



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CANADIAN CIVIL LIBERTIES ASSOCIATION

Applicant

and

CORPORATION OF THE CITY OF VAUGHAN

Respondent

APPLICATION UNDER SECTION 273 OF THE *MUNICIPAL ACT* AND RULE 14.05 OF  
THE *RULES OF CIVIL PROCEDURE*

**NOTICE OF APPLICATION**

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- ☐ In writing
- ☒ In person
- ☐ By telephone conference
- ☐ By video conference

at the following location:

50 Eagle St. W., Newmarket, Ontario L3Y 6B1

on a day to be set by the Registrar.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer,

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serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date June 24, 2025

Issued by

**KENELLE CHEVALIER**

Digitally signed by KENELLE  
CHEVALIER

Date: 2025.06.24 14:56:13 -04'00'

Local Registrar

Address of court office: Superior Court of Justice  
50 Eagle St. W.  
Newmarket, Ontario L3Y 6B1

**TO: OFFICE OF THE CITY SOLICITOR**  
**Corporation of the City of Vaughan**  
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Lawyer for the Respondent

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**THE APPLICANT MAKES AN APPLICATION FOR:**

1. An Order quashing City of Vaughan (“**Vaughan**”) By-law No. 143-2024: A By-law to prohibit Nuisance Demonstrations within one hundred metres of Vulnerable Social Infrastructure (the “**Anti-Protest By-law**”) for illegality, pursuant to s. 273(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “***Municipal Act***”);
2. A declaration that the Anti-Protest By-law infringes ss. 2(b), (c), (d), 8, and 9 of the *Canadian Charter of Rights and Freedoms* (the “***Charter***”) in a manner that cannot be demonstrably justified in a free and democratic society under s. 1 of the *Charter*;
3. A declaration taking immediate effect that the Anti-Protest By-law is invalid and of no force or effect, pursuant to s. 52(1) of *The Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c. 11;
4. The costs of this application; and
5. Such further and other relief as counsel may advise and this Honourable Court may deem just.

**THE GROUNDS FOR THE APPLICATION ARE:**

**A. Overview**

6. Peaceful protest is a cornerstone of democracy. But across the globe, it is under attack. Invoking inflated concerns about safety and security, governments who are constitutionally bound to uphold the right to freedom of expression, freedom of peaceful assembly, and freedom of

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association have, with increasing ferocity, clamped down on protests that espouse views those governments disagree with. This approach is incompatible with a free and democratic society, and in Canada, is a violation of the protections afforded by s. 2 of the *Charter*, which guarantees every person the rights to freedom of expression, freedom of peaceful assembly, and freedom of association.

7. On June 25, 2024, Vaughan violated these constitutional guarantees by passing the Anti-Protest By-law. In so doing, Vaughan joined the ever-increasing list of governments seeking to limit protest, dissent, and free expression. Specifically, the Anti-Protest By-law makes it an offence, subject to a possible \$100,000 fine, for any person or legal entity to organize or participate in a vaguely defined “Nuisance Demonstration” within 100 metres of the property line of any “Vulnerable Social Infrastructure”, which is defined as all childcare centres, congregate care facilities, schools, hospitals, and places of worship within the municipality.

8. The Anti-Protest By-law’s overreach is breathtaking. It purports to prohibit *any* protest or expression of views on *any* issue that is likely to cause a reasonable person to feel “intimidated”—a standard that is broadly and vaguely defined to include ambiguous “concerns” about safety and security, no matter how minimal, and concerns about the inability to access “Vulnerable Social Infrastructure.” It does not matter whether a person expressing these views intends to be intimidating. In fact, it does not even matter if a person’s own expression or conduct is felt to be intimidating, as the Anti-Protest By-law renders every person who organizes or participates in a protest liable to pay a \$100,000 fine—the largest fine permissible under the *Municipal Act*—if any other person at the protest expresses a view that is likely to cause someone to feel intimidated.

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9. Moreover, no warning or notice advising that “intimidating” expression is occurring within a peaceful and otherwise respectful protest must be given before those in attendance can be charged under the Anti-Protest By-law. As a result, a person can be liable for a \$100,000 fine without ever knowing that someone else at the protest had engaged in the purportedly “intimidating” conduct.

