

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

APPLICANT

AND

PERSONS UNKNOWN AND TO BE ASCERTAINED

RESPONDENTS

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

MOTION RECORD OF THE PROPOSED INTERVENERS

THE CHARTER COMMITTEE ON POVERTY ISSUES

THE NATIONAL RIGHT TO HOUSING NETWORK

Professor *emerita* Martha Jackman
Faculty of Law, University of Ottawa
57 Louis Pasteur, Ottawa, ON K1N 6N5
Email: Martha.Jackman@uOttawa.ca
Telephone: (613) 720-9233

Lawyer for the Proposed Interveners

TO: Paliare Roland Rosenberg Rothstein LLP
155 Wellington St. West, 35th Floor
Toronto, ON M5V 3H1

Gordon Capern
Tel: 416.646.4311
Email: gordon.capern@paliareroland.com

Andrew Lokan
Tel: 416.646.4324
Email: andrew.lokan@paliareroland.com

Kartiga Thavaraj
Tel: 416.646.6317
Email: kartiga.thavaraj@paliareroland.com

Greta Hoaken
Tel: 416.646.6357
Email: greta.hoaken@paliareroland.com

Lawyers for the Applicant
The Regional Municipality of Waterloo

AND TO: WATERLOO REGION COMMUNITY LEGAL SERVICES

450 Frederick Street, Unit 101 Kitchener,
ON N2H 2P5

Ashley Schuitema
ashley.schuitema@wrcls.clcj.ca
Tel: 519-743-0254 x. 17
Fax: 519-743-1588

Joanna Mullen
joanna.mullen@wrcls.clcj.ca
Tel: 519-743-0254 x. 15
Fax: 519-743-1588

Shannon K. Down
Email: shannonkdown@gmail.com

Lawyers for the Respondents

Barristers & Solicitors 115 Berkeley Street
Toronto, ON M5A 2W8

AND TO: Jen Danch
Tel: (416) 362-1234
Email: jdanch@swadron.com

Karen A. Steward
Barrister & Solicitor
Email: karenannesteward@yahoo.ca
Tel: (416) 270-0929

Mercedes Perez
Tel: 416.320.1914
Email: mperez@pbplawyers.com

Amicus Curiae

ONTARIO SUPERIOR COURT OF JUSTICE

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MOTION RECORD

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TAB 1

Court File No. CV-25-00000750-0000

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

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PERSONS UNKNOWN AND TO BE ASCERTAINED

RESPONDENTS

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

NOTICE OF MOTION

THE PROPOSED INTERVENERS, the Charter Committee on Poverty Issues (CCPI) and the National Right to Housing Network (NHRN) represented by a single counsel, will make a motion to the Honourable Justice Michael Gibson on July 15, 2025, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard

☐ In writing under subrule 37.12.1(1) because it is on consent;

☒ In writing as an opposed motion under subrule 37.12.1(4);

- [] In person;
- [] By telephone conference;
- [] By video conference.

THE MOTION IS FOR

- (a) Leave to intervene as a friend of the court in this application pursuant to Rule 13.02, to:
 - (i) file a joint factum of up to 20 pages; and,
 - (ii) make 20 minutes of joint oral argument;
- (b) An order that CCPI and NRHN not be granted costs, nor costs be ordered against them as an intervener in this application; and
- (c) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) The Applicant, the Regional Municipality of Waterloo (the “Region”), seeks guidance from this Court as to its obligations under the *Canadian Charter of Rights and Freedoms* [the *Charter*] with respect to residents of an encampment it seeks to remove. This matter raises significant issues of public interest, that extend beyond the interests of the immediate parties, regarding the obligations of governments to take measures to safeguard the *Charter* rights of those who are homeless;

- (b) The Court is asked to determine whether, in the absence of accessible shelter beds for the number of homeless persons in the Region, the Region's efforts to address the individual needs of the encampment residents at 100 Victoria Street North is sufficient to ensure that *A By-law Respecting the Use of 100 Victoria Street North, Kitchener (as Owned by The Regional Municipality of Waterloo) to facilitate the Kitchener Central Transit Hub and other Transit Development* (the "By-law") is compliant with the requirements of sections 7 and 15 of the *Charter*;
- (c) The Applicant relies on a plan, accompanying the By-law, to provide accessible shelter facilities to the existing residents in a manner consistent with the Region's "Plan to End Chronic Homelessness (PECH)" based on a "human rights approach" and in compliance with international human rights law;
- (d) The proposed interveners have a real, substantial, identifiable interest and expertise in the issues raised in the application, in particular regarding measures required to ensure the *Charter* rights of homeless persons living in encampments; regarding whether sections 7 and 15 of the *Charter* require measures to address systemic homelessness; and regarding the relationship between obligations under international human rights law to address homelessness and sections 7 and 15 of the *Charter*;
- (e) The proposed interveners' ongoing work to clarify the obligations of all orders of government to address the needs of homeless persons under the *Charter* and under international human rights law will be affected by the decision in this case;
- (f) The proposed interveners have an important perspective distinct from the immediate parties, because of their history of advocating for interpretations of

Charter rights that are inclusive of issues of poverty and homelessness; their research into positive measures to address homelessness that may be required for compliance with the *Charter*; their experience in assisting governments to implement a “rights-based approach” to homelessness to ensure compliance with both national and international human rights obligations; and their ongoing engagement with a broad membership regarding these issues;

- (g) The proposed interveners have been widely recognized for their special expertise in the issues raised in the application, CCPI having been granted leave to intervene to address similar issues in 14 appeals at the Supreme Court of Canada as well as before the Ontario Court of Appeal and the Ontario Superior Court of Justice, and NRHN having been recognized by parliamentary committees, government officials, legal practitioners and persons with lived experience of homelessness, for its expertise in the rights of homeless persons under both Canadian and international law;
- (h) The proposed interveners will rely on the record as filed by the parties;
- (i) The proposed interveners will focus on the broader legal issues regarding *Charter* and international human rights obligations applicable to this case, and will not address evidentiary questions at issue between the parties;
- (j) The proposed interveners do not seek leave to intervene in the Motion for an *ex parte* interlocutory Order or interim injunction;
- (k) The proposed interveners will not seek an order of costs and request an order that costs not be awarded against them;

- (l) As outlined in its factum for leave to intervene, CCPI and NRHN will make a useful contribution by addressing the following issues:
- i) Whether section 7 of the *Charter* requires measures to address the needs of homeless persons for shelter, housing and supports;
 - ii) Whether Homelessness may be Recognized as an Analogous Ground of Discrimination and, in the Alternative, Whether Failures to Address the Needs of Homeless People Adversely Affects Groups Protected by Section 15; and
 - iii) Whether the Region's commitment to the right to adequate housing under international human rights law in its Plan to End Chronic Homelessness provides a judicially manageable standard to assess the Region's compliance with sections 7 and 15 of the *Charter*.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (m) The affidavit of Bruce Porter, affirmed July 13, 2025;
- (n) The affidavit of Michèle Biss, affirmed July 13, 2025;
- (o) Such further and other evidence as this Honourable Court may permit.

