

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 6

CIRCLE BARRISTERS

c/o Sujit Choudhry Professional Corporation
319 Sunnyside Avenue, Toronto ON M6R 2R3

Sujit Choudhry (LSO# 45011E)

Tel: (416) 436-3679

sujit.choudhry@circlebarristers.com

**MISSISSAUGA COMMUNITY LEGAL
SERVICES**

130 Dundas St. E Suite 504

Mississauga ON

L5A 3V8

Sharon Crowe (LSO# 47108R)
Tel: (905) 896-2052 ext 20
sharon.crowe@mcls.clcj.ca

ROSS & MCBRIDE LLP
1 King Street West, 10th Floor
Hamilton, ON L8P 1A4

Wade Poziomka (LSO# 59696T)
Tel: (905) 572-5824
wpoziomka@rossmcbride.com

Lawyers for the Appellants

TO:

GOWLING WLG (CANADA) LLP
One Main Street West
Hamilton, ON L8P 4Z5

Bevin Shores (LSO# 56161F)
bevin.shores@gowlingwlg.com

Jordan Diacur (LSO# 65860E)
Tel: 905-540-2500
jordan.diacur@gowlingwlg.com

Jennifer King (LSO# 54325R)
Jennifer.King@gowlingwlg.com
Tel: 905-540-2468

Lawyers for the Respondent

AND TO:

Ministry of the Attorney General – Constitutional Law Branch
4th Floor, McMurtry-Scott Building
720 Bay Street, Toronto, ON M7A 2S9

Andrea Boleiro
Tel.: 437-551-6263
andrea.boleiro@ontario.ca

Lawyer for the Attorney General

INDEX TO VOLUME 6

TAB	Document	Page No.
TRANSCRIPTS		
32.	Transcript of the cross-examination of Lee Rynar conducted on October 13, 2021	5
33.	Transcript of cross-examination of Medora Uppal conducted on October 13, 2021	22

TAB 32

COPY FOR: COURT COPY

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

The Cross-Examination of
Lee Rynar
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 **Lee Rynar**, on Affidavits sworn October 6, 2021, and October 10, 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: Bevin Shores
Jordan Diacur
Gowlings WLG

L. Rynar 13/10/2021

I N D E X

PAGE

WITNESS: Lee Rynar, Affirmed.

Cross-Examination by Ms. Cox5

EXHIBITS

None noted.

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:

[2] 8/4 13/21

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 ---Upon commencing at 6:57 p.m.

2 LEE RYNAR,

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. Good evening, Lee. Thanks for joining us.
8 So the first affidavit I'm going to ask you to refer your
9 attention to is the second affidavit you provided. At
10 paragraph 3 it says:

11 The amount of time that the City of
12 Hamilton six-step enforcement process pursuant to the
13 encampment response update takes to implement varies.

14 Can you please tell me MLE's role in this
15 encampment process?

16 A. The MLE's role, MLE's role is essentially
17 to go out initially to educate in the first step of the
18 process and identify if there's a park's bylaw that's
19 taking place. If there's an offence to a park's bylaw so
20 we will receive a complaint and go and educate. Based on
21 that, we will determine if it's on city-owned property or
22 private property.

23 2 Q. And can you please explain what all six
24 steps of that encampment process are?

25 A. So --

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 MS. SHORES: Yeah, he can answer that.

2 THE WITNESS: So the first step is we
3 receive the complaint and then we go out and determine if
4 it's private property, or public property, if it's a city
5 park, or if there is a violation.

6 If there is a violation then we need to
7 educate the people and advise them of the violation and
8 let them know that camping in a park essentially is a
9 violation of the park's bylaw.

10 So the next step in that is to let social
11 outreach workers know that we've attended the site and we
12 spoken to an individual.

13 Then the social outreach people will
14 attend.

15 The next step after that would be that we
16 would notify that social outreach has attended and they
17 have spoken to the individuals; and if the individuals are
18 still remaining at the site, they haven't been able to
19 find housing for them, or whatever the case may be, we
20 will go out and let them know that it is a trespassing
21 issue, that they can't be in the parks and they have to
22 find somewhere else to go.