10. The Anti-Protest By-law’s chilling effect on the right to free expression, assembly, and association is enormous. It is a direct attack on freedom of expression by prohibiting any protest or expression of views because others feel “concerned” by them. Moreover, by making every person attending a protest vicariously liable for the actions of every other person in attendance, the Anti-Protest By-law creates a \$100,000 risk any time a person seeks to protest or just express their views with other people within 100 metres of “Vulnerable Social Infrastructure”. In so doing, the Anti-Protest By-law flagrantly disregards the constitutionally protected fundamental rights and freedoms of every person in Vaughan who wishes to protest or express their views, including the right to freedom of expression, the right to freedom of assembly, and the right to freedom of association, in violation of ss. 2(b), 2(c) and 2(d) of the *Charter*.

11. The Anti-Protest By-law cannot be saved by s. 1 of the *Charter*: it is not rationally connected to its objective of protecting the health, safety, and well-being of all persons in Vaughan; it is not minimally impairing of these constitutionally protected rights; and whatever minimal benefits it claims to provide—claims that are themselves dubious—are substantially outweighed by the harm it causes to the fundamental rights and freedoms of every person in Canada.

12. In addition to unconstitutionally curbing the right to freedom of expression, freedom of association, and freedom of assembly, the Anti-Protest By-law grants Enforcement Officers

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sweeping enforcement powers, including the power to detain and search individuals with virtually unfettered discretion, which violate ss. 8 and 9 of the *Charter*.

13. The Anti-Protest By-law is contrary to the *Charter* and is unlawful. It should be quashed for illegality pursuant to s. 273(1) of the *Municipal Act* and declared invalid and of no force or effect pursuant to s. 52(1) of *The Constitution Act, 1982*.

## **B. The Parties**

### **(i) *The Applicant, the Canadian Civil Liberties Association***

14. The Applicant, the Canadian Civil Liberties Association (“CCLA”), is a national, non-partisan, civil society organization incorporated under the laws of Canada. Founded in 1964, the CCLA is dedicated to promoting respect for and observance of fundamental human rights and civil liberties in Canada. The CCLA has several thousand supporters from all parts of Canada, representing a wide variety of persons, occupations, and interests.

15. The CCLA was constituted to defend and further the recognition of human rights and civil liberties. Arising out of this mandate, the CCLA has a longstanding and special interest in ensuring that the law complies with the fundamental rights and freedoms guaranteed by the *Charter*.

16. The CCLA has public interest standing to bring this application.

### **(ii) *The Respondent, the Corporation of the City of Vaughan***

17. The Respondent, the Corporation of the City of Vaughan, is a duly incorporated municipal corporation under the *Municipal Act*. As a creature of provincial statute, its power to enact by-

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laws, including the Anti-Protest By-law, must be rooted in the authority granted to it by the *Municipal Act*.

18. Any by-law passed by Vaughan must comply with the *Charter*. If a by-law does not do so and cannot be justified under s. 1 of the *Charter*, the court may quash the by-law for illegality, pursuant to s. 273(1) of the *Municipal Act*.

### **C. The Anti-Protest By-law**

19. Vaughan's City Council voted in favour of the Anti-Protest By-law on June 25, 2024. It was approved by Mayor Steven Del Duca that same day, pursuant to Mayoral Decision MDC 008-2024.

20. Section 4 of the Anti-Protest By-law prohibits any person—which is defined to include both individuals and other legal entities, including charities, advocacy groups, and other non-profit corporations—from organizing or participating in a “Nuisance Demonstration” within 100 metres of the property line of “Vulnerable Social Infrastructure”.

21. The definition of a “Nuisance Demonstration” is found in s. 3 of the Anti-Protest By-law and captures any manner of expression that a reasonable person is likely to feel is intimidating. Specifically, “Nuisance Demonstration” is defined as “one or more *Persons*, publicly and in person, protesting against something or expressing views on any issue, in any manner, whether it is intended or not, that is likely, on an objective standard, to cause a reasonable *Person* to be intimidated, meaning that they are either concerned for their safety or security, or they are unable to access *Vulnerable Social Infrastructure*. For greater certainty, intimidation can be caused by, but not only by, actions or expressions that incite hatred, violence, intolerance or discrimination”.

