



## Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

(Disponible en français)

[www.hrto.ca](http://www.hrto.ca)

### How to Respond to an Application Where You Are Named as a Respondent

Use this form if you have been named as a respondent in a human rights application under section 34 of the *Human Rights Code*.

If you fail to respond to the Application, you may be deemed to have accepted all of the allegations in the Application, and the Tribunal may proceed without further notice to you.

#### Before you start:

1. Read the questions and answers below.
2. Download and read the Respondent's Guide from the Tribunal's website [www.hrto.ca](http://www.hrto.ca).  
If you need a paper copy or accessible format contact us at:

Human Rights Tribunal of Ontario  
655 Bay Street, 14th floor  
Toronto, Ontario M7A 2A3

Phone: 416-326-1312  
Fax: 416-326-2199  
TTY: 416-326-2027  
Email: [hrto.registrar@ontario.ca](mailto:hrto.registrar@ontario.ca)  
Website: [www.hrto.ca](http://www.hrto.ca)

Toll-free: 1-866-598-0322  
Toll-free: 1-866-355-6099  
Toll-free: 1-866-607-1240

The Tribunal has other guides and practice directions to help all parties to an Application understand the process. Download copies from the Tribunal's website or contact us.

3. Complete each section of the Response form that applies to you. As you fill out each section, refer to the instructions in the Respondent's Guide.

### Questions about Responding to an Application

The following questions and answers are provided for general information. They should not be taken as legal advice or a determination of how the Tribunal will decide any particular application.

#### What happens if I fail to complete a Response Form?

You may be deemed to have accepted all the allegations. The Tribunal may deal with the Application without any further notice to you.

#### What is the time limit for responding?

Respondents must file a completed Response form no later than **thirty-five (35) days** after the Tribunal sends them a copy of the Application. The cover letter from the Tribunal gives you the exact date.

#### Are there defences to discrimination under the *Human Rights Code*?

Yes, there are some defences and exemptions in the *Code*. Please see the Respondent's Guide. If you believe one of these applies, please explain how when you fill out the Response form.



## Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

**Can the Tribunal deal with an application where the facts and issues have been dealt with or are being dealt with in another proceeding?**

The *Code* has special rules depending on what the other proceeding is and at what stage the other proceeding is at. Read the Respondent's Guide and get legal advice if:

1. You are currently involved in, or were previously involved in a civil action based on the same facts and the applicant asked for a human rights remedy; **or**
2. A complaint was ever filed with the Ontario Human Rights Commission based on the same subject matter; **or**
3. You are currently involved in, or were previously involved in another proceeding (for example, a union grievance based on the same facts.

You must file a Response even if you believe that the Tribunal should defer the the Application or that the Application is outside the jurisdiction of the Tribunal, except where you allege the issues in dispute fall within exclusive federal jurisdiction.

### **Learn more**

To find out more about human rights in Ontario, visit [www.ohrc.on.ca](http://www.ohrc.on.ca) or phone 1-800-387-9080.



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**Note:** Complete all parts of this form, using the **Respondent's Guide** for help. If your form is not complete, the Tribunal may return it to you. At the end of this form, you will be required to read and agree to a declaration that the information in your Response is complete and accurate (if you are a lawyer or legal representative assisting a respondent with this Form 2, please see the **Practice Direction On Electronic Filing of Applications and Responses By Licensed Representatives**).

Respondents must file a completed Response form no later than **thirty-five (35) days** after the Tribunal sends them a copy of the Application. The cover letter from the Tribunal gives you the exact date.

|                      |              |
|----------------------|--------------|
| Tribunal File Number | 2019-36509-I |
|----------------------|--------------|

### Contact Information for the Respondent

#### Respondent Contact Information

Please choose the type of Respondent: ☒ Organization Respondent ☐ Individual Respondent

#### 1. Respondent Contact Information - Organization

Contact information for a responding organization, such as a corporation, association, or group. Please complete both this section and Question 3.

|   |
|---|
| <b>Full Name of Organization</b><br>Timbercreek Asset Management Inc. |
|---|

#### Organization Type:

- ☒ Corporation  
☐ Partnership  
☐ Sole proprietorship  
☐ Unincorporated business/organization  
☐ Other (specify):

|  |
|--|
|  |
|--|



# Human Rights Tribunal of Ontario

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Name of the person within this organization who is authorized to negotiate and bind the organization with respect to this Application.

|  |                                    |  |                               |   |            |
|--|------------------------------------|--|-------------------------------|---|------------|
| <b>First (or Given) Name</b><br>Paul   |                                    | <b>Last (or Family) Name</b><br>Popovici |                               | <b>Title</b><br>Vice President, Asset & Risk Management |            |
| <b>Street #</b><br>1133                | <b>Street Name</b><br>Yonge Street |  |                               | <b>Apt/Suite</b><br>Suite 302                           |            |
| <b>City/Town</b><br>Toronto            |                                    | <b>Province</b><br>Ontario               | <b>Postal Code</b><br>M4T 2Y7 | <b>Email</b>  |            |
| <b>Daytime Phone</b><br>(416) 928-7246 | <b>Cell Phone</b>                  |  | <b>Fax</b>                    |   | <b>TTY</b> |

### What is the best way to send information to you?

(If you check email, you are consenting to delivery of documents by email) ☒ Mail ☐ Email ☐ Fax

Is this Response being filed on behalf of any other respondent? ☒ Yes ☐ No

- ☐ It is filed on behalf of all respondents named in the Application  
☒ It is filed on behalf of the following respondents

Based on the selection, please list the name of the respondents represented in this response.

Timbercreek Asset Management Inc., Mustang Equities Inc., TC Core GP, TC Core LP

NOTE: While some respondent contact records were not identified by the applicant in Form 1 you may wish to add any additional respondent contact records in Section 4 in order retain accurate contact records on the case.

### 3. Representative Contact Information

Complete this Section only if you are authorizing a lawyer or other Representative to act for you.



# Human Rights Tribunal of Ontario

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☒ I authorize the organization and/or person named below to represent me.

My representative is:

|  |        |                   |
|--|--------|-------------------|
| <input checked="" type="checkbox"/> Lawyer   | LSUC # | 16421R and 56614T |
| <input type="checkbox"/> Paralegal   | LSUC # |                   |
| <input type="checkbox"/> Other- please specify the Nature of Exemption from licensing requirements in the text box below:<br>(e.g. Unpaid family member or friend) |        |                   |

For further information, see the Tribunal's Policy on Representation before the HRTO at [www.hrto.ca](http://www.hrto.ca).

|   |                                   |   |   |
|---|-----------------------------------|---|---|
| <b>First (or Given) Name</b><br>1. Lynn<br>2. Sabina                                  |                                   | <b>Last (or Family) Name</b><br>Harnden<br>Veltri |   |
| <b>Organization (if applicable)</b><br>Emond Harnden LLP<br>Barristers and Solicitors |                                   |   |   |
| <b>Street #</b><br>707  | <b>Street Name</b><br>Bank Street |   | <b>Apt/Suite</b>                                      |
| <b>City/Town</b><br>Ottawa  | <b>Province</b><br>Ontario        | <b>Postal Code</b><br>K1S 3V1                     | <b>Email</b><br>lharnden@ehlaw.ca<br>sveltri@ehlaw.ca |
| <b>Daytime Phone</b><br>(613) 563-7660  | <b>Cell Phone</b>                 | <b>Fax</b><br>(613) 563-8001                      | <b>TTY</b>  |

What is the best way to send information to your representative?

(If you check email, you are consenting to delivery of documents by email)

☐ Mail

☒ Email

☐ Fax



# Human Rights Tribunal of Ontario

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### Contact Information - Additional Respondent(s) and Affected Person(s)

Please complete this selection if you believe another person or organization should be named as a respondent or given notice as an affected person(s).

#### 4. Contact Information - Additional Respondent

If there is another organization or person who is not already named as a respondent on the Application form and who you believe should be named as a respondent, provide their contact information here. See the Tribunal's **Practice Direction on Naming Respondents** for more information on how to correctly name a potential respondent.

Please choose the type of respondent:     ☐ Organization Respondent     ☐ Individual Respondent

#### Additional Respondent Contact Information - Organization

Full Name of Organization

#### Name of Contact Person from the Organization

|                       |             |                       |             |           |  |
|-----------------------|-------------|-----------------------|-------------|-----------|--|
| First (or Given) Name |             | Last (or Family) Name |             | Title     |  |
| Street #              | Street Name |                       |             | Apt/Suite |  |
| City/Town             |             | Province              | Postal Code | Email     |  |
| Daytime Phone         | Cell Phone  |                       | Fax         | TTY       |  |

Add Another Respondent



# Human Rights Tribunal of Ontario

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### 5. Contact Information - Affected Person

If there is any other organization (such as a union or occupational association responsible for collective bargaining) or person who is not already named as an affected person on the Application form and who might be affected by this Application to the Tribunal, provide their contact information here.

Please choose the type of affected person: ☐ Organization ☐ Contact

### Affected Person Contact Information - Organization

Full Name of Organization

### Name of Contact Person from the Organization

|                       |            |                       |             |       |           |
|-----------------------|------------|-----------------------|-------------|-------|-----------|
| First (or Given) Name |            | Last (or Family) Name |             | Title |           |
| Street #              |            | Street Name           |             |       | Apt/Suite |
| City/Town             |            | Province              | Postal Code | Email |           |
| Daytime Phone         | Cell Phone |                       | Fax         |       | TTY       |

Add Another Affected Party

## Request for Early Dismissal of the Application

### 6. Request for Dismissal - without Full Response

Complete this section only if you are requesting that the Tribunal dismiss the Application because one of the four situations below applies. Put an "X" in the box that applies. Please see the [Respondent's Guide](#).



## Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

### I request that the Tribunal dismiss this Application because:

- ☐ A claim based on the same facts has been filed in civil court, requesting a remedy based on the alleged human rights violation. (Attach a copy of the statement of claim and the court decision, if any. Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)
- ☐ A complaint was filed with the Ontario Human Rights Commission based on the same, or substantially the same, facts as this Application. (Attach a copy of the complaint and the decision, if any. Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)
- ☐ The applicant signed a full and final release with respect to the same matter. (Attach a copy of the release. Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)
- ☐ The issues in the Application are within exclusive federal jurisdiction. (Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)

**Note: If you put an "X" in any of the boxes above, go to Question 20. Except in these four situations, or as otherwise directed by the Tribunal, requests to dismiss an Application will not be considered without a complete response.**

### 7. Request for Dismissal under s. 45.1 of the Code - with Full Response

Complete this section only if you are requesting that the Tribunal dismiss the Application because another proceeding has in whole or in part appropriately dealt with the substance of the Application. Put an "X" below if you are making this request. Please see the [Respondent's Guide](#).

- a) ☐ I request that the Tribunal dismiss the Application because another proceeding has in whole or in part appropriately dealt with the substance of the Application. (Attach a copy of the decision)

b) Please name the other proceeding:

- c) Explain why you believe the other proceeding has in whole or in part appropriately dealt with the substance of the Application.





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Note: You must complete the entire Response form and attach a copy of the document that started the proceeding and a copy of the decision.

### Request to Defer the Application

#### 8. Request to Defer

Complete this section only if the facts of the Application are part of another proceeding that is still in progress.

a) Describe the other proceeding:

|   |                                       |  |
|---|---------------------------------------|--|
| <input type="checkbox"/> A union grievance                                | Name of Union:                        |  |
| <input type="checkbox"/> A claim before another board, tribunal or agency | Name a board, tribunal, or agency:    |  |
| <input type="checkbox"/> Other  | Explain what the other proceeding is: |  |

b) Are you asking the Tribunal to defer (postpone) the Application until the other proceeding is completed?  
(Attach a copy of the document that started the other proceeding)

☐ Yes

☐ No



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### Responding to the Allegations in the Application

#### 9. Responding to the Allegations

Please summarize the facts and defences that support your Response to this Application. See the Respondent's Guide.

**Please include as part of your response:**

- any submissions you make that the Application is outside the Tribunal's jurisdiction;
- what allegations in the Application you agree with;
- what allegations in the Application you disagree with;
- any additional facts that you intend to rely on; and
- any defences that you intend to rely on.

Please see attached Schedule "A."

#### 10. Exemptions

Complete this section only if you are relying on one of the exemptions found in the *Code*. See the Respondent's Guide.

a) What exemption in the *Code* do you believe applies to this Application?

b) Please explain why you believe the exemption applies:

#### 11. Knowledge of the Events

a) When and how did you first become aware of the events described in the Application?

Please see attached Schedule "A."



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b) How did you respond and what was the outcome?

Please see attached Schedule "A."

### 12. Disability and Employment

Complete this section only if the applicant alleges that they experienced discrimination in employment on the ground of disability. See Respondent's Guide.

a) Did you know about the applicant's particular needs before seeing the Application?

☐ Yes

☐ No

b) What are the requirements (essential job duties) of the position in question?

c) Do you have a written policy, job description or other documentation that describes the requirements of the job?

☐ Yes

☐ No

d) Was the applicant unable to perform the requirements of the job because of their disability?

☐ Yes

☐ No (Go to 13)

Note: If you said "Yes" to Question 12c, you must attach a copy of the policy, job description or other document that describes the requirements of the job.

### Questions About Internal Human Rights Policies

#### 13. Internal Human Rights Policies

Complete this section only if the respondent is an organization. Please see the Respondent's Guide.



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- |   |                                      |                                     |
|---|--------------------------------------|-------------------------------------|
| a) Do you have a policy related to the type of discrimination alleged in the Application? | <input checked="" type="radio"/> Yes | <input type="radio"/> No            |
| b) Do you have a complaint process to deal with discrimination and harassment?            | <input checked="" type="radio"/> Yes | <input type="radio"/> No (Go to 14) |

**Note:** You must attach a copy of the policy, complaint process, or the document that started the complaint, and the decision, if any.

### Mediation

#### 14. Choosing Mediation to Resolve the Application

Mediation is one of the ways the Tribunal tries to resolve disputes. It is a less formal process than a hearing. Mediation can only happen if both parties agree to it. A Tribunal Member will be assigned to mediate the Application. The Member will meet with you to talk about your Response. The Member will also meet with the applicant and will try to work out a solution that both sides can accept. If Mediation does not settle all the issues, a hearing will still take place and a different Member will be assigned to hear the case. Mediation is confidential.

Do you agree to try mediation? ☒ Yes

### Documents that Support Your Response

#### 15. Important Documents You Have

If you have documents that are important to your Response, list them here. List only the most important. Indicate whether the document is privileged. Please see the Respondent's Guide.

**Note:** You are not required to send copies of your documents at this time. However, if you decide to attach copies of the documents you list below to your Response, they will be sent to the other parties to the Application along with your Response.

| Document Name   | Why It Is Important To My Response |
|---|------------------------------------|
| Applicant tenancy, maintenance and relocation records | Please see attached Schedule "A."  |
| Resident communications documents                     | Please see attached Schedule "A."  |

Add more Documents



## Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

### 16. Important Documents the Applicant Has

If you believe the applicant has documents that are important to your Response, that you do not have, list them here. List only the most important.

| Document Name | Why It Is Important To My Response |
|---------------|------------------------------------|
|               |                                    |

Add more Documents

### 17. Important Documents Another Person or Organization Has

If you believe another person or organization has documents that are important to your Response, that you do not have, list them here. List only the most important.

| Document Name | Why It Is Important To My Response | Name of Person or Organization Who Has It |
|---------------|------------------------------------|---|
|               |                                    |   |

Add more Documents

## Confidential List of Witnesses

### 18. Witnesses

Please list the witnesses that you intend to rely on in the hearing. **Note:** The Tribunal will not send this list to the applicant. See the Respondent's Guide.

| Name of Witness | Why This Witness Is Important To My Response |
|-----------------|--|
|                 |  |



# Human Rights Tribunal of Ontario

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Add more Witnesses

### Other Important Information

#### 19. Other Important Information the Tribunal Should Know

Is there any other important information you would like to share with the Tribunal?

Tribunal file numbers 2019-36509-I to 2019-36519-I and 2019-36521-I to 2019-36523-I were consolidated on May 7, 2019.

On August 1, 2019, five (5) Applications were filed on behalf of Diana, Mona and Omar Zaid, Hawa Gas, and Jeen Fils. On August 14, 2019, thirteen (13) Applications were filed on behalf of Margeret Alluker, Ali Banayan, Sara Ahmed, Amina Hassan, Sherifa Khalefa, Abdiaziz Ahmed, Sagal Ahmed, Enab Hussein Mohamed, Sucaad Hussein, Khalid Hussein Ahmed, Abdullahi Abdullahi, Mirlaine Saintil, and Gislaine Jean-Baptiste. On September 2, 2019, five Applications were filed on behalf of Abtesam Aoda, Falah Rashed, Fatemah Rashed, Ssalah Rashed and Zahrah Al Jourani. These Applications have not yet been consolidated with the original fourteen (14) Applications.

This Response is in respect of all above-noted Applications.



## Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

### Checklist of Required Documents

#### 20. Documents from Questions 6 to 13

Put an "X" in the box beside the documents that you are required to send with your Response. Put the Tribunal File Number on each document.

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | Copy of a statement of claim and the Court decision, if any (from Question 6)   |
| <input type="checkbox"/> | Copy of a complaint filed with the Ontario Human Rights Commission and decision, if any (from Question 6)                           |
| <input type="checkbox"/> | Copy of a full and final release that the applicant signed dealing with same matter (from Question 6)                               |
| <input type="checkbox"/> | Submissions in support of a Request for Dismissal without Full Response (under Question 6)  |
| <input type="checkbox"/> | Copy of a decision from another type of proceeding that appropriately dealt with the substance of the Application (from Question 7) |
| <input type="checkbox"/> | Copy of a document that started another type of proceeding based on the same facts (from Question 7 & 8)                            |
| <input type="checkbox"/> | Copy of the policy, job description or other document that describes the requirements of the job (from Question 12)                 |
| <input type="checkbox"/> | Copy of your organization's policy on discrimination or harassment relevant to this Application (from Question 13)                  |
| <input type="checkbox"/> | Copy of your organization's complaints process relevant to this Application (from Question 13)                                      |
| <input type="checkbox"/> | Copy of the applicant's internal complaint (from Question 13)   |
| <input type="checkbox"/> | Copy of the decision from the internal complaint process (from Question 13)   |



# Human Rights Tribunal of Ontario

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### Declaration and Signature

#### 21. Declaration and Signature

**Declaration:**

To the best of my knowledge, the information in my Response is complete and accurate.

Signature Date (dd/mm/yyyy)

27/09/2019

☒ Please check this box if you are filing your response electronically. This represents your signature.  
You must fill out the date, above.

### Accommodation Required

If you require accommodation of *Code* related needs please contact the Registrar at [HRTTO.Registrar@ontario.ca](mailto:HRTTO.Registrar@ontario.ca) or

Phone: 416-326-1312 Toll-free: 1-866-598-0322

Fax: 416-326-2199 Toll-free: 1-866-355-6099

TTY: 416-326-2027 Toll-free: 1-866-607-1240

### Collection of Information:

Under the Ontario *Human Rights Code*, the Human Rights Tribunal of Ontario (HRTTO) has the right to collect the personal information requested on this form. We use the information to resolve your application. After you file the form, your information may also be available to the public. If you have questions about how the HRTTO uses your personal information, contact the HRTTO at 416-326-1312 or 1-866-598-0322 (toll-free.)

