

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH,
MARIO MUSCATO, SHAWN ARNOLD, CASSANDRA JORDAN, JULIA LAUZON, AMMY
LEWIS, ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL, SHERRI
OGDEN, JAHMAL PIERRE, and LINSLEY GREAVES**

Appellants

- and -

CITY OF HAMILTON

Respondent

APPELLANTS' EXHIBIT BOOK – VOLUME 4

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COPY FOR: COURT COPY

POFF ET AL V. CITY OF HAMILTON
COURT FILE NO. CV-21-00077187-0000

The Cross-Examination of
David Buckle
October 13, 2021

NIMIGAN MIHAILOVICH REPORTING INC.

COURT FILE NO. CV-21-00077187-0000

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

ASHLEY POFF, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO
AND SHAWN ARNOLD

Applicants

-AND-

CITY OF HAMILTON

Respondent

The Cross-Examination of **David Buckle**, on an affidavit sworn October 6, 2021, taken upon affirmation in the above action this, 13th of October, 2021, with all parties appearing remotely in the Province of Ontario.

NIMIGAN MIHAILOVICH REPORTING INC.

APPEARANCES:

For the Moving Parties:	Sharon Crowe
	Stephanie Cox
	Hamilton Community Legal Clinic
For the City of Hamilton:	Michael Bordin
	Bevin Shores
	Gowlings WLG

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I N D E X

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WITNESS: David Buckle, Affirmed.

Cross-Examination by Ms. Cox5

EXHIBITS

GUIDE TO UNDERTAKINGS, ADVISEMENTS, and REFUSALS:

This should be regarded as a guide and does not
necessarily constitute a complete list:

UNDERTAKINGS:

None noted.

UNDER ADVISEMENTS:

None noted.

REFUSALS:

[5] 16/10 18/13 24/14 25/13 29/6

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1 ---Upon commencing at 5:05 p.m.

2 DAVID BUCKLE,

3 THE WITNESS HEREINBEFORE NAMED,

4 Having been duly sworn by me to testify to the truth,

5 testified on their oath as follows, to wit:

6 CROSS-EXAMINATION BY MS. COX:

7 1 Q. Thank you for joining us today. The first
8 question I have of you is in reference to paragraph 8.
9 Now, I understand that you are a supervisor of the Housing
10 Focused street outreach team. For efficiency purposes,
11 can I refer to this as the housing team?

12 THE WITNESS: Sure.

13 MS. SHORES: David, you have to give a
14 verbal answer.

15 THE WITNESS: Yes.

16 MS. SHORES: Okay. Can you please speak
17 up? I'm having difficulty hearing you, so I assume
18 everybody else is.

19 THE WITNESS: Sorry. Is that better?

20 MS. SHORES: Ms. Cox, can you hear him?

21 MS. COX: A little better.

22 MS. SHORES: Just speak up and try to keep
23 your microphone close to your mouth, please.

24 THE WITNESS: Okay.

25

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1 BY MS. COX:

2 2 Q. Okay. Thank you. So at paragraph 8, you
3 describe that:

4 "Primarily HFSOT, the housing team, will be
5 prompted to engage with people living in encampments by
6 referral, whether from members of the public, city
7 councilors, or other departments within the city."

8 So my question to you is, under this new
9 protocol that's effective August 30th, 2021, who directs
10 your team to complete step three?

11 A. Primarily, we are requested to attend sites
12 at the request of municipal law enforcement.

13 3 Q. And who exactly in municipal law
14 enforcement would contact you to do that?

15 A. Our primary contacts are Lee Rynar, Matt
16 Huber, and Kelly Barnett.

17 4 Q. And how is that request made to you?

18 A. Frequently by email; sometimes verbally
19 during a meeting.

20 5 Q. So does the outreach take place
21 consecutively after MLE attendance in step two?

22 A. We perform outreach on an ongoing basis
23 whether or not MLE has requested us to attend at a
24 particular site. But if they do request a specific site,
25 we will follow up.

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1 6 **Q.** Okay. So in the event that step one and
2 two have been undertaken by MLE, if your team has already
3 been engaging with the encampment residents, would step
4 three be considered satisfied or are you required to
5 return after stage 2 has been completed by MLE?

6 **A.** We will return in order to provide them
7 with as up-to-date information as possible.

8 7 **Q.** And so how much time is allotted to your
9 involvement in the process? So how much time is allotted
10 to stage 3 prior to moving to stage 4?

11 **A.** There's no hard deadline. We have
12 committed to make an attempt to attend a site at the
13 request of MLE within 24 to 48 hours; however, we'll make
14 one visit and report back to them. We'll continue to
15 visit the site on our own or at their request; however, we
16 don't dictate when they move into the next step.

17 8 **Q.** Oh, to clarify -- I misheard that. You
18 don't dictate when they move to their next step?

19 **A.** No.

20 9 **Q.** Okay. Who advises MLE to move to stage 4?

21 **A.** My understanding is that that's an internal
22 discussion with MLE.

23 10 **Q.** So that doesn't involve the housing team's
24 input?

25 **A.** No.

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1 11 Q. And so does MLE require that the housing
2 team produce records of satisfying stage 3 before they
3 will move to stage 4?

4 A. We provide them with a written update of
5 what we find at an encampment; however, they have never
6 expressed to us that they need to have that before they
7 move on specifically. Otherwise, if they want us to go
8 back and complete an additional assessment, we will do so.

9 12 Q. So to the best of your knowledge, what
10 mechanism is in place with MLE to make sure that stage 3
11 is complete before they moved to stage 4?

12 A. So we have been using an encampment
13 assessment form, and it's sort of a document that provides
14 them with, again, an up-to-date sort of snapshot of what's
15 happening in the encampment when we attend it.

16 13 Q. Okay. And so in that checklist -- I've
17 never seen it and it hasn't been produced today, so bear
18 with me here -- does it -- when I look at the policy
19 provided by the City where it enumerates -- well,
20 actually, at paragraph 6 of your affidavit, it explains
21 some of the rules of your team when engaging with unhoused
22 people at encampments.

23 Is this a guide in this list, or are there
24 certain quotas that have to be met by your team prior to
25 confirming with MLE that that street outreach has been

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1 satisfied?

2 **A.** Paragraph 6 is not a guide of the
3 encampment assessment form that we provide to MLE. It was
4 a bit of a work-in-progress document that we had to
5 develop on the fly. But primarily what it includes is the
6 location, the number of tents, the number of individuals.
7 We try as much as possible to determine how many of those
8 individuals present when we attend are actually staying
9 there. And then brief updates based on first name and
10 initial on what kind of engagement, whether, you know,
11 shelter was offered, whether it was declined, whether it
12 was accepted, that sort of thing.

13 So it is really just a snapshot of who is
14 where.

15 14 **Q.** Okay. And so in your role, are you
16 educating individuals about shelter options, or are you
17 designing an individualized plan for them to ensure that
18 they access shelter or more permanent housing?

19 **A.** A little bit of both. Obviously, each
20 individual is different, so we try as much as possible to
21 assist them from whatever starting point they're at. We,
22 as an outreach team, are not an intensive case management
23 program or a housing program. So it is strictly outreach,
24 so we try and connect them with the supports.

25 15 **Q.** Okay. So my understanding, then, would be

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1 you're educating individuals and creating the referrals to
2 the supports they need. Would that be correct to say?

3 **A.** Yes.

4 16 **Q.** Okay. But your role is not to facilitate
5 access to shelter and to ensure that it's been obtained
6 prior to stage 4?

7 **A.** No, sorry. That is also part of the work
8 that we do. We're a little bit all over the map. So we
9 will advocate and refer people to shelters. We'll work
10 with shelter providers in the case of a service
11 restriction to try to see if we can have it lifted or
12 reduced. We try and look at shelter diversion to see if
13 there's any other options outside of the shelter system.
14 We've been known to take people to apartment viewings if
15 they have something set up already and connect them with
16 intensive case management supports.

17 17 **Q.** Okay. And so are those connections, like,
18 in your current experience with the current protocol, so
19 from August 30th until 2021 until present, have those
20 connections been successfully made prior to MLE
21 enforcement at stage 4?

22 **A.** I think we have had some success, yes. I
23 don't have numbers in front of me, but.

24 18 **Q.** Success in what way?

25 **A.** We have been able to make connection with

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1 intensive case management housing support programs. We've
2 had success in assisting people with accessing the shelter
3 or hotel system. We've had other successes where we have
4 assisted them with obtaining income through social
5 assistance or otherwise, opening bank accounts, getting
6 ID.

7 We try and fill whatever gap is needed in
8 the moment.

9 19 Q. Is it the protocol policy that a resident
10 be ensured that they can access shelter space and that
11 that's available to them prior to enforcement at stage 4?

12 MS. SHORES: Counsel, what part of his
13 affidavit is he speaking to the protocol policy, as you
14 phrased it?

15 MS. COX: Well, he's aware of what the
16 protocol is. He's just spoken about it, stage 3 of it.
17 So what I want to understand is, is the policy as the
18 housing team to -- I will reword this.

19 BY MS. COX:

20 20 Q. So what criteria is there, if it exists,
21 that the housing supports and connections made by the
22 housing team have been satisfied prior to movement to
23 stage 4 of enforcement?

24 MS. SHORES: I'm sorry, I don't understand
25 that question because he already said that that's not

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1 within the housing team's purview.

2 MS. COX: Okay.

3 ---OVERLAPPING SPEAKERS RESULTING IN LAPSE IN AUDIO FEED

4 BY MS. COX:

5 21 Q. So as the supervisor of the housing team,
6 what criteria do you have to satisfy yourself that you
7 have completed your role?

8 A. So we provide, again, a snapshot of
9 information or of a situation that we find at a site that
10 we attend at the request of MLE. What they do with that
11 information as far as moving on to the next step is up to
12 MLE.

13 22 Q. Okay. Are you administering any VI-SPDAT
14 when you are requested to attend at these sites under this
15 new protocol?

16 A. We are, but we aren't currently sharing
17 that information with MLE.

18 23 Q. Is it the policy within your team to
19 administer a VI-SPDAT at every encampment with every
20 resident that you meet with?

21 A. If one hasn't already been done or requires
22 updating.

23 24 Q. Sorry, say that again?

24 A. If one hasn't already been done and if
25 there is a significant change in the person's

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1 circumstances that it requires to be updated, then we will
2 do it.

3 25 Q. Okay. And so for my understanding, what is
4 the role of the VI-SPDAT? What purpose does it serve?

5 A. It, from our perspective, gives us a guide
6 as to what supports might be appropriate for the
7 individual. It doesn't speak to the protocol anymore.
8 There's nothing in the protocol that hinges on any
9 VI-SPDAT scores, which is why we don't share the
10 information with MLE.

11 26 Q. Okay. I'm going to turn to paragraph 8
12 where it states that your team may be prompted to engage
13 with people if referrals are received by city councilors.
14 Have you received referrals from city councilors?

15 A. From city councilors' offices. So
16 typically what will happen is the councilor's office will
17 receive an email or a phone call inquiry or complaint from
18 a resident, and they will just flip it to us.

19 27 Q. Okay. Do you receive more referrals from a
20 certain office, or is this -- or are all the referrals
21 from various city councilors equal --

22 A. I don't have --

23 MS. SHORES: Hang on. Counsel, what's the
24 relevance? What is the relevance of that?

25 I'm sorry, I can't hear you.

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1 ---LAPSE IN AUDIO FEED AT 5:21 P.M.

2 THE COURT REPORTER: I didn't hear you
3 either, counsel. There was a delay in the audio. I'll
4 need you to repeat the question, please.

5 MS. COX: Well, the relevance is that they
6 may have more encampments in their areas -- Mr. Buckle to
7 address those --

8 THE COURT REPORTER: Counsel, the record
9 doesn't reflect your last question.

10 ---DISCUSSION OFF THE RECORD AT 5:22 P.M.

11 MS. COX: My question is this: Do they
12 receive more referrals for engagement from certain city
13 councilors than others?

14 MS. SHORES: Okay. And my question was,
15 what is the relevance of that?

16 MS. COX: Well, they're identifying the
17 process in which they receive referrals, and so I am
18 trying to establish a relationship, if it exists, between,
19 you know, an increased amount of requests to intervene
20 from city Councilors who may have more encampments in
21 their ward.

22 THE WITNESS: What I should probably
23 clarify --

24 MS. COX: It's relevant because we have,
25 you know, affidavits speaking to individuals who live near

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1 encampments, and so there are some areas of town or some
2 wards that may not have as many encampments. So I'm
3 wondering if there's a relationship between the number of
4 encampments and the number of complaints to that city
5 councilor and therefore forwarded on to Mr. Buckle and his
6 team.

