



Human Rights Tribunal of Ontario

Application under Section 34 of the *Human Rights Code* (Form 1)

(Disponible en français)

www.hrto.ca

How to Apply to the Human Rights Tribunal of Ontario

Before you start:

1. Read the questions and answers below to find out if the Human Rights Tribunal of Ontario (the Tribunal) has the ability to deal with your Application.
2. Download and read the Applicant's Guide from the Tribunal's web site www.hrto.ca. If you need a paper copy or accessible format, contact us:

Human Rights Tribunal of Ontario

655 Bay Street, 14th floor

Toronto, Ontario

M7A 2A3

Phone: 416-326-1312 Toll-free: 1-866-598-0322

Fax: 416-326-2199 Toll-free: 1-866-355-6099

TTY: 416-326-2027 Toll-free: 1-866-607-1240

Email: HRTO.Registrar@ontario.ca

Website: www.hrto.ca

The Tribunal has other guides and practice directions to help all parties to an Application understand the process. Download copies from the Tribunal's website or contact us.

3. Complete each section of this Application form. As you fill out each section, refer to the instructions in the Applicant's Guide.

Getting help with your application

For free legal assistance with the application process, contact the Human Rights Legal Support Centre.

Website: www.hrlsc.on.ca, Mail: 180 Dundas Street West, 8th floor, Toronto, ON M7A 0A1, Tel: 416-597-4900, Toll-free 1-866-625-5179, Fax: 416-597-4901, Toll-free 1-866-625-5180, TTY 416-597-4903, Toll-free 1-866-612-8627.

Questions About Filing an Application with the Tribunal

The following questions and answers are provided for general information. They should not be taken as legal advice or a determination of how the Tribunal will decide any particular application. For legal advice and assistance, contact the Human Rights Legal Support Centre.

Who can file an Application with the Tribunal?

You can file an Application if you believe you experienced discrimination or harassment in one of the five areas covered by the Ontario Human Rights Code (the Code). The Code lists a number of grounds for claiming discrimination and harassment. To find out if you have grounds for your complaint under the Code, read the Applicant's Guide.

What is the time limit for filing an Application?

You can file an Application up to one year after you experienced discrimination or harassment. If there was a series of events, you can file up to one year after the last event. In some cases, the Tribunal may extend this time.



Human Rights Tribunal of Ontario

Application under Section 34 of the Human Rights Code (Form 1)

The discrimination happened outside Ontario. Can I still apply?

In most cases, no. To find out about exceptions, contact the Human Rights Legal Support Centre.

My complaint is against a federal government department, agency, or a federally regulated business or service. Should I apply to the Tribunal?

No. Contact the Canadian Human Rights Commission. Web: <http://www.chrc-ccdp.ca>. Mail: 344 Slater Street, 8th Floor, Ottawa, Ontario K1A 1E1. Phone: (613) 995-1151. Toll-free: 1-888-214-1090. TTY: 1-888-643-3304. Fax: (613) 996-9661.

Should I use this form if I am applying because a previous human rights settlement has been breached?

No. If you settled a previous human rights application and the respondent did not comply with the settlement agreement, use the special application called **Application for Contravention of Settlement, Form 18**. For a paper copy, contact the Tribunal.

Can I file this Application if I am dealing with or have dealt with these facts or issues in another proceeding?

The Code has special rules depending on what the other proceeding is and at what stage the other proceeding is at. Read the Applicant's Guide and get legal advice, if:

1. You are currently involved in, or were previously involved in a civil court action based on the same facts and asked for a human rights remedy; or
2. You have ever filed a complaint with the Ontario Human Rights Commission based on the same subject matter; or
3. You are currently involved in, or were previously involved in another proceeding (for example, union grievance) based on the same facts.

How do I file an Application on behalf of another person?

To file an application on behalf of another person, you must complete and file this Application (Form 1) as well one other form:

- Form 4A if you are filing on behalf of a minor;
- Form 4B if you are filing on behalf of a mentally incompetent person; or
- Form 27 for all other situations where you are filing on behalf of someone else.

When completing this Application, you must check the box in Question 1 that indicates you are filing an Application on Behalf of Another Person. You must provide your name and contact information in Question 1.

The completed Form 4A, Form 4B or Form 27 can be attached to your Application or sent to the Tribunal separately by mail, fax or email. If sent separately, it must be sent within five (5) days following the filing of your Application.

For more information on applications on behalf of another person, please see the following Practice Directions:

- Practice Direction on filing application on behalf of another person under section 34(5) of the Code
- Practice Direction on Litigation Guardians before Social Justice Tribunals Ontario

Note: If you are a lawyer or other legal representative providing representation to the applicant, do not use the Form 4A, Form 4B or Form 27. Your details should be provided in section 3, "Representative Contact Information," of this Application (Form 1).

Learn more

To find out more about human rights in Ontario, visit www.ohrc.on.ca or phone 1-800-387-9080.