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22. “Vulnerable Social Infrastructure” is defined under s. 3 of the Anti-Protest By-law as meaning a childcare centre, congregate care facility, hospital, school, or place of worship. There are hundreds of such locations throughout Vaughan, including a licensed childcare centre within Vaughan City Hall itself.

23. Section 5 of the Anti-Protest By-law provides Enforcement Officers with sweeping enforcement powers, including the power to enter on land, premises or buildings at any reasonable time for the purpose of carrying out an inspection to determine compliance with a provision of the Anti-Protest By-law or any other by-law, or an Order issued under the Anti-Protest By-law or any other by-law.

24. Section 5(3) of the Anti-Protest By-law further authorizes Enforcement Officers to:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any individual or other legal entity concerning a matter related to the inspection; and
- (d) alone or in conjunction with a person or other legal entity possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection;



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25. Under s. 5(4) of the Anti-Protest By-law, Enforcement Officers are also authorized to require any individual to provide their name, address and identification to the Enforcement Officer, and may use that information in the course of the investigation and to enforce the By-law. The refusal to provide identification upon request constitutes an offence, which is also subject to a fine of up to \$100,000.

26. Section 6 of the Anti-Protest By-law makes it an offence to contravene any provision of the By-law. Upon conviction for a single offence, the person is subject to a minimum fine of \$500, up to a maximum of \$100,000—the largest allowable fine under a by-law permitted by the *Municipal Act*. While, for a continuing offence, the person is subject to a minimum fine of \$500 for each day or part of a day that the offence continues, up to a daily maximum of \$10,000—again the largest fine permitted by the *Municipal Act*—with no cumulative maximum.

#### **D. The By-Law Infringes Section 2(b) of the *Charter***

27. Section 2(b) of the *Charter* guarantees that everyone in Canada is entitled to “freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication”.

28. Section 4 of the By-law seeks to directly target the expressive activity protected by this *Charter* right. The prohibition applies well beyond expression that constitutes violence or threats of violence (which is not protected by s. 2(b)). Rather, the definition of “Nuisance Demonstration” expressly includes “expressing views on any issue, in any manner”, effectively capturing all expressive activity protected by s. 2(b) of the *Charter*. This includes not just political expression—including organizing and participating in political gatherings, which lie at the very core of the

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s. 2(b) guarantee—but also artistic expression, the expression of religious views, the expression of views regarding local businesses and other commercial entities, and even the support or criticism of local sports teams.

29. The Anti-Protest By-law prohibits and makes it an offence subject to a maximum fine of \$100,000 for any individual or legal entity to organize or participate in any expressive activity within 100 metres of “Vulnerable Social Infrastructure” that is likely to cause a reasonable person to feel intimidated. Organizing and participating in protests and other group expressions of views are themselves expressive acts protected by s. 2(b), even where such expressive conduct causes others to feel offended or intimidated. Gathering together to say what one believes is the beating heart of a free and democratic society and cannot be circumscribed because such speech makes others feel uncomfortable. Yet, the Anti-Protest By-law seeks to do precisely that by prohibiting any collective expression that others find to be intimidating. This is a clear and unequivocal infringement of the freedom of expression guarantee under s. 2(b).

30. However, not only does the Anti-Protest By-law seek to directly and unlawfully limit a core constitutional right, but it seeks to chill non-prohibited expression by creating uncertainty regarding whether or not any expressive conduct is permissible and creating vicarious liability for the purportedly “intimidating” speech of others.

31. The definition of “Nuisance Demonstration” captures any protests or other expressive conduct that is likely to cause a person to feel intimidated, regardless of whether the person intends their expression to be intimidating. Moreover, no notice or warning needs to be provided informing the person or others assembled with them that a particular form of expression is potentially

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intimidating, leaving persons in attendance in perpetual limbo as to whether their protest or expression of view is contrary to the By-law.

