

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF EMO and HAROLD MCQUAKER

Applicants

– and –

BORDERLAND PRIDE, the NORTHERN ONTARIO PRIDE NETWORK,
DOUGLAS W. JUDSON, KATHRYN L. SHOEMAKER, HUMAN RIGHTS
TRIBUNAL OF ONTARIO, HARROLD BOVEN, and WARREN TOLES

Respondents

**FACTUM OF THE INTERVENER,
FIERTÉ CANADA PRIDE**

May 14, 2026

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PART I – OVERVIEW

1. Fierté Canada Pride (“FCP”) intervenes in this judicial review to assist the Court in understanding the impacts of this case on marginalized 2SLGBTQIA+ people in Ontario, particularly those living in remote and rural communities.
2. As the national association of Pride organizations in Canada, FCP represents the interests of 2SLGBTQIA+ organizations and individuals from every province and territory in Canada. The organizations and individuals represented by FCP have personal characteristics protected under the *Human Rights Code* (“Code”) which include sexual orientation, gender identity, and gender expression.
3. The Court’s decision on this judicial review will not only affect the parties to the litigation. Rather, the present case raises questions of statutory interpretation and the balancing of *Charter* values that will impact *Code*-protected individuals and organizations across Ontario.
4. FCP’s intervention will focus on two key issues:
 - a. Standing: Organizations representing *Code*-protected individuals, including local Pride organizations, have actionable rights to equal treatment without discrimination. Recognizing standing for such organizations is necessary to achieve the *Code*’s remedial objectives.
 - b. Weighing Charter Values: To the extent a municipality or municipal officeholder asserts that the *Charter* value of free expression is engaged, that value must be assessed alongside the countervailing *Charter* value of equality and non-discrimination and the statutory objectives of the *Code*.

PART II – SUMMARY OF FACTS

5. FCP agrees with the statement of facts set out in the factum of the Respondent, Borderland Pride.
6. By way of background, FCP is an independent, non-profit, non-governmental organization with a membership including 65 Pride organizations from across the country. Within its mandate, FCP works to support Pride organizations and organizers in rural and remote communities, where the need for 2SLGBTQIA+ visibility, inclusion, and safety is most acute. FCP convenes a bi-monthly capacity-building meeting for organizers of Pride events in rural and remote communities. FCP also distributes micro-grant and federal funding to rural Prides.
7. FCP's submissions in this matter are rooted in the organization's interest in the protective ambit of the *Code* and the *Charter* as they relate to the rights and interests of 2SLGBTQIA+ persons and the organizations that represent them.

PART III – LAW AND ARGUMENT

8. FCP makes two submissions in this intervention:
 - a. Submission 1: Organizations representing *Code*-protected individuals, including local Pride organizations, have actionable rights under the *Code* to equal treatment without discrimination.
 - b. Submission 2: In administrative decision-making involving the *Code*, the *Charter* value of free expression must be assessed alongside the countervailing *Charter* value of equality and non-discrimination and the statutory objectives of the *Code*.

A. Organizations Have Actionable Rights Under the Code

9. Organizations constituted to represent the interests of *Code*-protected individuals have standing to bring applications under the *Code* on their own behalf.

10. In the decision below, the Tribunal applied the well-established principle that organizations like Borderland Pride have standing under s. 34(1) of the *Code*. This interpretation of the *Code* is supported by: (a) the clear statutory definition of “person” under the *Code*, (b) the longstanding case law interpreting “person” under the *Code*, and (c) the statutory objectives of the *Code* to prevent and eliminate discrimination.

1. The Statutory Language is Clear and Unambiguous

11. The statutory language of the *Code* expressly permits local Pride organizations like Borderland Pride to bring applications to the Tribunal on their own behalf. Pride organizations clearly meet the statutory definition of “person” in the *Code*.