July 14, 2025

Professor *emerita* Martha Jackman
 Faculty of Law, University of Ottawa
 57 Louis Pasteur, Ottawa, ON K1N 6N5
 Email: Martha.Jackman@uOttawa.ca

Lawyer for the Proposed Interveners
 Charter Committee on Poverty Issues and
 the National Right to Housing Network

TAB 2

Court File No. CV-25-00000750-0000

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

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RESPONDENTS

AFFIDAVIT OF BRUCE PORTER, CHARTER COMMITTEE ON POVERTY ISSUES

I, Bruce Porter, in the town of York Harbour in the Province of Newfoundland and Labrador,
AFFIRM:

1. I am the Co-ordinator of the Charter Committee on Poverty Issues (CCPI) and as such I have personal knowledge of the matters contained in this affidavit. I am a human rights consultant, the Executive Director of the Social Rights Advocacy Centre and a Maytree Fellow.

2. I make this affidavit in support of the motion by CCPI for leave to intervene jointly with the National Right to Housing Network as a friend of the court in case #CV-25-00000750-0000 between The Regional Municipality of Waterloo And Persons Unknown And To Be Ascertained, to file a factum of no more than 20 pages and to make 20 minutes of oral argument at the hearing of the application.

The Charter Committee on Poverty Issues

3. The Charter Committee on Poverty Issues (CCPI) is a national committee established in 1988 which brings together low-income representatives and experts in human rights, constitutional law and poverty law for the purpose of assisting disadvantaged groups in Canada to secure and assert their rights under the *Charter*, human rights legislation, other Canadian law, and international human rights law. CCPI was initiated with support from the federal Court Challenges Program to address the absence of cases being advanced to protect the rights of people living in poverty and homelessness under the *Charter* and to address the need for interventions in cases of significance to those groups to provide their perspective and expertise.

4. CCPI's activities have included research and consultation with other organizations and members of marginalized and vulnerable groups, test case litigation, judicial and public education, engagement with governments in Canada and internationally, appearances before United Nations and other international bodies, and collaboration with non-governmental organizations and researchers in Canada and other countries.

CCPI's Litigation and Interventions in Previous Cases

5. CCPI has initiated and intervened in a significant number of cases at various levels of court to ensure that issues of socio-economic disadvantage, and the perspectives of persons living in poverty are effectively presented before courts and tribunals, with high quality legal submissions, and informed by reliable evidence. Based on instructions from both its low income members and human rights experts and on its experience over the years in attempting to ensure meaningful protection of the rights of people living in poverty, CCPI has consistently advocated for recognition that the *Charter* requires positive measures by governments to ensure that the most disadvantaged members of society have access to the basic requirements of life, security and equal dignity, including access to necessary health care, housing, nutrition and other necessities. CCPI has argued consistently that while more advantaged members of society may primarily rely on restraints on government action to protect their rights and interests, those living with poverty or homelessness rely on governments to take positive action to remedy systemic deprivation and inequality.

6. CCPI has been granted intervener status in 14 cases at the Supreme Court of Canada to argue for positive measures to ensure *Charter* rights. These include: *Symes v. Canada*, [1993] 4 S.C.R. 69; *R. v. Prosper*, [1994] 3 S.C.R. 236; *R. v. Matheson* [1994] 3 S.C.R. 328; *Walker v. Prince Edward Island*, [1995] 2 S.C.R. 407; *Thibaudeau v. Canada*, [1995] 2 S.C.R. 627; *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624; *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817; *New Brunswick (Minister of Health and Community Services) v. G. (J.)*, [1999] 3 S.C.R. 46; *Lovelace v. Ontario*, [2000] 1 S.C.R. 950; *Gosselin v. Québec (Attorney General)*, [2002] 4 S.C.R. 429; *R. v. Wu*, [2003] 3

S.C.R. 530; *Chaoulli v. Quebec (Attorney General)*, [2005] 1 S.C.R. 791; and *R. v. Caron*, [2011] 1 S.C.R. 78.

7. CPI intervened before the three person Board of Inquiry in *Kearney v. Bramalea Ltd. (No. 2)*, 1998 CanLII 29852 (ON HRT) in which systemic practices in tenant selection which exclude low income applicants based on affordability criteria were found to constitute adverse effect discrimination under sections 2 and 11 of Ontario's *Human Rights Code* based on race, receipt of public assistance, family status and other grounds.

8. CCPI intervened before the Ontario Superior Court of Justice in *Tanudjaja v. Attorney General (Canada) (Application)* 2013 ONSC 5410 and in the appeal to the Ontario Court of Appeal in *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852 with respect to positive obligations under the *Charter* to ensure the rights of those who are homeless under sections 7 and 15 of the *Charter*. At the Court of Appeal of Ontario, CCPI argued that the motions judge had erred in finding that the *Charter* does not impose positive obligations on governments to address homelessness and that homelessness is not an analogous ground of discrimination under section 15 of the *Charter*. The Court of Appeal upheld the Motions Judge's granting of the Motion to Strike on other grounds but did not uphold his findings with respect to positive obligations under section 7 or homelessness as an analogous ground, leaving these issues to be considered in subsequent cases, such as the present application.

9. CCPI recently intervened before the Supreme Court of Canada in the case of *Attorney General of Quebec v. Bijou Cibuabua Kanyinda* S.C.C. File No. 4121, heard on May 14, 2025, regarding whether the right to substantive equality under section 15 of the *Charter* may impose

obligations on provincial governments to take measures to address systemic inequality faced by women in the workforce by providing access to affordable childcare.

Advancing Interpretations of *Charter* Rights Consistent with Obligations under International Human Rights Law

10. In all the above interventions, CCPI has emphasized the importance of interpreting domestic law, where possible, to conform with Canada's obligations under international human rights law. CCPI has underscored the importance of interpreting the rights to life and security of the person in section 7 and equality rights in section 15 consistently with obligations under the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* to address systemic inequality and to ensure access to housing, healthcare and other necessities.

11. CCPI has been active since 1993 in periodic reviews of Canada's compliance with the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*. CCPI also met with and made submissions to the UN Special Rapporteur on Adequate Housing when he conducted a mission to Canada in 2008. CCPI made submissions to the UN Human Rights Council at all four periodic reviews of Canada regarding Canada's implementation of international human rights, including obligations to address homelessness as a violation of human rights.

12. In its submissions to UN human rights bodies, CCPI's has emphasized the importance of ensuring access to effective remedies under the *Charter* for those who are homeless, and the important role played by courts in interpreting the *Charter* in conformity with international human rights obligations, including obligations to adopt necessary measures to address and

eliminate homelessness. CCPI has made submissions to the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights regarding the need to ensure that rights under sections 7 and 15 of the *Charter* are interpreted to require measures to ensure the rights to life, security of the person and equality of persons affected by the homelessness crisis in Canada.

13. In response to submissions by CCPI and many other civil society organizations, widespread homelessness in so affluent a country as Canada has become a critical concern of UN human rights bodies. These bodies have urged governments in Canada to address the homelessness crisis as a violation of fundamental human rights, to ensure access to effective remedies for violations of the rights of homeless persons under the *Charter* and to implement housing strategies with goals and timelines to eliminate homelessness. The UN Human Rights Committee has clarified that Canada must take positive measures to address homelessness to meet its obligations to ensure the right to life under the *International Covenant on Civil and Political Rights*. CCPI has been active in encouraging governments to implement these recommendations.