32. In fact, what exactly constitutes intimidating expression under the Anti-Protest By-law is vague and unclear. The definition of “Nuisance Demonstration” specifies that it is not limited to actions or expressions that incite hatred and violence, but extends more broadly to include any expression that is likely to cause a person to feel concerned for their safety or security, including as a result of expression inciting “intolerance or discrimination”. However, the Anti-Protest By-law provides no guidance regarding what such concerns consist of, including whether any such concern may suffice, no matter how minimal, or whether such concerns must be grounded in some specific threat to their safety or security, as opposed to amorphous feelings of discomfort. Nor does the Anti-Protest By-law provide any limits on when those concerns must be felt, such that a person’s concerns regarding their future safety or security, after the expressive activity has ended, may be sufficient to ground an offence.

33. The Anti-Protest By-law also makes a person or legal entity potentially liable not just for their own expressive activity, but for that of others as well. Section 4 of the Anti-Protest By-law prohibits any individual or legal entity from participating in a “Nuisance Demonstration”. As such, it is not simply an offence to engage in expression that is likely to cause the reasonable person to feel intimidated, but it is an offence to organize or participate in a gathering where any of the other people present engages in such conduct. In effect, all it takes is for one person in a peaceful and otherwise respectful protest to make an expression that is found to be intimidating, and the entire group will have committed an offence and be subject to a fine of up to \$100,000.

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34. The chilling effect of the Anti-Protest By-law on freedom of expression is obvious. It creates a \$100,000 risk any time a person engages in expressive conduct within 100 metres of hundreds of locations within Vaughan. It does not matter what issue the expressive conduct concerns, or the manner in which the expression is made. Nor does it matter whether the person making the expression is alone or part of a group. And, most significantly, a person will not know if their expressive conduct or that of others they are with is likely to cause a person to feel intimidated until after they are charged with an offence.

35. This is a flagrant infringement of the right to freedom of expression guaranteed by s. 2(b) of the *Charter*.

**E. The By-Law Infringes Sections 2(c) and (d) of the *Charter***

36. Sections 2(c) and (d) of the *Charter* guarantee everyone in Canada the right to freedom of peaceful assembly and freedom of association.

37. The Anti-Protest By-law infringes both of these rights by prohibiting individuals from organizing or participating in any public, in person, group protest or demonstration within 100 metres of “Vulnerable Social Infrastructure,” if any of the individuals in attendance engage in expressing views on any issue that are likely to cause a person to be intimidated.

38. As stated above, s. 4 of the Anti-Protest By-law prohibits not just the expressive conduct that is likely to cause intimidation, but also the act of assembling and associating with others in a particular place and engaging in peaceful expressive conduct together. In both its purpose and effects, s. 4 of the Anti-Protest By-law makes it an offence to assemble and associate with any person who engages in expression that is likely to cause intimidation, as vaguely defined. This

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imposes clear restrictions on the rights of individuals to assemble with others within 100 metres of certain locations, as well as the manner in which such assemblies can be conducted.

39. The effect of this prohibition is significant. Given the number of locations that fall within the definition of “Vulnerable Social Infrastructure,” marches in support of any cause will be made more difficult, if not impossible, as the route will need to avoid being within 100 metres of the property line of any such locations. Moreover, it renders assembly at many core political institutions potentially prohibited. For example, Vaughan City Hall includes a licensed childcare centre within it, placing it on the list of “Vulnerable Social Infrastructure”, meaning that gathering to protest or otherwise express one’s views within 100 metres of City Hall is now seemingly prohibited.

40. These are significant infringements of the right to freedom of peaceful assembly and freedom of association, guaranteed by ss. 2(c) and (d) of the *Charter*.

**F. The Infringements of Sections 2(b), (c), and (d) Are Not Justified Under Section 1 of the *Charter***

41. The stated purpose of s. 4 of the Anti-Protest By-law is to protect the health, safety, and well-being of vulnerable individuals by limiting their exposure to “intimidating” expression.

42. However, the prohibition under s. 4 is not rationally connected to its objective, is not minimally impairing of rights under ss. 2(b), (c), or (d) of the *Charter*, and its deleterious effects seriously outweigh any salutary effects.