Submit to HRTTO

Print Form

**Note: Only submit your Response once. If the Tribunal receives this Response more than once, it will only accept the first Response Form received.**



## **SCHEDULE “A”**

### **The Applications**

1. Thirty-seven Applicants filed Applications against Timbercreek Asset Management Inc., Mustang Equities Inc., TC Core GP, TC Core LP (collectively referred to as “Timbercreek”) and the City of Ottawa. Fourteen of the Applications were consolidated by the Human Rights Tribunal of Ontario. The parties are in agreement with respect to consolidation of the remaining twenty-three Applications.

### **Overview**

2. This matter arose from events that occurred in an area in the south end of the City of Ottawa known as Alta Vista.
3. Urbanization of Alta Vista began in the 1950’s. A collection of neighbourhoods emerged which included Guildwood Estates and Urbandale Acres which were located in an area which became known as Herongate.
4. Minto Communities Canada commenced building townhouses and high rises in the Herongate area in the 1960’s. The residential complexes built by Minto became known as Heron Gate Village.
5. In 2007, Minto sold the properties in Heron Gate Village to TransGlobe Investment Management which, in turn, sold them to Timbercreek in 2012 and 2013. Timbercreek immediately began to invest a significant amount of funds to repair and improve the existing structures.

6. Timbercreek commenced redevelopment of a portion of the properties in 2015. It was determined that some of the townhouses built by Minto in the 1960s had deteriorated to the point that they should be demolished to ensure resident safety, dignity and comfort. The residents in the properties including the Applicants were advised that they would have to relocate pending the redevelopment of the area.
7. The residents were provided assistance in their relocation by Timbercreek. Understanding the importance of residents remaining close to their social networks and vital amenities, alternate accommodations in the adjacent area were offered to all residents including the Applicants. All residents relocated into properties in the adjacent area except for those who opted for alternative accommodations in other areas of Ottawa.
8. In April 2019 Timbercreek tabled a redevelopment plan with the City of Ottawa. The plan includes voluntary provisions for up to 20 per cent of the new housing to be affordable. Provision is also made to include three- and four-bedroom units suitable for families.
9. All residents including the Applicants were notified that they have a right to return to Heron Gate Village on a priority basis upon completion of new housing units that will be built as part of the secondary plan and the redevelopment of the lands.

#### The Legal Framework

10. The core of the argument underlying the Applications is the allegation that a violation of the *Human Rights Code* (the “Code”) occurred as a result of the fact that the Applicants were compelled to relocate from their residences in Heron Gate Village due to the redevelopment of the properties by Timbercreek.

11. The underlying premise of the argument is flawed.
12. The composition of the properties in which residents of Alta Vista have resided has evolved in a manner which is not dissimilar to what has occurred in communities across the Province and across the country. Individual residences and rental accommodations are renovated or demolished to be replaced by new construction. Such redevelopments are fundamental to the rejuvenation of urban environments which would otherwise deteriorate.
13. The protections of the *Code* were not intended to represent a barrier to the ordinary evolution of residential communities. Those important protections would only be engaged if there was evidence that a particular participant in that process displayed conduct which was motivated by considerations of grounds prohibited by the *Code*. The Applicants have not pleaded such a case because no such discriminatory conduct has occurred.
14. Stating that some of the Applicants are of Somali or Haitian origin and that some are “ethnically Arab” does not infuse the Applications with a basis for allegations of discrimination on grounds protected by the *Code*. There must be facts pleaded which show some nexus between the ethnicity of the Applicants and the actions of Timbercreek. No such facts were pleaded because no such facts exist.
15. It is not denied that one of the underlying motivations of Timbercreek in its decisions to redevelop properties such as Heron Gate is the making of profit. Economic enterprise which is driven by both a desire to build community and profitability is not prohibited by the *Code*.

16. The Applications attempt to formulate a legal foundation for their allegations by employing terminology such as “gentrification” or “hyper-gentrification”. As stated in the Applications, gentrification is characterized by the replacement of “poorer renters with higher-income tenants”. Aside from the fact that the assertion is not factual in the present context, it discloses and confirms the fundamental flaw in the legal argument advanced on behalf of the Applicants, which is the lack of a connection between a *Code*-protected ground and Timbercreek’s decisions and actions in relation to the redevelopment.
17. The Applications also seek to derive legal support for their position from international law instruments such as the International Covenant on Economic, Social and Cultural Rights (ICESCR). Reference is made to the recognition in ICESCR of the right to adequate housing and the responsibility of States to implement measures to achieve such a goal.
18. This pleading simply highlights that there is currently no enacted legislation which would imbed a statutory right to housing. It is a misguided attempt to employ the provisions of the *Code* to engineer social policy.

#### The Timbercreek Redevelopment

19. Timbercreek acknowledges that there are many communities in Ontario including the City of Ottawa that are experiencing housing shortages. It also acknowledges that the lack of affordable housing has a disproportionate impact on people of colour, indigenous peoples, women and other equity seeking groups. Identifying solutions to this endemic problem is essential. However, it does not follow that the redevelopment of communities such as Heron Gate Village engages the protections of the *Human Rights Code* in the absence of any evidence of discriminatory conduct.

20. The redevelopment of Heron Gate Village by Timbercreek increases the availability of housing in a central urban area. In combination with the inclusion in the redevelopment plan of affordable housing units suitable for families, the result will be a mixed income community which offers significantly more affordable housing options than currently or previously available. Creation of such communities can serve to mitigate the damage to equity seeking groups resulting from housing shortages.
21. Timbercreek's actions in relation to this community may be contrasted to those of previous owners and managers who owned the properties prior to their acquisition by Timbercreek in 2012-13.
22. As the Applicants note in their own pleadings previous owners and managers allowed the properties to deteriorate to a "substandard condition".
23. In contrast, Timbercreek has invested over \$50 million in repairs and improvements to the residential buildings since their acquisition.
24. Contrary to the allegations in the Pleadings, none of the Applicants were "evicted" by Timbercreek. Extensive efforts were made to identify comparable rental units in or adjacent to the Heron Gate community. These efforts were successful. Applicants who did not relocate to comparable units in the nearby area did so after rejecting such alternatives.
25. The approach of Timbercreek to the redevelopment of the Heron Gate area was consonant with the aspirations for urban development identified in the international protocols cited by

the Applicants. It represents a level of corporate responsibility which should be welcomed rather than branded as a breach of human rights obligations.

## **Background**

### The Nature of Timbercreek's Business – An Inclusive and Respectful Business Model

26. Timbercreek owns and operates multi-residential communities across Canada. Its corporate philosophy emphasizes that it is doing more than building housing. Rather, the goal is to build communities. Through a number of corporate initiatives, Timbercreek actively fosters and supports these communities.
27. Timbercreek supports the Somali Hope Foundation, which built and operates a school in Somalia. Timbercreek also provides ongoing support to a variety of charitable events including Pride, the Humane Society and Save the Bees. Timbercreek made an emergency donation in order to keep a local Ottawa Boys and Girls Club operational. The program is run out of a local high school attended by many students living in the Herongate community. Timbercreek also offers a youth employment program which provides jobs to summer students living in the Herongate community.
28. In 2016, Timbercreek created a program to help house refugees, particularly those from Syria, in Heron Gate Village. The program provided the following:
  - a. Three months of free rent, provided at staggered times throughout a 12-month lease;

- b. A less restrictive application approval process, including the waiver of the requirement to provide last month's rent, deposit money orders or certified cheques at the time of application;
  - c. An initial offer of twenty two- and three-bedroom suites exclusively to clients of the Catholic Centre for Immigrants Ottawa, a non-profit organization providing assistance to immigrants and refugees; and
  - d. The additional offer of twelve one- and two-bedroom suites exclusively to clients of Catholic Centre for Immigrants Ottawa.
29. Timbercreek's development plans are animated by a desire to create and sustain communities. It takes pride in the fact that its projects have increased the supply of housing in the areas where it has invested and have resulted in communities marked by a vibrant class and cultural mix.
30. Timbercreek strives to operate each of its development projects in a manner that recognizes and fosters the identity and diversity of the community.

#### Heron Gate Village Purchase, Maintenance, and Community Support

31. As noted above, Herongate is a neighbourhood located in the south end of the City of Ottawa in the area north and south of Walkley Road between its intersections with Bank Street and with Heron Road.
32. Heron Gate Village is located in the northern section of the Herongate neighbourhood, between Heron Road and Walkley Road. It now contains 1,516 homes. It borders the

Heron Walkley Park on one side, and Sandalwood Park and the Heron Gate Mall on the other. Heron Gate Village is made up of five high-rise towers containing 957 suites, 307 garden homes/townhomes, and four low-rise buildings containing 252 suites.

33. Heron Gate Village was purchased in 2012 and 2013 as part of a portfolio transaction, and was therefore not individually identified for purchase as a result of its redevelopment potential.
34. The allegation that Timbercreek neglected its maintenance obligations in Heron Gate Village is simply untrue. At the time of purchase, Heron Gate Village was in poor condition due to age and poor maintenance practises. As such, while repair and maintenance needs were initially high due to the state of the properties at the time of purchase, Timbercreek's attention and investment in the property has significantly reduced repair and maintenance needs over time.
35. Timbercreek has invested over \$50 million in repairs and improvements to the Heron Gate Village buildings, facilities and exteriors since its purchase of the property. Repairs or improvements were made to all balconies, roofs, elevators, parkades and parking lots, lighting and brick work of the various buildings in Heron Gate Village. Those repairs included the replacement of the roofs of the homes in which the Applicants lived in 2016 and 2017, at a cost of over \$625,000.
36. For the entirety of the Heron Gate Village property including the section of townhomes that is the subject of the Applications, there were 207 by-law calls for service and 51 by-law orders issued in 2012. There were 275 calls for service and 42 orders issued in 2013.