Human Rights Tribunal of Ontario

Application under Section 34 of the Human Rights Code (Form 1)

Instructions: Complete all parts of this form, using the [Applicant's Guide](#) for help. If your form is not complete, the Tribunal may return it to you. This will slow down the application process. At the end of this form, you will be required to read and agree to a declaration that the information in your Application is complete and accurate (if you are a lawyer or legal representative assisting an applicant with this Form 1, please see the [Practice Direction On Electronic Filing of Applications and Responses By Licensed Representatives](#)).

Contact Information for the Applicant

1. Personal Contact Information

Check here if you are filing an Application on Behalf of Another Person. Note: you must also complete a Form 4A, Form 4B or Form 27, whichever is applicable, see Instructions above.

Please give us your personal contact information. This information will be shared with the respondent(s) and all correspondence from the Tribunal and the respondent(s) will go here. If you do not want the Tribunal to share this contact information, you should complete section 2, below, but you must still provide your personal contact information for the Tribunal's records.

*First Name

Middle Name

*Last Name

PLEASE SEE ATTACHED LIST

| | | | |
|-----------------------------------|--------------------------------|-------------------------|-------------------------|
| Street # | Street Name | Apt/Suite | |
| | | | |
| City/Town | Province | Postal Code | Email |
| Ontario | | | |
| Daytime Phone (e.g. 999-999-9999) | Cell Phone (e.g. 999-999-9999) | Fax (e.g. 999-999-9999) | TTY (e.g. 999-999-9999) |
| | | | |

What is the best way to send information to you?

(If you check email, you are consenting to delivery of documents by email.)

Mail

Email

Fax



Human Rights Tribunal of Ontario

2. Alternative Contact Information

If you want the Tribunal and respondent(s) to contact you through another person, you must provide contact information for that person below. You should fill this section out if it will be difficult for the Tribunal to reach you at the address above or if you want the Tribunal to keep your contact information private. **If you complete this section, all of your correspondence will be sent to you in care of your Alternative Contact.**

| | | | |
|-----------------------------------|--------------------------------|-------------------------|-------------------------|
| First (or Given) Name | Middle Name | Last (or Family) Name | |
| Street # | Street Name | Apt/Suite | |
| City/Town | Province | Postal Code | Email |
| Daytime Phone (i.e. 999-999-9999) | Cell Phone (i.e. 999-999-9999) | Fax (i.e. 999-999-9999) | TTY (i.e. 999-999-9999) |

What is the best way to send information to you at your alternative contact?
(If you check email, you are consenting to delivery of documents by email)

Mail

Email

Fax

3. Representative Contact Information

Complete this section only if you are authorizing a lawyer or another Representative to act for you.

I authorize the named organization and/or person to represent me

My representative is:

Lawyer LSUC# 23685L

Paralegal LSUC#

Legal Support Centre

Other- please specify the Nature of Exemption from licensing requirements in the text below:

Nature of Exemption (e.g. family member, unpaid friend)



Human Rights Tribunal of Ontario

Please choose the type of Representative: A) Organizational Representative B) Individual Representative

A) Organizational Representative

Full Name of Representative Organization

Cambridge LLP

Name of the Contact Person from the Organization:

First (or Given) Name

Last (or Family) Name

R. Douglas

Elliott

| | | | |
|-----------------------------------|--------------------------------|-------------------------|---------------------------|
| Street # | Street Name | Apt/Suite | |
| 31 | Nova Scotia Walk | 307 | |
| City/Town | Province | Postal Code | Email |
| Elliot Lake | Ontario | P5A 1Y9 | delliott@cambridgelpp.com |
| Daytime Phone (i.e. 999-999-9999) | Cell Phone (i.e. 999-999-9999) | Fax (i.e. 999-999-9999) | TTY (i.e. 999-999-9999) |
| 705-578-5080 | | 705-578-3641 | |

What is the best way to send information to your representative?
(If you check email, you are consenting to delivery of documents by email)

C Mail

✉ Email

6 Fax

Contact Information for the Respondent(s)

4. Respondent Contact Information

Provide the name and contact information for any respondent against which you are filing this Application.

Please choose the type of respondent:

A) Organization Respondent

Name the organization you believe discriminated against you. You should also indicate the contact person from the organization to whom correspondence can be addressed.



Ontario

Human Rights Tribunal of Ontario

Full Name of Organization

Township of EMO

Name of the Contact Person from the Organization

First (or Given) Name

Last (or Family) Name

Title

Bridget

Foster

CAO/Clerk-Treasurer

| | | | |
|-----------------------------------|--------------------------------|-------------------------|-------------------------|
| Street # | Street Name | Apt/Suite | |
| 39 | Roy Street | PO Box 520 | |
| City/Town | Province | Postal Code | Email |
| Emo | Ontario | P0W 1E0 | bfoster@emo.ca |
| Daytime Phone (i.e. 999-999-9999) | Cell Phone (i.e. 999-999-9999) | Fax (i.e. 999-999-9999) | TTY (i.e. 999-999-9999) |
| 807-482-2378 | | 807-482-2741 | |

Are there any additional respondents? Yes No

Additional Respondent Contact Information

Please choose the type of respondent:

Organization Respondent

Individual Respondent

Additional Individual Respondent

Name the person you believe discriminated against you (the Respondent).

