate back to council how they were actually used.

104. Q. And it says that the funding -- and you mentioned this in your evidence a few minutes ago, that the funding is for a transitionary period; what's the transitionary period? Is it April 16th to November 30th?

A. So I don't have the numbers right in front of me, unfortunately, but I can tell you the -- a portion of the net new resources will be fully annualized into our following budget, so they will carry on in perpetuity, and a portion will need to be re-allocated within an existing envelope by the end of 2027. Sorry, by the beginning of 2027.

So a year -- a portion of them -- I'd have to go look to tell you the exact amount.

105. Q. Okay.

A. A portion will be annualized fully in perpetuity, and a portion we will need to re-allocate within the system after -- yeah, in 2027.

106. Q. Okay, so sorry, this is just my own ignorance with the language you're using.

A. Sure.

107. Q. So when you say, "Fully annualized," that means that a portion of the $814,000, some portion of that will continue to be part of the budget? In other words, let's say it's $400,000, you have $400,000 for this fiscal period, but you're for sure getting another $400,000 in the next fiscal period?

A. That's correct.

108. Q. Is that what you mean?

A. That's correct.

109. Q. Okay. This amount of housing though, sorry, this amount of funds -- just so I understand it in a practical way, are you able to say -- I mean how many motel rooms does that fund for how long?

A. So as I previously answered, this is not tied to a binary of we only have X number of motel rooms for Y period of time. We have articulated to council that these are the areas that we know through experience can be helpful, and given that we now had a deadline, which we had communicated broadly and widely across the community, that at some point these lands were going to be used for another purpose, now that we

had that clarity, we told council that we're -- you know, in order for us to have our best chance to support people during this transition time, we need as much lead time as possible and we need new resources, and the net impact or the effect of that request is what came out in the bylaw.

110. Q. I heard you say earlier when I was asking you about the appropriateness of the staged approach and how you determine that, you referred to both the needs, the specific needs of the specific individual, but you also refer to the resources that are actually available. Do you recall that?

A. I do.

111. Q. Okay. So the staged approach and, ultimately, the IHP for a particular person is not just determined by their needs, it's determined by what might be available in the system at the time?

A. That is a truism in supporting individuals like this every year, in every community across the country.

112. Q. Okay, but it also means for some people, again, they might get a motel room that doesn't fit their needs. What they really need is deeply therapeutic housing, and so in a couple of days, or by the end of the week, or in a few weeks,

they cycle back into homelessness. Would that be fair, that that's a scenario that can happen?

A. That's a scenario that can happen.

113. Q. Okay. And I just wanted to ask you a few more questions. In your first affidavit, you've provided a chart -- there's several charts ---

A. (Indiscernible).

114. Q. Yeah, there's several.

A. Yes.

115. Q. I'm referring to the one that follows paragraph 75.

A. Okay.

116. Q. So you've listed here ---

A. Yeah. Yes.

117. Q. --- the shelters and transitional housing, *et cetera*?

A. Yeah.

118. Q. So are you able to tell me which of the shelters provide only nighttime access, and which provide -- are shelters where people can stay day and night?

A. So in the example that we have here, if you go down the column listed as, "Regular capacity" ---

119. Q. Yes?

A. --- the only ones that -- actually, regardless, the only areas where there is not a 24/7 operation is the winter warming centres which are designed to be open during the evening only. The remainder of those shelters listed are 24/7 operations.

120. Q. And I just want to make sure that we're talking about the same thing.

A. Sure.

121. Q. So when you say that they're open 24/7, does that mean that people can sleep there at night and hang out during the day, but they may not have a bed for the next night? Or does that mean if you get a bed then you can just continue to stay there, that bed is yours?

A. So the operational guidelines for the keeping of belongings and the length of stay varies. So for example, you may have a shelter that, you know, as long as you're back by a certain time all is good. There are others where it's a much more -- feel like a much more residential environment. So those operating guidelines are dependant on the contracted operator that we fund.

122. Q. I'm just trying to understand what is meant by, "Regular capacity?" In other words, if one

of these says the regular capacity is 80 spots, is that 80 spots for the same individuals because they have a bed assigned to them, or is that 80 spots that become available every day?

A. So again, it depends. That's the number of beds that are funded and available.

123. Q. Okay. So that was really my first question when I said which offer nighttime and which -- it's my fault, I didn't word it correctly, but that's what I was trying to understand. Which of these shelters provide a person with a bed that is theirs for some period of time exceeding a day or two, and which are shelters where you basically have to go in every night and hope you get a bed?

A. So again, the operating principles and guidelines of each of these shelters are unique to the organizations that are running them, and they have different guidelines on what type of conditions are required in order to, you know, save a bed, so to speak.

124. Q. Okay.

A. And so there's not, you know, for example, Erbs Road is a specific example that I will call -- you know, there is a residency agreement, and if individuals abide by the residency agreement, then

they are free to come and go. And they have a key, and they lock their tiny home. Others are more emergency shelter based and there are different expectations and guidelines that the operator puts in place.

125. Q. Okay, and so do you know what the waitlist is for someone to hope to get a placement at Erbs Road?

A. So Erbs Road is generally full. And with the exception -- you know, we generally have -- it's either full or there's a cabin or two that are available, and they generally get picked up and filled pretty quickly. We do not hold a waitlist *per se* for Erbs Road specifically.

126. Q. So there's no waitlist, but what are the chances -- like, how often does a spot become available, do you know that?

A. I don't know off the top of my head.

127. Q. Okay, is that something that you could find out?

A. I could ascertain the frequency of bed vacancy and the length of time to fill that bed.

128. Q. That would be helpful. I'd like an undertaking, Mr. Lokan, with respect to Erbs Road, both on -- maybe Mr. Sweeney can repeat what he said.

The frequency of a unit coming up and the time it takes to fill it.

A. In average terms.

129. Q. In average terms is fine.

MR. LOKAN: Yeah, we'll give that.

--- **UNDERTAKING**

BY MS. PEREZ:

130. Q. And then your affidavit at paragraph 77, mentions, "time-limited transitional housing." What do you mean when you're referring to that?

A. Can you give me a second just to find it?

131. Q. Yeah.

A. Thanks.

MS. SCHIUTEMA: I've got it up on the screen too, Peter, if that's helpful?

THE WITNESS: I do, I just want to make sure I'm in the right section. Was that Ashley, or -- sorry, 77?

BY MS. PEREZ:

132. Q. Yeah.

A. Sorry, I'm still ---

133. Q. So you're referencing transitional housing and then you mention there's 112 spaces across four sites.

A. Yeah.

134. Q. (Indiscernible) provides time-limited housing. So what is mean by, "time-limited transitional housing?" What is transitional housing and what's time-limited about it?

A. Well, so again, it's somewhat dependant on an individual. The reason for that explicit wording in an affidavit is to articulate that this is indeed transitional housing, this is not permanent housing. And so the idea is that, for some individuals, we are able to provide them with a place to stay that has a level of certainty, but not permanence, and we build out Individual Housing Plans, and we work with them to build out Individual Housing Plans to -- the idea is that it is exactly as it's articulated. It is a place for transition.

135. Q. Okay.

A. We have, you know, specific programs and services to try to support people. And recognizing, again, through their unique circumstances that some folks need a stop along the way.

136. Q. And are there waitlists to get one of

these spaces in these four sites?

A. My assumption is that there is, I don't know the extent of that waitlist, and again, that is something we could certainly find out for you.

137. Q. Okay, so I'd like an undertaking as to the waitlist for the transitional housing across these four sites.

MR. LOKAN: We'll give a best-efforts undertaking.

--- **UNDERTAKING**

MS. PEREZ: That's my last question. Thank you, Mr. Sweeney.

THE WITNESS: You're welcome. Thank you.

MR. LOKAN: I'm just wondering if this might be a helpful time for a brief break? I'm thinking mostly of the reporter.

MS. DOWN: A bathroom break might be a good idea.

THE WITNESS: How long?

MS. DOWN: Is 5 minutes sufficient?

THE WITNESS: Sure.

MS. POLLARD: That's great.

MR. LOKAN: We'd better check ---

MS. POLLARD: That's great, yeah.

MR. LOKAN: Okay.

MS. PEREZ: Okay, thank you.

--- BREAK

MS. DOWN: I'm ready to resume if you are, Peter?

THE WITNESS: I am.

CROSS-EXAMINATION BY MS. DOWN:

138. Q. Is it okay if I refer to you as Peter?

A. Of course, Shannon.

139. Q. Okay.

A. If I can refer to you as Shannon?

140. Q. Absolutely.

A. Okay, yeah, we're good.

141. Q. Ashley, can you put up the -- I'm just going to go through -- so your position is Commissioner of social services at the Region?

A. Community services, to be correct.

142. Q. Sorry, community.

A. That's okay, I get it wrong too.

143. Q. Okay. And Ashley if you can put on the screen-share -- okay. So we're just going to go

through -- this is from your LinkedIn profile and I just wanted to review that with you.

So when you were at -- sorry, Ashley are you able to enlarge that just slightly? And then scroll down. I'll be going from the bottom up. Okay, so you can stop there.

So at St. Mary's General Hospital foundation, can you just tell me briefly what your role was there?

A. So I was the president of our foundation, which is a separately incorporated entity, and my job was to raise -- work for a team that raised money to support the hospital.

144. Q. Okay, so this isn't a role that really had anything to do with homelessness or housing?

A. That's correct.

145. Q. Okay. And Ashley can you scroll up, please? And then the St. Joseph's health system international outreach program ---

A. Yeah.

146. Q. --- that was concurrent with the time you were at St. Mary's?

A. It was. It was two roles at the same time, yeah.

147. Q. Okay, and what was involved with the

international outreach program?

A. I led a separate incorporated non-profit international development program based out of Hamilton, and we ran health care projects in Haiti, and Uganda, and Guyana.

148. Q. Okay. And what was your role in relation to those projects?

A. I was the president of the non-profit, and so my role was -- well, I was sort of the executive lead of all of those projects; I was not the clinical lead.

149. Q. Okay. So again, not directly involved with homelessness, *per se*?

A. That's correct.

150. Q. And then it looks like up until 2022 you were at -- so was the YMCA of Cambridge, Kitchener, Waterloo was that rebranded as Three Rivers or are those two different organizations?

A. Yeah, it's -- so Cambridge, Kitchener, and Waterloo in 2020 merged with the YMCAs of Stratford/Perth and the YMCA of Guelph to become the YMCA of Three Rivers, and I was the CEO of the larger of the three that merged and continued on as the CEO of the merged organization.

151. Q. And did the YMCA -- were they a housing

provider?

A. We're not.

152. Q. Or was there homelessness services provided as part of that work?

A. Nope.

153. Q. Okay. And then you've been commissioner of social services since June 2022, so three years and two months it says there?

A. That's a LinkedIn glitch because I think it's three years and one month, but that's fine.

154. Q. That's fine close enough, close enough.

A. Yeah, correct.

155. Q. All that to say, you wouldn't consider yourself like, an expert in homelessness?

A. I do not.

156. Q. Okay. And your role as Commissioner is not an on the ground role? Like, while you do mention in your affidavit that sometimes you do go to the encampment, your role is really supervisory and more at the administrative level?

A. That's correct, however, in my career, I have learned from the benefit of understanding the impact of the work that we -- that I lead. And I've always endeavoured to try to understand it from as close to the delivery model as possible, which is why

I have, over my career, made a point of trying to understand and be present. But yes, I have executive and legislative authority over the entire community services budget and I'm responsible ---

157. Q. Okay. And your education background is, I think I saw, political science and an MBA?

A. Correct.

158. Q. Okay. So when you're providing opinions in your affidavit about, you know, dangers of encampments or issues around homelessness, it's not based on any sort of expertise? It's just your personal opinion?

A. It's my professional opinion gleaned over the last three years of overseeing the housing stability and the homelessness program across Waterloo Region.

159. Q. And the USWs who work with the homeless population, do they report to you directly?

A. They do not.

160. Q. Okay. And do they report to one level below you?

A. The USWs report to a supervisor.

161. Q. Okay?

A. The supervisor reports to a manager, Chris, who you know, and Chris reports to a director,

Ryan, who you also know.

162. Q. Okay. And then Ryan reports to you?

A. Correct.

163. Q. Okay. And so I'm going to ask you a few questions about Metrolinx. So you talk a little bit about Metrolinx in your affidavit, and you've talked today about the need for this piece of property for the Metrolinx project with the Kitchner transportation hub?

A. Mm-hmm.

164. Q. And on paragraph 28 of your affidavit, you state that ---

A. The first one, Shannon?

165. Q. Yes, sorry, your first affidavit.

A. Okay, yeah.

166. Q. You state that, "Metrolinx has informed the Region it requires the property as the first step to develop the (indiscernible)." So this is a foundational, sort of, step?

MS. SCHIUTEMA: I've got the wrong affidavit up, sorry.

THE WITNESS: No, it's okay.

MS. SCHIUTEMA: I'm going to pull it up.

THE WITNESS: (Indiscernible).

MS. SCHIUTEMA: Shannon, can you tell me

what paragraph you're on?

THE WITNESS: Ashley, I've got it.

MS. SCHIUTEMA: Oh, you've got it? Okay.

THE WITNESS: Yeah, paragraph 28, I've got it Ashley, thank you.

BY MS. DOWN:

167. Q. Is that accurate?

A. That is accurate in my understanding, which is then backed up and supported by the affidavit of Doug Spooner, who is my colleague, who has the responsibility for this program.

168. Q. Okay. Ashley I'm going to ask you to put up the CBC article. This is an article, and you may not have read it, it's from recently, July 11th.

A. No, I haven't seen this one. Like, today?

169. Q. Sorry, no that's not correct. The date must be wrong. It must've been the date that I accessed it.

A. Oh, April 17th.

170. Q. It's actually from April.

A. Yeah, April 17th, okay.

171. Q. Yeah, so this talks about -- and Ashley if you can scroll down -- this talks about the project

councillor Colleen James is quoted in it, and it talks about the fact that this project was originally announced in 2016?

A. Okay.

172. Q. Is that your understanding? Like, this project's been a long haul?

A. Yes, that is my understanding.

173. Q. Okay.

A. Prior to my arrival here at the Region.

174. Q. Okay, in fact the article goes on to say that the Region was supposed to start the project with Metrolinx in 2020, and then in 2021, and when you joined as commissioner in 2022, do you recall that during the previous encampment case, the Region's position was that they urgently needed the property for the Kitchener transit hub?

A. No, I don't recall the specifics of that court case that was launched prior to my arrival.

175. Q. Okay. You started in June though, of 2022?

A. Yeah.

176. Q. Okay. So you would've been around because I think the case was heard in November?

A. Correct.

177. Q. So as Commissioner were you aware --

because that property, that encampment would have been under your, I guess, your responsibilities. Were you aware that, at that time, the Region was -- their position was that they needed the land? The reason the case happened was because the Region needed the land urgently for the transportation hub?

MR. LOKAN: I'm sorry, I'm just going to object, Shannon. You're saying again and again, "urgently," and I haven't seen that in a document. So if you have a document that says that that is the Region's position, and if Mr. Sweeney knows about it, fair enough.

MS. DOWN: Okay.

MR. LOKAN: But otherwise ---

MS. DOWN: I can tell you it was in the affidavits of the Region's experts, or the Region's staff at the time that it was urgently needed in 2022.

MR. LOKAN: You can tell me that it's in an affidavit that is not in the record in this case.

MS. DOWN: That's fine. Can I get an undertaking from Mr. Sweeney to confirm that the Region, at that time, position was that

they needed the land in 2022 urgently?

MR. LOKAN: Well ---

MS. DOWN: When the project was expected to start.

MR. LOKAN: What I can do is I'll give an undertaking to give the date that the Region expected the project to start as of the date of the hearing in the last court case. Does that work?

MS. DOWN: That's fine.

--- **UNDERTAKING**

BY MS. DOWN:

178. Q. In March of 2024, Peter, do you recall meeting with a group at the Social Development Centre to talk about the need for the encampment to be shut down because the property was needed for the transit hub?

A. I recall being at a meeting in March of 2024 at the Social Development Centre. I believe you were there as well.

179. Q. Yes.

A. That one? I recall.

180. Q. Yeah, and so ---

A. I recall that meeting. That was an *ad hoc* meeting, yes.

181. Q. Yeah, and what was the -- do you recall the subject of that meeting? What was talked about?

A. My recollection of that meeting was that there were a number of things that were discussed including a repeated acknowledgement from me, that I had made publicly and in council chambers, that my understanding from my colleagues in the Regions was that at some point in the future 100 Vic would be required for other uses, and that was the nature of the conversation was to re-confirm that acknowledgement. That there would be a time where this would no longer be available to people to tent.

182. Q. Okay. And you had mentioned in the first part of your examination that one of the things that is important is to provide people with as much notice about the closure and the need to move on. At that time, was that being communicated to the residents of the encampment directly through the USWs?

A. I don't -- I can't comment on whether or not -- like, what was being said from the outreach workers to the residents. I will say that -- and repeat what I said repeatedly, is that from my understanding as the Commissioner of community

services, the land where the encampment at 100 Vic was currently in place would not be available in perpetuity. There would come a time that my understanding is that Metrolinx would require it. And, at the time that we had clarity on when that date was firm, we would communicate that when we could. What we could, when we could. And that was the commitment in March, and we followed up with that a year later once we did have a date.

183. Q. Okay, so there was no direction, as far as you know, to the USWs to be communicating to the residents at that time that a closure was coming at some point in the future?

A. The USWs have known as part of their work that the land in which they were providing supports to individuals, or attempting to provide supports to the greatest extent possible, was not going to be available for tenting in perpetuity.

184. Q. I'm going to draw your attention to the screen, the article that's being shown on the screen right now. This is an article that's from the Record. Louisa D'Amato.

A. Okay.

185. Q. And it's about the project, sorry, Metrolinx in general and the various improvements.

And the article is essentially saying -- quoting another article which we'll look at in a second, a Trillium article. But the essence of it is saying that GO is changing their focus, Metrolinx is changing their focus from a number of different capital projects. That there is again going to be delays, the two-way service is not happening, and that everything -- all the projects that have been planned have been pushed back. Had you read this article, or were you aware of it?

A. I have not read this article.

186. Q. And if we go to the -- there's an article in the Trillium that this quotes, and we'll take a look at that. And this article is from June 10th, it's fairly recently, and it talks about a number of (indiscernible) at Metrolinx. There's quotes, anonymous quotes from people working at Metrolinx saying that a number of projects that were underway have been pushed back significantly because they've ended a partnership with the organization Deutsche Bahn that they were working with. And at the bottom, it says, "Metrolinx is pivoting to focus on Lakeshore East and Lakeshore West." And that, "The Barrie, Kitchener, and Stouffville lines will be addressed in the next phase of the minimum viable project." So has

there been any updates from Metrolinx on the timeline, that you're aware of?

A. Shannon, I think you know that this is not my area of responsibility or mandate in the Region. I don't have information to help you clarify dates and issues related to Metrolinx.

187. Q. But obviously the timelines of this inform the work that you're doing, so are you saying that you're not involved in any meetings or discussions with other senior people at the Region talking about when the project is expected to go forward, or any changes to that schedule?

A. That's correct. We're working with a confirmed request from Metrolinx that they require the land for their work on the Kitchener transit -- Kitchener central transit hub by March of 2026. And that's the date that I have and we indicated -- and as I indicated in my previous cross-examination, from a social services and housing perspective, we've always said that when and if there is a firm date, it would be exceedingly helpful to have as much time as possible ahead of that date and additional resources to support the transition of individuals off 100 Vic, and that's where we are today as well.

188. Q. Okay, but I think it's fair to say that

this project has been a moving target for a decade?

A. Again, not my area of responsibility, or focus, or mandate here at the Region.

189. Q. Okay. And there's no certainty that it is actually -- like, when you say it's a firm date, that's not what's being communicated necessarily by Metrolinx?

A. Metrolinx ---

190. Q. Because they actually put in the letter that they'll update you. You know, that it's subject to change?

A. Metrolinx has confirmed to us that they require the site by March 30th. That, to me ---

191. Q. Right, but ---

A. From my perspective, and then I have been told by my colleagues what that means and that is the -- that is where we're at. And my goal has always been, to the extent that I have any influence and control over elements of this, that when and if that land is required that we have as much time and resources to support people as best we can.

192. Q. Okay. I want to go to the letter, the Metrolinx letter. Ashley it's in the exhibits, if you go to the index, I think you can click on it and see the exhibits.

A. Sorry ---

193. Q. Exhibit I.

MR. LOKAN: So this is exhibit I to the Spooner affidavit?

MS. DOWN: Yes.

MS. SCHIUTEMA: Sorry, I don't think Spooner's is bookmarked, so just give me a minute to get there. I can't seem to click into it. Oh, it's in volume 2, that's why.

MS. DOWN: I might be able to pull it up.

MS. SCHIUTEMA: Getting there, sorry. Okay, we're there.

MS. DOWN: Sorry, can you go back up to the very top?

BY MS. DOWN:

194. Q. Okay, so this is dated December 18th, so why was the notice only provided to the residents in April, if that was an important part of helping them transition?

A. So, can you go down to the bottom of the letter, please, Shannon? There's no indication of who was cc'd on this.

195. Q. It's to the Region.

A. So I don't recall when I was first

informed of this. I want to make that point. And the response to this involved a number of my colleagues outside the sphere of community services. So once there was a date announced there was obviously some work internally and with our council to map out what was going to be required next. The end result of that was a site-specific bylaw, which went through its normal processes, and we were able to communicate that on April 16th. And that was the earliest date that I as Commissioner of social -- community services and responsible for housing, was in a position to comment on the date and the resulting bylaw.

196. Q. But you said previously that you knew this date was coming and as soon as you had a firm date, you would work with people to let them know and to start taking action on it. So this looks like the Region, and you're part of the Region, had notice that this was going to be required in December 18th, and yet there's no notice to the residents for a period of five months?

A. So I will reiterate what I actually said, Shannon, which was I committed to sharing what we could, when we could. And I work for an organization that is governed by the *Municipal Act*, which requires that certain elements of the business

of the Region are conducted by regional council in closed session, and I am bound by that. And so I have always said when I have a date that I can share, I will share it, and I did that.

197. Q. So what was the reason that the date couldn't be shared?

A. So again, Shannon, I'm bound by the *Municipal Act*. I can share -- I shared what I could share from a confidentiality perspective, what I could, when I could.

198. Q. So can you be more specific about that? What provision of the *Municipal Act* are you relying on in saying that you couldn't share this date? Like, of a project that was announced in 2016 that apparently everybody was aware of? You're saying you talked about it with your staff, they were aware of it. Why couldn't it have been shared with residents prior to April 17th, or April 16th, 2025?

MR. LOKAN: Shannon ---

MS. DOWN: I'm just not understanding that answer.

MR. LOKAN: Sure, Shannon, I suggest that you get this witness's answer on the record, to the extent that he is able, but the answer may require some consultation with

other members of the Region.

MS. DOWN: Okay, can I get an undertaking to understand what the reason was for not being able to share this information with the people that it affected prior to April 17th? At any point between December 18th and April 17th, 2025?

MR. LOKAN: Between, sorry, the date of ---

MS. DOWN: April -- sorry, December 18, 2024, when the letter was received, and April 17th, when it was communicated to the people living at the encampment.

MR. LOKAN: Okay, we'll do that by way of undertaking.

--- **UNDERTAKING**

BY MS. DOWN:

199. Q. Is it fair to say, Peter, that the current provincial government is pressing municipalities to close down encampments?

A. I have not experienced pressure from the provincial government to close down encampments in my role.

200. Q. Okay. Are you aware of any

discussions, any meetings, between the Region and the province regarding this or other encampments?

A. I am not.

201. Q. Okay. And did the Region apply for funding from the provincial government that was tied to closures of the encampment?

A. We applied for funding where there was a request to submit a pledge related to encampments and we submitted that, and I believe you have access to that letter.

202. Q. Okay. And just tell me in ---

A. I'd have to go look at it again, Shannon.

203. Q. Okay, but what was the general nature of the pledge?

A. I'd have to go -- I'd prefer you to pull it back up. This was back in December and we're in July.

204. Q. Okay.

A. Thank you.

MS. SCHIUTEMA: It's up. Are we going to mark all these as exhibits at the end?

MS. DOWN: Oh, yeah, I guess I should've been doing that.

MR. LOKAN: Some of them are already in the

record. The letter ---
MS. DOWN: One of our -- yeah, the only ones that weren't in the record are the articles from the Trillium and the Record.
MR. LOKAN: Even the Record article I think may be in one of the affidavits.
MS. SCHIUTEMA: The Record article is in David Alton's; the Trillium article is not. I don't think this Ministry pledge is in the record.
THE WITNESS: Ashley, you have the screen, could you roll down to the second page of this? Because the first page, Shannon, talks about our commitment through the Plan to End Chronic Homelessness, and the investments we are making, and our commitment to continue to do our best, as it says right there, to continue to support unsheltered people living in encampments to hopefully transition.

BY MS. DOWN:

205. Q. Okay.
A. It's -- yeah.
206. Q. Okay. So when this pledge was

provided, that was just part of a request to the province for funding?

A. That's correct.

207. Q. And is there -- what are the reporting requirements back to the province on that funding?

A. I don't have those handy. I would have to -- what do you call it? Undertake to find that out for you.

208. Q. So you don't know anything about the reporting requirements? Like, whether you're required to report on how many people have been moved out of encampments in the next year?

A. I'm not ---

209. Q. If you don't know you can ---

A. No, I'm not aware of any ask to report back to the provincial government on any data related to encampments and transitioning people out.

210. Q. Okay, can I get an undertaking to let us know if there is reporting requirements that are conditional -- that this money was conditional on reporting requirements from the Region regarding how many people have been moved out of encampments?

MR. LOKAN: So, I'm going to be careful on this undertaking because I think it should be a fairly narrow one. That is to say

reporting requirements that show that funding is conditional on closing of encampments?

MS. DOWN: So my understanding, and Peter can correct me, was that this pledge was required. There was some funding that was available from the provincial government; the Region was required to provide a pledge regarding activities towards -- how the money would be used in terms of encampments.

MR. LOKAN: And then I'm asking if there's specific reporting requirements tied to that, that the region is required to report back to the province.

MS. DOWN: It's just that it's normal for funding to be accompanied by reporting requirements.

MR. LOKAN: Yes.

MS. DOWN: And what's relevant to this case is if there was -- or potentially relevant -- if there was a reporting requirement that indicates that there's a tie between the funding and the closing of encampments. So if ---

MR. LOKAN: So we can narrow it to reporting

requirements related to encampment closures, or movement of people from -- out of encampments.

MR. LOKAN: Okay, we'll give that undertaking.

--- **UNDERTAKING**

MS. DOWN: Okay.

MS. SCHIUTEMA: So some of these documents are in our responding record, which we just filed, they're not in our motion record.

MS. DOWN: Okay, (indiscernible).

MS. SCHIUTEMA: This one ---

MS. DOWN: I think this would be the third exhibit then because we had Peter's ---

MR. LOKAN: We haven't actually ---

MS. DOWN: --- LinkedIn profile, would be the first one.

MR. LOKAN: Okay. LinkedIn profile is fine because he identified that he knew that. So that's exhibit 1.

EXHIBIT NO. 2: LinkedIn profile of Peter Sweeney

MS. DOWN: We had the CBC article. It's exhibit 2. That was the article about the delays to Metrolinx, to the Kitchener transit hub.

MR. LOKAN: I'm not sure that we marked that.

MS. DOWN: Okay, can we mark that as exhibit 2?

MR. LOKAN: Did Peter recognize it?

THE WITNESS: I do not recognize this article.

MS. DOWN: Okay. So you'd never read it? You haven't -- okay.

MS. POLLARD: I have noted that we marked it as exhibit number 1 back when Ms. Perez was examining Mr. Sweeney.

MS. SCHIUTEMA: I think it's a different article.

MS. POLLARD: A CBC article?

MS. SCHIUTEMA: It's a different CBC article, yeah.

MS. POLLARD: A different one? Okay, my mistake.

MR. LOKAN: So I think for this one, it does, as I recall, have Peter's quotes, but

he doesn't recognize the article, so perhaps we give it a lettered exhibit so it's easier to follow on the record. Is that fine?

MS. DOWN: Yeah, that's fine. We can call it exhibit A.

MR. LOKAN: Yeah.

EXHIBIT A: CBC article related to Metrolinx delays and the Kitchener transit hub

MS. DOWN: And then, I believe, the Record article, Ashley was in ---

MS. SCHIUTEMA: I think it's in David's ---

MS. DOWN: The Louisa D'Amato editorial?

MS. SCHIUTEMA: That was in David Alton's.

MS. DOWN: Okay.

MS. SCHIUTEMA: I don't think the Trillium one is, though.

MR. LOKAN: Okay, so we don't need to mark the one that is in the David Alton affidavit. "We're getting left behind."

MS. DOWN: We'll mark the Trillium one as exhibit B.

MR. LOKAN: B? Okay.

MS. DOWN: Sure.

MR. LOKAN: So, does this quote Mr. Sweeney?

MS. DOWN: No, it doesn't, it's just about the Metrolinx plans. It's linked to the Louisa D'Amato article.

MR. LOKAN: So we'll mark that as exhibit B. Because I'm not sure anyone's identified that yet. Thank you.

EXHIBIT B: The Trillium article regarding Metrolinx delays

BY MS. DOWN:

211. Q. Okay, so back to the encampment. Let's talk about it for a little bit. So is this encampment the largest encampment in the Region, as far as you're aware?

A. As far as I'm aware, yes.

212. Q. Okay, and you did mention other encampment closures in your affidavit in a number of spots, specifically referencing ones in Kitchener and Cambridge. Would you agree that other municipalities have take more aggressive approaches to shutting down encampments than the Region has?

A. I would agree that other municipalities have taken different approaches.

213. Q. I don't know if it's just me, but I'm having trouble hearing you. Anybody else?

A. Am I too far away?

214. Q. Yeah, I think so.

A. Sorry, can you repeat the question, Shannon?

215. Q. Would you agree that other municipalities have taken more aggressive approaches to shutting down encampments than the region has in the past?

A. I would agree that other municipalities have taken different approaches, yes.

216. Q. For example, would you characterize the environment in Cambridge as being hostile to encampments?

A. No, I wouldn't characterize -- I wouldn't use language like that.

217. Q. Okay. Is it fair to say that Cambridge has regularly moved to shut down encampments withing their properties?

A. I can think of a couple of instances where encampments in the municipality of Cambridge have been closed down.

218. Q. Okay.

A. Soper Park is one.

219. Q. And the 150 Main encampment that was on regional land, but within the City of Cambridge ---

A. Yes?

220. Q. --- was there pressure from the City of Cambridge with respect to closing down that encampment?

A. We -- I never experienced pressure from another level of government. We had a number of individuals who lived adjacent to that program. The neighbourhood was certainly, as I recall, vocal in its opposition to the encampment at 150 Main.

221. Q. Okay. So you're saying the city was neutral? They weren't taking any position about that encampment?

A. No, I said I didn't feel, and I didn't receive any pressure from another level of government to act.

222. Q. Okay. We're you aware of the general, I guess, the politics of the situation in terms of the stance or the position that Cambridge was taking at that time, in your role as Commissioner of community services?

A. Yes, I recall voices in the City of Cambridge being frustrated with the existence of 150 Main.

223. Q. Right, and so were they advocating for it to be shut down?

A. We certainly received correspondence from members of the public that were frustrated with the existence of the encampment and wondering why it was still in place.

224. Q. Okay.

A. Much like we ---

225. Q. Okay. And were the communications from the city? Like, the council for the City of Cambridge?

A. I don't recall ever receiving correspondence from elected officials advocating for a certain action at 150 Main. I do recall being aware that elected officials in Cambridge, area municipality elected officials were hearing from their constituents about their concerns with respect to the existence of the encampment at 150 Main.

226. Q. Okay. And they were passing those messages along to you?

A. They were ---

227. Q. Or the Region?

A. Yeah, they were -- they were -- I was aware of them. I don't recall getting a specific note, but it doesn't mean I couldn't have either.

228. Q. Okay. And when other -- the lower-tier municipalities have closed encampments like the Kitchner, the Roos Island encampment ---

A. Yeah.

229. Q. --- the Soper Park, *et cetera* (Indiscernible). That creates pressure on the Region to absorb -- because you're responsible for finding those people somewhere to stay? It falls on you? So it creates more pressure on the Region, is that fair to say?

A. So in those circumstances, our USWs, our outreach team endeavour to go to those encampments to make connections with folks, to do what they can, to provide them with supports where they can, and make sure they're aware of their options. And if an encampment is closed down beyond -- anything beyond our control, I understand that those -- what happens is those individuals make their own decisions. And some continue to tent elsewhere, and some choose, if possible, to access the housing stability system. So the number of people who are looking for support doesn't increase when an encampment -- a specific encampment might shut down.

230. Q. Okay, but if the people -- okay.

A. Like, it doesn't add net new people to

the list of -- the number of people that we're trying to support.

231. Q. Okay, fair enough. So that's a good segue into the next topic. So I'm going to look at example E to your first affidavit. Or, sorry, exhibit E to your first affidavit ---

A. Okay.

232. Q. --- which is the infographic from the most recent point-in-time count.

A. Mm-hmm.

233. Q. So this is October 20, 2024, and it was a comprehensive count of the number of people experiencing homelessness. And the overall number was 2,371 as we see at the top of the infographic. And you'd agree with that?

A. I do.

234. Q. Okay. And there's some numbers to the right, but I think it's more helpful to look at it -- you have the chart, I think, which shows the previous one and the current one.

A. Yeah, from the report?

235. Q. Yeah, that's actually from a staff report ---

A. A staff report, yeah.

236. Q. --- as of May 6th, yeah.

A. Yeah.

237. Q. On page 37.

A. Mm-hmm.

238. Q. Okay. So there it tells us -- it breaks it down quite clearly. So if we're looking, people living in encampments or living rough, if we go down four lines in the chart, it looks like in September 2021, it was 412. And then when we go to October 2024, that's 1,009. So that number does not count people in any of the other categories? That's a distinct category, is that correct?

A. Yeah, my understanding of the data is that's a distinct category, a subset of the total.

239. Q. Okay. And at that same point in time, in emergency shelters we have 446 people?

A. Mm-hmm.

240. Q. And 221 in transitional housing?

A. Okay.

241. Q. And 153 staying in motels?

A. Mm-hmm.

242. Q. So those are sort of the available options for people who are experiencing homelessness, in terms of getting off the street, is that fair to say?

A. That's correct.

243. Q. Okay, so for those 1,009 people, they're all potentially the inflow into the emergency shelters, transitional housing, and the motels?

A. Yes, that's correct.

244. Q. Okay.

A. My understanding as well, yes.

245. Q. And so at that time, at that point-in-time count, it would only be a very small number of those 1,009 people that would be able to go into shelter, or interim housing, or motels because, as we can see there, if we look at those numbers of people who were already using those three options on that date, they're very high capacity in terms of what the available numbers would be? Is that fair to say?

A. It is.

246. Q. Okay. So we have a lot of people who are not going to -- let's suppose they work with a USW, they have an IHP, there is no outlet for them because they're one of the 1,009, they're competing with a bunch of -- a large number of people for exceedingly limited resources. So they may work, engage, have an IHP developed and nothing could happen? Is that fair to say?

A. Yeah, so I mean, I think we're pretty clear in the context of the PiT count and the Plan to

End Chronic Homelessness that an exceptional challenge in this work is the dramatic rise in inflow. And any effort to end chronic homelessness in the next five years, which is our stated goal, as you know, is going to have to deal with these challenges both from a supply side and a demand side, in terms of reducing the number of people that flow into the system, creating flow out of the system because again, as I believe you know, there's a challenge of moving people out because of a lack of affordable housing. This is the calculus in Waterloo Region as it is in many communities across the country.

247. Q. So how do you know that the $800,000 in the budget that's been allocated, the additional money, is going to be enough to provide the space in the system for the people being the defined residents?

A. Like, where did we come up with that number? Is that specifically what ---

248. Q. Mm-hmm. Because you said it's not allocated towards specific things, it's just a pot of money.

A. It is a pot of money and it is also -- it had to be based on some formula. And so we took the number of individuals that we wanted to create capacity for, which is in my affidavit at that time,

was 40. We have a rough idea -- rough, we have a very clear idea on the investments required for motels with social supports, for rent supplements, and for supportive housing beds. And so we did a calculus on what some combination of those three would be and that's what we put forward to council, with the understanding that, you know, we would allocate those as needed and they may not shake out in a perfect, formulaic way.

249. Q. Okay, is it possible for us to get a copy of that budgeting, that costing exercise?

A. We included a budget in the council report, and whatever is in the open council report is accessible -- is publicly accessible.

250. Q. Okay, but this doesn't actually show specifics like numbers of beds, or like how many people it's meant to -- (indiscernible) it's a pretty rudimentary sort of budget. Like, it just sort of says X amount for ---

A. Yes, it was the number that we came up with, it was the number that council approved, and it's designed to create a bit of capacity in the system, knowing full well that there will continue to be people experiencing chronic homelessness, and we're trying to support those that are in a location that we

know is no longer going to be available as of December the 1st.

251. Q. Okay. So it could be that it wouldn't have been enough because, presumably, you developed those numbers in advance of the council meeting? Like, that would've been in a staff report that would've been in development for, I'm assuming, weeks or months before that. Sometime maybe between the December 18th receipt of the Metrolinx letter and the council meeting in April. How would you know that there was going to be 40 people at the site on April 17th?

A. I would have to go back and look at the work that went into that, and I would have to endeavour to pull up the methodology that was used, and I will ---

252. Q. Okay.

A. I can -- to the best of my ability, I can do that.

MR. LOKAN: I'm going to say, if you're asking for an undertaking, Shannon, that we'll take that under advisement. In particular, I don't know whether there's confidentiality concerns over draft calculations and documents along the way

that lead to a final, but I will take that under advisement.

MS. DOWN: Okay. I guess what I'm trying to find out is how do we know that it's going to be enough money to do -- I would like to -- yes, we would like that undertaking.

MR. LOKAN: It's under advisement. I think you're also assuming that it was only on April 17th that the Region knew that there were approximately 40 residents and that may not be a safe assumption.

MS. DOWN: Right, well I think that Mr. Sweeney's previous testimony acknowledged that the numbers, the population in the shelter, sorry, the encampment varies significantly from time to time.

--- **UNDER ADVISEMENT**

BY MS. DOWN:

253. Q. And so was that date partly chosen because if it was later, say May, we know that there's -- I think it's fair to say that there's a seasonal aspect to encampments, that they blossom and grow in the spring and they get smaller in the wintertime? Is

that fair to say?

A. There was a couple of questions there, Shannon.

254. Q. Okay. So first of all, is it fair to say that encampments grow in the spring and summer and their size reduces in the late fall and early winter?

A. Yeah, I'd say that in this part of the country, in my three years working here, that seems to be a trend that we see ---

255. Q. Okay.

A. --- in encampments across the community, regardless -- not specifically to ---

MR. LOKAN: Sorry, I think that the witness may have asked -- sorry, answered a different question then was asked. Not whether you see an increase, but whether because there was an increase was a factor in the decision.

BY MS DOWN:

256. Q. So I'll ask that as my second question. I realized I kind of combined two.

A. Yeah.

257. Q. So he's answered the second part; I'll go back to my first question. So was the April 17th

---

A. Can I just ---

258. Q. Yeah, go ahead.

A. Can I just be clear? What I believe I just answered was: do I acknowledged that there's seasonality with respect to encampments related to weather and weather patterns in this community. And I said yes, that is my experience. I've seen that.

259. Q. Yeah, when you say weather patterns, we mean like, the seasons?

A. Seasonal patterns, I should say.

260. Q. The seasonal patterns.

A. Not weather.

261. Q. Yeah.

A. Thank you.

262. Q. Yeah.

A. Yes.

263. Q. Okay. And so yes, so you would agree that in the spring and summer the encampment would be expected to grow in size? On an annual basis, like that is an annual cycle?

A. That would be consistent with what I have observed and have been counselled by my staff in the last three years at encampments in general across Waterloo Region.

264. Q. And so the April 17th date, to choose that date because that was the date the bylaw was put on the agenda council. Why was that date chosen?

A. I'm beholden to council dates and reporting requirements in terms of releasing of agendas. That's not -- those are set. Those are previously set and staff reports fall in line accordingly.

265. Q. Okay. I'm sorry, in terms of -- I maybe didn't phrase that properly. So the decision to make April 17th the cutoff date for existing residents, why was it that? Like, it could've been May 17th, it could've been June 17th; why was it April 17th?

MR. LOKAN: It's actually the 16th, Shannon.

BY MS DOWN:

266. Q. 16th, sorry. So it could've been a month later? Like, that would've been an option. You could've had the meeting and then said, in a month we're going to say the cutoff day is May 16th. Why was it chosen to be April 16th?

A. So my role in this was to ensure, to the degree that I could, that included in the staff report and the bylaw itself, that there were provisions for both time, some runway, and additional

resources to support people. Other elements including dates and wording of bylaw were not within my purview.

267. Q. Okay. It could've been a different date? There was no magic about that date necessarily?

A. Again, I'll go back to my previous answer. I wasn't ---

268. Q. You weren't involved in that decision making (indiscernible)?

A. I was aware of things coming forward, as I am a member of the executive team here at the Region. My role and responsibility was to provide input from a housing and social services perspective, which is what I did.

269. Q. When we looked at that number of people living unhoused, that 1,009 number, and we know that this is the biggest encampment in the Region, when it closes down, if the people who are currently not in shelter or transitional housing, those 1,009 people, where are they? From what you understand from your work with the USWs *et cetera*?

A. Sorry, where are who? Can you repeat that?

270. Q. So we know that there's 1,009 people living unsheltered, completely unsheltered, and so outside of this encampment where are those people?

Where are they? Where are they living?

A. So I don't have access to the raw data and I'm -- of, you know, specific location. So the point-in-time count, as you know, is conducted -- was back conducted in October through a survey and this represents the number of individuals who, in that conversation and in that survey, identified that they were living rough.

271. Q. Okay. Are you aware through the reports that you get from your USWs or the interactions that you have with them that there are any other significant sized encampments in the Region where people are gathering?

A. I'm not aware of another encampment of the size and scope of the one located at 100 Victoria.

272. Q. Okay. So is it your understanding that these people are pretty scattered then, throughout the Region?

A. My understanding is that -- well, so I'm acknowledging that 1,009 individuals identified on October 24th, whatever day it was, that that day or that night before they were living rough. I don't have access to data that would be able to pinpoint where they -- those individuals who indicated that they were living rough were actually staying.

273. Q. Okay, but I'm just trying to understand like, as Commissioner of community services this is part of your purview, right? And you talk about the fact that the reason unsheltered workers are going to work with all the people who are experiencing homelessness --- so I'm just trying to understand -- like, surely you must get informed through your staff about the picture of that unsheltered homelessness. And I'm trying to understand can you ---

A. Yes.

274. Q. Can you give me some idea of what that looks like in the Region, I guess?

A. Yeah, so I can -- my understanding, through reports and conversations with my team, is that there are, at any given time, a number of encampments throughout Waterloo Region. Some are more active than others. Some are more entrenched than others. And the largest of those, in my full time here at the Region of Waterloo has been at 100 Victoria.

275. Q. Okay. And where are some of the other ones that you're aware of, currently?

A. Given the transient nature of those shelters, and the degree to which they pop up and down, I don't have a real-time listing for you to give

to you today.

276. Q. Okay. And so that must be quite a challenging environment for the USWs to try and service that part of the population, given what you just described, that transient nature and that they're popping up and down?

A. Yes, this is difficult work. For everybody in this sector.

277. Q. Okay. And how many USWs are currently on your team?

A. We have -- was it listed in the affidavit?

278. Q. Yeah, so if you go to -- sorry, paragraph 20 of your second affidavit.

A. Yeah, I was just ---

279. Q. Which is on page 6.

A. Yeah. Sorry, my first or my second, Shannon, sorry?

280. Q. Second. Second affidavit.

A. Okay. Oh, I haven't gone to my second yet. I believe it's six. Yes, it's six.

281. Q. Yeah. Paragraph 20, so it says six. So those six people are responsible for connecting with -- their primary people that they're working with would be those 1,009 people who are living unsheltered

in encampments, or living rough across the Region? Also, people in emergency shelters, is that part of their role?

A. It is.

282. Q. Okay, so that's another, I think like, 450, is that correct?

A. So ---

283. Q. Or so?

A. Well, the six unsheltered workers that are Region of Waterloo staff are not the only individuals working in street outreach across Waterloo Region. As you probably know, we have funding arrangements with a number of partners who provide some of this outreach and so the entire, if I can use the word "caseload," does not fall to the Region's six unsheltered workers.

284. Q. Okay. It's still a big -- like an enormous responsibility to have that many people for six workers, to try and ---

A. Which is ---

285. Q. Like, when your ---

A. Yeah, and so even just a couple of years ago these positions did not exist. It was one of the reasons we put forward a budget expansion to regional council, and yes, it's a challenging

environment for these individuals to work. It's a challenging environment for anybody who's working in this sector. And ---

286. Q. Yeah, and so a couple years ago, so in 2023 that was when the USW team was formed?

A. That's correct.

287. Q. Okay, and how many people were on the team at that time?

A. My recollection is we started with two.

288. Q. Okay. Do you know when ---

A. I would like to confirm that.

289. Q. Okay. Do you know when ---

A. I'd have to undertake to confirm that outside of this conversation.

290. Q. Okay, you can confirm how many USWs there were in 2023?

A. We ---

291. Q. And also, can you tell me when it expanded beyond two?

A. Is that an Andrew point?

292. Q. I'm asking you first, and if you don't know ---

A. No, I don't.

293. Q. --- then I guess I'm asking for an undertaking.

A. No, Shannon, I don't have access to the specifics of when each of those individual roles was filled, but we would certainly have that information.

294. Q. Okay, and you say that they've been continuously providing services since that time in 2023; were there ever stoppages to that work? Like, times when they were not going to -- sorry, to the work at the encampment, so specifically at 100 Vic. Were there times when they were not providing services to 100 Vic?

A. No. Since the inception of the program, 100 Vic -- individuals residing at 100 Victoria would have been part of their mandate. The -- it would have been part of their mandate since that time.

295. Q. Okay. So there were never times where they were told not to go there? Like, I seem to recall at some point, and I don't have a specific citation for this in the materials, so I'm just asking you because I seem to remember being at a meeting at some point and heard that the USWs had been told not to go to the encampment because there was some health and safety risk?

A. There -- I would need to go back and look, but I do know that there have been instances --

I can't give you any specifics, where there were concerns about some of the behaviours exhibited at 100 Vic and so I do have a legal responsibility to ensure the health and safety of my staff. So if there were times where my staff were not on site due to health and safety risk it would've been under the guise of health and safety legislation.

296. Q. Okay. So there may have been some stoppages where workers were not going onto the site, but you don't remember the specifics?

A. So the -- supporting individuals at 100 Victoria have been part of the ongoing mandate of our unsheltered workers since inception.

297. Q. Okay. And currently, in your affidavit at paragraph 21 ---

A. Second one again?

298. Q. First affidavit, I think.

A. Okay, thank you.

299. Q. Oh, no, sorry, go back to -- on the second one, paragraph 21, you mention that you're confident that any resident who's been there for more than a week would have had supportive conversations, or received offers for them. And I think you mentioned, and I can't remember exactly where it is, but they're there everyday. Like, that the USWs are

there everyday, and I think your evidence was that it is between 11:00 and 1:00 every day?

A. Yeah, so what's your question?

300. Q. So is that 11:00 to 1:00 schedule, first of all, has that been the schedule since 2023?

A. No, that is -- my understanding is that schedule has -- the daily visits in that 11:00 to 1:00 time frame has just been in the last few months.