However, Timbercreek’s repair and maintenance efforts resulted in a significant reduction of these numbers over time, as outlined in the chart below:

| Year | Calls for Service | Orders Issued |
|------|-------------------|---------------|
| 2012 | 207               | 51            |
| 2013 | 275               | 42            |
| 2014 | 111               | 13            |
| 2015 | 70                | 13            |
| 2016 | 47                | 6             |
| 2017 | 79                | 5             |
| 2018 | 58                | 3             |

37. Timbercreek has also been committed to initiatives aimed at improving the quality of the community for its existing tenants. In 2017, Timbercreek was nominated for the Landlord Community Safety Award by Crime Prevention Ottawa.
38. The nomination recognized the numerous community initiatives undertaken by Timbercreek in Heron Gate Village with the support of its community partners. The nomination noted that the community was now “much more active, vibrant and safe.”
39. The nomination was supported by the City Councillor for the area, who noted Timbercreek’s embodiment of corporate social responsibility principles demonstrated by its collaborations with social support and community groups. The Councillor commented that Timbercreek and its partners had increased outreach programs and funded community events and was open to innovation and dialogue.

40. As a result of the nomination, Timbercreek was awarded the 2017 Landlord Community Safety Award. The award recognized Timbercreek for creating the Herongate Hub, which provides a space for partners in the community to provide tenants and other community members with supports and programs such as homework clubs, youth and Syrian refugee drop-ins, language classes, and employment workshops. The award also recognized Timbercreek's sponsorship of initiatives such as the Herongate Youth Film Festival, the Ambassador program for Syrian refugees, community clean-up events, and the annual barbecue and live music event typically attended by over 1,000 residents known as Herongate Fun Day.

#### Repairs and Maintenance of the Applicants' Units

41. Timbercreek denies that the Applicants' repair and maintenance needs were neglected. Timbercreek responded promptly and appropriately to requests for repairs and maintenance. Details regarding Timbercreek's maintenance records for each of the applicable units are outlined below.

#### *1530-B Heron*

42. The Applicants Mirlaine Saintil and Gislain Jean-Baptiste resided in this unit with other occupants who are not parties to these Applications. Maintenance and repairs were carried out to various aspects of Ms. Saintil and Ms. Jean-Baptiste's unit between the commencement of the tenancy in this unit in 2014 and the termination of the tenancy in August 2018. 16 requests were made and Timbercreek actioned all of the items that necessitated maintenance or repair. There is no record of a request for a door repair in

2014. A request was made to fix the weather stripping for the doors in September 2016 and the request was actioned. With respect to the bedbugs reported in the unit in 2016, treatments were provided until an inspection showed no bedbug activity. The lack of bedbug activity since treatment was confirmed by the tenant.

*1544-K Heron*

43. The Applicant Maha Jabur resided in this unit with her children, Diana, Mona, and Omar Zaid, who are also parties to these Applications.
44. Maintenance and repairs were carried out to various aspects of Ms. Jabur's unit between the commencement of the tenancy in January 2012 and the termination of the tenancy in August 2018. 57 requests were made and Timbercreek actioned all of the items that necessitated maintenance or repair, including front door repairs and heat-related repairs. Some calls for ceiling leaks showed no sign of leakage. It was determined on another call that leaks were being caused by too much water being splashed on the bathroom floor and the ceiling was painted. On average, the requests for the unit were completed in four days.

*1556-F Heron*

45. The Applicant Hawa Gas resided in this unit. Maintenance and repairs were carried out to various aspects of Ms. Gas's unit from the commencement of the tenancy in November 2015 to the termination of the tenancy in July 31, 2018. Two requests were made. On average, the requests were completed in three days.

*1586-G Heron*

46. The Applicant Ali Banayan resided in this unit. Maintenance and repairs were carried out to various aspects of Mr. Banayan's unit from the commencement of the tenancy in February 2016 to the termination of the tenancy in September 2018. Two requests were made and Timbercreek actioned them. On average, the requests for the unit were completed in two days.

*2821-B Baycrest*

47. Hussein Geire resided in this unit with his wife, Enab Hussein Mohamed, and their children, Sara Ahmed, Abdiaziz Ahmed, Sagal Ahmed, Sucaad Hussein, and Khalid Hussein Ahmed. All of these individuals are Applicants.
48. Maintenance and repairs were carried out to various aspects of the Applicants' unit from the commencement of the tenancy in January 2016 to the termination of the tenancy in August 2018. 50 requests were made and Timbercreek actioned all of the requests that necessitated maintenance or repair, including sink drainage issues. The work order regarding the downstairs window was in respect of one window needing to be repaired or replaced. One window was in fact replaced, and the other did not need to be replaced. On average, the requests for the unit were completed in two days.

*2821-D Baycrest*

49. The Applicants Saido Hersi (noted in Timbercreek's records as Saido or Saida Osman) and Abdullahi Sadiq resided in this unit. Ms. Osman commenced the tenancy in November 2010. Mr. Sadiq was added as a tenant in November 2016.
50. Maintenance and repairs were carried out to various aspects of the Applicants' unit between Timbercreek's purchase of Heron Gate Village in 2012 and the termination of the tenancy in September 2018. 62 requests were made and Timbercreek actioned all of the requests that necessitated maintenance or repair. On average, the requests for the unit were completed in less than four days.

*2821-J Baycrest*

51. The Applicant Mohamed Yussuf resided in this unit with co-tenants who are not party to these Applications.
52. Maintenance and repairs were carried out to various aspects of Mr. Yussuf's unit from the commencement of his tenancy in December 2014 to the termination of his tenancy in October 2018. 34 requests were made. Timbercreek actioned all of the requests that necessitated maintenance or repair, including the installation and repair of a handrail, ceiling repairs, and repair of the front door lock. On average, the requests for the unit were completed in less than four days.

*2825-G Baycrest*

53. The Applicant Jeen Fils (identified as Jean Fils in Timbercreek's records) resided in this unit. Maintenance and repairs were carried out to various aspects of the Applicant's unit between the commencement of the tenancy in July 2013 and the termination of the tenancy in July 2018. 9 requests were made and Timbercreek actioned all of the requests that necessitated maintenance or repair. On average, the requests for the unit were completed in less than two days.

*2825-H Baycrest*

54. The Applicant Abdullahi Abdullahi was an occupant in this unit. The tenant of record for this unit is not a party to these Applications.
55. Maintenance and repairs were carried out to various aspects of this unit between the commencement of the tenancy in August 2008 and the termination of the tenancy in September 2018. 26 requests were made and Timbercreek actioned all of the requests that necessitated maintenance or repair. On average, the requests for the unit were completed in less than five days. The longer periods of maintenance included requests requiring an outside contractor.
56. With respect to the issue with ants in the unit, the Applicant states that the family had found ants in the unit for three years, but did not report it until 2017. When the issue was reported in May 2017, Timbercreek contacted the client the next day to commence the process to treat the ants, which they did on two occasions.

*2827-A Sandalwood*

57. Abtesam Aoda and her children, Falah Rashed, Fatema Rashed, Ssalah Rashed and Zahra al Jourani, resided in this unit. All individuals are Applicants.
58. Prior to their residence in this unit, the Applicants resided in 2822-E Sandalwood from February 1, 2007 to October 31, 2015. They subsequently moved to another home in the Heatherington area that was not owned by Timbercreek. One year later, on November 1, 2016, they returned to Heron Gate Village and moved into 2827-A Sandalwood.
59. Maintenance and repairs were carried out to various aspects of both of their units during the course of their respective tenancies, and Timbercreek actioned all of the requests that necessitated maintenance or repair.
60. Timbercreek has no record of any pest control maintenance requests in 2015 or at any other time during the Applicants' tenancy in 2822-E Sandalwood. Timbercreek investigated the complaint of ceiling leaks and determined that a roof leak was the cause. The roof was repaired and internal repairs were completed. Subsequent maintenance requests did not make mention of further ceiling issues. Timbercreek investigated the complaints about the floors and determined that no further work was required.
61. Timbercreek purchased a new fridge for the tenants in 2013. In 2015, complaints of the fridge leaking were addressed by thawing and cleaning the drain tube of the fridge, which is not an unusual occurrence. There was no indication of any need to replace the fridge.

62. On average, the maintenance repair requests were completed in less than 6.5 days. One request took approximately two weeks due to the need to retain an outside contractor to carry out wall and ceiling repairs.
63. In unit 2827-A, Timbercreek carried out maintenance and repair requests with respect to basement flooding. In one instance, the floor was dry when maintenance staff arrived. After inspections did not reveal the source of the leak, Timbercreek offered in January of 2018 to transfer the residents to another unit to avoid any further flooding, but they refused to move. With respect to the stove, Timbercreek replaced the stove burners, which worked properly when tested. On average, the maintenance or repair requests were completed in less than two days.

*2827-D Sandalwood*

64. The Applicants Abdullahi Ali, Bile Ali, and Abyan Ali are not tenants or occupants according to Timbercreek's records. However, Timbercreek understands that they resided in this unit with the Applicants Saido Gashan, Ruki Ali (identified as Rukia Ali in Timbercreek's records), Ladan Ali and Mustafa Ali. An occupant who is not a party to these Applications also resided in the unit.
65. Maintenance and repairs were carried out to various aspects of the Applicants' unit between the commencement of the tenancy in April 2015 and the termination of the tenancy in October 2018. 39 requests were made and Timbercreek actioned all of the items that necessitated maintenance or repair, including basement leaks. On average, the requests for the unit were completed in less than two days.



*2831-E Sandalwood*

66. The Applicant Margeret Alluker resided in this unit. Maintenance and repairs were carried out to various aspects of the Applicant's unit between the commencement of the tenancy in December 2014 and the termination of the tenancy in September 2018. 25 requests were made and Timbercreek actioned all of the items that necessitated maintenance or repair. On average, the requests for the unit were completed in just over two days.