First (or Given) Name

Middle Name

Last (or Family) Name

Harold

McQuaker



Human Rights Tribunal of Ontario

Ontario

| | | | |
|-----------------------------------|--------------------------------|-------------------------|-------------------------|
| Street # | Street Name | Apt/Suite | |
| Same as Applicant 1 | | | |
| City/Town | Province | Postal Code | Email |
| | Ontario | | hmcquaker@emo.ca |
| Daytime Phone (i.e. 999-999-9999) | Cell Phone (i.e. 999-999-9999) | Fax (i.e. 999-999-9999) | TTY (i.e. 999-999-9999) |
| | | | |

Please choose the type of respondent:

Organization Respondent

Individual Respondent

Additional Individual Respondent

Name the person you believe discriminated against you (the Respondent).

| | | | |
|-----------------------------------|--------------------------------|-------------------------|-------------------------|
| First (or Given) Name | Middle Name | Last (or Family) Name | |
| Harrold | | Boven | |
| Street # | Street Name | Apt/Suite | |
| Same as Applicant 1 | | | |
| City/Town | Province | Postal Code | Email |
| | Ontario | | hboven@emo.ca |
| Daytime Phone (i.e. 999-999-9999) | Cell Phone (i.e. 999-999-9999) | Fax (i.e. 999-999-9999) | TTY (i.e. 999-999-9999) |
| | | | |

Please choose the type of respondent:

Organization Respondent

Individual Respondent

Additional Individual Respondent

Name the person you believe discriminated against you (the Respondent).

| | | |
|-----------------------|-------------|-----------------------|
| First (or Given) Name | Middle Name | Last (or Family) Name |
| Warren | | Toles |



Human Rights Tribunal of Ontario

| | | | |
|---|--------------------------------|-------------------------|-------------------------|
| Street # | Street Name | Apt/Suite | |
| Same as Applicant 1 | | | |
| City/Town | Province | Postal Code | Email |
| | | Ontario | |
| | | wtoles@emo.ca | |
| Daytime Phone (i.e. 999-999-9999) | Cell Phone (i.e. 999-999-9999) | Fax (i.e. 999-999-9999) | TTY (i.e. 999-999-9999) |
| <input type="checkbox"/> Add Another Respondent | | | |

Grounds of Discrimination

5. Grounds Claimed

The Ontario Human Rights Code lists the following grounds of discrimination or harassment. Put an "X" in the box beside each ground that you believe applies to your Application. You can check more than one box.

- Race
- Colour
- Ancestry
- Place of Origin
- Citizenship
- Ethnic Origin
- Disability
- Creed
- Sex, Including Sexual Harassment and Pregnancy
- Sexual Solicitation or Advances
- Sexual Orientation
- Gender Identity
- Gender Expression
- Family Status
- Marital Status
- Age
- Receipt of Public Assistance (Note: This ground applies only to claims about Housing)
- Record of Offences (Note: This ground applies only to claims about Employment)
- Association with a Person Identified by a Ground Listed Above
- Reprisal or Threat of Reprisal



Ontario

Human Rights Tribunal of Ontario

Areas of Discrimination under the Code

6. Area of Alleged Discrimination

The Ontario *Human Rights Code* prohibits discrimination in five areas. Put an "X" in the box beside the area where you believe you have experienced discrimination (choose one). Read the [Applicant's Guide](#) for more information on each area.

- Employment (Complete Form 1-A)
- Housing (Complete Form 1-B)
- Goods, Services and Facilities (Complete Form 1-C)
- Contracts (Complete Form 1-D)
- Membership in a Vocational Association (Complete Form 1-E)

Does your Application involve discrimination in other areas? Yes No

If "Yes", put an "X" in the box beside any other area where you believe you experienced discrimination:

- Employment
- Housing
- Goods, Services or Facilities
- Contracts
- Vocational Association

Facts that Support Your Application

7. Location and Date (see [Applicant's Guide](#))

Please answer the following questions.

| | | |
|--|--------------------------------------|--------------------------|
| a) *Did these events happen in Ontario? | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| b) In what city/town? | Emo Township, ON | |
| c) *What was the date of the last event? (dd/mm/yyyy) | 26/05/2020 | |
| d) If you are applying more than one year from the last event, please explain why: | | |

8. What Happened



Ontario

Human Rights Tribunal of Ontario

*In the space below, describe each event you believe was discriminatory.

For each event, be sure to say:

- What happened
- Who was involved
- When it happened (day, month, year)
- Where it happened

Be as complete and accurate as possible. Be sure to give details of every incident of discrimination you want to raise in the hearing.

Please see attached Schedule "A" and exhibits.

The Effect on You

9. How the Events You Described Affected You

*Tell us how the events you described affected you. What was the effect (e.g. were there financial, social, emotional or mental health, or any other)?

Please see attached Schedule "A" and exhibits.

The Remedy

10. The Remedy You are Asking For (see Applicant's Guide)

Put an "X" in the box beside each type of remedy you are asking the Tribunal to order. Explain why you are asking for this remedy in the space below.