7 MS. SHORES: I follow your logic, counsel.
8 I'm not entirely satisfied that it's relevant to the
9 matters in issue, but go ahead.

10 THE WITNESS: So what I should probably
11 clarify is with the new protocol or process, the number of
12 inquiries, complaints, or referrals has dropped
13 dramatically because everybody is following the new
14 process of advising MLE first. So, again, it's being
15 filtered through MLE.

16 When it does come to us, and I don't have
17 numbers in front of me about which ward office speaks to
18 us more, but when it does come to us, it's more of an FYI.

19 BY MS. COX:

20 28 Q. And did I hear you correctly in saying that
21 usually comes more predominantly through MLE?

22 A. With the new process, yeah.

23 29 Q. Okay.

24 A. We've been -- as it says on the website,
25 we've also been reminding ward councilor offices that all

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1 referrals go to MLE first.

2 30 Q. Okay. So, David, it's correct that you
3 were involved in supporting encampment residents in this
4 role under the previous protocol?

5 A. Yes.

6 31 Q. In your opinion, is this current protocol
7 more expeditious in clearing encampments than the first?

8 MS. SHORES: That's a refusal. He's not
9 giving his opinion.

10 ---REFUSAL

11 MS. COX: Well, he --

12 MS. SHORES: It's not a proper question,
13 counsel.

14 MS. COX: It is a proper question because
15 he has already advised us that he has worked under one
16 protocol and under now this protocol, and we are
17 discussing the protocol itself and how it functions and
18 how it operates. So --

19 MS. SHORES: It is not one of the
20 circumstances --

21 MS. COX: It's a valid question.

22 MS. SHORES: This is not one of the
23 circumstances under the Art versus Grit test that opinion
24 evidence from a lay witness would be admissible. He's not
25 being presented here as an expert, so he's not going to

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1 give his opinion.

2 He's also, counsel, if you will recall,
3 this is a cross-examination on an affidavit, and the
4 content of his affidavit that speaks to the six-step
5 encampment process is limited at best. So perhaps there
6 is a particular paragraph that you can direct him to that
7 founds your question, but otherwise, I'm not persuaded
8 that it's relevant and I would ask that you move on.

9 MS. COX: Okay.

10 BY MS. COX:

11 32 Q. So you've spoken about direction from MLE
12 to become involved, and you've also spoken about the fact
13 that MLE initiates stage 4 on its own volition. So would
14 you maintain that there is, that MLE is driving the
15 process of this protocol more than your housing team is?

16 MS. SHORES: Counsel, what part of his
17 affidavit is that from? How is that a proper question on
18 cross-examination? What is the relevance?

19 MS. COX: Well, at paragraph 11 it says the
20 encampment response team is a collaborative effort
21 bringing together various city departments together and
22 includes MLE to identify sites that each department may
23 have become aware of to discuss a joint approach.

24 I want to understand, in that joint
25 approach, who is directing the clearing of these

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1 encampments? Is it MLE or is it the housing team of David
2 Buckle who is able to provide guidance with respect to
3 this process.

4 MS. SHORES: Okay. So, first of all, the
5 question of who is directing response to stage 4 has been
6 asked and answered. It is an unfair extension of what is
7 contained in paragraph 11 to suggest that a joint approach
8 is synonymous with the encampment process which is spoken
9 to in the affidavits of other affiants.

10 So I'm going to refuse that question and
11 ask again, counsel, that you constrain your questions to
12 proper questions arising from Mr. Buckle's affidavit.

13 ---REFUSAL

14 BY MS. COX:

15 33 Q. So I will direct your attention to
16 paragraph 6, sub D of that paragraph. It states that:

17 "HFSOT connects people to services that may
18 be available depending on their acuity level when assessed
19 under the Vulnerability Index Service Prioritization
20 Decision assistance to all."

21 So does that mean that the individualized
22 services they require, based on this assessment, aren't
23 always available?

24 A. Does that mean that they may not always be
25 available?

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1 34 Q. That's my question.

2 A. I mean, we've acknowledged that there are
3 pressures within the system. There is inflow and outflow,
4 so it's a very fluid situation. So there may be
5 circumstances when somebody may not be able to access a
6 particular service in that particular moment.

7 35 Q. Okay. In paragraph 26 of your affidavit,
8 you indicate that as of September 24, 2021, 70 percent of
9 encampment residents have high acuity. What does that
10 mean, to have high acuity?

11 MS. SHORES: I'm sorry, counsel, what
12 percentage did you say?

13 MS. COX: Well, when you add up 49 percent
14 of having high acuity at sub C with 21 percent of having
15 high acuity at sub B, the total is 70 percent.

16 MS. SHORES: Okay. But you said that he
17 said that in his affidavit, and that's not what he said.

18 MS. COX: Okay. So I'll correct.

19 BY MS. COX:

20 36 Q. At paragraph 26, it says at B, 21 people --
21 or 21 percent have been identified as very high acuity.
22 And at 26 sub C, it says 49 people have been identified as
23 high acuity on the VI-SPDAT assessment.

24 What does it mean to have high acuity?

25 A. It's the score that comes out through the

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1 VI-SPDAT.

2 37 Q. And so how does that --

3 A. And so very high acuity -- sorry. So very
4 high acuity would be 13 plus; eight to 12 would be high
5 acuity.

6 38 Q. So can you define the term "high acuity"
7 and what that means?

8 A. Yes. So my understanding is that the
9 acuity level that is reached by conducting a VI-SPDAT
10 involves a number of different factors, including health
11 concerns, legal involvement, financial issues, housing
12 history.

13 39 Q. Do these factors impact individuals'
14 ability to access shelter?

15 A. Not directly. Just because somebody has a
16 high or very high or any kind of acuity score doesn't
17 preclude them necessarily from accessing a shelter or
18 other services.

19 40 Q. So at paragraph 15, you state:

20 "When an encampment is dismantled, the
21 HFSOT is not involved with the dismantling. The HFSOT is
22 available, however, to ensure encampment residents are
23 aware of available shelter and that any potential
24 emergency shelter space is accessed or other options
25 pursued."

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1 So it's my understanding that dismantling
2 would take place at stage 4 or 5 with MLE. How is HFSOT
3 providing that support as described in paragraph 15?

4 MS. SHORES: Okay, the editorial with
5 respect to the stages of the encampment process was
6 completely unnecessary to lay a foundation for the
7 question. So I'll let him ask [sic] this, but to the
8 extent that that proposition is being put to the witness,
9 that's not relevant and I'll object.

10 So to be clear, David, you may answer the
11 question about what HFSOT is doing with respect to the
12 efforts described in paragraph 15, but it's not --

13 MS. COX: I will rephrase, then. If you
14 don't want me to refer to the protocol, then I'll
15 rephrase.

16 MS. SHORES: Well, yes, because the
17 protocol is not in the paragraph that you're referring him
18 to.

19 MS. COX: Right. And that's why I'm
20 correcting my question.

21 BY MS. COX:

22 41 **Q.** So my question is: How is the housing team
23 in HFSOT how do they make themselves available during
24 dismantling?

25 **A.** So the point of the paragraph was to

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1 clarify roles, and we wanted to, as much as possible,
2 remove outreach from the actual act of forcibly removing
3 or dismantling an encampment. However, we wanted to still
4 be available to support the individuals involved, so we
5 are basically in the vicinity.

6 So we're not in the immediate vicinity of
7 an encampment that might be being dismantled; however, we
8 might be a block away or just at the end of a phone call
9 ready to respond if necessary.

10 42 Q. So who would be calling you?

11 A. I would expect that largely the call would
12 come from either MLE or Social Navigator or even perhaps
13 parks if they run across someone that's requesting
14 immediate assistance in the moment.

15 43 Q. Okay. So does that depend on that
16 encampment resident requesting immediate assistance, or is
17 this a proactive effort by the housing team to ensure
18 encampment residents are aware of available shelter?

19 A. So what I would say is that we tend to have
20 ongoing, regular connections with individuals in
21 encampments. When it comes to a point where MLE has made
22 a determination that the encampment needs to be
23 dismantled, if the individuals still require more support
24 or information, we just make ourselves available in the
25 moment.

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1 44 Q. Yeah, I'm just trying to understand what
2 make yourself available entails. Is that physically
3 attending the site or responding to a call by MLE, or is
4 there more to it?

5 A. We can attend the site, but it depends on
6 the request, so.

7 45 Q. Okay. And so when you state you ensure
8 encampment residents are aware of available shelter, how
9 do you ascertain shelter availability?

10 A. Through HIFIS or we'll call the shelter
11 directly.

12 46 Q. Okay. And is it your role to ensure that
13 they get to shelter or to merely advise them of the
14 shelter?

15 A. We can assist. If they are ready to go at
16 a moment's notice, we frequently will call them a cab so
17 that they can get there safely. If, as often happens,
18 they need some more time and we're not able to assist,
19 then we at least try and encourage them to go and make
20 sure that there is staff on the other end waiting for
21 them.

22 47 Q. Okay. And during that process, are you
23 crosschecking whether they are service-restricted or
24 whether they will be able to access it?

25 A. Yes.

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1 48 Q. At paragraph 31, you reference the Housing
2 First model. My understanding -- I read the article that
3 you cited, and it's my understanding that the Housing
4 First model is predicated on there being affordable,
5 barrier-free housing for an individual to access.

6 Is it your position that there's enough
7 affordable and supportive housing stock currently
8 available in Hamilton to house all encampment residents in
9 the moment to adhere to this Housing First model?

10 MS. SHORES: No, that's a refusal, counsel.
11 That's not a proper question. He's not conveying his
12 positions and he's not here to answer questions about the
13 availability of housing in Hamilton.

14 ---REFUSAL

15 MS. COX: Well, I mean, he expresses that
16 it's concerning to him that residents may not be accepting
17 shelter that's offered to them. Based on his opinion and
18 the research that there is a Housing First model is the
19 most effective means of addressing homelessness.

20 MS. SHORES: So, first of all, opinion does
21 not appear in paragraph 31. He's not expressing an
22 opinion there --

23 MS. COX: His opinion is, "This is
24 concerning to me." That is an opinion. That is an
25 expression of a position and an emotion.

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1 MS. SHORES: That is an expression of
2 concern. It is not an opinion. And also, the actual
3 statement says, and I will read it for the record:

4 "I have also observed that since the
5 protocol was put in place and cabinet residents are being
6 encouraged by organized groups to resist housing supports
7 and instead to insist on remaining encampments."

8 So, counsel, in your question, you had
9 suggested that this addressed shelter that was being
10 resisted, and that's not what it says. So he's not going
11 to provide his opinion about the availability of permanent
12 housing in the City of Hamilton. That's a refusal.

13 ---REFUSAL

14 MS. COX: He has expressed that people are
15 resisting housing supports, and so I'm asking him if all
16 encampment residents did not resist these housing
17 supports, would all of them be housed?

18 MS. SHORES: Okay. That's fair. David,
19 can you answer that?

20 THE WITNESS: Respectfully, I don't think I
21 can. I think just a mere refusal is one thing, but there
22 may or be other factors at play as well as to whether or
23 not somebody has access to affordable and supportive
24 housing.

25

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1 BY MS. COX:

2 49 Q. So at paragraph 29, it states that you have
3 observed numerous fires at encampments. Have you seen the
4 fires first hand as a witness?

5 A. Not first hand. I've seen videos, and then
6 I've seen evidence of fires and talked to people that were
7 in the vicinity.

8 50 Q. Okay. It also indicates at E:

9 "I've also noted the presence of increased
10 thefts and break-ins in areas where encampments are
11 located."

12 How did you ascertain this information?

13 A. Those would be based on reports from
14 residents and councilor offices as well as some indication
15 from casual conversation with police.

16 51 Q. Okay. And so you stated "increased." So
17 have you compared the stats of thefts and break-ins in
18 these areas against statistics of thefts and break-ins in
19 non-encampment areas to be able to conclude that those are
20 increased compared to not in encampment areas?

21 A. No, I have not. Other than anecdotal.

22 52 Q. Okay. In the same paragraph 29 at sub D,
23 how did you ascertain the information contained in that
24 paragraph?

25 A. Sorry, D?

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1 53 Q. D.

2 A. Yeah.

3 54 Q. With respect to violent crimes.

4 A. That was, again, reports from police. In
5 the instance of the fatality, we gathered some information
6 primarily from police sources but also from other
7 residents that had been in or around the encampment.

8 55 Q. Okay.

9 A. And then the second incident in the same
10 paragraph with the shooting and then the subsequent
11 hijacking, same. Also, on the news.

12 56 Q. Okay. So you were able to access your
13 knowledge independent of your role in this encampment
14 process?

15 I guess what I'm trying to understand is
16 with respect to the shooting at an encampment located near
17 Centennial and the QEW which escalated into the suspect
18 hijacking a truck, are you saying that you heard that on
19 the news and that's how you were aware of this?