43. Section 4 of the Anti-Protest By-law is not rationally connected to its objective for the following reasons:

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- (a) First, it not only prohibits expressive conduct that is likely to impair a person's health, safety, and well-being, but goes beyond that to prohibit any expression that is likely to be considered intimidating or may give rise to ill-defined concerns about a person's safety and security;
- (b) Second, the Anti-Protest By-law both prohibits the expressive conduct that is likely to cause a person to feel intimidated—which is itself an unjustified limit on the right to freedom of expression under s. 2(b) of the *Charter*—and prohibits people who are not engaging in such expressive conduct from associating or assembling with any person who is. As such, the Anti-Protest By-law captures individuals whose expressive activity is entirely respectful and poses no risk to the health, safety, or well-being of anyone else; and
- (c) Third, the Anti-Protest By-law punishes the organizers of a protest even where they intend for the protest to be entirely peaceful and respectful and are actively working to achieve that end if even one person at the protest engages in “intimidating” expression. The act of planning and implementing safeguards to help ensure that a protest remains respectful offers no defence to charges under the Anti-Protest By-law, but instead constitutes a prohibited act if the protest or gathering becomes a Nuisance Demonstration through the actions of others. As a result, the Anti-Protest By-law both prohibits and chills efforts to minimize the risk of intimidating conduct occurring at a protest, directly contrary to its purpose.

44. Section 4 is also not minimally impairing of freedom of expression, freedom of peaceful assembly or freedom of association, including because:

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- (a) Existing mechanisms are available to achieve s. 4's objective in a real and substantial manner with significantly less impairment of an individual's s. 2 *Charter* rights, including criminal law offences prohibiting criminal harassment, mischief, intimidation, assault, uttering threats, incitement of hatred, and creating a common nuisance, appropriately tailored common law police powers, and other municipal by-laws (which Vaughan already has, and, in fact amended on the same day it passed the Anti-Protest By-law);
- (b) The threshold for the expression of views to constitute a "Nuisance Demonstration" (likely to cause a reasonable person to be intimidated) is far lower than reasonably necessary to achieve s. 4's objective, including because it goes beyond actions or expressions that incite hatred or violence to also include expression that incites intolerance or discrimination, or any expression that causes vaguely defined concerns for safety and security; and
- (c) The prohibition under s. 4 unnecessarily goes beyond targeting individuals who are themselves engaging in expression that is "intimidating" to also sanction individuals engaging in entirely peaceful and respectful expression at the same protest.

45. The Anti-Protest By-law is not carefully tailored to minimize the impact on a person's s. 2 *Charter* rights, including because:

- (a) The 100-metre bubble zone is unnecessarily large;

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- (b) The range of premises that qualify as “Vulnerable Social Infrastructure” is unnecessarily broad;
- (c) There are no time restrictions on the prohibition under s. 4, meaning “Nuisance Demonstrations” are prohibited within bubble zones even when the “Vulnerable Social Infrastructure” in question is not operating and no vulnerable individuals could reasonably be expected to be frequenting the premises;
- (d) The prohibition under s. 4 does not require any purpose, intention, knowledge, or subjective foresight that a person’s own expression is likely to cause a reasonable person to be intimidated or that the expression of another person at the protest is likely to cause a reasonable person to be intimidated; and
- (e) The lack of any requirement to give notice that a demonstration has been deemed by Enforcement Officers to be a “Nuisance Demonstration” before enforcement actions are taken exacerbates the chilling effect of the Anti-Protest By-law on both expression and peaceful assembly, as the only way for an individual to ensure their own compliance is to avoid engaging in any expressive activity or any assembly whatsoever with others within a bubble zone.

46. As stated above, the Anti-Protest By-law has had and will continue to have a serious chilling effect on the willingness of individuals or other legal entities to organize or participate in demonstrations and other expressive activity in Vaughan, including demonstrations and expressive activity that do not constitute “Nuisance Demonstrations”.



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47. The deleterious effects of s. 4 of the Anti-Protest By-law on ss. 2(b), (c), and (d) rights outweigh any salutary effects. In fact, any such salutary effects are minimal, as the Anti-Protest By-law provides little to no benefit for the safety and well-being of vulnerable individuals over and above what is already provided for under existing law.

48. In contrast, s. 4 has had and will continue to have severe deleterious impacts on the ss. 2(b), (c), and (d) *Charter* rights of people in Vaughan, and anyone who would seek to engage in expressive activity and peaceful assemblies within Vaughan, both by the direct application of s. 4 and through its chilling effect.