Monetary Compensation

Enter the Total Amount \$45,000

Explain below how you calculated this amount:

Hudler v London (City), [1997] OHRBID No. 23 – individual claimant awarded \$10,000 jointly and severally from the Mayor and City. With inflation, that is roughly \$15,000.

Seeking compensation on the following basis:

\$15,000 from the municipality;

\$10,000 from the Mayor;

\$10,000 from Councilor Boven;



Human Rights Tribunal of Ontario

\$10,000 from Councilor Toles.

And an order that the councilors and mayor pay the funds, personally, rather than seek indemnification from the Municipality;

Non-Monetary Remedy-Explain below:

Remedy for Future Compliance (Public Interest Remedy)-Explain below:

An order requiring the Respondents to receive training on diversity, inclusion and human rights, with a focus on LGBTQ2 issues;

An order requiring each of the Respondents to prepare a written reflection on LGBTQ2 rights of at least 500 words;

An order requiring the Municipality to publish an unreserved apology to the LGBTQ2 community, and that the apology be read at the council meeting following the Tribunal's decision;

An order requiring the Municipality to install signage at the entrance to the Town Hall affirming its obligations under the Code;

An order requiring the Municipality to specifically address LGBTQ2 discrimination in its Code of Conduct;

An order that the Municipality retroactively proclaim June, 2020 as Pride Month in Emo Township;

An order that the Municipality continue to proclaim June as Pride Month in Emo Township in future years;

An order that the Municipality fly, raise or display the Rainbow Flag for one week, on a week to be chosen by Borderland Pride, notwithstanding any flag policy or protocol that the Municipality may have to the contrary;

Costs in the Application;

Please see the attached Schedule "A" for details on these requests.

Mediation

11. Choosing Mediation to Resolve Your Application

Mediation is one of the ways the Tribunal tries to resolve disputes. It is a less formal process than a hearing. Mediation can only happen if both parties agree to it. A Tribunal Member will be assigned to mediate your Application. The Member will meet with you to talk about your Application. The Member will also meet with the respondent(s) and will try to work out a solution that both sides can accept. If Mediation does not settle all the issues, a hearing will still take place and a different Member will be assigned to hear the case. Mediation is confidential.

Do you agree to try mediation?

Yes



Human Rights Tribunal of Ontario

Other Legal Proceedings

12. Civil Court Action (see [Applicant's Guide](#))

Note: If you answer "Yes" to any of these questions, you must send a copy of the statement of claim that started the court action.

*a) Has there been a court action based on the same facts as this Application?

Yes (Answer 12b)

No (Go to 13)

13. Complaint Filed with the Ontario Human Rights Commission (see [Applicant's Guide](#))

Note: If you answer "Yes", you must attach a copy of the complaint.

*Have you ever filed a complaint with the Commission based on the same facts as this Application?

Yes

No

14. Other Proceeding - in Progress (see [Applicant's Guide](#))

Note: If you answer "Yes" to question "14a" you must attach a copy of the document that started the other proceeding.

*a) Are the facts of this Application part of another proceeding that is still in progress?

Yes
(Answer 14b)

No (Go to 15)

b) Describe the other proceeding:

A union grievance

Name of Union:

A claim before
another board,
tribunal or agency

Name of board,
tribunal, or agency:

Other

Explain what the
other proceeding is:



Human Rights Tribunal of Ontario

- *c) Are you asking the Tribunal to defer (postpone) your Application until the other proceeding is completed?

Yes

No

15. Other Proceeding - Completed (see Applicant's Guide)

Note: If you answer is "Yes" to question "15a" you must attach a copy of the document that started the other proceeding and a copy of the decision from the other proceeding.

- *a) Were the facts of this Application part of some other proceeding that is now completed?

Yes (Answer Question 15b)

No (Go to 16)

- b) Describe the other proceeding:

| | |
|---|---------------------------------------|
| <input type="checkbox"/> A union grievance | Name of Union: |
| <input type="checkbox"/> A claim before another board, tribunal or agency | Name of board, tribunal, or agency: |
| <input type="checkbox"/> Other | Explain what the other proceeding is: |

- c) Explain why you believe the other proceeding did not appropriately deal with the substance of this Application.



Human Rights Tribunal of Ontario

Documents that Support this Application

16. Important Documents You Have

If you have documents that are important to your Application, list them here. List only the most important. Indicate whether the document is privileged. See the [Applicant's Guide](#).