20 A. No. I also heard it on the news, but I
21 also was made aware of it through direct police reports.

22 57 Q. Okay. And so you haven't provided those
23 police reports, so I'm going to have to ask you, do those
24 police reports indicate that it was an encampment resident
25 that hijacked the truck?

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1 **A.** I'm sorry, I didn't mean to overstate the
2 word "reports." So, again, it would be more of a casual
3 conversation in the moment with police who were
4 responding, specifically trying to find shelter for the
5 people that remained at the encampment. So they explained
6 what the situation was and we tried to support the
7 individuals after that.

8 58 **Q.** Okay. So you don't have knowledge of
9 whether or not this shooter was an encampment resident?

10 **A.** Correct. Although anecdotally, I was told
11 he wasn't actually living there at the time.

12 59 **Q.** And is that the same suspect who allegedly
13 hijacked the truck?

14 **A.** That's my understanding.

15 60 **Q.** Okay. So anecdotally was it told to you
16 that a criminal proceeding has concluded that this suspect
17 was an encampment resident?

18 **A.** I'm not aware that anybody told me
19 subsequently what the outcome of any criminal proceeding
20 was; however, at the time, my understanding was that he
21 was not a resident of the encampment.

22 61 **Q.** Okay. So it does say at paragraph D:
23 "In some circumstances, even more serious
24 violent crimes has been associated with encampments."

25 Do you know if that's unique to

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1 encampments, or are there other serious, violent crimes
2 that happen throughout the city that are not
3 encampment-related?

4 MS. SHORES: Counsel, that's not a fair
5 question to the witness. He's talking --
6 ---REFUSAL

7 MS. COX: He's established that -- he's
8 established a relationship here that violent has been
9 associated with encampments. How do you establish that
10 relationship if you don't have a countering measuring
11 tool?

12 MS. SHORES: He's not saying -- there's no
13 reference in the paragraph that you're directing him to a
14 comparison between the rest of the city. So I'm
15 struggling with how that's a proper question to put to him
16 now.

17 BY MS. COX:

18 62 Q. So you said, "Even more serious violent
19 crimes has been associated with encampments." You provide
20 two examples. Do you have evidence of other examples of
21 violent crimes whereby you could reference a police report
22 of those violent crimes?

23 MS. SHORES: Violent crimes taking place in
24 encampments you mean?

25 MS. COX: Yes.

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1 MS. SHORES: Sorry. David, you can go
2 ahead.

3 THE WITNESS: Yeah, sorry. That was just
4 even more serious as compared to the information in C.

5 BY MS. COX:

6 63 Q. Okay. David, in your outreach efforts, is
7 there a policy on storing property for residents who can't
8 take the extent of their property to a shelter?

9 MS. SHORES: Sorry, what paragraph is this
10 related to, counsel?

11 MS. COX: Well, he doesn't reference
12 storage, but he lists at paragraph 6 what services and
13 supports are offered, and it says they may move. So I'm
14 wondering if is --

15 BY MS. COX:

16 64 Q. Is this a non-exhaustive list, or are there
17 other things beyond this list that the team may do?

18 A. Yes, so non-exhaustive. We have assisted
19 clients with storage in the past.

20 65 Q. From August 30th, 2021, to present, is that
21 something the team may do?

22 A. I think it's something we may do. I'm not
23 aware if we have done it since August 30th of 2021.

24 66 Q. So would it be fair to say there's no
25 policy with respect to storing property?

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1 **A.** There is no specific policy, no, but we
2 have done it and we have the capability to do it in the
3 future if we can.

4 67 **Q.** Okay. So my last question is with respect
5 to the photos that you produced. Are you able to tell me
6 which photos were taken from August 30th until present?

7 **A.** None.

8 68 **Q.** Sorry?

9 **A.** None. None of them were from August 30,
10 2021, to present.

11 69 **Q.** Okay. So what was the time period in which
12 these photos were taken?

13 **A.** Between May and November.

14 70 **Q.** Of what year?

15 **A.** Of 2020.

16 71 **Q.** 2020?

17 **A.** Yeah.

18 72 **Q.** Okay. And is it your testimony that all
19 encampments look like the photos that you've submitted?

20 **A.** No.

21 73 **Q.** Were the majority of these pictures taken
22 after an occupant of the tent left that tent?

23 **A.** Yeah. The majority of them, yes.

24 74 **Q.** Would you have known how long they had been
25 sitting for before taking these photos?

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1 **A.** Typically, yes. Oftentimes within a day.

2 75 **Q.** Okay.

3 **A.** Because, again, we monitor sites regularly.

4 76 **Q.** The first photo -- I'm trying to
5 understand. It looks like there is a loss of grass in the
6 area.

7 **A.** Mm-hmm.

8 77 **Q.** What are you trying to show in this photo?

9 **A.** That is the result of a fire.

10 78 **Q.** Okay. And you mentioned fires. Do you
11 know the number of fires that took place in encampments?

12 **A.** Since October of 2020, I would say between
13 three to five.

14 79 **Q.** Okay. And any deaths related to fire?

15 **A.** Not that I am aware of, no.

16 80 **Q.** Okay. Thank you, David. Those are all my
17 questions.

18 **A.** Okay. Thank you.

19 ---Whereupon the examination concluded at 5:54 p.m.

20

21

22

23

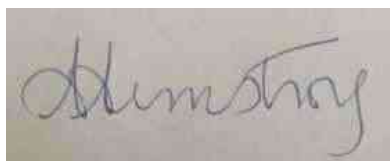
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I hereby certify the foregoing is a full, true, and correct transcription of all of my oral stenographic notes to the best of my ability so taken at the Cross-Examination of DAVID BUCKLE, given under oath before me on the 13th of October, 2021.

Amy Armstrong, CVR-RVR

A rectangular box containing a handwritten signature in dark ink. The signature appears to read "Amy Armstrong" in a cursive script.

Certified Realtime Verbatim Reporter

Certified Commissioner of Oaths

Certified this 14th of October, 2021.

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TAB 27

Court File No. CV-21-00077187-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ASHLEY POFF, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO
AND SHAWN ARNOLD

Applicants

- and -

CITY OF HAMILTON

Respondent

* * * * *

This is the Cross-Examination of **MONICA CIRIELLO** on her affidavit as sworn on the 5th day of October, 2021 and on her supplementary affidavit as sworn on the 9th day of October, 2021, taken under oath via Zoom Video Conference on Wednesday, the 13th day of October, 2021.

* * * * *

A P P E A R A N C E S:
(VIA ZOOM)

STEPHANIE COX
SHARON CROWE
Hamilton Community Legal
Clinic

- Counsel for Applicants

JORDAN DIACUR
BEVIN SHORES
Gowling WLG

- Counsel for Respondent

MARC BEEBE

- Observer

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REFUSALS

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7		53

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UNDER ADVISEMENTS

<u>U/A NO.</u>		<u>PAGE NO.</u>
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NOTE: The above-noted indices are provided for ease of reference only and are not to be relied upon in any manner whatsoever.

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1 --- UPON COMMENCING AT 11:21 a.m.

2 MONICA CIRIELLO,

3 having been affirmed,

4 was cross-examined and testified as follows:

5 BY MS. COX:

6 1 Q. Okay, thank you for joining us today,
7 Monica.

8 A. No problem.

9 2 Q. I'm just going to ask you a few
10 questions with respect to actually both affidavits, but
11 I'll make sure I direct you to paragraphs, either in the
12 original or supplemental when we come to them.

13 Do you happen to have your affidavit in
14 front of you?

15 A. I don't, but I can pull it up. Would
16 that be easier?

17 3 Q. It may be easier for you --

18 A. Give me one second.

19 4 Q. -- I think it's probably wise.

20 MS. SHORES: If needed, Counsel, I
21 can screen share as well.

22 THE DEPONENT: That might be helpful.
23 Do you mind doing that, Bevin.

24 MS. SHORES: I don't mind at all.
25 So I will begin by placing -- Counsel, which one would

1 you like up first? Oh, you know what, I've got them both
2 on two tabs in the same window, so it'll let me share
3 that. Okay. So you should be able to see the affidavit
4 of Monica Ciriello on the screen.

5 MS. COX: I wasn't -- thank you. I
6 can. I wasn't concerned for myself, it was with respect
7 to whether Monica wanted to refer to it to answer the
8 questions without me having to read it.

9 MS. SHORES: Well any question --
10 anything that you want to put to Ms. Ciriello, I'm sure
11 you'll do so in a proper way. She obviously will be
12 giving her evidence based on her knowledge, information,
13 and belief, so.

14 MS. COX: Okay. Are we good to
15 begin?

16 MS. SHORES: Yes.

17 THE DEPONENT: I'm good.

18 BY MS. COX:

19 5 Q. Okay. Okay. So with respect to the
20 city policy, Monica, is it your understanding that on
21 August the 9th, 2021 the city undertook a policy of
22 moving homeless people out of parks and into the shelter
23 system?

24 A. My understanding is that we came up
25 with a new policy to enforce our parks by-laws, yes.

1 THE REPORTER: I'm sorry, Counsel and
2 folks, to interrupt, we have a Jennifer Seidel looking to
3 enter the meeting. I believe that's counsel. Would we
4 like to let her in, or...

5 MS. SHORES: She is Counsel. Can we
6 go off record for a moment?

7 THE REPORTER: Yes, okay. Off the
8 record.

9 **--- DISCUSSION OFF THE RECORD AT 11:25 a.m.**

10 BY MS. COX:

11 6 Q. All right, so, Monica, compared to the
12 first protocol referenced at Paragraph 3, would it be a
13 fair statement to say that comparatively speaking, the
14 city in it's current protocol has expedited to clear
15 encampments since the revocation of the first protocol
16 on August 30, 2021?

17 A. My understanding is that the first
18 protocol had a 14-day window, while the second process
19 does not necessarily have timelines associated with it.

20 7 Q. So would you say that this second
21 protocol is faster in achieving compliance than the
22 first?

23 A. I wouldn't say so because we still have
24 encampments that were established in August that still
25 remain to this day.

1 8 Q. And would it be correct to say that in
2 the first protocol, the maximum stay limit of 14 days
3 did not apply for individuals who were considered high
4 acuity per their VI-SPDAT score?

5 A. I don't know the answer to that.

6 9 Q. Okay. So you don't know the terms of
7 the original protocol?

8 A. Not to speak to any assessments that
9 were done with the individuals and what those timelines
10 looked like.

11 10 Q. Okay. So you aren't aware that the
12 14-day timeline did not apply to individuals with high
13 acuity?

14 MS. SHORES: Well hang on, Counsel.
15 You can put that to her, but your question assumes
16 information that's not in evidence, so.

17 MS. COX: Well it is in evidence, in
18 your evidence, the original reference to the original
19 protocol which is in Rob and David's evidence.

20 MS. SHORES: Right, but you're
21 cross-examining Ms. Ciriello on her affidavits.

22 MS. COX: Okay.

23 BY MS. COX:

24 11 Q. Ms. Ciriello, were you part of
25 enforcement in MLE during the time in which the original

1 protocol was in place?

2 A. No. I was not the director at that
3 point.

4 12 Q. Okay. So returning to Paragraph 9,
5 based on your statement about discretion exercised in
6 the first protocol, would you agree with the statement
7 that there is less discretion in the current protocol to
8 allow a resident to remain if housing has yet to be
9 secured?

10 A. Sorry, can you repeat the question.

11 13 Q. So in, ah, I'll look for it here.

12 MS. SHORES: Yes, Paragraph 9 has
13 several subparagraphs. Maybe you can point her to the
14 particular one.

15 BY MS. COX:

16 14 Q. My question is, in your opinion, is
17 there more discretion --

18 MS. SHORES: No.

19 BY MS. COX:

20 15 Q. -- in the -- to enforce in the first
21 protocol than the second protocol?

22 MS. SHORES: No, she's not -- she's
23 not giving her opinion, Counsel. That's not a proper
24 question.

25 R/F NO. 1:

1 BY MS. COX:

2 16 Q. Monica, is there a greater role, does
3 MLE play a greater role in the encampment process now
4 than it did in the first protocol?

5 A. Yes.

6 17 Q. So turning to Paragraph 9 where you
7 outline what the current protocol is with the six steps.
8 I see that the protocol is silent with respect to
9 timelines. Are there timelines allotted to each stage
10 of the process?

11 A. No.

12 18 Q. And so who gauges the appropriate
13 timeline for each stage?

14 A. It would depend on the circumstance and
15 the location, and officers have the ability to use their
16 discretion based on housing options, weather, health and
17 safety, and so on.

