

April 9, 2020

Michael Bryant
Executive Director & General Counsel
Canadian Civil Liberties Association
900-90 Eglinton Avenue E.
Toronto, ON M3P 2Y3

Dear Mr. Bryant,

RE: Letter from the Canadian Civil Liberties Association

Your letter of April 6, 2020, to Mayor Jim Watson has been directed to me, for response on behalf of the City.

While the City of Ottawa appreciates the concerns you have raised regarding the reported enforcement actions taken by the City's By-law Enforcement officers, I am unaware of any efforts by you or other members of the Civil Liberties Association to independently confirm with the City of Ottawa the accounts described on social media on which you appear to have based your letter. Had you done so, or made any effort to better understand the City's approach to the enforcement of the Emergency Orders issued by the Ontario Government in response to the COVID-19 pandemic, you might have been able to provide a more informed position to the audience for whom you issued your open letter.

Since having been asked to supplement police enforcement of the Provincial Orders, the City of Ottawa's response has been one of education first, with the issuance of tickets reserved for more egregious cases or those where efforts at education have either been ignored or rebuffed. This is fully in keeping with the approach endorsed by the Ontario Solicitor General and Minister of Municipal Affairs and Housing in their joint letter to municipalities of March 27, 2020. Exemplifying the City's approach is the fact that Ottawa's By-law & Regulatory Services Branch has, between April 3 and April 7, responded to more than 1,300 complaints of alleged violations of the restrictions imposed by the Ontario Government, yet resorted to ticketing in only 49 cases.

As for the case referred to in your open letter – the one presumably disclosed by your Twitter-based investigation – no ticket was issued but, rather, the individual was advised that the activity in question was contrary to the Provincial Orders barring the use of all outdoor recreational amenities, and that a violation of those Orders carried the possibility of a fine. As noted earlier, the By-law Officer's approach was to educate the resident first, an approach with which the City presumes you would agree.

The City appreciates that the Canadian Civil Liberties Association wishes to remind the public and governments about the importance of protecting civil liberties. Your organization must, however, also acknowledge that Canada - and virtually all countries

around the World - are presently confronted with an unprecedented threat to the health and well-being of their residents, notably their most vulnerable ones. In order to confront that evolving threat, the City of Ottawa, like most other governments, must rely on the best advice of the medical community and public health professionals. Those experts have recommended extraordinary measures to limit the spread of COVID-19 and to protect the lives and health of residents. In turn, those residents are being asked to endure significant hardships, including in some cases the loss of employment, self-isolation away from family and friends, and depletion of savings. Similarly, health care professionals and other essential front-line workers are being asked to expose themselves to the risk of infection, or even the risk of transmission to members of their own family. In large measure, individuals have accepted these extraordinary sacrifices as their own obligation to help protect their fellow citizens.

Seen against the perspective of the significant hardships being endured by many residents, the loss of the ability to “kick a ball in a park” would seem to many to be a trifling inconvenience.

Finally, regarding your concerns about the absence of options to contest tickets, you should be aware that the format of Offence Notices (i.e. “tickets”) in Ontario is set by the Provincial Offences Act. Given the rapid evolution of the COVID-19 response, including the closure of most government offices, the Ontario Court of Justice (Provincial Offences Court), and all non-essential workplaces, municipalities like the City of Ottawa were unable to revise the wording of options set out on Offence Notices. However, none of these steps have deprived any defendant of the opportunity to defend him or herself at trial in respect of any charges laid during the period of this emergency. The City is in the process of revising the information posted on its website to ensure that defendants are aware of the options available to them.

With respect to your assertion that such tickets are not subject to a fair challenge process, all tickets issued in Ottawa, whether issued by By-law Officers, police, or other enforcement agencies, under various provincial statutes and regulations, or municipal by-laws, are subject to the processes established by the Provincial Offences Act. Contrary to your stated position, the trial options available to ticket recipients are indeed protected. As you are presumably aware, the Province of Ontario has issued an Emergency Order suspending the running of time limits for taking any step in a proceeding, for the duration of the emergency. Given that, and notwithstanding the time limits set out on Provincial Offence Notices in Ontario, any ticket can be challenged and there has been no suspension of any defendant's ability to make full answer and defence to any charges laid for violation of the Provincial Emergency Orders or any other offence.

I trust the more complete explanation of the City’s enforcement approach set out above satisfies the concerns the CCLA has expressed in its open letter and that the CCLA will ensure that the City’s response is also posted on its website. If in the future the CCLA has questions about the City of Ottawa's handling of the response to the COVID-19 emergency, I would encourage your organization to contact the City directly, and to thus

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perhaps avoid needlessly casting aspersions on the judgment and professionalism of staff working to support and protect the residents of the City of Ottawa.

Should your organization continue to have concerns about the scope or scale of the Emergency Orders issued by the Province of Ontario and the set fines established for violation of these Orders, or other Provincial Governments' similar responses to the grave threat posed by COVID-19, then those concerns should be directed to the appropriate Provincial Agency.

Thank you.

A handwritten signature in blue ink that reads "a Di Monte".

Anthony Di Monte
General Manager
Emergency and Protective Services

c.c.: Mayor Jim Watson
Steve Kanellakos, City Manager