12. The *Code* provides, at s. 34(1), that any “person” whose rights have been infringed has standing to bring an application to the Tribunal:

34(1) If a person believes that any of his or her rights under Part I have been infringed, the person may apply to the Tribunal for an order under section 45.¹

13. In turn, s. 46 of the *Code* defines “person” expansively to include not only human persons, but also corporations, unincorporated associations, trade unions, municipalities, and other non-human persons:

46 In this Act,

[...]

“person” in addition to the extended meaning given it by Part VI (Interpretation) of the *Legislation Act*, 2006, includes an employment agency, an employers’

¹ *Human Rights Code*, RSO 1990, c. H. 19 [the “*Code*”] at [s. 34\(1\)](#).

organization, an unincorporated association, a trade or occupational association, a trade union, a partnership, a municipality, a board of police commissioners [...]²

14. The *Legislation Act*, referenced at s. 46 of the *Code*, confirms that “‘person’ includes a corporation.”³

15. In drafting the *Code*, the intent of the legislature is clear and unambiguous: the definition of “person” in the *Code* is expansive and confers on organizations standing to bring an application on their own behalf to enforce rights under the *Code*.

16. Given that the *Code* confers protection on the basis of protected characteristics, an organization bringing an application (much like an individual) is required to identify the protected characteristics that are engaged by the application.

17. Pride organizations – which are constituted to advance the interests of individuals identified by sexual orientation, gender identity, and gender expression – are precisely the type of organizations that have standing to bring applications under the *Code*.

2. Established Case Law Recognizes Standing of Organizations

18. The Tribunal and the Courts have long recognized that organizations have standing to bring applications under the *Code*.

19. As early as 2002, in *Brockie v. Brillinger (No. 2)*, the Divisional Court recognized that the *Code* protects not only individual human beings, but also the “organizations that they form to help them achieve the *Code*’s objectives.”⁴ In *Brockie*, this Court considered and rejected arguments similar to those raised by the Applicants, including the idea that

² *Code* at [s. 46](#).

³ *Legislation Act*, 2006, SO 2006, c 21, Sch F at [s. 87](#).

⁴ *Brockie v. Brillinger (No. 2)*, 2002 CanLII 63866 (ON SCDC) [*“Brockie”*] at [paras. 26, 32](#).

“person” should be given a narrow reading.⁵

20. While the *Code* has undergone amendments since *Brockie*, the expansive definition of “person” has remained intact. Notably, despite a significant overhaul to Ontario’s human rights system in 2008 to provide for a direct-access model, the legislature maintained an expansive definition of “person” that is substantially identical to the provision considered in *Brockie*.⁶ In other words, despite being aware of how courts have interpreted “person” to include organizations, the legislature chose not to amend the *Code* to provide otherwise.

21. The legislature’s decision to allow persons to bring applications on behalf of other persons whose rights have been infringed, as set out in s. 34(5) of the *Code*, did not override the decision in *Brockie* and did not narrow the clear statutory definition of “person” in the *Code*.

22. Moreover, the Tribunal itself has consistently applied the statutory definition of “person” in s. 46 of the *Code* to determine whether an applicant has standing to bring an application. This line of jurisprudence has resulted in a close reading of s. 46 of the *Code*, finding that certain entities – like corporations and unincorporated associations – have standing to bring applications at the Tribunal, while other entities – like estates, for example – do not because they are not listed in the statutory definition of “person”.⁷

⁵ *Brockie* at [para. 26](#).

⁶ *Brockie* at [paras. 22, 26](#).

⁷ See e.g., *Pride Hamilton v. Hamilton Police Services Board*, 2022 HRTO 1427 at [paras. 7-12](#) (finding that a Pride organization had standing to bring an application); *Lawyer Wellness Association v. Law Society of Ontario*, 2025 HRTO 2144 at [para. 19](#) (finding that an organization has standing to bring an application if it can demonstrate that its *Code* rights have been infringed); *Sutherland v. Timmins and District Hospital*, 2025 HRTO 1178 at [paras. 11-12](#) (finding that an estate does not have standing because it is not included in the definition of “person” set out in s. 46).