18 19 Q. And so do you have a written policy
19 with a guide with respect to the parameters to be
20 considered when exercising discretion?

21 A. I know it's certain -- I don't know if
22 it is written down.

23 20 Q. So is this done on an ad-hoc basis
24 depending on the MLE officer?

25 A. Is what done on an ad-hoc basis?

1 21 Q. The decision of how -- the decision of
2 timelines and what discretion is used with respect to
3 each stage.

4 MS. SHORES: Well, Counsel, I don't
5 know that's a fair question because she gave you an
6 answer that described other factors that are to be taken
7 into account.

8 BY MS. COX:

9 22 Q. But who is exercising their discretion
10 when they're taking those factors into account?

11 A. That would be -- it would be
12 multi-pronged. So we would be working with our
13 counterparts to find out if there are housing options.
14 So that would be a discretion that we would be utilizing
15 based on a conversation. However, if an officer is out
16 in the field, and that would be our lead officer, our
17 supervisor, and it's raining for example, we would not
18 be asking anyone to leave during poor weather
19 conditions. So that would be discretion by the
20 supervisor on the ground at the time.

21 23 Q. Okay. And so is it only the supervisor
22 that can exercise that discretion or can other MLE
23 officers?

24 A. Out in the field?

25 24 Q. Yes.

1 A. Out in the field, it would be under the
2 leadership of the supervisor.

3 25 Q. And there's no documentation of what
4 parameters that supervisor is following with respect to
5 exercising discretion?

6 A. We've had conversations about it. I
7 cannot confirm if it is in a formal policy or if it was
8 just written correspondence back and forth.

9 26 Q. And so you are not in a position to
10 state how much time is allotted for Stage Four, or
11 pardon me, Stage Three where there's the housing focused
12 outreach?

13 A. That's correct.

14 27 Q. At Paragraph 12 you advise that six
15 sites have voluntarily complied with the by-law.
16 Can you identify the location of these six sites?

17 A. I don't have them in front of me, but
18 perhaps that would be something we could provide.

19 MS. COX: Counsel, can you please
20 undertake to provide that?

21 MS. SHORES: Again, that will be
22 taken under advisement because she's not sure if she can.

23 **U/A NO. 1:**

24 BY MS. COX:

25 28 Q. And so when you wrote your affidavit

1 saying that six sites have voluntarily complied, how
2 did you ascertain that information?

3 A. Through the officer that was in the
4 field.

5 29 Q. And who was that?

6 A. Lee Ryner. Sorry, I should say
7 supervisor in the field.

8 30 Q. And are you aware of how he made that
9 assessment?

10 A. The voluntary compliance?

11 31 Q. Mh-mmm.

12 A. That it followed through with the Step
13 Six, meaning that the clean up was completed. So it
14 followed every step of the process.

15 32 Q. So you personally don't have a
16 checklist of dates and times in which any of those sites
17 completed the stages?

18 A. Yes, we do.

19 33 Q. But for the purposes of this affidavit,
20 it's just my understanding based on your testimony is
21 that you ascertain that six sites were voluntarily
22 complied with because you asked Lee Ryner for that
23 information?

24 A. He houses the document. I could have
25 accessed it as well, but he is the owner of it.

1 34 Q. Oh, okay. And so are you in a position
2 today to outline the exact housing supports provided
3 to each person at those six sites at Stage Three?

4 A. No.

5 35 Q. Who would be able to tell us that
6 information?

7 A. Perhaps someone in Housing that had --
8 that had assisted with the six steps.

9 36 Q. And what do you mean by someone in
10 Housing, what's the title?

11 A. Rob Mastroianni, David Buckle.

12 37 Q. Okay. So what measurement tool is used
13 to ascertain if appropriate housing resources have been
14 exhausted at Stage Three to satisfy MLE that they can
15 move to Stage Four and issue a Notice of Trespass?

16 A. That information is provided by
17 Housing. They would be able to provide a checklist as
18 to what information was either offered or what
19 information was observed or obtained while they were at
20 the site.

21 38 Q. Okay. So at Paragraph 9(c)vii, so
22 seven, it states that that encampment assessment
23 checklist, which I think you're referring to, is
24 provided to MLE pursuant to their request. And so is it
25 fair to say then that those assessments are only

1 received by MLE if you request them?

2 A. My understanding is that that
3 information would be provided on an ongoing basis, not
4 just upon request.

5 39 Q. So is it -- is it a pre-requisite for
6 MLE to be able to move to Stage Four and issue those
7 Notices of Trespass, is it a pre-requisite that you're
8 satisfied that housing supports have been provided to
9 the residents in advance of Stage Four?

10 A. Yes, housing supports and resources
11 would be provided before we would move to Step Four.

12 40 Q. And what verification do you receive of
13 that prior to moving to Step Four?

14 A. Locations that were offered, spacing
15 that's available, and the amount of times we have
16 engaged is the information to the best of my knowledge.
17 There may be additional factors that I just don't recall
18 at the moment.

19 41 Q. At the same Paragraph 9(c)vii, it
20 states that confidential and privileged information is
21 omitted in the encampment assessment tool checklist
22 that's given to MLE pursuant to their request.

23 So based on this, would it be fair to
24 say that when MLE re-attends at Stage Four to issue a
25 trespass notice that they don't know specifically what

1 housing supports have been given to each individual
2 there?

3 A. I don't think that that's a fair
4 assessment because we do collaborate with Housing, and
5 omitting privileged information such as the SPDAT, we
6 would not have any of that information but we may have
7 names or descriptions or locations which would allow us
8 to identify the individuals.

9 42 Q. And so does the housing team receive a
10 written-up authorization from the encampment resident to
11 provide such individualized privileged identifying
12 information to MLE?

13 A. Is a name considered privileged?

14 43 Q. Yes. Unless like it's confidential
15 information that would require a consent to exchange
16 that with a third party. So are those consents signed
17 so that Housing can relay that individual information to
18 MLE?

19 A. I am not sure.

20 MS. SHORES: Well and to be fair to
21 the witness, I mean you're putting to her that this
22 information is privileged and confidential if it's being
23 relayed to a third party, but we're describing an
24 internal process within the city, so. I think her answer
25 needs to be understood in that context.

1 BY MS. COX:

2 44 Q. Okay. At Paragraph 9(c) we have a
3 list of what Housing Focused Street Outreach may do,
4 and it says at five, collaborate and co-ordinate service
5 with appropriate community and health agencies.

6 So when the housing outreach team has
7 worked with a housing supports, are those -- would it be
8 fair to say that at times, there are agencies that are
9 not under the purview of the City of Hamilton?

10 A. Sorry, can you repeat the question.

11 45 Q. So at Paragraph 9(vii) it says that
12 there's collaboration at times with appropriate
13 community and health agencies. So I would like to know,
14 does that mean there are times in which the housing team
15 is connecting with third-party agencies about these
16 individuals in an effort to find them housing?

17 A. I would not know who Housing would be
18 collaborating with on that. That would be a better
19 question for Robert or to Edward or David.

20 46 Q. Okay. The encampment assessment
21 checklist that can be provided to MLE, do you know if
22 that same checklist is being provided to Hamilton Police
23 Services for their enforcement at Stage Five?

24 A. I don't know. I don't believe so, no.

25 47 Q. And so in terms of the referral

1 process, who decides when to move to the next stage of
2 the process, who's overseeing that?

3 A. When we're moving from Step Three to
4 Step Four? Or sorry, for four to five?

5 48 Q. Three to four.

6 A. So Housing would -- as soon as Housing
7 provides the information that they have satisfied all
8 avenues to provide housing which has been, whether it'd
9 be available or a service plan or something, then they
10 would provide that information, give us the okay. Us
11 being MLE, and then we would proceed to Step Four.

12 49 Q. Okay. And can you help us understand
13 what kind of time lapse there is in between that
14 communication and when MLE re-attends at Stage Four?

15 A. It would vary.

16 50 Q. Can you give us an example of the
17 average time lapse with those six sites you referenced?

18 A. I cannot.

19 51 Q. Who would be able to provide that
20 information?

21 A. Lee Ryner.

22 52 Q. And who communicates to Hamilton Police
23 Services to move to Stage Five?

24 A. MLE.

25 53 Q. Who exactly in MLE?

1 A. It may be done in a joint meeting which
2 would be held, and then we can discuss it at that
3 point. It could be done through Lee to advise that we
4 had issued the trespass notice if they're out in the
5 field. Those would probably be the two avenues in which
6 HPS would be made aware.

7 54 Q. Okay. And do you have knowledge of the
8 time lapse between notifying them and their enforcement?

9 A. It would vary, but my understanding is
10 that they have it enforced under Step Five.

11 55 Q. But in terms of their attendance under
12 Step Five?

13 A. The timing would vary and I would not
14 be able to speak to that, that would be an HPS question.

15 56 Q. Okay. So tell me, how does HPS advise
16 the parks to do clean up at Stage Six?

17 A. MLE does that.

18 57 Q. So could you not gauge between the time
19 MLE advises HPS to attend at Stage Five and their
20 turnaround time advising of that compliance and the need
21 to move to Stage Six, you would then have a timeline of
22 that time lapse. Do you have something to that effect?

23 A. I would have something to that effect,
24 but that would not offer an average or an approximate
25 amount because the six were voluntary compliance, and

1 it's the other ones have not fully gone through the
2 process, so I don't think it would be fair to say that
3 that would be an average timeline. But that would be
4 information we would have and I will look to Bevin to
5 see if we can undertake.

6 MS. COX: Yeah, can you please
7 produce correspondence between the housing team and MLE
8 with respect to this enforcement process starting from
9 August 30th to present?

10 MS. SHORES: No. No, we're not going
11 to do that. I want to be clear, Counsel, because I'm
12 taking from the form of your questioning that you may not
13 have heard some of Ms. Ciriello's evidence. Her evidence
14 was that Step Five, the Hamilton Police Services have not
15 yet responded. So you're asking for correspondence that
16 while conceptually in accordance with this process could
17 be generated, has not yet been triggered because that has
18 not yet happened. These six encampments.

19 **R/F NO. 2:**

20 MS. COX: So that -- so then her
21 statement that six encampments have gone through the
22 entire process is incorrect?

23 MS. SHORES: Ms. Ciriello, can you
24 confirm?

25 THE DEPONENT: Yeah, no, for sure.

1 So some of them would vary. They may have received
2 voluntary compliance at Step One or at Step Two and then
3 we would have went to Step Six. So that's why I was
4 explaining that if we provided that timeline, it would
5 not be an approximate understanding of the timing between
6 each step.

7 MS. SHORES: No, no, I think we're
8 getting confused. Step Six was taken in some
9 circumstances without Step Five having been taken,
10 correct?

11 THE DEPONENT: Correct. Correct,
12 some of it may have come just from a Step One voluntary
13 compliance.

14 MS. SHORES: Counsel, I apologize for
15 doing re-examination out of order, but I think it was
16 important to clarify.

17 BY MS. COX:

18 58 Q. Have you received any correspondence
19 from the housing team that they have complied with
20 Stage Three and that as a result, MLE can move to
21 Stage Four on any of the encampments that have been
22 identified?

23 A. Have I personally received
24 correspondence?

25 59 Q. Your testimony earlier was that MLE is

1 advised of when Housing has completed their role at
2 Stage Three, and it's with that context that MLE is made
3 aware that they can then move to Stage Four. And in
4 your affidavit at Paragraph 9 -- or pardon me, at
5 Paragraph 10. Oh, sorry, it's Paragraph 12. It lists
6 where the sites are in terms of where they sit in this
7 process.

8 And so at (c) it says seven steps are
9 in Step Three and moving to Step Four, meaning that MLE
10 will be posting notice under the Trespass to Property
11 Act. So do you have communication from the housing team
12 that they've satisfied Stage Three?

13 A. And just to clarify, are you asking me
14 personally or are you asking if MLE has the information?

15 60 Q. If MLE has.

16 A. I personally do not. It may come up in
17 a morning meeting. I don't have written correspondence
18 of it, but that would be something Lee Ryner would have.

19 61 Q. Okay, so then how did you ascertain
20 this information to swear it for this affidavit?

21 A. Lee Ryner and our spreadsheet.

22 62 Q. Lee Ryner, how did he communicate it
23 with you?

24 A. Email.

25 63 Q. Can you produce that email?

1 MS. SHORES: No, Counsel, that's a
2 refusal.

3 **R/F NO. 3:**

4 MS. COX: Under what grounds? It's
5 relevant.

6 MS. SHORES: It's not relevant.
7 It's, I'm sorry, it's privileged. It's confidential.

8 BY MS. COX:

9 64 Q. At (d) in the same paragraph it says
10 that four sights will be moving to Step Five, meaning
11 that the MLE has already posted notice under the
12 Trespass to Property Act.