Note: You are not required to send copies of these documents at this time. However, if you decide to attach copies of the documents you list below to your Application they will be sent to the other parties to the Application along with your Application.

| Document Name | Why It is Important to My Application |
|--|---------------------------------------|
| Please see the attached Table of Exhibits to Schedule "A." | |

[Add more Documents](#)

17. Important Documents the Respondent(s) Have

If you believe the respondent(s) have documents that you do not have that are important to your Application, list them here. List only the most important.

| Document Name | Why It is Important To My Application | Name of Respondent Who Has It |
|--|---|-------------------------------|
| Minutes, transcripts, or other recordings of the May 12, 2020 and May 26, 2020 council meetings. | They will accurately reflect the debate held at the council meeting on those dates. | Township of Emo |

[Add more Documents](#)

18. Important Documents Another Person or Organization Has

If you believe another person or organization has documents that you do not have that are important to your Application, list them here. List only the most important.

| Document Name | Why it is Important to my Application | Name of Person or Organization who has it |
|---------------|---------------------------------------|---|
| Unknown | | |



Human Rights Tribunal of Ontario

Add more Documents

Confidential List of Witnesses

19. Witnesses

Please list the witnesses that you intend to rely on in the hearing. Note: The Tribunal will not send this list to the respondent(s). (see Applicants Guide)



Ontario

Human Rights Tribunal of Ontario

[Add more Witnesses](#)

Other Important Information

20. Other Important Information the Tribunal Should Know

Is there any other important information you would like to share with the Tribunal?

Checklist of Required Documents

22. Other Documents from Questions 12 to 15

Confirm whether you are sending the Tribunal any of the following documents:

- A copy of a statement of claim (from Question 12)
- A copy of a complaint filed with the Ontario Human Rights Commission (from Question 13)
- A copy of a document that started another proceeding based on these facts (from Question 14 or 15)
- A copy of a decision from another proceeding based on these facts (from Question 15)

Application to the Human Rights Tribunal of Ontario Area of Discrimination: Goods, Services and Facilities (Part 1-C)

Note: Complete this form if you believe you were discriminated against in the area of goods, services and facilities.

PART I

Questions About the Service, Good or Facility

C1. Put an "X" beside the point that best describes the service, good or facility that this Application is based on.



Ontario

Human Rights Tribunal of Ontario

- Income support
- Store
- Education & training
- Theatre
- Police services
- Insurance
- Medical/health services
- Public transportation
- Sporting or other recreational facility
- Retail

Government, please describe:

Borderland Pride, and by extension the LGBTQ2 community of Northern Ontario, were refused a proclamation by the Mayor and Council of the Township of Emo to proclaim June as Pride Month in the Township.

Other, please describe:

C2. Complete this section only if your Application is about a practice or policy.

Tell us what the practice or policy you are complaining about is and explain how it relates to equal treatment with respect to services, goods and facilities.

C3. Complete this section only if your Application is about a law.

Tell us what the law you are complaining about is and explain how it relates to equal treatment with respect to services, goods and facilities.



Human Rights Tribunal of Ontario

Questions About Complaining to Someone in Authority

Complete this section only if you complained to someone in authority about the alleged discrimination.

C4. To whom did you complain?

See attached Schedule "A."

C5. Was there an investigation?

Yes

No (Go to Part II)

a) If you answered "Yes" to C5, what was the outcome of the investigation?

PART II

The following Part asks you to answer how you believe you were discriminated against based on grounds you identified. If you believe that you were discriminated against based on more than one ground, fill out all the sections that apply.

Questions About Discrimination on the Ground of Creed (Faith, Religion or System of Beliefs)

Complete this section only if you believe that you have been discriminated against on the ground of creed (faith, religion or system of beliefs)

C13. Explain why you believe you were discriminated against based on your creed.

The Mayor and Councilors defended their position, in part, on the basis of the "good, Christian" nature of Emo. The implication of this statement is that one cannot be both a Christian and a member of the LGBTQ2 community. This is categorically false. The Mayor and Councilors are attempting to impose their own interpretation of Christianity on others.

C14. Please describe your creed.

The complainants are of diverse faith backgrounds, including Christianity.



Human Rights Tribunal of Ontario

Questions About Discrimination on the Grounds of Sex, Pregnancy, Gender Identity or Gender Expression

Complete this section only if you believe that you have been discriminated against on the grounds of sex, pregnancy, gender identity or gender expression.

C15. Is your Application about discrimination on the ground of pregnancy?

Yes

No

C16. Explain why you believe you were discriminated against based on your sex, pregnancy, gender identity.

Borderland Pride, who requested the proclamation, is an LGBTQ2 pride organization. Its members are LGBTQ2 persons and their allies. The proposed resolution was to declare June as Pride Month. Proclamations are ordinarily granted to those who seek them. Pride proclamations are made in most municipalities in Ontario.

The Mayor's invocation of "straight pride" demonstrates a prejudice against the LGBTQ2 community; his vote against the proclamation was made on that basis. Furthermore, the Mayor subsequently defended his decision with negative references to "LGBTQ2 lifestyles" and referring to Emo as a "good, Christian" community, saying that the good Christians of Emo far outweigh "the gays." This condemnation and derogatory language, coupled with an invocation of his personal spirituality, further suggest that his decision was based on prejudice toward the LGBTQ2 community.

Councilor Toles refused to support the motion as proposed and wanted all language supportive of LGBTQ2 people removed, suggesting a prejudice toward that community; the refusal to grant this amendment (and his attendant prejudice) formed the basis for his "nay" vote.

Although Councilor Boven attempted to have the matter adjourned on procedural grounds, we reasonably believe his motivations to be based in prejudice as well.

C17. Please identify your sex or describe your gender identity or gender expression.