301. Q. Okay. So is it maybe since the April 17th date? Or before that?

A. It was before that.

302. Q. Okay.

A. It was before that, but I can confirm that for you.

303. Q. Okay. And how many of the USWs are there on that schedule?

A. There's three USWs that I would say are regularly attending.

304. Q. Okay. And is that 11:00 to 1:00, is that sort of set in stone? Like, that's their regular hours they're there?

A. No, I believe that's just a general practice.

305. Q. Okay. Are they able to go there, say, in the evenings? Or on weekends?

A. If they're scheduled to do so.

306. Q. Okay. And are there schedules, like shift schedules to work in the evenings and the weekends as well for the USWs?

A. I don't know what their regular looking schedule. My understanding is that they have regular schedules and then they fill out their, sort of, caseload within that -- those shifts on a weekly basis.

307. Q. Okay. So do you know whether they're like 9-5 workers or if they are on shift work?

A. I'd have to check that with you.

308. Q. Okay, can I get an undertaking regarding their schedules? Days of work and hours of work? Not for individuals but just for (indiscernible).

MR. LOKAN: The ---

THE WITNESS: For the team?

MR. LOKAN: Okay. Yes, we'll provide that.

--- **UNDERTAKING**

BY MS. DOWN:

309. Q. Okay. And so I guess my question is, if they're going there sort of a regular time, say

between 11:00 and 1:00, like if an encampment resident is sleeping late and doesn't get up until later in the day or if they're out at appointments, or in search of food, they may not be there. They may not overlap with them, if they're there during the daytime and the encampment resident is outside. So how are you so confident that they must have reached everybody?

A. So I have a high level of confidence that the -- because of the priority nature of individuals residing at 100 Vic to ensure that they're connected with services for those that wish to, as I stated in my affidavit, I am confident. And I also know that the relationships with members of -- people who are living rough and living in encampments do take time to develop into scenarios where offers are -- can be made, which is why we've added both the time and the resources to this program. But my -- yeah.

310. Q. Okay. So when you say, "Priority nature," so is the consequence of that that some of those other 1,009 people who are not -- the ones who are not living in the encampment are not getting access to the same level of service then from the USWs?

A. So given the fact that we know that this location is no longer going to be available for

individuals to tent as of December the 1st, the outreach resources that we are allocating within the community -- we want to make sure that we are paying particular attention in supporting those individuals, much like we would if there was a shelter that was closing down and we had a date and time on that. That's a natural way that we allocate scarce resources in a time of exceptional need.

311. Q. Okay. So it is a natural consequence of that issue of having finite resources, that when you have a system priority like 100 Vic, or closing an encampment that those people are getting more attention and then there's a bunch of people that are getting less attention?

A. The challenge of our system, whether it be our regional outreach staff, or our shelter providers, or our funded outreach staff, we are in an environment where we have limited resources and exceptional needs. And we constantly are working on supporting those folks that need it in the moment and again, right now, much like if we had a shelter closing, like we've done a number of times in the last number of years, we want to make sure that we're supporting those that are currently in an environment or location that we know definitively is not going to

be available to them after a certain period of time. And again, we've done that a number of times and that's a part of the sector that we work in.

312. Q. And sometimes because of those closures, like, for example, in a shelter or if an encampment is closing and there aren't additional resources, those people are, you know, in terms of what their options are, it could be just that they're sleeping rough, they're on the streets, they don't have anywhere else to go? Is that accurate?

A. So we do know that with time and resources we have had -- we've seen scenarios where we have been able to support people out of shelters into other -- closing shelters into other accommodations. And we know that one of the key success factors is as much time as possible, and so this is a similar approach here at 100 Vic and knowing full well that, you know, that time that is required is valuable, and so we use it as judiciously as possible to try and support people as best we can.

313. Q. Right. Maybe I didn't phrase my question because I don't think you answered what I was asking. Like, I'm talking about not the people who are in the shelter where you're transitioning them into something else, but the people for whom are

coming to there, and you're saying, "Sorry the doors are closed, you can't come in because we're focused on getting the existing people out." So the people that are being turned away because the door is closed, and you've talked about the fact that, you know, if we have a finite number of resources and we're focused on those -- what I'm saying is the people that are not already in the shelter or already in the encampment, they're being turned away and there is a chance that they're going to end up on the street living rough?

A. So I'm not -- you're talking about a door being closed to people; can you be specific in an example?

314. Q. Yes, you said that when you're closing a shelter, you're not going to let anybody new in. You're going to say, "We're transitioning everybody out of the shelter, nobody new is coming in." So if I walk up to the door, if I'm a homeless person, if I'm experiencing homeless, and I walk up and I'm told, "King Street is closing, you can't stay here." Is that not -- am I not understanding how that works?

A. No, you're understanding how that works. And I -- we do know that in an area where the number of -- the demand for services outstrips the supply that we do know that we do everything we can to

offer all of the resources we have, and consequentially, there are individuals who choose not to take us up on our offers, and there are times where we are overcapacity withing our overall system. That is an unfortunate reality of the housing stability system in Waterloo Region and across the country, as you know.

315. Q. Okay. And to be clear, I'm not talking about someone who's choosing not to, I'm talking about someone who's actually coming to the shelter to try to access it, but it's been closed, so they're being told, "There's no new admissions, you've got to go somewhere else." And I'm saying in the context of that 1,009 number, that person may not have anywhere else to go, so they might be ending up sleeping on a street corner?

A. Yeah, so I can say that within our shelter system itself is often near capacity, and there are also many, many times where there is room within that system and we try our best to provide everybody that needs it with a bed somewhere, and there are occasions, yes, where the system is overcapacity, and that generally happens, you know, obviously when there's an increased demand. That often happens in the winter which is why we add winter

warming and surge capacity. But depending on the shelter itself, there's generally some availability of space withing the system on any given night.

316. Q. Fair enough. But the numbers themselves would demonstrate that there's no capacity in the system to -- like, it's not even close. When the system is operating at even moderate capacity, it's not going to have room for the 1,009 people who are living outside of the shelter system, unhoused?

A. Yeah, I acknowledged in my first affidavit the whole section on the overall number of people experiencing chronic homelessness in this community relative to shelter capacity.

317. Q. Okay.

A. That's a function -- that's an unfortunate and sad function of our system, as we both know.

318. Q. And so some of those people, when you're -- in the example of closing a shelter, some of those people who cannot access it because it's being restricted, that you're saying, "We're not taking any new admissions," they might be the people who end up somewhere like 100 Victoria Street?

A. Yeah, so my understanding is people have transitioned in and out of 100 Victoria Street

over the last three and a half years for a variety of reasons that are as unique as the individuals that they are. In the last year alone, we've helped support 43 people who were at one point residing at 100 Victoria into alternative shelter. But I don't want to generalize why people end up, you know, specifically at 100 Victoria.

319. Q. Okay, but in this sort of hypothetical I have, where there's a shelter closing and someone ends up at 100 Victoria because that's the only option, maybe, that they have, there isn't room in the system which is possible because of the numbers, if 100 Victoria is also closed to new people then that person quite likely is going to be living on the street? They're not going to necessarily be able to set their tent up anywhere?

MR. LOKAN: Shannon, could I -- I'm just not sure that you've laid a factual foundation for any of this because you're talking about shelter closure; I'm not even sure there has been any since April 16th.

MS. DOWN: While there haven't been, but it is a frequent -- well, I guess I can ask Peter this.

BY MS. DOWN:

320. Q. Are shelter closures happening with some reasonable frequency within the Region, let's say, in the last five years?

A. No. In fact, the shelter capacity has increased significantly since the Valente case and the budget, the homelessness budget has more than doubled in the last -- in that period of time. So the number of available beds and the resources available to people experiencing homelessness in this community have both risen.

321. Q. Okay, so have there been any shelter closures in the last two years?

A. There have been shelter openings and closures that are well documented. King Street shelter is one that was a temporary shelter that was committed for two years. We extended that by seven months and it closed on March 31st. But again, the -- in my affidavit, outlines the overall shelter capacity system, and when we look at this work, we try to look at the overall system, which has increased significantly in the last three to four years.

322. Q. Right, was there an immediate replacement for that shelter when it closed? The King Street shelter?

A. There was not. The shelter itself was scheduled to close after two years. We extended it by seven months and then it closed and the overall shelter capacity remains significantly higher than it was even three years ago.

323. Q. So help me out with the math here. So you closed a shelter, but you're not -- I asked you if a new one opened up to replace it.

A. We didn't -- yeah. We did not close the King Street shelter and immediately open another shelter. That was never ---

324. Q. Okay, but you're saying the overall numbers went up?

A. The overall numbers have gone up since 2022.

325. Q. Okay, since it closed in March -- when the King Street shelter closed in March, was that a reduction in the number of emergency shelter beds?

A. It was a reduction; I would have to do the math because there will be -- there are some offsets in other locations. I don't have that -- I only have my affidavits in front of me, but I can certainly give you the plus and minus for the overall system. (Indiscernible) yeah.

326. Q. Okay. So I think it is relevant to the

situation we have, like if there's a shelter closing and there isn't a new one that's opening up before or immediately after there's going to be a gap where people need somewhere to go. And if the system -- if we have 1,009 people who are living unhoused and a 50-bed shelter, or a 100-bed shelter closes that's going to increase (indiscernible). They've got to go somewhere. If they're going to an encampment, if they're not going to an encampment, where are they going?

MR. LOKAN: Shannon, don't you need to ask if there's any closures foreseen between April 16 and December 1?

MS. SCHIUTEMA: Should we ask about the warming centres? Maybe that's a good question Peter can answer. Tell us about the closing of the warming centres?

THE WITNESS: Sure. What's the -- sorry, Ashley, I'm not trying to be (indiscernible) there's a lot flying around here. I'm happy to answer a question that you put to me specifically. I'm doing my best here.

BY MS. DOWN:

327. Q. When did the winter warming centres

shut down?

A. At the end of April.

328. Q. Okay.

A. Which was a month later than originally scheduled. Winter warming generally runs until the end of March.

329. Q. Okay, and how many people were using those? Or how many beds did we have in the winter warming centres?

A. Can you give a minute to look? To pull up the shelter capacities.

330. Q. Sure, we can go back to that chart.

A. Yeah, there's a chart. I'm trying to remember -- if somebody remembers where it is, that would be helpful?

MR. LOKAN: It's following paragraph 75 of the second --

THE WITNESS: Yeah.

MR. LOKAN: --- sorry, the first affidavit.

THE WITNESS: I got it, yeah. So yeah, the capacity at the thresholds winter warming centre was 30 and the one run by porchlight was also 30. And those were both scheduled to close at the end of March and we extended that by one month.

BY MS. DOWN:

331. Q. Okay. And so what happens to people when the warming centres close? Like, where are those people going?

A. So as a reminder, the winter warming are overnight only locations for people to come out of the cold. And so those folks, I don't have specific case notes on where each and every one of those individuals is currently residing.

332. Q. So they could be at an encampment, they could be people who showed up at 100 Vic, for example, after the ---

A. Again, I don't have details on where those individuals who were accessing those shelters at the end of April have ended up. That information would be in case notes with my outreach staff, if we have them.

333. Q. Okay, so when I did ask you like, shelters closing, is it a -- it may be infrequent, but does it happen with some regularity like that shelters open for a period of time, they close, another shelter opens, it closes? In your experience since you've been Commissioner, has that happened on more than one occasion?

A. Yes, I think I've been pretty clear in regional council meetings that since the pandemic there have been a number of shelter openings and closings due to both pandemic impacts, some additional resources that came into the system and then exited the system, mostly at a provincial and federal level, and our experience has been those temporary, emergency shelters have been -- you know, it's been a challenging environment to operate in, both for the people we're trying to support, but those neighbourhoods. And King Street shelter would be an example of that.

334. Q. Okay, and is it your general impression that that is creating increased inflow into places like 100 Victoria Street?

A. No. I don't believe that I have data that suggests that there's a one-for-one correlation between individuals in one shelter and a specific encampment.

335. Q. I want to ask you, was a harm reduction approach part of the closing philosophy of the Region when it comes to dealing with encampments, and shelters, and people experiencing homelessness?

A. Sorry, is a harm reduction approach -- I missed your next word there?

336. Q. Sorry, consistent with the Region's approach to dealing with the issue of homelessness?

A. So I think from a housing and homelessness perspective we recognize that a certain portion -- percentage of this population that we're serving is also working through sometimes some pretty significant addictions issues. And acknowledging that as (indiscernible) in a housing first environment, people need that support. And so, you know, we know that, you know, we have locations where harm reduction is part of the effort and work. I'd say that's a community response, community initiative, not specifically to the Region of Waterloo as an entity.

337. Q. Okay. So I don't know -- I'm not sure whether you're saying that it's consistent with the Region's approach to homelessness, or not? I can't tell from your answer whether that's a yes, or a no?

A. Well, I guess I can acknowledge that we recognize, I certainly recognize as Commissioner of community services that harm reduction is an important element to supporting people that are experiencing chronic homelessness.

338. Q. Okay, thank you. And so would you agree if I defined harm reduction as sort of a practical, real-world approach that recognizes that

there may be negative consequences associated with certain high-risk situations, or behaviours, but we can't always implement an ideal solution so we try to minimize the harm while we work towards that ideal solution. Is that a fair description of what harm reduction is?

A. Yes, I think it's -- to me it's recognizing where potential harms could exist and, to the degree that you have a locus of control, to minimize those risks and the resources to do so, we should attempt to do that. I would ---

339. Q. Isn't it also looking at relative harm though? Like, often harm reduction is talking about what are the relative harms, so for example, a consumption and treatment site is a harm reduction model that says while people are not ready for abstinence-based treatment, we're going to support them while they are using, even though we recognize that there's harms with that it's better if they're doing it in a supportive environment than doing it alone.

A. Yeah, I understand.

340. Q. We're looking at it relative.

A. Yeah, I understand the idea of relativity and relative harm. I'm also not an expert

in harm reduction, safe supply, or any of those other sort of, clinical approaches to supporting people particularly in this case with addictions.

341. Q. Okay, and fair enough. But I'm looking at maybe a broader version of ---

A. Okay.

342. Q. --- harm reduction. And so would you say that emergency shelters are a form of harm reduction strategy?

A. I think if we talk about emergency shelter as a place for individuals to get inside, have access to, you know, warmth and a meal and social supports to help them transition into something eventually more permanent, then it's an important element of the housing stability system. They are intended to be temporary and emergency in nature, and they play an important role in the system, but they are not the answer to every single element of solving chronic homelessness.

343. Q. So doesn't that fit within the definition of harm reduction? It's not the ideal solution but it's better than maybe someone living unsheltered?

A. Yes, I would say. And in that definition of harm reduction, an emergency shelter

would fit for some people as a place that is relatively less harmful than other scenarios.

344. Q. Okay. And would you also agree that an encampment could be considered a harm reduction strategy, if you're looking at the comparison between living in an encampment and living unsheltered? Like, living rough in the streets, someone who's ---

A. So can you ---

345. Q. --- crouched in a doorway.

A. So again, I think I would ask you to help me understand, in that question, the difference between living rough and living in an encampment?

346. Q. Well, in an encampment I can set up my tent, I maybe have some survival equipment that I'm able to collect. If I'm living on the street I can't -- you know, if I'm living in a doorway I might have a blanket, I might have a piece of cardboard, but I'm exposed to the elements. So it's the people that maybe you see when you're walking down the street and they're lying literally on the side of the street. They don't have any belongings, any tent.

A. So my response to that is in my role we believe that finding ways for people to access inside supports is our focus. And, you know, I also recognize that individuals, particularly in this

population, can and do make their own choices of whether or not they access our system and they make decisions on relative choices. Far from me to suggest in an individual circumstance like that what somebody might feel is a relatively safe or less harmful for them in those moments, in those individual cases.

347. Q. So I'm not really talking about people's choices. I'm talking about people such as the 1,009 people who are living outside of the shelter system, outside of the housing system completely, who may not have access to any resources. So I'm not sure that's a choice they're necessarily making, unless you're saying those 1,009 people are all choosing to do that?

A. No, what I'm -- my response to your question is that what I believe you're asking me to do is comment on the relative harms or not of, in your words, sleeping rough in a doorway versus sleeping rough in an encampment. And I would say that I'm not in a position to comment on the relativity of those two choices.

348. Q. But you agree that ---

A. Or those two circumstances.

349. Q. Okay. But you did agree with me that an emergency shelter is a form of harm reduction.

It's not an ideal solution but it's better than sleeping rough. So you were able to comment on that?

A. I am able to comment on that, because in my view, in my professional view, it's a programmed intervention into a system designed to support people, and it comes with resources, procedures, and professional staff to support people through. And so I am able to comment on that, versus the absence of those things.

350. Q. Doesn't the encampment have that with the trailer and the unsheltered workers going there to help them? Help the people at the encampment?

A. I would not characterize the encampment as an equivalent of a contracted 24/7 professional staff environment of an emergency shelter.

351. Q. I'm not saying it's comparable, but is it not a step up? So we're talking about relative comparisons. Is it not a step up from someone sleeping in a doorway?

A. I don't know if I have an opinion on that -- an answer to that. That feels like a suggestion on one versus the other, and again, my view is I'm not in a position to comment on the relative steps between those two circumstances that you've outlined.

352. Q. But you did comment on it when it came to the shelter, so it's interesting that you feel confident about that, but when it comes to an encampment where the Region is providing services, the Region is providing some support, you're not willing to make that relative comparison. It's fine I can move on.

A. Can I just do a time check here? Just so I'm understanding what's happening in the next five minutes?

353. Q. Sure.

A. So we're scheduled until 5:00, correct?

354. Q. Yeah. I mean I've probably got more than five minutes worth of questions left, but I'll try and get through as many of them as I can, and then we're going to have to leave the rest to, I guess, a second examination at some point in the future.

MR. LOKAN: I do have a few questions in re-exam, but I expect that's about 5 minutes. So Shannon, I'm going to ask you to wind up as soon as you reasonably can.

MS. DOWN: Okay.

BY MS. DOWN

355. Q. So in your first affidavit ---

A. Yeah.

356. Q. --- at paragraph 94 to 98, which starts, I think, on page 89.

A. Yeah, just give me a second here. 94 to 98, yeah?

357. Q. Yeah. So if you scroll down, you're talking about some of the risks you see at the encampment, scroll down to there. So talking about the deaths at the encampment and in one of the paragraphs you're talking about violence at the encampment. Incident reports surrounding violence. Are those issues that are tracked in the emergency shelter system as well?

A. Yes, there's -- my understanding is, there's a duty to report from our emergency shelter providers on incident management. They have an incident management system.

358. Q. Okay, and do you see those reports?

A. I don't see those reports regularly, but when there are critical incidences, I'm generally made aware of them.

359. Q. Okay. And so are you aware of deaths that have happened, say within the last year, within the emergency shelter system in Waterloo Region?

A. I don't know the timeframe, but I have

been made aware of deaths within our shelter system, yes.

360. Q. Okay. And in the interim housing system? Properties like University Ave?

A. Again, within -- across our entire system I have been made aware of deaths in those locations. I can't say for certain if I've been made aware of every single one. But they would be documented somewhere.

361. Q. Okay, can I have an undertaking to provide us with how many deaths have occurred in the emergency housing system, the transitional housing system, or the motels that the Region funds within the last calendar year?

MR. LOKAN: That's going to be an under advisement because there may be some complexities in providing -- determining and providing that number.

MS. DOWN: Okay.

MR. LOKAN: But that ---

MS. DOWN: Best efforts to try and provide that to us.

MR. LOKAN: It's an under advisement.

--- **UNDER ADVISEMENT**

BY MS. DOWN:

362. Q. In terms of violence, does the Region receive reports of incidents of violence within the shelter system that you fund?

A. Yes, there is an incident management program in place and a duty to report. I can't say right now what the parameters of that are, Shannon, but again, happy to provide that.

363. Q. Okay, if we can get an undertaking for that as well?

MR. LOKAN: Same answer. Under advisement.

MS. DOWN: (Indiscernible).

MR. LOKAN: You're asking for the 12 months leading up to whatever we're at today? July ---

MS. DOWN: Yes.

MR. LOKAN: The beginning of July.

MS. DOWN: Yes.

MR. LOKAN: Under advisement.

--- **UNDER ADVISEMENT**

BY MS. DOWN:

364. Q. Are those issues that cause you

concern? That would cause you to say you want to shut down those services if they were happening to some frequency, or the same frequency that it's happening in the encampment?

A. So I'm not -- I don't have, currently, a concern about any specific incidences within our shelter system that I would be considering shutting down a shelter.

365. Q. Okay. But you do acknowledge that deaths and violence do occur within that system?

A. Yes, I do. And I will point out that from the perspective of this affidavit, it is a statement of fact at this particular location.

366. Q. And in terms of paragraph 97, where you said:

> "I'm not in a position to say what causes these deaths, which is a matter for the coroner, I can say, however, that the encampment environment appears to me to be far from ideal for those who are suffering from major health challenges, and the likelihood that these numbers are underreported is high."

What are you basing that statement on? That, "The likelihood that these numbers are

underreported is high." What's your evidence for that?

A. So I would say it appears to me that the likelihood that these numbers are reported is high is not a statement of fact, it's a statement of opinion. And my understanding in working in a number of different environments where incidents in general are not often -- there's a reporting challenge and so I'm surmising that even though we do look to track, I believe that there are likely incidents that happen at the encampment that I'm not aware of, or don't get reported to the authorities in those cases.

367. Q. Okay, so that's just speculation based on your own personal opinion, not -- as you already said, you're not an expert in this area?

A. Yeah, I believe my affidavit represents that.

368. Q. I guess I'll stop because you need to do your reply questions, but we've already indicated that we have more questions that we would like to ask Peter at a future date. So we'll stop for purposes of today, but we would like to resume at some point in the future.

MR. LOKAN: We'll have to deal with that as we come to it.

RE-EXAMINATION BY MR. LOKAN:

369. Q. Peter, just a few questions in re-examination. And you were asked early in your cross-examination about the count of approximately 40 people and that being the number of residents, and you said "approximately" as of April 16th, 2025. Do you recall being asked that?

A. I do.

370. Q. And was that a single snapshot on April 16th, or did that take into account the time period leading up to April 16th?

A. That took into account a short period of time leading up to April 16th, to accommodate for the knowledge that we have that some individuals were staying there more frequently than others.

371. Q. Okay, thank you. You were asked whether it was possible that someone would get a motel room, but actually need deeply therapeutic housing, and after a few weeks cycle back to an encampment or sleeping rough. You said, "It could happen." What, if any, steps would the Region be able to take to mitigate against that possibility?

A. I think it's inherent in the Individual Housing Plan. Also acknowledging that, you know, our

outreach staff, both who work for the Region and that we contract with partners, do the best they can with the knowledge that is shared with them in confidence by the people they're working with. And sometimes situations change, and you know, they do their best to maintain contact and records to support people. And if a certain part of the plan doesn't go as well as everybody had thought, we try to circle back and support people through -- into whatever might be the next step, and we would re-evaluate the housing plan at that time, and then do our best to adjust and provide further supports to those people who need it.

372. Q. Okay. You were asked about the possibility that instead of introducing the bylaw and announcing the plan on April 16th that you -- what would've happened if you'd done that May 16th, or June 16th, at a later date. What challenges, if any, would that create vis-à-vis the December 1st date by which the Region needs it for site remediation?

A. So as I indicated, the longer we have to work with individuals who are there, the better. And so the decision to support those people who were existing residents, given the resources that we have available to us, was important. One of the consequences would have been potentially further --

more people arriving to 100 Vic in the interim and just making that particular body of work just that much more challenging.

373. Q. Okay. You were asked a number of questions about the 1,009 indicated as sleeping rough, including in encampments in the point-in-time count. First of all, do you know that that's a stable number over the year?

A. I do not.

374. Q. Okay. Whatever the number is, and you talked about the challenges to capacity, what is the long-term plan for dealing with those capacity challenges?

A. So the long-term plan is set out in the Plan to End Chronic Homelessness, which is a call of action to dramatically support an effort to end chronic homelessness by 2030 across Waterloo Region. And so our goal is to focus, as much as we can, on a number of things. One is upstream prevention, and dedicating our resources to housing outcomes, and shifting less of the resource to managing an acute system, an acute need. To focusing on prevention on one side, and permanent, long-term, stable, supportive housing, and permanent regular housing on the other side.

375. Q. Okay, thank you. Those are my questions in re-direct.

--- 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.

BaPollard

_____

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 “1”

Kitchener-Waterloo

Advocates call for more shelter beds as cold weather sets in, region says it knows there aren't enough

'We have more people who are homeless than we have supports for,' regional commissioner Peter Sweeney says

Aastha Shetty · CBC News · Posted: Dec 13, 2024 11:33 AM EST | Last Updated: December 13, 2024

The Region of Waterloo says it knows it does not have enough beds to help keep everyone out of the cold this winter. But staff are working to open a new shelter and come up with plans for extreme weather situations. (Spencer Platt/Getty Images)

As the cold weather sets in, the Region of Waterloo says it's opening a new emergency overnight shelter in Kitchener to help keep people off the street and staff are asking for more money in the 2025 budget for extreme and winter weather preparations.

But advocates say more still needs to be done.

The temporary shelter at 84 Frederick Street is being run by an organization called Services and Housing In the Province, or SHIP. There are 37 beds available with the capacity to add seven more beds during extreme weather conditions.

Including the temporary shelter, there are currently 589 shelter spaces at various locations in Waterloo region's cities.

But a point-in-time count done on Oct. 22 found more than 2,300 people in the community are homeless — a number that has doubled in three years.

David Alton, a lived expertise facilitator at the Social Development Centre, says the problem with opening more shelters is there appear to be barriers at the regional level.

"One barrier is a jurisdictional barrier," they said. The centre has asked if regionally owned buildings like the one at 150 Main St. in Cambridge or part of the regional headquarters building at 150 Frederick St. in Kitchener could be used to house people.

"These are regional properties, so you'd think that the region would be able to leverage these properties to meet the crisis. But unfortunately ... control and access over those properties is not determined by the community services department," Alton said.

> "It's not a question really of how long it takes. It's just — if there's nothing, what are you going to do to stay warm? It's part of the reason why in some cities people ride transit through the night because it's a warm place."
>
> *- Jeff Willmer, A Better Tent City*

Alton says that means bureaucracy has made it difficult to test out new ideas.

"Lower municipalities are not internalizing their responsibility to our unsheltered neighbours," they said.

"Neither is the facilities department or the public health department or the health and safety department, even Grand River Transit. Community services and partners have asked Grand River Transit buses to run overnight. But GRT is putting too many barriers to actually make that happen."

Region aware of bed shortage

Peter Sweeney, the commissioner of community services at the Region of Waterloo, says they know 552 beds is not enough to help everyone.

"We are in a situation where we have more people who are homeless than we have supports for, which is why we see a rise in encampments in the last number of years," he said.

- **More than 2,300 people are homeless in Waterloo region, new point-in-time count finds**

- **A Better Tent City houses 50 people but volunteers say they need more cash to keep it going**

"The inflow into homelessness in this community continues to increase and will continue to increase," Sweeney said. "Until we have the proper amount of affordable and transitional housing, we are going to struggle with homelessness in this community for a long time."

The Region of Waterloo says 50 people experiencing homelessness are living at the shelter at 1001 Erbs Road in Waterloo, Ont. Each cabin has its own heating unit. (Carmen Groleau/CBC)

He says staff need a lot more resources to meet the region's goal to end homelessness by 2030. It would require an investment of $245 million over the next five years.

Sweeney says they are asking regional council to approve an additional $500,000 in the 2025 budget as part of "an expansion package for the plan to end chronic homelessness." The money will be put toward extreme and winter weather preparations for the new year.

He says those experiencing homelessness currently have the following options if seeking shelter:

- 80 beds at The Bridges in Cambridge.
- 100 beds at the House of Friendship in Kitchener.
- 100 beds at the home of the old Schwaben Club.
- 30 beds at the Edith Mac Shelter in Kitchener.
- 50 cabins at the outdoor shelter at 1001 Erb's Road in Waterloo.
- 30 beds at the oneROOF shelter for youth in Kitchener.
- 10 beds at the Safe Haven Youth Shelter in Kitchener.
- 24 affordable housing spaces at the former Kinsmen Children's Centre in Cambridge.
- 28 transitional housing spaces for Indigenous people at the K-W Urban Native Wigwam Project.
- 80 transitional housing spaces on University Avenue in Waterloo.
- 20 beds at an emergency shelter for women in Cambridge.

Those who want to access the shelters should call First Connect at 519-624-9133. It's available 24 hours a day, 7 days a week.

The region has a list of warming centres on their website which includes most municipal offices, libraries, community centres and malls during business hours. But those warming centres are only open during daytime hours.

A man plays a guitar outside of a cabin in Kitchener's A Better Tent City, an initiative aimed at housing people experiencing homelessness. (Submitted by Jeff Willmer)

Limited options on freezing nights

While there are currently limited options for someone who can't find a warm place to stay on a freezing night, one option is for people to make a friend at A Better Tent City. It's a tiny home community that houses 50 people.

- **Ford pledges tough new legislation to dismantle homeless encampments**
- **Province will 'always be there' for Guelph and Cambridge as they clear encampments, premier says**

Co-founder Jeff Willmer says each resident who lives there can check-in one guest to stay with them and there's little to no notice required. But, he says, he realizes it's not a solution that will help everyone who needs it.

"People are sort of resigned to the fact that there are limited options and they sort of have to fend for themselves. Certainly there are lots of warming centres open during the daytime. So that's a a reasonable solution during the daytime hours. But overnight, the King Street shelter at the old Schwaben Club tends to be the one place people are trying to get into and it's got limited capacity," Willmer said.

"It's not a question really of how long it takes. It's just — if there's nothing, what are you going to do to stay warm? It's part of the reason why in some cities people ride

transit through the night because it's a warm place."

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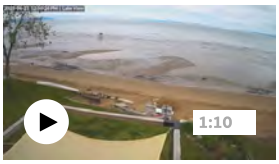

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EXHIBIT “2”

Contact

www.linkedin.com/in/peter-sweeney-55787817 (LinkedIn)

Peter Sweeney

Commissioner of Community Services
Kitchener, Ontario, Canada

Experience

Region of Waterloo
Commissioner of Community Services
June 2022 - Present (3 years 2 months)

YMCA of Three Rivers
CEO
October 2020 - June 2022 (1 year 9 months)
Waterloo Region, Guelph-Wellington, Stratford-Perth

YMCAs of Cambridge & Kitchener-Waterloo
CEO
September 2016 - October 2020 (4 years 2 months)
Waterloo Region

St. Joseph's Health System - International Outreach Program
President
September 2010 - August 2016 (6 years)

St. Mary's General Hospital Foundation
15 years 6 months

President
March 2004 - August 2016 (12 years 6 months)

Director of Communications
March 2001 - March 2005 (4 years 1 month)

Skills Canada - Ontario
Manager of Communications
March 2000 - March 2001 (1 year 1 month)

Education

Wilfrid Laurier University
MBA · (2003 - 2006)

147

Humber College

PRC, Public Relations · (1997 - 1998)

University of Waterloo

BA, Political Science · (1993 - 1997)

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EXHIBIT “A”

Kitchener-Waterloo

Raised tracks and a new platform: What it will take to build Waterloo region's new transit hub

'We have to lead transformational projects and this is one of them,' Coun. Colleen James said

CBC News · Posted: Apr 17, 2025 9:35 AM EDT | Last Updated: April 19

A sign on Victoria Road N. near King Street W. notes a vacant lot is the future site of Region of Waterloo transit hub. The region says Metrolinx has said it wants to begin work at the site in March 2026. (Kate Bueckert/CBC)

comments

Construction of Waterloo region's new transit hub is set to begin in March 2026.

For real this time.

The transit hub at the corner of King Street W. and Victoria Street N. has been more than a decade in the making. The region's acting commissioner of transportation services Doug Spooner says Metrolinx is ready to get shovels in the ground in March 2026.

That means people will start to see demolition begin along the rail corridor this summer, including parts of the former Rumpel Felt Co., building on Victoria St. N.

"We've also got some preparatory work for the Victoria Street modification project and then we need to start getting the site ready," he said in an interview with CBC News

Wednesday.

Spooner noted heritage aspects of the former factory will be maintained.

"We're looking for mixed-use, development, housing, community use or other uses of that site," he said.

The region has also indicated it plans to pass a bylaw that would remove people living in an encampment from the 100 Victoria St. N. site by Dec. 1 to begin remediation work ahead of Metrolinx starting its work.

WATCH | *Region makes plans to move forward with transit hub construction*:

Region makes plans to move forward with transit hub construction

▶ 3 months ago 4:06

The Region of Waterloo says on-the-ground work to start building the transit hub at King Street W. and Victoria Street N. in downtown Kitchener will begin in early 2026. That means Metrolinx and construction crews will be on site. As part of that work, the region says it will have to move people living at an encampment at 100 Victoria St. N. A new bylaw will go before regional councillors on April 23 that would, if passed, require the site to be vacant by Dec. 1, 2025.

Land purchases date back to 2008

The region began purchasing the 1.6 hectares of land in the area in 2008 with the goal of building a multi-modal transportation hub.

In a Nov. 17, 2015 report to regional councillors, staff said the region had already completed environmental assessments, a preliminary site design, heritage impact assessment, urban design brief and a market scoping and sounding analysis.

The plan is to have it link walking and cycling trails, Grand River Transit buses, the ION LRT, Via, and GO Transit.

After receiving $43 million from the province for the project in 2016, work was initially supposed to begin in 2020.

It was then pushed to 2021.

Then pushed again to 2023.

Then, 2025.

Now, Spooner says, it's nearly go time and Metrolinx is expected to begin on-the-ground work in March 2026.

The region has shared this artist rendering of what the transit hub could look like when completed. (Region of Waterloo)

Regional Coun. Colleen James, who is also the committee chair of the sustainability, infrastructure, and development committee, said in an interview in December that the new transit hub is necessary because the region expects to grow to one million residents by 2050.

"We have to lead transformational projects and this is one of them," James said.

Raised tracks and a new platform

The work that needs to happen includes seeing Metrolinx raise a section of rail tracks between King Street and Weber Street and relocate the train platform from the current train station between Weber Street and Ahrens Street to its new spot at King Street and Duke Street.

Metrolinx will also construct a diversion track behind 100 Victoria St. N.

Rumpel Felt Company in Kitchener has heritage designation but the part of it not protected by that designation will be demolished as the region plans to build its transit hub in the area. (Kate Bueckert/CBC)

The transit hub, called the Kitchener Central Transit Hub in a staff report set to go before regional councillors at their meeting on April 23, is seen as an opportunity to meld transit, residential and commercial space into one area.

"I like to think about the hub as a gateway to the region. So obviously there's a connection from GO Transit rail and bus, but that comes into GRT buses and trains, Neuron scooters and bikes, really all trips that you know, throughout the region can start and end at the hub," Spooner said.

- **Region of Waterloo purchases land along Victoria Street as part of transit hub project**
- **Region starts search for builder of King-Victoria transit hub**

As for whether this project will result in two-way, all-day GO trains between Kitchener and Toronto, Spooner says that the two projects are separate.

"We know that the province continues to do work in the corridor between Toronto and Kitchener. So we're hopeful that that will come online. But these projects are not tied together at this point in terms of timelines," he said.

In a recent interview on CBC K-W's *The Morning Edition* with Craig Norris, Waterloo MPP Catherine Fife was critical of the province and Metrolinx for not working faster to bring two-way, all-day as well as weekend GO train service to Waterloo region.

"We have two universities and a college. We have students commuting back and forth — the economic case for weekend and for faster and more reliable service is long standing," Fife said. "We really need to see upgrades to that weekend service."

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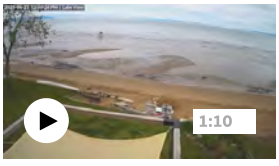

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EXHIBIT “B”

THE Trillium

How Metrolinx's plan to deliver European-style train service went off the rails

Jack Hauen
Jun 10, 2025 1:04 PM

A passenger leaves the Cooksville GO Station on Monday, Aug. 26, 2024. | Paige Taylor White/The Canadian Press

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00:24:19

The surprise split of a partnership to transform rail travel in southern Ontario was the result of a train wreck years in the making, sources say.

Five sources, including current and former Metrolinx employees, told *The Trillium* that its relationship with Deutsche Bahn, the German state railway company contracted to help massively expand GO train service, deteriorated quickly.

Three years after the GO Expansion project was announced, without explanation, Metrolinx dropped Deutsche Bahn and another key partner, who together were supposed to run the trains for the next 23 years.

Internally, Metrolinx told its employees that Deutsche Bahn failed to deliver on key milestones, and that the project must now be scaled back to keep it within its "current funding envelope." Sources, however, say Deutsche Bahn pushed for ambitious, European-style changes, while some of the Crown agency's leadership resisted, insistent that things work differently in Canada. Deutsche Bahn said Metrolinx ended the contract after a "significant realignment" in the project's scope.

As a result, sources say, what could have been a continent-leading regional transit project will likely be downgraded to a more straightforward service expansion. Even those most disillusioned with Metrolinx say it's important — even exciting — but a major missed opportunity, with years of work and untold millions of taxpayer dollars spent on a project whose vision remains murky.

"It could have been an eight out of 10 railway on the global standard," said one former Metrolinx employee. "But now it's going to be five out of 10. It's going to be GO, but better, instead of something new."

'This is nuts'

GO Expansion is a dull name for a monumental plan.

Since 1967, GO trains have shuttled workers in the Greater Golden Horseshoe to and from their jobs in downtown Toronto. Outside of rush hour, service is typically limited.

In 2018, however, to contend with a rapidly growing population in the region, Metrolinx prepared a business case for GO trains to run every 15 minutes, all day, both ways, on the core lines that carry the most people in and out of Toronto: Lakeshore East and West, Kitchener, Barrie and Stouffville. The diesel trains would be electrified, and several stations would be expanded.

Essentially, the agency planned to take the first steps to transforming its commuter train service into a European-style express regional rail system.

A map from the 2018 GO Expansion business case showing future predicted rail service. Metrolinx.

In 2022, the multi-billion-dollar plan became even more ambitious, calling for trains every three to eight minutes at peak hours — and with the backing of Premier Doug Ford's government, fully kicked into motion.

"When we first saw it, we were like, 'This is nuts,'" one former Metrolinx employee said. They and others were granted anonymity by *The Trillium* to allow them to speak freely and without fear of reprisal from Metrolinx or their current employers.

Publicly, Metrolinx was also excited. It pitched GO Expansion in 2022 as a project "unlike anything before in Canada," comparing it to rail in London, Tokyo, Paris and Sydney.

The ambition was not to last.

Metrolinx leadership, in internal town halls held this year and last, outlined plans to "descope" GO Expansion to cut costs, focusing the project on the two train lines running along the shore of Lake Ontario, delaying many improvements to unspecified future dates.

While the agency's GO Expansion web page still describes a plan for 15-minute service or better on the main lines, sources mourned the more ambitious version of the project, which they said would have made suburban cores feel fully connected to downtown Toronto, and made rail a top choice for riders looking to travel within the Greater Golden Horseshoe.

"And I think that a lot of people within the agency didn't understand that," a former Metrolinx employee said. "Or they didn't want it."

'I don't think anyone really knows exactly what the vision is'

When GO Expansion kicked off in 2022, Metrolinx handed off building out the track, signalling, and infrastructure for GO Expansion to ONxpress Transportation Partners. The conglomerate was made up of Canadian construction company Aecon, French train manufacturer Alstom, Spanish construction company FCC, and Deutsche Bahn.

The group would essentially handle everything but running the trains. Then, in January 2024, Metrolinx outsourced that, too.

The agency contracted a subset of ONxpress called OOI, or ONxpress Operations Inc., to operate and maintain GO trains for 23 years, starting on Jan. 1, 2025. OOI was made up mostly of Deutsche Bahn with a minority stake held by Aecon.

Despite the stereotype of German efficiency, Deutsche Bahn has a dim reputation in Europe. Recent analyses found that only between 62.7 per cent and 72 per cent of its trains arrive without significant delays.

Still, the German system is far more advanced than Canada's, where off-peak service is rare and passenger trains have to give way to freight, said Ahmed El-Geneidy, a transportation expert and professor of urban planning at McGill University.

"Their scale is way bigger than us — way, way bigger than us. So they manage a way more complex operating environment than what we have," El-Geneidy said.

Figure A-1: Overview of GO Rail Services After GO Expansion

An internal "configuration state" map from February 2024 detailing planned service expansions. Metrolinx.

Experts from all over western Europe came to Toronto to work for ONxpress on GO Expansion.

"There was a huge pool of talent here in Ontario for the first time — people who were experienced in working on world-class railways," a former Metrolinx source said. "The cream of the crop."

But the Jan. 1 takeover date came and went. It was pushed back, Metrolinx said internally, because Deutsche Bahn wasn't ready to take over.

Then, on May 15, Metrolinx cancelled its contract with OOI altogether. The agency said Alstom would "maintain its role supporting the operations and maintenance of GO Transit and UP Express, to continue delivering the best-in-class service that Ontarians have come to expect."

Behind the scenes, all five sources who spoke with *The Trillium* described an acrimonious relationship between Deutsche Bahn and Metrolinx, with varying degrees of shared blame.

One 40-year veteran of North American rail systems who worked for ONxpress said the Germans had an "autocratic" management style and didn't want to collaborate. Three younger transit experts who yearn for high-frequency intercity rail said Metrolinx stonewalled the very partners it hired to get it done.

Metrolinx's interim CEO said Deutsche Bahn "weren't close to being ready" to take over on January 1.

"It was a grand vision," Michael Lindsay, Metrolinx's interim CEO, said in a June 4 town hall about the 2022 plans. "But what clearly was true, not a year later, was that that consortium, and their ability to work with one another to produce that vision, it wasn't happening."

But five sources said the partnership was hampered by fundamental differences of opinion on the form and function of passenger rail between Deutsche Bahn and Metrolinx, and a lack of vision and leadership on the project from the Crown agency.

They also said proposals from Deutsche Bahn were received negatively, and that the project's scope is still unclear because Metrolinx frequently changed its mind on major decisions.

"What type of trains are we going to operate? What is Union Station going to look like? What actual service do you want to provide?" an ONxpress source said.

In town halls, Metrolinx leadership described defining the scope of the project as a major challenge that they hoped to figure out soon.

"We're getting close to being able to articulate … what the plan is going to look like and when service-level enhancements arrive," Lindsay said on June 4.

In the meantime, questions remain about "what to build, and when to build, and how that ties to a plan of operations," including the cost and feasibility of the service, coordination with freight rail companies that use the same tracks, and how Union Station will handle the increased service, he said.

"I don't think anyone really knows exactly what the vision is," one senior Metrolinx employee said, "because it has changed so much."

'They weren't really interested in changing the way they ran trains'

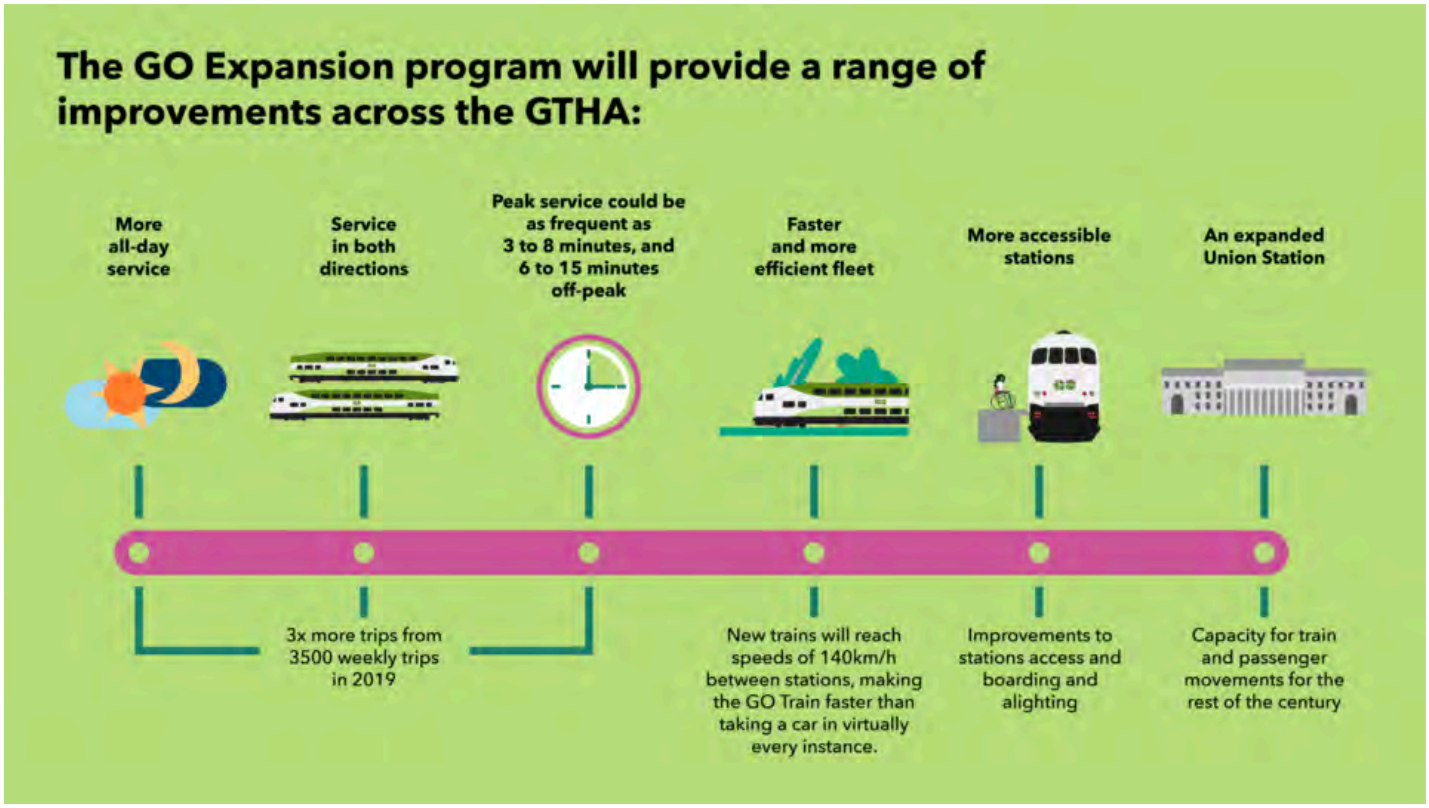
To deliver GO Expansion the way Deutsche Bahn proposed would require a massive mindset shift. But many of GO Transit's most experienced hands are proud of the commuter system they've built, sources said.

"There are a lot of people at GO that think running frequent trains in both directions is a kind of a dilution of their mandate, or an unnecessary frill, or a waste of money," one ONxpress source said.

Even getting buy-in to improve service outside of rush hour was a "huge hurdle," a former Metrolinx employee said. "Trying to break that mould is really difficult."

Sources said Metrolinx regularly pushed back against or added new requirements for Deutsche Bahn's GO Expansion proposals.

"They kept shifting the goalposts of what was considered acceptable," a former Metrolinx employee said. "So for ONxpress to get anything into service, it was basically impossible."



A 2022 infographic proposing GO trains as little as every three minutes during peak service. Metrolinx.

This seemed to confuse Deutsche Bahn's leadership, who thought they had been hired to take a leadership role, according to three sources.

For example, Deutsche Bahn wanted to revamp how crews were scheduled through automation, four sources said. Some crews spend long stretches of time deadheading or otherwise not carrying passengers — some of which is unavoidable, but it could be improved, several sources said.

One nine-hour shift description viewed by *The Trillium* called for under two hours of time spent working on a train carrying riders.

Metrolinx was not receptive to Deutsche Bahn's proposed German scheduling software and discouraged its use in various ways, four sources said.

Four sources said this was due to a disagreement in strategy. The rail veteran who worked for ONxpress, however, said Deutsche Bahn wanted software that hosted data in Germany, which wouldn't be allowed under Canada's cybersecurity laws.