13 So is there a correspondence with
14 respect to those encampments where Housing is directing
15 MLE and MLE is now issuing correspondence to HPS that
16 they're, um, satisfied their role in the process?

17 A. Are you asking about correspondence
18 between MLE and HPS or housing and MLE?

19 65 Q. Both, with respect to those four sites
20 that you refer to --

21 A. Mh-mmm.

22 66 Q. -- do you have those correspondences?

23 A. I would have the spreadsheets that
24 would indicate them, and then I would have confirmation
25 from Lee Ryner.

1 67 Q. And so who fills in those spreadsheets?

2 A. Lee Ryner, another officer, his
3 sub-supervisor.

4 68 Q. Okay. And so when those sheets are
5 provided to you, what's your role in obtaining those
6 sheets?

7 A. I review them on either a need-to-know
8 basis or I review them in advance of council or
9 committee meetings. And then that information I have
10 attended, not on a regular basis, but I have attended
11 morning meetings between Housing and MLE when those
12 documents are discussed.

13 69 Q. Okay, I'm just trying to understand,
14 you are -- the purpose of your role in receiving those.
15 Is it, based on your testimony, would it be fair to
16 summarize and say it's for reporting purposes so that
17 you can report that to council and other city
18 departments?

19 A. Yes, and ensure that we are following
20 the process. So a compliance role.

21 70 Q. Okay. At Paragraph 9, Step One of the
22 protocol it states, "The encampment process is initiated
23 when complaints are received by MLE."

24 A. Correct.

25 71 Q. So can you tell me the basis to

1 identify the initiation of Step One of the process?

2 A. It would be the receiving of a
3 complaint, either over the phone or via email.

4 72 Q. And who could be these complainants?

5 A. It could range. Residents in the area,
6 individuals that have other -- we have some that are,
7 I was in this park and I observed X, Y, or Z.

8 73 Q. And do you personally receive those
9 calls or complaints?

10 A. No.

11 74 Q. Who receives those?

12 A. It depends the form that they come
13 through. So it could come through as a, um, it could if
14 there was a councillor complaint, which would go through
15 our CCMLE process. It could go through our
16 MLE@Hamilton.ca, which you could generate any city
17 complaint, it could come through our city call centre.
18 It could go directly to a supervisor. You know, I have
19 received a couple, and then we put it through the
20 process of sending it to create an arm in Amanda (ph.)
21 which would action it for Step One. So there's a
22 variety of ways they could come through.

23 75 Q. Are they ever funneled to one
24 individual to triage which one to address first?

25 A. They would be triaged to Lee as an FYI,

1 because it would be his team that would be enforcing the
2 parks by-law in this process; however, the approach that
3 is taken is usually determined at a morning meeting with
4 all players around the table.

5 76 Q. Who are these players you're referring
6 to?

7 A. It would be Housing, MLE, Parks, Waste
8 is sometimes there depending, and HPS.

9 77 Q. Okay. And so during this conference
10 with the various services, how is it decided, is there
11 any guidelines that the team follows to decide which
12 encampment will be, you know, at Stage One and you're
13 initiating that?

14 A. Well they would all be at Stage One if
15 they were a complaint, and we would go in and ensure if
16 there was a parks violation. So a Step One wouldn't be
17 something that we would have a conversation at the
18 all-players meeting about.

19 78 Q. Do those -- in that meeting, is it
20 decided when to move to Stage Two, to provide that
21 notice of the violation and seek compliance?

22 A. No, Step One and Step Two are primarily
23 done with MLE because we receive the complaint which is
24 Step One. Step Two, we go and assess if there is a
25 violation that has taken place. Those, those belong

1 with MLE.

2 79 Q. Okay. So I'm just trying to understand
3 what is the basis on which you decide which encampment
4 to address first through the process.

5 A. Some it might be a health and safety
6 concern that comes in, so depending on the nature of the
7 complaint that may come in. It could be -- it could be,
8 depending on the residents that are there and housing
9 options that are available. But again, this isn't for
10 Step One or Step Two because Step One is in-taking the
11 complaint and Step Two is assessing whether there's a
12 violation of our parks by-law or any other city by-law,
13 but primarily parks.

14 80 Q. Yeah, in Paragraph 10 you state there's
15 44 encampments that have been identified, and so I'm
16 trying to understand why all of them wouldn't be in
17 Step Two at the same time.

18 A. Well I think it would -- it would vary
19 depending on circumstances, as I had mentioned. So we
20 don't necessarily go chronological with one site that
21 we're at.

22 81 Q. Do you have --

23 A. It's sometimes -- and sometimes we
24 would, depending on a health and safety or something
25 like that. With regards to a written policy, we'd --

1 there is something recorded, I'm not sure if it is a
2 formal city policy.

3 82 Q. But given that this is within MLE's
4 discretion and you said that it's MLE that decides
5 this, does MLE have a policy with respect to which
6 one to address first and what those parameters are?

7 MS. SHORES: Well hang on, hang on.
8 What did you say that she said MLE decided?

9 MS. COX: She said that MLE decides,
10 it's internal within MLE to decide Stage One and Two.

11 THE DEPONENT: Step One is just we're
12 taking a complaint, though.

13 BY MS. COX:

14 83 Q. Right. And Two is MLE -- well One is
15 advise -- taking the complaint and seeing if there is a
16 violation, and Two is actually MLE going out and
17 advising that they are in violation and seeking
18 compliance, and --

19 MS. SHORES: No, no, Counsel, I'm
20 sorry, I need to interject. We have it right here and
21 that is not what the affidavit says and that's not what
22 her evidence was. Paragraph 9(b)(ii), MLE attends and
23 determines if that's --

24 MS. COX: That's what I said. What I
25 said is they attend and they seek voluntary compliance.

1 So I'm not misstating what Step Two is.

2 MS. SHORES: What --

3 MS. COX: What she said is that
4 Step Two -- I think you're interjecting a little too much
5 here in my, in my ability to ask her questions, Counsel.

6 MS. SHORES: I believe my
7 interjections have been appropriate, and I'm trying to
8 ensure that the questions remain proper and fair to the
9 witness.

10 BY MS. COX:

11 84 Q. So my question is, how does MLE
12 determine which encampment to attend at Step Two and
13 seek that voluntary compliance when there's multiple
14 encampments in violation of the by-law?

15 A. So depending on the complaint that we
16 receive, we would be able to determine which one to
17 attend when. It also has to do with staffing resources,
18 staffing availability, other by-laws that have to be
19 enforced, it's not as if this team is exclusively, and
20 there are other things that they are working on. But we
21 would certainly prioritize concerns of health and safety
22 that get raised in a complaint.

23 85 Q. Is that stated in any formal policy?

24 A. We have an enforcement policy and it's
25 our Progressive Enforcement Policy, but it does not

1 specifically speak to encampments, it speaks to our
2 enforcement process as a whole as a department.

3 86 Q. Okay. Can that be made available to
4 us?

5 A. I will look to Bevin.

6 MS. SHORES: Is that a publically
7 available document?

8 THE DEPONENT: The internal policy,
9 no.

10 MS. SHORES: I'll take that under
11 advisement.

12 **U/A NO. 2:**

13 BY MS. COX:

14 87 Q. So just so that I understand. The
15 enforcement policy with respect to encampments is the
16 same policy that would be applied to other by-law
17 infractions?

18 A. We proceed under progressive
19 enforcement, yes.

20 88 Q. So there's not a unique policy for
21 encampments?

22 MS. SHORES: Well other than the one
23 that she's given evidence of.

24 THE DEPONENT: This process.

25 BY MS. COX:

NIMIGAN MIHAIOVICH REPORTING INC.

1 89 Q. Okay. But my question was, how is MLE
2 deciding when to address each encampment, and her
3 testimony was there's varying factors. And in asking
4 what are those factors, it's my understanding that you
5 are relying on the general enforcement Progressive
6 Enforcement Policy that is utilized in any situation
7 across Hamilton.

8 A. As well as prioritizing health and
9 safety complaints that are coming in with regards to it.

10 90 Q. Okay, so this guideline, the
11 Progressive Enforcement Policy was not developed in
12 response specifically to encampments?

13 A. No.

14 91 Q. Are you aware that on September 17,
15 2021 that social navigation with the police attended
16 Durand Park?

17 A. I don't recall the date, but I do
18 recall that police attended Durand Park.

19 92 Q. And so was that at the direction of
20 MLE?

21 A. I don't recall. I think it was social
22 navigator that attended. No one to enforce a trespass,
23 if I recall.

24 93 Q. Are you aware that social navigation
25 with the police provided Durand Park residents with two

1 hours notice to achieve compliance with the park's
2 by-law?

3 A. Yes. And wait, to clarify. Sorry, was
4 I aware that HPS provided residents of Durand Park two
5 hours. Sorry, can you repeat the question, I apologize.

6 94 Q. That's okay. That's okay. Yes, so
7 just to confirm, you're saying that you don't know if
8 SNP's attendance that day was at the direction of MLE?

9 MS. SHORES: Sorry, FNP (sic)?

10 MS. COX: Yes, the social navigator.

11 THE DEPONENT: I don't recall.

12 BY MS. COX:

13 95 Q. Where could we verify --

14 A. Lee Ryner.

15 96 Q. -- information --

16 So is it possible that their attendance
17 at that social navigation with the police's attendance
18 at Durand Park requesting that individuals comply on
19 September 17, 2021, did that take place outside of the
20 encampment process that you've identified at
21 Paragraph 9?

22 A. It, it wouldn't -- it wouldn't have, it
23 would have followed the process. I don't recall the
24 specifics surrounding that event, I apologize.

25 97 Q. So you don't have evidence to rely on

1 to have an assured statement at this time?

2 A. That SNP went to Durand Park at the
3 request of MLE, no.

4 98 Q. And so you don't know, you can't say
5 whether that took place outside of the encampment policy
6 process or if it complied with the process?

7 A. Sorry, I'm just trying to recall if
8 there's anything.

9 MS. SHORES: Well in fairness to the
10 witness, she said a couple of times that she can't recall
11 that particular event, Counsel.

12 MS. COX: Okay.

13 BY MS. COX:

14 99 Q. So you identified earlier that there's
15 a spreadsheet that you oversee to ensure that there's
16 compliance with this protocol. So it's reasonable that
17 I would expect that she would be able to produce this
18 information, given that you're overseeing it. So can
19 you produce the spreadsheet that you had referred to so
20 that we can identify that stage, the other stages were
21 satisfied prior to SNP's attendance on September 17th at
22 Durand Park?

23 MS. SHORES: Monica, what would be
24 involved time-wise in getting that spreadsheet together?

25 THE DEPONENT: I -- I would need

1 probably a day in order -- so, yes, we could provide it,
2 Bevin, I think, it would just take some time. I'm not
3 sure what the timelines are on --

4 MS. SHORES: Yeah.

5 THE DEPONENT: -- production.

6 MS. SHORES: Counsel, just for the
7 practic -- uncertainty about the practicalities, we'll
8 take that under advisement. There may be some internal
9 hurdles that I'm not aware of right now with respect to
10 producing that, but we'll provide you with our position
11 promptly.

12 BY MS. COX:

13 100 Q. Could you look up that spreadsheet
14 right now to reference your records so that you can
15 provide an answer?

16 MS. SHORES: No, she's not going to
17 do that, Counsel. We're taking that request under
18 advisement.

19 **U/A NO. 3:**

20 BY MS. COX:

21 101 Q. Is it possible then that SNP attended
22 on September 17th outside of this process?

23 A. Sorry, is it September 17th or was it
24 September 7th that you're referring to? The 17th.

25 102 Q. Seventeenth.

1 A. I would find it very unlikely that they
2 would have attended outside of our process, considering
3 there are daily meetings and they're at the table with
4 it, with, at the table.

5 103 Q. But you don't have certainty with
6 respect to that answer?

7 A. I personally do not because I wasn't at
8 the table for that conversation.

9 104 Q. Okay. As well on -- are you aware that
10 on September 17th, Social Navigation with the police
11 also attended Wellington Park demanding compliance with
12 the park's by-law, are you aware of this?

13 A. With the park's by-law or the trespass?

14 105 Q. Pardon me. The -- well both.

15 A. I don't recall the specific park, but,
16 no, I don't recall the specific park, no.

17 106 Q. And would your spreadsheet speak to
18 this?

19 A. The information would be included in
20 there.

21 107 Q. Okay, can you please produce the
22 spreadsheet that speaks to the processes engaged in at
23 Wellington Park, please?

24 MS. SHORES: Hang on. Is this,
25 Monica, would this be on the same spreadsheet or are

1 there individual spreadsheets?