23. There is no principled basis to depart from the Divisional Court's finding in *Brockie*. The legislature clearly contemplated the possibility that a Tribunal application may be brought by any person – including a Pride organization – that alleges their *Code* rights have been violated.

3. Denying Standing to Pride Organizations is Contrary to the *Code*'s Statutory Objectives

24. The *Code*'s quasi-constitutional status and the remedial nature of the legislation require the Court to apply a broad and liberal interpretation to advance the *Code*'s statutory objectives of preventing and eliminating discrimination.⁸

25. Denying Pride organizations standing to assert their rights under the *Code* would have the perverse effect of restricting the *Code*'s protective ambit and insulating discriminatory actors from scrutiny – all in a manner inconsistent with the statutory objectives of the *Code*.

26. Pride organizations, by their very nature, are often tasked with requesting services for the broader benefit of the 2SLGBTQIA+ community. For instance, in organizing a Pride celebration, a Pride organization may have to request any number of municipal services, including proclamations, flag raisings, event permits, noise by-law exemptions, policing and emergency services, road closures, food and liquor licences, and vendor permits.

27. If Pride organizations were unable to assert rights under the *Code*, municipalities could deny these services on discriminatory grounds, resulting in adverse impacts on the

⁸ See: *Tranchemontagne v. Ontario (Director, Disability Support Program)*, 2006 SCC 14 at [para. 33](#); see also: *Legislation Act*, 2006, SO 2006, c 21, Sch F at [s. 64](#).

2SLGBTQIA+ community. In such a scenario, there would be no recourse to address this discrimination because there would be no suitable individual applicant with standing under s. 34(1) of the *Code*, as the Pride organization itself would be the proper entity in a service relationship with the municipality.

28. This is evident in the present case. As the Tribunal found, only Borderland Pride was in a direct service relationship with the Township of Emo (“Emo”) because it was responsible for requesting the proclamation.⁹ Accordingly, the Tribunal dismissed the applications brought by the individual applicants and the Northern Ontario Pride Network.¹⁰ Without recognizing Borderland Pride’s standing, there would have been no basis for the Tribunal to consider the allegations on their merits, and the discriminatory actors would have been insulated from any scrutiny or accountability.

29. Particularly in rural communities like Emo, organizations like Borderland Pride play a pivotal role in protecting the rights of a small minority community. Legal accountability for discriminatory conduct is sometimes only achievable through Pride organizations, the very vehicles the 2SLGBTQIA+ community have constituted to advance and protect its shared interests.

B. The Appropriate Treatment of Free Expression in the Context of the Human Rights Code

30. In their factums filed in this judicial review, neither Applicant has asserted a fully developed argument about how the *Charter* value of free expression was meant to operate in the decision below.

⁹ *Borderland Pride v. Corporation of the Township of Emo*, 2024 HRTO 1651 [“*Borderland*”] at [para. 17](#).

¹⁰ *Borderland* at [para. 17](#).

31. However, the intervener Canadian Constitution Foundation (“CCF”) has suggested, in its intervention materials, that: (a) the Tribunal was required to consider the free expression rights of the Mayor, and (b) the Mayor could only be held liable under the *Code* if such speech rose to the level of “inciting others to vilify or detest the humanity of LGBTQ people”.

32. To the extent this Court chooses to consider CCF’s submission, FCP submits:

- a. Any consideration of the *Charter* value of free expression must be weighed against: (i) the countervailing s. 15(1) value of equality and non-discrimination and (ii) the statutory objectives of the *Code*; and
- b. A disparaging statement by a municipal officeholder in the course of denying a service can be relied upon by the Tribunal to establish discrimination under the *Code* and can itself constitute discrimination. The statement does not need to rise to the level of hate speech to establish liability under the *Code*.

1. The *Charter* Value of Free Expression Must be Balanced Against the *Charter* Value of Equality and the Statutory Objectives of the *Code*

33. To the extent this Court is called to apply the *Charter* value of free expression of municipal officeholders, this *Charter* value must be assessed in light of: (a) the minimal impact of the Tribunal’s decision on the free expression interests of the Mayor, (b) the countervailing s. 15(1) *Charter* value of equality and non-discrimination, and (c) a consideration of the statutory objectives of the *Code* to prevent and eliminate discrimination.