23 After that, the police Social Navigator
24 Program will come out and they will speak to the
25 individuals and try to see what they can do in terms of

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 finding them housing and then they will let us know if the
2 people have rejected their offers for housing, or if
3 they've left, or what the case may be.

4 Ultimately, the last step is for MLE to go
5 in and notify them that they are trespassing and they need
6 to leave; and if the people do not leave, then it is
7 forwarded on to the police services.

8 BY MS. COX:

9 3 Q. Okay. Thank you for that. And so who
10 forwards this information to Hamilton Police Services?

11 A. So the Hamilton Police Service are notified
12 at multiple stages. So the places we are going to, they
13 have already had interaction, but for our purposes we let
14 them know that we have been there; and street outreach
15 lets them know as well that they've been there, so they
16 are kept apprised at every stage.

17 4 Q. Okay. Just turning back to your original,
18 your first affidavit. Paragraph 3 indicates that on
19 September 20th, 2021, JC Beemer Park had three sites, in
20 parentheses, tents present and the MLE officers issued a
21 two-hour notice of contravention. Was that park -- pardon
22 me, was MLE's in attendance that day in compliance with
23 this encampment process you just described?

24 MS. SHORES: No. Hang on, counsel. He's
25 not going to speak about compliance with the process.

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 That's a conclusion for somebody else to draw. If you
2 want to ask him what step of the process was being taken
3 at that point, that would be a proper question.

4 ---REFUSAL

5 BY MS. COX:

6 5 Q. Okay. So when MLE attended on
7 September 20th at JC Beemer Park, what step of the process
8 was MLE at at that time?

9 A. So we were at our final step which is to
10 let them know that they are trespassing and they are
11 required to leave.

12 6 Q. Sorry, I misheard you. What step?

13 A. That's the MLE's last step for MLE is to
14 let the people know that they are required to leave and
15 then the police are notified.

16 7 Q. Okay. To the best of your knowledge, were
17 police notified by MLE that it was now at their step of
18 the process to enforce this bylaw under the Trespass to
19 Property Act?

20 A. Yes.

21 8 Q. At paragraph 4 of that same affidavit it
22 states that on or around September 21st, 2021, at JC
23 Beemer Park the two sites that left returned shortly
24 thereafter. And so what I'm wondering is what stage of
25 the process was that encampment at at that time?

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 **A.** I'm not sure I understand. The two --

2 9 **Q.** Okay.

3 **A.** -- that had left there?

4 10 **Q.** So you said that MLE attended September
5 20 at JC Beemer Park. And then you are confirming that
6 the two sites that left that park returned on or around
7 September 21st?

8 **A.** Correct.

9 11 **Q.** Okay. So when they returned on September
10 21st, what stage in the process was JC Beemer Park in on
11 that date?

12 **A.** It was at the last stage.

13 12 **Q.** Okay.

14 **A.** So the Hamilton Police Service had been
15 notified.

16 13 **Q.** Okay. And it states that on September 26,
17 MLE had to return again because there were still three
18 sites. And it states MLE returned to ask three sites to
19 leave and no further action was taken by the MLE.

20 Was HPS notified after that instance?

21 **A.** I don't recall to be honest.

22 14 **Q.** Okay. And referring to paragraph 6 of that
23 same affidavit, it states: As of October 6, 2021, the MLE
24 officers have asked occupants of the Durand Park
25 encampment to leave on a few occasions, however the MLE

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 did not attend the Durand Park on September 20th nor did
2 they take any further action with respect to the site.

3 So can you please tell me what stage in the
4 process Durand Park is in?

5 MS. SHORES: Sorry, at what point in time,
6 counsel?

7 BY MS. COX:

8 15 Q. October 6th.

9 A. Durand Park is at the last stage of the
10 process as well.

11 16 Q. So has a referral been made to HPS?

12 A. Yes.

13 17 Q. Okay. Thank you. Returning to your second
14 affidavit at paragraph number 2 it states that, the City
15 exercises discretion in how it deals with encampments and
16 their removal.