2 THE DEPONENT: It'd be the same
3 spreadsheet.

4 MS. SHORES: So same, the same
5 answer --

6 MS. COX: Okay.

7 MS. SHORES: -- Counsel, due to the
8 logistical concerns, under advisement, but we'll provide
9 you with our position.

10 **U/A NO. 4:**

11 MS. COX: Okay, thank you.

12 BY MS. COX:

13 108 Q. Monica, are you aware that on
14 September 20, 2021, Social Navigation with the police
15 attended J.C. Beemer Park to enforce under the Trespass
16 to Properties Act?

17 A. Yes.

18 109 Q. Okay, and so how do you know that?

19 A. I was made aware through Lee Ryner and
20 Kelly Barnett as to what was taking place at J.C. Beemer
21 Park and that they --

22 110 Q. Okay. Okay.

23 A. -- that they were there.

24 111 Q. Okay. And so who was it from MLE that
25 advised Social Navigation with the police to attend and

1 enter into Stage Five?

2 A. That would have been a conversation
3 that took place in one of those morning meetings.

4 112 Q. And so tell me about that conversation,
5 does that include an analysis of certain parameters to
6 determine that you can move to Stage Five?

7 A. So those morning meetings would have,
8 again, all players at the table, housing options would
9 have been discussed because we would have run through
10 what the steps were. Again, I wasn't at this specific
11 meeting, but I have been at other morning meetings and
12 you do a full review of the steps that have taken place
13 up until that date at that location. You take into
14 account health and safety concerns which may be raised,
15 you would look at weather conditions, again time of day,
16 things like that, resources. All of these types of
17 things would be taken into consideration.

18 113 Q. Okay. And so are there minutes from
19 this meeting?

20 A. No formal minutes, no.

21 114 Q. So there's no documentation of the
22 conversations that take place in these meetings?

23 A. There may be a phone call or an email
24 afterwards, but no formal meeting minutes are taken.

25 115 Q. Okay. So in that meeting, do you

1 require any verification from the housing team to
2 satisfy yourself that all resources have been deployed
3 and that they are -- they've satisfied Step Three of the
4 process?

5 A. If it's a site that we're discussing
6 moving into Step Four, Housing would be able to provide
7 information of whether housing and supports were offered
8 or whether housing options are available. And again,
9 that's when we would use our discretion if housing
10 options were not available, we may not go to that site
11 on that day.

12 116 Q. In exercising that discretion, if
13 housing has not been obtained by a resident, whether
14 that be temporary shelter or a more permanent housing,
15 is it -- is it MLE's position that enforcement, the
16 enforcement process will not proceed because housing has
17 not been obtained?

18 A. I think, to answer your question,
19 I think it's important to note that it's not MLE that is
20 saying we move to the next step, we would very much
21 defer to Housing and their expertise and whether that
22 step has been satisfied and whether all options have
23 been utilized.

24 117 Q. All right, but Housing, the housing
25 team does not have to provide you with evidence that

1 people have been housed, it's merely that those
2 resources have been made available?

3 A. It would be that the -- yes, that
4 options were made available to individuals that were
5 in the sites, correct, and that such housing options
6 existed.

7 118 Q. Hi there, can you hear me?

8 A. Oh, there, yes.

9 119 Q. So sorry about that. Our internet just
10 wiped out. So we'll start again. Am I on video?

11 A. Yes.

12 MS. SHORES: Yes, we can see and hear
13 you.

14 MS. COX: Okay. I'm so sorry about
15 these technological difficulties. Believe me, I don't
16 want them either.

17 BY MS. COX:

18 120 Q. Okay. Sorry about that, Monica.

19 A. No problem.

20 121 Q. So I was asking if -- if the parameters
21 are that Housing confirms that someone has actually been
22 housed prior to moving to or obtain shelter prior to
23 moving to Stage Four, or is it merely that they've been
24 advised of options available to them?

25 A. That they would have been advised of

1 options available to them and that options did exist.

2 122 Q. Okay. And so it's not MLE's role to
3 confirm that those options did in fact exist?

4 A. We would receive that confirmation in
5 a morning meeting before a site was visited, but we
6 would not confirm that information again.

7 123 Q. Okay. So at Paragraph 12, again you
8 indicate that six sites have voluntarily complied with
9 notice of by-law violation. How do you characterize
10 this as voluntary?

11 A. That they picked up and left. Whether
12 it was after Step Two when we advised that there was
13 violation under the parks by-law or whether it was once
14 Housing was engaged and housing was taken up.

15 124 Q. Okay. And you don't have personal
16 knowledge of this, like you didn't witness any voluntary
17 compliance, this is based on a communication, I'm
18 assuming, by Lee?

19 A. Lee or at the morning meeting, yes.

20 125 Q. Isn't it true that if they didn't
21 comply, encampment residents could be subject to a
22 ticket by MLE?

23 A. There is an enforcement fine associated
24 with a parks by-law; however, we have yet to issue a
25 ticket to anyone under that by-law in this circumstance.

1 126 Q. Okay. When MLE attends and seeks this
2 compliance with the by-law, does MLE also advise of the
3 consequences of failed compliance?

4 A. Failed compliance in that a charge
5 could result, no. I think it would be, you're in
6 violation of the parks's by-law, here's what is not
7 permitted.

8 127 Q. But the consequences of not complying
9 with that direction are not relayed?

10 A. I'd -- being a charge, no, because we
11 would never issue a charge.

12 128 Q. Okay. So when MLE attends, they don't
13 explain to by-law, or pardon me, the encampment
14 residents the consequences of remaining there?

15 A. We would walk them through perhaps what
16 the process would be, but it wouldn't be what a park's
17 charge would be.

18 129 Q. Okay. And so if you're walking them
19 through the process, you would -- you would of course
20 advise them that eventually if they don't comply, that
21 Hamilton Police Services can issue enforcement under the
22 Trespass to Property Act?

23 A. That would be something that would
24 likely be communicated, yes, we would walk them through
25 the six, six-step process.

1 130 Q. Okay. At Paragraph 12 you refer to MLE
2 posting notice inferring that -- like I infer from
3 posting notice that a written notice of a by-law
4 violation has been provided to the encampment resident
5 and their tent. Can you please clarify what you mean by
6 posted notice?

7 A. It would be a notice of contravention.

8 131 Q. Would it be in writing?

9 A. Yes. It has varied via verbal and in
10 writing.

11 132 Q. Is it always in writing or always
12 verbal, is there a consistent process?

13 A. When we originally started the process,
14 we were going to proceed with verbal only and now we're
15 proceeding with written.

16 133 Q. Okay, yeah, because when I read the
17 encampment response process that you and Mr. Edward John
18 provided, in it, it states that it's verbal and not
19 written. So when did you change to written?

20 A. As we were moving through the process,
21 we made that change.

22 134 Q. So what date was that change made?

23 A. I don't have the date in front of me.

24 135 Q. And so at what stage in the process is
25 written notice given?

1 A. Four, when we re-attend.

2 136 Q. Have you issued any of those yet?

3 A. Yes.

4 137 Q. Can you produce those, please?

5 MS. SHORES: Counsel, what's the
6 relevance? I have some serious proportionality concerns.

7 MS. COX: I don't know how this would
8 be prejudicial at all, if anything it would corroborate
9 her testimony. It's important because on --

10 MS. SHORES: (Unintelligible) --

11 MS. COX: -- (unintelligible)
12 reflecting on irreparable harm, we need to understand --

13 THE REPORTER: I'm sorry -- pardon
14 me, I have to interrupt. "It's important because on..."
15 And there was an interruption, I couldn't catch it.

16 MS. COX: Well first of all, it would
17 corroborate her testimony, so there's no prejudice to
18 producing this. And second, we are trying to understand
19 timelines here and how this process impacts the
20 individuals involved. And so we can glean from that
21 notice when it was issued and whether or not there's a
22 date indicating the date of compliance. And so that
23 notice would provide that information to us.

24 MS. SHORES: Okay, so first of all,
25 the word that I used was proportionality, so I'm not sure

1 where prejudicial came into, but I want to be clear as to
2 the basis for my objection. And, no, I'm going to refuse
3 it on the basis of proportionality and that it is not
4 relevant to the issues in dispute here. The actual
5 notices that were posted on the other encampments are not
6 relevant to the matters in dispute. So that request is
7 refused.

8 **R/F NO. 4:**

9 MS. COX: I'm asking for the notices
10 that have been posted, which is a new process that we're
11 just learning of today.

12 MS. SHORES: Well I disagree with
13 your characterization of the evidence. But,
14 nevertheless, my position is unchanged. That's a
15 refusal.

16 MS. COX: How is it -- how is it
17 disproportionate?

18 MS. SHORES: The amount of effort
19 involved in finding all of these notices and providing
20 them to you in the very tight timelines that we have been
21 given, recognizing that it's now 12:23 p.m. and we're
22 still doing an examination that was supposed to be done
23 before 11:30 is incredibly disproportionate to the amount
24 of time that we have. And again, it is disproportionate
25 to the potential probative value or any relevance to the

1 matters in dispute in this proceeding that those notices
2 would possibly have.

3 BY MS. COX:

4 138 Q. So then, Monica, I'll move on to the
5 next question. In those written notices, because I'm
6 not going to see them, can you provide testimony with
7 respect to whether a deadline for compliance is written
8 on those notices?

9 A. It is not.

10 139 Q. Is the date that it is posted and
11 issued indicated on the notice?

12 A. Yes.

13 140 Q. Without a written notice which would
14 include this deadline -- pardon me, I'll rephrase this.
15 I retract.

16 Without a deadline to comply on these
17 notices, how are residents able to know when to secure
18 shelter to comply?

19 A. The shelter would have already been
20 discussed at an earlier step, and social -- no. Housing
21 would have already been discussed at a previous step.

22 141 Q. When did the --

23 A. Can --

24 MS. SHORES: No, Monica, just wait
25 for the question, please.

1 BY MS. COX:

2 142 Q. So given that we don't know when this
3 new process of providing written notices began, what I
4 want to understand is, you mentioned that six sites
5 have been attended to by Parks for clean up. So how
6 did Parks know to clean up those tents if there was no
7 written notice attached to the tents?

8 A. Because the individuals had left. We
9 had made note of that. Whether that be ourselves or
10 Housing, because they voluntarily complied and then
11 Parks was notified for a clean up. That would be the
12 process that it would follow.

13 143 Q. Okay. And so how is MLE aware that the
14 occupants of the tents have left permanently and they're
15 not just temporarily away from their tent?

16 A. We would have -- we would have gotten
17 confirmation either through Housing or voluntary
18 compliance was achieved at an earlier step when we were
19 leading it, ie: Step Two, we would have had that
20 confirmation.

21 144 Q. Okay, but MLE is not always present
22 when an encampment resident leaves their tent, so how
23 do they ascertain that that person has left indefinitely
24 with the purpose of compliance and not just on a
25 temporary basis to go about their day?

1 A. Because we would have had the
2 information in Step Two when we would have been talking
3 with them about a parks violation or it would have been
4 under Step Three when Housing was there and housing was
5 secured and they had permanently left. That's why we --

6 145 Q. So are you --

7 A. -- would call for involuntary
8 compliance.

9 146 Q. So you're saying that you confirm that
10 housing has been secured to determine that you can move
11 to Stage Six? You said secured.

12 A. Maybe I misused -- misused the word.
13 I apologize. It would be housing in Step Three, if they
14 obtain voluntary compliance or whether we obtain
15 voluntary compliance and individuals left when we
16 advised of a parks violation.

17 147 Q. Do you confirm that in a conversation
18 with the resident?

19 A. Yes, either an officer would have
20 confirmed that or a Housing Outreach staff member would
21 have confirmed that. And that's why the following steps
22 beyond that were not followed.

23 148 Q. And so would it be fair to say that if
24 you've checked in with Housing, you're satisfied, you've
25 checked in with, you know, satisfaction of Stage Five,

1 does MLE ever follow up with the encampment resident to
2 confirm that they've actually obtained shelter and
3 they're not going to return to the tent, even though
4 they may have communicated that they are trying to, you
5 know, comply with the by-law?

6 MS. SHORES: Wait, sorry, Counsel,
7 you referenced Stage Five in your question and that's not
8 what she said.

9 BY MS. COX:

10 149 Q. Okay. So does MLE know where these
11 individuals go once they've quote/unquote voluntarily
12 complied?

13 A. No.

14 150 Q. So you don't know if they accessed a
15 shelter or not?

16 A. MLE would not have that information.
17 I don't have that information rather, I don't have that
18 information.

19 151 Q. Okay. At Paragraph 2 of your
20 supplemental affidavit it states that under the protocol
21 implemented between October 2020 and August 2021, it was
22 indicated there that MLE would monitor to ensure that
23 housing was followed through with, but the same cannot
24 be said for MLE under the current protocol.