49. The severe penalties under the Anti-Protest By-law exacerbate its deleterious impacts on ss. 2(b), (c), and (d) rights, and its chilling effect in particular. The spectre of a \$100,000 fine is a steep deterrent to any individual seeking to engage in expressive activity of any kind within 100 metres of hundreds of locations in Vaughan that fall within the definition of “Vulnerable Social Infrastructure”, including those individuals who fully intend to and do conduct themselves in a peaceful and respectful manner. The mandatory minimum fines of \$500 and the \$750 administrative penalty for contraventions will be particularly onerous, if not prohibitive, for low-income individuals, exacerbating the chilling effect of the Anti-Protest By-law’s prohibitions on those experiencing poverty.

50. The sanctions regime under the Anti-Protest By-law, including the availability of a \$100,000 fine, creates a significant, potentially existential risk to organizations, including civil society organizations and labour unions, that would seek to organize peaceful demonstrations but are unwilling or unable to abide the risk of it being deemed a “Nuisance Demonstration”.

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51. The Anti-Protest By-law places significant restrictions on political protest—activity that falls at the very core of the freedom of expression and peaceful assembly guarantees. Even speech that others feel to be disruptive, uncomfortable, or offensive still has value in a free and democratic society. Protest by its nature is often intended to be “intimidating” because it brings people face-to-face with those who strongly disagree with them and who are using their collective voices to apply pressure to get them to change their views or conduct. This confrontation is not merely something people in society must “put up with” as a consequence of living in a democracy. It is the very essence of what it means to live in such a society, as it is through exposure to opposing ideas, including views that some may find abhorrent, that we further our search for truth and justice, evolve our understandings, and affirm our values.

#### **G. The By-Law Infringes Section 8 of the *Charter***

52. Pursuant to s. 8 of the *Charter*, everyone has the right to be secure against unreasonable search and seizure.

53. Section 5(1) of the Anti-Protest By-law authorizes Enforcement Officers to enter onto land, premises or buildings for the purposes of carrying out an inspection to determine compliance with a provision of the By-law, or any other by-law, or compliance with an Order under the By-law.

54. On its face, s. 5(1) authorizes a search within the meaning of s. 8 of the *Charter*, including by authorizing Enforcement Officers to enter onto land, premises or buildings where an individual may have a reasonable expectation of privacy.

55. Section 5(3) of the By-law on its face authorizes Enforcement Officers to conduct searches and seizures within the meaning of s. 8 of the *Charter*, including by authorizing Enforcement

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Officers to inspect and remove any document or thing relevant to the inspection, and to compel any person to produce documents or information relevant to the inspection.

56. Section 5(4) of the By-law also compels individuals to provide their name, address, and identification upon request, which constitutes a search.

57. The search and seizure powers under ss. 5(1), (3), and (4) are unreasonable and infringe s. 8 of the *Charter*.

58. The searches and seizures authorized under s. 5 can be extraordinarily intrusive, including authorizing Enforcement Officers to enter into any premises and remove for inspection any document or thing. Further, the methods authorized by s. 5 of the Anti-Protest By-law have the potential to capture a significant number of individuals who have done nothing wrong.

59. To make matters worse, there are virtually no restrictions or procedural safeguards on the ability of Enforcement Officers to exercise the search and seizure powers under s. 5 of the Anti-Protest By-law. The only express limit on these search and seizure powers is the requirement that the power of entry under s. 5(2) may only be exercised “at a reasonable time” and that the powers must be exercised for the purposes of an inspection to determine compliance with the Anti-Protest By-law or any other by-law, or an Order under the By-law or any other by-law. There is no requirement for prior authorization of any kind, nor is there any requirement to provide notice before exercising the powers. Moreover, there is no minimum threshold that must be met before the powers of entry can be exercised under s. 5(1) or the power to compel a person to provide their name, address, and identification, while the power to compel production of, inspect, or remove for inspection any document or thing may be exercised whenever the threshold of relevance is met.

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60. The search and seizure powers are not narrowly targeted and may be exercised in full against any legal person without limitation, regardless of whether or not there is any basis to believe that the person in question has contravened the Anti-Protest By-law.

61. There is little to no judicial oversight over the exercise of these search and seizure powers, including for individuals who are subjected to a search or seizure but are not themselves the subject of charges under the Anti-Protest By-law.