17 When you refer to "the City" who are you
18 referring to?

19 A. My department.

20 18 Q. Okay. And so when you say MLE can exercise
21 discretion on how it deals with encampments, are there any
22 guidelines that inform that discretion?

23 A. So we have this step, the six steps that
24 you're talking about. That is essentially the guideline.

25 19 Q. Okay. So returning to the first affidavit

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 where at paragraph 3, 4, 5, and 6 we've got mention of JC
2 Beemer Park and an encampment at Durand Park. How does
3 MLE decide which park to engage with to advise them that
4 they are in violation of the park's bylaw? How is it
5 decided that JC Beemer Park was addressed by MLE prior to,
6 for example, Durand Park?

7 **A.** So we take complaints in, which is one way.
8 So a number of complaints came in. We look at the amount
9 of complaints that come in per park. We also look at and
10 we have meetings with the entire team so the outreach team
11 and the Hamilton Police Services and we determine how many
12 sites, like, how many beds are available in terms of
13 housing at shelters and places like that.

14 So typically there is more room for males
15 than there is for females in housing. So JC Beemer, we
16 knew that it was three males there and there were no
17 females at that site and due to the amount of complaints
18 that we had received on that one, we determined that would
19 be one of the first sites that we would go to.

20 **Q.** Okay. Thank you. And so do you have a
21 formal policy with respect to a criteria, that, for
22 example, you just described that the team refers to when
23 going through these factors?

24 **A.** There's nothing codified in terms of
25 written policy, no.

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 21 Q. Okay. Thank you. At paragraph 3 of your
2 first affidavit it states that MLE officers issued a
3 two-hour notice of contravention.

4 What do you mean by a two-hour notice of
5 contravention?

6 A. So that's a physical form that states out
7 what the violation is and the compliance time. So it's a
8 form that says the violation under the parks bylaw and
9 compliance time to come into conformity with the bylaw
10 it's two hours from the time that it is issued.

11 22 Q. I see. Okay. And so this is a written
12 form then, a written document?

13 A. Yes.

14 23 Q. How is it issued? Is it issued to an
15 individual, or to a tent, or one person out of the entire
16 encampment? Help me understand how that is issued.

17 A. At JC Beemer it was issued to an
18 individual, each individual person.

19 24 Q. Okay. Would you be able to produce those
20 for our records?

21 MS. SHORES: Counsel, what's the relevance
22 of producing these notices?

23 MS. COX: Well, we would be able to
24 identify the individuals impacted.

25 MS. SHORES: How is that relevant to the

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 matters in issue in this proceeding?

2 MS. COX: Well, it could include the
3 applicants.

4 MS. SHORES: But even if it was the
5 applicants, how is that relevant to the matters at issue
6 in this proceeding?

7 MS. COX: It's relevant because it goes to
8 the timeframe in which they were required to move and
9 whether or not and they were practically -- whether
10 obtaining shelter or other housing options were
11 practically available to them.

12 MS. SHORES: But I don't see how that's
13 really --

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

15 MS. SHORES: Sorry.

16 MS. COX: We won't know that unless we know
17 the individual.

18 MS. SHORES: I don't see how providing an
19 actual copy of those notices is probative to points that
20 you have raised so that's a refusal.

21 ---REFUSAL

22 BY MS. COX:

23 25 Q. Can you, Lee, please advise us what bylaw
24 number, which actual bylaw was written on that notice?

25 A. 01219.

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 26 Q. Sorry, 01?

2 A. 219.

3 27 Q. Okay. And so what was the basis of the
4 violation?

5 A. It's the parks bylaw.

6 28 Q. But what were the residents doing that
7 caused the violation?

8 A. You are not allowed to camp in the park.

9 29 Q. Okay. Back to paragraph 5. It says that
10 MLE returned to ask three sites to leave. So was a new
11 bylaw violation document issued to them or were they just
12 verbally asked to leave?

13 A. Verbal.

14 30 Q. Were they the same individuals who were in
15 attendance on September 20th?

16 A. Yes.

17 31 Q. Were they same individuals who were in
18 attendance on September 21st?

19 A. Yes.

20 32 Q. Okay. How do you ascertain whether
21 somebody has voluntarily left?