Even this strong critic of Deutsche Bahn said Metrolinx frequently gave the Germans new requirements focused on improving the agency's "current methodology" instead of transforming it.

"So they weren't really interested in changing the way they ran trains," they said.

Decisions about GO Expansion regularly fell to senior management, which led to frustration among employees who saw key proposals deferred across multiple desks until they ended up at the top or disappeared altogether, three sources said.

"Anybody low down in the organization can say no, but it takes the CEO or senior management level to say yes," a senior Metrolinx employee said.

"So you'd have endless committees, and nobody actually empowered to make a final decision," an ONxpress source said.

Toward the end of its contract with Deutsche Bahn, two sources said Metrolinx would hire for the same roles posted by ONxpress due to a "deep distrust" of its partner, as one former Metrolinx employee put it.

ONxpress employees spent the majority of their time — several people estimated around 70 per cent — responding to comments from Metrolinx or the government, and the minority building a railway, Metrolinx and ONxpress sources said.

During an internal town hall in May, an employee asked why GO Expansion workers "have spun our wheels for years now, continuously fielding changes" to infrastructure plans, "which has driven a significant and concerning lack of progress."

"I feel the frustration here. This has also been a huge challenge for us," Metrolinx vice-president Jake Schabas said.

To decide on infrastructure, the organization has to be "bought in" to the operations plan, he said.

"And the challenge was what we started with three years ago, ultimately, was not something the organization had confidence in," he said.

"We had a lot of challenges, whether it was the number of trains that were proposed to go over level crossings, to a lack of understanding on the signalling system and a lack of understanding of how Union Station was going to accommodate all these things," he said.

The bureaucracy may have led to a "clash of cultures" between Metrolinx and Deutsche Bahn, transportation professor El-Geneidy said.

"Usually, in the Canadian context, most of these (operational) decisions are centralized in the head office," he said.

A senior Metrolinx employee, however, said the agency's bureaucracy is the cost of a uniquely large North American transit organization with a sterling safety record and good on-time numbers.

"That commitment to operations and safety takes people and time and money," they said.

A senior Metrolinx employee stressed that those working day-to-day on GO Expansion are largely on the same page.

"But people are far too stuck, especially at a senior level, because they are quote-unquote, 'railroaders,' who have been doing this for a long time, and who can't imagine another way of doing things," they said.

The issues with GO Expansion came from management, that source and others said.

"This wasn't some organic, like, 'Oh, everybody's realizing that this isn't working,'" they said. "No, it was a very top-down change."

'Minimum viable product'

Internal "configuration state" plans from as recently as February 2024 described eventual two-way all-day electrified service on the Lakeshore East and West, Barrie, Stouffville and Kitchener lines.

But at some point, sources said, Metrolinx had "a major rethink" about how the project should be delivered.

In a series of monthly town halls this year and last viewed by *The Trillium*, the agency said it was taking direct control over the project and would now focus on delivering a "minimum viable product."

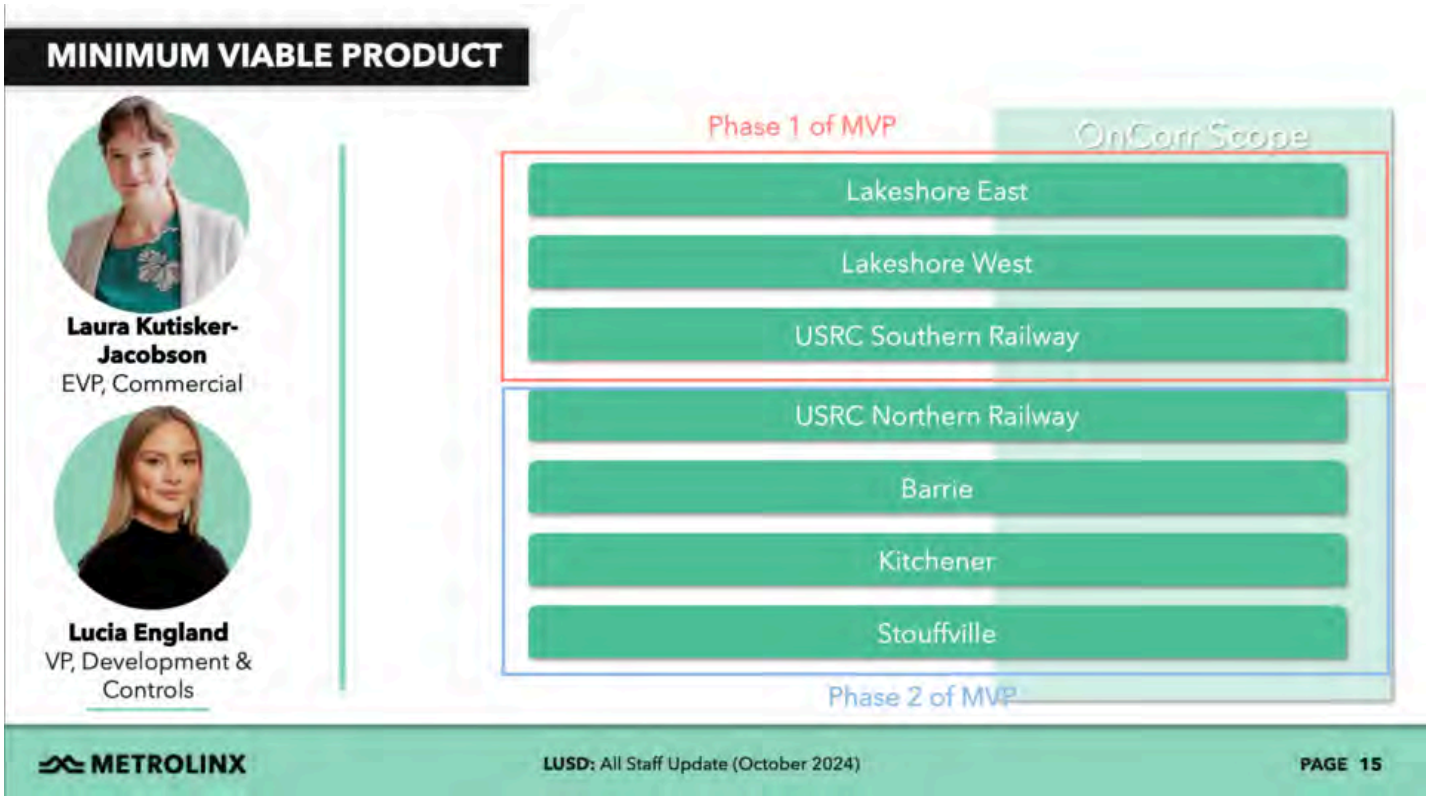
In a January 2025 town hall, Metrolinx executive vice-president Laura Kutisker-Jacobson referred to a "reset" in which the agency "(took) ownership" of several responsibilities that were once under ONxpress.

"They had an opportunity to contribute, but really, Metrolinx is now in the steering seat when it comes to these kind of high-level strategies," Kutisker-Jacobson said in a town hall last month. "And so we've called this the leaning in. We've called this, Metrolinx becoming the strategic network operator."

Originally, GO Expansion was supposed to build out capital projects (such as new tracks, signalling and electrification work) on the Lakeshore East and West, Barrie, Kitchener and Stouffville lines, as well as Union Station, said Lucia England, Metrolinx's vice-president of development and controls, in an October 2024 staff briefing.

Metrolinx has since "pivoted" to focus on Lakeshore East and Lakeshore West, which "generate the most economic benefit," she said.

The Barrie, Kitchener and Stouffville lines will be addressed in the next "phase" of the minimum viable product, she said.



An internal slide presented to Metrolinx employees in October 2024 describes how the agency will shift to focus on the Lakeshore lines to deliver a "minimum viable product." Metrolinx.

England presented the minimum viable product as "what can be done now versus what can be done in the future," but others made it clear that budget was a major concern.

“There is no point in building infrastructure we may or may not need for 30 years’ time,” Metrolinx deputy chief capital officer Richard Walker said in a November 2024 town hall.

The agency had been trying to “lock down scope for the better part of this year,” he said. “And we’re having to pivot again to make sure that what we’re delivering is value for money.”

The goal is to deliver “the maximum amount of benefit to our travelling public” within the agency’s “current funding envelope,” he said.

"In effect, we are seeing an affordability challenge, as you are probably all aware,” he said.

The number of trains per hour has been cut from 12 to eight, resulting in infrastructure changes, Molly Evans, Metrolinx’s vice-president of track specialized delivery, said in the November town hall.

Metrolinx leaders noted several other “de-scopes” in the town halls, including reductions in speed, cuts to the number and complexity of tracks, and abandoned platform upgrades.

Abandoning speed increases was a gut punch to one senior Metrolinx employee, who said travel time is the top reason people choose to drive, walk, bike or take transit.

“One of the biggest things that is going to really drive that modal share over to the rail network is travel time,” he said.

A high-level schedule presented to staff in April estimates that electrification will be complete in September 2035 for the Lakeshore West line, December 2036 for Lakeshore East, and January 2038 for the Union Station rail corridor.

But a December 2024 town hall only described electrification on the UP Express and Lakeshore lines. Under the minimum viable product, the agency plans to electrify from Burlington to Oshawa GO stations, with a gap at Union Station, Metrolinx consultant Shaun Kearney said in the town hall.

ELECTRIFICATION OF LAKESHORE EAST

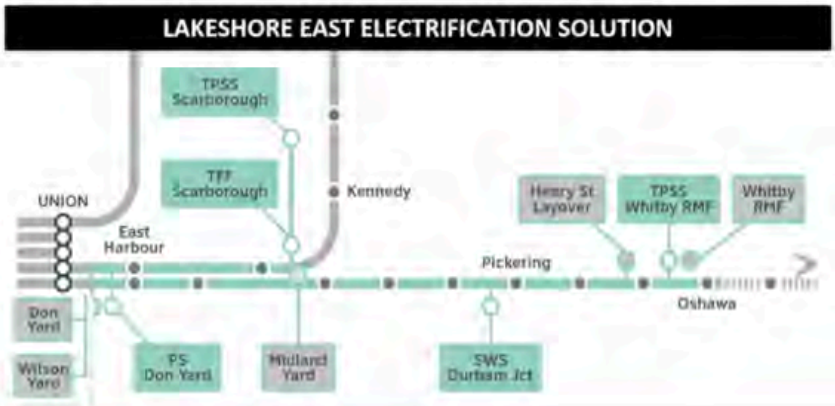
- Full electrification solution will be delivered from Burlington to Ordinance:
  - Power will be drawn from two sources, the Burlington TPSS and Mimico TPSS, to meet loading and redundancy requirements
  - OCS on all mainline tracks from Burlington to east of Exhibition GO (MP 2.4 – Dufferin Road)
  - Cabling from east of Exhibition GO to Ordinance
    - Avoids impacts to future phases USRC construction
    - Maintains clearance for freight vehicles east of Mimico
  - Overhead conductor rails at LSW layovers (Walkers, Mimico South, and Willowbrook West)

METROLINX LUSD: All Staff Update (December 2024) PAGE 26

An internal slide presented to Metrolinx employees in December 2024 describes electrification plans for the Lakeshore West corridor (the slide is mistitled). Metrolinx.

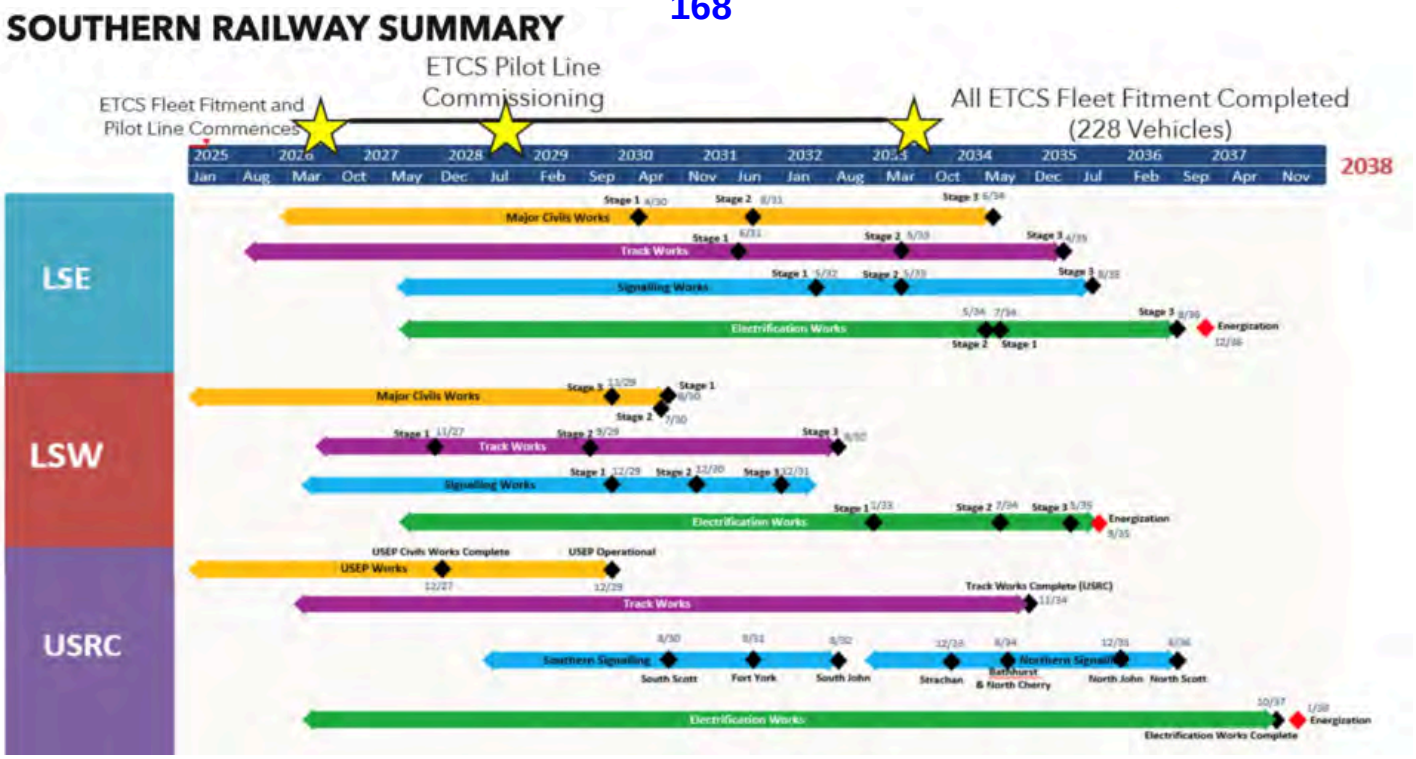
ELECTRIFICATION OF LAKESHORE EAST

- Full electrification solution will be delivered through OCS from Don Yard to Oshawa:
  - Power will be drawn from two sources, the Scarborough TPSS and Whitby TPSS, to meet loading and redundancy requirements
  - OCS on all mainline tracks from Don Yard to Oshawa GO including Whitby RMF
  - Install overhead conductor rails at all other layovers (Don, Wilson, Midland, and Henry).
  - Leverages completed utility relocations, vegetation removals, and foundation installations
  - Aligns with existing EAs and property to enable timely delivery
  - Enables phasing of OCS to ease transition and manage risk



METROLINX LUSD: All Staff Update (December 2024) PAGE 25

An internal slide presented to Metrolinx employees in December 2024 describes electrification plans for the Lakeshore East corridor. Metrolinx.



A high-level schedule presented to staff in April 2025 that estimates that electrification will be complete in September 2035 for the Lakeshore West (LSW) line, December 2036 for Lakeshore East (LSE), and January 2038 for the Union Station rail corridor (USRC). Metrolinx.

After several town halls, the project remains hazy to five sources.

"The thing that I personally find most frustrating, given that I use this system every day, and I want it to be as good as it can be, is that we're several years into this, and it seems like the plan is less clear now than it was a couple years ago," a senior Metrolinx employee said.

'They should learn whom they are dealing with before they sign contracts'

GO Expansion is still happening, providing those who have worked on the project some measure of relief — though Metrolinx won't say publicly exactly what that means.

In a statement, Deutsche Bahn said the end of the contract was "related to a significant realignment of Metrolinx's strategy, in particular with regard to the modernization and expansion of transport systems and the operation of regional transport in Toronto."

"We expressly regret this development, but respect the decision," a spokesperson said.

Deutsche Bahn and Metrolinx declined to answer a list of detailed questions.

OOI and Metrolinx "worked closely toward" the Jan. 1 takeover date, but now "the parties are working on an amicable settlement to end the partnership," Andrea Ernesaks, a spokesperson

for the agency, said in a statement.

Ernesaks didn't say whether Deutsche Bahn, which was involved in other areas of ONxpress, will continue to do any work for Metrolinx — or whether the scope of GO Expansion has been reduced as a result of Deutsche Bahn's exit.

Metrolinx did not answer questions about how much had been spent on the partnership, or how much the "amicable settlement" could be.

Two-way all-day GO service on the core network lines is still the plan, and "service increases, signalling, electrification and other works" under GO Expansion are proceeding, she said.

December marked the end of GO Expansion's "development phase," and early construction works have begun, Ernesaks said.

Asked at the June 4 town hall when 15-minute all-day service for all lines will happen, Lindsay, the agency's interim CEO, said he wanted to be transparent "soon," but only once the agency is "highly confident" about how it gets there.

While Deutsche Bahn wanted to create a regional train system that felt like an "express subway," several sources said 15-minute, two-way, all-day service is still a worthy goal.

Ontario Liberal MPP Andrea Hazell has requested the auditor general look into Metrolinx's decision to cancel the contract with OOI.

The contract's "abrupt cancellation threatens to delay the project by several years, risk hundreds of jobs, disrupt GO Transit and UP Express operations, and undermine public trust in Ontario's transit planning," Hazell wrote in her letter to the auditor general.

The auditor general's office has said the 2025 audits are set, but that she would consider the issue "when selecting future audit topics."

Meanwhile, Metrolinx is in a weak negotiating position with Alstom, the company it has announced will resume operations of GO Transit, El-Geneidy said.

"Alstom can ask (for) whatever they want," he said. "So don't expect Alstom to be merciful to Toronto commuters."

Metrolinx should have laid out its expectations clearly with Deutsche Bahn from the beginning, El-Geneidy said.

"They should learn whom they are dealing with before they sign contracts," he said.

Lindsay, in the recent town hall, said there are "exciting" conversations taking place about Metrolinx's role in running the GO network, versus that of third parties. The Alstom extension will be an interim step while those discussions take place, he said.

One senior Metrolinx employee said he was unsure whether the agency would be able to deliver 15-minute service beyond the Lakeshore East and West lines, given the current funding available. The rail veteran who worked for ONxpress said he also had doubts about Metrolinx's ability to deliver high-frequency rail.

Another senior Metrolinx employee, however, said the work already accomplished and the agency's public commitments make them optimistic that it will be able to at least get to 15-minute service intervals and electrification.

"That seems to be the only coherent plan at the moment," they said.

"Honestly," they said, "that is the part that is keeping me from going full doomer about the project."

This story was updated after it was initially published to correct a transcription error in a quote from Richard Walker.

TAB 10

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. Stephen Gaetz** on his affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on December 2, 2025.

APPEARANCES:

GORDON CAPERN, Mr. GRETA HOAKEN, Ms.	Counsel for the Applicant
ASHLEY SCHIUTEMA, Ms. JOANNA MULLEN, Ms.	Counsel for the Respondents
KAREN STEWARD, Ms.	Amicus Curiae

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DECEMBER 2, 2025

STEPHEN GAETZ, AFFIRMED

CROSS-EXAMINATION BY MR. CAPERN:

1. Q. And, doctor, just so I have the geography, I know we used to do these things in person and we could see what what's on the table in front of everybody. But do you have any notes or documents in front of you at the moment?

A. I have an article that I am editing.

2. Q. Okay, but that's not related to your testimony today?

A. No, but I will have my affidavit, right. I am allowed to have (indiscernible), is that correct?

3. Q. No, I'd like you to have it. Barbara, are we on the record now?

MADAM REPORTER: Yes, we are.

MR. CAPERN: Okay, thank you. And counsel, are we all prepared to proceed now?

MS. SCHIUTEMA: Yes, we are.

MR. CAPERN: Great. Thank you.

BY MR. CAPERN:

4. Q. And, Dr. Gaetz, just to begin with, you

understand that you are being cross-examined today on the affidavit in this matter that you swore on August the 15th of this year. Do you understand that?

A. Yeah.

5. Q. Thank you, and you have that in front of you?

A. Mm-hmm. I am going to wait one second here. It's now in front of me.

6. Q. Great, thank you.

A. And just, I think before we came on the record, I just wanted to confirm that aside from your affidavit, you have nothing in front of you that you are turning to for the purposes of being examined today, is that correct?

A. That's -- that's correct.

7. Q. Thank you. And in the course of things today, if you do need to refer to any document, I'd just be grateful if you would let me and other counsel know that you wish to do so. So that we can determine whether that's appropriate or not. Is that okay?

A. Right. Though I may reference things without it being in front of me.

8. Q. That's fine.

A. Yeah.

9. Q. That's fine.

A. Okay.

10. Q. So with that introduction, I understand from your affidavit, doctor, that you are a full-time professor at York, is that correct?

A. That's true; that's correct.

11. Q. Okay. And I understand also from your affidavit that you have experience working in the field of homelessness. Is this correct?

A. Yes.

12. Q. And ---

A. For almost eight years.

13. Q. Okay. I had from your affidavit that your earliest experiences working in the homeless sector dated back to the 1990s, is that right?

A. That's right.

14. Q. And is it fair to say that you've been working in homelessness adjacent work for the better part of 30 years now?

A. That's right. Yeah.

15. Q. Okay. I am just going to put up for the sake of identification, my colleague, Ms. Hoaken, is going to put up your LinkedIn profile, doctor, if that's okay?

A. Okay.

16. Q. Just so you can confirm that that's it?

It looked to me like perhaps that was not something you spent a lot of time updating. But ---

A. That's true.

17. Q. I am also guilty of that. But if I could just get Ms. Hoaken to put that up and you could confirm that that's the current LinkedIn profile for you. And then we'll mark that as an exhibit, if that's okay?

MS. HOAKEN: Can you see it in my screen?

MR. GAETZ: That's it, for sure.

MR. CAPERN: Okay, great. So, counsel, no objection to marking that as ---

MS. SCHIUTEMA: No, no objection.

EXHIBIT NO. 1: LinkedIn Profile

MR. CAPERN: Now, I need to say that some of the content on there will have been put up by my staff.

MR. CAPERN: Right.

MR. GAETZ: So social media, I have staff that help me with that.

MR. CAPERN: Understood. That's fine.

BY MR. CAPERN:

18. Q. But as far as you're aware, it could be said that there is content on your LinkedIn page, it's accurate?

A. Yes.

19. Q. Thank you. I wanted to ask you about some factors that can contribute to homelessness based on your experience in that field, doctor. And if I could start by getting you to turn to Paragraph 9 of your affidavit.

A. Okay.

20. Q. Let me know when you have that up in front of you.

A. Yes. I have that in front of me.

21. Q. Thank you. And if I am understanding that paragraph correctly, in that paragraph you lay out some of the risk factors that contribute to vulnerability to homelessness, is that correct?

A. That's right.

22. Q. And if I may, doctor, I'd like to focus on two of those factors which are those found in subparagraphs C and F which are, if I can paraphrase them, "sudden unemployment" and "active addictions."

Do you see those reference to ---

A. Mm-hmm.

23. Q. --- those sections?
A. Mm-hmm.
24. Q. Just for the purposes of Ms. Pollard keeping a record, we have to say "yes" or "no," doctor, if that's okay?
A. Okay, yes. Yeah ---
25. Q. Thank you.
A. --- no problem.
26. Q. And just to speak to sudden unemployment and active addictions as two factors, those are risk factors that can affect individuals, correct?
A. Absolutely.
27. Q. And you'll agree with me that those risk factors can also contribute to increased numbers of persons experiencing homelessness in a given community. Is that fair?
A. I don't know if I could make that claim. The -- the -- what leads people to homelessness is usually a number of complex issue areas. And so for some people it will be those two things but it could be other things that undermine their housing stability.
28. Q. Okay, so let me just give you a couple of examples to work with then if -- and maybe you'll

-- maybe ---

A. Okay.

29. Q. --- with some greater specificity, you'll come along with me on this. So, for example, if we take an example of a sudden plant closure in a town or city, that could ---

A. Yeah.

30. Q. --- contribute to sudden unemployment in that community. Is that fair?

A. That -- that is fair.

31. Q. All right. And that could also in circumstances contribute to an increase in the number of people experiencing homelessness in that community. Is that fair?

A. Well, it could. It could.

32. Q. So then if I turn to the secondary which is the -- just to give you a second example under the area of "active addictions," the introduction of drugs like Fentanyl into communities can contribute to individual homelessness. Is that correct?

A. I would say substance use disorders of any kind can contribute to the risk of homelessness. But bear in mind that most people who are homeless don't have substance use disorders. And often, it is

-- if they do, it often occurs after they become homeless.

33. Q. It's a -- you would ---

A. (Indiscernible) ---

34. Q. You would say that it's a product of homelessness as much as it can be a cause of homelessness?

A. Absolutely.

35. Q. Okay.

A. I mean, one thing, so this piece here that we're looking at, I wrote it around 2012. And I think there's, you know, a development of knowledge around half-ways into homelessness.

There's a book that was published several years ago that looked at administrative data from different cities in the United States. And the book is called, "Homelessness is About Housing."

And so their conclusion is that more so than any other determinant, the availability or lack of and cost of affordable housing is the main thing that is driving homelessness today.

36. Q. (Indiscernible).

A. Now those other factors -- what's that?

37. Q. Sorry, if I could just -- Dr. Gaetz, if I can just interrupt. And I don't mean -- this is an

area which fascinates all of us ---

A. Right.

38. Q. --- for a variety of reasons. And I just -- unfortunately, we're here today because we have to deal with the evidence that's going to be on the record that's going to be before Justice Gibson in a few months.

And so, I am just going to ask you if you don't mind -- because what I'd love to do at some point, is grab a coffee or -- and have a policy discussion with you about this.

But for today's purposes if I can just get you to stay with me on the questions and the answers, then that will help us get though the cross. If that's okay?

A. Sure, that's fine. So the point then about substance use disorders that I suggested doesn't mean that I could determine with a sub-population very easily how many people have substance use disorders.

39. Q. Right, I guess, I was just taking you back here to your own affidavit, doctor, where you say that the risk factors that contribute to vulnerability to homelessness includes under subparagraph F ---

A. Yeah.

40. Q. --- called "active addictions." Do you

see that?

A. Yes. Yeah.

41. Q. And you identified that as a risk factor that contributes to vulnerability to homelessness. Correct?

A. Yes, and the reason -- I'm not pushing back on it but people often equate homelessness with addictions. And/or equate homelessness with mental health problems as if everybody in that category suffers from those two things. And that's not ---

42. Q. I am not -- I'm not here to advance that, doctor, and I don't ---

A. Sure.

43. Q. I'm simply putting your own words back to you here and recognizing that I am not suggesting that this is the sole cause or the sole contributor. I am simply getting you to agree with me, I hope, that you ---

A. Yes. Yeah.

44. Q. Let me just finish my question, if you don't mind. That active addictions can be a risk factor contributing to vulnerability to homelessness, correct?

A. Yes.

45. Q. And so when I say that -- when I say to

you that the introduction of drugs like Fentanyl into communities can contribute to individual homelessness, you'll agree with that that can be a contributing factor, yes?

A. It would be likely that that would be a factor for some people. Yes.

46. Q. Thank you. And, in fact, it can contribute to an increased number of people experiencing homelessness in a community, that's fair?

A. I can't make that claim, no.

47. Q. Okay, but you don't have any reason to tell me I am wrong about that, correct?

A. Well, it's just that ---

48. Q. You don't know.

A. --- we don't know. Right? Or I don't know.

49. Q. Okay. So let me just carry on to another topic then, if I can, doctor, which is the idea of fluctuations in the numbers of homelessness, of people experiencing homelessness in communities.

Is it fair for me to say that the factors that you cite in Paragraph 9 of your affidavit, can give rise to fluctuations in the numbers of people experiencing homelessness in a particular community from time to time? Is that fair?

A. Specifically, or generally?

50. Q. Generally.

A. I'd like to know what you mean.

51. Q. Generally-speaking ---

A. Yeah.

52. Q. --- the factors that you identify when they are in play, can lead to fluctuations in the numbers of people that are experiencing homelessness in a community. Is that fair?

A. They may but to be honest, the main factors are elsewhere that I would -- and also, it's very hard to predict.

53. Q. Okay.

A. So in the Greater Toronto Area, one of the things that happened that had a huge impact on the fluctuations of numbers was that the Government of Canada used the homelessness shelter system as a location to house refugees.

So that in Toronto, their last point in time count, half the people who are in the shelter population, are refugees. So like (indiscernible) ---

54. Q. I just want to get back, doctor, if I can to my question. Because this actually wasn't my question.

My question was -- was a different one than

that which is that the risk factors that you've identified in Paragraph 9 can contribute to fluctuations in the number of homelessness -- people experiencing homelessness in a community from time to time. That's fair to say, correct?

A. I am not sure I could stand behind that because those conditions outlined here probably aren't as -- probably don't change as much as the homeless population does.

55. Q. Okay, but it's fair to say -- it's fair to say that there is, in your experience from working in this field for 30 years, that there is -- there has been and can be fluctuations in the size of the homeless population in a community from time to time. That's fair?

A. Yeah, yes, absolutely.

56. Q. Okay. And ---

A. It's not a static group.

57. Q. No, I understand that. And so it's fair to say that, for example, since the pandemic began, there have been fluctuations in the number of people experiencing homelessness in communities across Canada, for example?

A. Yes, and most of the trends would be towards an increase during the pandemic.

58. Q. Thank you. That's what I understand as well. And so I want to move to a different topic, doctor, which is a concept that seems to find its way into your affidavit in a few places. And that is the concept of "permanent housing."

A. Right.

59. Q. And if I could start at Paragraph 18 of your affidavit.

A. Okay. All right, okay.

60. Q. And this is your reference to the concept of housing first.

A. Right.

61. Q. And you describe that -- and I'm just going to put your own language back to you, if you don't mind -- you describe that as an approach that involves moving people who experience homelessness into independent and permanent housing as quickly as possible. Correct?

A. Yeah.

62. Q. And by "permanent" here, you juxtapose that with temporary forms of housing like shelters or motels, is that fair?

A. Yes.

63. Q. Thank you, and you are referring, I take it, to permanent housing that is supported

financially in some way?

A. In some cases, yes, but not all.

64. Q. Understood. And is it fair to say that at least in some cases that permanent housing to which you refer that would have been established or would be established and maintained at least in part by way of government funding?

A. Yes. That's right.

65. Q. Thank you. And is it fair for me to say, Dr. Gaetz, in your ideal world and in perhaps all of our ideal world, each community would have available to it permanent housing in sufficient quantity for people experiencing homelessness in that community at any given point in time?

A. Yes, and I could talk about that for an hour.

66. Q. Well, we may have to save that one for our coffee, doctor, but thank you for coming with me on that.

And is it fair, doctor, that you accept that arranging for such permanent housing can take time?

A. Yes, it can.

67. Q. And it can take resources as well, correct?

A. It does, yes. That's right.

68. Q. And that includes money, right?

A. Absolutely.

69. Q. Yeah. And you accept that numbers of people in a community experiencing homelessness can fluctuate from time to time? I think we've agreed on that.

A. That's right.

70. Q. And it's possible, Dr. Gaetz, that circumstances can arise in which the number of people in a community experiencing homelessness will exceed the availability of permanent housing solutions for them?

A. I have a way of thinking about that. That is -- that wouldn't align exactly with what you said.

71. Q. (Indiscernible) ---

A. The research on the cost of homelessness in Canada, and that is a cost of a single person to be homeless for a year, it costs basically, for the most part, it's like three areas.

One, is the cost of homelessness services which can involve monetary support for rents, that kind of thing. Two, it's the cost to healthcare and hospitalization because homelessness makes you very unhealthy and sick. And, three, involvement in the

criminal justice system.

And so an article by Eric Latimer, an economist at McGill looked at five Canadian cities, found that it costs, in the case of Toronto for instance, the cost of keeping someone in the state of homelessness per year is, adjusted for inflation, about $75,000 to public systems.

So keeping people in the state of homelessness is very expensive. And we often use that -- the cost of homelessness services and a lack of -- you know, the lack of resources as a reason to say we can't house people.

So I wouldn't agree with your statement exactly because I think that properly funded and allocated, we could have better outcomes for people experiencing homelessness. More housing stability, better health. And we're not doing that.

So that we often lack the resources or the "can't move as quickly," is a product of a larger structural problem in terms of how we both have created the problem of chronic homelessness, a very expensive condition and we're not sufficiently addressing it.

We're doing -- we're responding in the wrong way.

72. Q. Yes.

A. So I just want to make that clear, right, in terms of ---

73. Q. I think you'll find me in violent agreement with what you've just said, doctor. But unfortunately, that was not my question, so.

Because in the ideal world, we'd have an unlimited supply of permanent housing available irrespective of the number of people that were experiencing homelessness from time to time.

But I think you'll agree with me that, unfortunately, we don't live in that idealistic world. Is that fair?

A. I think that's fair but ---

74. Q. (Indiscernible).

A. --- but that's not what I'm -- that's not what I'm saying. I'm saying we're spending huge amounts of monies on homelessness but on the wrong things.

75. Q. Yeah, I ---

A. It's not necessarily a lack of funding.

76. Q. Yeah. No, we need ---

A. (Indiscernible).

77. Q. --- to go on from that, doctor. But again, that's not my question.

My question was, was a different one than that which is that irrespective of the investment that a community makes in permanent housing solutions for people experiencing homelessness, it is possible that circumstances can arise from time to time in which there is simply inadequate permanent housing available in that community. That's fair.

A. Yes.

78. Q. Right?

A. That's true.

79. Q. Thank you. And indeed, in your experience, irrespective of what we should be doing, that does occur in Canada from time to time. Correct?

A. Yeah, it does.

80. Q. And ---

A. In political decisions about what to spend on. So …

81. Q. I understand. And it's fair to say, doctor, that -- but I'm just sticking with my basic idea that irrespective of the investment that a community might make in community housing, and bearing in mind that it is always possible that the number of people who need permanent housing will exceed the available permanent housing.

A. Yeah.

82. Q. Do you accept that even in a community which seeks to implement and does implement a housing first policy, it's possible that those circumstances will arise even in those communities. Is that fair?

A. It's possible.

83. Q. Yeah, thank you. So if I can refer you to Paragraph 7 of your affidavit just for a moment. This is the paragraph in which you describe quite helpfully the idea of homelessness as a spectrum.

A. Right.

84. Q. Right? And you say -- you describe homelessness as a spectrum of housing and shelter circumstances. Is that correct?

A. Yeah.

85. Q. Right, and on one end of the spectrum in subparagraph A ---

A. Yeah.

86. Q. --- you refer to persons who are entirely unsheltered.

A. Right.

87. Q. Right?

A. Yeah.

88. Q. And I think the words you use, if I've got them correct, are "absolutely homeless."

A. Right.

89. Q. Right? And that is people living on the streets or in places not intended for human habitation, correct?

A. Right.

90. Q. And is it fair for me to observe, Dr. Gaetz, that this represents the most extreme end of the spectrum you describe?

A. Yes, I would say so.

91. Q. Thank you. And that end in the spectrum includes in your evidence encampments, correct?

A. Yes.

92. Q. Thank you. And now the next two levels which are found in subparagraphs B and C of Paragraph 7 are what you refer to as emergency-sheltered and provisionally-accommodated. Do you see those?

A. Yes.

93. Q. And if I am correct, "provisionally-accommodated" refers to those experiencing homelessness for whom their accommodation is temporary, right?

A. That's right. Yeah.

94. Q. And I think we're all on the same page, doctor, but I just want to get you to agree that permanent housing from your perspective is preferable

to both emergency-sheltered and provisionally-accommodated.

A. Absolutely.

95. Q. Yeah.

A. Absolutely. And, in fact, if I can give you a quick example of why.

96. Q. Yeah.

A. So transitional housing, depending on where you are, will house people for a year or maybe two years. The research shows that when somebody's in transitional housing and they -- they know it's a finite period of time.

They're -- what they do changes dramatically. So they will not be looking for, you know, to go to school or to, you know, reach their goals. They're getting ready to be homeless again.

And so even though it's a well-meaning kind of circumstance and I would say most transitional housing is an improvement compared to emergency shelters, it's not -- having it be temporary changes the way people live and it -- that affects the decisions they make.

97. Q. Yeah, I understand that and I appreciate that explanation, doctor, thank you.

And so if I can just get you to come with me

on this issue, just to go back to the point that we I think agreed on earlier, that circumstances can arise in which despite the community's best efforts and intentions, permanent housing is not available at that point in time for all available -- all people who are experiencing homelessness in that community.

A. Right.

98. Q. Do you agree with me, doctor, that emergency shelter and provisional accommodation is preferable to someone being absolutely homeless?

A. No.

99. Q. Okay.

A. I don't agree with that. No.

100. Q. You think that it's better for someone to be living absolutely homeless than to be in an emergency shelter or to be provisionally-accommodated. Is that what you're saying?

A. It depends on the situation but they're -- you have to think about it this way: that most of us like to make our own decisions.

101. Q. Yeah.

A. Most of us want to be treated with dignity. Right? And the challenge is that emergency shelters often do neither. They're often rule-bound. They infantilize people. It's over-crowded. Can you

imagine going into a room and there's 40 cots on the floor and 10 people are coughing, five of them are screaming, 15 of them you're afraid of.

102. Q. Mm-hmm.

A. Why would you want to be in that place. I always say it's easier, you know, to live with people when you get to choose them, right? When you don't, that's horrible.

And so lots of people would rather accept the risk of being in an encampment compared to being in a shelter where you might get beat up, they might get sick, their stuff might be stolen, and, you know, they have no choice. You know, they're -- their choices are limited. They're ---

103. Q. Okay.

A. Yeah.

104. Q. All right; I get it. You don't agree with me on that. That's fine. So let me just take you to one last topic if I can, Dr. Gaetz, which is at Paragraph 15 of your affidavit.

A. Okay.

105. Q. And that deals with the concept of housing readiness which I think you just glanced over in the last one which is in your last answer. But you refer to housing readiness being a "staircase model,"

is that correct?

A. Yes.

106. Q. And you say in your evidence that with the staircase model, individuals are required to progress through a series of stages, right?

A. Yes.

107. Q. And those stages can come with conditions attached, right?

A. That's right. That's right.

108. Q. And you gave examples of two, I think, in your evidence which is that you -- that those conditions put in, include maintaining sobriety, right?

A. Yeah.

109. Q. And another condition could be, for example, that there be evidence of stabilizing of one's mental health.

A. Right.

110. Q. Right? And one thing I don't see in your affidavit, Dr. Gaetz, is any assertion that the Region of Waterloo imposes any such conditions on persons experiencing homelessness to access any level of housing. Do you agree with me that your affidavit does not say that?

A. It does not say that but I would say it

would be highly unlikely and irregular if that were the case.

111. Q. But the point -- the reason you haven't said that, Dr. Gaetz, if I can suggest this, is because you don't know. Is that fair?

A. I don't know for sure but I -- but I can speculate nonetheless.

112. Q. (Indiscernible).

A. That it would be highly unlikely.

113. Q. Yeah, we're not here to speculate, Dr. Gaetz, but I appreciate your time.

I don't have any further questions, for you, doctor, and I did want to thank you for being available and for adjusting the time of the examination today. Thank you very much for being here.

A. Okay, thanks.

MS. SCHIUTEMA: And I'm just going to take a minute to see if I have any redirect. Just give me a second, okay?

MR. CAPERN: Thank you.

MS. SCHIUTEMA: Thanks. Okay, thanks for that. And I don't have any redirect. Sorry, you're on mute, Gord.

MR. CAPERN: I believe my preferred state.

Thank you very much, doctor. And I hope that I'll have the opportunity to have a coffee with you and have a long discussion about this.

THE WITNESS: Sure.

MR. CAPERN: It's a fascinating topic. Thank you.

THE WITNESS: Thank you.

MR. CAPERN: Thank you, counsel. Thank you, Madam Reporter. I think we're done.

MS. SCHIUTEMA: Yes, can we just stay on the call for a second after Dr. Gaetz and the reporter leave?

MR. CAPERN: Sure. Barbara, do you need any spellings from us or anything?

MADAM REPORTER: Actually, I did want to just check what the date was of Dr. Gaetz' affidavit.

MR. CAPERN: It's the 15th of August of 2025.

MADAM REPORTER: Excellent and that's all I wanted and I'll say goodbye.

--- 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.

EXHIBIT “1”

Stephen Gaetz

He/Him · 3rd

Professor, York University; Director, Canadian Observatory on Homelessness

- York University
- University of Calgary

Colborne, Ontario, Canada · Contact info

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About

Stephen Gaetz's commitment is to a research agenda that foregrounds social justice and attempts to make research relevant to policy and program development. His research interests include homelessness, youth culture and community development. His research on homelessness has focused on their economic strategies, nutritional vulnerability, education and legal and justice issues, as well as solutions to homelessness from both a Canadian and international perspective. Dr. Gaetz is the director of the Canadian Observatory on Homelessness and the Homeless Hub, projects dedicated to mobilizing homelessness research so that it has a greater impact on policy, planning and service provision, thereby contributing to solutions to end homelessness in Canada. In 2014 Dr. Gaetz became President of Raising the Roof.

Activity

826 followers

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Experience

York University

Permanent Full-time · 25 yrs 6 mos

Toronto, Ontario, Canada

Full Professor

Jul 2014 - Present · 11 yrs 6 mos

Professor, Faculty of Education

Jul 2000 - Present · 25 yrs 6 mos

Co-Director
Making the Shift
Jun 2018 - Present · 7 yrs 7 mos
Toronto

Making the Shift contributes to the transformation of how we respond to youth homelessness through research and knowledge mobilization specifi...

Director
Canadian Observatory on Homelessness
Jul 2014 - Present · 11 yrs 6 mos
Toronto, Ontario, Canada

Director
Canadian Homelessness Research Network
2008 - 2014 · 6 yrs
York University, Toronto

The Canadian Homelessness Research Network is dedicated to mobilizing research knowledge so that it has a greater impact on solutions to...

Education

University of Calgary
Bachelor of Arts (B.A.), Anthropology
Sep 1979 - Apr 1983

York University
Masters, Social Anthropology
Sep 1983 - Jun 1985

Show all 3 educations →

Skills

Community Outreach

Endorsed by Angela Day who is highly skilled at this

Endorsed by 5 colleagues at York University

21 endorsements

Qualitative Research

Endorsed by Alex Abramovich and 4 others who are highly skilled at this

Endorsed by 6 colleagues at York University

19 endorsements

Show all 21 skills →

Recommendations

Received Given

Nothing to see for now
Recommendations that Stephen receives will appear here.

Interests

Companies Groups Schools

TAB 11

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 August 13, 2025, taken via Zoom videoconference on consent of the parties on December 3, 2025.

APPEARANCES:

KARTIGA THAVARAJ, Ms. GRETA HOAKEN, Ms.	Counsel for the Applicant
ASHLEY SCHIUTEMA, Ms. JOANNA MULLEN, Ms.	Counsel for the Respondents
KAREN STEWARD, Ms.	Amicus Curiae

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DECEMBER 3, 2025

DR. LAURA PIN, AFFIRMED

CROSS-EXAMINATION BY MS. THAVARAJ:

1. Q. Good morning, Dr. Pin. My name is Kartiga Thavaraj; I'm a lawyer for the Region.

A. Good morning.

2. Q. You understand that you're here today for cross-examination on the two affidavits that you've tendered in this application?

A. I do.

3. Q. I'll just start with a few ground rules just in case you haven't been cross-examined before. If there is anything that I ask that you don't understand, please feel freed to ask me to repeat or to ask for clarification.

If you can't hear me at any point, we often have tech issues in the Zoom world, just let me know or raise your hand or your counsel or counsel for the clinic will do that as well.

And you have to answer "yes" or "no" or that and then provide your answer for the purposes of the record. So if you nod your head or say "Mm-hmm" or something like that, it doesn't get reflected in our transcript appropriately.

Do you understand all of that?

A. Yeah.

4. Q. And it's hard for both of us, for me at least and sometimes for witnesses but we should also avoid talking over each other. It makes Barbara's job a little bit more difficult.

A. Sure.

5. Q. Thank you. So this is a cross-examination on two affidavits you've tendered in this matter. One is dated July 9th and for everyone's reference, that's in the respondent's record at Volume 3. Is that right, Dr. Pin? Do you recall this affidavit?

MS. SCHIUTEMA: I think there's only one, Kartiga. Sorry to interrupt.

MS. THAVARAJ: Okay this is ---

THE WITNESS: No, I was looking at you Ashley. I believe there is only one affidavit.

MS. THAVARAJ: There's only one.

THE WITNESS: Okay.

MS. THAVARAJ: This was going to be my first question, so thank you, Ashley. We have one affidavit dated July 9th and then one affidavit that appears identical in content,

dated August 13th from your supplementary responding record in Volume 1.

Is the only affidavit that's being tendered in this matter the second one, the one dated August 13th?

MS. SCHIUTEMA: Yes. And they are -- they are identical.

MS. THAVARAJ: Okay, thank you. Thanks.

BY MS. THAVARAJ:

6. Q. And, Dr. Pin, do you have the affidavit dated August 13th in front of you?

A. Yes, I do on my screen, not up right now but in Adobe.

7. Q. Okay, and is there anything else in front of you or with you?

A. I have a blank notebook. I just find it helpful sometimes during the questions to make notes of pieces of the question.

8. Q. Okay. So you should know that you are allowed to take notes during an examination but if you do take notes, then I am entitled to see them. So sometimes witnesses prefer not to take notes. So do you understand that?

A. Yes.

9. Q. Okay, thank you. And is there anyone in the room with you today?

A. No.

10. Q. And can I ask who you spoke with today before giving your evidence?

A. What do you mean by that?

11. Q. Did you speak with anyone in preparation for giving your evidence today?

A. Yes, I spoke with the lawyers at Waterloo Region Community Legal. They called.

12. Q. Okay, anybody else?

A. No.

13. Q. So I understand that you're being tendered as an expert in this matter, is that your understanding?

A. Yes.

14. Q. Okay. And you signed -- and maybe we can take you to that -- a Form 53 that went along with your affidavit dated August 13th. And if you just give it a moment, it will come up here on the screen.

A. Yes.

15. Q. Do you recall this document, yes?

A. Yes.

16. Q. And this is your signature?

A. Yes.

17. Q. Okay. You understand and acknowledged in this document that it is your duty to provide evidence that is fair, objective and non-partisan?

A. Yes.

18. Q. And to provide evidence related only to matters within your expertise?

A. Yes.

19. Q. And that this duty prevails over any obligation you may owe to WRCLS as the party who engaged you?

A. Yes.

20. Q. Thank you. Dr. Pin, in what area of expertise did WRCLS ask you to -- I am going to say "the clinic" phrase -- in what area of expertise did the clinic ask you to opine?

A. So they asked me to speak as someone who is an expert in municipal responses to encampments. As well as someone who does research on participatory policy-making and governance.

21. Q. Okay. That's not reflected in your affidavit, correct?

A. Can you explain what you mean by that?

22. Q. Yes. Did you -- I mean we can maybe take down the Form 53 but we can put up any part of your affidavit that you need to see at any point.

Just let us know.

There isn't a statement in your affidavit of your expertise or why you were retained by the clinic, is there?

A. I can't speak to that. I mean, I can say that I undertook the preparation of the affidavit under the guidance of Community Legal Services in terms of the questions they asked me to respond to. And so if they would have wanted a statement of expertise in the affidavit, I would have been happy to include that.