62. The search and seizure powers under s. 5 of the Anti-Protest By-law fail to strike a constitutionally acceptable balance between its objectives and the privacy interests of the people of Vaughan.

#### **H. The By-Law Infringes Section 9 of the *Charter***

63. Under s. 9 of the *Charter*, everyone has the right not to be arbitrarily detained or imprisoned.

64. In addition to infringing s. 8 of the *Charter*, the enforcement powers under s. 5 of the Anti-Protest By-law infringe s. 9 of the *Charter*.

65. Section 9 of the Anti-Protest By-law authorizes Enforcement Officers to detain any individual by issuing directions to produce for inspection documents or things, or to provide information (including the individual's name, address, and identification) with which the individual is legally obligated to comply. Refusal to comply with a direction to produce identification, or hindering or obstructing an Enforcement Officer in the exercise of their duties is an offence under s. 6 of the By-law.

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66. The detention powers unauthorized by s. 9 are arbitrary and unreasonable. As noted above, there are virtually no limitations or procedural safeguards on the exercise of the detention power. An Enforcement Officer may stop and issue directions to any individual, anywhere in Vaughan, for the purposes of assessing compliance with the Anti-Protest By-law, regardless of whether there is any basis to believe that the individual has contravened the By-law, or even whether there is any basis to believe that the individual has information about the contravention of a by-law by someone else.

**I. The Infringements of Sections 8 and 9 Are Not Justified Under Section 1 of the *Charter***

67. The purpose of the search, seizure, and detention powers of the Anti-Protest By-Law is to facilitate the enforcement of s. 4 of the By-law.

68. The limitations these search, seizure, and detention powers impose on ss. 8 and 9 of the *Charter* are not minimally impairing or proportionate in their effects.

69. The enforcement powers under s. 5 of the Anti-Protest By-law are far more impairing of an individual's ss. 8 and 9 *Charter* rights than is reasonably necessary to achieve its objective. As stated above, there are no reasonable restrictions or preconditions on their exercise, such as a minimum threshold of grounds to believe that an individual has contravened or is contravening the Anti-Protest By-law before an individual can be detained and/or compelled to produce for inspection documents or things in which they have a reasonable expectation of privacy. Nor is the power restricted geographically or temporally, such as only requiring individuals within a bubble zone to produce identification.

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70. The deleterious effects of s. 5 of the Anti-Protest By-law on the rights guaranteed by ss. 8 and 9 of the *Charter* outweigh its salutary effects.

71. The complete absence of restrictions on the exercise of the enforcement powers subjects every individual in Vaughan, anywhere in Vaughan, to the spectre of being suddenly detained without grounds and compelled to provide identification under threat of sanction, or to have taken from them without their consent any document or thing in their possession relevant to ascertaining compliance with the Anti-Protest By-law, including documents or things containing deeply personal and sensitive information going to that person's biographical core.

#### **J. Remedy**

72. Section 4 of the By-law infringes ss. 2(b), (c), and (d) of the *Charter* in a manner that is not justified under s. 1. As the remaining provisions of the By-law all relate to the enforcement of s. 4, the entirety of the By-law must be declared of no force or effect under s. 52 of the *Constitution Act, 1982* and/or quashed pursuant to s. 273 of the *Municipal Act*.

73. Section 5 of the By-law infringes ss. 8 and 9 of the *Charter* in a manner that is not justified under s. 1 and must be declared of no force or effect under s. 52 of the *Constitution Act, 1982* and/or quashed pursuant to s. 273 of the *Municipal Act*.

#### **K. Other Grounds**

74. Sections 2(b), (c), and (d), 8, and 9 of the *Charter*;

75. Section 52 of the *Constitution Act, 1982*;

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- 76. Section 273 of the *Municipal Act, 2001*, S.O. 2001, c. 25;
- 77. Rule 14.05 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and
- 78. Such further and other grounds as counsel may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING  
OF THE APPLICATION:**

- 79. Affidavit(s), to be sworn; and
- 80. Such further and other evidence as counsel may advise and this Honourable Court may permit.

June 23, 2025

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and

CORPORATION OF  
THE CITY OF VAUGHAN  
Respondent

Court File No.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at NEWMARKET

**NOTICE OF APPLICATION**

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