22 A. How do I determine if they've left? When
23 they've packed up all their belongings.

24 33 Q. On a voluntary basis. Okay. So when you
25 say at paragraph 3 of your first affidavit, two sites left

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

1 voluntarily. So are you saying you witnessed them packing
2 up their belongings and tents and leaving?

3 A. Yes.

4 34 Q. Okay.

5 A. And then we said whatever you don't want
6 leave to the side and we will take it away.

7 35 Q. Okay.

8 A. That's what they did.

9 36 Q. Okay. All right, Lee. Thank you for your
10 time. Those are all of my questions.

11 ---Whereupon the examination concluded at 7:16 p.m.

12

13

14

15

16

17

18

19

20

21

22

23

24

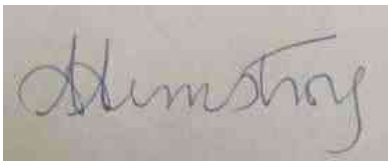
25

NIMIGAN MIHAILOVICH REPORTING INC.

L. Rynar 13/10/2021

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 LEE RYNAR, 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 be 'Amy Armstrong' written in a cursive, flowing style.

Certified Realtime Verbatim Reporter

Certified Commissioner of Oaths

Certified this 13th of October, 2021.

Reproductions of this transcript are in direction violation of the O.R. 587/91 of The Administration of Justice Act January 1, 1990, and are not certified without the original signature of the Certified Court Reporter. Absence of this certification and signature is indication this document has been reproduced without the permission of Nimigan Mihailovich Reporting Inc., and as such is not an original document.

NIMIGAN MIHAILOVICH REPORTING INC.

TAB 33

COPY FOR: GOWLINGS WLG

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

The Cross-Examination of
Medora Uppal
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 **Medora Uppal**, On an Affidavit Sworn October 11, 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

M. Uppal 13/10/2021

I N D E X

PAGE

WITNESS: Medora Uppal, Affirmed.

Cross-Examination by Ms. Shores5
 Re-Examination by Ms. Cox12

EXHIBITS

None noted.

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:

None noted.

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 ---Upon commencing at 4:51 p.m.

2 MEDORA UPPAL,

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. SHORES:

7 1 Q. Good afternoon, Ms. Uppal. As we
8 introduced off record, my name is Bevin Shores. I'm
9 counsel for the respondents in this matter. We're here
10 to -- for a cross-examination on an affidavit that you
11 affirmed on October 11, 2021.

12 So can you confirm that you did affirm an
13 affidavit October 11, 2021, in support of the application
14 against the City of Hamilton seeking an injunction to
15 prevent enforcement of the Parks bylaw?

16 A. Yes, I can confirm that.

17 2 Q. Okay. And you have that affidavit in front
18 of you; correct?

19 A. I do.

20 3 Q. Okay. Thank you. If I can direct you to
21 paragraph 8 of that affidavit, which I believe is on the
22 fourth page?

23 A. Okay. My pages aren't numbered. Would you
24 be able just to tell me what -- oh, yes, I see the
25 numbering at the top. The fourth page, yes.

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 4 Q. Okay. Paragraph 8?

2 A. Yes.

3 5 Q. Okay. I'd like to direct your attention in
4 particular to the first sentence of that paragraph:

5 "We continue have difficulty finding
6 suitable spaces for women, and there is a list of women
7 who are not accessing shelter or hotel and cannot find
8 housing."

9 Do you see that?

10 A. Yes, I do.

11 6 Q. You said "not accessing shelter." Can you
12 explain what you mean by that phrase?

13 A. So the shelters, they can't access shelters
14 either because these shelters are full or because they
15 have service restrictions that prevent them from accessing
16 the shelter spaces. Or, there's also the possibility that
17 people might choose not to go into shelter.

18 7 Q. Okay. So you would agree, then, that there
19 are multiple reasons that women, particularly the women to
20 which you refer in paragraph 8 of your affidavit, may not
21 accept shelter, including, but not limited to, that
22 shelters are at capacity; correct?

23 A. Correct, as well as service restrictions.

24 8 Q. Okay. Service restrictions and some women
25 may choose not to seek shelter through the shelter system

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 I believe you said; correct?