*2835-B Sandalwood*

67. The Applicant Sharifa Khalefa resided in this unit with occupants who are not parties to these Applications. Maintenance and repairs were carried out to various aspects of the Applicant's unit between the commencement of the tenancy in April 2017 and the termination of the tenancy in September 2018. Four requests were made and Timbercreek actioned all of the items that necessitated maintenance or repair. On average, the requests for the unit were completed in one day.

*2835-E Sandalwood*

68. The Applicant Amina Hassan resided in this unit with occupants who are not parties to these Applications. Maintenance and repairs were carried out to various aspects of the Applicant's unit between the commencement of the tenancy in November 2015 and the termination of the tenancy in September 2018. 32 requests were made and Timbercreek actioned all of the items that necessitated maintenance or repair. There is no record of a maintenance request for a roof leak. On average, the requests were completed in less than five days.

69. The Applicant Mohamed Faqi resided in this unit with a co-tenant and occupant who are not party to these Applications.
70. The Applicant Adar Haji is not listed as a tenant or occupant for this or other units in Heron Gate Village. However, on the rental application for the unit filled out by Mr. Faqi's co-tenant, Ms. Haji is noted as the co-tenant's daughter. The Applications make reference to damage to Ms. Haji's unit. Mr. Faqi and Ms. Haji moved to the same new address. Timbercreek therefore understands that Ms. Haji also resided with Mr. Faqi.
71. Maintenance and repairs were carried out to various aspects of the Applicants' unit between the commencement of the tenancy in November 2015 and the termination of the tenancy in September 2018. 30 requests were made and Timbercreek actioned all of the items that necessitated maintenance or repair, including repair of the window screen. On average, the requests for the unit were completed in less than three days.

#### Demolition of Townhomes

72. The Applicants have described the units as being in an "advanced state of dilapidation," while, at the same time, asserting that the condition of the structures was not beyond repair.
73. Timbercreek's numerous and regular maintenance responses, and substantial investment of capital, demonstrate the significant effort that was made to repair and maintain the property. Over \$1.5 million was spent on the units in the section of townhomes in which

the Applicants resided, known as Heron Gate 5, between 2015 and 2018, including the following:

- a. In-suite upgrades, including to kitchens, bathrooms, carpeting, and other flooring;
  - b. Common area upgrades;
  - c. Structural upgrades, including to the roofs, windows and doors, balconies, brick and concrete;
  - d. Exterior upgrades, including landscaping, fencing, building entrances, and signage;
  - e. Parking lot and garage upgrades;
  - f. Building system upgrades, including HVAC, plumbing, electrical, and elevators; and
  - g. Appliances.
74. Unfortunately, it became clear to Timbercreek that the condition of the structures was worse than originally believed. Age and previous neglect of the structures prior to Timbercreek's ownership created concerns about resident safety and comfort. It was concluded that it was not sustainable for Timbercreek to continue to repair the structures on a piecemeal basis. As a result, the decision was made to demolish the structures.
75. One of these townhome sections was known as Heron Gate 7, which was demolished in 2016. Many tenants were relocated within Heron Gate Village, including some tenants who relocated to Heron Gate 5.
76. The need to demolish Heron Gate 5 in 2018 meant the homes had to be vacated. Agreements to End the Tenancy were signed for all units at issue in this Application.

Despite the plans to demolish the units, Timbercreek remained committed to maintaining all occupied units to a high standard, as evidenced by its continued maintenance and repair of the townhomes.

77. At the time that leases in Heron Gate 5 were terminated, 105 of the 150 townhomes were occupied. The tenants in the impacted buildings were provided with more notice and compensation than was required under the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17. Relocation agents helped tenants locate comparable homes nearby. Where available, tenants were offered the option to relocate elsewhere within Heron Gate Village. Timbercreek also worked with the City of Ottawa Rent Supplement Program to assist with the relocation of tenants enrolled in the Program.
78. Timbercreek voluntarily set up supports to assist tenants with transitions to new homes. Timbercreek hired relocation agents to help tenants find new homes that suited their specific preferences and ensured that agents were available who could provide assistance to tenants in a number of languages including Arabic and Somali. Information sessions were scheduled to discuss the process, as well as weekly drop-in opportunities where tenants could drop in to ask questions and seek assistance.
79. Timbercreek provided tenants with contact information for other sources of support and information including the Landlord and Tenant Board, the Law Society of Ontario Lawyer Referral Service, Pro Bono Ontario, and Legal Aid Ontario. Tenants received notifications about these supports on a regular basis, including through notices from Timbercreek that were available in English, French, Somali, Arabic and Nepalese.

### Relocation of the Applicants

80. The Applicants, and all other tenants, were offered the same access to relocation assistance in an attempt to ease their transition to new housing.

#### *Mirlaine Saintil and Gislain Jean-Baptiste (1530-B Heron)*

81. Mirlaine Saintil and Gislain Jean-Baptiste resided in a three-bedroom unit in Heron Gate Village. The Applicants found another residence in June 2018 on their own. They signed an Agreement to End the Tenancy on June 28, 2018, ending the tenancy on August 15, 2018. The Applicants, as co-tenants, were provided with three months' rent and an additional voluntary payment of \$2,000. Timbercreek agreed to the Applicants' request to pay the first month's rent and a rent deposit for last month's rent directly to the Applicants' new landlord. The Applicants moved to an address 4.2 kilometres away (all distances indicated are by car).

#### *Maha Jabur, and Diana, Mona and Omar Zaid (1544-K Heron)*

82. Maha Jabur resided in a three-bedroom unit in Heron Gate Village. Timbercreek's relocation agents found two comparable units nearby. One was only 1.8 kilometres away from Heron Gate Village, and the other was 5.3 kilometres away. The Applicant accepted viewings to both locations. The Applicant signed an Agreement to End the Tenancy Form on August 21, 2018 ending the tenancy on August 31, 2018. The Applicant was provided with three months' rent and an additional voluntary payment of \$2,000. The Applicant moved to an address approximately 20 kilometres away.

*Hawa Gas (1556-F Heron)*

83. Hawa Gas resided in a three-bedroom unit at Heron Gate Village. She accepted another unit in Heron Gate Village, located at 2856 Baycrest. Ms. Gas signed an Agreement to End the Tenancy on June 27, 2018, ending the tenancy on July 31, 2018. Her lease for 2856 Baycrest commenced on August 1, 2018. She was provided with three months of free rent for the months of August 2018, January 2019, and June 2019, and an additional voluntary payment of \$2,000.

*Ali Banayan (1586-G Heron)*

84. Ali Banayan resided in a three-bedroom unit at Heron Gate Village and sought a three-bedroom house. Timbercreek's relocation agents found three comparable units of varying distances from Heron Gate Village, the closest one being 4.4 kilometres away. Mr. Banayan accepted the viewing for the closest unit and was approved for that unit. He signed an Agreement to End the Tenancy on June 26, 2018, ending the tenancy on September 15, 2018. He was provided with three months' rent and an additional voluntary payment of \$2,000.

*Hussein Geire, Enab Hussein Mohamed, Sara Ahmed, Abdiaziz Ahmed, Sagal Ahmed, Sucaad Hussein, and Khalid Hussein Ahmed (2821-B Baycrest)*

85. Hussein Geire, Enab Hussein Mohamed, and their children resided in a three-bedroom unit in Heron Gate Village and sought a three- to four-bedroom unit in the area. Timbercreek's relocation agents found six comparable units of varying distances from Heron Gate Village, the closest one being only 550 metres away, across Bank Street from the

Herongate neighbourhood. The Applicants accepted four viewings out of the seven properties offered. An Agreement to End the Tenancy Form was signed on August 20, 2018 ending the tenancy on August 31, 2018. Mr. Geire and Ms. Hussein Mohamed, as co-tenants, received three months' rent and an additional voluntary payment of \$2,000. The Applicants moved to an address 1.3 kilometres away.

*Saido Hersi and Abdullahi Sadiq (2821-D Baycrest)*

86. Saido Hersi and Abdullahi Sadiq resided in a three-bedroom unit in Heron Gate Village. They sought a three-bedroom, two-bathroom unit. Timbercreek's relocation agents found nine comparable units of varying distances from Heron Gate Village, the closest being 1.3 kilometres away, in the Herongate neighbourhood. The Applicants accepted four viewings out of the nine offered units. An Agreement to End the Tenancy Form was signed on September 4, 2018 ending the tenancy on September 30, 2018. Saido Hersi (Saida Osman), as tenant, received three months' rent and an additional voluntary payment of \$2,000. The Applicants moved to an address approximately 5 kilometres away.

*Mohamed Yussuf (2821-J Baycrest)*

87. Mohamed Yussuf resided in a three-bedroom unit in Heron Gate Village and sought a comparable unit with specific requirements. Timbercreek's relocation agents found eight suitable units of varying distances from Heron Gate Village, the closest being 1.2 kilometres away, in the Herongate neighbourhood. Mr. Yussuf's family refused offers of assistance from the relocation agents in July and stated that they were not moving. In

August, they indicated that they would work with the relocation team to find other options. Out of the nine units found, Mr. Yussuf's family accepted one viewing.

88. An Agreement to End the Tenancy Form was signed on September 26, 2018 ending the tenancy on October 2, 2018. The Applicant and his co-tenants received three months' rent and an additional voluntary payment of \$2,000. Mr. Yussuf moved to an address 3.5 kilometres away.

*Jeen Fils (2825-G Baycrest)*

89. Jeen Fils resided in a three-bedroom unit in Heron Gate Village. Timbercreek's relocation agents found six comparable units of varying distances from Heron Gate Village, the closest being across the street from Heron Gate Village, 600 metres away. Mr. Fils accepted one viewing. He signed an Agreement to End the Tenancy Form on July 22, 2018, ending the tenancy on July 31, 2018. He received three months' rent and an additional voluntary payment of \$2,000. Mr. Fils moved to an address 13.2 kilometres away.