I do know that my curriculum, my CV, was included as part of my submission and I think the CV reflects my academic expertise.

23. Q. Okay, so you say you undertook this assignment under those instructions. Where did those instructions come from? Did you receive a letter, an instructions letter, from Community Legal Services, as you put it?

A. Yeah, so it's going to be difficult for me to remember precisely because all of this was about six months ago. But my understanding, or my recollection, was that I was asked if I would be open to serving as a witness in the case. And then we had a verbal conversation, myself and the lawyers at

Waterloo Region Community Legal. And from that conversation, came the structure of the affidavit. We had some conversations, prior to it being submitted, around pieces where maybe they wanted more elaboration, for example, for me to expand on some things.

That's my recollection of the process.

24. Q. Okay. Do you recall receiving an instructions letter?

A. I don't. It doesn't mean I didn't receive one; I just don't recall it at this moment.

25. Q. Okay. And what you do recall is that you've -- you took your instructions, at least for the purposes of the opinions expressed in the affidavit, from the verbal conversations that you had with Community Legal Services?

A. Yes. Insofar as the areas that they wanted me to touch on. Not insofar as any of the opinions or content.

26. Q. Okay. Counsel, if there was an instructions letter, could you undertake to provide it to us?

MS. SCHIUTEMA: We will undertake to look into it.

MS. THAVARAJ: Thank you.

UNDERTAKING

BY MS. THAVARAJ:

27. Q. Dr. Pin, I am going to take you to Exhibit A to your affidavit. As you just mentioned this is your CV.

A. Sure.

28. Q. And if we go to -- the page numbers are a little -- possibly a little confusing so bear with us here. But if we go to Page 3 of your CV, there is a section titled "Expert Consulting." You served as an expert previously, I understand, from this section of the document?

A. Yes, that's correct. Although I'll note that not all of the things listed here -- assuming that you mean "expert" in terms of work cases and not all of these are court cases.

29. Q. Okay. That's correct. And the first one where the client is Norton Brose (ph), that appears to be a court case. Is that correct?

A. That is correct.

30. Q. Okay. Can you tell us which side you were intervening on or you're providing your expert opinion on in that case?

A. So I was providing my expert opinion to

Norton Brose which was representing people who were staying in encampments.

31. Q. Okay. And I assume the next two are not expert retainers in the sense that we're speaking about today, not experts for a court case?

A. No, I was retained for expert policy advice.

32. Q. Right. But you were retained as an expert by WRCLS in 2022 in the *Persons Unknown* case in 2023?

A. That's correct.

33. Q. Okay. Were you accepted as an expert by the court in that case?

A. Yes, I was, to my recollection.

34. Q. And in what area?

A. What do you mean by "what area?"

35. Q. What area were you qualified to give expert evidence in? You will know from being an expert previously that you have to be qualified in a particular area to give expert evidence.

A. Sure, in the same areas that I'm giving expert evidence today.

36. Q. Which are?

A. What are municipal responses to encampments, housing and homelessness policy,

participatory democracy.

37. Q. Sorry, I want to make sure that I have that all down. Municipal responses to encampments …

A. Housing and homelessness policy.

38. Q. Is that it?

A. And probably instead of participatory democracy, I would just say policy-making processes. It gets a bit messy as you'll know probably from cross-examining academics, that we have a lot of different research areas that often bleed into each other.

And so when you say like "what area specifically," it's sometimes difficult to carve out exactly, you know, in terms of the research program exactly, you know, what constitutes housing and homelessness policy as opposed to participatory policy-making. In the Region in particular, those areas are really intertwined.

39. Q. I understand. And I'm glad you said that, Dr. Pin because perhaps my questions were unclear. I'd like to know what area you are being tendered in respect of as an expert in this case. So not all of your areas of expertise but what area of expertise you're being put forward to speak to in this case.

A. So I think, as I answered previously, the areas are housing and homelessness policy, specifically municipal responses to encampments. As well as public policy-making processes.

40. Q. Okay, and this affidavit dated August 13th, 2025, this is your expert report?

A. That's correct.

41. Q. There's no further report or affidavit forthcoming?

A. No.

42. Q. Thank you. And your report doesn't state what questions you were asked to answer either verbally or in an instructions letter, does it?

A. You mean the affidavit that I submitted?

43. Q. Correct.

MS. SCHIUTEMA: I think you already asked her that, Kartiga.

MS. THAVARAJ: Was that question already asked? I think I asked what ---

MS. SCHIUTEMA: No statement in your affidavit of your expertise or why retained.

MS. THAVARAJ: And this is about the questions that she was asked. Okay.

THE WITNESS: Sorry, I'd have to go back and

look at it. But I don't think there is a question/answer format to the affidavit.

BY MS. THAVARAJ:

44. Q. Okay, we can pull up the top part of your affidavit right now to just have you confirm. Luckily for all of us, it's not very long.

A. Yes. So there is no explicit statement of the questions here.

45. Q. Okay. And your report doesn't state what assumptions you rely on in forming any opinions that might exist in your report or in your affidavit?

A. Can you explain what you mean by assumptions?

46. Q. Sure. To derive an opinion, usually one relies on a couple of assumptions. And so ---

A. I need a minute to look through the affidavit.

47. Q. Absolutely, please do. And you can tell us to scroll or if you have a copy there in front of you, you're welcome to scroll on your copy as well.

A. Oh, I would say that there is -- the first part of the affidavit is just a recounting of events and timeline. And so I don't think the question is relevant to that piece.

In terms of this latter part of the affidavit, I do think that there are some positions and assumptions that are expressed in it. Particularly, the importance of the plan to end chronic homelessness document as well as co-creators process, as well as the importance of a human rights approach to addressing the issue of municipal encampments.

And so in that piece, I would say that there are some assumptions expressed.

48. Q. Okay. So any assumptions that you used in deriving any of the opinions you put forward in this affidavit are expressed in the affidavit?

A. Well I don't think that I would agree with that because I can't say that it's an exhaustive list of all the assumptions that I hold. But what I would say is I think I strive to be transparent and clear in the reasoning behind the statements that I am presenting.

49. Q. Okay. To be transparent and clear in respect of the statements that you are presenting, would you have listed the assumptions that underline those particular opinions?

A. I think I would have listed any ones that occurred to me as relevant or important. But

again I can't say it's an exhaustive list.

50. Q. But any relevant or important assumptions are listed?

A. I would say so.

51. Q. Thank you. Now, Dr. Pin, you're I guess fairly visible I'd say in the -- to use your words -- "homelessness and housing policy" space; would you say that's accurate?

A. What do you mean by "visible?"

52. Q. You speak a lot on issues of homelessness or housing policy or your expertise as a professor is sought after, for example?

A. Sometimes it is and sometimes I do speak publicly.

53. Q. Okay. Can you tell us a little bit about how you initially got involved in respect of the encampment at 100 Vic?

A. Sure. So I was working -- my first year as a tenured track professor at Wilfrid Laurier University, I was teaching a graduate seminar on housing policy. And it was a community-engaged seminar. And one of the things that we do in that class is work with community partners. And for this particular class, we were working with the Region of Waterloo Housing Services.

And it was structured around a research shop or research ask model and one of the things that they asked us to do was scan how municipalities were responding to encampments and prepare a report for them.

And so I worked with a group of students within the class and then the project expanded beyond the class to produce a short report that was a scan of municipal responses that was published on the Canadian Observatory on Homelessness website. And so that really was my entry point. And that class was the year prior to the *Valente* decision in that court case.

And so when that came before the courts and they were looking for someone who had knowledge of what was happening in the encampment space because it's a relatively new area of policy-making in some ways for a municipality; that is how I was approached and how I became involved.

54. Q. Thank you. And since that time, have you worked a lot with other similar community partners in this area?

A. Do you mean partners similar to the Region?

55. Q. Partners similar to the one you were preparing this -- with the report you just discussed

for.

A. So the report that I was -- I discussed, I was preparing for housing -- the Housing Services Division at the Region of Waterloo.

So do you mean partners that were similar to the Region, like other municipal governments?

56. Q. I do, yes. Yeah.

A. I have since done some work with the City of Kitchener. So I -- like I was part of their parks -- it's on my CV, part of their parks strategy consultations. Specifically with respect to the way that people who are experiencing homelessness are unhoused are using their parks.

And then that same course has worked with the City of Waterloo's clerk's office but not necessarily on a project that has to do with housing and homelessness. So that one was more around accessibility and voting.

57. Q. And this is all through the course in terms of your -- or is that accurate? Sorry, let me just start there. All the work that you just described is just through this particular course at Laurier?

A. So those very specific projects are through the course and then I can -- you know, I have

had partnerships with other government agencies in my research program which I can describe if you'd like.

58. Q. That's fine. I was going to ask a little bit about what you do sort of outside of the -- outside of your coursework and course-related work. So sort of on your free time.

I understand, for example -- and please correct me if I am wrong -- that you're affiliated with the Canadian Rent Bank Coalition, is that right?

A. That's correct.

59. Q. Can you tell us a little bit about that work?

A. Sure. I wouldn't describe it as something that I do during my free time. So it's part of my academic research program.

60. Q. Okay.

A. That project is a project that's been going on since 2021 actually, looking at - it started as a smaller project. And we recently received quite a large grant to continue the work.

So the Canadian Rent Bank Coalition is a coalition of service providers that offer rent bank services which is one-time financial assistance to people who are at risk of losing their housing. So it's an eviction prevention program.

And we're working with the Coalition to understand both how rent banks work to stabilize housing as well as how the residential tenancy and social policy contexts in different provinces impact the successes of rent banks and how they can tailor their services to the specific policy contexts that involve a network of partners from across Canada from B.C. to New Brunswick, and as well as researchers at multiple universities.

61. Q. Okay, thank you. And your reports appear, I believe, on a website called "Homeless Hub." Are you aware of this?

A. Yes, so Homeless -- I am aware of it which is probably good because we like to know where our work ends up. So Homeless Hub is a -- the largest repository of research on homelessness in Canada. And it's run by the Canadian Observatory on Homelessness which is a research institute out of York University.

And so there are some reports that I've written that do appear on Homeless Hub. It's a good way of getting -- of knowledge mobilization getting research out to the broader policy-making and academic community.

62. Q. Thank you. And so all of these pursuits, are they academic and related to your work?

A. Yes, they are. So, for example, the Canadian Rent Bank Coalition grant is funded through Tri-Council Funding through the Social Sciences and Humanities Research Council. That's competitive, peer-reviewed funding that only academics are eligible to apply for with some small exceptions for people who are working in partnership with academics.

So it is very much a part of my academic portfolio of work.

63. Q. Okay. And within your academic portfolio, would you say you care deeply about this issue, about the issue of homelessness and housing policy?

A. What do you mean by "care?"

64. Q. I mean, do you feel strongly about issues related to homelessness and housing policy?

A. I am not sure -- to be honest, I am not sure how to answer that. I think that most academics have strong interest and intrinsic motivation around the work that they do in the areas that they study.

I certainly feel that homelessness and housing insecurity are really pressing social problems. And so I do feel urgency in relation to my work in terms of with working with partners and communicating findings. So I do care in that sense.

65. Q. When you say that you feel these are pressing social problems, do you feel urgency around protecting those who are currently vulnerable? Protecting those who are currently unhoused, for example?

A. I don't think I see my role as being someone who is able to protect people who are currently unhoused.

66. Q. Okay. Do you see your role as urgently addressing the sort of larger social problems that form the context that allows for homelessness?

A. I don't even know if I would go that far. I think that's giving a lot of credit to, you know, what can research do. What I would say is I think that I see my work as contributing knowledge and information, and potentially understanding to folks who are able to take actions to address those problems.

67. Q. Okay. And your fact-finding, if I could put it that way to summarize what you just said, is that concentrated in particular areas within the homelessness and housing policy space? Or does it touch sort of on all areas, municipal policy, the experiences of the unhoused, of the experiences of municipalities?

A. Sorry, when you say "fact-finding," what do you mean by that?

68. Q. You were saying that you see your role as being able to make contributions to the knowledge and to allow other people to make policy decisions. Is that correct?

A. That is correct.

69. Q. Yeah, so to be able to provide those contributions to the knowledge, do you focus on a particular area or did you -- does your work sort of entail all areas in this space?

A. Sure. Now I understand the question. Thank you for that clarification. So I would say that as someone who researches and teaches on homelessness and housing policy, for example, sometimes I am asked to provide public commentary, broadly-speaking, on policy.

And I would separate that from my research contributions in the sense that I see my research role as providing really specific knowledge in relation to the areas that I have conducted or do active research.

So a helpful example is that Rent Bank projects, right? So there I would see the role as providing information and expertise around how Rent Banks operate, effective and less effective practices

as documented through the research process under really specific ways tied to the specific research and projects.

Does that make sense?

70. Q. It does, yes. Let me ask, is there a reason you are interested or -- and I am saying "interested" from an academic perspective as well on how Rent Banks operate?

A. Yeah, I think part of the interest is that they address -- like they address a gap. So often we have policy focused on people who are experiencing rather severe forms of poverty and homelessness. Or there is quite a bit of housing policy actually focused on things like first-time homebuyers, mortgage holders, things like that.

But in terms of middle to low-income renters, there is a bit of a gap in terms of government policy addressing their housing needs. And so what I find interesting about Rent Banks is it's one of the few programs that's explicitly targeted at that gap, but thinking about homelessness and housing precarity as a continuum. Stopping people who are in danger of losing housing from actually (indiscernible) housing, so stabilizing tenancies is actually really important as an upstream intervention.

And so those pieces, the importance of an upstream intervention and the lack of policy work concerning that particular segment of the population around housing and homelessness is what drives my interest in that particular project.

71. Q. Okay. I guess just more generally as well the idea of what causes people to become unhoused and what are the solutions for getting folks who are experiencing homelessness out of that situation.

A. Yeah, I mean, I think -- yes.

72. Q. Okay, thank you. I am going to take you to your affidavit, if you -- I am going to reference some sections of affidavit and ask you some questions about them. And we can put the paragraphs up on the screen if that helps you.

A. Sure, that would be helpful.

73. Q. So you provide information in your affidavit about how you came to learn about the bylaw at issue in this case. You are aware of the bylaw that I am speaking about, I assume? But let me just name it for the record. This is Bylaw 2402 -- sorry, 25021. Are you aware of that bylaw, Dr. Pin?

A. Yes, the site-specific bylaw concerning 100 Victoria.

74. Q. Yes, and you reference it in your

affidavit.

A. Yes.

75. Q. Okay. Are you okay if I refer to it as "the bylaw?"

A. Yes.

76. Q. Okay. And so I am going to take you to Paragraph 11 of your affidavit. In this section of the affidavit, this is shortly after and -- sorry, I am going to take you to Paragraph 10 just to set the scene for you.

A. Sure.

77. Q. And so this is shortly after you said in your affidavit that on Monday April 14th, you were -- you received an email from certain employees of the Region asking to speak and were advised that there would be an announcement on Wednesday April 16th? Is that right?

A. Yes, that's correct.

78. Q. Okay. And then I'd just like to know sort of from your perspective what happened here. Is it that on April 16th, because later on in the affidavit in Paragraph 12, you say that you received an email message from Peter Sweeney indicating the Region was going to be considering a new bylaw. But before that, you say that at 1:00 p.m. you understood

that police officers and bobcats had arrived at 100 Victoria.

So I'd just like you to take us through this -- the timeline a little bit. What was happening that day for you? How did you learn at 1:00 p.m., assuming that's what you learned, that there had -- to use your words:

"… Been police officers and bobcats that had arrived at the encampment …"

A. Sure. So one of the things that I think is important to understand, is that at this point people had been staying 100 Victoria for several years, people experiencing homelessness. And the presence of heavy equipment like bobcats is not a regular occurrence there.

And so, on April 16th, I received text messages from community members stating that there were police and bobcats at 100 Victora Street. And sometimes community members will reach out and ask if I, you know, maybe there's an explanation, maybe you know something about it. And so that's how I understood those messages.

You know, what's going on, do you know something about this? As well as having it communicated that people were concerned on-site. And

so residents were concerned. And I am certain a lot of folks experiencing homelessness have experienced forceable displacement from spaces, often without any kind of consultation. And so without warning the presence of a bunch of police officers as well as heavy equipment can create a lot of tensions and fear.

And so, as I said in my affidavit, I was concerned about this deployment. It was sudden, it was unexpected, in conjunction with the meeting with regional staff who had indicated that something was going to be happening on April 16th, but they hadn't explained what.

I could understand the, you know, the fear of community members seemed well-founded. Understanding the co-creator space, as a space for community dialogue between the Region, regional staff as well as community members, I sent an email asking what was happening and asking for transparency.

And the reason that I sent it to the entire list and not just to a single regional staff was because in the spirit of the co-creators of having those kinds of open discussions, I didn't really think it was a matter for just me and staff. I thought it was an area of whole of community concern.

As I noted, I didn't receive a response from

anyone at the Region to the email. I did receive responses from two other co-creator table members also expressing concern, and asking for clarity. And to be clear, this was a message, you know, it's attached as Exhibit D, a message asking for more information about the situation.

79. Q. Okay. So I asked how you learned that, to use your words, "police officers and bobcats had arrived at the encampment." And you said that you received text messages from community members. Is that correct?

A. That is correct.

80. Q. Okay. Who were these community members?

A. I don't recall at this moment.

81. Q. Okay. These are community members who had your -- were these messages to a personal phone, a work phone?

A. Theoretically, Laurier provides a work phone on Teams. In practice, the do not provide a useable work phone. So all of my, you know -- and I will say regional staff have my cell number, community members have my cell number.

82. Q. Okay.

A. Students do not have my cell number at

this (indiscernible).

83. Q. Always a good protocol on your part.

A. Yeah, and so I just don't recall at this moment. But definitely, like it was community members who were on-site saying, hi, like we're here and this happening, do you know why this is happening or what is happening?

84. Q. Okay, do you recall whether these were region or other community members?

A. What do you mean by region or other?

85. Q. You said, "their community members were on-site." And some people from the Region have your phone number and then other ---

A. No, sorry, it was not regional staff.

86. Q. Okay.

A. No, it was not regional staff.

87. Q. And was it residents of the encampment?

A. No.

88. Q. Okay. And what exactly was communicated to you in these text messages?

A. From the best of my recollection having not reviewed the text messages since April, just that there was heavy equipment there and police officers. There was not an explanation forthcoming as to why they were there. And so people were concerned, there

was concern around whether there was going to be a dismantling of tents.

And just this, you know, again, folks knowing that I work closely with the Region in a lot of different ways and also that I sit on the co-creator's roundtable, asking if I knew what was happening.

89. Q. Okay. And did you continue to receive text messages from these community members throughout that day?

A. I believe -- so it's difficult for me to recall at this moment. But I believe I received a message when the equipment -- when the bobcats left and things had calmed down.

90. Q. Okay. I am just -- I'm sort of trying to understand given you're not -- because you're not at the encampment at this time, correct?

A. No.

91. Q. Okay, I am just trying to understand how you're receiving information related to the encampment ---

A. So ---

92. Q. --- through these texts primarily or exclusively.

A. Yes, so -- and I believe there were

photos circulated as well to the co-creator's roundtable of the equipment that was present that day. But initially, how I heard about it was from text messages from community members who were at the encampment asking if I knew what was happening.

93. Q. Okay. And you did not get a text that day though advising that any evictions had in fact happened, forced evictions had in fact happened?

A. No.

94. Q. And you did not get a text that at any interactions with police officers had happened?

A. What do you mean by "interactions?"

95. Q. Did you receive any texts that folks at the encampment had interacted with police officers in any way?

A. You mean spoken with police officers?

96. Q. Yeah, sure.

A. I can't recall if there were words spoken. I will say that I am -- like from the -- the communication that police officers were present at the encampment, I assumed that there was some sort of interaction involved with folks at the encampment. I mean, it seems strange that police would be present for several hours and there being no interaction.

97. Q. Okay.

A. I guess it's possible.

98. Q. Well, let me say this. If I told you that the Region's position is that there was no police presence at the encampment that day, what would you say?

A. I would say that in my experience working with folks at encampments, I would consider it unlikely. But I don't know for a fact because I wasn't there. So at this point, it's just conjecture. I would say that community members did communicate to me that there were police officers on-site.

It's possible that folks in uniform who were bylaw or private security -- although I think folks are very familiar with the private security there -- there could have been confusion. But it was communicated to me that police officers were present.

99. Q. Okay, but there could have been confusion; do you agree?

A. It's possible.

100. Q. Okay. The Region's position is there was one bylaw officer there. And I was going to ask actually, the third sentence of Paragraph 11, you note that you were concerned about the impact that policy officers and bobcats would have. Whereas in the first sentence says, "police officers and bobcats." So I

was wondering whether you're concerned about all three or whether the police officers was a typo in your affidavit?

A. No, the policy officers would be the typo.

101. Q. Was the typo, okay. That's intended to say "police officers."

A. That's correct.

102. Q. Okay. You're not concerned about the impact that policy officers would have?

A. I don't know what a "policy officer" is.

103. Q. Like a bylaw officer, I am assuming. I also ---

A. If I had intended "bylaw officer" I would have said "bylaw officer."

104. Q. Okay. Okay. And were you aware that that day on April 16th, there was work to be done, construction sort of work to be done to level the ground under the portable on-site? Were you aware ---

A. No, I was not.

105. Q. Okay.

A. And I don't think anyone else at the encampment was aware that that work would be occurring.

106. Q. How would you know what anybody else at the encampment would be aware of?

A. Well, because I wouldn't have received messages if folks were aware of the purpose of the bobcats, then I wouldn't have received messages asking what the purpose of the bobcats was.

107. Q. And from those particular community members or from everybody there?

A. So the community members were directly engaging with the residents. One of the things that, you know, encampments, people don't think of encampments as having governance structures. They think of it as a space of chaos. But there is a structure.

It's not a formal governance structure but often there are community members who are regularly present and engaging with multiple encampment residents on-site. And who are known folks that residents will go to and ask about information.

And so in terms of having somewhat of an information-sharing and an informal governance structure in place, I would have expected that if it had been communicated to folks on-site the purpose of the bobcats, that would have been shared among people. And there would have been less harm done by the

presence of the bobcats.

108. Q. Okay. But you weren't there on-site?

A. No, as I said before, I wasn't there on-site.

109. Q. Okay. And you weren't aware of what was being communicated at the time or not?

A. What do you mean by that?

110. Q. You wouldn't have been aware of what was being communicated to the folks on-site?

A. Well, I think ---

111. Q. (Indiscernible).

A. I think I would have been aware of what was being communicated to the folks on-site because I was in regular contact with community members who are on-site.

112. Q. And so through that, you would say you were aware of everything that was being communicated to the folks on-site that day?

A. I didn't say that I would be aware of everything that was communicated to the folks on-site. But I think, again, because the presence of bobcats was very unusual on-site -- and I am sure the Region could tell you how often bobcats are present on the site; it's not frequently -- I feel confident that if an explanation had been communicated to people on-site

and the explanation was known by many folks on-site, that would have been communicated to me.

113. Q. In any event, you agree that no forced removal took place that day?

A. Yes.

114. Q. And you understand that it's the Region's position that no police officers were present?

A. I do understand that.

115. Q. And that there is no extra security as well present?

A. I understand -- well, you had mentioned that there was a bylaw officer present. That's the Region's position.

116. Q. Correct, but not security or extra security?

A. Not extra private security beyond the usual security officers that are present on the site.

117. Q. That's correct.

A. Yeah, nothing about extra private security was communicated to me. So again, it was presence of police officers ---

118. Q. Okay.

A. --- that was communicated to me.

119. Q. Okay. And if we can go to Paragraph 13

of your affidavit. So later that day, as I understand it, you find out about the bylaw, is that correct?

A. That's correct. I believe the bylaw was public information that the bylaw was made available to the general public later that day around 4:00. Correct.

120. Q. And at the time -- and I think if we scroll up to Paragraph 12, you say that you read the bylaw that day as soon as it was made public. Is that correct?

A. That is correct.

121. Q. Okay, have you read it since?

A. Yes.

122. Q. Okay. At Paragraph 13 which is on the screen, you say, and I'll just quote:

"… The bylaw seemed to make it functionally impossible or at the least very difficult to maintain a tent shelter structure at the encampment including restrictions on movement for residents, restrictions on-site access for service providers, provisions for kettling residents into the progressively smaller pieces of property, and vague and unclear

prohibitions on harmful or threatening materials …"

Do you see that?

A. Yes.

123. Q. Okay. Let's start with one question. Did you mean -- when you wrote this, were you speaking about the bylaw's impacts before December 1st -- or before November 30th or after November 30th of 2025?

A. Before November 30th.

124. Q. Okay. You say, "restrictions on movement for residents." Let's start with that. You are aware that the bylaw provides the carve-out for existing residents, correct?

A. Yes.

125. Q. Okay. And so, existing residents, residents that are on-site as of the date the bylaw becomes public, are allowed to move freely on-site. You are aware of that?

A. I actually don't think that that's true.

126. Q. Okay. Why not?

A. Well, it requires knowledge of how people experiencing unsheltered homelessness manage their day-to-day lives. And so, the bylaw presumes that it's possible to make a clear distinction between

current residents, so people who are on-site and are residents, and are there, you know, as -- it's this idea that there's a permanent residency on-site.

And I don't want to say that there aren't folks that are permanently resident because there certainly are. But that doesn't necessarily mean that they are there all the time. And so people who are staying in encampments frequently stay at the encampments but also may cycle through. They may be able to access a shelter bed for a night, they may be able to couch-surf for a night, they may be staying somewhere else.

So there is a lot of movement that people undertake to manage their day-to-day lives and to stay -- to access the basic necessities of living.

And so the idea that there are a set of existing residents that are there at a given point and can be known, I think underestimates the mobility of folks which isn't intended to undermine the importance of 100 Victoria as a necessary site for people staying at the encampment. But just to understand that because the experience of homelessness is so insecure that people need to avail themselves of many different strategies to manage their lives. Does that make sense?

127. Q. It does. It's not what I asked, however. So I am just going to repeat the question. I asked whether you're aware that the bylaw makes provisions for residents which is defined in the bylaw as:

"… Anyone residing at 100 Victoria Street as of the date that notice of the bylaw is provided …"

That that's the definition of resident in the bylaw?

A. Well, I don't think that was quite what you asked, but, yes, I am aware that that's how the bylaw defines "resident."

128. Q. Okay. And you are aware that the bylaw makes a distinction between "residents" and -- as defined in the bylaw -- and "non-residents?"

A. Yes, I am aware.

129. Q. Okay. So when you say here, "including restrictions on movement for residents" -- appreciating that you did not capitalize the "R" here -- that actually means non-residents or people who are not defined as residents within this scope of the bylaw?

A. Can you please repeat that question?

130. Q. Sure. When you say here, "including

restrictions on movement for residents" you are referring to or at least you acknowledge that the bylaw does allow those defined as capital R residents to -- at least doesn't restrict their movement on-site?

A. The bylaw -- so it might be helpful to pull up the bylaw because ---

131. Q. Sure.

A. --- my understanding of the bylaw is that the bylaw states that residents have until November 30th, 2025 to vacate the premise.

But my understanding also is that it cites if tents are deemed -- if residents are deemed to have left, they could be -- the bylaw provides mechanism for them to be restricted from returning.

132. Q. Okay, let's pull up the bylaw for you so you have it and you don't have to guess. And I'll just remind you while we're doing that, that I asked previously about what time period you are referring to and you said "prior to November 30th." So that's the time period that I'm speaking about as well.

A. Yes, that was the time period that I was speaking about.

133. Q. Okay. And so you'll see here at Part I, Section 1 paragraph, subparagraph 7, the definition

of a resident.

A. Yeah, so this is where the problem is really. I mean, and from a policy perspective, it's really frustrating:

> "… Anyone residing at a 100 Victoria as of the date of the notice that this bylaw is provided …"

So again, if somebody has attended 100 Victoria and they're not there on that day, does that mean that they're included as a resident? If 100 Victoria is a site that people regularly return to, to access resources and for shelter, does that mean that they are included as a resident if they weren't there on that day?

So that definition is really complicated in my view as someone who studies homelessness to actually put into practice. It's not like an apartment building where people have leases and you have documentation that makes it clear that folks are residents. There's a lot of people that use the site that may not have been included as resident in that moment.

And then my other quibble is that in terms of understanding when a resident has transitioned, it's not really clear through the bylaw. Because the

objective of the bylaw is to remove people from the site, it's not clear what kind of periods of absence could be used to deem that that person is no longer a resident, and who makes that decision, and so on.

So those are my -- when it says -- when I say it "restricts movement" because this bylaw sets out a mechanism for the Region to control access to 100 Victoria, as well as sets out a regional definition of who is included as a resident.

That is why I say it's restricting movement because it is restricting -- first of all, it's excluding people from the category of resident who may in fact indeed be residents. And by controlling access, it's restricting those people's movement.

But second because it is permitting the Region to designate people as resident or non-resident and determine when residents have transitioned and are no longer permitted, that also would restrict the movement of people prior to November 30th.

134. Q. Okay. Thank you, Dr. Pin. I understand your concerns with the definition. What I am asking, though, is that do you agree that this definition provides that anyone residing at 100 Victoria Street as of the date -- as of the public notice date -- is deemed a resident under the bylaw?

A. What do you mean by "residing?" So I don't agree because I don't think that all of the residents are included as residents if it's simply were they present at that specific date? That is my concern here.

135. Q. Right, I see. I understand -- I understand what you mean but I think I'm asking you really just to agree with me what the text of the bylaw says.

A. Sure the text of the bylaw -- and I can read it out loud says, "Residents ---

MS. SCHIUTEMA: Sorry, I am going to object. I think you're asking -- I think these questions you're asking -- you are asking her to draw a legal conclusion, Kartiga. And that's ultimately the question that's before the court. So I am just going to register my objection on the record for that. And suggest that we move on.

MS. THAVARAJ: Sure, that's fine, Ashley. Let me rephrase the question then.

BY MS. THAVARAJ:

136. Q. Do you agree, Dr. Pin, that if someone is defined and accepted by the Region as being a

resident in accordance with this definition, that there are not restrictions on movement for them prior to November 30th?

A. I am looking at the bylaw right now. Again I don't really because this also goes into Sections 2 and 3 around prohibited activities and trespass, where the other parts of the bylaw could be used to restrict someone's access to 100 Victoria and movement.

137. Q. Okay, let's go to Sections 2 and 3. Do you see that the prohibition section in Part II commences on December 1st?

A. I do.

138. Q. Okay, so I am asking about prior to the November 30th period.

A. Sure, so I still think my concerns with Section 3 also still exist which does, I think -- and again, that -- are you able to make that text any bigger?

139. Q. Yes, it is very small.

A. Yeah, yeah, okay. So Section 3 is prior to November 30th, is that correct?

140. Q. What are your concerns with Section 3, let's put it that way?

A. So Section 3 -- so issue of verbal --

so there's a -- there is an appendix with a list of prohibitive activities.

141. Q. Correct.

A. And the list of prohibited activities, as is not uncommon with policy, includes a lot of really general directives. And so, with Section 3, Trespass, my understanding -- and you can tell me if I am incorrect here -- is that someone engaging in a prohibited activity, which is this new series of activities which is quite broadly construed, who is a resident could be prohibited from accessing 100 Victora because they are not complying with appropriate "behaviour" as defined by the prohibited activities.

And so I would see that as a new way of restricting access to 100 Victoria.

142. Q. Okay. And if we can go to the list of prohibited activities, Schedule B, you are not suggesting or are you -- I understand what you've just said about these provisions work in conjunction with the trespass provisions.

A. Correct.

143. Q. But you're not suggesting that any of the prohibited activities themselves restrict movement for capital R residents, are you?

A. No, I am suggesting that the consequence of being found to engage in a prohibited activity which are quite broad, could restrict movement. And so therefore, the bylaw as a whole creates further restrictions on movements, including for people who are accepted as existing residents.

144. Q. Okay. And is that the only way that it creates restrictions on movement for existing residents?

A. As far as I can tell.

145. Q. Okay, thank you. The next section of your affidavit -- sorry, the next part of that same sentence of Paragraph 13 of your affidavit, you say there are restrictions on-site access for service providers?

A. Correct.

146. Q. What part of the bylaw are you referencing when you make that allegation?

A. Can we please scroll up through the bylaw? I ask you to pause for a second. Can you please scroll up a bit further? Scroll up a bit further, please. And then scroll back; this is the top of the bylaw, is that correct?

147. Q. There are preambular paragraphs that happened prior to the Part I definitions.

(Indiscernible).

A. Could you please keep scrolling down and pause?

148. Q. It used to be a little bit nicer and easier when we could just hand you a piece of paper with the bylaw on it.

A. Yeah, and I have it on my computer but since we're all on the screen -- can I ask you to pause here for a sec? And can you scroll down a bit? Can you pause here for a second, please?

I am going to need to look at it on my own screen. So I apologize but I'm just going to take a moment to pull it up from ---

149. Q. That's no problem, take your time.

A. Yeah. So and I just have it on a -- like an Appendix A site-specific bylaw.

150. Q. Appendix A from which document just so we can make sure you're looking at the right version?

A. Bylaw No. 25 of the Regional Municipality -- I have it as a stand-alone.

MS. MULLEN: Would this be an opportunity for us to take a short break? We've been at it now for an hour. Maybe that would allow Dr. Pin some time to find the section you're referring to?

MS. THAVARAJ: No problem, Joanna, how much time would you like?

MS. MULLEN: Do we want to do a 10-minute break?

MS. THAVARAJ: Sure, that's fine with me.

MS. MULLEN: And if we can off the record for a -- or if we can go off the record then?

--- A BRIEF RECESS

MS. THAVARAJ: Great, thank you. Dr. Pin, can you hear me okay?

THE WITNESS: Yes, I can.

MS. THAVARAJ: On the break did you speak to anybody?

THE WITNESS: No.

MS. THAVARAJ: Okay.

CONTINUED CROSS-EXAMINATION BY MS. THAVARAJ:

151. Q. And before the break, we were talking about the bylaw and you were going to go and pull up your version of the bylaw. Can you -- or your copy at least. Can you confirm the version that you're looking at for us?

A. So I am looking at a version that's from Waterloo Region Community Legal Services submissions to the court. But I am happy to comment on the version that's on screen if that's helpful. Now that I've identified the areas that I want to speak about.

152. Q. That's fine. What I will ask though, counsel, is that Dr. Pin just provide you with a copy of the document that she's referring to and that we can make that Exhibit A to this examination.

MS. SCHIUTEMA: Sure.

MS. THAVARAJ: Into the examination.

MS. SCHIUTEMA: That's fine, thanks.

MS. THAVARAJ: Thank you.

EXHIBIT NO. A: Dr. Pin's copy of bylaw

BY MS. THAVARAJ:

153. Q. Okay, Dr. Pin, so I had asked you about restrictions on-site access for service providers.

A. Yes.

154. Q. And what section of the bylaw you were referring to when you wrote that in your affidavit.

A. Yes, that's correct. So again, I was referring to the ability of designated personnel to

exercise enforcement options in relation to that schedule of prohibited activities.

And specifically in the list of prohibited activities at Sections A and D because they're very broadly construed could limit the ability of service providers to provide certain types of assistance to people on-site that they typically do provide. For example, Section A suggests:

"… Carrying any goods without authorization which are offensive …"

Which is a very broad term. It could be broadly construed. "Flammable," also a broad term could be broadly construed:

"… Likely to alarm, inconvenience or cause discomfort …" --

-- are also very broad terms. And so, for example, someone providing a lighter or a cigarette for someone, depending on how this is interpreted, my concern there was that that could be limiting.

My concern with Section D, the prohibition on erecting a shelter or other structure but -- and I do appreciate that that doesn't apply to shelters that were in place on the public notice date.

But again, this language I don't think

reflects the reality of the experience of people who are experiencing unsheltered homelessness, in the sense that people may adjust their shelters.

So, for example, if someone -- if a service provider is providing sleeping bags or a tarp or a tent, my understanding of the bylaw is that that could be a prohibited activity even if it's going to an existing resident because it would be seen as erecting a structure or other sort of shelter. Yet people do need to fortify, repair and redress their structures.

And so my comments on the potential of the bylaw to limit service provision or with respect to how those two clauses within the schedule of prohibited activities could be interpreted.

155. Q. Okay, thank you, and only those two clauses, A and D, of the Prohibited Activities Appendix ---

A. Yes.

156. Q. --- (indiscernible). Okay, thank you. And lastly you say:

"… Provisions for kettling a residence into progressively smaller pieces of property …"

What provisions of the bylaw do you say do that?

A. Yeah. And so there's a provision -- and I think it's in the Trespass section, so you'll have to scroll up. That provides for the fencing off of areas of 100 Victoria that are deemed vacant by designated personnel. And so that's what I am referring to.

And again, I think it's not consistent with an understanding that due to weather conditions, changes in the nature of the site, people may want to move their shelters. And would be limited in their ability to do so by the progressive fencing off of different areas of the site which will make it more difficult for people to adjust in the moment to evolving circumstances. And then therefore, make it more difficult for them to shelter, even prior to November 30th.

157. Q. And do you agree, Dr. Pin, that the bylaw -- if someone is defined or accepted as a resident, capital R under the bylaw, that it allows for eight months of notice prior to a resident being required to leave the encampment? Do you agree with that?

A. Yes.

158. Q. Okay. And you would agree, I take it, that advance notice in requiring someone to relocate

is important given your concerns, of course? Certainly with forced evictions but generally in respect of encampments.

A. Yes.

159. Q. Okay. And you would agree that it's best if individuals can be offered safe, appropriate and voluntary housing options as an alternative?

A. I would agree that it's best if people can be offered safe and appropriate and permanent housing options as an alternative. And that's ---

160. Q. Okay.

A. --- pretty consistent with "Housing First" which I know is one of the frameworks that the Region talks about in their housing policy work.

161. Q. Right. But to be relocated, it is best if they can be offered voluntary housing options that are safe and appropriate?

A. Yes, but I would add "permanent" to that.

162. Q. Okay.

A. If you're talking about "best" like what is the best practice in terms of moving people from homelessness to housing.

163. Q. Okay. Let's move away from "best," how about as an alternative or at least if what is

required is for folks to be moved from an encampment, it's preferable that they be able to be offered voluntary housing options that are safe.

MS. SCHIUTEMA: So I'm just I am going to object again and say that I do think you're asking her to answer like a legal question about what is before the court, right?

Like what are the -- what is appropriate and what is -- like this is a legal conclusion we're asking the court and the judge to draw, right? So I don't know if it's appropriate for Laura to answer that question.

MS. THAVARAJ: Okay. I am not intending at all to ask a legal question so let me rephrase.

BY MS. THAVARAJ:

164. Q. Dr. Pin, let's assume that just as a hypothetical one needs to move folks residing in an encampment out of the encampment. Would you agree that it would be better to do that through a mechanism that allows us to -- or that allows for them to be provided with safe, appropriate or voluntary housing options?

A. Better in comparison to what? Better in comparison to removing people without those options?

165. Q. Yes.

A. Yes.

166. Q. And you would agree that doing that takes some time?

A. Yes.

167. Q. And you would agree that identifying or assessing alternatives takes some time, both for a provider and for a recipient of those services?

A. Yes.

168. Q. And you are aware that the Region's policy is that it's providing -- are working to provide individualized housing plans to all of the residents.

A. Yes, I am aware of that policy.

169. Q. Okay. And you agree that it would -- it takes some time at least to ensure diverse needs are met?

A. Yes.

170. Q. Okay. Takes some time to ensure that if belongings need to be stored, they can be stored, for example?

A. Yes.

171. Q. Okay, and you agree that rapid closures would result in people being pushed into -- possibly at least, being pushed into more dangerous or not at safe locations?

A. So what I would say is that I think there are -- there's a continuum of responses to encampments, right? And so, rapid closures with little notice where people are forced to remove are very harmful.

Forcible removals with notice can still cause harm and then, of course, when you have truly voluntary situations where people are able to access alternative housing options, and that's their choice, that is ideally what works best to connect folks with permanent housing options.

172. Q. Okay, great. Thank you. And in order to connect folks with alternative housing options, that requires some time. I think you agreed with that.

A. Yes.

173. Q. And you would agree that if you had to connect more folks with housing options, it would be harder to do that work in a shorter period of time, correct?

A. Assuming that there's not a

commensurate increase in resources, correct.

174. Q. Okay. Thank you, Dr. Pin. I think subject to -- sorry, no, those are all my questions. Thank you.

MS. SCHIUTEMA: I am just going to ask for another minute to like review my notes and see if there is any redirect. I'll just take a few minutes. Okay, thanks.

--- A BRIEF RECESS

MS. SCHIUTEMA: Thanks for those minutes.

MS. THAVARAJ: No problem.

MS. SCHIUTEMA: Are we back on?

MADAM REPORTER: Back on.

MS. THAVARAJ: Okay, awesome, thanks.

MS. SCHIUTEMA: So, Dr. Pin, I have the opportunity now to ask you some redirect questions based on your testimony that you just gave.

RE-EXAMINATION BY MS. SCHIUTEMA:

175. Q. So can you elaborate on the knowledge that you have about the housing options that are being offered or provided to residents at 100 Vic?

A. Sure. So when I spoke with -- when I spoke with people at the encampment as part of my realizing the right to survey project -- which is a multi-year project that has been in, you know, precedes this court case -- most of the folks that we spoke with had not been offered alternative housing at that time. And that would have been in May of this past year.

Since then, to my knowledge, there have been attempts to create housing plans with individuals. Some individuals have been offered motel spaces. However, I am not aware of individuals that have been offered permanent housing options which means housing that they can stay in indefinitely.

From my perspective, a lot of my work focuses on using a human rights lens to explore encampment responses. The *National Housing Strategy Act*, which is a federal piece of legislation, uses the definition of adequate housing. And one of the criteria of adequate housing is permanency and so from my knowledge folks haven't been offered permanent housing options and therefore they're not being offered adequate housing.

In my experience working with people in encampments one of the issues with temporary

accommodations like a motel or like an emergency shelter space, is the uncertainty associated with those options. Uncertainty in terms of how long they'll be able to stay there.

For people who are dealing with disabilities and more complex health and mental health conditions, that also can be difficult to adhere to behavioural requirements that might be needed in those environments.

And so it can also lead to instability there as well which can result in people being forced out of those spaces. And then kind of back to square one except without the stability that they may have had at a previous camping site where maybe they had community members they could count on, as well as survival gear and equipment.

176. Q. Thank you. And you also mentioned the Region's Housing First approach. Could you elaborate on what you understand the Region's Housing First approach to be?

A. Housing First is an approach that was championed in a study from 2008 to 2013, called -- my French is really bad but Chez Nous or something like that. Anyways, Chez Soi/Home Now. But basically, it's the idea that people should not have housing

readiness requirements to be connected with permanent housing.

And so, the idea that in terms of homelessness, the best option is permanent housing with wrap-around support to help people stay in that housing and be successful in their housing tenancies.

In terms of my understanding of the Region's approach to Housing First, I know that they have something called the "PATHS" system which is a priority system for access to a permit housing options including supportive housing.

I also know -- and this is regional data that was presented at a co-creator's meeting last month that there are people who have been on the PATHS system for more than five years.

So being recognized as needing housing first and prioritized for housing, does not necessarily mean that people are connected with housing. And my understanding is that there are more people who are in need of housing first than there are actually housing first units available for those individuals which contributes to an ongoing problem where over the last four or five years the PATHS list has grown substantially.

And again, you have people experiencing

chronic homelessness, so have been homeless for more than six months who are recognized as needing that direct prioritization for housing through Housing First. And put on this list but not actually connected with housing.

And this is consistent with what we hear from people who are staying in encampments who say, you know, when we ask "are you on the social housing waitlist?" They say well I think I'm on the PATHS list but I have been on it for years and I haven't been able to access housing through it.

177. Q. All right, thank you. I don't think I have any further redirect questions but I am just going to give my colleagues a second to consult in case they have something else they wanted to ask. So just give me one second.

A. No problem.

MS. SCHIUTEMA: Okay, those are all of my questions, Dr. Pin, thank you very much for your time.

THE WITNESS: You're welcome.

MS. THAVARAJ: And we'll go off the record for a moment.

--- OFF THE RECORD

MS. THAVARAJ: So we can go back on the record, Barbara. Just to end, sorry, I mean.

MADAME REPORTER: We're back on.

MS. THAVARAJ: Okay, I have no questions arising from re-examination, thank you.

MS. SCHIUTEMA: Okay, thank you.

MS. THAVARAJ: Take care, everyone.

MS. SCHIUTEMA: Thank you, Ms. Thavaraj.

MS. THAVARAJ: Yeah, take care. Bye.

THE WITNESS: Thanks.

--- 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.

TAB 12

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 **Canon Maggie Helwig** on her affidavit dated July 2, 2025, taken via Zoom videoconference on consent of the parties on December 3, 2025.

APPEARANCES:

KARTIGA THAVARAJ, Ms. GRETA HOAKEN, Ms.	Counsel for the Applicant
ASHLEY SCHIUTEMA, Ms. JOANNA MULLEN, Ms.	Counsel for the Respondents
KAREN STEWARD, Ms.	Amicus Curiae

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DECEMBER 3, 2025

MAGGIE HELWIG, AFFIRMED

CROSS-EXAMINATION BY MS. HOAKEN:

1. Q. Good afternoon. My name is Greta; I'm here as counsel today for the Region of Waterloo. I'll be conducting the cross-examination. If you have any issues hearing or seeing me, just flag me down and let me know. So I have a few questions for you today on your affidavit which I think is dated July 2nd, 2025.

But before we get to that, I just have a couple of housekeeping matters. The first and most important is just how you would like me to address you. I am happy to call you Reverend Helwig, Maggie, whatever your preference is.

A. I have no preference. The formal -- the formal correct title for me is Canon Helwig. But ---

2. Q. Okay.

A. So I'm happy to be called Maggie. I don't really care.

3. Q. Okay, thank you very much. You're welcome to call me Greta if you need to refer to me by name. Do you have a copy, Canon Helwig, of your

affidavit in front of you?

A. I do.

4. Q. Okay. And there is no annotations or markings or notes on that, is that correct?

A. No, there are not.

5. Q. Okay. Sorry, I am just pausing to admit someone to the waiting room. Okay.

And there's no other notes that you have before you are there, Canon Helwig?

A. No.

6. Q. Okay. Thank you. And so we might be putting up some materials throughout your cross-examination. We'll be screensharing. And if there is any issues with your being able to see them, just please let us know.

So before we get into the questions themselves, just some basic ground rules for cross-examination. I believe you've been cross-examined before so please feel free to ask me to slow down, to clarify or repeat a question.

We should also avoid talking at the same time because we're taking a transcript and our wonderful court reporter, Barbara, has to write down what we're saying. So if you and I are speaking over one another, that makes that quite difficult.

And I know you've been nodding along which is absolutely fine because I haven't asked you a question but when I do ask you a question, please just make sure to say "yes" or "no" or provide your answers so that it is reflected on the transcript.

Does that all make sense?

A. Yes, I understand that, thank you.

7. Q. Okay, thank you very much. So I understand from your affidavit you're a priest at St. Stephen's in the Field, is that correct?

A. That is correct.

8. Q. Okay, and that's a church that's located in Kensington Market in Toronto, is that correct?

A. That is correct.

9. Q. Okay. And as a priest, your role would be to lead services, support your community, is that all correct?

A. Yes, to support the community is a broad term.

10. Q. Yes.

A. (Indiscernible). I ---

11. Q. (Indiscernible) thing. Please, yeah.

A. I am responsible for duties which range from Christian education to the conduct of funerals,

to pastoral counselling and to helping to coordinate our street outreach programming which includes serving about 500 meals a day, to homeless and insecure (indiscernible), coordinating our Friday night drop-in for homeless community members.

Providing moral, emotional, psychological support to pretty much anyone who comes through our doors which is a wide-range of people. I sit on several community boards. I have a wide-range of (Indiscernible).