14. The federal government has responded to these longstanding concerns and recommendations of UN human rights bodies by adopting a National Housing Strategy in 2017 and, subsequently, by adopting the *National Housing Strategy Act* S.C. 2019, c. 29, s. 313 (NHSA). The NHSA commits the federal government to the progressive realization of the right to adequate housing as recognized in the *International Covenant on Economic Social and Cultural Rights* and the adoption and maintenance of a National Housing Strategy to implement this commitment, including goals and timelines to address homelessness and prioritizing those in greatest need.

15. CCPI has argued in its interventions before Canadian courts that, although access to housing, healthcare or publicly funded legal counsel are not guaranteed in the *Charter* as “freestanding” socio-economic rights, failures to take positive measures to ensure these rights should be found to violate *Charter* rights where they result in deprivations of rights to life, liberty or security of the person under section 7 or in differential effects based on enumerated or analogous grounds of discrimination under section 15.

16. CCPI has recently intervened to address this issue in the context of access to health care. In *Toussaint v. Canada (Attorney General)*, 2022 ONSC 4747, CCPI argued that Canada’s failure to implement a UN Human Rights Committee decision requiring positive measures to ensure access to publicly funded health care for irregular migrants, violates sections 7 and 15 of the *Charter*. Canada submitted that access to publicly funded health care is a socio-economic right outside the scope of the *Charter*, while CCPI argued that this was a mischaracterization of a claim to the right to life which, in this case, required access to health care. Justice Perell of the Ontario Superior Court agreed that Canada’s mischaracterization of the right claimed in *Toussaint* as “a purely socio-economic right which is outside the guarantees of the *Canadian Charter of Rights and Freedoms*” was unfair and prejudicial (*Toussaint v. Canada (Attorney General)* 2022 ONSC 4747 at paras 134-136. After Canada’s Motion to Strike was dismissed, CCPI was granted leave to intervene in the continued action. (*Toussaint v. Attorney General of Canada*, 2025 ONSC 2007).

CCPI’s Recognized Expertise in the Rights of People Experiencing Poverty and Homelessness

17. CCPI’s role in advancing interpretations and applications of the *Charter* and other Canadian laws that properly consider the perspective and rights of persons experiencing poverty

or homelessness has been widely recognized both in Canada and internationally. The National Judicial Institute has relied on CCPI's expertise in this area on several occasions, to provide social context education to judges from six different provinces. Internationally, CCPI's expertise has been relied upon by the International Commission of Jurists, Forum Asia, the Constitutional Assembly of South Africa, the Committee for the Administration of Justice in Northern Ireland, among others. CCPI has made submissions to inter-governmental bodies and government officials with respect to the protection of the rights of people living with poverty or homelessness.

18. CCPI was a research partner in two multi-year research projects with five universities and four non-governmental organizations on "Social Rights Accountability" and "Social Rights Practice" in Canada, funded through the Social Science and Humanities Research Council's Community-University Research Alliance program. Important components of this research included research into the link between rights in the *Charter* and socio-economic rights under international human rights law, including the right to adequate housing.

CCPI's Different and Useful Perspective

19. CCPI can provide a different perspective on the issues before the Court in this case based on its many years of research and engagement with courts, human rights bodies and governments about the issue of positive obligations to address homelessness to ensure compliance with international human rights as well as *Charter* rights.

20. CCPI's historic work on access to justice and effective remedies for *Charter* rights of persons experiencing poverty or homelessness provides a different and useful perspective on the

critical issues of interpretation of the scope of *Charter* rights, and what is at stake for disadvantaged groups, in the present application.

Proposed Submissions

CCPI proposes to make joint submissions with NRHN to assist the court with the issues identified in the Notice of Motion and to make arguments as outlined in our joint factum.

CCPI's Proposed Intervention Will Not Cause Delay

21. CCPI and NRHN will work with the schedule agreed to by the parties. We will not introduce new evidence and will rely on the record as filed by the parties. We will not seek an award of costs and request an order that costs will not be awarded against us.

**AFFIRMED REMOTELY in the City of Ottawa,
in the Province of Ontario,
and sworn remotely by Bruce Porter
in the Town of York Harbour
in the Province of Newfoundland
this 13th day of July, 2025
in accordance with O. Reg. 431/20,
Administering Oath or Declaration
Remotely**



**Martha Jackman LSO # 31426C
A Commissioner for Taking Affidavits**



Bruce Porter

TAB 3

COURT FILE NO. CV-25-00000750-0000

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

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PERSONS UNKNOWN AND TO BE ASCERTAINED

RESPONDENTS

**AFFIDAVIT OF MICHÈLE BISS, NATIONAL RIGHT TO HOUSING NETWORK,
PROPOSED INTERVENER**

I, Michèle Biss, of City of Ottawa in the Province of Ontario AFFIRM:

1. I am the Executive Director of the National Right to Housing Network (NRHN) and as such I have personal knowledge of the matters contained in this affidavit. I am a human rights lawyer (LSO # 66567R) and have worked at NRHN since its inception in 2019.

2. I make this affidavit in support of the motion by the NRHN for leave to intervene as a friend of the court in case #CV-25-00000750-0000 between The Regional Municipality of Waterloo And Persons Unknown and to be Ascertained.

The National Right to Housing Network (NRHN)

3. The NRHN is a pan-Canadian coalition of more than 2,000 organizations, advocates, experts and people with lived experience of homelessness committed to the progressive realization of the right to adequate housing in Canada as guaranteed under international human rights law and affirmed under the *National Housing Strategy Act* (SC 2019, c. 29, s. 313)

4. After a civil society campaign for federal legislation for the implementation of the right to adequate housing in Canada, the *National Housing Strategy Act* (NHSA) was adopted by the Parliament of Canada in 2019, recognizing the right to adequate housing as a fundamental human right and committing the federal government to the progressive realization of the right to adequate housing in accordance with obligations under international human rights law.

5. The NHSA requires the Minister of Housing and Infrastructure to develop and maintain a national housing strategy to further the progressive realization of the right to housing, taking into account key principles of a human rights-based approach to housing, establishing goals, timelines and desired outcomes, and focusing on improving housing outcomes for persons in greatest need. It also establishes mechanisms through which the government is to be held accountable to its commitments with respect to the right to adequate housing, including a Federal Housing Advocate, a National Housing Council and Review Panels appointed by the National Housing Council to hold hearings into systemic issues within federal jurisdiction.