*Abdullahi Abdullahi (2825-H Baycrest)*

90. Abdullahi Abdullahi resided in a four-bedroom unit in Heron Gate Village. Timbercreek's relocation agents found three comparable units of varying distances from Heron Gate Village, the closest being 4.5 kilometres away. Mr. Abdullahi's family accepted one viewing. Mr. Abdullahi's family signed an Agreement to End the Tenancy Form on July 23, 2018, ending the tenancy on September 30, 2018. Mr. Abdullahi's family received



three months' rent and an additional voluntary payment of \$2,000. Mr. Abdullahi's family moved to an address 5.8 kilometres away.

*Abtesam Aoda, Falah Rashed, Fatema Rashed, Ssalah Rashed, and Zahra al Jourani (2827-A Sandalwood)*

91. Abtesam Aoda and her family resided in a three-bedroom unit in Heron Gate Village and sought a three- or four-bedroom unit. Timbercreek's relocation agents reached out to the family but did not receive a response to the voicemail that was left. Ms. Aoda and her family found another unit and signed an Agreement to End the Tenancy Form on July 18, 2018, ending the tenancy on August 15, 2018. Ms. Aoda and Falah Rashed, as co-tenants, received three months' rent and an additional voluntary payment of \$2,000. Ms. Aoda and her family moved to an address 2.5 kilometres away.

*Saido Gashan, Abdullahi Ali, Bile Ali, Abyan Ali, Ruki Ali, Ladan Ali, and Mustafa Ali (2827-D Sandalwood)*

92. Saido Gashan, Abdullahi Ali, Bile Ali, Abyan Ali, Ruki Ali, Ladan Ali and Mustafa Ali resided together. They did not accept the relocation assistance offered by Timbercreek. They located a new rental commencing in November and did not wish to move before then. However, as other tenants had moved out of Heron Gate 5 throughout the summer and early fall, they later accepted a garden home in Heron Gate 4 for one month. Timbercreek made arrangements for short notice installation of internet, and paid for internet and other utilities during their one-month stay.
93. As such, an Agreement to End the Tenancy form was signed on October 5, 2018 ending the tenancy for their Heron Gate 5 unit that same day. Saido Gashan, as tenant, received

three months' rent and an additional voluntary payment of \$2,000. After remaining in the Heron Gate 4 unit for one month, they moved to an address 2.7 kilometres away.

*Margeret Alluker (2831-E Sandalwood)*

94. Margeret Alluker resided in a three-bedroom unit in Heron Gate Village. Timbercreek's relocation agents found nine suitable units of varying distances from Heron Gate Village. Ms. Alluker declined eight of the showings. The ninth unit was a unit in Heron Gate Village at 2870 Cedarwood, which Ms. Alluker accepted. She signed an Agreement to End the Tenancy on September 17, 2018, ending the tenancy on September 30, 2018. She received three months' free rent, for the months of October 2018, March 2019 and August 2019, and an additional voluntary payment of \$2,000.

*Sharifa Khalefa (2835-B Sandalwood)*

95. Sharifa Khalefa resided in a three-bedroom unit in Heron Gate Village and sought a four-bedroom unit. Timbercreek's relocation agents found nine suitable units of varying distances from Heron Gate Village, the closest being 1.5 kilometres away. Ms. Khalefa accepted four viewings. She signed an Agreement to End the Tenancy on September 10, 2018, ending the tenancy on that same day. She received three months' rent and an additional voluntary payment of \$2,000. She moved to an address 4 kilometres away.

*Amina Hassan (2835-E Sandalwood)*

96. Amina Hassan resided in a three-bedroom unit at Heron Gate Village. Timbercreek's relocation agents found five comparable units of varying distances from Heron Gate

Village. Ms. Hassan declined five viewings and agreed to move to a two-bedroom home in Heron Gate Village, located at 2840 Cedarwood. She signed an Agreement to End the Tenancy form on July 19, 2018, ending the tenancy on September 14, 2018. She received three months' free rent, for the months of September 2018, March 2019 and August 2019, and an additional voluntary payment of \$2,000.

*Mohamed Faqi and Adar Haji (2837-E Baycrest)*

97. Mohamed Faqi and Adar Haji resided in a three-bedroom unit at Heron Gate Village. They sought a three-bedroom house within a specified location, which was located approximately four kilometres from Heron Gate Village. Timbercreek's relocation agents found five suitable units of varying distances from Heron Gate Village, the closest being 4.5 kilometres away. Timbercreek notes that the offered units' greater distance from Heron Gate Village was due to the Applicants' specified need for units within a certain location. The Applicants accepted one viewing.
98. An Agreement to End the Tenancy Form was signed on August 28, 2018 ending the tenancy on September 15, 2018. Mr. Faqi and his co-tenant received three months' rent and an additional voluntary payment of \$2,000. They moved to an address approximately one kilometre away.

Redevelopment of Heron Gate 5 and Heron Gate 7

99. As noted above, the *Code* does not prohibit the evolution and rejuvenation of residential communities. Such economic activity is not contrary to the *Code* if it is free from consideration of a prohibited ground under the *Code*. Timbercreek states that there was no

consideration of any prohibited grounds under the *Code* in its decisions to demolish and redevelop the townhomes.

100. The Applicants have taken issue with Timbercreek's redevelopment plan and portrayed it as a means to reduce accessibility to housing. However, Timbercreek's planned increase of housing units on the same footprint will benefit the community by increasing overall housing supply which will thereby serve to reduce overall rental rates.
101. The redevelopment plan contemplates a diverse mix of housing types, including three- and four-bedroom units that would be suitable for larger families. Tenants with larger families will also have access to housing in the rest of Heron Gate Village which offers units suitable for larger families.
102. A pillar of Timbercreek's plan is to preserve and promote the diversity of the community. Any assertion that Timbercreek wishes to replace Heron Gate Village's tenants or anyone in the wider Herongate neighbourhood with individuals of any particular racial, ethnic, economic, or family background is simply false.
103. The allegation that Timbercreek sought to expel the racialized community in Heron Gate Village and replace it with tenants of differing characteristics is simply not supported by the reality that the vast majority of the Heron Gate Village community has not been affected by the demolition and planned development of the townhouses at issue. The five high rise towers in Heron Gate Village contain 70% of the homes in the community, and Timbercreek has publicly confirmed that those high rise towers will remain part of the community for the long term. There are also other sections of townhomes in Heron Gate

Village that have not been impacted by the demolition and redevelopment decisions relating to Heron Gate 5 and Heron Gate 7.

104. As such, the vast majority of Heron Gate Village tenants have remained unaffected by the demolition and redevelopment of Heron Gate 5 and Heron Gate 7. In fact, most Heron Gate Village tenants have seen significant repairs to the buildings, facilities and grounds as a result of Timbercreek's substantial investment in the property. There has been infrequent tenant turnover and minimal impact on rental rates.
105. The portrayal of the redevelopment as aiming to expel lower-income tenants to make way for more affluent tenants is unfounded. Timbercreek advised residents in Heron Gate 5 in a written update about the relocation program on July 25, 2018 that the tenants were being offered a right to return on a priority basis upon completion of new housing units that will be built as part of the secondary plan and development.
106. Timbercreek has publicly shared that its plan for the redevelopment of Heron Gate 5 includes a voluntary commitment to working with the City of Ottawa to attain a goal of up to 20 per cent affordable housing units.
107. Timbercreek has made other voluntary commitments that demonstrate its support of the existing community. For example, since the redevelopment would create a greater supply of available housing units, Timbercreek was also able to make the commitment that there would not be future demolition of occupied units unless tenants are able to transfer their leases within the community to newly constructed units at the same rents.

108. Timbercreek has also committed to continuing to work with the City of Ottawa and other partners to continue to provide and create training and employment opportunities and other programs for Heron Gate Village community members, and to provide new amenities and green space for the community.
109. The Applicants have not demonstrated a nexus between Timbercreek's actions and the characteristics of the Applicants which are protected under the *Code* because no such nexus exists. The protected characteristics of its tenants have not been a factor in Timbercreek's actions. Rather, its decision to redevelop the property is in keeping with the cycle of evolution and rejuvenation that is common in communities across the Province and across Canada. Timbercreek's actions have been taken in good faith and in a socially responsible manner, including the infusion of a great amount of capital for the repairs and maintenance of the property, voluntary provision of supports and compensation for impacted tenants, and voluntary commitments for the future redevelopment process.

### **No Reasonable Prospect of Success**

110. For the reasons below, Timbercreek submits that the allegations outlined in the Applications have no reasonable prospect of success.

### **No *Prima Facie* Discrimination**

111. The Tribunal does not have jurisdiction over general allegations of unfairness (see *Forde v. Elementary Teachers' Federation of Ontario*, 2011 HRT0 1389).

112. Timbercreek states that the burden of proof is on the Applicants to prove discrimination. Applicants must be able to show discrimination on the basis of a *Code*-protected ground.
113. The Applicants have admitted that Timbercreek has carried out its obligations under the *Residential Tenancies Act* and that the terminations of the Applicants' leases were lawful.
114. The Applicants nonetheless allege that they suffered an adverse impact because they were separated from their community in Heron Gate Village. However, the Applicants Margeret Alluker, Hawa Gas, and Amina Hassan still reside in Heron Gate Village. The Applicants have admitted that the Applicants Adar Haji, Mohamed Faqi, and Hussein Geire did not have to move to an area distant from Heron Gate Village. Most of the other Applicants have moved to addresses a few kilometres away.
115. Individuals who did not have to move away from Heron Gate Village or had to move somewhere in close proximity to Heron Gate Village have not lost access to their community.
116. Maha Jabur moved to an address approximately 20 kilometres away, although the relocation team had found available options 1.8 and 5.3 kilometres away. Mr. Fils moved to an address 13.2 kilometres away, although the relocation team had found available options as close as 600 metres away.
117. Moving away from Heron Gate Village does not prevent an Applicant from continuing to access supports, individuals or businesses in Heron Gate Village, or the larger Herongate neighbourhood, including the mosque. The Herongate neighbourhood is centrally located and easily accessible by road or public transit.