(a) Impact on Free Expression is Limited

34. To the extent the free expression interests of the Mayor are engaged by the Tribunal's decision, any impact is minimal. The decision below does not censure political debate. Instead, it only finds that elected officeholders are not unfettered in their ability to make discriminatory comments in the course of denying a service to a protected group.

35. The Tribunal carefully considered the debate that unfolded in the municipal council meeting respecting Borderland Pride's proclamation requests. It reasonably found that political debate, including the casting of a "nay" vote, is not inherently discriminatory.¹¹

36. Nothing in the Tribunal's decision fetters the ability to engage in political debate; it simply confirms that service providers (including municipalities) cannot deny a service on discriminatory grounds, and that a patently discriminatory comment made by a service provider can be evidence that the service was denied for discriminatory reasons.

(b) The Countervailing Charter Value of Equality and Non-Discrimination

37. Municipal officeholders are not the only stakeholders with a *Charter* interest engaged by the decision below. Rather, members of the 2SLGBTQIA+ community in Emo have an interest in being treated equally and without discrimination, as protected by s. 15(1) of the *Charter*.

38. As the Supreme Court of Canada noted in *Trinity Western University v. Law Society of Upper Canada*, public actors like regulators (and by extension, human rights tribunals) have an "overarching interest in protecting the values of equality and human

¹¹ *Borderland* at [paras. 41-56](#).

rights in carrying out its functions.”¹²

39. In addition to constituting discrimination under the *Code*, the impugned actions of the Mayor and Emo are contrary to the values that underpin s. 15(1) of the *Charter*. The impugned actions clearly denied a benefit to Emo’s 2SLGBTQIA+ community, which had the effect of reinforcing, perpetuating, or exacerbating the disadvantage experienced by 2SLGBTQIA+ people.¹³

40. As the Tribunal aptly noted, public figures making discriminatory statements have a significant adverse effect on the targeted population, and this impact came to bear on the 2SLGBTQIA+ residents of Emo.¹⁴

41. In the present case, the values underpinning s. 15(1) of the *Charter* are clearly engaged. When balancing the competing s. 2(b) and s. 15(1) *Charter* values, the Court must be mindful that the *Charter* was drafted with the clear intention of protecting people from the actions of the state, including municipalities and officeholders.¹⁵ It would be perverse to allow the interests of state actors to override the *Charter* protections afforded to a vulnerable group of people who are subject to state action.

(c) *Balancing Charter Values Against the Statutory Objectives of the Code*

42. When assessing the Mayor’s *Charter* interest in free expression, this interest must be weighed alongside the statutory objectives of the *Code*. FCP submits that the

¹² *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33 [“*Trinity*”] at [para. 21](#). See also *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12 at [para. 47](#).

¹³ See e.g., *Quebec (Attorney General) v. Kanyinda*, 2026 SCC 7 at [para. 48](#).

¹⁴ *Borderland* at [paras. 73-75](#).

¹⁵ See: *The Constitution Act, 1982*, Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 at [s. 32](#); *Godbout v. Longueuil (City)*, [1997] 3 S.C.R. 844 at [paras. 50-51](#).

Tribunal's decision clearly "reflects a proportionate balance between the *Charter* protections at play and the relevant statutory mandate."¹⁶

43. The statutory objectives of the *Code* are enumerated in the *Code*'s preamble, and include: (a) recognizing the inherent dignity and the equal and inalienable rights of all members of the human family, (b) providing for equal rights and opportunities without discrimination to all people in Ontario, and (c) creating a climate of understanding and mutual respect for the dignity and worth of each person.¹⁷

44. The Tribunal is constituted as an expert administrative body to adjudicate applications under s. 34(1) of the *Code* in accordance with these statutory objectives. It is empowered to determine all questions of fact or law that arise in any application before it,¹⁸ with a view towards preventing, deterring, and eliminating discrimination in Ontario.