12. Q. Understood and thank you for that clarification. And definitely supporting or working with community members definitely doesn't cover all of that important work.

I just want to understand, in addition to your work at St. Stephen's as a priest, my understanding is that you're also a writer and you're a community activist, is that correct?

A. I am a writer. I am not in any formal or professional sense a community activist. I do not hold a position which would be described as community activist.

13. Q. Understood. In your personal capacity, would you define yourself as an activist in your community?

A. No, I would say that I am a priest and I am carrying out my responsibility to my community as a priest.

14. Q. Understood. I'd like to take you briefly to your website which is at MaggieHelwig.com. Ms. Thavaraj is going to put that up for us in a moment. Can you see that, Canon Helwig?

A. More or less. I know what's on it if anything.

15. Q. Okay, understood. Do you recognize it?

A. Yes.

16. Q. Okay, I would like to mark that as Exhibit 1, please.

EXHIBIT NO. 1: Website at MaggieHelwig.com

17. Q. And I see that there is a bio under a picture of you and a list of your various publications. So do you see all of that?

A. I do, yes.

18. Q. Okay, thank you. So I see here under biographical notes it says:

"… Maggie Helwig has published six books of poetry, two books of essays, a collection of short stories and three

novels …"

And that lists them. And it says:

"… A human rights activist as well as writer …"

And it goes on to explain more about your background. Do you see that there?

A. I do.

19. Q. And did you write that bio?

A. My husband wrote that bio.

20. Q. Okay, and did you make the decision to post it or approve it before it was posted on your website?

A. I did approve it, yes.

21. Q. Okay, and do you think it's accurate?

A. I think it is, yes.

22. Q. Okay, thank you. So in your affidavit, Canon Helwig, you explain that there had been an encampment of people who were experiencing homelessness in the St. Stephen's Church yard. Is that correct?

A. Yes.

23. Q. And your affidavit explains that the City of Toronto cleared that encampment in late 2023, is that correct?

A. No, they cleared half of the encampment

in late 2023.

24. Q. Okay, thank you. And that was in relation to -- I know you mentioned that there was an injunction brought, that clearance occurred after that injunction was already passed, that's correct?

A. There was no injunction. We had applied for an injunction to protect the encampment while we undertook a potential Charter challenge. But we were denied the injunction.

25. Q. Understood and apologies.

A. As it says in my affidavit.

26. Q. Yes, and apologies, that was my not being clear. I suppose I meant when the motion for the injunction was argued as opposed to granted.

But part of the encampment as you say was indeed cleared in late 2023?

A. Yes.

27. Q. Okay, thank you. And your affidavit also explains that several people have since moved back to the site of the encampment post the 2023 clearance. Is that correct?

A. That was correct at the time that I wrote the affidavit.

28. Q. Okay, and it's no longer correct?

A. It is no longer correct. The City of

Toronto cleared the entire space on October 16th of this year.

29. Q. Okay. And that clearance in October, didn't that occur because the Toronto Fire Services deemed the encampment to be a fire risk? Is that correct?

A. I believe it was an order from the Office of the Ontario Fire Marshall; the Toronto Fire Services was also involved.

30. Q. Okay, thank you. And that was in recognition that the encampment posed a fire risk from the ---

A. It was ---

31. Q. --- (indiscernible) bodies.

A. It was their position that the encampment posed a fire risk.

32. Q. Okay, thank you. I wanted to spend a moment just talking about the practicalities of clearances in encampments. And so, you know, one of the things that comes up, you cite in your affidavit -- or you rather attach as Exhibit A, an article that you wrote about the first clearance in 2023.

Maybe we'll put that up on the screen. I'll give it a moment. That's the beauty of Zoom court versus being in person. It's much easier to just kind

of pass paper between us. Thank you for bearing with us.

So this, Canon Helwig, is your affidavit and this is Exhibit A. Do you recognize that; you can see that on the screen?

A. I am looking at it on my own computer screen where I have the affidavit.

33. Q. Excellent, thank you. And so within this article you talk about how people needed to "pack bags and leave instantly," I think is your wording. And you detail some of the difficulty of being asked to leave the encampment on short notice. Is that consistent with your recollection of this article?

A. It is.

34. Q. Okay. And would you say that when someone is asked to move along from an encampment without notice or with very short notice, that can be damaging because it's stressful or destabilizing?

A. Yes.

35. Q. Okay. And do you also agree that being asked to move along might be damaging or destabilizing because someone might not be able to take their belongings which, obviously, might be quite important to them?

A. Yes.

36. Q. Okay. So excepting for the purposes of my question -- and I understand that you might not in your own views, accept this, that someone has to leave an encampment, you'd say that in those circumstances having longer notice would be better than not having notice or short notice. Is that correct?

A. I think that the emotional damage would not be greatly -- greatly diminished by having longer notice.

37. Q. Okay, so ---

A. I think the emotional damage would be perhaps slightly minimalized -- minimized but not greatly minimized.

38. Q. Okay. And in terms of collecting one's belongings, if there was an offer to store belongings for someone who had been asked to leave, would that help minimize some of the damage?

A. No, no, there is always an offer to store belongings from the City of Toronto. People do not trust these offers and are generally unwilling to take these offers.

39. Q. Okay, well except -- if we accept the premise for the moment that someone is willing to take the offer, and it's genuine, would having your belongings stored be beneficial to someone who was

asked to move along from an encampment?

A. If the belongings were stored by a person or agency who had an established relationship of deep trust with the person being displaced, then that would be the case.

40. Q. Okay, thank you.

A. But only in that circumstance.

41. Q. Okay. Thank you, that's helpful. And if one has to move -- and again, excepting for the premise of the question that's occurring -- would working with a trusted caseworker who understands your history and can present you with different options, would that be preferable than being asked to move along from an encampment without having access to a caseworker?

A. (No response)

42. Q. I can repeat the question -- or, sorry.

A. I understand your question. I am at this point just going to reject the premise of your question and I don't wish to answer that question. Because I think that you are taking this in a direction which is based on underlying premises which I will not accept.

43. Q. Okay, and I understand that you won't accept the premise or that you disagree with the

premise. But I am entitled to ask you questions today.

A. You are entitled to ask the questions, yes.

44. Q. Okay. Well, I think we can just reflect that the witness didn't answer the question directly. And disagrees with the premise and we can move on from there.

Canon Helwig, do you understand that this case is about a bylaw that was passed by the Regional Municipality of Waterloo?

A. Yes.

45. Q. Okay, and have you reviewed that bylaw?

A. I have not reviewed it in detail.

46. Q. Okay, but you have reviewed it then?

A. I have glanced at it. I could not say that I am very familiar with the bylaw. It was not my understanding that I was being asked to testify about the bylaw so I did not review it.

47. Q. No, and that's fair. I won't be asking you about its details.

Would you agree with me, Canon Helwig, that municipal governments are one level of government in Canada?

A. Yes.

48. Q. Okay, and that, in your experiences working with people who are in receipt of social assistance, whether someone receives social assistance and then the amount that they receive might impact whether they continue to be homeless?

A. That would be one factor, yes.

49. Q. Okay. And is the availability of both inpatient and outpatient care, that's something that might also affect whether someone remains or becomes homeless?

A. To a much smaller degree. I don't consider that that would be a major factor in whether people remain or cease to be homeless.

50. Q. Okay.

MS. SCHIUTEMA: I just think that the scope of these last two questions are outside of her affidavit, Greta. I don't know if there is more questions along those lines. But just flagging that for you.

MS. HOAKEN: Yes, thanks, Ashely, I think we're close to wrapping up. The relevance of the question was just based on Canon Helwig's experiences working with people in encampments which she touches on within her affidavit. And also kind of the broader

context of what's at issue in the application. But I take your objection and we're close to the end anyhow.

I think I might be towards the end of my questions. Could we take a quick break so I can consult with Ms. Thavaraj and then we'll be back in maybe two minutes.

MS. SCHIUTEMA: Yes.

MS. HOAKEN: Okay, thanks.

--- OFF THE RECORD

MS. HOAKEN: All right, thank you very much. Barbara, should we go back on the record?

MADAM REPORTER: We're back on.

MS. HOAKEN: Thank you very much. All right, those are my questions for you today. Thank you very much, Canon Helwig, for your time today. I appreciate it.

THE WITNESS: All right, thank you.

MS. SCHIUTEMA: So I am just going to -- I know one redirect I want to ask for sure. So I am going to ask that now and then I might take a minute to gather my thoughts as well. Thanks.

RE-EXAMINATION BY MS. SCHIUTEMA:

51. Q. So Reverend Helwig -- sorry, Canon Helwig, you were asked a question about having trusted caseworkers. And you indicated that you rejected the premise. So I don't know if I have the exact question written down. But it was -- maybe Greta can help me.

But it was something along the lines of if someone has to move, accepting the premise that they do have to move, working with a trusted caseworker who understands and can present options, is that preferred rather than working without -- rather than having to move without access to a caseworker?

And you said you rejected the premises of the question. Could you explain why?

A. The question as presented suggests that if the harm of having to move is slightly diminished, the harm doesn't count anymore. It might be that having a trusted caseworker would slightly diminish a significant harm. That would not cause it to cease to be a significant harm. The diminishment of harm would be small and the harm would be great.

So to ask the question is if a minor diminishment of a major harm made much of a difference, makes it impossible for me to answer the question.

I think that having a trusted caseworker presenting you with options may make you feel slightly better in the moment. It makes very little difference to the fact that you are being displaced and taken away from your home.

Most people understand their options very clearly. They are very intelligent people. So having a caseworker explain their options to them is at best a small diminishment of a great harm.

52. Q. Thank you. And if you don't mind just giving me a second. I think I might want to ask you a couple more questions but I am just going to take a minute, if that's okay. Thanks.

A. Sure.

--- OFF THE RECORD

MS. SCHIUTEMA: All right, sorry about that. Thanks for the break. Are we good to go, Barbara?

MADAM REPORTER: I'm back on.

MS. SCHIUTEMA: Okay, thanks.

BY MS. SCHIUTEMA:

53. Q. Okay. Can you tell us about the most

recent eviction at the encampment outside of your church that you had mentioned happened in October?

MS. HOAKEN: Sorry, Ashley, I am going to object. I don't know that that's a proper re-exam question. It's not a clarification of what she mentioned.

MS. SCHIUTEMA: Okay, so I mean I'll just look and see what it was exactly that mentioned because she did raise it in her direct.

THE WITNESS: I raised it really to indicate that the affidavit was factually correct at the time that it was submitted but is no longer factually correct.

MS. SCHIUTEMA: I mean I think that in that context she should be able to elaborate on the factual difference. You asked her about it, Greta.

MS. HOAKEN: Yeah, I think it was the broad phrasing of the question so maybe just -- you're asking her to tell you about something in broad terms as opposed to making a specific clarification.

MS. SCHIUTEMA: Okay, so you -- I'm just trying to find out where -- exactly what it

was that you said in your notes.

BY MS. SCHIUTEMA:

54. Q. So you mentioned that in -- as of October 16th, the encampment was cleared. Can you tell us about that?

A. Late in the day on October 14th, an order from the Ontario Fire Marshall was taped to the door of the church giving us a less than 48-hour window, directed both to the diocese of Toronto and to the Department of Transportation which owns the majority of the yard.

And on October 16th, the encampment on both on church property and on city property was physically cleared and all the inhabitants were dispersed.

55. Q. And can you tell us the impact on the inhabitants that were dispersed?

A. I would say it has been very destabilizing for the mental health of most of the inhabitants. People, however, responded differently, the harm has been greater or less in different cases. But certainly, I can think of four or five specific residents who I have observed to have suffered significant deterioration in their mental health since the time that the encampment was cleared.

56. Q. And do you know if any of the residents in that case were presented with any like long-term or permanent housing solutions?

A. None were presented with long-term or permanent housing. All were offered shelters, shelter spaces or shelter hotel spaces. Approximately half accepted those spaces; not all of them are still in those spaces.

We had been working on housing plans with a number of inhabitants. And while those housing plans do still exist, in every case they have been materially disrupted by the clearing. Because it is harder to find people, it is harder to do the paperwork necessary to pursue a housing plan. And in some cases, because when people accepted shelter hotel rooms at some distance, they then had to change workers and files were lost, cases were forgotten about.

So there was -- although not the destruction of -- certainly the disruption of plans on which we were working towards permanent housing. None of the residents have permanent housing at this time. And as I say, more than half of them are at this time on the street.

57. Q. I thank you; those are all my redirect

questions.

MS. HOAKEN: There are no further questions from us. So I think that's the end unless Karen has other -- okay. I think we can go off the record then.

--- 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.

EXHIBIT “1”

Biographical notes

Maggie Helwig has published six books of poetry, two books of essays, a collection of short stories and three novels, *Where She Was Standing* (2001), *Between Mountains* (2004), and *Girls Fall Down* (2008). A human rights activist as well as a writer, she has worked for the East Timor Alert Network in Toronto, the Women in Black network, and War Resisters' International. She is also an Anglican priest, and has been at the Church of St Stephen-in-the-Fields in Kensington Market since 2013.

Link to full curriculum vitae

Books Published

- *Girls Fall Down*, Coach House Books, April 2008: novel
- *Between Mountains*, Knopf Canada (Canada), Chatto and Windus (UK), 2004: novel
- *One Building In the Earth: New and Selected Poems*, ECW Press, 2002: poetry
- *Real Bodies*, Oberon Press, 2002: essays
- *Where She Was Standing*, ECW Press, 2001: novel
- *Gravity Lets You Down*, Oberon Press, 1997: short fiction
- *The City on Wednesday*, Lowlife Publishing, 1996: poetry chapbook
- *Eating Glass*, Quarry Press, 1994: poetry
- *Apocalypse Jazz*, Oberon Press, 1993: essays
- *Graffiti for J.J. Harper*, Lowlife Publishing, 1992: poetry chapbook
- *Talking Prophet Blues*, Quarry Press, 1991: poetry
- *Because the Gunman*, Lowlife Publishing, 1990: poetry chapbook
- *Eden*, Oberon Press, 1989: poetry
- *Tongues of Men and Angels*, Oberon Press, 1987: poetry
- *Walking Through Fire*, Turnstone Press, 1983: poetry

TAB 13

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 **Lee Ann Hundt** on her affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on December 10, 2025.

APPEARANCES:

KARTIGA THAVARAJ, Ms. GRETA HOAKEN, Ms.	Counsel for the Applicant
ASHLEY SCHIUTEMA, Ms. CHARLOTTE CAHILL, Ms.	Counsel for the Respondents Student-at-Law
MERCEDES PEREZ, Ms.	Amicus Curiae

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DECEMBER 10, 2025

LEE ANN HUNDT, AFFIRMED

CROSS-EXAMINATION BY MS. THAVARAJ:

1. Q. Good morning, Ms. Hundt. My name is Kartiga Thavaraj. I am a lawyer for the Region, the Region of Waterloo, the applicant to this matter.

I assume I am pronouncing your name correctly but please let me know if that's not the case, okay?

You understand that this is a cross-examination on your affidavit sworn August 15th in this matter ---

A. Yes.

2. Q. --- of this year? Thank you. And just a few ground rules before we start just in case this is your first cross-examination. If there is anything that you don't understand or you can't hear me, sometimes that happens with Zoom, please feel free to ask me to repeat the question, okay?

A. Okay.

3. Q. And you have to answer "yes" or "no" to every question. I see you nodding which is acceptable as long as it's accompanied by a verbal answer. We need a verbal answer for the purposes of Barbara being

able to record it on the transcript.

A. All right.

4. Q. And sometimes it's hard, both for the witness and for the lawyer, but we should try to avoid speaking over each other; also for the purposes of the transcript.

A. All right.

5. Q. Do you have a copy of your affidavit in front of you today?

A. Yes.

6. Q. Okay. Is there anything else in front of you?

A. No.

7. Q. And I just want to let you know that if you take notes during the examination, I am entitled to see those notes, okay? So just letting you know sometimes witnesses prefer not to take notes as a result.

A. Okay.

8. Q. And is anyone in the room with you?

A. No.

9. Q. Okay. And when I speak about the "Region," will you understand it as the Region of Waterloo, the applicant in this matter?

A. Yes.

10. Q. And if I say, "WRCLS," I am speaking about council for the legal clinic?

A. Yes.

11. Q. There's lots of acronyms in this case. Ms. Hundt, do you know who Peter Sweeney is?

A. Yes.

12. Q. Okay, have you read any of Mr. Sweeney's affidavit in this matter?

A. I have reviewed it, yes.

13. Q. Okay. And have you particularly read his fourth affidavit?

A. What is the "fourth affidavit?"

14. Q. Fourth affidavit, I'm sorry, it's the one that contains information responding to the matters outlined in your affidavit.

A. Yes.

15. Q. Okay. So, good, you will already have had a chance to consider then some of the facts that I'll be putting to you.

So I wanted to start by asking about the KWNWP Project. Is there a pronunciation for that acronym that you use?

A. No.

16. Q. No, okay. So you speak about the Kitchener Waterloo Urban Native Wigwam Project, and

I'll refer to that as the KWNWP Project, or, sorry, organization, in your affidavit at Paragraph 16. Do you recall that?

A. Yes.

17. Q. Okay. But I'd like to just confirm your history with the organization. You were the executive director from 2023, at some point in 2023, to November 1st, 2024. Is that correct?

A. No.

18. Q. Were you the executive director for six years?

A. Yes.

19. Q. Okay. I just want to note then -- let me just make sure that if there is a correction that needs to be made here, you get a chance to make it.

You say at Paragraph 16 of your affidavit in or around 2023 you:

"… Joined the Board for KWNWP and eventually I stepped down from the Board to apply for the executive director position …" ---

A. That needs to be changed.

20. Q. --- "which I held for six years." Sorry, so what's the correct date then there?

A. I believe it's in number 6, is the

correct dates.

21. Q. You were executive director from 2019 to 2024?

A. Correct.

22. Q. And how long were you on the Board prior to 2019? Did you join the Board in 2019 and then shortly after apply to be executive director?

A. I was on the Board of Directors for several years; I am not exactly sure of the date on that, if I didn't post it. But it was about four years.

23. Q. Okay. So for about four years prior to 2019, you were on the Board of KWNWP. And then for six years, from 2019 to 2024 you were the executive director?

A. Correct.

24. Q. Okay. And did you have any other employment or involvement with KWNWP?

A. No.

25. Q. Okay. So that's about 10 years' experience with the organization. I think it's fair to say you know the organization pretty well, is that right?

A. Yes.

26. Q. Okay. And you know its structure well?

A. Yes.

27. Q. And its operations well?

A. Yes.

28. Q. And you know its organizational relationships with other institutions or organizations well?

A. Yes.

29. Q. Its relationship with funders?

A. Yes.

30. Q. Okay. And KWNWP is a not-for-profit organization?

A. Yes.

31. Q. The Region provides funding to KWNWP, correct?

A. Yes.

32. Q. Okay. And are you aware that -- appreciating this would have been partially during your tenure -- that for the 2024/2025 fiscal year, the Region provided a total of over $2.5 million in funding to KWNWP?

A. I would like to see the break-down of that but I know that they did fund considerable amounts of money, yes.

33. Q. Okay. Do you have any reason to dispute the Region's value of $2.5 million?

A. It's more about the break-down because they provided -- when they provide supports for transitional housing, as well as our core funding, as well as what they deemed to be the amounts allotted for the RGI coverage, doesn't necessarily mean dollars towards the agency. More of that those are dollars that are allocated to cover rent supplements that were not received by the agency but in -- in -- just as part of the rent supplements ---

34. Q. Okay.

A. --- number.

35. Q. I understand. So if asked you do you agree that the Region provided a total of $2.5 million in total to funding for KWNWP or its programs, would you agree?

A. Yes.

36. Q. Okay. And I think you've just explained that this was for use across various programs and projects operating by KWNWP?

A. Yes.

37. Q. And you are aware, therefore, that KWNWP is independent from the Region?

A. I -- that to me would be confusing as our reporting requirements based on whether we were continued funding was done with the Region. So I

would not say that that statement is completely true, because our funding relied on our reporting and meeting mandates and set by the Region.

So I would not totally agree with that statement.

38. Q. Okay. So that's the funding piece. And you're saying that receiving continued funding is based on meeting reporting mandates, correct?

A. Correct.

39. Q. Okay. But apart from the funding received, KWNWP operates independently from the Region?

A. We don't share a wait-list with them. However, they were involved with our Board of Directors, they were involved in various spots that would suggest that they were more involved than not involved.

40. Q. When you say, "involved with the Board of Directors," what do you mean?

A. I mean, if there was a worker that would attend our Board meetings.

41. Q. Okay. But it is the Board of Directors that oversees the organization, correct?

A. Yes.

42. Q. The Board of the -- I am going to call

it the "organization," KWNWP, manages the organization?

A. Yes.

43. Q. The Board approves the budgets for the organization?

A. The Board submits budgets that are approved by the Region.

44. Q. Okay. In terms of the funding that's provided by the Region?

A. Correct.

45. Q. Okay, but in terms of the operations of the organization, the Board oversees that?

A. Yes.

46. Q. Okay. The Board manages, once funds come in, how those funds are allocated and the financial performance of the organization?

A. The budget lines for what the organization used is approved by the Region. We submit what we are planning to spend, they approve, and those budgets are set for us. And the Board is responsible to make sure that those are spent in those areas.

47. Q. Okay, and so the Board is responsible for ensuring -- for at least disbursement of the funds once they come in?

A. Correct.

48. Q. Okay. The Board hires employees or staff for the organization?

A. Yes.

49. Q. And the Board establishes any bylaws or policies or procedures for the organization?

A. Yes.

50. Q. The Board makes decisions about programming or projects?

A. They have the final say on that, yes.

51. Q. Okay. And the organization has -- does the organization have staff responsible for day-to-day operations or is the Board responsible for day-to-day operations as well?

A. It's a policy-driven Board.

52. Q. Okay. And so the executive director and other staff would be responsible for day-to-day operations?

A. Correct.

53. Q. Okay, none of these are the responsibility of the Region?

A. Correct.

54. Q. Okay. Now KWNWP operates some housing projects and programs, correct?

A. Can you repeat that?

55. Q. Yes. KWNWP operates some housing projects and programs?

A. That's a very general statement. I would guess it would be yes.

56. Q. I am speaking about, for example, you speak at Paragraph 22 of your affidavit about an affordable housing complex that KWNWP owns and operates in Cambridge, Ontario, 27 Cambridge?

A. Yes.

57. Q. Okay, so that's an example of a housing project or program that KWNWP operates? Okay, correct?

A. Yes.

58. Q. Yes, thank you. I know it's tempting to nod heads on Zoom. I understand. Were you involved with the 27 Cambridge Project while you were executive director?

A. Yes, I was.

59. Q. Okay. And the Region has also provided financial support for 27 Cambridge, correct?

A. In the -- in the funding of the build of it, yes.

60. Q. Okay. But again, KWNWP is the operator of the programs?

A. Yes.

61. Q. And the owner of the project?
A. Yes.
62. Q. And another example of a housing program or project is another one that you have raised in your affidavit, the Urban Native Transitional Housing Program?
A. Yes.
63. Q. The UNTHP?
A. Yes.
64. Q. This is a transitional housing program in Waterloo?
A. Yes.
65. Q. Okay. Now you describe this program and its closure at Paragraph 20 to 27 of your affidavit. Based on the timeline, can I understand you weren't with KWNWP at the time of the events described in Paragraph 21 to 27 of your affidavit, is that correct?
A. Correct.
66. Q. Okay, and so this is based on the facts you've provided in your affidavit at these paragraphs. Are these based on your personal observations?
A. Yes.
67. Q. Are they based on what you've heard from speaking with other people and what they told

you?

A. Yes.

68. Q. Okay. At Paragraph 35, you say -- actually, let's look at this. And sorry, I am looking at two screens here. I've got my -- your affidavit up on my other screen so I apologize for always turning my head this way.

So let me ask this first. You said you are giving the evidence in your affidavit based on your conversations with other people, is that correct? I don't want to misstate what you've told me; I am just ensuring that I understood it.

A. I wouldn't say the whole affidavit like in that -- in that sense, right? In -- in relation to after I was no longer working at UNTH, I was hearing from staff and clients still around what was happening.

69. Q. Okay. You were hearing from staff and clients who are currently at UNTHP?

A. It no longer exists, so not current, no.

70. Q. Sorry, at that time. At the ---

A. (Indiscernible)

71. Q. In the events you're describing Paragraphs 20 to 27?

A. Correct.

72. Q. Okay. And at the time you weren't involved in your professional capacity I think at UNTHP. Were you involved in a personal capacity? Did you attend the site at all?

A. I did not attend the site. I just was informed of things that were going on.

73. Q. So when I asked earlier whether these were based on your personal observations, they're not based on your personal observations of you actually observing the site or people, it's based on what people have told you. Is that correct?

A. Not necessarily. So I was not on-site to see physically what was going on inside the building. But I did still meet with people and talk with people on a regular basis of -- I was approached a lot of the times about the things that were going on.

74. Q. Okay. Who did you meet with and talk to?

A. As in names?

75. Q. Yes.

A. Staff.

76. Q. Okay.

A. The clients that were living there.

77. Q. Now, which staff?
A. All of them.
78. Q. Any in particular?
A. No.
79. Q. Okay. You name -- you say all of them? Can you name one member of staff that you met with?
A. I don't understand why I would name someone.
80. Q. I am entitled to ask questions on this cross-examination. And you do have counsel present who will object but I think counsel is not objecting because counsel understands why I am asking these questions and that I am entitled to.
A. Yeah, I am not in trust of why I would name the staff that I was speaking with. Because I worry about repercussions for them now.
81. Q. Okay, I understand. I will explain why just ---
A. Okay.
82. Q. --- so you understand. As a lay witness you are required to give evidence based on your personal observations. So I think you would agree, you're not being tendered as an expert, evidence in this matter. That's right?
A. Is that a statement; I don't understand

-- I don't understand or not but ---

MS. SCHIUTEMA: Yeah, I am not sure if Lee Ann would know the answer to that.

MS. THAVARAJ: Yeah, would you like to confirm, Ashley?

MS. SCHIUTEMA: Yeah, Lee Ann, you've been tendered as a lay person to give the factual evidence and observations about what happened. So you're not an expert and perhaps maybe this is something that we could do an undertaking to get a list of names, Kartiga, if Lee Ann isn't able to provide them today. Or she's worried about repercussions, as she has indicated.

MS. THAVARAJ: Well ---

MS. SCHIUTEMA: It's a small community; it's an Indigenous community. There's a lot of sensitivities there.

MS. THAVARAJ: I understand. Let me -- let me explain why, Ashley, on the record, the reason for the questions. And maybe we can go from there. Is that okay?

MS. SCHIUTEMA: Yes.

BY MS. THAVARAJ:

83. Q. So, Lee Ann -- I'm sorry, Ms. Hundt, this is what I was about to explain is as you're not being tendered as an expert. I think your counsel has -- or counsel for WRCLS has confirmed that.

And so you are required to provide evidence that's based on your personal observations. And not information that is obtained from other people. There's a rule -- a legal rule called "hearsay," which basically means that if you provide information that was given to you by other people and try to tender it for the truth of its contents, that the court is -- or at least we are entitled -- the Region is entitled to object to that evidence.

And so I am trying to give you an opportunity to further explain the evidence that you've put in this affidavit.

Does that help clarify?

A. Not really, I mean I think that the observations that I have seen have been visual. I have been working in this community regardless of whether I was employed by KW Urban Native Wigwam Project or not.

I was still consulted when something was happening, people would call me; I would get messages.

Like, you know what I mean, people were still coming to me with -- with their concerns. Right after I left the organization, everyone else was given their notice to leave.

So they had months to still prepare for that, however, everyone was -- was all basically fired around the same time. And so the conversations within staff and the uncertainty of what was happening, was something that was discussed on a regular basis.

I was not ever physically back in the building but that's just a geographical space. I still saw the effects of what was happening. I still knew and was in community with those folks to see the effects, to be present to hear their stories, what was happening.

That wasn't something that I feel that I wasn't privy to know this community is the way it is. I mean, whether we're at socials and pow-wows and gatherings and stuff like that, I was still constantly connected to what was happening. And the lack of supports that were going on while the Board of Directors was doing in closing down a program that the Region had clearly seen as a need in community.

And so, where I come from is that if this was being closed down, why then did the Region not

step in when they clearly, through all of that money towards the organization to attend to these services that they deemed were eligible for this funding, then why didn't they step in? And I know that that's all coming down to this was a Board that they don't override.

However, they approved the budget, they approved the programming based on a proposal that was written. And when it was being ended, there was no supports for those folks and continues to be no support for those folks. And I know that because I still work with those folks.

84. Q. Okay. There's a lot to unpack there. I am going to start with what you said last which was:

"… while the Board was closing down the program that the region had clearly seen there was a need for in the community …"

Do you recall saying that?

A. Yeah.

85. Q. Okay, so you agree that the Board closed the UNTHP program?

A. Absolutely, yes.

86. Q. Not the Region?

A. Correct.

87. Q. Okay. And I think what you said, if I may paraphrase, at the end of your previous testimony is something to the effect of "Why didn't the Region stop this?" Is that correct, is that a fair characterization?

A. Yes.

88. Q. Okay. But you do agree that this wasn't a decision made by the Region?

A. No. I agree ---

89. Q. It's not ---

A. I agree that it wasn't done by the Region.

90. Q. Okay, and you'd agree it's not a decision the Region urged KWNWP to make?

A. No, definitely not.

91. Q. Okay. Or required them to make? The Region played no part in this decision?

A. No, but the effects of it afterwards I believe the Region should have stepped in.

92. Q. Okay. Do you understand that the decision to close the UNTHP by the Board was made for reasons unrelated to the Region?

A. Yes.

93. Q. Okay, you agree it's not because a lack of funding by the Region?

A. Correct. No, absolutely not, I know.

94. Q. And you agree that it's not because the Region indicated it would change its funding commitment in the future?

A. No. I don't. I agree that -- I agree that the Region was not a part of closing down the UNTH, that it was not funding related. I know that funding was set to continue on. I know the funding parameters. I know the longevity of what the commitment was from the Region because the need was there. They saw that.

My thing is about the fact that when it was closing down, that there was no interference. And it was, I believe, the Region should have stepped in. And I know that they're falling behind that this is the decision made by a Board. But the decision made by that Board of Directors was not in the best interests of the Region. And the Indigenous population in which they had already agreed there was a need for that funding.

95. Q. Okay. And you do agree that the Board made the decision separate from the Region, independent from the Region? I think you've agreed with that already?

A. Yes.

96. Q. And that the Board, at the end of the day, operates the organization?

A. Based on approved funding by the Region.

97. Q. Correct, which the Region had not said it would change or now or in the future, correct?

A. Yes, correct.

98. Q. Okay. So you agree this was a decision undertaken completely by the Board, for the Board's own reasons unrelated to the Region?

MS. SCHIUTEMA: I think she's already answered that, Kartiga.

BY MS. THAVARAJ:

99. Q. Ms. Hundt, do you agree?

A. This -- yeah, this isn't about it being shutdown, it was about the support centre not in place now that the Region should have picked up on, I believe.

100. Q. Okay. Ashley, we're almost at 10:30. Can I ask just for a five-minute break and then we may be able to wrap up fairly shortly?

MS. SCHIUTEMA: Sure. Yeah, that's great.

MS. THAVARAJ: Maybe we can come back at 10:35 just for ease?

MS. SCHIUTEMA: Sure. Thanks.
MS. THAVARAJ: Barbara, we can go off the record?
MADAM REPORTER: Sorry, uncooperative mouse. We're off.

--- OFF THE RECORD

MS. THAVARAJ: Thank you.
MS. SCHIUTEMA: And if I may have a moment, Kartiga. Just to correct something that I said before. When you were asking questions around who Ms. Hundt met with and talked to, we'll be taking that one under advisement.
MS. THAVARAJ: Okay. Perhaps I can ask this, Ashley, on that topic because we had -- we had moved on from there but I had intended to return to it. Recognizing the -- let me say this, it was not my intention to ask for names specifically but rather details of conversations, where they took place, any other facts underlying the facts in the affidavit.
So perhaps what I can ask for is an undertaking to provide those, even

recognizing the sensitivity of the names.

MS. SCHIUTEMA: So we'll also have to take that under advisement.

UNDER ADVISEMENT

MS. THAVARAJ: Okay. Thank you.

MS. SCHIUTEMA: Thanks.

CONTINUED CROSS-EXAMINATION BY MS. THAVARAJ:

101. Q. Ms. Hundt, I just have a few more questions for you. You're muted currently; you can take yourself -- there we go. Thank you.

Ms. Hundt, through your extensive involvement in the community, are you aware of other funding and efforts by the Region tailored specifically to Indigenous peoples in the housing system? Is that something you would be aware of?

A. I -- I -- I would think I would be aware of but I wasn't aware of anything else other than what we were doing.

102. Q. Okay. Are you aware that the Region -- are you aware of an organization called, "Crow Shield Lodge?"

A. Yes.

103. Q. And are you aware that the Region has provided funding to that organization?

A. For housing?

104. Q. For -- well, generally for their operations.

A. But not around housing.

105. Q. I mean, I -- would you be aware of the specifics with respect to housing through that organization?

A. I am very well aware of the organization and what it is they do.

106. Q. Okay. But just not aware of the direct funding or any direct funding that's provided to housing, let me put it that way? Or any (indiscernible).

A. Yeah. Yeah, as far as I am -- yeah.

107. Q. No, that's very fair. No problem. And at Paragraph 14 of your affidavit, you had said that the funding -- the Region, pardon me -- receives funding tailored specifically for Indigenous persons. And you say this is often determined by the stats they gather. Do you recall that? Let me just quote:

"… The Region receives funding dollars for the Indigenous people; they are often determined by the stats they

gather …"

A. So my understanding is that when we were being involved with the PiT counts and, in our reporting, in our HIFIS reporting, that it was very important that we were documenting the Indigenous population we were serving as this was dependent on the funding we would receive.

108. Q. Okay, so this is about the KWNWP's funding, not the Region's funding. Not the funding that the Region receives?

A. No, just about housing.

109. Q. And just about the funding that KWNWP receives for Indigenous?

A. Yes.

110. Q. Okay. Understood. And so you're aware -- or you're not trying to suggest -- I guess, let me just confirm in Paragraph 14 -- that the Region receives funding from another level of government that's tied to a number of Indigenous persons in the Region, let's say?

A. Correct.

111. Q. Okay. Thank you. And I just have a few more questions, Ms. Hundt. And similarly to my questions from before, these are just for the purposes of confirming some of the evidence that you've

provided that's just -- or at least given the fact that you're not being tendered as an expert witness. Okay?

A. Okay.

112. Q. So going to Paragraph 36 of your affidavit -- and if it helps you, we can put this on the screen, but I am just going to read from it. But please let us know if you'd like it on the screen.

A. That's fine.

113. Q. You said here:

"… Indigenous persons are often more vulnerable to eviction or displacement from encampments because they have a different connection to the land and the people around them …"

Do you recall saying that? Okay. Sorry, do you recall saying that, that is in your affidavit?

A. Yes.

114. Q. Okay. And is this your opinion?

A. Yes.

115. Q. Okay. And at Paragraph 37, you say:

"… Indigenous people often come from poor living conditions and so the way they live or how they see their

surroundings is different …"

Again, is this your opinion?

A. Based on my experience, yes.

116. Q. Okay. And is it based on your personal experience?

A. I think it's both.

117. Q. Both which, sorry?

A. In our work with clients and hearing their stories. As well as my own, yeah, personal experience with those things, for sure.

118. Q. Okay. And similarly at Paragraph 39, you say here:

"… When an Indigenous person is evicted or removed from where they live, there is a trauma response that they may not even know or understand …"

Again, we've established you're not an expert. You're not -- you're not a psychologist, for example? Is that correct?

A. Is that a question?

119. Q. It is a question, yes.

A. Yeah, I am not a psychologist, correct.

120. Q. And so this is your personal opinion?

A. This is my experience, yes.

121. Q. Okay, and your experience based on your

personal lived experience?

A. As well as my work for 20 years working with clients.

122. Q. Okay, and from those experiences alone, correct?

A. "Experiences alone," yeah, that -- I guess so.

123. Q. Okay, thank you. Thank you, Ms. Hundt. Subject to any questions arising out of any redirect, Ms. Schiutema may have, those are all my questions for you today. Thank you for your time.

A. Okay, thank you.

MS. SCHIUTEMA: I do have a brief redirect.

RE-EXAMINATION BY MS. SCHIUTEMA:

124. Q. And, Lee Ann, I am looking at Paragraph 20 of your affidavit. And so, in Paragraph 20 indicate that your employment with the KW Urban Native Wigwam Project ended on November 1st of 2024.

And then you've attached a news article dated January 17th of 2025 which is titled, "Waterloo Indigenous-led transitional housing program being put on pause."

So my question is in the period of time before your employment ended, were things happening,

were there any discussions at that time before your employment ended about closing the transitional housing program?

A. No.

125. Q. Okay. Thank you. I think that that's all that I have for redirect.

MS. THAVARAJ: Okay, thank you.

MS. SCHIUTEMA: Thanks.

MS. THAVARAJ: And, Barbara, I think then we're off the record.

MADAM REPORTER: We're off.

--- 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.

TAB 14

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. Sharon Koivu** on her affidavit dated September 11, 2025, taken via Zoom videoconference on consent of the parties on December 11, 2025.

APPEARANCES:

ANDREW LOKAN, Mr. GRETA HOAKEN, Ms.	Counsel for the Applicant
ASHLEY SCHIUTEMA, Ms. JOANNA MULLEN, Ms.	Counsel for the Respondents
CHARLOTTE CAHILL, Ms.	Student-at-Law
MERCEDES PEREZ, Ms.	Amicus Curiae

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DECEMBER 11, 2025

DR. SHARON KOIVU, AFFIRMED

CROSS-EXAMINATION BY MS. SCHUITEMA:

1. Q. So Dr. Koivu, my name is Ashley Schuitema, I am one of the lawyers that represents a number of residents that are living at an encampment in Kitchener, which is a subject of this litigation.

And I am going to be asking you some questions about an affidavit that you affirmed on September 11th, 2025. And I know that you've gone through this process before so you are aware. But your affidavit and a transcript that's created from this cross-examination is going to be put into evidence before the court.

And so it's really important that you tell the truth and I know that you've affirmed to do so. If you'd like me to repeat a question, you can just ask me to do that. And if you'd like a moment to collect your thoughts or think about an answer for a question, please take that time.

For the purposes of the transcript and to assist Barbara, it's best if try our best not to talk over one another, and if we do, we'll have to repeat what as said.

Can you confirm that you have only your affidavit and the exhibits in front of you today?

A. Yes, the only thing I have in front of me is my affidavit.

2. Q. Okay. And how would you like me to refer to you? Do you want me to call you Dr. Koivu?

A. That's fine.

3. Q. Okay, thanks. And you're welcome to call me Ashley.

A. Okay.

4. Q. Okay, so do you have any other notes in front of you today?

A. No, not right now.

5. Q. Okay, and if you take notes during this cross-examination, we are entitled to have those notes.

A. Yeah, I have paper in case I do but there is nothing on it right now and I am not likely to. But I did put some paper aside just in case I need to take notes.

6. Q. Sure. And can you confirm that you're alone?

A. Yes. I am -- I am at my house in an upstairs office. My husband is in the house downstairs but he is banished from coming upstairs.

7. Q. Okay.

A. And he is aware of that. There is no one else. I am miles from any other people that would be able to be involved.

8. Q. Okay, great. And prior to this examination did you review your affidavit?

A. Yes, I did.

9. Q. And to the best of your knowledge, is the information that's contained in it, still true and correct?

A. To the best of knowledge, yes.

10. Q. Okay. I'll just go off the record for one second.

--- OFF THE RECORD

MS. SCHIUTEMA: Thank you.

BY MS. SCHUITEMA:

11. Q. Dr. Koivu, you understand that today you've been tendered in this case for the purposes of being an expert?

A. Yes, I do.

12. Q. Okay. And you've provided an acknowledgment of an expert's duty where you agree to

provide objective evidence?

A. Absolutely.

13. Q. Okay. And your expertise has been particularly to opine on the health risks of encampments, is that correct?

A. That is correct.

14. Q. Okay. Can you tell us in preparing for today's examination what you did?

A. Like -- do you mean ---

15. Q. So I'd like to know is what you've reviewed?

A. Oh, what I reviewed? To do my affidavit, I was given affidavits 1 and 2 of Mr. Sweeney. I was also given an affidavit of Gupta, Droog and Allt. And that was to be able to do my affidavit itself. More recently, within the last 20, 48 hours, I was given significantly more information that I have quickly reviewed.

That included affidavits from other people. I don't know if I can list them off. Swan, Clint -- to be honest, I'd have to go back and look at them. Let me see who else was on it. And significantly more people that I was able to quickly look through their affidavits. And I am sorry; I actually don't know the names of all of the people that I looked at quickly.

16. Q. That's okay.
A. (Indiscernible)
17. Q. Would you say ---
A. (Indiscernible), there was -- I'm sorry.
18. Q. Go ahead.
A. There was the affidavits 3 and 4 of Mr. Sweeney as well were included in the information that I was given more recently.
19. Q. Okay, and have you reviewed some of the affidavits of the residents that live at the encampment?
MR. LOKAN: Ashley, I wonder if I can help with this. As counsel, we did not provide residents' affidavits to Dr. Koivu. And also in her first list I think she may have missed Dr. Wang (ph).
THE WITNESS: Oh, yes, you're right. I did miss Dr. Wang. I am sorry.
MS. SCHIUTEMA: Okay, so why were the residents' affidavits not provided?
MR. LOKAN: You're asking me?
MS. SCHIUTEMA: Sure. I mean, you -- she didn't have a chance to review them because you didn't provide them, so …

MR. LOKAN: There are a lot of them and they themselves are narrative accounts that didn't appear to relate directly to her medical expertise.

But if you want to put any compositions or facts or this is the evidence before the court type questions from those affidavits, we have no objection to that.

MS. SCHIUTEMA: Okay, thank you.

BY MS. SCHUITEMA:

20. Q. I am going to ask you some questions about your background now. So we're going to share our screen to take a look at your CV.

--- SCREENSHARE

MS. CAHILL: I am not seeing -- what are you able to see right now?

MS. SCHIUTEMA: So you've got Page 1 up.

BY MS. SCHIUTEMA:

21. Q. Can you see that, Dr. Koivu?

A. I can't see that; it's pretty small. Is it okay if I go to my own?

22. Q. Yes, of course. So you can -- if that's easier, you can look at your own copy.

MR. LOKAN: Ashley?

MS. SCHIUTEMA: Yes.

MR. LOKAN: We're seeing a list on the left-hand side that I am not sure if you wanted us to be able to see.

MS. SCHIUTEMA: Oh, thank you.

BY MS. SCHUITEMA:

23. Q. Okay, Dr. Koivu, can you confirm that this is your CV?

A. Yes.

24. Q. Okay. And you are a physician?

A. Yes, that is correct.

25. Q. Okay. And in September of 2025 when you swore your affidavit, at that time you were working as an addiction medicine consultant at the St. Thomas Elgin General Hospital?

A. Yeah.

26. Q. And are you still in that role?

A. Yes.

27. Q. And you've been in that role since 2021, is that correct?

A. Yes.

28. Q. Okay. Currently, and at the time when you swore your affidavit in September, you weren't working as an addiction medicine consultant anywhere else?

A. No.

29. Q. Okay. And you didn't have hospital privileges anywhere else?

A. No.

30. Q. Okay. So from 2012 -- I am looking at the clinical appointment section here.

A. Yes.

31. Q. So from 2012 to 2024, you worked as an addiction medicine consultant at the London Health Sciences Centre?

A. Yes.

32. Q. And when in 2024 did you stop doing that work?

A. Let's see. I believe it was June.

33. Q. Okay. And you also worked from 2021 to 2024 doing a similar role at the St. Joseph's Health Care in London?

A. Yeah.

34. Q. And did that include working at the St. Joseph's Hospital in London?

A. St. Joseph's Hospital is -- there isn't

-- that's not an entity anymore. It's -- St. Joseph's Health Care is an urgent care clinic. So St. Joseph's has several sites which includes an urgent care clinic which does have like a day hospital. And I worked there as well as Parkwood which is their chronic hospital, as well as they have a mental health facility. As well, I worked in all three of them which are all part of St. Joseph's Health Care System in London.

35. Q. Okay, and that would have been during that 2021 to 2024 ---

A. Yes.

36. Q. --- time period?

A. Yes, that's correct.

37. Q. Thanks. Can you describe the duties of an addiction medicine consultant?

A. The duties -- my duty is in essentially at all sites would be to see anyone that I have been consulted on. So I am strictly a consult service.

I -- or position, I work only on patients, or primarily on patients, who have been admitted to the hospital and are found to have a substance use disorder where substance use disorder may or may not be the cause or related to the admission. But it is something that is part of their story, part of their

-- what they have.

A lot of my duties is to ensure that they are stable, make sure that they are not in withdrawal, medically stable from an addiction perspective to be able to have whatever treatment is required to be involved with them from an addiction perspective in the hospital as well as to facilitate discharge to the community as they define it.

Whether that means addiction treatment, it could be opiate agonist therapy treatment, it could be more in the counselling services, helping to facilitate what they need as an individual into the community.

38. Q. Okay, and that perspective around discharge, you're not doing that actual work, you're just facilitating it?

A. I'm just facilitating it, yes.

39. Q. Okay.

A. And I don't know what you mean by I'm "not doing the actual work." I am often calling like -- so I don't do the discharge per se but if they are going to an opiate agonist therapy clinic, for example, often I would be involved in calling the clinic ---

40. Q. So what I meant is you're not like

facilitating -- you're not doing the work once they're discharged in terms of like ---

A. No, once they are out of hospital -- for the most part, once they're out of hospital, I don't follow them. There might be sometimes when a community physician will call me and we'll work together regarding whatever the care plan was. But I don't continue to see them medically outside of hospital.

41. Q. Okay. And so the work that you're doing is what's commonly referred to as "in-patient care?"

A. Yes, that is correct.

42. Q. Okay, and the work that you're describing once they're discharged, that's out-patient care?

A. Yeah.

43. Q. Okay, thanks. And the patients that you serve like in your current role at the St. Thomas Hospital, do they have to be homeless in order to access your services?

A. No, they don't.

44. Q. Okay. And what percentage of the patients that you support at the St. Thomas Hospital would you say are unhoused or experiencing

homelessness?

A. Unhoused, experiencing homelessness or vulnerably housed, would be the vast majority of the patients that I see.

45. Q. And what do you mean by "vulnerably housed?"

A. Vulnerably housed would -- could be couch-surfing, it could be having some time in a -- in a shelter but not in a stable environment. So if I include -- you know, include people who are -- don't have a specific shelter or are involved in being unhoused, I'd say that's probably 75 percent of the people that I see.

46. Q. And just to be clear, I'm not talking about your previous experience but I am talking ---

A. I'm talking about St. Thomas.

47. Q. --- about specifically St. Thomas. Okay, so ---

A. Yes, specifically St. Thomas.

48. Q. --- so 75 percent of the patients you see are either you said unhoused, experiencing homelessness or vulnerably housed?

A. Yeah.

49. Q. Okay. And how does that compare to when you were providing addiction medicine consultant

services in London?

A. The volume in London was significantly higher. And the population I saw was significantly more diverse. I'd say it was probably more like 50 percent in London where the numbers were substantially higher.

50. Q. Okay. Can I -- is it okay if I pause for a second. There's something that I want to look at. Can we go off the record just for a second while I can look something up? I am just going to take a minute, thank you.

--- OFF THE RECORD

MS. SCHIUTEMA: Thanks.