118. Adverse impact constitutes an unequal treatment of an individual. Timbercreek treated all tenants in the affected sections of Heron Gate Village equally, regardless of any characteristics related to protected grounds, in that all leases were terminated upon the same notice. All tenants were offered the same compensation in the form of three months' rent and an additional voluntary payment, benefits, and transitional supports, such as relocation services and connections with local moving companies at discounted rates. Timbercreek made efforts to ensure that these supports were equally accessible to all tenants by making information and documentation available in five languages, ensuring that relocation staff could provide assistance in a number of languages, including Arabic and Somali, and extending office hours for greater access to assistance and information.
119. An Applicant cannot simply allege that they were badly treated and that they also identified with a protected ground. Rather, it is necessary for the treatment to be *because* of a protected ground (see *Morris v. Toronto Community Housing Corporation*, 2011 HRT0 2099, and *Addai v. Toronto (City)*, 2012 HRT0 2252).
120. The demolition and planned redevelopment were decisions made by Timbercreek in consideration of the condition of the units, the safety of the residents and the need for rejuvenation of the property. Personal characteristics of the tenants were not a factor in the decision to demolish the units, as evidenced by the fact that the leases were terminated for all tenants in the impacted units, not just the Applicants.
121. The Applicants allege that Herongate is a neighbourhood characterized by a particular social and ethnic composition, and that Timbercreek took intentional steps to displace that community in order to replace it with individuals who are white and more affluent.



However, this position ignores the fact that Heron Gate Village only forms less than half of the Herongate neighbourhood. It also ignores the fact that the vast majority of Heron Gate Village has been unaffected by the demolition of Heron Gate 5 and Heron Gate 7.

122. Timbercreek has no intention of taking any steps to change the social or ethnic composition of the community that makes up Heron Gate Village. Timbercreek's commitment to the community is clearly evidenced by the actions that it has taken in support of the existing community as previously outlined.

123. For these reasons, it is Timbercreek's position the allegations raised by the Applicants do not establish *prima facie* discrimination and should therefore be dismissed for the reasons articulated by the Tribunal in *Heron v. Toronto Community Housing Corporation*, 2010 HRTO 2322 ("*The decision was a business decision regarding the assets of the respondent. While the effect of the decision may be that the number of units available to people on the waiting list was temporarily reduced, the applicant was not treated any differently than anyone else on the list as a result*" (paragraph 12)).

#### No Standing for Public Interest Claims

124. The Applicants' claims are framed in a manner which suggests systemic and constructive discrimination. The Application includes allegations of impacts on individuals who are not parties to the Application. No particulars are provided in relation to several Applicants. The Application makes broad, collective claims in the nature of a public interest complaint.

125. The Applicants do not have standing to bring such a general claim of systemic discrimination in the public interest sense. Such claims may only be brought by the

Human Rights Commission under section 35 of the *Code* (see *Konesavarathan v. Association of International Physicians*, 2017 HRTO 193).

126. The Tribunal has indicated that individuals do not have jurisdiction under the *Code* to bring a public interest application either on its own or in conjunction with an individual application (see *Carasco v. University of Windsor*, 2012 HRTO 195). Timbercreek therefore states that any allegations amounting to public interest claims should be struck from the Applications.

#### No Standing to Bring Systemic Discrimination Claims Independent of Individual Claims

127. Systemic discrimination claims may not be brought independent of an individual's claim that their own rights have been violated (see *Khatkur v. Peel District School Board*, 2012 HRTO 472).

#### Economic or Social Condition is Not a Prohibited Ground

128. While the Applicants have asserted discrimination claims on various protected grounds, the principal objection to Timbercreek's redevelopment is based on economic or social inequality. It is asserted that tenants of low income will not be able to afford redeveloped units.
129. Timbercreek states that no such protected ground exists under the *Code*. Other jurisdictions in Canada have included in their human rights legislation the ground of "social condition," which includes economic or social disadvantage resulting from, *inter alia*, poverty and source of income. Such a ground is not included in the *Code*.

130. The Tribunal has recognized that a Respondent is not responsible for the consequences of broad societal problems (see *Assefa v. Sojourn House*, 2014 HRT0 993).

#### No Guarantee of the Right to Housing

131. International law recognizes a right to housing, and international law should inform the interpretation of a statute such as the *Code*. However, as acknowledged in the Applications, the right to housing has not been enshrined in domestic law.

132. The Tribunal has correctly recognized that the *Code* does not guarantee a right to housing (see *Ellis v. Peel (Regional Municipality)*, 2010 HRT0 221).

#### Request for Summary Hearing

133. In light of the above, Timbercreek submits that the allegations outlined in the Applications have no reasonable prospect of success. Timbercreek therefore requests that the Tribunal schedule a summary hearing and dismiss the Applications as having no reasonable prospect of success (Compare *Heron v. Toronto Community Housing Corporation*, 2010 HRT0 2322).

#### **Conclusion**

134. Timbercreek requests that a summary hearing be scheduled to address Timbercreek's position that the Applications have no reasonable prospect of success and should therefore be summarily dismissed by the Tribunal.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

Dated at Ottawa, this 27th day of September, 2019.



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## **SECTION 2: TEAM MEMBER CONDITIONS**

### **TOPIC**

#### **2.1 Recruitment, Selection, Hiring & Qualifications**

June 2015

##### **NO. POLICY TITLE**

#### **2.1.1 Hiring Policy**

##### **Policy Statement**

Timbercreek is an equal opportunity employer committed to treating people fairly, with dignity and respect and to offering employment opportunities equally based on an individual's qualifications and performance. Timbercreek employment practices are free from discrimination and/or harassment as outlined and defined in applicable employment and human rights legislation.

Timbercreek has adopted this Policy to ensure that all Team Members and potential candidates are considered for employment opportunities in a fair and consistent manner. Timbercreek recognizes that equal employment opportunity is a right to which each individual is entitled.

During the hiring process, all Team Members will be treated equally without discrimination based on the prohibited grounds of discrimination as defined by applicable human rights legislation.

Timbercreek has adopted this Policy to ensure that all Team Members and potential candidates are considered for employment opportunities in a fair and consistent manner.

##### **Guidelines**

##### **Filling Positions**

Timbercreek requires that all requests for new or additional resources be directed in writing to the People & Culture Department. Hiring requests should include the position title, essential job functions, necessary qualifications and the reasons for the opening. Approval for new roles will be required from the hiring manager's direct report and must be accommodated in the budget.

##### **Job Postings**

Vacancies, where possible, are posted internally and/or externally for full-time, part-time and contract positions. Applicants must meet the required qualifications to be considered for employment at Timbercreek.

##### **Interviews**

Interviews will include the People & Culture Department and the Hiring Manager for the department where the position resides. Others may be included in the interview process as necessary.

2.1.1 Hiring Policy Continued

**Pre-Employment Screening**

Timbercreek requires that all potential hires, whether for regular full-time, part-time, contract or consulting roles, go through a Pre-Employment Screening Process. The Pre-Employment process is handled by a third party and managed by the People & Culture Department. All results are reviewed by the People & Culture Department only and are kept strictly confidential.

**Offers of Employment**

Offer Letters or Employment Contracts will generally include any terms and conditions of employment, including but not limited to: salary, benefits eligibility, vacation allotments and the probationary period, if applicable. The Offer Letter must be signed and returned to the Hiring Manager or the People & Culture Department prior to reporting to work.

**Procedures**

**Job Postings**

1. Timbercreek, in its sole discretion, will typically circulate position descriptions for vacancies internally with the hope of inspiring interest by qualified existing Team Members and/or benefiting from Team Member referrals of external candidates.
2. Timbercreek is committed to attracting and retaining the best candidates for all roles within the organization. As such, position descriptions may simultaneously be posted internally and externally or referred to an employment agency or search firm.
3. Team Members who are interested in applying to other opportunities are generally required to have been in their current role for a minimum of twelve months before they are eligible to pursue other internal opportunities. Ultimate discretion in this regard rests with the Company.
4. Team Members are required to seek approval from their current Manager after having an initial discussion with the People & Culture Department to confirm they may be considered for the role they are interested in.

**Offer of Employment**

Team Member orientation will be a joint responsibility of the Hiring Manager and the People & Culture Department.

### 3.1.4 Respect in the Workplace Policy

#### Policy Statement

Timbercreek is committed to fostering and maintaining a safe and healthy working environment for all Team Members.

Every Team Member has the right to freedom from violence, harassment and discrimination in the workplace. We will not tolerate, condone, or excuse violence, harassment or discrimination by co-workers, customers or any third party. We will promptly and thoroughly investigate complaints, where appropriate, and take action commensurate with the offence.

This policy applies to all Team Members, applicants, vendors, sub-and independent contractors, suppliers, and customers.

#### Definitions

**A. A *Workplace*** is any location where work is conducted or colleagues are gathered for a work-related reason.

A Workplace may include, but is not limited to:

- ✓ Physical worksites
- ✓ Washrooms
- ✓ Training sessions
- ✓ Office parties

**B. *Prohibited Grounds*** include any prohibited grounds outlined in applicable human rights legislation, including but not limited to:

- ✓ Race
- ✓ Language, ethnic or national origin, citizenship
- ✓ Ancestry
- ✓ Colour
- ✓ Sex
- ✓ Gender identity
- ✓ Gender expression
- ✓ Sexual orientation
- ✓ Pregnancy
- ✓ Family status
- ✓ Civil/marital status
- ✓ Social condition
- ✓ Age (except as provided by law)
- ✓ Religion

**3.1.4 Respect in the Workplace Policy Continued**

- ✓ Creed
- ✓ Political convictions
- ✓ Handicap or disability or the use of any means to palliate a handicap or disability
- ✓ Record of Offences

**C. Workplace Harassment** means engaging in a course of vexatious comment or conduct against a worker in a Workplace that is known, or ought reasonably to be known, to be unwelcome. This definition includes harassment which is based on a Prohibited Ground; however the comment or conduct need not be tied to a Prohibited Ground in order to constitute Workplace Harassment. Workplace Harassment includes Psychological Harassment, Sexual Harassment, intimidation and bullying behaviour.