45. Given this statutory context, the Tribunal was required to make factual findings about whether the impugned actions of the Applicants were discriminatory under the *Code*. Since the Council's vote and the Mayor's statements were alleged to be discriminatory, the Tribunal could not carry out its statutory mandate without considering whether expressive content violated the *Code*.

46. The Court in this case can draw parallels to the balancing exercise in the Supreme Court's decision in *Law Society of British Columbia v. Trinity Western University*. In that case, the Supreme Court of Canada considered whether it was reasonable for the Law Society of British Columbia ("LSBC") not to accredit Trinity Western University's ("TWU's")

¹⁶ *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 ["LSBC v. TWU"] at [para. 59](#).

¹⁷ *Code* at [preamble](#).

¹⁸ *Code* at [s. 39](#).

law school because of a mandatory covenant that disallowed same-sex sexual activity. The Court weighed the limitation of the s. 2(c) rights of evangelical Christians at TWU against the impacts of the mandatory covenant on the 2SLGBTQIA+ community and the statutory objectives of the LSBC. The Court held that the LSBC's decision not to accredit TWU was reasonable because: (a) the impact on the claimants' s. 2(c) rights was minor,¹⁹ (b) the LSBC's statutory objectives included "preserving and protecting the rights and freedoms of all persons",²⁰ and (c) TWU's mandatory covenant posed risk of significant harm to LGBTQ people.²¹

47. In light of these considerations, the Court concluded that the LSBC's decision was reasonable. The Court noted that the minor limitations on *Charter* rights "must be understood in light of the reality that conflict between the pursuit of statutory objectives and individual freedoms may be inevitable" and some minor limitations on *Charter* rights are "often an unavoidable reality of a decision-maker's pursuit of its statutory mandate."²²

48. In the present case, the Tribunal was expressly required by its governing statute to decide whether the impugned expressive statements violated the *Code*. In the pursuit of the *Code*'s statutory objectives, it is inevitable that a human rights tribunal adjudicator may need to determine whether expressive content violates the *Code*. Such a determination does not render a decision unreasonable.

¹⁹ *LSBC v. TWU* at [para. 87](#).

²⁰ *LSBC v. TWU* at [para. 92](#).

²¹ *LSBC v. TWU* at [paras. 96-98](#).

²² *LSBC v. TWU* at [para. 100](#).

2. A Discriminatory Statement by a Service Provider Does Not Need to Rise to the Level of Inciting Hatred to Establish Liability Under the Code

49. Contrary to the CCF's suggestion in its factum, a discriminatory statement made by a service provider does not need to rise to the extreme level of "inciting others to vilify them or detest their humanity" in order to attract liability under the *Code*.

50. The Court of Appeal has repeatedly confirmed that for liability to be established under the *Code*, an applicant is only required to show that: (a) they have a protected characteristic, (b) they experienced an adverse impact within a social area protected under the *Code*, and (c) the protected characteristic was a factor in the adverse impact.²³ This test is based on the Supreme Court of Canada's own test for discrimination within a social area set out in *Moore*.²⁴

51. Under this established legal test, a discriminatory statement can attract liability under the *Code* even if it does not rise to the level of hate speech or inciting hatred. If the statement is made in the context of one of the five protected social areas of the *Code* (i.e. services, employment, accommodations, etc.) and targets a *Code*-protected characteristic, the statement attracts liability under the *Code*. Liability can be established either because: (a) the statement amounts to discrimination in itself, or (b) the statement is evidence of discriminatory treatment. For example, a caterer who tells a couple that they "don't do interracial weddings" can be held liable because their statement is discriminatory in itself and the statement is evidence that a service was denied based on a protected characteristic.

²³ *Peel Law Association v. Pieters*, 2013 ONCA 396 at [paras. 53-62](#); *Imperial Oil Limited v. Haseeb*, 2023 ONCA 364 at [paras. 50-51](#).