6. The NRHN officially launched on 6 February 2020, soon after the NHSA received Royal Assent to assist civil society organizations and those experiencing homelessness or precarious housing to utilize the new government accountability mechanisms contained in the NHSA and to promote the implementation of the right to adequate housing in Canada.
7. Governance of the NRHN rests with a Steering Committee whose members bring a wealth of experience in diverse areas, including human rights law, housing policy, anti-poverty advocacy, and crucial lived experience of housing insecurity and homelessness. Day-to-day activities are carried out by a small paid staff and a set of issue-specific working groups including a legal working group focusing on promoting the right to adequate housing through the interpretation of the *Charter* and other domestic law.
8. The NRHN makes regular submissions to the National Housing Council to guide the implementation of the right to housing and actively supports partners in engaging with reviews conducted by the Federal Housing Advocate or by Review Panels.
9. NRHN staff have published extensively on international human rights law and its application in Canada. This includes a literature review on the Progressive Realization of the Right to Housing commissioned by the National Housing Council.
10. The NRHN created an online right to housing training to help members of the National Housing Council apply international human rights law and norms, which is now mandatory for members.
11. In 2023-2024 NRHN acted as an “engagement partner” for the Federal Housing Advocate’s comprehensive review of government responses to homeless encampments,

including assessing the responsibilities and legal obligations of municipal governments. This work included supporting partners in organizing engagement sessions with encampment residents, conducting media interviews, and developing public education and advocacy materials, including a webinar and Toolkit for Advocacy for a National Encampment Response Plan, which included sample letters to local government representatives and communications messaging.

Promoting Implementation of the Right to Adequate Housing by All Orders of Government

12. NRHN has worked extensively through its partner organizations and working group members to promote the progressive realization of the right to adequate housing by all orders of government in Canada. This work includes encouraging municipalities to recognize that under international law the responsibility to implement the right to adequate housing applies to all orders of government and encouraging municipalities to adopt plans or charters that commit to implementing the right to adequate housing in accordance with obligations under international human rights law, the *Charter* and human rights legislation in areas of municipal authority.

13. NRHN has conducted research and public legal education to promote interpretations of the *Charter* and domestic law that are consistent with obligations to realize the right to adequate housing under international human rights law. In doing so, NRHN has emphasized that reasonable interpretations of legislation or constitutional guarantees based on the presumption of conformity with obligations to address homelessness or to ensure access to housing under ratified international human rights treaties does not rely on a “freestanding” right to housing in domestic law.

14. NRHN has conducted research and public education on all aspects of the right to adequate housing under international law. It has been commissioned to provide research on the right to adequate housing by the Office of the Federal Housing Advocate and has been retained to provide training to multiple federal government departments on the right to adequate housing under international human right law and how it should be implemented within various areas of federal jurisdiction and in inter-governmental agreements.

15. NRHN has conducted research and provided training and public education materials for lawyers, government officials and housing advocates on the prohibition of “forced eviction” under international law and its application to persons without legal security of tenure or living in encampments. It has conducted research and provided public education on established legal standards under international human rights regarding the components of adequate housing under international human rights law, which are included in the Region of Waterloo’s Plan to End Chronic Homelessness. NHRN has also conducted public education on the implications of the decision in *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, 2023 ONSC 670 for the *Charter* rights of homeless persons and encampment residents.

NHRN’s Well- Recognized Expertise

16. NHRN has a recognized expertise in the structural causes of homelessness and in how meaningful engagement with homeless persons and with encampment residents can lead to effective solutions to homelessness. It has been called upon by the Federal Housing Advocate, the National Housing Council and many government officials to share this expertise.

17. NHRN also has recognized expertise in the overlapping responsibilities for housing and human rights by different orders of government in Canada and in how accountability to the

shared commitment to the right to adequate housing under international law can be implemented in that context. NHRN was an invited participant at the Federal-Provincial-Territorial (FPT) Meeting of Ministers Responsible for Human Rights in 2023, which focused on the implementation of Canada's international human rights obligations, including with respect to addressing homelessness. NHRN has also engaged regularly with officials of the two inter-governmental committees that oversee the implementation of international human rights in Canada, the Continuing Committee of Officials on Human Rights (CCOHR) and the FPT Senior Officials Committee Responsible for Human Rights (SOCHR). NHRN presented as a witness to the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development in a 2024 study on Implementation of Canada's Universal Periodic Review.

18. Through its work in implementing the right to adequate housing under the *NHSA* and promoting the implementation of the right to adequate housing by other orders of government based on the “rights-based approach” required by the *NHSA*, NHRN has a recognized expertise in a rights-based approach to housing and homelessness. It is also a recognized expert in how international human rights commitments embedded in domestic law or policy, such as the commitment to the right to housing in the Region of Waterloo's Plan to End Chronic Homelessness, can be given concrete legal and practical effect.

NHRN's Different and Useful Perspective

19. NHRN offers a different perspective than the parties in this application by providing a broader lens through which to assess the *Charter* rights of encampment residents and other

homeless persons informed by an extensive network of organizations and individuals addressing issues similar to those being faced in the Region of Waterloo.

20. The NRHN also provides a different perspective on the responsibilities of municipal governments to adopt measures to ensure the rights of encampment residents that is informed by national and international practices and experiences. NHRN has been directly involved in developing and promoting the “rights-based-approach” to homelessness that is embraced in the Respondent’s Plan to End Chronic Homelessness and is able to provide the perspective of organizations involved in promoting that approach across Canada. NRHN also provides a useful and different perspective on the role of international human rights affirmed in the respondent’s Plan to End Chronic Homelessness. NHRN has submitted reports to UN human rights bodies regarding homelessness and human rights in Canada and has extensive experience in ensuring that the right to adequate housing under international human rights law is given domestic legal effect through Canadian law and policy.

Proposed Submissions

21. NHRN seeks leave to intervene jointly with the CCPI to assist the Court with the issues identified in the Notice of Motion and to advance arguments as described in the Factum. NHRN will not seek an award of costs and requests an order that costs will not be awarded against it. NHRN will not adduce any evidence and will rely on the record as filed by the parties. It will adhere to any schedule agreed to by the parties so as not to create any delay.

AFFIRMED REMOTELY in the City of Ottawa,

in the Province of Ontario,

this 13th day of July, 2025

in accordance with O. Reg. 431/20,

Administering Oath or Declaration

Remotely



Martha Jackman LSO # 31426C
A Commissioner for Taking Affidavits



Michèle Biss

TAB 4

COURT FILE NO. CV-25-00000750-0000

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

APPLICANT

AND

PERSONS UNKNOWN AND TO BE ASCERTAINED

RESPONDENTS

**Factum of the Proposed Interveners The Charter Committee
on Poverty Issues and the National Right to Housing Network**

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PART I – NATURE OF THE MOTION

1. The Charter Committee on Poverty Issues (“CCPI”) and the National Right to Housing Network (“NRHN”) seek leave to intervene as a friend of the court in this application pursuant to Rules of Civil Procedure, R.R.O. 1990, Reg. 194, r. 13.02 to file a 20 page factum and make 20 minutes of oral argument, and for an order that CCPI and NRHN not be granted costs, nor costs be ordered against them as interveners in this application.
2. The focus of the proposed intervention is on the positive obligations flowing from sections 7 and 15 of the *Canadian Charter of Rights and Freedoms* (“the *Charter*”) to address the needs of people who are homeless and living in encampments. The proposed intervention aims to assist the Court in considering the general scope and application of sections 7 and 15 as they apply to homeless individuals, and to consider whether the right to adequate housing under international human rights law as affirmed by the Region’s Plan to End Chronic Homelessness (PECH) provides a judicially manageable standard against which measures taken by the Applicant may be assessed for compliance with the *Charter*. CCPI and NRHN do not propose to opine on the specific measures the Applicant has taken in this case, or on the particular circumstances of these encampment residents.
3. This is the first case in Canada in which a government has sought a judicial determination of its constitutional obligations to address the needs of homeless persons for housing and support. It is also the first case in which a government has relied, in part, on an explicit commitment to compliance with relevant international human rights law, and a plan to end chronic homelessness, to fulfil its *Charter* obligations. This application thus raises novel questions in *Charter* jurisprudence about protecting the rights of society’s most disadvantaged—

questions central both to the Constitution’s promise of equal protection and benefit and to the mandates of CCPI and NRHN.