2 A. Correct, yes.

3 9 Q. If I can direct you to paragraph 9 of your
4 affidavit on the same page?

5 A. Yes.

6 10 Q. And in particular, the third sentence there
7 in which it says:

8 "Sexual harassment, sexual assaults, and
9 physical assaults by men are reported by women regularly
10 accessing homeless shelters."

11 Do you see that?

12 A. Yes, I do.

13 11 Q. The homeless shelters that you refer to in
14 this sentence, those would be shelters that are segregated
15 by gender; correct?

16 A. Correct.

17 12 Q. Okay. So there would be no men in the
18 women's shelters; correct?

19 A. Correct.

20 13 Q. Okay. And so the incidents being
21 perpetrated by men, if there are no men at the shelters,
22 would it be fair to conclude that these incidents are not
23 taking place at the shelters?

24 A. Correct.

25 14 Q. So they're taking place outside of the

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 shelters; correct?

2 **A.** Yes, in the community. The exception would
3 be in the hotel, the Four Points Hotel, where men and
4 women have space. They may come in as a couple or they
5 may be segregated. And so, you know, there certainly can
6 be assaults in that space.

7 But what I was referring to was sexual
8 harassment, sexual assault, and physical assaults taking
9 place in the community.

10 15 **Q.** Okay. Including potentially in encampments
11 if a woman finds herself there; correct?

12 **A.** Yeah, absolutely.

13 16 **Q.** And last, if I can direct your attention to
14 paragraph 12 of your affidavit, which is on I believe
15 page 6 at the top?

16 **A.** Yeah.

17 17 **Q.** And in particular, if I can point you to
18 the third sentence, the one that says, "those presenting
19 with the most complex issues."

20 Do you see that there?

21 **A.** Yes.

22 18 **Q.** Okay. So for clarity of the record, I'll
23 just read that sentence here:

24 "Those presenting with the most complex
25 issues and challenging behaviours cannot be effectively

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 supported, and the safety of the individual, other shelter
2 guests, and staff and can be compromised in these
3 situations and result in incidents of physical violence,
4 self-harm, overdoses, needlestick injuries, altercations,
5 serious threats, and harassment."

6 So inherent in this statement, Ms. Uppal,
7 if I understand it correctly, is that the complex issues
8 that you've described, they require support; correct?

9 A. Correct.

10 19 Q. And in the next statement -- sentence from
11 the one I just read, it begins with the phrase, "shelter
12 staff do their best to maintain women and shelters."

13 Do you see that there?

14 A. Yes.

15 20 Q. Okay. And by using the word "maintain," do
16 you mean providing the kind of supports that a person
17 presenting with complex issues would need?

18 A. Yes.

19 21 Q. Okay. Do you know that risks such as
20 physical violence, self-harm, overdoses, needlestick
21 injuries, altercations, serious threats, and harassment,
22 do you know that those risks never happen in encampments?

23 A. No, no. I wouldn't say that.

24 22 Q. Okay. So there is a possibility of those
25 risks potentially presenting in encampments; correct?

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 **A.** Yes.

2 23 **Q.** Okay. Are there shelters staff
3 maintaining, to use your word, or providing support
4 services to people in encampments?

5 **A.** There are staff who work within the
6 homeless system where we also provide shelter who are in
7 supporting people in encampments. So yes, they may be --
8 they may have been shelter staff, they may have a dual
9 role as shelter staff and going in encampments, but there
10 are people who go into encampments who work within the
11 homeless system.

12 24 **Q.** Okay. And so are those people who may go
13 into encampments, are they staffing the encampments in the
14 same way that a shelter would be staffed by workers?

15 **A.** No.

16 25 **Q.** Okay. And so if one or more of those
17 risks, such as overdoses, altercations, threats,
18 harassment, if one of those risks were to present itself
19 in encampment, there is no continual staffing there to
20 provide support in that situation; correct?

21 **A.** Correct.

22 26 **Q.** Okay. In paragraph 12 when you say in the
23 very last sentence -- sorry, the last clause of the last
24 sentence, "Encampments are an important and preferred
25 option for some women in our community," whose preference

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 are you describing? Who is preferring encampments for
2 women in your community?