²⁴ *Moore v. British Columbia (Education)*, 2012 SCC 61 at [para. 33](#).

52. The reason for this is that service recipients, employees, and tenants are vulnerable to (and dependent on) service providers, employers, and landlords in respect of essential aspects of daily life. The Ontario legislature has deemed it necessary to protect persons from discrimination in these essential social areas. The Tribunal and the Courts have long recognized these relationships as being of sufficient proximity to confer broad rights to be free from discrimination within these essential social areas.²⁵

53. In its submissions, the CCF appears to suggest a complete overhaul of the established human rights regime in Ontario by importing case law that have no application to the *Code*, including *Whatcott* and *Ward*.²⁶ These cases are readily distinguishable.

54. In both cases, the Court was dealing with human rights protections that were not defined by social areas, but rather: (a) a general rule against publishing ridiculing and belittling comments (*Whatcott*),²⁷ and (b) a general right to safeguard of one's dignity (*Ward*).²⁸ In effect, the Court was dealing with unbounded human rights duties owed to legal strangers, namely: (a) between a person handing out pamphlets and the general public (*Whatcott*), and (b) between a stand-up comedian and a third-party singer (*Ward*).

55. In limited cases involving unbounded human rights duties owed to legal strangers, the Supreme Court has been prepared to apply some limits to these human rights

²⁵ See for e.g. *British Columbia Human Rights Tribunal v. Schrenk*, 2017 SCC 62 at [para. 13](#) (confirming that the employment protection in the BC *Human Rights Code* protects employees not only from discriminatory harassment by their superiors but also extends to co-workers and others); see also *Swain v. MBM Intellectual Property Law LLP*, 2015 HRTO 1011 at [para. 15](#) (confirming that the contracts protection in the Ontario *Code* is not restricted to only contract formation but also extends to the performance of a contract and its termination).

²⁶ *Saskatchewan (Human Rights Commission) v. Whatcott*, 2013 SCC 11 ["*Whatcott*"] at [para. 12](#); *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43 ["*Ward*"] at [para. 23](#).

²⁷ *Whatcott* at [para. 12](#).

²⁸ *Ward* at [para. 23](#).

protections. However, nothing in either decision suggests that the Court meant to elevate the standard to prove discrimination in Ontario for comments made in the context of a protected social area, such as services, employment, and accommodation, nor did the Court intend to abandon its well-established test for discrimination set out in *Moore*.

56. If the CCF's position were adopted, it would completely eviscerate longstanding protections for service recipients, employees, and tenants to seek relief for comments made by service providers, employers, and landlords that are discriminatory in nature but do not rise to the extreme level of hate speech and vilification.

57. Nothing in these cases was meant to herald open season for discriminatory speech in services, employment, and accommodation.

PART IV – CONCLUSION

58. FCP urges this Court to affirm that Pride organizations have standing to bring applications under the *Code*, and that the Tribunal's findings on discrimination were reasonable.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of May, 2026.



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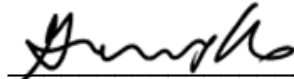
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CERTIFICATE OF ESTIMATED TIME FOR ARGUMENT

I, Gregory Ko, counsel for the intervener, Fierté Canada Pride, certify the following:

- I estimate that 10 minutes will be required for oral argument.
- I am satisfied as to the authenticity of every authority cited in this factum.

May 14, 2026



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SCHEDULE “A” – LIST OF AUTHORITIES