BY MS. SCHUITEMA:

51. Q. So, Dr. Koivu, you provided an affidavit in the *Heegsma* case, is that correct?

A. That is correct.

52. Q. Okay, and you were -- you underwent cross-examination in that case as well?

A. That is correct.

53. Q. Okay. And I have a copy of the transcript which we're going to show to you in a

minute. But I understand that this was completed in September of 2024. Does that sound correct to you?

A. Yes.

54. Q. Okay. So we -- sorry, we're trying to pull it up just so that you can see the transcript. But I'll just tell you that I am looking at Page 52 of that transcript. And you were asked some questions about the number of patients that you support in St. Thomas who you estimate are housed -- unhoused or homeless.

--- SCREENSHARE

A. I can't see that.

55. Q. That's very small. We can make it bigger once I just (indiscernible) Page 52. Yeah, if you can scroll -- so we need to look at most of that page.

Okay, so you were asked -- I am looking at Line 206. So, Andrew, can we mark this transcript as an exhibit?

MR. LOKAN: Perhaps ask the witness if she's seen it before.

THE WITNESS: Yeah.

BY MS. SCHUITEMA:

56. Q. Have you seen this transcript before? No. Okay, but you -- and you recall undergoing this cross-examination?

A. Yes.

57. Q. Okay. So the question you were asked was:

"… In your role as an in-patient addiction specialist, what percentage of your patients would you estimate are unhoused or homeless? …"

And your answer was:

"… That's increased over time. Initially, I'd say that the number was fairly small. I'd say that the number has risen to close to 40 percent …"

And then you said, "In London, before I left London." So then the next question just below Line 208 is, "It's in St. Thomas" -- sorry, your answer is:

"… In St. Thomas it would be a different number …"

And you were asked, "What would the number be?" And you said:

"… In St. Thomas, it's a smaller

number. I would say most of the patients I see in St. Thomas are housed …"

Do you see that answer there?

A. Yeah, yeah, I do.

58. Q. Okay. Okay, so I'd like to mark this as Exhibit A.

MR. LOKAN: Okay, "A" for identification.

MS. SCHIUTEMA: Sure.

EXHIBIT NO. A: *Heegsma* Transcript

BY MS. SCHUITEMA:

59. Q. And so, can you help us understand -- so in 2024, you testified that most of your patients were housed and now you're saying that 75 percent of your patients are unhoused. Can you help me understand ---

A. Okay.

60. Q. --- that difference?

A. Yes, I think that that is explained by several things. One, is that now my focus is in St. Thomas. So I am seeing probably a higher percentage of complicated patients in St. Thomas. I would say that the patients that I am called to see are now in

St. Thomas are more likely unhoused or vulnerably housed.

I am including living in a shelter in that which includes (indiscernible) and I'm working really closely with the community health center when patients come into hospital. I don't know if what that means is that I am getting less consults on other people and more on this. But definitely in the last year, I would say when I am looking at the population that I am seeing in St. Thomas, more of them are unhoused and vulnerably housed.

61. Q. So it's increased since you gave this testimony in 2024?

A. Yes, I can definitely say that.

62. Q. And just to be clear, these answers that you've provided in *Heegsma*, you were talking about St. Thomas at the time? Is that correct?

A. In that -- well, the first one is -- was London, but, yes, the second one is St. Thomas, yes.

63. Q. Okay.

A. And working in St. Thomas.

64. Q. Okay. So in your role, you wouldn't be -- and I am talking about your current role -- you wouldn't be attending encampments to provide any

direct care, would you?

A. No.

65. Q. Okay, and you wouldn't attend any emergency shelters to provide care there?

A. No.

66. Q. So I just want to be clear, in Waterloo Region we have an outreach primary care team. And so this is like a doctor, a nurse practitioner and social workers and other medical professionals who actually attend at encampments.

So you don't do any of that work in your addiction ---

A. No.

67. Q. --- consultant role? Okay. Can we go to looking at that other position. So go back to your CV for a second, please. This is on Page 3; I've just numbered your CV because it didn't have numbers. But this is Page 3 of your CV.

A. Thanks. What I am seeing is blank. Oh, there -- no, okay. Appointments.

68. Q. Yeah, I don't see it either.

MS. CAHILL: I'm sorry. I am not sure if it's just loading. Let me ---

BY MS. SCHUITEMA:

69. Q. Do you have your CV in front of you, Dr. Koivu?

A. Yes, I do.

70. Q. Okay, so I am looking at the part about your family practice. So it looks like you worked as a family physician for a number of years, is that correct?

A. That's correct.

71. Q. From 1985 to 2002?

A. And from 1985 to 2002, I had my own practice in family medicine.

72. Q. Okay, and where was that located?

A. In St. Thomas.

73. Q. Okay. And looking at sort of your other academic, or sorry, your other clinical appointments, so you did family medicine. Is it fair to say that aside from addiction medicine, which you've done more recently, your other focus has been on palliative care?

A. Yeah, that is correct.

74. Q. Okay. Have you ever worked as an emergency room physician?

A. Yes. When I first started in family medicine, we were a completely comprehensive practice.

We ran the emergency department. So we did all of the emergency work, I believe until 1992. We did all our obstetrics, we did all our assisting in the OR, taking care of our in-patients.

So if somebody actually showed up in the emergency department while I was at work, we were responsible for our own patients that showed up in the emergency department. Having -- but I've not worked as an only emerg doc, emerg physician, but prior to 1992, that wasn't a role in St. Thomas.

75. Q. Okay, have you completed any, like a fellowship or any sort of specialized program for emergency medicine?

A. No, I haven't.

76. Q. Okay. Between 2012 and 2021, you practiced as a palliative care physician consultant and an addiction medicine consultant at the -- overlapping roles, is that correct?

A. Yes, they overlapped.

77. Q. Okay. And could you tell us like what percentage you were doing in your practice was addiction medicine and what was palliative care?

A. That's a really hard question because there is so much overlap. And that's actually what got me involved in addiction in the first place, was

the overlap. Because many of the people that I was seeing that were dying or dying of complications, for example, related to an injection drug use and/or complications of alcohol use.

So there was a significant overlap between my palliative care world and my addiction world which is actually what made me recognize that there was a shortage of understanding of people suffering from substance use and increased my work. So it's one of those things where I became more involved in addiction that wasn't just end of life over time.

Until it became something that was my sole role that they -- the addiction role increased to the point where I then found it was too much work and stepped back from my palliative care role.

78. Q. Okay, thank you. And I think you say this in your affidavit but just to confirm, you don't have any practice experience in the Region of Waterloo?

A. No, I have not worked in Waterloo. I have given talks in Waterloo but I have not -- I have not practiced in Waterloo.

79. Q. Okay. I am just going to look -- focus your attention on the publications section of your CV. So this is Page 12. And I don't remember if I said

this but your CV is Exhibit A to your affidavit for the record. I can see that on my screen, can you see that, Dr. Koivu?

--- SCREENSHARE

A. Yeah, I can see it on your screen so I found it on my screen, too. Yes, I can see.

80. Q. Okay. And so I see that you have 11 publications listed here. Is it accurate to say that most of these are peer-reviewed research articles?

A. I think I would say most of them are peer-reviewed research articles. Although, for example, number 2 is more of a narrative than a research article per se.

81. Q. Okay. Yeah, 2 and 3, I think are ---

A. They appear as somehow the same. Sorry, but I hadn't noticed that until right now. Sorry about that.

82. Q. No problem.

A. But those aren't peer-reviewed, they would be a narrative of an experience of organizing smudging at the hospital. But most of the others are all peer-reviewed, I believe.

83. Q. Okay. And aside from two -- so we know 2 and 3 are the same thing. So aside from those which

are -- like seem to be about a different topic, could you say that that predominantly the focus of your publications has been on infectious disease and drug-related infections?

A. Yes.

84. Q. Okay.

A. Infectious complications of primarily and -- primarily infectious complications of injection drug use. Yeah.

85. Q. Okay. And you -- none of your publications are related -- or are research around homelessness?

A. No, I have not done research around homelessness or published around homelessness.

86. Q. Okay, and you haven't done any research on encampments?

A. No.

87. Q. Okay, and you haven't done any research on the shelter systems?

A. No.

88. Q. Okay, and none of your research is on health risks related to living in encampments?

A. No, not related to live -- well, not specifically. Although some of them overlap as far as relevance such as sharing of paraphernalia, that sort

of thing. But they were not specifically targeting people living in encampments.

89. Q. Thank you. I think, yeah, I'll come back and ask you some questions about the sharing of paraphernalia.

You -- like at the very beginning of your affidavit or your CV -- and I am sorry that I'm jumping all around -- you indicate -- and you've also indicated at Paragraph 5 of your affidavit that you are an assistant professor at Western University in the Department of Family Medicine?

A. Yeah.

90. Q. Okay, in your affidavit you're quoted as indicating that your courses include addiction medicine, palliative care, chronic pain management, medical ethics and Indigenous cultural safety. Is that correct?

A. Those are within the Department of Family Medicine. At Western, those are all topics that I had been involved in teaching. Yes. I ---

91. Q. Are you currently teaching?

A. I'm currently -- no, I am not. Not anything structured. There isn't -- but to be honest, those are all at request. So it's not like a medical school where you have a specific course. The ethics

was a specific course that I taught in medical school.

The others are at request and right now, in the last year or so, I have not given a lecture for the Department of Family Medicine. I am still part of the Department of Family Medicine and I am still an assistant professor.

92. Q. Okay. And in that role, have you taught any courses directly on homelessness?

A. No.

93. Q. And have you taught any courses on the health risks of encampments?

A. No.

94. Q. Okay. I am going to move away from your CV now. And I am going to ask you some questions that are specific to Waterloo Region.

Have you visited the encampment at 100 Victoria Street?

A. No, I have not.

95. Q. Okay. And have you visited any of the Region-funded emergency shelters in Waterloo Region?

A. No, I have not.

96. Q. Okay. I want to ask you some questions around the availability of shelter beds in our Region. And I am going to ask Charlotte to put up a CBC article about St. Thomas.

--- SCREENSHARE

So I know you're predominantly practicing in St. Thomas. So this news article is actually about St. Thomas. You're not quoted in it but I want to give you a minute to look at it and discuss it with you. Are you familiar with this news story?

A. No, I have not seen it.

97. Q. Okay.

A. And I can't see it right now ---

98. Q. Oh, okay.

A. --- either.

99. Q. I want to make sure you can see it. So it's titled:

"… This Ontario town is on a mission to end homelessness by 2027 and here's how they're going to do it …"

It's -- the author is Sheena Goodyear and it's dated November 5th, 2025. I am going to take you -- so you can take a few minutes to take a look at it if you want. But there's like a specific sentence at Page 3 that I want to ask you about.

A. Okay.

100. Q. I can't see anything at the moment,

Charlotte.

MR. LOKAN: So, Ashley, just as a caution, there's nothing so far to establish or prove any of the facts that are reported in this article. But if the question is simply to put a proposition to this witness for comment, for that limited purpose questions are fine.

But you may independently need to prove not only the authenticity of the article but also that what it says is actually true, if you're going to rely on that.

MS. SCHIUTEMA: Okay, well let me just take her to the sentence that I want to ask her about because it might be something that she is familiar with in her role already.

So, Charlotte, are you able to show us Page 3?

MS. CAHILL: One moment, please.

MS. SCHIUTEMA: If you just scroll down a little bit; I think it's at the bottom of where you're looking right now. Okay, thanks.

BY MS. SCHUITEMA:

101. Q. So, Dr. Koivu, I am just going to ask you about that very last line. And again, like this is just -- I think it's something that you would be aware of in your role but let me ask you about it. So it says:

"… The city says it will have enough shelter spaces this winter to accommodate the roughly 130 people who are living in the streets …"

And this is related to St. Thomas.

So are you aware that there are a hundred and -- like roughly 130 unsheltered people in St. Thomas?

A. I would not know the number but that seems consistent with my experience.

102. Q. Can we mark this exhibit for the purposes of identification?

MR. LOKAN: Yeah.

MS. SCHIUTEMA: Thank you.

EXHIBIT NO. B: CBC article, November 5, 2025

And are you familiar with the concept of like a "Point in Time" count?

A. Yes.

103. Q. Okay. And does this sentence about, you know, having enough shelter spaces to accommodate all those people, does that align with your understanding of shelter availability in St. Thomas?

A. I really can't say that I know for certain the shelter availability. I know that there is more shelter availability in St. Thomas for the amount of homeless compared to working in London. But I wouldn't know the numbers.

104. Q. Okay. Thanks. And I just -- I know this is where you're practicing exclusively so -- so by comparison, I am going to put the numbers in Waterloo Region to you. And so I am going to show you our -- the Waterloo Region, 2024 Point in Time count. And this might be more akin to what was happening in London.

And I mean, I can tell -- Charlotte, if you can put it up. I think it's easy to see. It's easier to see a visual.

MS. CAHILL: I am just trying to open them now in (indiscernible) so that there are hopefully aren't more of those issues where you can't see the screen. So it might take me a little bit longer. Sorry for that.

MS. SCHIUTEMA: It's okay.

BY MS. SCHUITEMA:

105. Q. Dr. Koivu, I'll just start telling you the numbers so it can start sinking into your brain. I don't know if you're a visual or if you're okay with me just verbally telling you these numbers. But we have a Point in Time count from Waterloo Region which is dated October of 2024.

And in that Point in Time count, the Region recorded 2,371 homeless individuals. And 1,009 of those folks are living rough; 446 are in emergency shelter. And 153 are in Region-funded motels.

So that's -- the main number that I am hoping that you can keep in your mind is 1,009. This is how many people are in our community are living rough. So this ---

MR. LOKAN: Sorry, Ashley, you keep saying "our." This is as of a Point in Time back in October. So it is recognized that numbers fluctuate.

MS. SCHIUTEMA: Sure, but this is the numbers that are on the record.

MR. LOKAN: As of October 2024?

MS. SCHIUTEMA: Right, but this is what's in

the record, the most recent numbers that are in the record. And there hasn't been an updated like fulsome Point in Time count survey done since then.

--- SCREENSHARE

BY MS. SCHUITEMA:

106. Q. Okay, do you see that, Dr. Koivu?

A. Yes, I do.

107. Q. Okay. And now the evidence that's on the record from the Region is that they have capacity for 377 people in emergency shelter. And they on the record have acknowledged that the number of homeless individuals vastly exceeds the housing supports that they can provide.

And you'd be aware of these after reading some of Peter Sweeney's affidavits. The Region has also acknowledged that the shelter system often operates at capacity.

So looking at these numbers, you would agree that the situation in Waterloo Region is vastly different than the situation in St. Thomas, is that correct?

A. Yes, it's definitely different than the

situation in St. Thomas.

108. Q. Okay, and you would agree that by looking at these numbers that in Waterloo Region there's simply not the shelter space, enough shelter space for everyone that's living rough in the community?

A. Based on the numbers provided in October of '24, there are not enough shelter spaces for the number of people who are unhoused.

109. Q. Okay. So at Paragraph 13 of your affidavit, you -- I am just going to turn to it. I don't know if you want to take a look at it as well. But this is -- as far as I can tell, this is the underlying factual foundation in your affidavit that you've been provided from the Region.

And it's that 100 Vic:

"… Unhoused residents of 100 Vic may be offered various forms of shelter including space at shelters, tiny homes, transitional housing, subsidized housing and motel rooms with supports …"

Do you agree that that's the factual basis for your opinion?

A. That is the -- yeah, my opinion is

certainly beyond just that paragraph. That is the information that was provided to me about -- about the situation in Waterloo Region.

110. Q. Okay.

A. Oh, wait, sorry. And it's not that I can see the paragraph. It's Paragraph 13, is that …?

111. Q. That's right.

A. Okay.

112. Q. And your opinion is largely comparing encampments and shelters, would you agree with that characterization?

A. That is correct.

113. Q. Okay. Would you agree that if shelter options don't actually exist that it's difficult to draw the comparisons that you're making?

A. No, that's -- if shelter options don't exist, that doesn't change the comparisons. That doesn't -- like a shelter is safer than living out of a shelter, unsheltered on the street. That doesn't change based on the number of shelter spaces available.

The availability to get safety might change. But the comparison between a shelter and being unsheltered doesn't change based on the number of shelter space. So, you know, the ability to access

something that is safer might change but whether it's safer or not, doesn't change.

114. Q. Okay. So but your -- you would agree that your affidavit is based on the assumption that there -- people have the ability to access something?

A. My affidavit is based on looking at an encampment -- unsheltered versus sheltered. And extrapolating from that, can be assumptions that can be made from that. But I wasn't basing that particularly on the assumption of sheltered versus unsheltered.

That is a whole different scenario. And whether people can access a shelter or not, doesn't change whether they're safer or not. Next steps can but I'm -- a lot of my work really is about looking at the risks of being unsheltered compared to the risks of being sheltered.

And my understanding from what was provided with me -- for me, is that people were going to largely be offered some form of shelter that were at the -- that are at 100 Vic. My work really is about what I've seen in people who are unsheltered and -- versus people who are sheltered.

So it -- the numbers of availability doesn't change with the risks. The urgency of having

shelters, the urgency of having things that are available for people who are unsheltered might be evident in my work. But I am not sure if I understand what you're saying that it's based on an assumption which is about ---

115. Q. So let me ask you a different question. I want to go back to some of the things you said as well. But is it accurate to say that your affidavit doesn't discuss at all or even consider what could happen if the shelter options don't exist?

A. I would say that what I am looking at is the difference in being sheltered and unsheltered. And the -- that is where my work is, the difference between being unsheltered and sheltered.

I did not look at specifically the number of beds available within any system within Waterloo or the number of shelters.

And so the amount of shelter space, my understanding is that the people in 100 Vic were going to be offered some form of shelter whether it's motel space, whether it's a shelter, you know, the various types of shelters that are outlined by Mr. Sweeney.

But I am really looking at the risks of being unsheltered because I think that the risks of being unsheltered need to be identified and

highlighted and not overlooked.

116. Q. Okay, and so you said that -- you just said, my understanding is that people at 100 Vic are going to be offered something. I'd suggest that the language in your affidavit is that they "may" be offered something.

Would you agree that there is a difference between those propositions?

A. I think you're right. There is a difference between the word "may" and "going to be." Yes, there is a difference between "may." And in my affidavit the word "may" is the word that is used.

117. Q. Okay. And you've talked a lot about the difference between "unsheltered" and "sheltered." Can you help us understand your definition of "unsheltered?"

A. Unsheltered, the definition I've used -- I've tried to use the same definitions that I found in most of the literature, would include what is often referred to as "living rough." So it includes people that are living outside of a stable structure that is considered permanent and safe.

So that could include people who are living -- live in a tent, people who are living outside of a structure outside of a tent, the tents could be in

encampments or not in encampments. They could be living in bus shelters or are staying in bus shelters; they could be using other forms of protection from the -- to live in.

But they are not specifically staying in what is considered a structure that is sheltered. So that includes -- essentially, all outdoors. So people who are living outdoors in various (indiscernible) is probably the best way of considering that. And that includes all forms of living outdoors.

118. Q. Okay, and in your expertise, you don't make any distinction between like living rough and living with a tent or some other sort of (indiscernible) ---

A. Living rough ---

119. Q. --- structure?

A. Living rough is a definition that does like -- living rough can include living in a tent if you look at some of the definitions.

So living rough, sort of is a colloquial term; it's not a medical term. And if I look at the literature, "living rough" is in some of things -- it will include living in a tent or living outside of the tent.

Most of the literature doesn't --

unfortunately, the literature doesn't -- does group those and groups -- people who are living outside including living in a tent, living not within an encampment. Those things are grouped which makes it very difficult to separate them.

So when I am talking about "unsheltered," it primarily is -- and it includes as is in the literature -- "unsheltered" includes people who are living outdoors which includes people living in a tent, does not exclude them from the literature that is provided around unsheltered. And in almost everything I saw.

Now some things don't define what unsheltered mean which makes it challenging. But most of them define it as outdoors and anything living outdoors. So I've used the same information in making my affidavit.

120. Q. Okay, and Ms. Perez is going to ask you some questions specifically to the literature. I want to ask you about -- I want to take you to Paragraph 68 of your affidavit. And you're talking about in this paragraph -- and let me know when you're there, Dr. Koivu. I think it might be easier if you just locate your own copy.

A. "… Additionally, even the most

vulnerable are provided with supportive housing and reference services. Outcomes are shown to be greatly improved …"? That ---

121. Q. That's the paragraph, right. And so in terms of wrap -- supportive housing with wrap-around services, are you aware that the Region's list for supportive housing has an average wait-time of 13.5 months in order to access supportive housing?

A. No.

122. Q. Okay. So if there was a 13.5-month waitlist to access your services, your addiction medicine services, would you say that that's a service that is available to patients in your community?

MR. LOKAN: I am going to object to that, Ashley, because you've not laid any foundation that accessing the services of Dr. Koivu is comparable to accessing supportive housing with wrap-around services.

MS. SCHIUTEMA: Okay, so let me ask it a different way then.

B

Y MS. SCHUITEMA:

123. Q. Dr. Koivu, would you agree that if there is a 13.5-month waitlist for a supportive housing unit, that it's not actually available for people at 100 Vic?

A. I -- if there is a 13.5-month waitlist, then that, per se, isn't available but I don't know how the options are as far as the individual personalized health -- housing arrangements are being discussed with the individual people and the individual support workers that are going into their -- outreach workers going into the community trying to have individual housing plans for each person.

And I am aware that sometimes individualized housing plans means that there can be changes or sometimes shuffling, sometimes people are earmarked as having a high priority. I can't know based on my information what is available specifically to the -- to any person within their individual health plan -- or housing plan.

124. Q. Okay. I am going to move on now and ask you some questions about health. And I'm going to ask you some questions about harm-reduction.

Would you agree with me that housing is a social determinant of health?

A. Yes.

125. Q. And would you agree that Ontario is in a housing crisis?

A. Yes.

126. Q. Okay. And in your practice as a result of this crisis, would you agree that sometimes hospital patients are discharged into homelessness?

A. Yes.

127. Q. And you consider yourself to be an advocate for harm-reduction, is that right?

MR. LOKAN: Can you -- what -- harm-reduction is a very broad term.

MS. SCHIUTEMA: Sure. So I am not -- I'm not -- this isn't like trying to trick Dr. Koivu. I think in the past, she's admitted that she's an advocate for harm-reduction. I am specifically thinking around her involvement in the *Black* case out of Alberta where there was questions around safe supply.

MR. LOKAN: So if you want to ask about safe-supply, perhaps you can give that context.

BY MS. SCHUITEMA:

128. Q. Okay, so have you in the past referred to yourself as an advocate for harm-reduction?

MR. LOKAN: In the context of safe supply? Is that your question?

MS. SCHIUTEMA: In the context of the *Black* case, specifically.

MR. LOKAN: Do you have a document to put to Dr. Koivu?

MS. SCHIUTEMA: I do.

MR. LOKAN: That would be fairer to ---

MS. SCHIUTEMA: Okay, sure. And sorry, I'm not -- this isn't meant to be a trick question. Charlotte, do you mind putting up the *Black* transcript? And we're at Page 80.

BY MS. SCHUITEMA:

129. Q. So, Dr. Koivu, you were involved in a case out of Alberta, *Alberta vs. Black*, is that correct?

A. That is correct.

130. Q. Okay, and you gave affidavit evidence in that case?

A. Yes.

131. Q. And you were cross-examined on your

affidavit evidence?

A. Yes.

132. Q. Okay, so have you seen this transcript of your cross-examination?

--- SCREENSHARE

A. No, I have not.

133. Q. Okay. For identification purposes, can we mark this as Exhibit C?

MR. LOKAN: Yes.

EXHIBIT NO. C: *Alberta vs. Black* transcript

BY MS. SCHUITEMA:

134. Q. Okay, so I am looking at Line 17. This is in the context of your answer. And you say -- I'll just read the full sentence:

> "… In addition, this neighbourhood was one of the neighbourhoods that was being considered for a supervised consumption site. I am a strong advocate for evidence-based harm-reduction. I wanted to be in the community when I went to numerous

meetings in the community to promote a supervised injection consumption site. And I think that being there was extremely valuable for people within the community to recognize that I was a member of the community …"

Do you recall like giving that answer?

A. Yes.

135. Q. Okay. So in the context of this case, is it true that you identified yourself as a strong advocate for evidence-based harm-reduction?

A. Yes.

136. Q. Okay, thank you. So I want to ask you some questions around -- so factually, what I want you to keep in mind is the idea of 1,009 unsheltered people in Waterloo Region versus 377 shelter beds.

And would you agree that when indoor shelter doesn't exist, being able to shelter oneself even in some sort of very basic way, is a form of harm-reduction?

A. Being able to shelter in some basic way can be a form of harm-reduction.

137. Q. Okay.

A. That's ---

138. Q. Okay, are you aware that the Region

through their funded partners for the past number of years have actually given out tents and tarps and sleeping bags as part of their winter warming strategy?

A. Yes, that was in one of the affidavits.

139. Q. Okay. And you would agree with the Region's approach to harm-reduction in that way?

MR. LOKAN: Sorry, that's -- that's two questions in one. Can you break it down? The first question, it would be "Do you agree with that initiative by the Region?" And the second, "Would you characterize that as being harm-reduction?"

MS. SCHIUTEMA: Thanks, you're doing my questions for me, Andrew.

MR. LOKAN: No, I'm not. I'm being alert to compound questions ---

MS. SCHIUTEMA: Sure.

MR. LOKAN: --- that assume something that has not yet been established.

MS. SCHIUTEMA: Okay.

BY MS. SCHUITEMA:

140. Q. So do you agree with the Region's approach to their winter-warming strategy?

A. Oh, winter-warming strategy I think needs to increase the amount of available warming spaces and indoor spaces. That being outdoors is a high risk and that the -- the amount of harm-reduction from providing tents in the winter and sleeping bags in the winter is insufficient, I feel, to be considered really a form of harm-reduction.

So if I am going to -- I think -- to answer, I think what your question is, is do I think that's a right strategy. I think that having availability indoors is truly harm-reduction. Having availability of tents and sleeping bags is extremely limited. It will protect from wind and it will protect from rain. But it is not an effective form of harm-reduction to protect from frost bite, hypothermia, that sort of thing.

So it also is in context, if we're talking about putting a whole bunch of them together, then you have an increased risk of communicable diseases, diseases that can be spread through feces, diseases that can be spread through rodents. So it really depends on the context of what that looks like.

So a group of tents has its own increased risk of having more communicable diseases, more infectious diseases. So that isn't harm-reduction,

that can actually increase the risk of people getting certain types of diseases. So ---

141. Q. So in a situation where there are not enough indoor spaces and tents are given out, would you agree that that is harm-reduction?

A. I think harm-reduction should decrease the risk of getting something and a tent doesn't -- it decreases your risk of getting wind and rain but it does not decrease your risk of getting frost bite and hypothermia. So it's a very different way of looking at harm-reduction than we do for something that -- for other forms of harm-reduction where we can really equate a decreased risk.

I think it would be -- if we're going to call that a form of harm-reduction, I think that it's a very ineffective form of harm-reduction. And it has to be taken in the context of when and where and what we're expecting them to be able to do.

142. Q. Okay, so giving out tents and winter-warming gear is part of the Region's winter-warming strategy. And it is a harm-reduction approach. So you disagree with the Region's approach?

A. I think it's -- it's an ineffective form of reducing the risk of hypothermia and frost bite. And from that perspective, I think it's

ineffective as reducing those -- those particular risks. And other strategies need to be available when the temperatures are cold enough that those are the risks.

I also think that it's important that they would be associated with, you know, teaching how to use things properly, teaching about -- you know, just giving someone something doesn't necessarily mean that they know how to use it properly. I don't know if that includes talking about condensation, about having to dry out of tents and sleeping bags and any context that goes along with them.

So just handing something out isn't necessarily an effective strategy.

143. Q. Okay. One of our clients -- and I guess you wouldn't have looked at her affidavit -- but she attested that prior to living at the encampment, she was sleeping on a sidewalk outside of a restaurant and someone urinated on her.

She also attested that while she was sleeping alone on the streets, she was assaulted and that that's never happened since living at the encampment.

You know, if your patient was telling you these things, you'd accept that for her sleeping at

the encampment is safer than sleeping on a sidewalk?

A. My experience with people who have talked to me about being in an encampment and my experience with encampments in the literature, is certainly that there are risks of being assaulted within an encampment.

144. Q. Sure, but sorry, but that's not my question. My question is I am telling you specifically about a woman that has been assaulted while sleeping alone on a sidewalk.

A. I would want to make sure that she understood the risks of an encampment as opposed to just saying that that is a place that she should go.

So an anecdote of an experience does not mean that living on the sidewalk versus living in an encampment over time increases or decreases your risk.

I think I'd want to make sure that she was extremely aware of risk that are seen within encampments and wouldn't just specifically be saying that an encampment is a safer place to be just because she has not yet experienced a harm being in an encampment.

145. Q. Okay, I am going to ask you some questions about communicable diseases. I'd like to take you to Paragraph 48 of your affidavit.

A. Yeah.

146. Q. So you raise concerns here and I'll read it, so the paragraph says:

"… Due to lack or inadequate sanitation, people in encampments are at risk of developing infections spread through feces. There are examples of Hepatitis A outbreaks in encampments. I am informed by council that the Region's evidence on this application is that human feces, urine and drug paraphernalia have all been found at the encampment at 100 Vic …"

So you're raising concerns here about infections that are spread through feces.

A. Yeah.

147. Q. And in particular, you mention Hepatitis A outbreaks?

A. Yes.

148. Q. Are you aware of any Hepatitis A outbreaks occurring at 100 Vic?

A. No.

149. Q. Okay.

A. I don't have information about 100 Vic as far as outbreaks are concerned.

150. Q. Okay. At Paragraph 55 of your affidavit, you say:

"… Porta Potties are now often installed to mitigate the risk of fecal contamination. If not kept clean, they can be a site of transmission of bacteria, viruses and parasites, including e-coli, Norovirus, salmonella and Hepatitis A …"

Are you aware that the Region -- so you told me you're not familiar with 100 Vic but I'll just ask. Are you aware that the Region has three portable toilets on-site at the encampment with built-in handwashing stations?

A. I have seen a picture on-line that shows that there are three Porta Potties. I was not able to see that there are three handwashing stations within them. But I did know that there were Porta Potties on-site.

151. Q. Okay. And are you aware that the Region's evidence is that those portable toilets are serviced daily?

A. What does "serviced" mean?

152. Q. My understanding is that they have a service provider that comes and cleans and restocks

daily. Were you aware of that?

A. No.

153. Q. Okay. Are you aware that across from 100 Vic there is a community service agency, directly across the street where encampment residents can access showers, washrooms and laundry facilities?

A. I was aware that there was a service agency across the street that provided some services that could be accessed by the residents. But I don't know the details about that.

154. Q. Okay. You would agree that having access to those services on-site that I mentioned, so Porta Potties with handwashing facilities that are serviced daily and the services that are provided across the street, would mitigate some of the concerns that you've highlighted around the spread of infectious diseases?

A. I can't. What I can say is that Porta Potties themselves do need to have regular maintenance. The handwashing facilities within a Porta Potty isn't necessarily -- I can't say that it's effective or how it's used. And there are certainly risks of Porta Potties being quite hot during the summer and have their other forms of risks with being in a Porta Potty in the summer.

If there are Porta Potties that are kept extremely clean which actually is a very high -- is a challenging thing to do, then in answer to your question, they could mitigate some of the risk of transfer of fecal material. I don't think it will eliminate it all because -- but they can mitigate some of the risks related to fecal material.

155. Q. Okay, I want to take you ---

A. There is an assumption to that that they are also used -- used correctly and exclusively. And that isn't consistent with the statement that feces has been -- so it's actually concerning. Because what I'm informed -- and you haven't -- and it seems to be there is a place for people to go, there are three Porta Potties that are available for the people in the encampments to use.

Yet, feces has been seen on-site at the encampment actually is concerning because that would be an indication that the Porta Potties are not used in the harm-reduction way that you're speaking of and intending to decrease the risk of -- on transmission of infectious diseases.

156. Q. So do you have details about when the feces on found on-site?

A. No. No, I do not.

157. Q. Okay, so there was a period of time where Porta Potties were not available on-site when the encampment was first formed in 2021. In 2022, the Region moved to put Porta Potties on-site and I know prior to that, there was feces found. But if you don't have those details then ---

A. I do not know that it hasn't been found since but I do not have details on that. Are there details saying that it has not been found since?

158. Q. I don't remember that specific piece of evidence. But I know that it was reported prior to the Porta Potties being installed.

I am going to ask you some questions about -- I want to take you to Paragraph 56. I am going to ask you some of the questions about the over-dose deaths.

So there are a number of reports of people dying. So you say:

"… There are a number of reports of people dying from over-dose deaths in Porta Potties …"

Do you have any information about the prevalence of drug use at 100 Vic?

A. I believe from affidavits that I've read that drug use is very prevalent at 100 Vic.

159. Q. But you don't have any direct knowledge?

A. I do not have direct knowledge of -- I -- I have knowledge of encampments that I have been involved with in London and the affidavit from Sean (ph) was -- said that in her experience, you can generalize that there are a lot of similarities among encampments. But I have not been to the encampment at Vic.

160. Q. And your experience with the encampment that you've been involved in in London, that's in your personal capacity as a neighbour?

A. That would be -- well, I was not there medically. I have been involved not necessarily just as a neighbour. There were encampments where I was living. I have been involved in walking to various encampments, speaking to people in the encampments. That was not in the capacity as a physician, that was in the capacity of someone living within the community.

161. Q. So as a community member?

A. Yes.

162. Q. Okay. Do you know the percentage of residents at 100 Vic that use substances?

A. No, I don't.

163. Q. Okay. Do you have any direct knowledge about any overdose deaths occurring in the portable toilets at 100 Vic?

A. No. Not specifically in the portable toilets.

164. Q. Okay.

A. (Indiscernible).

165. Q. That's not what I am asking about right now.

A. Right.

166. Q. Are you aware that the Region has hired security guards that are stationed at the encampment 24 hours a day, seven days a week?

A. Yes.

167. Q. Okay, and are you aware that the security guards conduct hourly checks on the portable toilets to mitigate the risks of overdosed deaths?

A. No, I did not know that.

168. Q. You'd agree that by the Region installing 24/7 security, conducting frequent checks on the toilets, that could mitigate some of the concerns you highlighted about the potential for overdosed deaths in those washrooms?

MR. LOKAN: Ashley, I am going to ask you that you provide the evidence reference for

the hourly checks to mitigate overdoses.

MS. SCHIUTEMA: Okay, I will -- I'd have to take it as -- I have to find it, Andrew. I don't have it in my notes.

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MR. LOKAN: Okay. Just because when you're putting evidence to the witness, I'm not suggesting that there would be any attempt to mislead but it's always safer to be able to quote from the evidence to make sure that it's an accurate reflection.

MS. SCHIUTEMA: Sure.

THE WITNESS: I think, yes, there can be some mitigation by that. And I think it's a sign that there's a good thing that there is security on-site.

I also am aware that people can know when a security check has occurred and might use in a Porta Potty afterwards and an hour can be a very long time, if we're talking about an overdose. So if somebody were to use and overdose, an hour can be a very long time. So I've certainly seen, even within the hospitals where people are checked

regularly, that they can still have an overdose within a period of time that seems fairly short.

Absolutely, I think that it is appropriate to have security guards on-site and if they're checking the washrooms regularly, that's good. It will -- I think that's also a sign that the security guards are trying to work in the best interest of the people involved.

But I can't say -- I mean, I don't know of anyone dying All I'm saying with this is that there is a risk of overdose within Porta Potties and those risks have been seen. And that there can be things done to try to mitigate those risks but those risks will still exist.

BY MS. SCHUITEMA:

169. Q. Do you know the rates of overdoses in shelters in Waterloo Region?

A. No, I don't.

170. Q. Okay. Would you agree that there is a risk of overdoses in shelters in the bathrooms there?

A. There is a risk of overdose in

shelters. When we look at overdose risks within shelters and unsheltered, there is an increased risk of death within unsheltered. But there certainly is risk of overdosed deaths even with -- there is risk of overdose and risk of overdosed death within shelters.

Some of those risks are mitigated by the fact that they have professional staff on hand that would be able to have appropriate first aid, appropriate Naloxone and be able to call 911.

So looking at any statistic I've seen that has compared sheltered and unsheltered would say that -- show that shelters -- while they can happen, absolutely can happen in a shelter -- that the risk of an overdose death is less when people are sheltered.

171. Q. Okay. I want to ask you -- so you've just flagged some, you know, first aid, Naloxone and those types of things. So I want to ask you some questions about what -- what's at 100 Vic.

But I am also conscious of the time. So we've been at it for almost an hour and a half. And Mercedes, I'm getting close to being done my questions but I wonder if you want me to keep going and finish or if it makes sense to take a break. And I don't know what you need, Dr. Koivu.

A. I'm fine to keep going right now. I

don't know how long that means but I can certainly keep going right now.

172. Q. Okay, so let me ask you some questions about the next -- my next group of questions.

Charlotte, can you scroll up to Paragraph 52, please? So here you write:

"… Sharing needles and paraphernalia increases the risk of spreading blood-borne infections, including HIV and Hepatitis C. Improperly discarded needles and contaminated products pose a risk to the people in the encampments including people living there, working, walking through or playing in the area. A needle stick injury can be very stressful and require bloodwork and possible treatment …"

So also -- so that's one part of it. Also at Paragraph 47, you mention children could be at risk if encampments are in parks or near playgrounds.

So I think you said that you've seen some pictures of 100 Vic. Are you familiar with the location of 100 Vic?

A. I am now.

173. Q. Okay. Have you looked at it on a map?

A. Yes.

174. Q. Okay, so you're aware that this is a vacant lot?

A. From what I can understand seeing it, it's a lot that's very close to railway track. One side it's right -- abutting a railway track and on two sides it abuts streets. So I think it abuts Weber Street and Victoria Street and it's not a playground, it's definitely not a playground. It doesn't look like a safe place for an encampment for other reasons but it's not a playground.

175. Q. Okay, and you'd agree with me that it's also not a park?

A. No, it's not a park.

176. Q. Okay. And would you agree that it's -- like I'll tell you that it's not anywhere near a school. Are you familiar with its -- what's in its surrounding vicinity?

A. What I know of it would -- would be limited to what I just said. I think there's some businesses across -- not from it but -- and it's their railway station. A bus -- a railway terminal, if I remember correctly.

177. Q. Okay, so if it's not -- if it's not near a school or a daycare and it's not a park or a

playground, would you agree that the risks associated with children playing there would be lessened?

A. The risks to children are lessened at that site. I would not be expecting that children would be at the site, and for any reason.

178. Q. Okay. I want to show you a screenshot from an organization, a local organization called "Sanguen Health," have you heard of them?

A. The name is familiar but I'm -- I certainly couldn't speak to knowing them. I think it's -- no. I have seen the name Sanguen associated with Waterloo.

179. Q. Dr. Chris Steingart is the leading physician there. I don't know if that makes a difference for you in terms of memory.

But so I'm -- I'd like you to take a look at this. This is a screenshot from their website about the services that they provide. They are a Ministry of Health-funded agency that specialize in Hepatitis C and ---

--- SCREENSHARE

MR. LOKAN: Can I ask, this is not already in the record, is it?

MS. SCHIUTEMA: There is a statement from Sanguen in the record but this screenshot is not in the record. No.

MR. LOKAN: Okay, so saying what you -- you can put a proposition from this but there's no basis yet either to identify the document or to verify the truth of anything said in that.

MS. SCHIUTEMA: Okay, so let me tell you what this says and then I'll ask you my questions.

So they provide -- this organization provides harm-reduction supplies to 100 Vic on a weekly basis. So, Charlotte, do you mind -- sorry, I don't remember where it is. Oh, yeah, so their van scheduled there, it indicates that on what -- they go to 100 Vic on Wednesdays.

And, I'm sorry, Charlotte, do you mind scrolling up a little bit, actually? Okay, can you stop for a sec. I am looking at the second paragraph. It says, "Our interdisciplinary" -- like midway through that paragraph:

"… Our interdisciplinary team staff the

van and connects community members with harm-reduction supplies such as new drug-gear, needle exchange, condoms, etcetera. Naloxone training and distribution, food, clothing, hygiene items, nursing, peer and social supports …"

BY MS. SCHUITEMA:

180. Q. So are you familiar with like -- and I guess, in your work, are you familiar with an agency that does this work, like elsewhere, similar ---

A. Yeah.

181. Q. --- type agencies?

A. Yeah.

182. Q. Okay.

A. Yes.

183. Q. Okay. And so, can we mark this as like for identification purposes, Andrew?

MR. LOKAN: Can mark it for identification purposes if you've got a question arising from this document. But there's no ---

MS. SCHIUTEMA: Sure.

MR. LOKAN: --- evidence you've yet pointed to that any of these statements are true.

MS. SCHIUTEMA: So I do think that there are references in the record to Sanguen. Like I know some of our client affidavits talk about supports that Sanguen provide on-site. But I don't have those references off the top of my head.

EXHIBIT NO. D: Sanguen Health website

BY MS. SCHUITEMA:

184. Q. So my question for you, Dr. Koivu, is if there is like a harm-reduction agency van program which is going to 100 Vic on a weekly basis, and they are doing a needle exchange program, they're doing sharps container pick-ups, etcetera, would you agree that that service is helpful to support the residents at the encampment that use drugs?

A. "Help" is a funny word. I mean, if people are having harm-reduction materials brought to them in a group setting, then they are quite likely to be using as a group.

And what we learned in London was that people were aware that you couldn't share needles but were not aware that you couldn't share paraphernalia. By that I mean the cookers and the -- the filters

themselves were where we were finding HIV was transmitted.

We also know this is a -- from other things that I've read that there are people that come and go. So a new person can come. So, for example, you might never see -- people can share needles and not get HIV as long as no one with HIV is present. But when someone comes and is present, then they are shared.

My experience in London also was that when paraphernalia was initially brought to people, there was no real instruction, there was sort of a belief that they knew how to use it, and they weren't necessarily provided information such as -- everyone knows not to share needles -- and we call it even needle exchange.

But understanding that you can't share cookers and filters, I can't say from -- from this that the implications of being in a group setting with paraphernalia to use for injection drug use when some of what I've heard is that using together is -- people are using together and that is, you know, as a community, I can't say that they wouldn't be at risk because of how they're using it.

If they are picking up and making sure all needles are not -- are discarded properly, there is

going to be some amount of improvement from discarded needles being a risk to others that might -- the security guards, for example, or others, the people that are cleaning the toilets, that sort of thing.

But I don't have anything from that to tell me what percentage of needles are recovered. And is it a hundred percent of needles are recovered, is it 50 percent of needles are recovered?

And so, is it a -- so there can still be significant risk even if there's less risk of, you know, having old equipment and sharing old equipment, there is still risks with having this type of equipment. And there is not enough information from this for me to know how much of that, as I say, is still their risk to other people.

It's a risk to people in the community that are on-site which you have told me there are people cleaning the toilets, there are people who, you know, the security guards on-site. I don't know what their risk is from this information.

185. Q. So if there was a -- if the evidence -- and I don't know if this is true in the record. But if the evidence was that Sanguen was providing an educational component to their harm-reduction van service, you'd agree that that is -- could lessen some

of the risks?

A. Depends on what their education includes. My -- my experience, unfortunately, with harm-reduction when I first got involved in it, it was that the focus on the needle as being -- and, you know, needle exchange, don't share needles.

And -- and when I left and when -- I still found that. So I do not know if there is -- what that would look like. So -- and what -- you know, and there are new people. How often are they doing this? You know the -- so, yes, is it important to be providing information? Absolutely, yes. Is it important to be providing the right information? Absolutely, yes. Is it important to make sure everyone has that information? Absolutely, yes.

Then will people always follow-up on that information? I don't know how that is observed. But -- but those are a lot of assumptions that, yes, there can be -- there is benefit but I can't say how much the risk is.

One of the things that could be found out is the -- as you say, there are sharps containers. Have they done a count of what percentage of needles they deliver are recovered? Because that is actually a measurable way of knowing how many needles are in the

community. This does not provide me with that information.

186. Q. Okay. When you say -- when you're talking about people using together, you said about "I've heard" about implications of using in group settings. What's the basis of that knowledge?

A. I believe that there was an affidavit that referenced using in a group. And I actually can't tell you for sure what that -- and I also read a CBC article that said that, too. So I can't -- I do not know for sure.

Having said that, my experience with encampments is that people tend to use and sometimes will be sharing equipment. Often then will go, you know, once they've used, go back into their tents. But there can be an amount of sharing of equipment within an encampment.

Some people ---

187. Q. So when you ---

A. --- will use alone.

188. Q. Sorry, and when you talk about your experience with encampments, are you talking about that personal experience in London?

A. I am talking about London but that would include both personal and patient. So both of

my -- not necessarily just as a community member but as information from -- from being in the hospital setting.

189. Q. But no direct -- direct knowledge of that?

A. I have not watched people sharing needles or sharing equipment within an encampment. I have not watched people sharing, you know, Fentanyl within an encampment, no. Not personally.

190. Q. Okay.

A. I have seen ---

191. Q. You'll ---

A. Oh, sorry. No.

192. Q. No, you go ahead.

A. No, I have seen people sharing Fentanyl within a park setting but not specifically within an encampment setting. So I have not been that close to know what that would look like in an encampment, sorry, from a personal experience.

193. Q. Are you aware that the safe-injection site in Kitchener closed in April of 2025?

A. I am aware of that.

194. Q. Okay. Now, I understand that you're saying that you don't know the exact numbers but broadly, would you agree that having a needle exchange

program can mitigate some of the risks that you've noted in your affidavit around injection drug use?

A. Yes.

195. Q. And you would agree that having sharps containers on-site that are frequently, like picked up in some sort of frequent way, could mitigate some of the risks of improperly discarded needles?

A. I think that would mitigate some risks.

196. Q. Okay. There's another news article that I'd like to show you. This is from the Record which is a local Kitchener-Waterloo publication. And I -- I'll give you -- you're not quoted in it so I imagine you're not familiar with it. But I'll give you an opportunity to take a look at it.

It's called "Harm-reduction tent set up at Victoria Street encampment in Kitchener." And it's dated July 4, 2025.

MR. LOKAN: And, Ashley, I'm going to put the same caution on here that I don't believe this is anywhere in the record. And it's all the more questionable to use this as a source of any information given that this, if I am remembering correctly, is a associated with the Fight Back group. And you do have some affidavits from two members

of the Fight Back group. So if I ---
MS. SCHIUTEMA: So I don't think this is actually associated with the Fight Back group, Andrew.
MR. LOKAN: Okay, it's a group of activists and camp residents then.
MS. SCHIUTEMA: Yeah, it says Alan -- Charlotte, do you mind scrolling down just a minute. It says -- sorry, the second site there, it says:

> "… Julien Ichmim, a member of the Alan Ryan People's Community Defense Brigade …"

MR. LOKAN: Okay. I think we may have asked and got a refusal or not yet an answer on the people associated with Fight Back. But in any event, there is -- there is evidence in the record, there's affidavit evidence talking about harm-reduction. And I am wondering why you are using this article rather than something from the record? If you're using this article, it can be the basis for a hypothetical. But really, that's as far as it goes.
MS. SCHIUTEMA: That's fine. That's fine.

BY MS. SCHUITEMA:

197. Q. So I guess my question is, were you aware that there was a mutual aid group that had set up a harm-reduction tent at 100 Vic?

A. No.

198. Q. Okay. There's parts in the article -- and as Andrew correctly points out, this is actually also in some of the affidavits about there being Naloxone and harm-reduction supplies being readily available on-site.

MR. LOKAN: Again, Ashely, if you're going to characterize the evidence, I would ask that you provide the actual evidence.

MS. SCHIUTEMA: Sure. I don't have the sources in front of me, Andrew. But I know that they -- I'll try to remember where they are. I know they're mentioned. And you said yourself that you know that they're in the record as well.