3 **A.** Well, we see different women who've come
4 forward who prefer -- who don't want to stay in our
5 drop-ins, who don't want to go to the hotels or shelters
6 and tell us they prefer to stay in encampments. We go
7 with -- that can vary, you know, that changes, so women
8 for a period who want to stay in encampments and then they
9 may want to leave the encampment for different reasons,
10 but it's not a particular type of woman, but I would say
11 it's women who have different reasons.

12 Sorry, am I getting feedback from
13 somewhere?

14 27 **Q.** I'm hearing feedback too. I can still hear
15 what you're saying. Can you hear me?

16 **A.** Okay. There we go, yes. Sorry.

17 So I was clarifying. It wasn't a
18 particular type of women or women with particular issues.
19 We have seen women who have male partners who want to stay
20 in the encampments. We've also seen other women who say
21 they don't feel comfortable coming into the drop-ins or
22 the shelters as they operate out of the hotels and prefer
23 to stay in encampments.

24 28 **Q.** Okay. So what you're describing, then, is
25 a personal preference by some women, not a universal

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 preference by women or by others for women to stay in
2 encampments; correct?

3 **A.** Correct.

4 29 **Q.** Okay. I have nothing further for this
5 witness. Thank you.

6 **A.** You're on mute.

7 RE-EXAMINATION BY MS. COX:

8 30 **Q.** Thank you. I just have one quick redirect.
9 You asked about rates of domestic violence in encampments,
10 and so my question to the witness is: What do the rates
11 of domestic violence look like in encampments compared to
12 their counterparts, such as in other settings that are not
13 encampments?

14 MS. SHORES: Hang on. No, counsel, I
15 didn't ask about rates of domestic violence in
16 encampments. I asked if there was a risk of the types of
17 incidents that are described in paragraph 12 of the
18 affidavit. Once again, this question is not a proper
19 redirect question because it is not responding to
20 something that was raised on cross.

21 MS. COX: Oh, okay, you did raise about the
22 risk of domestic violence happening in encampments versus
23 shelters, but if I misunderstood, then my apologies. I
24 have no other question --

25 MS. SHORES: I think the record will speak

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

1 for itself as to what I did and did not, and I don't
2 believe that is a proper question for a redirect.

3 MS. COX: I've already acknowledged that
4 and that it was my misunderstanding. So there is no other
5 questions. Thank you, Medora.

6 ---Whereupon the examination concluded at 5:01 p.m.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

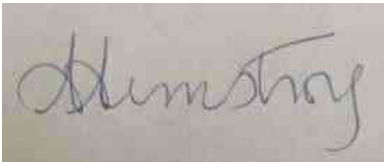
25

NIMIGAN MIHAILOVICH REPORTING INC.

M. Uppal 13/10/2021

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 MEDORA UPPAL, 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 be 'Amy Armstrong' written in a cursive, flowing style.

Certified Realtime Verbatim Reporter

Certified Commissioner of Oaths

Certified this 14th of October, 2021.

Reproductions of this transcript are in direction violation of the O.R. 587/91 of The Administration of Justice Act January 1, 1990, and are not certified without the original signature of the Certified Court Reporter. Absence of this certification and signature is indication this document has been reproduced without the permission of Nimigan Mihailovich Reporting Inc., and as such is not an original document.

NIMIGAN MIHAILOVICH REPORTING INC.

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 6

CIRCLE BARRISTERS

319 Sunnyside Avenue
Toronto, ON M6R 2R3
Sujit Choudhry (LSO# 45011E)
sujit.choudhry@circlebarristers.com

MISSISSAUGA COMMUNITY LEGAL SERVICES

130 Dundas St. E Suite 504
Mississauga ON
L5A 3V8
Sharon Crowe (LSO# 47108R)
sharon.crowe@mcls.clcj.ca

ROSS & MCBRIDE LLP

1 King Street West, 10th Floor, Hamilton, ON L8P 1A4
Wade Poziomka (LSO# 59696T)
wpoziomka@rossmcbride.com

Counsel to the Appellants