LGBTQ2

Questions About Discrimination on the Ground of Sexual Orientation

Complete this section only if you believe that you have been discriminated against on the ground of sexual orientation.

C20. Explain why you believe you were discriminated against based on your sexual orientation.

See C 16.

C21. Please describe your sexual orientation.

See C 17.



Human Rights Tribunal of Ontario

Questions About Discrimination on the Grounds of Family or Marital Status

Complete this section only if you believe that you have been discriminated against on the grounds of family or marital status.

C22. Explain why you believe you were discriminated against based on your family or marital status.
See C 16.

C23. Please describe your family or marital status.
See C 17.

Declaration and Signature

23. Declaration and Signature

Declaration:

To the best of my knowledge, the information in my Application is complete and accurate.

*Signature Date (dd/mm/yyyy)

19/04/2020

*Please check this box if you are filing your Application electronically. This represents your signature. You must fill out the date, above.

Accommodation Required

If you require accommodation of Code-related needs please contact the Registrar at:

Email: HRTORegistrar@ontario.ca

Phone: 416-326-1519 Toll-free: 1-866-598-0322

Fax: 416-326-2199 Toll-free: 1-866-355-6099

TTY: 416-326-2027 Toll-free: 1-866-607-1240

Collection of Information:

Under the Ontario *Human Rights Code*, the Human Rights Tribunal of Ontario (HRTO) has the right to collect the personal information requested on this form. We use the information to resolve your application. After you file the form, your information may also be available to the public. If you have questions about how the HRTO uses your personal information, contact the HRTO at 416-326-1312 or 1-866-598-0322 (toll-free.)



Ontario

Human Rights Tribunal of Ontario

[Submit to HRTO](#)

[Print Form](#)

Note: Only file your Application once. If the Tribunal receives your application more than once, it will only accept the first Application Form received.

**ONTARIO
HUMAN RIGHTS TRIBUNAL**

QUESTION 1. Applicant's Personal Contact Information

Borderland Pride

[REDACTED]
PO Box 105
Fort Frances, ON
P9A 3M5

[REDACTED]
borderlandpride@gmail.com

Douglas W. Judson

[REDACTED]

[REDACTED]

Kathryn L. Shoemaker

[REDACTED]

[REDACTED]

Northern Ontario Pride Network

[REDACTED]

Elliot Lake, ON

[REDACTED]

[REDACTED]
greg@nopn.ca

**ONTARIO
HUMAN RIGHTS TRIBUNAL**

B E T W E E N :

BORDERLAND PRIDE, the NORTHERN ONTARIO PRIDE NETWORK,
DOUGLAS W. JUDSON, and KATIE SHOEMAKER

Applicants

- and -

THE TOWNSHIP OF EMO, HAROLD McQUAKER,
HARROLD BOVEN, and WARREN TOLES

Respondents

SCHEDULE “A” TO THE APPLICATION

1. Overview

1. The applicants Borderland Pride [“**BP**”], the Northern Ontario Pride Network [“**NOPN**”], Douglas W. Judson, and Katie Shoemaker [together, “**Applicants**”] commence this application under section 34 of the *Human Rights Code* [“**Code**”].¹
2. BP is an LGBTQ2² Pride organization in Northwestern Ontario that organizes programming and events that promote LGBTQ2 diversity and inclusion and the equality of LGBTQ2 people in the communities of the Rainy River District, including the respondent Township of Emo [“**Municipality**”].
3. The Municipality provides the service of adopting resolutions from its council [“**Council**”] for various community organizations, causes, and events of significance. It has routinely done so, like many municipalities, for several community initiatives.

¹ *Human Rights Code*, R.S.O. 1990, c. H.19 [“**Code**”] at s. 34.

² LGBTQ2 is an acronym referring to lesbian, gay, bisexual, trans, queer/questioning, and two-spirit.

4. In 2018, 2019, and 2020, BP requested resolutions from the Municipality proclaiming certain dates in celebration of Pride, and affirming the inclusion, equality, and acceptance of LGBTQ2 people in the community.
5. In 2018, the Council adopted the resolution as presented.
6. In 2019, the Council adopted the resolution, but only after deleting the resolution's LGBTQ2-supportive language and all references to LGBTQ2 people, and their inclusion and equality.
7. In 2020, the Council refused to adopt the resolution altogether. The individuals named as respondents [together, "**Individual Respondents**"] are members of the Council who voted against the resolution, causing its defeat by a recorded vote of 3-2.
8. During the debate on the resolution and in public and media comments, statements were made by the Individual Respondents which make clear that homophobia was the only reason behind the decision to deny BP their requested resolution. No legitimate, good faith reasons were ever articulated by the Municipality or the Individual Respondents for refusing to adopt the resolution in 2020.
9. By denying BP their requested resolution in 2019 and 2020 on the basis of LGBTQ2 identity and promotion of LGBTQ2 equality and social inclusion, the Municipality and the Individual Respondents discriminated against BP in the provision of a service on the basis of sexual orientation, gender identity, gender expression, family status, and creed (religion).³
10. The Applicants seek an order under section 45.2 of the *Code*, for the relief described below.⁴

³ *Code* at s. 1.

