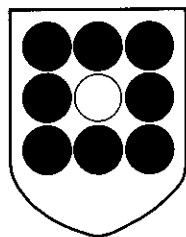


CANADIAN CIVIL LIBERTIES ASSOCIATION

360 Bloor Street West, Suite 506
Toronto, ON M5S 1X1
Telephone (416) 363-0321
FAX (416) 861-1291
Website: www.ccla.org
E-mail: mail@ccla.org



ASSOCIATION CANADIENNE DES LIBERTES CIVILES

360 rue Bloor Ouest, Suite 506
Toronto, ON M5S 1X1
Téléphone (416) 363-0321
Télécopieur (416) 861-1291
Site Internet: www.ccla.org
Courriel: mail@ccla.org

EXECUTIVE COMMITTEE COMITE EXECUTIF

Past Presidents

Présidents Précédents

THE HON. J. KELLER MACKAY
(1888-1970)

J. S. MIDANIK, Q.C.
(1920-1997)

JOHN NELLIGAN, Q.C.
HARRY W. ARTHURS

THE HON. WALTER TARNOPOLSKY
(1932-1993)

WALTER PITMAN
SYBIL SHACK

(1911-2004)

THE HON. ALLAN BLAKENEY

President

Présidente

MARSHA HANEN

Vice-presidents

Vice-présidents

JAMIE CAMERON

SUSAN COOPER

GISELE CÔTÉ-HARPER, Q.C.

MICHAEL dePENCIER

MARLYS EDWARDH

EDWARD L. GREENSPAN, Q.C.

PATRICIA JACKSON

JOHN D. McCAMUS

DELLA OPEKOFKOF

THE HON. HOWARD PAWLEY

KENNETH P. SWAN

DR. JOSEPH WONG

Secretary

Secrétaire

SYDNEY GOLDENBERG

Treasurer

Trésorière

ELAINE SLATER

General Counsel

Avocate Générale

NATHALIE DES ROSIERS

BOARD OF DIRECTORS

CONSEIL D'ADMINISTRATION

FRANK ADDARIO

THE HON. WARREN ALLMAND, Q.C.

BROMLEY ARMSTRONG

THE HON. RONALD ATKEY, Q.C.

FRÉDÉRIC BACHAND

JOSEPH BOYDEN

THE HON. EDWARD BROADBENT

LEAH CASSELMAN

THE HON. SAUL CHERNIACK, Q.C.

DOMINIQUE CLEMENT

JANE COBDEN

MICHAEL CONNER

DR. DEBBY COPEL

DAVID CRONENBERG

FERNAND DAoust

BRIAN A. F. HOY

SUSAN ENG

MEL FINKELSTEIN

ROBERT FULLFORD

VICKI GABEREAU

THE HON. CONSTANCE R. GLUBE, Q.C.

KATHERINE GOVIER

LOUIS GREENSPAN

HUSSEIN HAMDANI

SHIRLEY HEAFEY

HARISH JAIN

MAHMUD JAMAL

JANET KEEPING

JOY KOGAWA

ANNE LA FOREST

CYRIL LEVITT

ANDREW LOKAN

A. WAYNE MACKAY

KEN MANDZUIK

JON OLIVER

PENELOPE ROWE

PAUL SCHABAS

MARVIN SCHIFF

DAVID SCHNEIDERMAN

ERIC TFEED, Q.C.

WALTER THOMPSON

THE VERY REV. LOIS WILSON

Director of Education & Administration

Directrice, Éducation et administration

D. S. McLAUGHLIN

Director, Freedom of Expression Project

Directrice, Project de la liberté d'expression

NOA MENDELSON AVIV

Director, Public Safety Project

Directeur, Project de sécurité publique

GRAEME NORTON

General Counsel Emeritus

Avocat Général Émérite

A. ALAN BOROWOY

February 23, 2010

Ottawa City Councillors
Ottawa City Hall
110 Laurier Avenue West
Ottawa, Ontario
K1P 1J1

Dear Ottawa City Councillors:

Re: Proposed Amendment to Use and Care of Roads By-Law re Nuisance on City Streets (File No. ACS 2010-CSS-TRC-003)

I am writing to express the concern of the Canadian Civil Liberties Association regarding the above proposed by-law amendment.

The proposed amendment to the Use and Care of Roads By-law (By-law 2003-498) would create new offences prohibiting persons from, *inter alia*, engaging in “insulting” “indecent”, “loud” or “boisterous” language. According to the City’s report, the new provisions are aimed at addressing “nuisance behaviours that are occurring when groups of persons congregate in the roadway and on sidewalks and cause a disturbance....”

The city is justifiably concerned about regulating noise levels and ensuring that Ottawa residents can safely use roads and sidewalks. As with any law, however, city by-laws must be compliant with the *Charter*. In CCLA’s assessment, the proposed amendments are unduly broad and vague, and unjustifiably infringe *Charter* guarantees of freedom of expression and freedom of association.

Freedom of expression and freedom of association are fundamental democratic rights protected under s. 2 of the *Charter*. The Supreme Court of Canada has ruled that city by-laws that attempt to regulate the emission of noise can infringe individuals’ right to freedom of expression.¹ Ottawa’s proposed amendment, however, goes beyond simply regulating noise levels. It prohibits all “indecent”, “insulting” or “abusive” language, indicating that the police may charge people based not only on how loud they speak, but also what they say. Furthermore, because part of the purpose of the proposed by-law appears to be

¹ *Montréal (City) v. 2952-1366 Québec Inc.*, [2005] 3 S.C.R. 141, 2005 SCC 62.

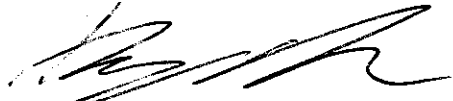


dispersing groups of people gathered on public property, the amendment would also infringe freedom of association. Such a ban, targeting not only the mode of expression, but also the content of the expression and the freedom to congregate in groups, strikes at the heart of *Charter*-protected rights.

We therefore urge you to reject the recommended amendments. We also note that there is a similarly worded Parks and Facilities By-Law that has already been enacted. All of the concerns expressed above apply equally to that law, and we also therefore request that you repeal the relevant portions of By-Law No. 2004-276.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Abby Deshman', written in a cursive style.

Abby Deshman
Project Director