4. The Court’s approach to these questions will significantly affect people experiencing homelessness, and the constitutional rights of Canada’s most disadvantaged individuals and groups whose perspectives and interests CCPI and NRHN advance.

PART II – FACTS

Background

5. The Applicant has adopted a site-specific bylaw to provide for vacant possession of a property on which the Respondents reside in tents or other temporary shelter in an encampment, to facilitate construction of the Kitchener Central Transit Hub. *A By-law Respecting the Use of 100 Victoria Street North, Kitchener (as Owned by The Regional Municipality of Waterloo) to facilitate the Kitchener Central Transit Hub and other Transit Development* (the “By-law”) “is accompanied by a plan to provide accessible shelter facilities to the Existing Residents, in a manner consistent with the Region’s Plan to End Chronic Homelessness” and is “intended to respect the *Charter* rights of those persons who were residing at the Encampment.”¹

6. The Plan to End Chronic Homelessness (PECH) commits the Region to ending chronic homelessness by 2030 and is based on a “human rights approach,” treating people experiencing homelessness as rightsholders, respecting their agency and recognizing that the Region has a

¹ [Notice of Application](#), Issued May 1, 2025 (“Notice of Application”) [para \(h\) \(ii\) and \(iii\)](#) [Application Record \(Region\)](#) p 10.

duty of care for their housing needs.² The PECH affirms that: “The Region will be compliant with national and international human rights law and ensure it is appropriately prioritized amidst other legal obligations such as those regarding property rights, privacy and liability.”³ In the context of this commitment, the Applicant “seeks guidance and a ruling from this Honourable Court that the site-specific By-Law complies with the *Charter*.”⁴

7. The encampment was the subject of an earlier application brought by the Region that was dismissed by the Court on the basis that the proposed evictions would violate section 7 of the *Charter*.⁵ The Honourable Justice Valente declared the Region’s Code of Use By-law to be inoperative insofar as it prevented the residents of the Encampment from living on and erecting temporary shelters under circumstances where the number of people experiencing homelessness exceed the available and accessible shelter beds in the Region.⁶

8. Justice Valente also found that the Region had “fallen short” in implementing principles and policies stipulated in the Encampment Policy in place at the time. Justice Valente found that “prior to the enforcement of the By-Law, the Region did not use all reasonable outreach and support efforts to connect with the Encampment residents and “address their individual needs on a case-by-case basis by providing access to services, supports and shelter” as the Encampment Policy requires.”⁷

² [Application Record](#), Court File No. CV-25-00000750-0000 [Exhibit A](#): Final PECH Report 2024 p 67.

³ *Ibid*

⁴ [Notice of Application](#) at para (h)(i).

⁵ [The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained](#), 2023 ONSC 670.

⁶ *Ibid* at para 158.

⁷ *Ibid* at para 143.

9. In response to the encampment residents' claim that the proposed evictions also violated section 15 of the *Charter*, Justice Valente agreed with the reasons of Justice Lederer in *Tanudjaja v Canada*,⁸ finding that "other than poverty, which is not an analogous ground, in my opinion there are no common characteristics that define those individuals experiencing homelessness in the Region."⁹ Justice Valente also found that while "women, gender-diverse individuals, and those who suffer from mental illness and additions [sic] have been the subject of historic mistreatment, to my mind it does not follow that these groups of individuals, as compared to other groups, have been discriminated against in some way as a result of the By-Law."¹⁰

10. Since the date of Justice Valene's decision, the Region has allocated additional funding for programs for homeless person but the Region "is still some distance from being able to demonstrate that "the number of homeless people [no longer] exceeds the number of available accessible shelter beds in the Region."¹¹

The Charter Committee on Poverty Issues (CCPI)

11. The Charter Committee on Poverty Issues (CCPI) is a national committee founded in 1988 which brings together persons with lived experience of poverty and homelessness and experts in human rights, constitutional law and international human rights law for the purpose of assisting disadvantaged groups in Canada to secure and assert their rights under the *Charter*,

⁸ *Tanudjaja v. Attorney General (Canada) (Application)*, 2013 ONSC 5410.

⁹ Ibid at para 126.

¹⁰ Ibid at para 127.

¹¹ Affidavit of David Sweeney at para 85, Application Record (Region) p 39.

other domestic law and international human rights law. CCPI has initiated and intervened in a significant number of cases at various levels of court to ensure that issues of socio-economic disadvantage and the perspectives of persons living in poverty and experiencing homelessness, are effectively presented before courts and tribunals, with high quality legal submissions.¹²

12. CCPI's activities have included extensive legal research and case development, consultation with other organizations and members of marginalized and vulnerable groups, test case litigation, judicial and public education, appearances before United Nations and other international bodies, submissions to governmental and inter-governmental bodies and collaboration with non-governmental organizations and researchers in other countries.¹³

Previous Interventions

22. CCPI has been granted intervener status in 14 cases at the Supreme Court of Canada. These include: *Symes v. Canada*, [1993] 4 S.C.R. 69; *R. v. Prosper*, [1994] 3 S.C.R. 236; *R. v. Matheson* [1994] 3 S.C.R. 328; *Walker v. Prince Edward Island*, [1995] 2 S.C.R. 407; *Thibaudeau v. Canada*, [1995] 2 S.C.R. 627; *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624; *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817; *New Brunswick (Minister of Health and Community Services) v. G. (J.)*, [1999] 3 S.C.R. 46; *Lovelace v. Ontario*, [2000] 1 S.C.R. 950; *Gosselin v. Québec (Attorney General)*, [2002] 4 S.C.R. 429; *R. v. Wu*, [2003] 3 S.C.R. 530; *Chaoulli v. Quebec (Attorney General)*, [2005] 1 S.C.R. 791; and *R. v. Caron*, [2011] 1 S.C.R. 78 and *Attorney General of Québec v.*

¹² Affidavit of Bruce Porter, Affirmed July 13, 2025 ("Affidavit of Bruce Porter") at para 3.

¹³ Ibid at para 4.

Bijou Cibuabua Kanyinda, et al., SCC File No. 41210 (Decision on the motion for leave to intervene, 2025-03-20, heard May 14-15, 2025, decision reserved).¹⁴

13. CCPI intervened in *Tanudjaja v. Attorney General (Canada) (Application)* 2013 ONSC 5410 and in *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852. At the Ontario Court of Appeal, CCPI argued that the motions judge had erred in finding that the *Charter* does not impose positive obligations on governments to address homelessness and that homelessness is not an analogous ground of discrimination under section 15. The Court of Appeal upheld the motions judge's decision to strike the claim on other grounds but declined to uphold his findings regarding positive obligations under section 7 or homelessness as an analogous ground, leaving those issues to be considered in subsequent cases, including the present application.¹⁵

14. CCPI was again granted intervener status by this Court in the Motion to Strike the claim in *Toussaint v. Canada (Attorney General)* 2022 ONSC 4747.¹⁶ In that case, CCPI argued that Canada's refusal to implement a UN Human Rights Committee decision, requiring Canada to take all measures necessary to ensure access to publicly funded health care without discrimination based on immigration status, violates sections 7 and 15 of the *Charter*. Canada argued in its Motion to Strike that access to publicly funded health care is a purely socio-economic right which is outside the guarantees of the *Charter*, but Justice Perell agreed with CCPI that this was an unfair mischaracterization of a claim to the right to life where a denial of

¹⁴ Ibid at para 6.