MR. LOKAN: So I am not trying to be obstructive. Put the hypothetical to the witness and if there's evidence in the record that proves the facts underlying the hypothetical, then you have that. But I am wondering what the use of the article is.

And perhaps just put the hypothetical.

BY MS. SCHUITEMA:

199. Q. So if there are volunteers at the encampment with Naloxone to provide to residents for overdoses, would you agree that that would mitigate some harms around overdoses?

A. Are they -- I think that (indiscernible) reversing an overdose, it is certainly possible that you could have reversals of an overdose if there are people at the site who are trained to use Naloxone, and people are not going back into their tents when they are using.

So there is a lot of assumptions in that type of a statement about the type of use. Also, are these people available 24 hours a day, seven days a week? And I think it's really important -- actually, you bring up a really important issue, Ashley, of the difference between reversing an overdose and actually decreasing the risks of overdose deaths over time. Because we know with Naloxone that we can reverse overdose but we're still seeing an increase in overdose deaths over time when Naloxone came out.

And in part that is, when we look at an encampment, we have to look at drug use within the

encampment. The more drugs are available and accessible and used -- and certainly, we also know that there can be sort of drug sub-culture that increases use. The more people use and the more often they use, the more likely they are to have an overdose that will lead to their death.

So there is a -- when you're in an encampment, and my experience with an encampment, within encampments, is that there is high drug use. That there is regularly accessible drug use and the drug use is very inexpensive which increases the amount that people use.

People who weren't necessarily using, are going to start using, they're going to start using more, they're going to be in an environment in which it's used very regularly, and used more. They are going to need to be -- have a higher incidence of overdose, overdose which needs to be reversed which increases the risks that they're going to have an overdosed death that will be missed or not reversed, or there won't be enough Naloxone to reverse.

The other thing that's really important about the environment. And I am concerned about -- about 100 Vic, is the importance of recognizing that Naloxone is just one factor in decreasing an overdose

death. That is also has to be associated with calling 911. And not being -- and not being sort of remiss about the next step of calling 911. So ---

200. Q. Okay, so you would agree that having security on-site can mitigate some of those risks that you just identified?

A. If security -- well, I don't believe that security is going to be watching people using. I think that that would probably not be happening. Security would therefore need to be informed that somebody has had an overdose and be -- when -- so if security is informed -- is security informed every time that Naloxone is used on the site?

That would be an easy thing to -- so if you're saying there are volunteers and that they are using Naloxone, is part of the volunteer protocol to inform security when they have used Naloxone. Because if it's not, then security doesn't know that an overdose has been reversed.

So if security is involved in the process and is informed when Naloxone is being used, then security on-site absolutely is beneficial. But how much security is involved in that, I wouldn't be able to say from what you're saying. And actually ---

201. Q. So do you have any direct knowledge on

the techniques that are used by substance users at 100 Vic?

A. The techniques? What you've said is that there -- is the needle -- the needles that are brought. So from that, that would indicate that there is an amount of injection drug use.

I cannot say that -- what percentages used by injection drug use. I can't say how much is smoked. We do know that the use of injection drugs has gone down and smoking Fentanyl, for example, has gone up.

I do not know the percentage at 100 Vic. And have not seen it in anything that has been provided to me.

202. Q. Okay, so you couldn't really comment on whether or not they're practicing using safe techniques?

A. I can say my experience within encampments is that there is not -- it's not a sterile environment. So there are risks because of not being in a sterile -- a clean, maybe "sterile" is not -- is an over-simplified word. But a clean environment and clean setting. But I cannot specifically say how drugs are being used at 100 Vic.

I can say that in encampments where there is

a lot of drug use -- well, where there -- in encampments we are -- encampments have been associated -- and I believe I've read that in the -- some of the information provided to me that there is a significant amount of drug use at 100 Vic. It would be uncommon for there not to be.

And the higher the amount of drug use, the people develop tolerance, the more people develop fear of withdrawal, the more people use and the more that they are at risk of having eventually an amount of toxicity that can be potentially fatal over time.

So we're also looking at risk over time. The longer somebody is in that type of environment, the higher the risk is that they will not get into recovery and not be able to switch to opiate agonist therapy. That they will be put -- be in a position of being at risk of having a drug-related toxicity or event.

203. Q. Okay. Just give me one second. At Paragraph 92, you are talking about patients that you have supported who reported an increase in drug use in encampments. You said they were also less likely to practice safe techniques when using paraphernalia or attend a supervised injection site.

You have not attached a study to this

paragraph, is that correct?

A. No, this is actually specifically about patients that have reported to me.

204. Q. Okay. And so you don't have any like direct knowledge about this?

A. This particular paragraph ---

205. Q. Mm-hmm.

A. --- was specifically discussing things that I've been told by patients who were in the encampments. This is -- this paragraph is very specific about things that I've been told.

206. Q. So it's not -- you're not within your direct knowledge?

A. No.

207. Q. Okay, and you have no study, like scientific study to support this proposition?

A. No. I think repeatedly there is information about drug use in encampments but there is no scientific study that I am aware of specifically.

208. Q. Okay. I want to ask you a few more questions. And I know I said that last time. So I'll just do one more check. I am taking too long. But let me see. Does anyone need a break?

MR. LOKAN: Perhaps check with the reporter.

MS. SCHIUTEMA: Yeah, Ms. Pollard, are you

ready for a break?

MADAM REPORTER: Actually, I am doing just fine. I don't want to hold anybody up. But I'm fine, thank you so much for asking.

MS. SCHIUTEMA: Okay, thanks. And Dr. Koivu, you are okay to keep going for a few more minutes?

THE WITNESS: Yeah, I am okay to keep on.

MS. SCHIUTEMA: Okay, thanks.

BY MS. SCHUITEMA:

209. Q. Okay, so I am going to take you to Paragraph 82 of your affidavit. And you're -- this is about sexual violence. So you say:

> "… While sexual violence can happen within a shelter, shelters generally are often age- and gender-specific and they have staff available to safeguard against such occurrences …"

So, I mean, I take it from that statement that you agree that sexual violence can occur in shelters?

A. Yeah, I do.

210. Q. Okay. And you would agree that for some women who are experiencing homelessness, staying

in a co-ed shelter may not be a safe option for them?

A. Definitely. I agree with that.

211. Q. Okay, and are you aware of the emergency -- what emergency shelters exist in the Region for women and gender-diverse people?

A. I believe the numbers are not adequate to support the number of women that are experiencing homelessness.

212. Q. Okay, do you know -- like are you aware of the rates of sexual violence in shelters in Waterloo Region?

A. No. And I do not know the rate of sexual violence in shelters and a comparison to the rate of sexual violence in encampments.

213. Q. Okay. So the statement you made about not having adequate numbers is correct. So I'll just tell you the numbers that are in the record. There's 47 beds in Kitchener for women and that's an overnight shelter. And then there's 20 beds in Cambridge for women which operates in a 24/7 capacity. So in total, there's 67 beds.

MR. LOKAN: Again, that -- please specify that that's as of a certain time because -- those numbers may have changed.

MS. SCHIUTEMA: So that -- I know that that

comes from Sara Escobar's affidavit which I believe was sworn in June or July of this year. So those are the most recent numbers that we have in the record that we're working with.

BY MS. SCHUITEMA:

214. Q. And so you'd agree that there may be women in Waterloo Region that can't access a bed in a women's-only shelter?

A. Yes, and I would also point out that 100 Vic is gender-diverse and not women-only. So -- and I am not -- you know, so that I do know about 100 Vic is that it's a gender-diverse encampment.

215. Q. Would you agree there's a difference between having a -- like your own private tent versus like having side-by-side beds in a co-ed emergency shelter?

A. From a perspective -- from a protection point of view, not necessarily. Actually, I was just working regarding a femicide in London where one of the people working at an agency in London pointed out that the zipper is not much protection from assault.

It can give you a feeling of safety but I would say that -- and I can understand it from an

anxiety perspective in feeling safe. But I would say that in a monitored environment in which there are staff that can come and facilitate an amount of safety -- and even people around that can facilitate safety -- that being in your own tent in an encampment, isn't necessarily a form of safety over being in an environment in which there are people who can respond to an assault if it were to take place.

216. Q. Okay. And what would you say to the security and the volunteers that are at the encampment in terms of providing that monitored environment?

A. I would hope that that would be something that the security -- I don't know what the volunteers are or what their role is and how long are they are there. Are they there 24 hours a day?

My experience with volunteers is that they are often there during daytime hours and not necessarily during nighttime hours. I would hope that people would have some amount of protection from security. But I also do know that if people have -- have taken medication that is sedating and are therefore not responding, that they are vulnerable.

And my understanding is that the security would be responding if they are called but wouldn't be responding -- aren't doing checks, tent checks to make

sure. You know, they're not walking around making sure everything is fine and no one is in anyone else's tent that shouldn't be.

I don't have that kind of information. If somebody is alert and awake and aware, they would be able to call for assistance. My experience is, is that the vulnerable people within an encampment, their vulnerability is particularly if they've taken sedating drugs and are not aware of an assault when it takes place.

So there is some -- definitely there's benefit to security being on-site but I do not think that they would be able to be in a position to protect people within their own tents, particularly if they've taken sedating medication. From the model that I am aware of, of the security that's there.

217. Q. Okay, so when you say, "my experience with vulnerable people" you're talking about your experience as a community member with encampments?

A. No, that's my experience as a physician. Although, there can be some overlap because I certainly went to encampments and talked to people. Most people want to know who I am so they're certainly overlap but I am actually really referencing patients that I've talked to that had experiences of

feeling sexually-exploited or having experienced gender-based violence within an encampment, from my role as a physician and having them speak to me about it at the hospital.

218. Q. Do you provide care to patients after they've experienced sexual assaults?

A. I do not now. That was one of my roles in St. Thomas previously. I am not involved in the sexual assault center in London.

219. Q. Okay. Are you familiar -- so you said you read Dr. Dr. Kaitlin Schwan's affidavit. Are you familiar with the project Willow Report which is based out of Waterloo Region?

A. I saw if for the first time when it was provided for me to -- yes, well I saw it yesterday. I did not have the opportunity to read it in detail.

220. Q. Okay. It is a Waterloo Region-based study about women and gender-diverse people using emergency shelter.

So I think -- and this is in the record. I don't know if we need to make it an exhibit. I think you've already -- you've already answered this around feeling safe. But would you agree that women staying in an encampment may be safer than staying in a shelter if there are sexual violence and rapes that

can occur in shelters?

A. I don't know of any time when I was -- I would say that shelters can have their limitations. And certainly if you've experienced a bad experience within a shelter, that that would make it difficult to go back to a shelter. But I might -- I believe that the risk of an assault is greater in an environment such as an encampment than it is within a shelter.

There's also one line in this that I thought was interesting of a woman saying that I don't tell other women. And I can't remember how it was worded but it was certainly -- they weren't necessarily helpful which I thought was really interesting and tragic. But there are risks in shelters and I don't want to downplay that there are risks that can happen in shelters.

But I think overall there are significant, better systems in place to support women in a shelter. I think there are risks in encampments. And those risks in a shelter are mitigated by staff, they're mitigated by hopefully having people in appropriate shelters based on gender. So there are ways to mitigate risks in a shelter.

In an encampment, is still an environment which you can be using, you can be using -- you can be

in your tent alone, you could have used a sedating medication during the day or night and be in your tent and being vulnerable.

The presence of some volunteers and some -- and security, I am glad of that, that will decrease some of the risks. But I cannot say that I have enough information to make a comparison of the risks of a sexual assault in a gender-diverse community in an encampment in which sedating drugs are likely to be used ---

221. Q. Okay.

A. --- and security is not on-site. So I can't make a comparison between whether ---

222. Q. Sure.

A. --- it's safer in a shelter versus an encampment. If anything, my experience would still say an encampment is less safe than a shelter.

223. Q. Okay, and so I guess my question wasn't about sedating drugs. But I want to put this hypothetical to you. And it's based on our own clients' experience. So there's a client named Josephina Dugas. She has attested that she was raped while living in a shelter. If you pair that with the context where we don't have enough beds in our community for women, like women-only, isn't it fair to

say that she may feel safer staying in an encampment than having to go to a co-ed shelter, if that space existed?

A. She may feel safer in an encampment but I want to point out that there's a significant difference between feeling safe and being safe. If she is then later sexually assaulted within the encampment, she will not feel safe there.

So her experience right now is driving her -- her decision-making. But that does not mean overall an encampment is a safer environment. So going from an environment that has risks to an environment that has more risks because you haven't had the negative outcome at that more risky environment, doesn't make it safer.

It doesn't mean that some people will choose things that are high risky. It can but again, I think it's really important to recognize the difference between "feeling safe" and "being safe."

224. Q. And are you aware of any sexual assaults taking place at 100 Vic?

A. I am not.

225. Q. Okay. In terms of motels, are you aware of concerns that people have around sexual coercion and exploitation at some of the local motels

in the Region?

A. As compared to being in an -- my experience with people being in a -- in an encampment, for example, is that some of the sexual exploitation has been around providing claims that they will be provided with safety, safety from others. And ---

226. Q. Okay, so ---

A. So, no, I am not aware of -- so no, I'm not aware. And cannot make -- I am not aware of sexual exploitation of people who have been sheltered in motels in Kitchener-Waterloo area as opposed to brought to a motel to be sexually exploited. So, no, I don't have that kind of information, no.

227. Q. Okay. So there is some evidence in the record, and Andrew, this is at Sara Escobar's affidavit, Paragraph 23. I believe it's her first affidavit, but I will confirm, where she talks about some of the owners and staff at some of the local motels in her experience that they are not safe for vulnerable individuals to be around.

And so, you know, given some of these concerns, would you agree that some women staying at the encampment may be safer than a motel where they could be exploited?

MR. LOKAN: Once again, with the Escobar

affidavit, I am not sure that we have anything connecting those motels to any current work that the Region is doing in terms of out-placement.

MS. SCHIUTEMA: Okay, so ---

MR. LOKAN: If you want to put it as a hypothetical, that's fine.

MS. SCHIUTEMA: Yeah. It is a hypothetical.

BY MS. SCHUITEMA:

228. Q. If there are risks of women being sexually exploited in a motel, wouldn't you agree that for some women, when they don't have access to shelter, where their options are going to be exploited in a motel by the workers there, are going -- and not accessing a co-ed shelter -- or sorry, a women's-only shelter -- wouldn't you agree that for some women staying at the encampment may be a safer alternative?

A. I am going to keep saying that being in an encampment is not safe. What you're asking me is going to the motel safe? And I think that if people are -- and absolutely, we are -- you know, there are cases where women have been taken to motels to be sexually exploited. And I can't speak for staff at a motel.

But what I can say is that I think that there's a lot of assumptions in what you're saying. And that most people who are working within a business, including a motel, you know, if sexual assaults are being identified at the motel, I hope that that has been taken to the police. I hope that those people are no longer working at the motel and -- in question -- and I hope that the workers involved in placing people who are vulnerable which could include going to motels, would be aware of this information. And that the motels that they would be working with, would not include hotels where this has occurred.

Is gender-based violence a problem in our society? Absolutely. I would absolutely say that gender-based violence is a problem in our society. But to be able to say that overall, motels as a business are a less safe environment for a woman than an encampment, I don't have any information to be able to say that.

And I have much more information to say an encampment is not a safe place. And that most businesses are not going to be -- the owners are not going to be exploiting people that are coming to the hotels. That's ---

229. Q. Okay, so that's your overall picture

but let's assume for this hypothetical that you -- that the person living at the encampment knows that there is exploitation taking place at this motel. Would you agree ---

A. I would hope -- I would hope that when she is working with a individual plan, housing plan, with her worker, that that would -- information would be made available to the worker. And that that motel would not be considered an option for that woman. So absolutely, if somebody has experienced that, that needs to be -- first of all, that needs to be reported.

And hopefully -- I understand the difficulty that that can be but I think it certainly needs to be reported at a high enough level that other women aren't put at risk. Because holding that information alone could be putting other women at risk.

But in this individual case dealing with an individual housing plan, then that motel and perhaps even motels themselves might not be the right option. And that needs to be worked with the support worker to have a better option for someone who has had that experience. That does not mean I'd want to keep them in an environment that I know is dangerous.

230. Q. Okay.

A. Especially when we're looking at winter, the risk of having, you know, a cold event. You know, the frost bite that I have seen leading to loss of limbs and like fingers, toes and legs are in people that stayed in an encampment.

And I have cases of people who were vulnerable but didn't understand the risks of staying in an encampment, certainly didn't understand the risks of frost bite. And believed that because they were being supported by professional workers that were coming and giving care, that encampments were safe.

And they lost -- had life -- you know, some of them it can be more serious and just life-altering suffering. But the people that I've seen that had, you know, severe repercussions from cold-related injuries, particularly frost bite leading to amputations, retrospectively would take the shelter.

And I think that just the comparison of one thing or another, being in a -- being in a warm environment has its own set of being safe that you will not get when it's minus 10 in a shelter. So it's -- it's -- it's -- hypothetical takes away context and it takes away nuances, and takes away the overall picture that, in general, being sheltered is safer physically than being unsheltered including in an

encampment.

231. Q. No matter what the context of that shelter is?

A. I do not know of anytime that there is -- that I can think of -- I am sure there is -- this is where being in a shelter is not safer from a physical perspective particularly regarding the elements which is what I was just talking about, than being outdoors including in an encampment.

232. Q. Even if you're at risk of sexual assault?

A. If you're at risk of sexual assault, that does not change your risk of getting frost bite. So the risks of being in an encampment are high, including the risk of exposure. Going to a motel that you are at risk of sexual assault is not what I'd be recommending, obviously.

That when people are having a care plan, that needs to be part of the individual housing plan and looking at what is an appropriate motel. What is appropriate as far as any individual person. What they need to do as far as, you know, locking doors or having someone that they can call right away, partnering up with people, what they can do to mitigate this, the environment, to make it safer

wherever they are, that would be something that would be something that should be worked with their individual housing plan.

But being in a shelter, the people that I saw that had the most horrific injuries from cold -- and one I can think of that a tent fire severely damaged her face. The option of being, retrospectively, they would have taken the motel if they had -- or gone to -- I've seen people that had options but did not understand the risks of being in a -- sorry, the risk of being in an encampment and the risks of being outdoors.

And would have taken a shelter recognizing there can be some hypothetical risks to that shelter compared to the actual risks of being outdoors. So for the people that I've seen that have lost a limb, if I ask them the same question, I don't think they would necessarily give me the answer that this person is giving you.

233. Q. Okay.

A. Because she hasn't experienced the loss of limbs yet. But absolutely, if there is a shelter -- if there is a place where people are exploiting women, that needs to be exposed and it needs to be off the table as far as some place that woman would be

sent. And that should be known by the outreach workers.

234. Q. Okay, those are all my questions. Thank you very much.

A. Thank you. Thank you for the opportunity to answer your questions.

235. Q. Okay, thank you. Barbara or Mercedes, I wouldn't mind a bio-break, I think.

THE WITNESS: I think a break would be great.

MS. SCHIUTEMA: Yeah.

MS. PEREZ: Yeah, I mean, it's 12:12, so maybe if we can just have a short conversation. I mean, I need to eat something, too. I can't -- I can't proceed without least like maybe half-hour break to eat something or a 20-minute break to eat something. And go through the questions because I notice that Ashley did ask some of my questions. But, Andrew, I am just mindful of your email from yesterday where we asked you what Dr. Koivu's availability is today and you said she can stay a little bit past 1:00 but not too much.

MR. LOKAN: Okay, so we're good until 2:00.

She would have difficulty beyond that. So I am perfectly happy with a short break. And I also would want to know what to tell Peter when he should be standing by for.

MS. PEREZ: Yeah, I think the issue is that I have at least a similar amount of questions as Ashley. Like I don't think I'm ---

MR. LOKAN: So ---

MS. PEREZ: --- going to be done in an hour. So if we only have until 2:00 p.m. ---

MR. LOKAN: --- 12:30 until 2:00 p.m. is an hour and a half.

MS. PEREZ: Yeah.

MR. LOKAN: Why don't we do that?

MS. PEREZ: Okay. Sorry, 12:30.

MS. SCHIUTEMA: Sure.

MS. PEREZ: Let's see where we get.

MR. LOKAN: We're not bringing Dr. Koivu back. You need to plan these things including between yourselves. You know, we might be able to stay until like 10 or a quarter past 2:00 but we're not bringing her back. Unless a court orders us to.

MS. PEREZ: Okay, well let's come back right

at 12:30 then.

MR. LOKAN: Sure.

--- LUNCHEON RECESS

MADAM REPORTER: I'm good to go. We're on the record.

MS. PEREZ: Thank you. Good afternoon, Dr. Koivu.

THE WITNESS: Good afternoon.

MS. PEREZ: I wasn't here at the beginning of this cross-examination for a very short period of time due to some technical difficulties with my computer. And I missed a question I think of you being asked the pronunciation of your name. Did I pronounce it correctly?

THE WITNESS: Yes, you did.

MS. PEREZ: Okay, well, thank you for your patience with this process. My name is Mercedes Perez. I am a lawyer and I've been appointed *amicus curae* in this proceeding which means that I've been appointed to assist the court with respect to the interests of people who reside at 100 Vic,

are unrepresented by a lawyer and may lack capacity to retain and instruct a lawyer. So that's my role.

CROSS-EXAMINATION BY MS. PEREZ:

236. Q. I do have some questions arising from your affidavit, the one that you've been discussing up until now.

You were asked earlier about the term "living rough" and you gave an answer describing your understanding of the definition of that term. For the purpose of my questions here today, when I use the term "living rough" in this cross-examination, I am referring to people who are living outside but not in an encampment and specifically not in a tent. Okay?

A. Okay.

237. Q. At Paragraph 18 of your affidavit, you cite a study that found that unsheltered people experiencing homelessness have a 2.7-fold increased risk of mortality compared to those who are sheltered. This is the study at paragraph -- or sorry, at Footnote 27 ---

A. Yeah.

238. Q. --- of your affidavit. It's the Roncarati study titled "Mortality Among Unsheltered

Homeless Adults in Boston."

A. Yeah. I am sorry, what paragraph of mine were you looking at; I missed what you said when I was scrolling.

239. Q. No, that's okay. I was referencing Paragraph 18 of your affidavit.

A. Of -- okay, yes.

240. Q. And we have the study here on the screen.

--- SCREENSHARE

A. Mm-hmm.

241. Q. So first, can you confirm that this is in fact the study that you've referenced at Footnote 27?

A. Yes.

242. Q. Okay, thank you. I'd like to mark this study as an exhibit to the cross-examination. I think we're at Exhibit E?

MR. LOKAN: It would be a numbered exhibit if it's identified.

MS. PEREZ: Okay, sorry. So we are at Exhibit 2?

MR. LOKAN: Yeah.

MS. PEREZ: I can't remember. I think it's No. 2.

EXHIBIT NO. 2: Roncarati study

--- SCREENSHARE

BY MS. PEREZ:

243. Q. Okay, so if we look at Page 2 of this study and I don't know if it -- can you see it well on your screen, Dr. Koivu, or is it a little small? Could we maybe enlarge it a bit for Dr. Koivu? Is that better?

A. Yes.

244. Q. Okay. And you'll notice with this study and the ones that I'll be referring to later, that I have tried to highlight the areas that I am going to be taking you to, just to make it a little easier for you to find things amongst all the text.

So if we look at Page 2 of this study under the section "Importance" ---

A. Yeah.

245. Q. --- it says that:

"… Little is known about the pattern of mortality among 'rough sleepers,' the

subgroup of unsheltered urban homeless people who avoid emergency shelters and primarily sleep outside …"

A. Yeah.

246. Q. And then if we look at Page 4 -- so if you go down to Page 4, there's a comment here:

"… A paucity of literature exists regarding the health status of unsheltered, urban homeless adults, also known as 'rough sleepers.' These elusive, yet highly visible unsheltered individuals eschew organized shelters and choose to sleep on park benches, in back alleyways, in doorways, under bridges, near train stations, and in abandoned cars …"

So this study, if I am understanding it correctly, it doesn't mention encampments or tents, it doesn't distinguish the study participants or the study people who are being observed ---

A. That's correct.

247. Q. --- (indiscernible) categories. You agree with that, right?

A. Yes, that is absolutely -- that people who are unsheltered it does not specifically identify

and people living in encampments, that is correct.

248. Q. And based on this definition here on Page 4, it appears that people sleeping in tents and in encampments may not even have been included.

A. I think though from the original -- going back to the definition that they had, it was sheltered or unsheltered. And my understanding was that unsheltered included people that were in tents.

You're right, in this particular line, the reference to tents is not there but they, I believe in another line, have referenced sheltered versus unsheltered. But there is no specific reference to people being in tents in this line. I would agree with that.

249. Q. Okay, but ---

A. There's limitations to this study.

250. Q. Right and I am going to ask you about those limitations but it's -- so you're saying there's a line in this ---

A. Go back ---

251. Q. --- (indiscernible) tent.

A. Go back to the first one you showed me again, if possible.

252. Q. Yeah, so that was on Page 2.

A. Yeah, I mean, it says, "To avoid and

primarily sleep outside." So with sleeping outside, I would include in "outside" people in tents. They have not identified that as a specific group but they haven't identified it as an exclusive group either.

So they've talked about sheltered and unsheltered and rough sleepers are people living outside. You're absolutely right that this is not -- there is very little information that would help know for sure the difference between different types of unsheltered. And my understanding from this article is that people in tents would be included in this.

But I wouldn't say that what you read later was exclusive but it certainly doesn't specifically include people living in tents.

253. Q. Okay. If we could just scroll down to Page 16. So this is the Limitations section of the article.

A. Yeah.

254. Q. And so if we look here at my highlighted sections:

"… Additional limitations included a lack of information about individual comorbidities …" ---

A. Yes.

255. Q. --- "… or the chronicity of being

homeless before or during the observation period; both could have contributed to a more nuanced understanding of mortality risk in this population …"

So does this mean that the authors could not take into consideration individual comorbidities or chronicity of being homeless before or during the observation period and therefore couldn't factor these issues into their analysis of the cause of mortalities"?

A. Absolutely, there are limitations to this study. I think what makes this study valuable is that both -- any American study has limitations, too. And I think that's really important. All American studies have limitations because there's certainly significant differences in the healthcare system and social system within both the American and Canadian.

But what made this one I think of some value is that everyone had access to the same types of services in both of the groups. But there are definitely limitations to this study. And you have highlighted some of the limitations and I agree that this study and essentially, most studies have limitations in really having the nuances of knowing

what's happening within the unsheltered community compared to the sheltered.

But in this one I looked at unsheltered people with the same access to the same services as sheltered people. They found that 2.7-fold increase in mortality of unsheltered compared to sheltered. But you absolutely bring up important limitations of this study and all studies as far as the nuances of who the unsheltered are, what that means.

And they didn't do an assessment before and after of either group and could some of those factors affect the outcome? Absolutely. I think what makes it important is that it's kind of consistent with other studies. But also that both groups had access to the same services which isn't always the same in every community but there are definitely limitations to this study.

256. Q. I was going to ask you about the fact that it's in Boston. You already touched upon some of the limitations with American studies related to access to healthcare, for example.

But if we look -- I didn't -- I neglected to highlight this. But if we just look at the next paragraph, it says, "Choosing Massachusetts" -- sorry, sorry, the third paragraph. So it's the last

paragraph on this page:

"… Generalizability to cities outside Boston could be affected by difference in access to homeless shelters, health insurance, and health care. Boston guarantees each homeless person access to emergency homeless shelters each night …"

So that -- setting aside the healthcare issue, the fact that at the time that this study was conducted, Boston guaranteed each homeless person access to emergency homeless shelters each night. That's an important limiting factor when trying to compare these results. For example, to the Region of Waterloo where we heard earlier that there is a big discrepancy between demand and supply.

A. I think it's tragic that in Boston they are able to do that and we aren't here. But, yes, you're absolutely correct that are definitely differences between the communities.

257. Q. Okay. And then also another characteristic of Boston's shelters mentioned here is the limitations. This is in the middle of the paragraph and I apologize that I forgot to highlight this:

"… Most of Boston's shelters have few limits on the length of stay and have little to no requirements regarding sobriety. These shelters accept individuals struggling with alcohol and other drugs, an important factor in minimizing the number of unsheltered individuals in Boston …"

So are you aware that in Ontario many shelters do place these kinds of restrictions, length of stay might be restricted, whether someone needs to comply with sobriety requirements might be restricted. Are you aware of that?

A. Yeah.

258. Q. Okay. So that would also be an important limitation as to what we can extrapolate from this study and try to apply it to the circumstances in the Region of Waterloo?

A. That is correct, there are limitations to this study.

259. Q. Okay. Thank you. And now turning to Paragraph 17 of your affidavit. Here, you've written:

"… Encampments pose extensive health and safety risks to the people living in the encampments as well as public

health and safety risks to the community …"

And you've cited a bunch of studies that are listed in your footnotes. The first is found at Footnote 6, so this is the Foster article about Hepatitis A virus outbreaks associated with drug use and homelessness.

A. Yeah.

260. Q. Okay, and so if we can just -- and again, if you could -- Charlotte, if you could make the printing, the font larger, that would be helpful.

A. Thank you.

--- SCREENSHARE

261. Q. Okay, so this is the study, this is in fact the study referenced at Footnote 6 of your affidavit?

A. Yes, I believe so, yes.

262. Q. Okay, so I'd -- thank you and so I'd like to mark this as an exhibit to the cross-examination. I believe it will be Exhibit No. 3.

MR. LOKAN: That's fine.

MS. PEREZ: Okay.

EXHIBIT NO. 3: Foster Study

BY MS. PEREZ:

263. Q. So if we look at just Page 1 -- sorry, just give me one second, I am going to pull it up on my screen. Okay, so if we look at just the very first highlighted section:

"… During 2017, CDC received 1,521 reports of acute hepatitis A virus infections from California, Kentucky, Michigan, and Utah. The majority of infections were among persons reporting injection or non-injection drug use or homelessness …"

So first of all, from my reading of the article, I didn't see that homelessness was defined as restricted to encampments or even involving encampments at all. Is that your understanding?

A. It was not specific to encampments, no.

264. Q. Okay. And the study also, from my reading of it and I'll ask you to confirm, it doesn't indicate what percentage of the 57 percent acquired acute Hepatitis A infection from being homeless as opposed to using drugs or both being homeless and using drugs. Like it doesn't ---

A. It does not ---

265. Q. --- segregate that data.

A. No, it does not segregate that data.

266. Q. Okay, and if we just scroll down a little bit on Page 1, there's a section titled, "Public Health Response." Do you see that?

A. Yes.

267. Q. And then I have a highlighted section where the authors reference:

"… In certain jurisdictions, investigation teams also visited homeless encampments to educate and vaccinate unsheltered homeless groups …"

So first of all the vaccination against Hepatitis A is considered, I guess, a robust public health response to transmission, correct?

A. Yes.

268. Q. Okay, and would you agree that if we're comparing homeless individuals living in encampments versus those living rough, as I defined that term earlier, it would be easier for public health teams to reach homeless individuals residing at the encampment because they know the location of the encampment? As opposed to running around trying to find people

sleeping under bridges and in bus shelters, etcetera?

A. The risk of the transmission of Hepatitis A is greater in a group. So the risks of getting Hepatitis A if you're isolated is significantly different from the risks of getting Hepatitis A or any of the other communicable diseases are really about the risks of being in a group.

So you're absolutely right that if you're in a specific area they can reach you but that is why they're reaching you is because being in that area puts you at risk of getting a transmissible communicable disease or a disease such as Hepatitis A.

So your risk is higher because you're in the encampment. And, yes, they are able to reach out and do more on harm-reduction with this sense of a vaccine in an encampment but they also need it there more. So it's -- it's both.

You need it because you're in a group and those sorts of things transmit in a group. But you are able to be found in a group.

269. Q. Okay, so what I understand from your answer is that the risk of transmission might be higher in an encampment but it's also the encampment itself is a form of harm-reduction because it makes it easier to find people and educate and vaccinate them?

A. No, I said giving everybody a vaccine is a form of -- sorry, I am very sorry if that's how it sounded. The vaccine is a form of harm-reduction. Your risk is increased because you're in the encampment and in that environment and then a -- reducing that risk is being able to give the vaccine.

But your risk itself increased because you're in the encampment. The encampment doesn't make it a form of harm-reduction. You've had the increased risk of getting the disease. But then they will bring the form of harm-reduction to you.

So I think it's a nuanced answer, I feel like it's a bit different angle than what you're saying. But the risk of getting the disease in the first place is higher because you're in the encampment. So the encampment itself as a form of harm-reduction increases your risk.

But by being there, they can bring you the form of harm-reduction which is the vaccine. So I'm feeling like we're looking at it a little bit differently. I don't think being at the encampment itself is harm-reduction because it increased your risk of getting the problem in the first place.

270. Q. But this study doesn't fully support your statement that the risk of acquiring Hepatitis A

is greater in an encampment because ---

A. The fact of acquiring any communicable disease is greater if you're in any type of group setting as opposed to spread in an individual. And so that to me is sort of a given about communicable diseases. They spread where people are close together.

And this -- but as you point out, when you're close together they can get the access to the vaccine. So but I would say definitely people being in a group are more at risk because they're in the group.

But this -- I have to go over the nuances of this article but I would agree with the limitations that you have outlined, that it doesn't differentiate between homeless and injection drug use as well as specifically highlighting why this group was at risk in the first place.

271. Q. In general, though, Hepatitis A outbreaks are actually quite rare in Canada. Do you agree?

A. Yes, I would agree.

272. Q. And the vast majority of those outbreaks are actually attributable either to elementary schools or contaminated foods that are sold

in grocery stores. Would you agree with that?

A. I don't have that data but I do know that there are very few that are associated -- that sounds consistent with my information but I could not say that that is completely accurate. But it is consistent with my experience and my understanding of Hepatitis A outbreaks in Canada.

273. Q. And do you have any knowledge of any Hep A outbreaks either at 100 Victoria Street in Kitchener?

A. No.

274. Q. Or any other encampment in Canada?

A. No.

275. Q. And Hepatitis A outbreaks have occurred within emergency shelters and drop-in centres, correct?

A. I believe that has been documented. Correct.

276. Q. Okay. Another one of the articles or studies that you cite at Paragraph 17 is found at Footnote 9. This is the Haber study called, "Transmission of Hepatitis C virus by needle stick injury in community settings." So if we could put that one up on -- thank you. And make it a little bit bigger.

--- SCREENSHARE

277. Q. Okay, so the first question, Dr. Koivu, is just can you confirm that what we put on the screen here is, in fact, the article?

A. Yes, it is.

278. Q. And so I'd like to have that marked as an exhibit to the cross-examination. This will be Exhibit No. 4.

EXHIBIT NO. 4: Haber study

279. Q. And so this -- just give me one second. I didn't highlight anything here and if you need some time to review it. I know you have a lot of studies footnoted in your affidavit, so if you'd like some time to review it, please just let me know.

My understanding is that this study focuses on just two case studies, correct?

A. Yeah. I believe so.

280. Q. Okay. Relating to what's referred to as "needlestick injury." The first ---

A. Yeah.

281. Q. --- is a -- the first case study which was described starting at Page 1 is a case study of a

young man working in a caravan park sustaining a needlestick injury to his right index finger while manually emptying rubbish bins.

And the second case study which is described at Page 2 relates to a 64-year-old woman who stepped on a used syringe in (indiscernible) needle while walking through a public carpark in an inner-city neighbourhood with a high prevalence of injection drug use.

A. Yeah, that is correct.

282. Q. Okay, so I mean, generally we can't -- in terms of methodology, and in terms of trying to extrapolate from case studies -- I mean, it's hard to generalize from case studies, would you agree?

A. Case studies, they are not -- yes, case studies are not high-level evidence. But they do highlight that when people step on a needle, there is steps they have to take that can make it very stressful for them.

And those are examples that, you're right, case studies and surveys, you know, individual surveys and case studies are not high-level evidence but this is sort of examples of people's experience. And this is not specific to encampments either.

This is just stepping on or acquiring --

well, in one case stepping, in the other case collecting garbage of what people have to go through when they have a needlestick injury.

283. Q. Right, so let's -- these two case studies illustrate that Hepatitis C can be transmitted by a needlestick injury.

A. Yes.

284. Q. But you would agree with the comment at -- if we could just go to Page 3 of the article and then just looking at the second column, the first full paragraph, it says:

"… Needlestick injuries from discarded injecting equipment in public places are considered to pose a very low risk …"

A. That is correct. But what they -- as far as risk of transmission, they do pose low risk of transmission, not no risk of transmission. But they also pose a significant amount of stress and requirement on the person who has had the needlestick injury to seek medical attention and to be tested.

The probability of getting Hepatitis C or HIV from a needlestick injury in the community is actually fairly low but not zero. But the stress someone has to go through when they've had a

needlestick injury is very real.

285. Q. All right. And are you aware of any Hepatitis C transmission at the encampment at 100 Victoria Street?

A. No, I am not. I am not aware of medical issues involving people at Victoria Street at all. So I have no access to personal or medical information about people who are at Victoria, 100 Victoria, or people who have worked there. I have no access to their personal/private information.

286. Q. Right and I understood that from some of the answers you gave earlier that probably no one at 100 Victoria Street has been your patient.

A. Not that I know of, yeah.

287. Q. Yeah. But I'm just asking that question in case you've heard something through other means. But it sounds like you haven't with respect to this specific question.

A. No.

288. Q. Another article that's cited at Paragraph 17 of your affidavit is the one at Footnote 18, this is the Liu article which is titled, "Communicable disease among people experiencing homelessness in California."

So we pulled that up on the screen. Maybe

if you could just -- is that a good size for you, like is it ---

--- SCREENSHARE

A. I see that, yeah.

289. Q. --- (indiscernible).

A. And I can confirm that is the article.

290. Q. Okay, thank you. So I'd like to have that marked as Exhibit No. 5 ---

MR. LOKAN: Sure.

MS. PEREZ: --- to this cross-examination. Thank you.

EXHIBIT NO. 5: Liu study

BY MS. PEREZ:

291. Q. So if we just look -- if you just scroll a little bit down on Page 1. Again, I've highlighted some text here. The study right off the bat identified that the definition of a person experiencing homelessness differs by government agency in the U.S. and it cites two different definitions.

One from the U.S. Department of Health and Human Services which defines a homeless individual as

one who lacks housing which includes an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations. And an individual who is a resident in transitional housing.

And then a different -- a somewhat different definition from the U.S. Department of Housing and Urban Development which expands the definition to include people living in unstable housing arrangements such as motels, personal vehicles and tents.

So this -- so the conclusion -- and then I'll ask you about some of them that are drawn in this paper -- are not -- pertain not just specifically to homeless individuals living in tents in an encampment, correct?

A. Correct.

292. Q. So we can't -- okay, sorry, I'll start my question again. So it looks at the incidents of communicable diseases among the entire homeless population and doesn't draw any specific conclusions related to people living at encampments, correct?

A. That is correct.

293. Q. Okay, look at the bottom of Page 2 of this study. So this is under the title in the first column that I've highlighted where it says,

"Homelessness and communicable disease risk." It says, PEH, which I understand to be the acronym for "persons experiencing homelessness":

> "… Living in crowded conditions such as shelters have greater exposure to pathogens, which increases the risk of tuberculosis and diarrheal illnesses …" Do you agree with that comment?

A. Yes. Any crowded condition such as a shelter or an encampment would increase the risk of pathogens.

294. Q. Okay, but in here they're just referencing shelters, they haven't referenced encampments.

A. They said, "crowded living conditions" and then they said, "such as," so, yes, they said crowded living conditions such as. But they have not identified specifically encampments. They have identified specifically shelters.

295. Q. Okay. And then if we go to Page 7 -- sorry, just let me -- give me one second. There was a comment in -- on Page 7 in the second paragraph that:

> "… Exposures in congregate living situations such as homeless shelters may increase the risk of TB exposure

among persons experiencing homelessness …"

You would agree with that statement, correct?

A. I would agree with that statement and point out why Canada is significantly different from the States as far as response which is in another -- I talk about TB specifically. The coroner's case that was involved in the case in Toronto and how shelters specifically, absolutely had an -- you know, TB exposure in a shelter was an issue and how following the coroner's case, we've been able to recognize the issue and put processes in place within a shelter to help decrease the risk of transmission of TB as well as respond to it if it does happen.

But so, yes, being in a congregate area gives you an increased risk. We've been able to identify that within Canada and have specifically addressed TB as something that we've been able to reduce within shelters. And have really good success as far as treatment within shelters. That, to my knowledge, is not available within other areas of congregate living such as encampments.

296. Q. I'll ask you about that TB study in -- or the TB example that you gave -- given another

paragraph later on. But just sticking with this article, on Page 8, there's -- at the top of the page, it says:

> "… Limited evidence suggests that housing will be beneficial for other groups as well. Among chronically ill homeless adults, permanent supportive housing was associated with decreased mortality. Permanent supportive housing programs provide a suite of healthcare and social services to help individuals stay healthy and housed …"
>
> Do you agree with that?

A. Yes. The goal should be housing.

297. Q. And then on Page 8 there are some limiting factors that are identified. One of them which is down at the bottom of the first column on Page 8, it says:

> "… Disease incidence among persons experiencing homelessness may be overestimated due to undercounting of the true population of the people who are homeless …"
>
> So (indiscernible) agree that that is a limiting factor not just in this study but can be

generally when trying to make conclusions about these rates or incidences of communicable disease transmission?

A. Yes, there can be limitations in study methodology being able to track people who are homeless.

298. Q. Okay. And are you aware of anyone having acquired syphilis at an encampment?

A. Not specifically syphilis. I am aware of sexual transmitted disease transmission within an encampment but not syphilis specifically, no.

299. Q. Okay, and what about -- is there a Canadian study that looks at a similar issue as what is being looked at in this American study? Do we have Canadian data?

A. The -- the data from the study -- there's two studies that I've mentioned that are Canadian. One is "Homelessness and Vulnerably Housed" study which looked at Toronto, Ottawa and Vancouver, I believe. And the other one is a study out of -- that's Nikoo which I think is my ---

300. Q. Oh, that's the Vancouver study.

A. Yeah. Which -- Vancouver, yeah. That study are both Canadian studies that look specifically at Canada.

301. Q. I'll be asking you about one or both of those later. So just returning to Paragraph 17 of your affidavit, you also cited footnote -- a study which is found at Footnote 19 of your affidavit. This is the Moore study, Canadian Pediatric Society, "Needlestick injuries in the community."

So if we could just pull that up on the screen and, Dr. Koivu, if you could just confirm that this is the study or ---

A. Yes.

302. Q. --- paper, position statement, I guess I should call it.

A. Yeah.

303. Q. That's at Footnote number 19?

A. Yes.

--- SCREENSHARE

304. Q. I'd like to have this marked as an exhibit to the cross-examination. I think it's Exhibit No. 6.

MR. LOKAN: That's fine. I don't know about the number but marking it is fine.

MS. PEREZ: Okay. Yeah, I am losing track. Anyway, it's an exhibit to the cross-

examination. We can figure out the numbers later.

EXHIBIT NO. 6: Moore, position statement

BY MS. PEREZ:

305. Q. Okay, so this is a position statement as opposed to a research study, correct?

A. Yes, that's correct.

306. Q. But you would agree with the comment on Page 1 that I have highlighted, the first one, that the risk of infection from needlestick injury is extremely low, you agreed to that previously.

A. Yes, I did. I agree with that.

307. Q. And then you would also agree -- well, tell me if you'd also agree with the other statement I have highlighted here:

"… To date there have been very few case reports of HBV, HCV transmission and none of HIV transmission following needlestick injuries or needles discarded in the community …"

A. Yes, I believe that to be still correct.

308. Q. And I believe that you said earlier

that HIV transmission -- well, let's just look at Page 5 of this position statement from the Canadian Pediatric Society. It says on Page 5, right there:

"… It is extremely unlikely that HIV infection would occur following an injury from a needle discarded in a public place …"

Do you agree with that?

A. It's very unlikely.

309. Q. Okay. And ---

A. But again as we talked about with the last case involving needlestick injuries, it's the stress of what people have to go through regardless of whether they have HIV, they have to go be seen medically, they have to get tested, they have the anxiety associated with it. The risk isn't zero, it's unlikely.

But the process regardless of whether it's likely for, no. I also would say having seen the site, the probability of a child walking through that specific site at 100 Vic, is extremely low. So, yes, that -- that is very unlikely.

But if anyone has a needlestick injury that is at 100 Vic, workers there, people collecting the garbage, people who are cleaning the toilets or

security, they would have to go through the process of determining whether they have an infection which is -- there can be, in my experience for people who have had that, it's very stressful. Had that experience of having a needlestick injury, it's very stressful.

And I think that's why these are still important even though the risks of transmission is low, the need for follow-up and the stress associated with it is quite real.

310. Q. Finally, going back to Paragraph 17 of your affidavit, you've referenced one more document at Footnote 35. This is the National Health Care for the Homeless Council, a document from December 2022. It's called an "Issue Brief: Impact of Encampment Sweeps on People Experiencing Homelessness."

So first of all, can you just confirm that this is the document that is listed at your Footnote 35?

A. Yes.

311. Q. Thanks. And I'll have some specific -- and, sorry, I'd like to mark this as an exhibit to the cross-examination.

MR. LOKAN: That's fine.

--- SCREENSHARE

EXHIBIT NO. 7: Issue Brief, Dec. 2022

BY MS. PEREZ:

312. Q. And just generally, I reviewed this Issue Brief and it appears that it focuses on the impact of encampment sweeps on people experiencing homelessness, not on the health and safety risks posed by encampments?

A. If you look at the first sentence of Paragraph 2, you've highlighted not the first sentence.

313. Q. Yeah.

A. This is really is about encampment sweeps but even in an article that's talking about encampment sweeps, it specifically says:

"… Encampments are unsafe, violent, and unhealthy places, and public health officials are rightly concerned about the impact of these congregate settings on vulnerable people …"

So that -- that context is where -- so this -- this is dealing with encampment sweeps as a general part of this. Even an article that's dealing with encampment sweeps is clearly stating that

encampments are unsafe, violent and as I've read.

So it's that -- perhaps that sentence per se is what I am actually referencing when I reference in this article. Because, you're right, this is primarily dealing with encampment sweeps but even in that, it's recognizing the risks of encampments.

314. Q. Okay, so I did see that one sentence that's -- I mean, it's a -- it may be repeated once or twice in this paper, I can't recall right now. There might be another sort of duplication of that sentence. It's not cited to anything. It's just a sentence. Do you agree with that?

A. Yes. I didn't see -- I don't see a citing of that, yes.

315. Q. Right. Okay. And otherwise, as you agreed, this -- this paper looks at the impact of encampment sweeps on people experiencing homelessness. An encampment sweep is also -- is a term that can refer to an encampment clearing or eviction or closing down of an encampment. That's the same thing? I think this is an American ---

A. No, I mean, encampment sweeps tend to be -- a more forced removal of people. So a planned dismantling of an encampment wouldn't be what I would consider being specifically a "sweep." A sweep would

include less notice, possibly property being taken away, and more of penalizing people. And removing them in a different -- not -- not in a planned, organized dismantling event.

316. Q. Okay. If we look at Page 2 of this Issue Brief, it says:

"… Second, while some shelters are well-run and fully-resourced, others can be unsafe. There are threats of violence, theft, increased substance use and sexual harassment by shelter staff and residents …"

So -- sorry, I'll just break down my question. First of all, do you agree that while some shelters are well-run and fully-resourced, others can be unsafe? Do you agree with that?

A. I don't know of an unsafe shelter in Canada. I think that the level of safety within a shelter depends on the resources that are available to it. So, yeah, I can't comment that I know of any of what I would say is truly unsafe shelter in Canada. I am not aware of that.

317. Q. The second sentence says:

"… There are threats of violence, theft, increased substance use and

sexual harassment by shelter staff and residents …"

Is that something you agree with?