25 A. Sorry, is that the question? Yes.

1 I would -- Housing would have that information, they
2 would be able to provide more information on that. I
3 do not have that information.

4 152 Q. Okay. And the current protocol is
5 silent with respect to a system of storing individuals'
6 belongings if they comply with the direction to leave.

7 Is there a system with MLE of securing
8 their possessions if they direct you to and a process
9 for them to later retrieve those possessions?

10 A. I know we do have a process in place
11 for storage. I could not speak to the actual process
12 beyond that.

13 153 Q. Is there a formal written process?

14 A. I couldn't speak to it beyond that.

15 154 Q. Okay. So how are you aware that there
16 is some sort of process?

17 A. Because we have done it before.

18 155 Q. Is that on a discretionary basis?

19 MS. SHORES: Again, Counsel, she said
20 she couldn't speak to the process.

21 MS. COX: But she did it before, so
22 she would have knowledge of how that took place before
23 and she could speak to that.

24 THE DEPONENT: This would have been
25 under the earlier protocol which I was not the director

1 at the time.

2 BY MS. COX:

3 156 Q. Under the current protocol, is there a
4 process for storage?

5 A. Yes, but I, again, I don't know it.

6 157 Q. So how are you able to answer yes if
7 you don't know it?

8 A. Because I -- there would be the same
9 process that would have been followed under the original
10 protocol that we would have utilized here as well. I
11 just don't know the particulars of it. I wouldn't be
12 involved in that.

13 158 Q. Okay. Who can -- who can produce those
14 particulars?

15 A. Who could speak to it?

16 159 Q. Yeah.

17 A. I would suggest Housing.

18 160 Q. So David Buckle?

19 A. Or Rob Mastroianno.

20 161 Q. Okay, so then even though MLE enforces
21 at Stage Four, if there's enforcement at Stage Four or
22 enforcement at Stage Five, is it your position that MLE
23 is not involved in storing any of the encampment's
24 possessions at either of those stages, that that would
25 be something for the housing team to explore?

1 MS. SHORES: Well, first of all, it's
2 not, it's not a matter of position. She's giving her
3 evidence as to her knowledge, information, and belief.
4 She said she doesn't know the particulars of the process,
5 so I'll let her answer, but I'm concerned about the
6 amount of time, and frankly the amount of leeway that
7 I've been giving here.

8 So, sorry, Monica, my objection wasn't
9 clear, you can go ahead and answer the question, but...

10 THE DEPONENT: My understanding is
11 that at the housing step, if anything had to be secured
12 or stored, that's when the conversation would take place.

13 BY MS. COX:

14 162 Q. Okay. So it was Rob Mastroianno's
15 testimony through his affidavit that capacity in
16 shelters can fluctuate on an hourly basis. So I'm
17 wondering how if at all does MLE update itself on an
18 hourly basis as to the fluctuating capacity options
19 within the shelter system when you're encouraging people
20 to go to shelter?

21 A. So the morning meetings certainly help,
22 that's when housing options and availability is
23 discussed. I know that our teams are constantly in
24 communication with one another. Housing, although only
25 listed as Part Three of this step is constantly going

1 out as well. And Lee would be in contact with the
2 housing folks that are on the ground. So whether that'd
3 be David Buckle or Rob himself.

4 163 Q. Okay. And so would it be fair to say
5 that multiple encampments can be approached on the same
6 day?

7 A. I think it would vary depending on the
8 circumstances, as well as staffing resources as well.

9 164 Q. Okay. So if multiple encampments are
10 being addressed on the same day where compliance is
11 being sought, what safeguards are in place to ensure
12 that encampment residents at one location are not
13 filling the space of a shelter and depriving the
14 encampment residents of another location of the space
15 that's been offered?

16 A. There wouldn't be multiple teams of MLE
17 going out. It would be one team, one site. So a
18 check-in could occur after.

19 165 Q. Okay. And so who does MLE do the
20 check-in with to determine that at that point of time
21 there's shelter available for the resident?

22 A. The conversation would take place the
23 morning of, as I had mentioned. So we would talk about
24 housing options, housing availability at least at that
25 point.

1 166 Q. Okay. So if that's done in the
2 morning, if compliance is sought later on in the
3 afternoon, what assurance does MLE have or verification
4 does MLE have that that space that was discussed in the
5 morning is still available later on in the afternoon?

6 A. If they had concerns, it would be my
7 understanding that they would touch base with the
8 housing folks that are on the ground, so your David
9 Buckle, to confirm if we had an uptake of residents that
10 did want to go into the shelter system.

11 167 Q. So who confirms that there's space in
12 the shelter system for those individuals?

13 A. That would be someone in Housing.

14 168 Q. Is it --

15 A. I -- oh, sorry.

16 169 Q. Sorry about that.

17 A. Just to add, so if we are obtaining
18 voluntary compliance, I recall that there are times of
19 we then call outreach to then come and assist on the
20 ground at that time as well.

21 170 Q. Okay. So is it standard for Housing,
22 from someone from the housing team to attend with MLE at
23 Stage Four, or is it -- I'll let you answer.

24 A. No.

25 171 Q. Okay. And so is it your testimony that

1 if they're not in attendance, they would contact by
2 telephone someone from the housing team?

3 A. They may.

4 172 Q. But it's not standard mandatory
5 practice?

6 A. No, we would rely on the information
7 from the morning meeting as standard practice.

8 173 Q. Okay. Have porta potties been provided
9 to the encampment locations for residents?

10 MS. SHORES: Counsel, how is this --

11 THE DEPONENT: I don't know.

12 MS. SHORES: -- a proper -- hang
13 on -- how is this a proper question based on her
14 affidavit?

15 MS. COX: Because it's indicated in
16 her affidavit that there's issues with health and safety.

17 MS. SHORES: No, no, Counsel, this is
18 too far a field, I'm refusing that question.

19 **R/F NO. 5:**

20 BY MS. COX:

21 174 Q. MLE has also described concerns around
22 needles at these encampments. Has MLE attempted to
23 increase access to safe needle disposal in these
24 locations?

25 MS. SHORES: Again, Counsel, this is

1 way outside the subject matter of Ms. Ciriello's
2 affidavit. That's a refusal.

3 **R/F NO. 6:**

4 BY MS. COX:

5 175 Q. So at Paragraph 5 of your supplemental
6 affidavit you state "That the primary goal, if possible,
7 is for occupants to have housing options before the
8 removal of encampments." You state possible. So are
9 you conceding that there's not always a guarantee of
10 shelter options for all encampment residents?

11 A. I think shelter and housing are used in
12 different terms here. So I think housing options being
13 your permanent housing versus shelter.

14 176 Q. Okay. So do you concede that there is
15 not a guaranteed shelter options for all encampment
16 residents --

17 MS. SHORES: No, Counsel --

18 BY MS. COX:

19 177 Q. -- at the time that you're contacted by
20 MLE?

21 MS. SHORES: Ms. Ciriello is not
22 making any concessions on the part of the city one way or
23 the other. She can answer what -- she can clarify her
24 evidence with respect to that paragraph.

25 **R/F NO. 7:**

1 MS. COX: Okay.

2 BY MS. COX:

3 178 Q. Would it be fair to say that ensuring
4 that encampment residents secure housing options prior
5 to removal is not a mandatory requirement?

6 MS. SHORES: I believe this question
7 has been asked and answered twice already, Counsel. The
8 answer was no, it's not a mandatory part of the process.

9 MS. COX: Okay. Those are all of my
10 questions. Thank you, Monica.

11 THE DEPONENT: Thank you.

12 MS. SHORES: Monica, thank you. You
13 can log off.

14

15 --- CROSS-EXAMINATION CONCLUDED AT 12:43 p.m.

16

17 * * * * *

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1
2 I hereby certify that the foregoing is a full,
3 true, and correct transcription of all of my stenographic
4 notes to the best of my ability so taken at the Zoom Video
5 Conference Cross-Examination of **MONICA CIRIELLO** on
6 Wednesday, the 13th day of October, 2021.
7
8
9

10 CERTIFIED BY:

11
12 *Christina Schmitz*

13 _____
14 Christina Schmitz, CSR, RPR

15 Certified Stenographic Reporter
16 Registered Professional Reporter

17 Commissioner of Oaths (Expires May 12, 2024)
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TAB 28

TREVOR HAALSTRA - 1

Court File No. CV-21-77187

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH, MARIO

MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE

DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA

JORDAN, JULIA LAUZON AMY LEWIS, ASHLEY MACDONALD, COREY

MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL PIERRE,

LINSLEY GREAVES and PATRICK WARD

Applicants

- and -

CITY OF HAMILTON

Respondent

--- This is the Cross-Examination of TREVOR HAALSTRA, a representative of the Respondent herein, on his affidavit, affirmed July 30, 2024, taken via Zoom videoconference, on Wednesday, the 21st day of August, 2024.

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TREVOR HAALSTRA - 3

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TREVOR HAALSTRA - 2

APPEARANCES:

SUJIT CHOUDHRY For the Applicants

CURTIS SELL

BEVIN SHORES For the Respondent

VIVIAN CALDAS

Also Present:

Liz Marr Student

Gowling WLG (Canada) LLP

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TREVOR HAALSTRA - 4

--- Upon commencing at 1:01 p.m.

TREVOR HAALSTRA; Affirmed.

CROSS-EXAMINATION BY MR. CHOUDHRY:

Q. Mr. Haalstra, my name is Sujit

Choudhry, and we've been introduced, I'm one of the lawyers for the Applicants in this case. And I have a bit of a spiel that I give at the beginning of every one of these, and it covers some of the logistics that Ms. Shores has covered but I'd like to just do it quickly, if I may.

So, as you know, I'm cross-examining you on your affidavit, which has been filed by the City in a court case regarding homeless encampments. Your affidavit and this cross-examination will be put into evidence before the court, and so it's, therefore, important you tell the truth.

If you would like me to repeat a question, please do. If you would like a moment to collect your thoughts, to answer a question, please take it, it's not a race. You may only have your affidavit and exhibits in front of you, no materials or notes. And I believe you've already confirmed that that's the case?

A. I have, yes --

Q. Am I right?

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TREVOR HAALSTRA - 5

1 A. -- thank you. Correct.
2 3 Q. Thank you. And you confirm you're
3 alone by yourself in your office, or wherever you are?
4 A. I am alone. I am alone in my
5 office, yes.
6 4 Q. Okay, thank you. And if there's
7 any other evidence or materials that I refer to, I will
8 put them up on the screen. And if I do, you can ask me
9 to scroll up and down, okay, and take as long as you
10 need to review them. All right?
11 A. Thank you, yes.
12 5 Q. Okay, great. All right. So, I
13 just want to begin a bit with your background and your
14 position. So you're currently -- it says you're
15 employed at the City of Hamilton as the assistant
16 deputy chief for the Hamilton Fire Department, correct?
17 A. Correct.
18 6 Q. And you've been with the HFD for
19 21 years, correct?
20 A. Correct.
21 7 Q. And could you just give us a sense
22 of your -- the kind of roles you've had prior to this
23 one?
24 A. Absolutely. So I worked in
25 suppression for the majority of my time, as a

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TREVOR HAALSTRA - 6

1 suppression firefighter responding to calls on an
2 apparatus. I progressed through to the rank of
3 captain. I played a role in leading, teaching
4 technical rescue, such as road rescue, high angle
5 rescue, and confined space rescues. I have taken on
6 teaching opportunities to be part of teaching new
7 recruits that come in to the Hamilton Fire Department.
8 I've also taken on a secondment role, which is a
9 one-year opportunity to work along the management team
10 here, and found success with that. And when an
11 opening opened for an assistant deputy chief, I had
12 applied as, as noted in my affidavit, I think my start
13 date, and I have been finding success at the assistant
14 deputy chief role ever since. And my portfolio
15 includes community risk reduction and fire prevention.
16 8 Q. Right. Thank you, that's very
17 helpful. Thank you very much.
18 A. Thank you.
19 9 Q. So I'm going to put on the
20 affidavit -- pardon me, on the screen, your affidavit,
21 but if you have a copy there, you're welcome to refer
22 to it as well, while I do this. So let me just put it
23 up. Do you see part of it at least?
24 A. Yes, I can see from the top of
25 page 3, I guess the bottom of page 2, starting with

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TREVOR HAALSTRA - 7

1 point 6, now 5.
2 10 Q. Exactly. So, I actually wanted to
3 ask you at paragraph 6.
4 A. Sure.
5 11 Q. So, could you just take a moment
6 to reread paragraph 6 to refresh your memory.
7 A. Just going to lean in a little bit
8 because it's rather small.
9 12 Q. Okay, let me -- well, tell me to
10 increase the size, I'll do it, okay.
11 A. Thank you. Yeah, that's helpful.
12 13 Q. Is that better?
13 A. That is. Thank you.
14 14 Q. And, please, tell me to scroll
15 down when you need to.
16 A. Please scroll down. Thank you. I
17 have read point 6.
18 15 Q. Good, thank you, that's great for
19 the time being. And I'll take you to later points.
20 A. Okay.
21 16 Q. So I have a couple of questions
22 about this paragraph. So, the first -- in the first
23 sentence, you refer to the Computer Aided Dispatch
24 System, correct?
25 A. Correct.