Workplace Harassment can occur between colleagues, between management and Team Members, between Team Members and customers, vendors or members of the public. It can involve verbal, visual or physical misconduct, which has the intent or effect of creating an intimidating, hostile or offensive work environment.

Workplace Harassment typically involves more than one incident. However, depending on the severity, one incident may be sufficient to constitute Workplace Harassment.

Workplace Harassment may include, but is not limited to:

- ✓ Demeaning jokes
- ✓ Racial or ethnic slurs
- ✓ Bullying
- ✓ Demeaning comments about a person's ability
- ✓ Posters, images, photos, cartoons, e-mails, screensavers, etc., that depict inappropriate content
- ✓ Threatening comments or shouting
- ✓ Aggressive remarks or insulting comments
- ✓ Intentional isolation of an individual
- ✓ Notes containing comments related to any of the above or other inappropriate content

**Please note:** This policy is not intended to interfere with the appropriate and constructive feedback provided to Team Members by their Managers regarding performance.



## TOPIC

### 3.1 Team Member/Employer Obligations - General

NO. POLICY TITLE

June 2015

#### 3.1.4 Respect in the Workplace Policy Continued

**D. Sexual Harassment** consists of unacceptable behaviour, conduct or comment of a sexual nature that is known, or ought reasonably to be known, to be unwelcome. It can occur between individuals of the same or different gender. Sexual harassment causes an intimidating, hostile or uncomfortable work environment.

Sexual harassment may include but is not limited to:

- ✓ Suggestive remarks
- ✓ Posters, images, photos, cartoons, e-mails, screensavers, etc. with sexual content
- ✓ Repeated unwanted social invitations or advances
- ✓ Inquiries into someone's "sex life"
- ✓ Sexual suggestion or innuendo
- ✓ Requests for sexual favours or propositions
- ✓ Unwelcome physical contact such as pressing against someone, touching, hugging, kissing, patting, pinching, tickling, assault
- ✓ Notes containing comments related to any of the above or other inappropriate content

**Please note:** This policy is not intended to interfere with normal social interaction between/amongst Team Members.

**E. Discrimination** is the denial or withholding of equal treatment and opportunity to individuals or groups with respect to employment (hiring, compensation, promotions, terminations and any other employment related decisions). The denial of equal treatment and opportunity is based on a Prohibited Ground rather than individual merit and performance.

**Please note:** This policy is not intended to interfere with legitimate, unbiased and fair business practices of an organization.

**F. Workplace Violence** is defined as a threat (a statement or behaviour), an attempt, or actual exercise of physical force by a person against a worker in a Workplace that causes or could cause personal injury to the worker.

Workplace Violence may include but is not limited to:

- ✓ Verbal, written or e-mail threats
- ✓ Making violent gestures (including shaking a fist or gesturing the cutting of a throat)
- ✓ Throwing an object
- ✓ Hitting or attempting to hit an Team Member
- ✓ Shoving

## TOPIC

### 3.1 Team Member/Employer Obligations - General

NO. POLICY TITLE

June 2015

#### 3.1.4 Respect in the Workplace Policy Continued

The security code and back door security code must be changed every six months. Corporate Services Officer is responsible for changing the codes and any concerns regarding the security system should be addressed to Corporate Services Officer.

### Prevention

#### Workplace or Sexual Harassment and Discrimination

All management members must adhere to and enforce the Policy. All Team Members in positions of authority must endeavor to ensure that Team Members are not subjected to workplace harassment or discrimination. Management members must also ensure that Team Members carrying out supervisory tasks under their authority are informed of their responsibility regarding this Policy and its consequences and sanctions.

Team Members must adhere to the Policy and follow the complaint procedure when applicable.

Human Capital representatives will inform Team Members and management members of this Policy and the related legislation. Investigations under this Policy will be conducted by the Human Capital representative, along with the complainant's manager and supervisor, where applicable.

#### Workplace Violence

- Conduct an assessment of the risks of Workplace Violence as often as necessary, taking into account, the nature of the Workplace, the type of work we do and the conditions of work.
- Develop programs and Procedures to address the risks of Workplace Violence identified in the assessment.
- Develop and communicate Procedures for summoning immediate assistance when Workplace Violence occurs or is likely to occur.
- Ensure that this Policy is communicated to everyone in the Workplace and that all Team Members are trained on this Policy.
- Post this Policy in a conspicuous place in the Workplace.
- Establish Procedures for the efficient reporting and handling of incidents of Workplace Violence and to establish Procedures for investigating, documenting and responding to such incidents.
- Review this Policy from time to time, and at least annually.

**G.** A **Poisoned Work Environment** is a form of harassment where comments and/or conduct unreasonably interfere with a Team Member's work performance and create an intimidating, hostile or offensive work environment.

## Procedures

### Workplace or Sexual Harassment and Discrimination

1. A Team Member who is subjected to harassment or discrimination by another Team Member should, where possible, inform that Team Member as soon as possible that the conduct/comment is unwelcome. This is advisable only if the harassed Team Member feels comfortable and safe in addressing the person who they feel has engaged in harassing or discriminatory conduct/comment. It is also advisable to keep a written record of dates, times, specifics and witnesses.

2. If the harassed Team Member is not able to confront the person who they feel has engaged in harassing or discriminatory conduct/comment, or if the behaviour continues after making him/her aware of the unwelcome nature of the conduct/comment, the issue should be reported to their immediate supervisor on the senior management team ("Immediate Supervisor").

### Workplace Violence

Team Members witnessing an act of physical violence or who identify a situation where workplace violence is about to occur, should immediately summon for assistance.

If an act of physical violence is witnessed, Team Members should call 911 and take proper First Aid measures.

All incidents of Workplace Violence must be immediately, or as soon as reasonably possible, reported to the Company and your Immediate Supervisor.

Team Members should be mindful of their personal safety and should not attempt to intervene in any act of violence, other than to call 911.

Victims or witnesses of Workplace Violence should immediately report the incident to their Immediate Supervisor.

### Domestic Abuse

Any Team Member who believes that domestic violence may occur in the workplace that would likely expose the Team Member or another Team Member to physical injury should report the matter to their Immediate Supervisor.

We are committed to reducing the risk of domestic violence occurring in the workplace, but we need the help of all Team Members. Team Members who believe that they are at risk of being subjected to domestic violence will be supported and will be provided with appropriate and confidential outside support, as appropriate.

## Investigations

1. The Company will assess all concerns, complaints, and incidents of Workplace Harassment, Discrimination or Violence to determine whether an investigation is necessary in the circumstances. If an investigation is required, the Company will investigate and deal with the matter in a fair and timely manner while respecting workers' privacy as much as possible.

The process might differ from issue to issue but generally involves the following:

- ✓ Interviews with the complainant
- ✓ Interviews with the alleged offender ("respondent")
- ✓ Interviews with witnesses
- ✓ Status updates to both alleged offender and complainant of the investigation

2. Strict confidentiality is required of all Team Members in order to properly investigate an incident. Team Members are required to keep confidential the fact that there is a complaint and an investigation taking place, the nature of the allegations, and the subject matter discussed with the Company and during the investigation process.

3. Investigations will be conducted as quickly as possible. While every effort will be made to complete an investigation within 30 days, we reserve the right to extend this time period in order to allow the investigation to be completed in a thorough manner.

4. If the complaint is validated, the offender may face disciplinary or corrective action as determined by the Company. The severity of the incident will dictate the action taken. This can include but is not limited to:

- ✓ Disciplinary letter
- ✓ An apology issued to the complainant by the offender
- ✓ Training and/or coaching to educate the offender
- ✓ A police investigation where illegal actions have been discovered
- ✓ Suspension with or without pay
- ✓ Termination of the offender's employment for cause

The Company will also determine the action required, if any, to resolve the issue and avoid to the extent possible a recurrence of the incident.

5. If the complaint is not found to be valid there will be no negative consequences to the respondent or complainant provided the complaint was made in good faith.

## TOPIC

### 3.1 Team Member/Employer Obligations - General

June 2015

NO. POLICY TITLE

#### 3.1.4 Respect in the Workplace Policy Continued

6. If there is insufficient information or evidence to validate or invalidate the complaint, the file will stay open.

7. Any Team Member who makes a complaint in good faith is protected against reprisal, no matter what the final outcome of the investigation. However, filing a Workplace Harassment, Discrimination or Violence complaint that the Team Member knows to be false is a serious matter that is subject to disciplinary action including termination for cause.

### Responsibilities

Every Team Member is responsible for:

- ✓ Refraining from engaging in any behaviour or conduct that constitutes Workplace Harassment, Discrimination or Violence in violation of this Policy.
- ✓ Immediately reporting incidents or situations of which they become aware which could constitute a violation of this Policy to their Immediate Supervisor.
- ✓ Participating fully in any investigation conducted pursuant to this Policy.

### Violation of Policy

Instances of workplace harassment, discrimination and violence will not be tolerated. Without limiting the Company's right to any recourse or remedy, failure to abide by this Policy may subject a Team Member to disciplinary action, up to and including immediate termination of employment for cause.

### Conclusion

This important policy describes how we promote a safe workplace free of harassment, discrimination and violence. Each of us has a responsibility to be aware of our obligations under this policy to ensure a Respectful Workplace.