¹⁵ *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852.at paras 17 and 37.

¹⁶ *Toussaint v. Canada (Attorney General)* 2022 ONSC 4747.

access to health care placed life at risk.¹⁷ After the Motion to Strike was dismissed, CCPI was granted leave to intervene in the continued action.¹⁸

CCPI's Well- Recognized Expertise

15. CCPI's expertise in advancing interpretations and applications of the *Charter* that properly consider the perspective and rights of socio-economically disadvantaged groups and are informed by the core tenets of international human rights law has been widely recognized both in Canada and internationally. The National Judicial Institute has made use of CCPI's expertise in this area on several occasions, to provide social context education to judges from six different provinces. Internationally, CCPI's expertise has been relied upon by the International Commission of Jurists, Forum Asia, the Constitutional Assembly of South Africa, and the Committee for the Administration of Justice in Northern Ireland, among others. CCPI has been invited to make submissions to governmental and inter-governmental and inter-governmental bodies in Canada with respect to the protection of the rights of low-income people under domestic and international law.¹⁹

16. CCPI was a research partner in two multi-year research projects with five universities and four non-governmental organizations on "Social Rights Accountability" and "Social Rights Practice" in Canada, funded through the Social Science and Humanities Research Council's Community-University Research Alliance program.²⁰

¹⁷ *Toussaint v. Canada (Attorney General)* 2022 ONSC 4747 at paras 134-136

¹⁸ *Toussaint v. Attorney General of Canada*, 2025 ONSC 2007 at paras 25-30

¹⁹ Affidavit of Bruce Porter at para 17.

²⁰ Ibid at paras 11-12.

17. CCPI has appeared on multiple occasions before the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights and made submissions to the UN Human Rights Council at all four periodic reviews of Canada regarding Canada's implementation of international human rights, including obligations to ensure access to effective remedies under applicable domestic law to homelessness.

18. CCPI brings to the joint intervention the unique perspective of an organization that has engaged with the issues before the court in the present case, both in Canada and internationally, for more than 35 years.

The National Right to Housing Network

19. The National Right to Housing Network (NRHN) is a pan-Canadian coalition of more than 2,000 organizations, advocates, experts and people with lived experience of homelessness committed to the progressive realization of the right to adequate housing in Canada as guaranteed under international human rights law and affirmed under the *National Housing Strategy Act* (SC 2019, c. 29, s. 313). NRHN links grassroots voices to the government accountability mechanisms contained in the NHSA to promote the right to adequate housing within federal jurisdiction while also promoting the national implementation of the right to adequate housing in Canada by provincial, territorial and municipal governments.²¹

20. Governance of the NRHN rests with a Steering Committee of nine housing, legal and human rights experts, with representatives across the country, while day-to-day activities are

²¹ [Affidavit of Michèle Biss](#) affirmed July 13, 2025 at [para 3](#).

carried out by a small paid staff and a set of issue-specific working groups including a legal working group focusing on promoting the right to adequate housing through the interpretation of domestic law.²²

21. NRHN staff have published extensively on international human rights law and its application in Canada. This includes a literature review on the Progressive Realization of the Right to Housing commissioned by the National Housing Council. The NRHN created an online right to housing training to help members of the National Housing Council apply international human rights law and norms, which is now mandatory for members.²³

22. In 2023-2024 NRHN acted as an “engagement partner” for the Federal Housing Advocate’s comprehensive review of government responses to homeless encampments, including assessing the responsibilities and legal obligations of municipal governments. This work included supporting partners in organizing engagement sessions with encampment residents, conducting media interviews, and developing public education and advocacy materials.²⁴

22. NHRN is active in monitoring and reporting on Canada’s compliance with international human rights related to housing and homelessness, including making submissions to UN treaty bodies.²⁵ Its staff and Steering Committee members engage regularly with officials of federal/provincial/territorial committees regarding the implementation of the right to housing and

²² Ibid at [para 7](#).

²³ Ibid at [paras 9-10](#).

²⁴ Ibid at [para 11](#).

²⁵ Ibid at [para 21](#).

have expertise in the overlapping responsibilities for housing and human rights by different orders of government.²⁶ NRHN encourages municipalities to recognize their obligations under international human rights law and the *Charter* and to adopt plans or charters that commit to implementing the right to adequate housing in accordance with obligations under international human rights law, the *Charter* and human rights legislation in areas of municipal authority.²⁷

23. NHRN has attended Federal/Provincial/Territorial meetings of ministers responsible for human rights to provide submissions on human rights in housing and have regularly engaged with the federal/provincial/territorial committees of officials responsible for human rights regarding implementation of human rights in housing.²⁸

24. NHRN brings to the proposed joint intervention the unique perspective of the leading organization in Canada promoting the right to adequate housing with a diverse membership, including legal and policy experts as well as many individuals with lived experience of homelessness or housing need.²⁹

PART III –ISSUES AND ANALYSIS

25. The issue to be decided is whether CCPI and NRHN should be granted leave to intervene jointly in the hearing of the application and to file a factum and make oral submissions on terms to be determined by the Court.

²⁶ Ibid at [para 17](#).

²⁷ Ibid at [para 12](#).

²⁸ Ibid at [para 17](#).

²⁹ Ibid at [paras 19-20](#).

Requirements for Intervener Standing

26. The Ontario Court of Appeal has identified three criteria for granting intervener status: A proposed intervener should: (i) have a real substantial and identifiable interest in the subject matter of the proceedings; (ii) have an important perspective distinct from the immediate parties; or (iii) be a well-recognized group with a special expertise and a broadly identifiable membership. The proposed intervener must be able to make a useful contribution, in light of the nature of the case and the issues which arise, without causing injustice to the immediate parties.³⁰

27. The Ontario Court of Appeal has recognized that cases under the *Charter* may have a significant impact on others who are not immediate parties and for that reason there has been a relaxation of the rules governing leave to intervene in those cases.³¹

28. As outlined below, CCPI and NRHN jointly meet all three of the qualifications set out by the Ontario Court of Appeal for intervener status and they will make a useful contribution to the present application.

CCPI and the NRHN have a Substantial and Identifiable Interest in the Application

29. CCPI and NRHN are committed to the protection and promotion of the rights of homeless persons under the *Charter* and other domestic laws, as informed by Canada's obligations under international human rights law. Both organizations engage frequently with

³⁰ *Bedford v. Canada (Attorney General)*, 2009 ONCA 669 at para 2.