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TREVOR HAALSTRA - 8

1 17 Q. And does that system cover the
2 entire City of Hamilton?
3 A. As it pertains to fire calls, yes.
4 18 Q. Okay. So, forgive me, you -- as
5 it pertains to fire calls, what doesn't it cover in
6 relation --
7 A. So --
8 19 Q. -- to the City? Sorry.
9 A. -- the way that Computer Aided
10 Dispatch works in the City of Hamilton, that all calls
11 start at what's considered a "PSAP," primary service
12 access point, that is the original person that answers
13 the 911 call. From there, they will tier it to the
14 appropriate agency that should be responsible for the
15 call type. So after the -- the PSAP by contract is
16 managed by the Hamilton Police Services. After the
17 PSAP answers the call, if the information pertains to
18 the fire service, they will then tier it to the fire
19 service, and the fire service computer in a dispatch,
20 and the dispatch team for the Hamilton Fire Department
21 will then carry the carriage of the call and the
22 information pertaining to the call.
23 20 Q. Thank you for that clarification,
24 that's helpful. Okay.
25 A. Yes.

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TREVOR HAALSTRA - 9

1 21 Q. So, I'm just going to move on to
2 the next sentence, so it says, "HFD data analysts have
3 collected and organized -- do you call it CAD or C-A-D?
4 A. CAD is appropriate.
5 22 Q. Okay. -- "CAD Event data
6 regarding dispatches that relate to encampments for the
7 previous 12 months, based on dispatch notes indicating
8 -- I'm assuming that's a typo, is that meant to be "an
9 encampment"?
10 A. I think you can omit and --
11 23 Q. Okay.
12 A. -- "indicating encampment."
13 24 Q. Okay, great. Thank you for that.
14 And so I have a couple of questions about that. So the
15 first is, you stated that this -- the time period for
16 this study or this information is 12 months, correct?
17 MS. SHORES: Sorry, counsel, I don't
18 see that?
19 MR. CHOUDHRY: Here.
20 MS. SHORES: Oh, yes.
21 BY MR. CHOUDHRY:
22 25 Q. Okay. Is that correct?
23 A. The information that I put forward
24 in the affidavit --
25 26 Q. Yes.

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TREVOR HAALSTRA - 11

1 the relationship between those two statements.
2 MS. SHORES: I mean, in fairness to the
3 witness, the dates as indicated in the affidavit are
4 July 1, 2023 through July 26, 2024, excepting the
5 timeframes that were unavailable due to the
6 cyberattack, so...
7 MR. CHOUDHRY: Sure.
8 MS. SHORES: We can --
9 BY MR. CHOUDHRY:
10 32 Q. I understand then that's almost
11 13 months, actually. So I'm just trying to understand
12 the relationship, that's all, just trying to sort this
13 through a bit.
14 And so if I recall -- so now just going
15 back to this, you said, "HFD data analysts have
16 collected and organized CAD Event data," correct?
17 A. Correct.
18 33 Q. So that means that they collected
19 and organized this data, correct? Like, the HFD
20 analysts, correct?
21 A. Correct.
22 34 Q. And you didn't collect and
23 organize it yourself, correct?
24 A. Correct.
25 35 Q. And you're not a data analyst

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TREVOR HAALSTRA - 10

1 A. -- covers the period of time as
2 mentioned in the affidavit.
3 27 Q. Okay. So I just wanted a
4 clarification, because I did a bit of a count here for
5 these dates in the next sentence --
6 A. Okay.
7 28 Q. -- July 1st, 2023 to
8 December 31st, 2023, and then again March 1st, 2024 to
9 July 26th, 2024, that comes to about 11 months. Is
10 that correct?
11 A. Does the statement there reflect
12 what's in the exhibit?
13 29 Q. Yeah. Well --
14 A. So I'm --
15 30 Q. Sorry.
16 A. So I'm just curious, I think it
17 could be that it is 11 months, but I think the most
18 appropriate thing to recognize here is that the
19 information that's submitted in the exhibit is the
20 information that I'm able to reference in the
21 affidavit.
22 31 Q. Okay, that's fine. I just wanted,
23 I just wanted to understand that the -- you stated that
24 the data was for 12 months but then the actual -- these
25 dates cover 11 months, I just wanted to understand the,

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TREVOR HAALSTRA - 12

1 yourself, correct?
2 A. I am not.
3 36 Q. Okay. And are you, are you
4 trained -- is this the kind of data analysis that you
5 could have done yourself?
6 A. I could have.
7 37 Q. You could have, but you -- but
8 someone did it though, correct?
9 A. Correct.
10 38 Q. Okay. So, I want to just take you
11 to -- if you just give me a second here. You state
12 that the data analysts collected and organized CAD
13 event data, based on dispatch notes indicating
14 encampment. We've struck the word "and," as you've
15 suggested, right?
16 A. Correct.
17 39 Q. But you don't -- but it's true
18 that in your affidavit you don't describe exactly the
19 method that they used, the analysts used to indicate
20 encampment, correct?
21 A. Correct.
22 40 Q. Okay. Well, let me take you to
23 Exhibit "A," which you reference here, which contains
24 the CAD event data. So, I've got Exhibit "A" up. And
25 this is the first page of Exhibit "A," it's a count of

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TREVOR HAALSTRA - 13

1 event numbers; do you see it?

2 A. I do.

3 41 Q. And so, and so, just for the
4 record, the count event -- the Count of Event Number is
5 208 for 2023, it's 176 for 2024, and then the grand
6 total is 384; you see those figures, correct? Shall I
7 increase the size, maybe?

8 A. No, I can see it.

9 42 Q. Okay, great. So you see those,
10 correct?

11 A. I do see it, correct.

12 43 Q. Okay, great. Thank you, yeah.
13 And so here are this -- it's awfully small type, so is
14 there any way for you to be able to view this where you
15 are; do you have a copy of it? Because I'm afraid -- I
16 don't know if I can make it large enough for you to see
17 on the screen. Or are you able to read these things?

18 A. I can read them.

19 44 Q. You can read them. Okay. So,
20 have you reviewed the data in Exhibit "A"?

21 A. Reviewed it in -- can you clarify
22 what you mean by reviewing the data?

23 45 Q. Well, have you actually -- when
24 you swore this affidavit, did you review this
25 spreadsheet and familiarize yourself with it before you

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TREVOR HAALSTRA - 15

1 it's your evidence that this CAD event data is related
2 to encampments, correct?

3 A. Correct.

4 51 Q. So you don't provide CAD event
5 data in your affidavit that is not related to
6 encampments, correct?

7 A. I would say, like, the information
8 that's presented here is based on the query search
9 using the term "encampment."

10 52 Q. I see. Okay. So it's not -- it
11 wouldn't turn up any -- it wouldn't turn up any
12 information that is not related to encampments,
13 correct?

14 A. If the word "encampment" has been
15 mentioned by the caller or been deciphered by the
16 call-taker for reason to believe that it's an
17 encampment, encampment would be entered into the CAD
18 dispatch notes, and those call types, as you can see
19 under the term "call type," show up in this query.

20 53 Q. Oh, I see, so -- but those
21 dispatch notes aren't here in your exhibit?

22 A. Correct.

23 54 Q. Okay. Just to understand. All
24 right, Thank you. Okay.

25 So, I'd like to go back to paragraph 7

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TREVOR HAALSTRA - 14

1 attached it as an exhibit to your affidavit?

2 A. I am familiar with the data in the
3 affidavit.

4 46 Q. But did you review this document,
5 this exhibit specifically before you attached it as an
6 exhibit to your affidavit?

7 A. Yes, I did review it.

8 47 Q. Okay. Thank you. So, sir, I did
9 a key word search here, and I key word searched the
10 word "encampment," and I -- it does not occur once in
11 this -- in Exhibit "A." Would you agree with that
12 statement?

13 A. I can take your word for it.

14 48 Q. Okay. Thank you. And then I also
15 then -- I then key word searched the term "shelter/tent
16 fire," and I found that it only occurred eight times.
17 Would you have any -- would you agree with that
18 statement or would you like to check yourself?

19 A. No, I can take your word for it.

20 49 Q. Okay. And so is it true that in
21 this affidavit you don't provide CAD event data for
22 other parts of the City or that are unrelated to
23 encampments?

24 A. Could you repeat that question.

25 50 Q. Sure. So this CAD event data --

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1 of your affidavit. So, can you just reread paragraph 7
2 to refresh your memory, please.

3 A. Can you scroll down?

4 55 Q. Sure.

5 A. Okay, I've read it in its
6 entirety.

7 56 Q. Okay, thank you. I just have a
8 couple of questions about this paragraph. So this
9 paragraph is about a different data set, right?
10 That's --

11 A. Correct.

12 57 Q. Right. And that's in the HFD's
13 Fire Department Management data set; is that fair?

14 A. Correct.

15 58 Q. You were going -- you looked like
16 you were going to say something else, is there -- did
17 you want to put it another way?

18 A. No.

19 59 Q. Oh, okay. And so it doesn't
20 say -- you don't say in this paragraph who collected
21 this data. Would this be the same data analysts?

22 A. Correct.

23 60 Q. So it wouldn't have been you who
24 collected the data?

25 A. For this submission, it was

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1 collected by the -- for this submission, it was
2 collected by the data analysts.

3 61 Q. Okay, thank you. All right. So
4 now just give me a second here. I want to highlight
5 this sentence. Okay. And so it states that,
6 "Responding officers can indicate whether or not the
7 response is at an encampment by checking a box in the
8 HFD's standard incident report," correct?

9 A. Correct.

10 62 Q. Okay. So, I'd like to now take
11 you to Exhibit "B," which, as you say, is a spreadsheet
12 summarizing the information.

13 A. Okay.

14 63 Q. So here it is. And this is also
15 small, I'm sorry. Can you see that?

16 A. I can.

17 64 Q. And so I'm just wondering, I don't
18 see -- I see four fields here -- well, I see five
19 fields. I see "Incident Number," "Incident Date,"
20 "Address," "Incident Response Type," and "Incident
21 Type." Do you see those fields as well?

22 A. I do.

23 65 Q. I don't see a column for
24 encampment, do you?

25 A. I do not.

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TREVOR HAALSTRA - 19

1 73 Q. Okay. So, you provided data in
2 your affidavit about FD -- you -- pardon me, let me
3 start again. In your affidavit, you provided FDM data
4 about encampments, correct?

5 A. Correct.

6 74 Q. You did not provide FDM data that
7 was not about encampments, correct?

8 A. Correct.

9 MR. CHOUDHRY: Okay. So, I think those
10 conclude my questions. Okay. Thank you so much for
11 your time.

12 THE DEPONENT: Thank you.

13 MS. SHORES: All right, thank you. Off
14 record.

15 --- Whereupon proceedings adjourned at 1:20 p.m.

16 I HEREBY CERTIFY THE FOREGOING
17 to be a true and accurate
18 transcription of my shorthand notes
19 to the best of my skill and ability.

20
21
22
23 Dayne Snell, Court Reporter
24 Computer-Aided Transcription
25

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TREVOR HAALSTRA - 18

1 66 Q. Okay. And under the Call Type --
2 pardon me, under Incident Type or Incident Response
3 Type, I didn't see the word "encampment" once, do you?

4 A. I do not.

5 67 Q. And I see the term
6 "shelter/tent/structure" twelve times, do you?

7 A. Not in this view but I can take
8 your word for it, if that's the count.

9 68 Q. Okay. And then finally, can you
10 confirm that in this affidavit you did not provide FDM
11 data that is not related to encampments?

12 A. I apologize, I'll have to get you
13 to repeat that question.

14 69 Q. And I'm sorry, I used a double
15 negative --

16 A. Yeah --

17 70 Q. -- it's just a lawyer's thing,
18 lawyer's thing.

19 A. -- it threw me off. No problem.

20 71 Q. I'll start again. So you --

21 A. Thank you.

22 72 Q. -- provided -- let me break it
23 down into a series of shorter questions, if I could
24 help.

25 A. That will help, thank you.

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Heegsma et al
Appellants (Applicants)

-and-

CITY of HAMILTON
Respondent (Respondent)

Court File No.COA-25-CV-0166

Ontario
Court of Appeal

EXHIBIT BOOK - VOLUME 4

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