⁴ *Code* at s. 45.2

2. **Facts**

A. The Parties

11. BP is a non-profit corporation constituted under the *Canada Not-for-profit Corporations Act*.⁵

It is the LGBTQ2 Pride organization serving the communities of the Rainy River District, including the Town of Fort Frances, the Township of Emo, the Town of Rainy River, and several adjacent Treaty #3 First Nation communities in Northwestern Ontario.

12. NOPN is a non-profit corporation constituted under the *Canada Not-for-profit Corporations Act*.⁶ NOPN provides a supportive network and forum for LGBTQ2 communities and their Pride organizations across Northern Ontario to connect with one another, exchange ideas, and support one another through advocacy, community-building, and to advance issues reflecting the unique challenges of LGBTQ2 people in Ontario's north.

13. Mr. Judson is a gay man who grew up in Emo, Ontario and lived there until he was 17 years old. He attended elementary school in the Municipality. His parents, grandparents, and siblings continue to live and work in the community. He lives with his same-sex partner in nearby Fort Frances, Ontario. Mr. Judson currently serves as a director on the board of BP and as co-chair of its annual Pride festival and related programming.

14. Ms. Shoemaker is a lesbian who lives in Emo, Ontario with her wife and their children. Ms. Shoemaker works as a geological technician at a mine. Her immediate and extended family live in the Emo area.

15. The Municipality is a municipal government constituted under the *Municipal Act, 2001*.⁷

⁵ *Canada Not-for-profit Corporations Act*, S.C. 2009, c. 23.

⁶ *Ibid.*

⁷ *Municipal Act, 2001*, S.O. 2001, c. 25 [“**Municipal Act**”].

16. The Individual Respondents are Mayor Harold McQuaker, Councillor Harrold Boven, and Councillor Warren Toles, who are three members of the five-member Council.⁸

B. Background on Pride in the Rainy River District

17. Pride festivals and events promote the self-affirmation, dignity, equality, and increased visibility of LGBTQ2 people as a social group. Conceptually, ‘Pride’, as opposed to shame and stigma, seeks to ameliorate the historic and continuing injustices, inequity, and persecution experienced by LGBTQ2 people, to show community support for LGBTQ2 inclusion and acceptance, and to observe the achievements, struggles, and contributions of LGBTQ2 people.

18. While Pride has been a longstanding celebration and large-scale event presence in major urban centres, it is a growing movement in rural Canada, including in the Rainy River District.

19. BP was founded as an unincorporated association, in July 2017, and became incorporated in January 2019. BP’s objectives are to:

- a. Provide information and resources to community members on LGBTQ2 issues;
- b. Build community among LGBTQ2 people and their allies in the Borderland region;
- c. Boost the visibility of LGBTQ2 people in the community;
- d. Identify, creating, and supporting programming needs for LGBTQ2A people in the region; and
- e. Advocate for LGBTQ2 equality and inclusion and promoting diversity in the community.

20. BP spearheads several events and initiatives which align with these goals. It does so in partnership with various public and private sector partners in the community. BP’s landmark

⁸ The other members of the council [“**Council**”] of the Township of Emo [“**Municipality**”], who are not named as respondents, are Councillor Lori-Ann Shortreed and Councillor Lincoln Dunn. Councillor Shortreed and Councillor Dunn supported the resolution requested by Borderland Pride [“**BP**”].

event (and focus of its efforts) is its annual Pride festival, which includes educational, awareness-building, artistic, entertainment, and advocacy events for community members, as well as related Indigenous programming.

21. Pride was first celebrated in the region in July 2018. June 2020 marks BP's third Pride festival. Mr. Judson has co-chaired the Pride festival with his partner every year since BP was founded.
22. BP is a member of the NOPN.

C. 2018, 2019, and 2020 Requests for Municipal Resolutions

23. In the lead up to its 2018, 2019, and 2020 Pride festivals, BP contacted the municipal councils in its catchment area with requests for resolutions proclaiming the dates of their festival (as 'Pride Week' or 'Pride Month'), affirming the community's values of diversity, inclusion, and acceptance of LGBTQ2 people, and asking that they raise or display a rainbow flag (an internationally-recognized symbol of LGBTQ2 Pride).
24. In 2018, BP wrote to the Municipality, enclosing the text of the requested resolution and a rainbow flag. The Municipality adopted the resolution, as presented.
25. In 2019, BP again wrote to the Municipality, enclosing the text of their requested resolution. The composition of the Council had since changed, as a result of the October 2018 municipal election. The current Council deleted all of the supportive language from the resolution related to LGBTQ2 people and their inclusion, and adopted their own watered-down, one-sentence version.
26. On April 29, 2020, BP wrote to the Municipality to request a resolution in support of its 2020 Pride festival. The letter, and resolution, outlined the purpose of LGBTQ2 Pride and set out the importance for local government leaders to recognize LGBTQ2 Pride and signal their sense of inclusion and welcome to LGBTQ2-identifying people.