1. [*Brockie v. Brillinger \(No. 2\)*, 2002 CanLII 63866 \(ON SCDC\)](#)
2. [*Pride Hamilton v. Hamilton Police Services Board*, 2022 HRT0 1427](#)
3. [*Lawyer Wellness Association v. Law Society of Ontario*, 2025 HRT0 2144](#)
4. [*Sutherland v. Timmins and District Hospital*, 2025 HRT0 1178](#)
5. [*Tranchemontagne v. Ontario \(Director, Disability Support Program\)*, 2006 SCC 14](#)
6. [*Borderland Pride v. Corporation of the Township of Emo*, 2024 HRT0 1651](#)
7. [*Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33](#)
8. [*Loyola High School v. Quebec \(Attorney General\)*, 2015 SCC 12](#)
9. [*Quebec \(Attorney General\) v. Kanyinda*, 2026 SCC 7](#)
10. [*Godbout v. Longueuil \(City\)*, \[1997\] 3 S.C.R. 844](#)
11. [*Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32](#)
12. [*Peel Law Association v. Pieters*, 2013 ONCA 396](#)
13. [*Imperial Oil Limited v. Haseeb*, 2023 ONCA 364](#)
14. [*Moore v. British Columbia \(Education\)*, 2012 SCC 61](#)
15. [*British Columbia Human Rights Tribunal v. Schrenk*, 2017 SCC 62](#)
16. [*Swain v. MBM Intellectual Property Law LLP*, 2015 HRT0 1011](#)
17. [*Saskatchewan \(Human Rights Commission\) v. Whatcott*, 2013 SCC 11](#)
18. [*Ward v. Quebec \(Commission des droits de la personne et des droits de la jeunesse\)*, 2021 SCC 43](#)

SCHEDULE “B” – LIST OF STATUTES

[Human Rights Code, RSO 1990, c H.19](#) at Preamble, ss. 34(1), 34(5), 39, 46

Preamble

Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And Whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;

And Whereas these principles have been confirmed in Ontario by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in Ontario;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

[...]

Application by person

34 (1) If a person believes that any of his or her rights under Part I have been infringed, the person may apply to the Tribunal for an order under [section 45.2](#),

(a) within one year after the incident to which the application relates; or

(b) if there was a series of incidents, within one year after the last incident in the series. [2006, c. 30, s. 5](#).

[...]

Application on behalf of another

(5) A person or organization, other than the Commission, may apply on behalf of another person to the Tribunal for an order under [section 45.2](#) if the other person,

- (a) would have been entitled to bring an application under subsection (1); and
- (b) consents to the application. [2006, c. 30, s. 5](#).

[...]

Powers of Tribunal

39 The Tribunal has the jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any application before it. [2006, c. 30, s. 5](#).

[...]

Definitions, general

46 In this Act,

[...]

“person” in addition to the extended meaning given it by Part VI (Interpretation) of the [Legislation Act, 2006](#), includes an employment agency, an employers’ organization, an unincorporated association, a trade or occupational association, a trade union, a partnership, a municipality, a board of police commissioners established under the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, and a police service board established under the [Community Safety and Policing Act, 2019](#); (“personne”)

[...]

[Legislation Act, 2006, SO 2006, c 21, Sch F](#) at ss. 64, 87

Rule of liberal interpretation

64 (1) An Act shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects. [2006, c. 21](#), Sched. F, s. 64 (1).

Same

(2) Subsection (1) also applies to a regulation, in the context of the Act under which it is made and to the extent that the regulation is consistent with that Act. [2006, c. 21](#), Sched. F, s. 64 (2).

[...]

Definitions

87 In every Act and regulation,

[...]

“person” includes a corporation; (“personne”)

[...]

[Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 \(UK\), 1982, c 11](#) at ss. 2, 15

[...]

Fundamental Freedoms

Fundamental freedoms

2 Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

[...]

Equality Rights

Equality before and under law and equal protection and benefit of law

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Affirmative action programs

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. [\(85\)](#)

[...]

[The Constitution Act, 1982, Schedule B to the Canada Act 1982 \(UK\), 1982, c 11 at s. 32](#)

Application of Charter

32 (1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Exception

(2) Notwithstanding subsection (1), [section 15](#) shall not have effect until three years after this section comes into force.

**THE CORPORATION OF THE
TOWNSHIP OF EMO et al.**

-and-

BORDERLAND PRIDE et al.

Applicants

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

PROCEEDING COMMENCED AT
THUNDER BAY

**FACTUM OF THE INTERVENER,
FIERTÉ CANADA PRIDE**

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