³¹ *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd. (C.A.)*, 1990 6886 (ON CA).

governments in Canada to clarify their obligations to adopt measures to ensure the rights of those who are homeless. The court's decision in this case will have a significant impact on the ongoing work of both organizations.³²

30. CCPI has a substantial interest in the issue of governments' obligations to address systemic deprivations of rights to life, liberty and security of the person required by section 7 of the *Charter* and to address the discriminatory effect of failures to meet the needs of protected groups under section 15 of the *Charter*. This interest has been recognized by the Supreme Court of Canada in granting CCPI leave to intervene in 14 cases.

31. The NRHN has made a focus of its work the promotion of effective policies and practices to ensure the rights of encampment residents and other homeless persons, including providing guidance to government officials as to their obligations under human rights legislation, the *Charter* and international human rights law. NRHN's ongoing work of promoting policies and practices to protect and ensure the rights of homeless persons and encampment residents will be impacted by the court's consideration of these issues in the present case.

CCPI and NRHN have an Important Perspective Different from the Parties

32. CCPI and NRHN provide the perspective of groups that have engaged with multiple orders of government, with international human rights bodies and with all levels of court, about the issues raised by the present application. They will provide a different perspective from the

³² Affidavit of Michèle Biss at para 12; Affidavit of Bruce Porter at para 5.

parties – one that is informed by cross-Canada and international experiences of similar issues and engagement with multiple orders of governments.³³

33. As organizations that have worked on developing and promoting a human rights approach to housing and homelessness, and on advocating for compliance with international human rights law, CCPI and NRHN bring a unique perspective to the Region's commitment to a human rights approach.³⁴

CCPI and NRHN are Well-recognized Groups with a Special Expertise and a Broad Membership Base

34. CCPI has been recognized by courts at all levels in Canada, by the National Judicial Institute, and by governments and organizations around the world, for its unique expertise in the application of the *Charter* and of international human rights law to issues of poverty and homelessness.³⁵

35. NHRN has been recognized by the federal government, parliamentary subcommittees, the Federal Housing Advocate, the National Housing Council, the Inter-Ministerial Forum on Human Rights and by organizations and experts working on housing in Canada, for its special

³³ Affidavit of Bruce Porter at paras 19-20; Affidavit of Michèle Biss at para 23.

³⁴ Affidavit of Bruce Porter at paras 19-20; Affidavit of Michèle Biss at para 23.

³⁵ Affidavit of Bruce Porter at paras 17-18.

expertise in the right to adequate housing under international human rights law and how it can be given domestic legal effect.³⁶

36. NHRN has a broad membership base of more than 2,000 organizations, advocates, experts and people with lived experience of homelessness committed to the progressive realization of the right to adequate housing in Canada. It conducts regular meetings with its members to receives input on key policy and legal issues affecting access to shelter and housing through it working groups.³⁷

CCPI and NRHN will Make Distinct and Useful Contribution

37. CCPI and NRHN will make a distinctive and useful contribution by addressing the following issues:

i) Whether Section 7 of the *Charter* Requires Measures to Address the Needs of Homeless Persons for Shelter, Housing and Supports

38. CCPI and NRHN will argue that Supreme Court of Canada decisions in cases such as *Irwin Toy*³⁸, *G(J)*³⁹, *Gosselin*⁴⁰ and *PHS Community Services Society [Insite]*⁴¹ establish that where access to accessible shelter and transition to secure housing is required for the protection of life, liberty or security of the person, failures to take positive measures to address these needs

³⁶ *Affidavit of Michèle Biss* at paras 16-17.

³⁷ *Ibid* at para 3.

³⁸ *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 SCR 927 pp 1003-1004.

³⁹ *New Brunswick (Minister of Health and Community Services) v. G. (J.)*, 1999 653 (SCC), [1999] 3 SCR 46, at para 107.

⁴⁰ *Gosselin v. Québec (Attorney General)*, 2002 SCC 84, [2002] 4 SCR 429 at paras 82-82.

⁴¹ *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44, [2011] 3 SCR 134 at para 136.

may violate section 7 of the Charter. CCPI and NHRN will note that the Ontario Court of Appeal's decision in *Tanudjaja v Canada* leaves the question of positive obligations to address homelessness unsettled and open for consideration in the present case.⁴²

39. CCPI and NHRN will further argue that, as held by Justice Perell of this Court in *Toussaint v. Canada (Attorney General)* 2022 ONSC 4747, the requirement to implement international human rights treaty obligations in good faith (*pacta sunt servanda*) is a universally recognized principle and a peremptory norm of international law.⁴³ As such, based on the Supreme of Canada's decision in *Kazemi Estate v. Islamic Republic of Iran*, 2014 SCC 62, [2014] 3 S.C.R. 176, the good faith implementation of international treaty obligations to address homelessness may be recognized in the present case as a section 7 principle of fundamental justice, along with other principles including gross disproportionality and arbitrariness.

ii) Whether Homelessness may be Recognized as an Analogous Ground of Discrimination and, in the Alternative, Whether Failures to Address the Needs of Homeless People Adversely Affects Groups Protected by Section 15

40. As noted above, Justice Valente adopted Justice Lederer's finding in *Tanudjaja v Canada* that homelessness is not an analogous ground under section 15. However, that finding was not upheld on appeal but rather left unsettled. As Justice Feldman held in dissent, it should be

⁴² *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852 at para 37 per Pardu JA for the majority and para 62 per Feldman JA (in dissent).

⁴³ *Toussaint v. Canada (Attorney General)* 2022 ONSC 4747 at para 28.

considered based on a full evidentiary record. CCPI and NRHN will argue that the Court should consider this question, based on the record in the present case.

41. CCPI and NRHN will further argue that Supreme Court of Canada decisions in *Eldridge*⁴⁴, *Vriend*⁴⁵, and *Fraser*⁴⁶, support a finding that a failure to adopt positive measures to address the need for housing and supports for those who are homeless has a disproportionate effect on groups protected by enumerated and analogous grounds, including persons with disabilities, persons with substance use disorders, social assistance recipients, and Indigenous persons.

iii) Whether the Region’s Commitment to the Right to Adequate Housing Under International Human Rights law in its Plan to End Chronic Homelessness Provides a Manageable Judicial Standard on Which to Assess the Region’s Compliance with Sections 7 and 15 of the *Charter*.

42. In *Tanudjaja v Canada*, the claimants alleged that a wide range of government actions and policies resulted in homelessness, thereby violating sections 7 and 15 of the *Charter*, and they requested the adoption of a housing strategy to address homelessness as the appropriate remedy. The majority of the Ontario Court of Appeal dismissed the claim as being nonjusticiable. While leaving unsettled the question of positive obligations under the *Charter* to address homelessness in the context of a justiciable claim, Justice Pardu also found, for the majority, that “there is no judicially discoverable and manageable standard for assessing in general whether housing policy is adequate or whether insufficient priority has been given in

⁴⁴ *Eldridge v British Columbia* (Attorney General) 1997 327 (SCC), [1997] 3 SCR 624 at paras 72-73.

⁴⁵ *Vriend v Alberta* 1998 816 (SCC), [1998] 1 SCR 493 at para 60.

