

June 10, 2026

Re: Recent Decision in Waterloo Encampment Case

Dear Service Manager,

The National Right to Housing Network (NRHN) is writing regarding the Ontario Superior Court of Justice's recent decision in *The Regional Municipality of Waterloo v. Named Respondents and Persons Unknown*, 2026 ONSC 2971.

As a national network of people with lived experience, advocates, and legal experts advancing the right to adequate housing, the NRHN intervened in this case because of its profound implications for the rights of persons who are homeless across Canada and because it is the first case in which any level of government has actively sought guidance from the courts regarding its constitutional obligations toward persons experiencing homelessness.

We are concerned that two misunderstandings or misrepresentations of the decision may dissuade some municipalities from recognizing its value in providing a legal framework for rights-based approaches being applied in many municipalities and for engaging with senior levels of government regarding the necessary resources. Importantly, Justice Gibson made clear that municipalities cannot realize the right to adequate housing on their own.

While municipalities are on the front lines, they lack the fiscal and legislative tools controlled by senior levels of government. This ruling provides municipalities with a stronger legal basis for requiring federal and provincial governments to provide the resources and other measures necessary to implement local rights-based housing plans in compliance with the Charter.

1. The decision does not prevent municipalities from managing public land.

Justice Gibson held that although adequate shelter or housing options still do not exist for the Region's homeless population, the Region may close the encampment if it provides an alternative lawful site or adopts a safe tenting protocol. He did *not*, as some have suggested, find that a municipality cannot close an encampment on land needed for public development. In fact, this ruling provides greater flexibility than existed under the law before the ruling. Based on the previous ruling of the Superior Court in 2023, the Region could not close the 100 Victoria Street encampment until it had sufficient accessible shelter spaces available.

The reasoning is straightforward: when people are forced to live outside due to inadequate shelter capacity, they must have somewhere they can lawfully shelter themselves. The constitutional issue was that the Region sought to close the site without providing any lawful alternative. The new framework provided by Justice Gibson permits necessary closures of encampments while ensuring that, in the absence of adequate shelter spaces or housing, homeless people have a lawful place to shelter themselves.

2. The decision does not permanently institutionalize encampments as a solution to homelessness.

Justice Gibson was clear that encampments are not a solution to homelessness and are not consistent with the right to adequate housing; they are a symptom of governments' failure to ensure adequate housing and social supports as required by international human rights law. A lawful alternative site with services is only an interim measure to protect human life, dignity, and equality while governments work in collaboration with others to end homelessness.

3. A Path Forward for All Orders of Government

The broader implication of this historic decision is that the *Charter* requires governments to protect the rights of persons experiencing homelessness in a manner consistent with the recognition of adequate housing as a fundamental human right and homelessness as a prohibited ground of discrimination. Justice Gibson noted that this aligns with the recognition of the right to adequate housing and the requirement of a strategy to realize that right in the *National Housing Strategy Act* and in local initiatives such as Waterloo Region's Plan to End Chronic Homelessness.

The decision provides legal authority for the rights-based approaches that are already being applied by many Housing Service Managers in the housing and homelessness plans required under Ontario's *Housing Services Act*. Justice Gibson emphasized that adequate housing and necessary supports are needed by everyone who experiences homelessness – not only those living in encampments.

Recognizing the right to adequate housing means that targets and timelines for reducing and eliminating homelessness must be aligned with the recognition that fundamental human rights are at stake, and where available resources are lacking, senior levels of government must step up.

4. Conclusion

We urge Ontario's municipal leaders to use the Waterloo decision to champion the constitutional rights of homeless persons and start a conversation with senior levels of government about how to implement this commitment.

Justice Gibson provided, at the request of the Region, an evidence-based, reasonable assessment of how the Region can gain vacant possession an encampment site while respecting the constitutional rights of homeless persons. In so doing, he provided important guidance for all governments.

The NRHN welcomes the opportunity to work with municipalities, service managers, as well as federal, provincial and territorial governments to implement effective, lasting, and constitutionally compliant responses to homelessness based on this historic decision.

Sincerely,



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