A. Again, I would say that there can be some issues within shelters. My experience has been that they are significantly higher outside of shelters and that shelters mitigate them.

318. Q. This paragraph is within a section of this paper that's titled, "Factors that Drive Encampments." And if you need some time to review it, you can but I am just wondering if you generally agree that these are factors that can drive encampments.

There's -- I mean, we can go through them one-by-one, but just in the interest of time, if you're familiar with these paragraphs, I mean, do you generally agree with what's written in these three paragraphs?

MR. LOKAN: Mercedes, I think in the interest of time, it might be better to do that by way of undertaking. That we'll look at it and advise if there is anything that the witness does not agree with in those paragraphs?

THE WITNESS: Sorry, I am having trouble seeing what -- where you are looking. So --

MS. PEREZ: So you have to -- sorry, you have to start -- see, right here is -- on Page 1, there is a heading, "Factors that Drive Encampments" and then the Issue Brief, according to my reading of it, has a few paragraphs in that section that describes some factors that drive encampments.

BY MS. PEREZ:

319. Q. And my question is simply whether you agree that the factors identified in this section can drive encampments?

MR. LOKAN: Again, I think it's more efficient to do by way of undertaking so that your time is preserved.

MS. PEREZ: That's fine.

THE WITNESS: I think that there are things that can drive encampments. Absolutely there are factors that can drive ---

MR. LOKAN: Dr. Koivu, when I -- when we've given an undertaking, it means we're going to do it after in writing. And so we don't ---

THE WITNESS: Okay, sorry.

MR. LOKAN: --- interrupt her ---

THE WITNESS: All right, sorry. Thank you.

MS. PEREZ: Okay.

UNDERTAKING

BY MS. PEREZ:

320. Q. And then maybe we can do the next question by way of undertaking as well.

Dr. Koivu, you already described your understanding of encampment sweeps. And if we look at Pages 3 down to -- 3 to 7 -- actually just 3 to 6. I am less interested in the factors on Page 7.

So the -- what the author's titled, "Damage Health, Well-Being, and Connections to Care." So they're documenting, according to them, some of the damages that they think arise from encampment sweeps.

If you could review those pages, Pages 3 to 6 and tell me whether you agree with some or all of the types of harms that are identified?

A. I think that an encampment sweep that is about doing things abruptly, doing things without notice, doing things that include taking people's property, there can be significant harm from that form of an encampment sweep.

Which is why it is extremely important that when an encampment is dismantled, it is done in a

different format where people have an understanding, a timeline, hopefully choices of where they can go other than the encampment. That their property is not destroyed, that they have sufficient time to pack up their belongings if they have things they need to move.

So I think that absolutely a sweep of an encampment, a sudden, forced event is something that I would not be -- I would feel is not in the best interest of the people within the encampment.

And that there needs to be a much more humane way to address moving people from an encampment than the destructive way that can happen within a sweep.

MR. LOKAN: So, Mercedes, I take it you still want the undertaking? You've got those answers on record but do you still want the undertaking?

MS. PEREZ: I would like that undertaking, thank you.

MR. LOKAN: We'll give that, thank you.

MS. PEREZ: But thank you for the answer, Dr. Koivu.

UNDERTAKING

BY MS. PEREZ:

321. Q. Okay, just turning to Paragraph 18, the second -- of your affidavit, the second sentence is a statement that:

"… Encampments are not a safe alternative to housing or to a shelter …"

And you've cited two studies here ---

A. What paragraph are we on? I'm sorry.

322. Q. Sorry, no, that's okay. Paragraph 18 and I am specifically looking at the second sentence in your paragraph.

A. Okay.

323. Q. So you cited two documents, the first is found in your Footnote 5 which is the Farha and Schwan paper, "A National Protocol for Homelessness Encampments in Canada: A Human Rights Approach."

So if we could just put that on the screen for you. And if you could maybe make it a little bigger.

So first, do we have the correct paper here, up on the screen?

--- SCREENSHARE

A. Yes, we do. Yes, you do.

324. Q. We do, thank you. Okay, so if we can mark that as exhibit to the cross-examination.

MR. LOKAN: Yes. I think it's Exhibit 8.

MS. PEREZ: Thank you.

EXHIBIT NO. 8: Farha and Schwan document

BY MS. PEREZ:

325. Q. If we go down to Page 7, I've put a little highlighted mark there in red. So looking at Paragraph 7:

> "… The purpose of this document is to provide all levels of government with an understanding of their human rights obligations with respect to homeless encampments, highlighting what is and is not permissible under international human rights laws …"

So the main -- the purpose of this article is not to convey the results of the study concluding that encampments are not a safe alternative to a shelter, correct?

A. One of the comments specifically in this study is that encampments should not be

considered -- and I don't have the sentence in front of me but encampments should not be a replacement for housing. And there is a specific -- again, perhaps I'm taking -- you know, there is specifically something in here that in spite of the -- and it's talking about encampments but it does say that they are not a safe alternative to housing.

326. Q. Right, but the authors also recognize that encampments, they're both a human rights violation but also a response to a human rights violation.

MR. LOKAN: I am going to object to any question about whether they do or don't ---

MS. PEREZ: Well, it's ---

MR. LOKAN: --- violate human rights.

MS. PEREZ: Okay, I mean, it's in -- I can find the specific ---

MR. LOKAN: And you can argue it on the application but this witness is not tendered for knowledge of human rights.

MS. PEREZ: No, I understand that. But this article is being put forward as an article that supports that encampments are not a safe alternative to housing or to a shelter. And so I just ---

MR. LOKAN: And that's adopted for that purpose, yes, but that doesn't mean that there's either an agreement or disagreement with the rest of the article.

THE WITNESS: And I would agree with that. Specifically that I've -- you're right, I have taken out something in this article that specifically says that encampments should not be considered a humane or safe alternative to housing. I have the sentence that I used written down but I don't have it in front of me.

So I think why it's important is because I've -- I feel like there has been -- I want to make sure people recognize that when we're discussing encampments, they are not safe. These are people that are talking about encampments and there's even in this article, it does say that there can be times when encampments do need to be dismantled.

And so within this article they are saying they are not safe, we should not consider these instead of housing. And that there can be times when encampments do need to be dismantled. Those are why I think

it's relevant. There's -- they have lots of information here that may or may not be, you know, what I was looking at and highlighting.

But in this large document, their conclusion isn't -- is that encampments are not to be thought of as replacing housing. And are not -- the endpoint that we are striving for, are not encampments.

BY MS. PEREZ:

327. Q. The authors don't just recognize that encampments don't constitute adequate housing, they also take the position that it's both encampments and shelters are recognized as inadequate housing.

Do you agree, first of all, that that -- so I can find you an example where they say that if we go to Paragraphs 13, 14 and 16. They recognize -- it's not just encampments. It said encampments and shelters are inadequate housing and that governments need to create adequate housing for all people.

Do you agree?

MR. LOKAN: I'm sorry, this is straying from the medical opinion. If you want to ask if this witness has any comment from her

medical expertise on these paragraphs by way of undertaking, I am happy to give that.

MS. PEREZ: Okay. The sentence in the affidavit says, "encampments." So this is at Paragraph 18:

> "… Encampments are not a safe alternative to housing or to a shelter …"

And so, my question is related to that comment. And the use of this article to support that comment, this article also finds that shelters do not constitute adequate housing.

And I also believe that it doesn't say anywhere that encampments are not a safe alternative to a shelter. And so I am putting that to Dr. Koivu. If she disagrees, she can tell me that. But I am giving her a chance to respond given that she's using this paper to put forward a proposition in her affidavit.

MR. LOKAN: I agree, Mercedes, that it's a fair question to ask where in this paper did you find support for the proposition that encampments are not a safe alternative to a

shelter, and focusing on that.

It's a long article, and again, let's perhaps ask for an undertaking what part of the paper did she rely on to support that specific proposition. I am happy with that.

MS. PEREZ: Well if -- I mean, can Dr. Koivu answer the question now or …?

THE WITNESS: I'd have to look at the -- my having read this article, my -- I took from this article that encampments should not be considered an alternative to housing. And they are not a safe alternative to housing.

I agree that shelters are not the endpoint either. But I also would feel that they are safer than being in a shelter. But where I use this specific article was in comments regarding encampments not being the endpoint.

And I feel perhaps my language is not clear but I think it's important that we do not think of shelters as an endpoint. That we -- our goal should be housing, our goal should be not maintaining and sustaining shelters but trying to find alternatives that are safer than shelters. The endpoint

-- sorry, safer than encampments.

The goal shouldn't be encampments; the goal should not be that encampments are where we need to stop and be encouraging people to stay in that type of an unsafe environment. And I felt from what I read in this, that they supported that encampments are not where we should be stopping. We don't need to stop at encampments.

We shouldn't be preventing them from -- preventing people from finding alternatives that are safer than encampments. And I felt that this article actually supports that.

There's a lot of other things within this article and I'd have to find the exact reference to that. But they're right, shelters alone are not the endpoint as well. But they're not talking -- from that perspective, I didn't see that as much as the safety as an endpoint.

BY MS. PEREZ:

328. Q. Okay, sorry. So just that was -- that was a very long answer. I just want to be clear.

Are you saying that you made a mistake in

your statement in Paragraph 18 that -- when you say that encampments are not a safe alternative to a shelter, that this article supports that? Or are you saying that you need time to review this paper so that you can tell me where it says that encampments are not a safe alternative to a shelter?

A. I would say I need time to review where that is.

329. Q. And that's fair. So why don't we -- that will be the undertaking, Andrew, if that's okay?

MR. LOKAN: Yes.

UNDERTAKING

BY MS. PEREZ:

330. Q. Okay, and then you've cited another article here. It's found at Footnote 16. This is the Cortez (ph) ---

A. Oh, yeah.

331. Q. --- Baggett (ph) and it's called, "Permanent Supportive Housing for Homeless People." And I couldn't find that article. Could I have an undertaking that we be provided with a copy of that?

MR. LOKAN: Yes.

UNDERTAKING

MS. PEREZ: And then … Okay, that's it.

BY MS. PEREZ:

332. Q. So just moving on in your affidavit. I'll take you to specific paragraphs. But you make several comments in your -- you include several comments and observations in your affidavit respecting tents.

So, for example, at Paragraph 21, you talk about tents are largely ineffective at preventing injury from exposure. And shouldn't be regarded as a safe alternative to indoor shelters.

And then -- and so for that specific statement, you haven't provided a citation, correct? That paragraph (indiscernible)?

A. There is no citation in that sentence, no.

333. Q. Yeah. But you have provided some other citations in other paragraphs so I'll ask you about those in a second.

But just generally when I reviewed your CV, I take it that you're not holding yourself out as an expert in tents, tent structures, the different types of tent when they're properly used to mitigate certain risks of exposure to the elements?

A. I am not an expert in tents.

334. Q. Okay.

A. And I provided information that would be the type of information that, as a physician, I would want to have aware that I would share with patients.

Once I started -- I was doing my work for an awfully long period of time and rarely saw any frostbite. And then saw frostbite leading to significant suffering and loss of digits and limbs involved in being in a tent.

And essentially, all of the patients that I saw with significant frost bite and suffering related to frost bite and hypothermia, were in a tent. And many believed that they were safe because they were in a tent.

And really, I am just trying to give information that would be -- give an understanding that tents have significant limitations. Particularly when we're looking at hypothermia and frost bite. And that I think it's important for people to be aware of those limitations. I am not an -- I've done a lot of camping but I am not an expert in tents.

335. Q. Paragraph 36 of your affidavit, you have some more specific information on, I guess, some

of the limitations to using a tent.

A. Yes.

336. Q. Specifically, you're discussing here the air temperature within tents that are shaded with a sun umbrella tarp or a bedsheet.

A. Yeah. Yeah, this was particularly relating to summer and to problems with tents in heat.

337. Q. Okay, and so you cited a study which is a study found at Footnote 14 of your affidavit. This is the Karanja paper that's titled, "Sheltered from the heat: How tents and shade covers may unintentionally increase air temperature exposures to unsheltered communities."

A. Yes.

338. Q. We've pulled that up on the screen. And again, if you just confirm that we have the correct article here. This is the article cited at Footnote 14?

--- SCREENSHARE

A. Yes, I believe so.

339. Q. Okay, and can we mark that as an exhibit?

MR. LOKAN: Yes.

MS. PEREZ: Okay.

EXHIBIT NO. 9: Karanja study

BY MS. PEREZ:

340. Q. So if we scroll down to Page 6, this is under the section which starts on Page 4, it's the Discussion section. And I'm just moving down to some of the discussion on Page 6.

And here, the authors do note that:

"… Allowing heat to escape tents through minimizing covers and opening tent windows and doors to avoid trapping heat and moisture will support cooling …"

A. Yes.

341. Q. Okay. And so that means that in terms of a risk of increased air temperature inside a tent, it does depend on how -- what kind of tent is being used and how it's being used.

Would you ---

A. Yes.

342. Q. --- agree with that based on your ---

A. Yes.

343. Q. --- knowledge? Okay.

A. Well, I can't say specifically about what kind because I don't have that kind of background and this was referencing one tent. But how tents are used -- and which is why certainly my concern about encampments is when I have been to them and when I've seen pictures of encampments, often the tents are closed and not opened.

And I think there's issues around privacy, there's issues around use, there can be many issues. But I do not have -- have never had someone tell me that -- that this was something that was discussed with them in advance, and that they had a good understanding of the risks of being alone with their tent closed and what risks it could have.

But absolutely how it's used will, to a degree, mitigate some of the risk.

344. Q. Okay, and when you say that you've seen photos of encampments -- sorry, what did you say that you've seen photos of encampments ---

A. I said when I've been to encampments.

345. Q. Yeah.

A. And when I saw the pictures of some encampments, often I've seen that their zippers are closed. Now I cannot say if someone is inside them or not.

346. Q. Thank you. Thank you, that was my question. So having visited encampments and seen photos, you've seen tarps and other covers and zipped up zippers on the doors. But you don't know if there was someone inside at that time?

A. No, I don't.

347. Q. And if we just go back to Page 6 of this study, that same highlighted sentence. The second sentence in that paragraph says:

> "… However, future research must incorporate solar radiation and wind flow to assess the entire heat exposure situation. Furthermore, experiments that allow the opening of tent doors and in-tent mixing of air are crucial for the overall evaluation of the efficacy of tent-shading …"

So what I take from that, and tell me if I am wrong, is that the authors are saying we've made some preliminary findings here. But really this area of study requires more study.

A. I think that's the same with everything in medicine. But one thing they do say that is about the idea of heat -- of breath and heat flow. And when I did look, I have not been to 100 Vic. But one side

from what I could see right beside the railway track, is a wall that would prevent a natural breeze from taking place.

Having said that, I am not an expert on Vic or the tents that are used there. But I did recognize when I am looking at this and they talk about airflow, that that would be something that would be -- could be a concern in an area where you don't have airflow.

So when -- and I'll just leave it at that.

348. Q. Okay, and just in terms of the actual increase in temperature that's documented in this study, you've outlined it in your Paragraph 36, there's four -- sorry, three specific numbers. The highest of which is the 2.46 degrees Celsius.

A. Yeah.

349. Q. The study -- this article itself doesn't draw any conclusions on specific heat risks from a temperature rise of 2.46 degrees, correct?

A. No. No, no, it would -- it does -- it's referenced with respect to when the heat -- with a temperature within a tent becomes above body temperature.

So if the temperature is, you know, 35 degrees outside, then that can -- would mean it's higher risk because it gets above body temperature.

So it doesn't specify the risks, it's relative to body temperature and the ability for the body to dissipate the heat.

So the increase matters only with respect to what the temperature is, an ambient temperature.

350. Q. Okay. And then just in the interest of time, you've referenced in your affidavit at Paragraph 36 you reference another -- sorry, not Paragraph 36. Just give me one second.

It's at Paragraph 35, you're citing a study and you discuss ambient temperature, outer surface temperature, etcetera. Just in the interest of time, if you can recall, the study that you cite at Footnote 12 which is the Kow Lank (ph) study, "The thermal environment and thermal comfort of disaster relief tents and high temperature composite environments."

A. Yeah.

351. Q. That study specifically looked at disaster relief tents. Correct?

A. Yes.

352. Q. Okay, in what they were -- the authors referred to as a "high temperature composite environment." Correct?

A. Yes. Yes.

353. Q. Okay. And a high temperature composite

environment, what is that?

A. My understanding would be in temperatures that approach body temperature. So we're looking at 37 degrees Celsius for temperatures that would approach body temperature.

354. Q. Okay, so pretty -- that's really on the higher end of hot weather?

A. Yes. Yes, but as you are aware, we've had significant changes in weather patterns including having times when our temperatures have -- I can't tell you for sure for Waterloo. I have not looked at the data but certainly approaching 35 degrees has been an issue in the heat. We've had some heat waves in June of last year, I believe. We've had some heat waves.

So temperatures approaching areas which would be considered critical are now something to be a concern of in this area.

355. Q. And do you know what specific -- like what is a disaster relief tent?

A. I would not be able to describe that compared to a regular tent. I do think, though, that the tend to be a bit bigger and house more people. But I cannot tell you for sure what exactly would constitute it a disaster relief tent.

356. Q. And to your knowledge those are not the tents that we tend to see at encampments in Canada including at 100 Vic, correct?

A. No. But the mechanism of transfer of heat wouldn't change. To my knowledge, would not change depending on the type. So when we're talking about heat hitting a tent and how it transfers to the body, I don't have any reason to think that would be different, with different types of tents.

But this study specifically was about disaster relief tents. I certainly can say from being in tents in the heat that this -- this was the one that I could find that would describe why it feels hotter inside a tent than it is outside of the tent during hot times in the summer. And I did not find any other article that would substantiate that experience that I think most of us who have been in a tent in the summer recognize. This just described it.

357. Q. Okay, and in your affidavit, you discuss the risk of frost bite and you've ---

A. Yes.

358. Q. --- spoken about it already today. But in your affidavit, you don't discuss the comparator of the incidence of frost bite among people living rough, as I defined it earlier on, compared to the incidents

of frost bite amongst people living sheltered in a tent, in an encampment. Correct?

A. I did not find data that -- I can say that all of the patients that I have seen with severe frost bite, including losing limbs, were staying in tents at the time they got their frost bite. I am not aware of a study out that compares people who are unhoused as to the risk of frost bite.

359. Q. I am sorry, I cannot recall if Ashley asked you this question earlier. She did ask you questions about your patients and you described having a fairly high percentage of patients who are homeless.

Are your patients generally -- or can you say? Are they generally homeless individuals who reside in tents as opposed to sleeping rough?

A. In London, I can say that the vast majority of the people that I saw that were homeless outside of shelters, were sleeping in tents as opposed to sleeping rough.

In St. Thomas, I don't think I can say. I think there is less encampments. I also have seen less injury but I would not necessarily equate that to where people are staying.

So in London, since encampments have been on the increase, most -- I would say the vast majority of

people I see unhoused that aren't in shelters are in tents or encampments. Although not all of them, some do live in doorways. Everyone I saw that had a frost bite injury, had been in a tent at the time that they got it. And the people that I saw with severe burns had been in a tent at the time that they received their burns.

360. Q. But you said that in St. Thomas you've seen less injury. So most of the -- so can I assume that most of the frost bite injuries that you describe in your affidavit, you saw in your patients who were in London?

A. Yes.

361. Q. Okay. So I'd just like to turn to Paragraph 24 of your affidavit. This is the paragraph where you state:

"… Hypothermia is a problem in encampments and can lead to cardiac arrest and death …"

And you've cited two sources to support that statement. The first is at Footnote 45. And this is a news article from Global News. So just when I -- it's probably my lack of knowledge but when I converted this article from the Web to a PDF, it turned into 14 pages. Even though it's really only

about two pages.

--- SCREENSHARE

So if we could -- so first of all, can you confirm that this Global News article from -- is the news article cited in your affidavit at Footnote 45?

A. From what I am seeing, I believe so.

362. Q. Okay, you can -- we can look through it.

A. And I (indiscernible) so anyway. I'm -- that sounds right. So I think so.

363. Q. I mean, take your time. You can look through it. A lot of these pages are going to have very little on them. And in fact, I think the block are the end and aren't text of the article.

MR. LOKAN: We're content to mark it just -- and if for any reason, we find it's not the article, to advise subsequently. But I'm sure it is the article.

MS. PEREZ: Okay. So this is, just for the record, it's a Global News article posted January 18, 2024 and it's titled, "Frustrating and deadly: How the extreme cold is hitting Canada's homeless." And so

we'll mark that as an exhibit for identification.

MR. LOKAN: I think we can go further because she said it looked like it's right. So we can give it a number.

MS. PEREZ: Okay.

MR. LOKAN: The only qualification is if for any reason we find that's not what it was, we'd let you know. But I have no reason to believe it isn't.

EXHIBIT NO. 10: Global News article, January 18, 2024

BY MS. PEREZ:

364. Q. And, Dr. Koivu, you may want to take a few minutes to read through it. Just let me know.

But my question is from my reading of the article, the article does not state that hypothermia is a problem specifically in outdoor encampments but rather a risk to all persons forced to reside outside due to a lack of sufficient shelter beds in Toronto.

A. I would agree that it's about being outdoors.

365. Q. Okay.

A. Including in encampments.

366. Q. Thank you. And then, I am just going to take you to your Footnote 46. This is an article from the Invisible People website, titled, "Homeless people face hypothermia every winter: Here's how you can help." Posted November 18, 2020.

--- SCREENSHARE

And so again, if you could just confirm that this is ---

A. It looks like it.

367. Q. --- the document cited at Footnote 46? Okay. So if we can mark that as an exhibit to the cross-examination.

EXHIBIT NO. 11: Article at Invisible People website

368. Q. And again, if you need some time to review it, so just let me know. But again, my understanding from reviewing this article is it doesn't differentiate between people living rough or those living in encampments. It simply states that:

"… Hypothermia is a risk for homeless individuals and those with unstable living situations …"

A. Actually, people outdoors are at risk of hypothermia. And it does not differentiate. Hypothermia is a risk if you're in an encampment or not in an encampment if you're outdoors. So it is about being outdoors, including in encampments.

369. Q. Thank you and then just turning to Paragraph 26 of your affidavit you describe in this paragraph the risk of severe burns from tent fires and talk about some of your own personal experience. And at the end, your last sentence here is:

"… I am aware of several people dying in tent fires …"

And you've cited three sources for that. First of all, Footnotes 47 and 48, I believe are actually the same. I think that's an error in your compilation of footnotes. Can you confirm?

A. I can look. Can I look at -- can I scroll down to my footnotes?

370. Q. Of course. Yes, it's -- I think they're both references to the CBC News article.

A. I know that there were times -- I was really trying hard to avoid that and ---

371. Q. That's okay.

A. --- sorry about that.

372. Q. I think -- so just for the record I

believe that they're both a reference to the CBC News article posted April 16, 2024, titled, "One year after daughter's death in London tent fire." Her parents say, "Year-round crash beds can save lives."

A. Oh, yeah, they do, I'm sorry. I am very sorry about that; they are the same article.

373. Q. That's ---

A. I've got them some place differently but they are the same article.

374. Q. Okay, thanks. So there are two footnotes here, really for this ---

A. They are the same. Yeah.

375. Q. Yeah.

A. Absolutely, they're the same article.

--- SCREENSHARE

376. Q. And we pulled it up for you in case you want to review it. But just to be clear, in terms of the information in this article referencing a fire, this was not a fire that you yourself witnessed, correct?

A. No, this is not a fire that I witnessed.

377. Q. Okay, and you didn't treat the young

woman who died?

A. No, no. I did not.

378. Q. And so you have no direct knowledge of this incident?

A. No, I thought -- I tried to word it as things I have seen versus things I am aware of. And this was how I tried to have the language. I have not taken care of this person.

379. Q. And according to the article -- and again, if you need some time to review it, just let me know. According to the article, the reason this young woman was in tent outdoors was that she could not access a shelter bed.

A. That's correct.

380. Q. And then Footnote 49 which is the second footnote to your Paragraph 26, this is a Toronto Star article. The Toronto Star article dated February 17, 2021 titled:

> "…'This kind of living arrangement outside is not safe,' acting fire chief says as Toronto reports first encampment fire fatality …"

So again if you can just confirm.

A. Yeah, it is the article.

381. Q. Okay.

A. Yes.

382. Q. And again, same types of questions, you didn't witness this fire or treat the man who died?

A. No. No, I did not.

383. Q. So you don't have any ---

A. He died ---

384. Q. Yeah.

A. No, I did not have any direct experience with this person and tried to separate that in the language in that paragraph. I am hoping that was clear. But thank you for allowing me to clarify have not taken care of either of these two people or been involved in -- and was not involved in this person's care as well nor had any direct involvement in their care.

385. Q. Thank you.

MR. LOKAN: So, Mercedes, you haven't asked for either of the last two to be marked as exhibits.

MS. PEREZ: No; no, I didn't.

MR. LOKAN: Okay, that's fine.

BY MS. PEREZ:

386. Q. Looking at Paragraph 28, you stated:

"… I am aware of risks from propane

tanks used to heat tents including explosions causing injury and death and carbon monoxide poisoning …"

--- SCREENSHARE

You've referenced one article from CBC News from May 16, 2024. And so we put that up on the screen for you again with my terrible PDF creation. So a lot of extra pages, sorry about that. Can you just confirm that the ---

A. Yes.

387. Q. It is? Okay. And again, you didn't witness this fire or treat the deceased, correct?

A. No, that's why I put "I am aware of," not that I have experienced it.

388. Q. And this article refers to a fire but not to carbon monoxide poisoning. Is that correct?

A. I believe so, yes.

389. Q. And so what is the source of your comment that you are aware of risks that can cause -- from propane tanks that can cause carbon monoxide poisoning?

A. I think that would be a general understanding in medicine that a propane tank can

cause carbon monoxide poisoning. And I have not footnoted it within.

390. Q. Okay. But are you aware of any incidents of that in tents and an encampment somewhere?

A. I had a patient that likely experienced carbon monoxide poisoning from a propane tank but there was no explosion with that or any (indiscernible). Their experience was consistent with carbon monoxide poisoning. And they had a propane tank but that is specifically just a report. I understand propane tanks can cause carbon monoxide poisoning and certainly within an enclosed environment, that would be a risk.

I have not -- I am not involved with anybody who died from carbon monoxide poisoning due to a propane tank in a -- in a tent. That would just more be a medical statement that a propane tank can cause carbon monoxide poisoning. And I have had one patient that expressed that as a concern.

391. Q. Sorry, so you had one patient who expressed that as a concern or ---

A. Yeah, they thought that ---

392. Q. --- (indiscernible)?

A. --- they -- I don't believe they were

diagnosed with carbon monoxide poisoning. I think the thought was that they likely had a decrease in their level of consciousness. And they felt that it was partly related to the propane tank that they had in their tent.

To be honest, I can't remember the details of the medical experience prior to me seeing them. But they did not have harms related to the carbon monoxide poisoning. So I have not had anyone who have had significant harms other than possible decreased level of consciousness.

I could certainly go through -- no, I'll just stop at that. That would be my experience and my knowledge is that propane tanks can cause carbon monoxide poisoning. As a physician that would be something that I am aware of. But I am not referencing it beyond this -- this specific article which doesn't involve carbon monoxide poisoning as you had pointed out.

393. Q. So if we move to Paragraph 30 of your affidavit, this is where you discuss trench foot.

A. Yeah.

394. Q. And you cited one document which is found at Footnote 4 of your affidavit. This is the Bush (ph) article.

--- SCREENSHARE

A. Yes.

395. Q. It's titled just simply, "Trench foot."

A. Yes.

396. Q. So can you just confirm that what we pulled up on the screen is the article you cited?

A. Yes. I believe so, yes.

397. Q. Okay. And so I'd like to have this one marked as an exhibit to the cross-examination.

MR. LOKAN: Okay, that would be Exhibit 12, I believe.

MS. PEREZ: Thank you.

EXHIBIT NO. 12: Bush article

BY MS. PEREZ:

398. Q. This article -- my understanding from reading this article is that it does not anywhere say that the moist environment created by condensation in a tent is a risk factor for trench foot. Do you agree?

A. It does not specify in a tent. Certainly the moist environment in a tent is a risk

factor. Tents becoming moist -- and I believe this article does highlight that -- that a moist environment increases the risk of trench foot.

And I think from other things that I talked about with -- within tents and as I say I am not an expert in tents -- but when people are breathing in a tent, they have warm air. That warm air touches the -- the surface of the tent which is now cool, that will condense.

That's basic condensation so that's sort of a basic science that the warm air from breathing -- the moist air from breathing is going to condense and create a moist environment.

That footnote wasn't beside that but the footnote is beside that this can happen even in temperatures that are -- are not, specifically -- when we think about cold injuries, we tend to think of things that are, you know, zero degrees and colder.

But trench foot can happen even in warmer temperatures specifically when people have a moist environment. And that's where this reference comes in is discussing that you can have trench foot even in temperatures up to 16 degrees and very quickly.

399. Q. If we look at Page 2 of this article just at the top in the highlighted section, this is

under the section entitled, "Epidemiology." The authors state that military personnel continue to be the most commonly affected population.

And above it, they discuss I think the origins of the term, trench foot ---

A. Yeah.

400. Q. --- which (indiscernible) World War I soldiers.

A. Yeah.

401. Q. So you agree with -- you don't have any reason to disagree that military personnel continue to be the most commonly affected population?

A. I cannot say that that's accurate within Canada but I cannot -- I have no experience with military personnel to say that is or isn't true.

But my experience with trench foot has essentially been limited to people who are in encampments in tents. And I do not have experience working with the military or specifically with military personnel to -- to highlight that. I have no reason to think it's wrong but I have no experience with the military.

402. Q. Okay, well, if we just look at the one comment here that does relate to the homeless population. It's the last sentence in this section.

It says:

"… In everyday clinical practice, the homeless population is also susceptible to trench foot due to lack of shelter and prolonged exposure to moist and cold environments …"

So that's something you would agree with, I take it?

A. And I -- yes.

403. Q. Okay.

A. As long as we're looking at "lack of shelter" meaning lack of a physical structure of shelter. Yes.

404. Q. Trench foot is most common -- would it be fair to say that trench foot is most commonly caused by cold, damp feet, especially people who face prolonged exposure to wet socks and footwear?

A. Yes.

405. Q. Okay. So when you say that your experience with trench foot is limited to people living in encampments in tents, you can't say that the trench foot was caused by the tent as opposed to them just spending the day and maybe the night in wet socks and footwear?

A. I have not seen the same incidence in

people who were -- almost that weren't in a tent. But to know for sure why they're feet are wet, I can say that the moist environment of a tent would increase the risk. I can't say that any individual didn't change their socks. But I have not seen trench foot and had not seen it until I saw people in encampments.

So I have other homeless people that I have no reason to think are changing their socks more or less often. Perhaps people going into shelters are changing their socks more often. But I don't have any reason to know that that would be a difference in populations that I've seen.

406. Q. Right, but your experience -- again, just going back to how you described your patient group, if I can put it that way -- is -- I mean, a majority of them have been people in -- living in encampments and in tents, right? You can't (indiscernible).

A. I have the experience of the unsheltered, yes. But I see both sheltered and unsheltered patients. So I see a lot of the patients who are sheltered. Of unsheltered, the majority are in encampments. Of the sheltered -- of the homeless population that I've seen that is sheltered or primarily use a shelter, I have not seen trench foot.

407. Q. Right. So you're comparing -- based on your own personal experience, you're comparing sheltered individuals, for example, in shelters ---

A. Mm-hmm.

408. Q. --- to unsheltered individuals, the majority of whom live in tents.

A. Yes.

409. Q. You're not comparing it to people living in encampments versus homeless people living rough on the streets?

A. No, I am not comparing it to people living rough. I couldn't tell you if they had more or less. Theoretically, they might have less but I have not -- I've not had a patient who wasn't in a tent that got trench foot. But that doesn't mean that that's an exclusive possibility.

410. Q. And so when you speak in your -- I am just going to kind of group it all together. You can tell me if this unfair and I can try to break it up. But when you talk in your affidavit about the risks of adverse weather events, those adverse weather events are also dangerous to people living rough, correct?

A. For the most part, yes, they are also dangerous to people who are living rough.

411. Q. And the (indiscernible) ---

A. (Indiscernible) unsheltered is definitely a risk and however you are unsheltered, is a risk. Trench foot I would question that there might be more risk. But being unsheltered is a risk factor and being in encampments doesn't, in my experience, decrease that risk, but being unsheltered definitely. All unsheltered people are at risk of problems related to exposure.

412. Q. And that would apply to individuals who can access a shelter that for nighttime sleeping but have to leave the shelter during the day and maybe spend, you know, 12, 14 hours outside during the day?

A. It's interesting because that -- I have not seen that in people who are sheltered, take shelter during the night. You're right, in theory, people could have an incident related to the elements during the day.

But during the day, there's a lot more opportunity for people to be somewhere that is warm whether it's a shopping mall, whether it's, you know -- I'm thinking of the areas, you know. There are other options for people to be in during the day.

Being outside particularly being outside with a decreased level of consciousness is going to increase people's risk of a problem. There are more

options available to people during daytime hours as to where they can go to find warmth.

And the highest risks certainly have been about warming shelters after hours because there is less availability of places people can go.

413. Q. Okay, and just to be clear, in your affidavit you haven't provided any opinion or information about what forms of shelter might be accessible to a homeless person during the day.

A. No, no. No, I haven't. I can say that I haven't had anyone who's being in a shelter at night have the same problems that I've seen with people who are living in encampments.

And perhaps that's because when they're in an encampment, they tend to stay there both day and night. And so it increases their risk of overall exposure.

I can say that why I felt this was important was because people that I'd seen in encampments in tents that had had such severe injuries did not understand the risk of their environment. Did not understand or appreciate their risk of getting frost bite that could lead to an amputation of both legs.

And I have not seen this in people who -- I didn't see it all before the encampments. And I don't

see it in people who primarily go to shelters.

414. Q. Okay. At Paragraphs 39 to 42 of your affidavit, you discuss dehydration, rhabdomyolysis ---

A. Rhabdomyolysis, sorry.

415. Q. Thank you. Rhabdomyolysis, kidney failure. And at Paragraph 41 specifically, you say that:

"… The combination of heat, dehydration and methamphetamine increases the risk of kidney failure …"

A. Yes.

416. Q. And so do you know the incidence of methamphetamine use among residents at 100 Vic?

A. No. And I cannot say that I know the incidents of methamphetamine use. I know it's high in London but I don't know in Waterloo.

417. Q. Okay, and ---

A. I think so. I read something. Now -- I feel like I read something that said that it has increased in that area but I do not have data on 100 Vic.

418. Q. Okay, and the articles that you've cited in these paragraphs, so the articles at Footnote 31, 22 and 25 as ---

A. They do not ---

419. Q. --- well as the paragraphs themselves, they don't address at all the risk of these conditions developing specifically in homeless individuals living in encampments, correct?

A. That is correct.

420. Q. Paragraph 45, you discuss that many infections are caused by exposure to rodent droppings. And I just wanted to ask you about the citation. So the first citation it's to Footnote 18 which is the Liu paper which is -- specifically, we looked at it already.

It's about communicable disease among homeless in California but does not mention -- unless I missed it, it doesn't mention rodent-related infections. Am I incorrect about that?

A. It -- I hope I haven't made -- so that was number 18?

421. Q. Yes.

MR. LOKAN: That would be a good one for an undertaking if the question is whether there is anything in reference 18 on the rodent infections.

MS. PEREZ: And that would be fine with me to answer that by way of undertaking.

UNDERTAKING

BY MS. PEREZ:

422. Q. And you may want to answer the next question by undertaking as well. The second citation is to Footnote 27 which is the Roncarati article that we also already looked at which was about mortality among unsheltered homeless in Boston. And which again on my reading of it, does not comment on rodent-related infections.

So if you can confirm ---

A. Yeah. I do not -- yes, I think you're right. I think I have the wrong references on there. I am quite concerned that I -- you are correct, that I do have the wrong references and in 18 and 27.

I think there are other references that I missed because I got the wrong ones there. But the ones that you're saying I specifically do think you're right that they do not apply here; they are incorrect.

MR. LOKAN: That can answer by way of undertaking.

THE WITNESS: Okay.

MS. PEREZ: Thank you.

UNDERTAKING

BY MS. PEREZ:

423. Q. And the last two citations at Paragraph

45 which are Footnotes 56 and 57. These are two newspaper articles. One from the Peterborough Examiner and the second from CBC News.

And neither of which, again, based on my review, specifically talk about the risk of infections caused by exposure to rodent droppings. Rather, they talk about rodents near homeless encampments. And so again, maybe you want to answer that by way of undertaking?

UNDERTAKING

MR. LOKAN: Yeah.

THE WITNESS: Okay.

MR. LOKAN: We will.

MS. PEREZ: And I am cognizant of the time but I am getting to the end. And some of my questions have been asked already. So just give me a second because I'm skipping through some questions.

MR. LOKAN: Sure. If you can keep it to three or four minutes, we'd appreciate it.

BY MS. PEREZ:

424. Q. Okay, so just moving to Paragraph 53 and here you're discussing injection drug use in encampments increasing the risk of infectious

complications. And you've cited two sources, the first is at Footnote 3 which is an article by Ball.

A. Oh, yes.

425. Q. "Sharing of injection drug preparation equipment as associated with HIV infection." And I think you reference this risk at length earlier in a response to some questions from Ashley.

A. Yes.

426. Q. But this article doesn't mention encampments at all.

A. No.

427. Q. Nor substance ---

A. No, but it -- yeah. It's specifically about the risk of sharing paraphernalia.

428. Q. And then the second is your footnote at -- is a Footnote 66 which is a CTV News article that discusses concerns from local residents in Dartmouth, Nova Scotia about drug paraphernalia. And outside bathroom use that they attribute to an encampment.

But again, it doesn't talk about an increased risk of infectious complications. Is that fair?

A. It's fair. And I think what I want -- I was trying to highlight other issues. This is specifically the sentence and perhaps by linking it

with references doesn't make sense to the sentence. But it my experience, I have absolutely saw increase in -- I had not seen spine infections regularly. And then in started seeing spine infections after we had an encampment.

And so my concern and why exactly, you know, is it the drugs that are being used, is it the conditions? But I can say is that I certainly saw a spike in severe infections and that's why I put it in my experience, number -- reference 3 is also something I was involved in that publishing.

But my experience was that I saw an increase in sepsis in spine infections in people who were -- in injection drug users when they move from various other locations to the encampment.

429. Q. Okay. And then are you aware of any typhus outbreaks at homeless encampments in Canada, the ---

A. Yeah. Sorry.

430. Q. Okay, yeah, the one reference in your affidavit is to a typhus ---

A. Yeah.

431. Q. --- outbreak in Los Angeles, correct?

A. Yeah. Yes.

432. Q. And then at Paragraph 59, you discuss

directly-observed therapy as the treatment for some types of TB -- a tuberculosis infection.

A. Yeah.

433. Q. So first of all, you're aware that public officers of health in Ontario can order a person detained for the purpose of receiving directly ---

A. Yeah.

434. Q. --- observed therapy, if necessary, under the *Health Protection and Promotions Act*?

A. Yeah.

435. Q. You're aware of that? Okay. And so that would -- that power is available not only to treat the person but also to prevent the spread of infection.

A. Yes.

436. Q. Correct? Okay.

A. And again, given that you -- in order to provide directly-observed therapy, it's -- it would be helpful to know the location where the person can be found. And so it would be presumably easier to find a person residing at an encampment than living rough out on the street somewhere. Do you agree?

A. As far as finding a person, yes. As far as identifying that they had TB, that might be a

more difficult thing.

So if we're talking about identification of someone with TB, I think that within an encampment that is more difficult. If we're looking at the ease with which someone could go on-site than being in one specific place, has some potential for a benefit.

But my point in this was more to counter the concerns about shelters being a negative place for TB which is sort of thought of. And that in fact that a shelter can have many forms of support to help mitigate the risks of spread of disease and to help improve the chance of treatment of disease. So that -- that those treatments are available.

And those -- mitigating the risks such as social distancing and masks, clean linen, etcetera, all of those are things that are about what safeguards can be available at a shelter.

437. Q. Okay. But doesn't being outdoors significantly reduce the risk of TB transmission?

A. Being outdoors decreases the risk of transmission but being within a group increases the risk of transmission. So people within an encampment are in fairly closed quarters as far as their location and their interacting with each other. So there certainly can be risks from being close -- in close

proximity with other people.

But you're right, being outdoors does -- and not having good ventilation is something that supports a decrease risk in getting TB.

438. Q. Okay. Just moving to Paragraph 67 of your affidavit, this is where you reference that Nikoo study from Vancouver.

A. Yeah, yes.

439. Q. Okay, so if we could put that up on the screen. So this is the Nikoo, "Chronic physical health conditions in the homeless" study. Can you just confirm that this is ---

A. Yeah.

440. Q. --- as study at Footnote 21?

A. Yeah.

--- SCREENSHARE

441. Q. Okay, and so if we can mark this as an exhibit to the cross-examination. So in Paragraph 67 that -- you're okay, Andrew, with marking that as ---

MR. LOKAN: Yes.

MS. PEREZ: Okay, thank you.

EXHIBIT NO. 13: Nikoo study

BY MS. PEREZ:

442. Q. So in Paragraph 67, you reference the study from Vancouver that you say:

"… Compares chronic physical health conditions among people experiencing homelessness who were sheltered with those who were not sheltered including living in encampments …"

If we look at the method section of this study which is found on Page 5, so in the highlighted section it says:

"… Fifty percent of participants were recruited from emergency shelters and 50 percent were recruited from living homeless on the streets …"

It doesn't mention anything about encampments, just that half the participants were homeless on the streets, correct?

A. In this paragraph, yes. And I believe that there is no reference specifically to encampments other than that they were sheltered and unsheltered in this -- in this particular article. And living on the streets would include encampments but not specifically encampments alone.

443. Q. Okay, and if we go down to Page 13, and

again this is -- I've highlighted the section right at the bottom of the page. It says:

"… Living on streets was associated with increased frequency of all categories of chronic health conditions except infectious and respiratory tract conditions …"

A. Yeah, and they were -- they were equal. So, yes, they weren't -- so "living on the street" was associated with an increased frequency of the chronic health conditions. Those ones were equal in both groups.

444. Q. Okay. And does this -- and maybe now that you've explained it a little bit in your answer, I just thought, was there an inconsistency between this statement that I just pointed you to and the comment in your affidavit at ---

MR. LOKAN: Where are we ---

MS. PEREZ: --- Paragraph 67 -- sorry.

BY MS. PEREZ:

445. Q. Where you say:

"… There were no instances where being in a shelter posed a risk over not being sheltered …"

You're saying they were equal?

A. Yeah, they were equal.

446. Q. Okay. Okay.

A. I tried to word that -- wordsmith that, but, yes.

447. Q. Okay, and I just wondering, why did you attribute -- like in your Paragraph 67, you attribute the findings of the study specifically to people not sheltered including living in encampments, when that's not mentioned in the article? Is it just because there's no specific definition of ---

A. Yes.

448. Q. --- "homeless on the streets"? Okay.

A. Yes. When they -- and I think there was a paragraph that -- that -- how they've defined it as sheltered versus unsheltered, and unsheltered -- sometimes people think of a tent as a shelter. So I think that that's why I think it's important to recognize of unsheltered -- tents are not considered a shelter. People living on the street includes sheltered -- include people who are in encampments. I would have to look back. I've jotted notes down when I looked at each thing.

But I believe that the word "encampment" is not used in this. It's -- it definitely separates

"sheltered" from "unsheltered." And I've pointed out that unsheltered would include those who are in encampments.

449. Q. Okay. And I am at the end. I think I have three more questions. So first of all, you -- just in reference to the paragraphs in your affidavit where you speak about the risk of violence. You would agree that stabbings, beatings, shootings and theft also occur in shelters, correct?

A. I think violence can occur within a shelter. I am not aware of that -- I have not had experience with shootings within a shelter. I have not had aware of -- experience with -- from my patients that have been stabbed, it has been outside of a shelter. But absolutely, violence can occur within a shelter.

450. Q. And in fact, there have also been murders that have occurred in shelters in Ontario. Would you agree with that?

A. There have been murders in shelters and murders outside of shelters, including in encampments in Ontario.

451. Q. Okay, and so my final question relates to a final article that I am going to take you to. So this is with reference to your Paragraph 71 where you

say that:

"… Studies have also found that shelters have also provided protection from violent crimes when compared to unsheltered …"

And you cite Footnote 86 which is the Niamafi (ph) article. This one is titled, "Sheltered versus non-sheltered homeless women." So we've pulled that up.

MS. CAHILL: Sorry, I don't have that one, Mercedes.

MS. PEREZ: Oh, you don't have that one. Okay.

MR. LOKAN: Do you want that just produced by way of undertaking?

MS. PEREZ: Sure, I mean, my question is just a simple one and similar to ones I've asked previously. Well, first of all can this be -- sorry, let me start over.

BY MS. PEREZ:

452. Q. The question for the undertaking would be that this study doesn't differentiate between women residing at encampments and women living rough on the streets.

A. That I can answer. That does not differentiate.

453. Q. Okay. So thank you, Dr. Koivu, we are at the end of my questions. And again, thank you for your patience. I know we've gone over the time that we allotted for you today.

A. Okay, thank you for the opportunity to answer your questions.

MR. LOKAN: I have a couple of brief re-exam questions. So if you can stay another couple of minutes ---

THE WITNESS: Yes.

MR. LOKAN: --- Dr. Koivu.

RE-EXAMINATION BY MR. LOKAN

454. Q. First, you were asked some questions about steps people can take to increase ventilation in a tent that's overheating.

A. Mm-hmm.

455. Q. Do you recall that?

A. Yes.

456. Q. Do you have any comment on how that might work with people staying in tents who have taken sedating drugs?

A. I think that my concern is it can be

very, very different to be in a tent because you're trying to separate yourself from others than if you're in a tent, like camping.

So if you've taken a sedating medication, you are trying -- you're being in an environment where you're actually trying to exclude others, you're at high-risk of not being aware of how hot it gets. And I've absolutely seen heat injuries and hypothermia including Rhabdomyolysis as a result of people who have been in tents and taken sedating medication, and weren't aware of how warm the tent was.

So absolutely, the things you can do to mitigate the risks are things a), you have to know and b), you have to be capable of doing. And I think both are problematic, that people don't know, don't understand.

If they did know, I think they would pick a different location for an encampment that would allow more air flow than the one from what I can see from the pictures where there's a large wall. So absolutely, I think that there is definitely risks for people who are unconscious from sedating medication.

457. Q. Okay. You've been shown a number of articles and sources today by both Ms. Schiutema and Ms. Perez. And you've been asked a number of

questions. Were any of those sources or any of those questions cause you to change your opinion as set out in your affidavit?

A. No. I -- no, it caused me to proofread a little closer but as far as what I have witnessed, why I came forward, I can tell you this was not something that is -- that is easy to do. But the harms and suffering that I have seen related to people being in an encampment, particularly to people who didn't understand the risks, that thought that because people were encouraging them to be there, that they were safe.

And the harms that I have seen are very real, very palpable. And so it's always tricky to find the right data to support the harms that you've seen when it's so visceral and so real. But the suffering that I have seen is real and I have not -- you know, the questions haven't -- I don't think I -- I might have to wordsmith things and be careful.

I do think I have an incorrect footnote but as far as my concerns about encampments being places that are not safe, that I have not changed how I feel about that.

458. Q. Thank you; those are my questions.

MR. LOKAN: So you may go now, you're done.

THE WITNESS: Thank you.

MR. LOKAN: Off the record.

MADAM REPORTER: We're off.

--- 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.

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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

THE REGIONAL MUNICIPALITY OF WATERLOO Applicant	-and-	PERSONS UNKNOWN AND TO BE ASCERTAINED Respondents

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