⁴⁶ *Fraser v. Canada (Attorney General)*, 2020 SCC 28, [2020] 3 SCR 113 at para 54.

general to the needs of the homeless.” She further held a mere declaration that the government must develop a housing policy, “would be so devoid of content as to be effectively meaningless.”⁴⁷

43. CCPI and NRHN will argue that the present application should be distinguished from the application in *Tanudjaja* in that the Region has itself adopted a Plan to End Chronic Homelessness based on international human rights laws and principles that are recognized as justiciable and that are regularly applied by domestic courts and human rights bodies.

44. Referring to the Ontario Court of Appeal’s decision in *Mathur v. Ontario*⁴⁸, CCPI and NHRN will argue that the majority’s concern in *Tanudjaja* regarding the absence of a “judicially discoverable and manageable standard for assessing in general whether housing policy is adequate or whether insufficient priority has been given in general to the needs of the homeless” is not an issue in the present case.

45. In *Mathur*, the Court of Appeal rejected the government’s argument that an order that Ontario adopt and implement constitutionally compliant targets for climate change would be “devoid of content.”⁴⁹ The Court held that because Ontario had voluntarily committed itself to

⁴⁷ *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852 at para 34.

⁴⁸ *Mathur v. Ontario*, 2024 ONCA 762.

⁴⁹ *Ibid* at paras 71-72.

meet international standards for carbon reduction by 2030, this provided a basis on which the Court could assess whether the measures adopted by Ontario were constitutionally compliant.

46. In the present case, the Region has adopted the Plan to End Chronic Homelessness (PECH) and committed to international human rights standards for eliminating chronic



homelessness by 2030, subject to measurable goals and timelines. As in *Mathur*, internationally agreed standards and norms provide a judicially manageable standard against which the actions of the Region can be assessed for compliance with section 7 and 15 of the *Charter*.

PART IV – ORDER SOUGHT

47. CPI and NRHN respectfully request an order that they jointly:

- a) be granted leave to intervene in the application;
- b) be permitted to file a factum not exceeding twenty (20) pages;
- c) be permitted to present oral argument on terms set by the Court;
- d) not be granted costs, nor costs be ordered against them; and
- e) such further or other order as the Court may deem appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Martha Jackman

Lawyer for the Moving Party CCPI and NRHN

SCHEDULE “A” – LIST OF AUTHORITIES

	Case Law	Factum Paragraph(s)
1.	<i>The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained</i> , 2023 ONSC 670	5,6
2.	<i>Tanudjaja v. Attorney General (Canada) (Application)</i> , 2013 ONSC 5410.	9, 14, 38
3.	<i>Symes v. Canada</i> , [1993] 4 S.C.R. 69;	12
4.	<i>R. v. Prosper</i> , [1994] 3 S.C.R. 236;	12
5.	<i>R. v. Matheson</i> [1994] 3 S.C.R. 328;	12
6.	<i>Walker v. Prince Edward Island</i> , [1995] 2 S.C.R. 407;	12
7.	<i>Thibaudeau v. Canada</i> , [1995] 2 S.C.R. 627;	12
8.	<i>Eldridge v. British Columbia (Attorney General)</i> , [1997] 3 S.C.R. 624;	12, 40
9.	<i>Baker v. Canada (Minister of Citizenship and Immigration)</i> , [1999] 2 S.C.R. 817;	12
10.	<i>New Brunswick (Minister of Health and Community Services) v. G. (J.)</i> , [1999] 3 S.C.R. 46;	12, 37

11.	<i>Lovelace v. Ontario</i> , [2000] 1 S.C.R. 950;	12
12.	<i>Gosselin v. Québec (Attorney General)</i> , [2002] 4 S.C.R. 429;	12, 37
13.	<i>R. v. Wu</i> , [2003] 3 S.C.R. 530;	12
14.	<i>Chaoulli v. Quebec (Attorney General)</i> , [2005] 1 S.C.R. 791;	12
15.	<i>R. v. Caron</i> , [2011] 1 S.C.R. 78	12
16.	<i>Attorney General of Québec v. Bijou Cibuabua Kanyinda, et al.</i> , SCC File No. 41210 (Decision on the motion for leave to intervene, 2025-03-20, heard May 14-15, 2025, decision reserved)	12
17.	<i>Tanudjaja v. Attorney General (Canada) (Application)</i> 2013 ONSC 5410	13, 37
18.	<i>Tanudjaja v. Canada (Attorney General)</i> , 2014 ONCA 852	13, 37
19.	<i>Toussaint v. Attorney General of Canada</i> , 2025 ONSC 2007	14
20.	<i>Bedford v. Canada (Attorney General)</i> , 2009 ONCA 669	26
21.	<i>Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd. (C.A.)</i> , 1990 6886 (ON CA).	27
22.	<i>Irwin Toy Ltd. v. Quebec (Attorney General)</i> , [1989] 1 SCR 927	37
23.	<i>Canada (Attorney General) v. PHS Community Services Society</i> , 2011 SCC 44, [2011] 3 SCR 134	37
24.	<i>Vriend v Alberta</i> 1998 816 (SCC), [1998] 1 SCR 493	40
25.	<i>Fraser v. Canada (Attorney General)</i> , 2020 SCC 28, [2020] 3 SCR 113	40

26.	<i>Mathur v. Ontario</i> , 2024 ONCA 762.	41
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TAB 6

Court File No. CV-25-00000750-0000

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

APPLICANT

AND

PERSONS UNKNOWN AND TO BE ASCERTAINED

RESPONDENTS

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

ORDER

THIS MOTION by the Charter Committee on Poverty Issues and the National Right to Housing Network for an order granting them leave to intervene jointly under Rule 13.02 in the application was heard this day in writing at the Courthouse, 85 Frederick Street in Kitchener.

ON READING the motion record of the proposed interveners and on being informed of the positions of the parties,

1. **THIS COURT ORDERS** that the Charter Committee on Poverty Issues and the National Right to Housing Network are granted leave to intervene jointly as friends of the Court at the hearing of the application.
 2. **COURT FURTHER ORDERS** that the Interveners shall be entitled to file a factum of no more than 20 pages.
 3. **THIS COURT FURTHER ORDERS** that the interveners shall be entitled to make oral argument of 20 minutes at the hearing of the application.
 4. **THIS COURT FURTHER ORDERS** that the Interveners shall not be entitled to receive and shall not be liable for costs against any party or intervener in the application.
 5. **THIS COURT FURTHER ORDERS** that no costs are payable in respect of the motions for leave to intervene.
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THE REGIONAL MUNICIPALITY OF WATERLOO
Applicants (Responding Party)

-and- PERSONS UNKNOWN AND TO BE ASCERTAINED
Respondents (Moving Party)
Court File No. CV-25-00000750-0000

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
WATERLOO REGION

**NOTICE OF MOTION FOR LEAVE TO
INTERVENE OF THE PROPOSED
INTERVENERS**

**THE CHARTER COMMITTEE ON POVERTY
ISSUES AND
THE NATIONAL RIGHT TO HOUSING
NETWORK**

Professor *emerita* Martha Jackman

Faculty of Law, University of Ottawa

57 Louis Pasteur, Ottawa, ON K1N 6N5

Email: Martha.Jackman@uOttawa.ca

Telephone: (613) 720-9233

**Lawyer for the Charter Committee on Poverty
Issues and the National Right to Housing Network**