27. BP's letter asked council to adopt the resolution declaring June as 'Pride Month' in the Municipality, and to fly, raise, or display a rainbow flag for one week in June.

28. The requested resolution was substantively similar to the one adopted by the Municipality in 2018, and the one requested in 2019.

D. The May 12 Meeting of Council

29. The Municipality tabled BP's letter and attached resolution for the May 12, 2020 meeting of its Council. As a result of the COVID-19 pandemic, the council meeting was held over Zoom. Members of the public were able to attend the meeting remotely.

30. When the meeting reached BP's item on the agenda, discussion was opened by Councillor Lincoln Dunn. He read from prepared remarks about why it was important for the Municipality to support this request. Councillor Dunn highlighted the need to affirm the equality and visibility of the LGBTQ2 community, to offer support to them, and to celebrate the diversity the LGBTQ2 community brings to Emo.

31. Councillor Dunn and Councillor Lori-Ann Shortreed moved and seconded the resolution, as presented by BP.

32. During discussion of the resolution:

- a. Mayor McQuaker stated that his basis for refusing to support the requested resolution was that there was no equivalent flag or celebration for "straight Pride";
- b. Councillor Boven attempted to delay consideration of the item to a future meeting despite having notice that it was on the agenda, and insisted that Municipality either had a policy against providing any support resolution or should adopt one (the Municipality has no such policy); and
- c. Councillor Toles stated that he was only prepared to support a resolution similar to that from the previous year, from which all references to LGBTQ2 people were removed.

33. The Individual Respondents each cast a “nay” vote, causing the resolution to be defeated 3-2.

The vote was recorded, at the request of Councillor Dunn.

E. Events Following the May 12 Meeting

34. After the May 12 meeting, BP issued a media release expressing its disappointment in the Council’s decision. The release outlined the importance of the Municipality’s human rights obligations and the impact that this denial would have on LGBTQ2 people (particularly the younger members of the LGBTQ2 community). Denial of this simple form of recognition has the effect of making an already isolated and vulnerable community even more so.

35. In an interview with local media, Mayor McQuaker defended his position with reference to “LGBTQ lifestyles” and the “good, Christian” community of Emo as reasons for his vote. These comments were reproduced in print and on television in the community and wider region, and were repeated in interviews with national media.

F. Petition and Request for Reconsideration Submitted to Council

36. Following the May 12 meeting, BP made efforts to formally communicate its concerns with the Council’s decision and to show public support for Pride, in hopes that the Council would reverse its decision.

37. On May 16, BP launched a petition on the website Change.org. Between May 16 and May 21, the petition received over 1,500 signatures, the vast majority of which were from within Northwestern Ontario. (The petition remains open, and as of this date, it has over 1,800 signatures.)

38. On May 21, BP sent the petition to the Municipality, with a covering letter asking that the Council reconsider its requested resolution from May 12 as well as the demands outlined in the petition. The covering letter was published as an open letter.

39. BP's letter also discussed the discriminatory nature of the Municipality's May 12 decision, in light of both the numerous support resolutions that were adopted by the Municipality in the past and the specific comments of the Individual Respondents. The letter repeated that Pride is essential, and that these visible signals of allyship are critically important for LGBTQ2 young people, who may be more vulnerable than their peers at this very isolated time.

G. May 26 Meeting of Council

40. At the May 26 meeting, Council discussed BP's May 21 letter. The meeting was held over Zoom and was remotely attended by members of the public, to its capacity of 100 people.

41. The Individual Respondents relied on procedural rules to refuse to reconsider the resolution, and refused to vote to reopen consideration of the resolution.

42. During the discussion in the meeting, Councillor Dunn:

- a. Explicitly pointed out the established Tribunal jurisprudence on Pride resolutions, to which Mayor McQuaker accused him of "threatening" the Council;
- b. Specifically identified some of the risk factors facing LGBTQ2 young people, including self-harm and suicide risks compared to the general population;
- c. Outlined the importance of showing that community leaders and institutions like the Municipality show their support for LGBTQ2 young people;
- d. Indicated that the May 12 decision was emboldening bigotry in the community which could lead to hatred, violence, or harassment of LGBTQ2 people; and
- e. Questioned Councillor Boven on an article from *The Banner*, a publication of the Christian Reformed Church, which indicated that Councillor Boven had sought guidance from faith leaders on "serving as a person of faith in public life."

43. The Individual Respondents refused to consider the matter further and BP's resolution remained defeated, citing "majority rules" as the basis for their decision.

H. Events Following May 26 Decision

44. Shortly after the meeting, BP issued a media release expressing its disappointment in Council's decision.

45. The story was reported on by several national and regional media outlets, where Mayor McQuaker repeated his earlier comments about Emo's Christian values, stating that the number of good Christians in the community "far out rules the gays." Mayor McQuaker went as far as to say that elevated rates of suicide among LGBTQ2 youth were not an issue because he was not aware of any suicides in the Municipality, and denied the existence of LGBTQ2 discrimination in the Municipality.

3. Order Requested

46. The Applicants seek an Order under section 45.2 of the *Code*:

- a. Awarding compensation to the Applicants, payable on the following basis:
 - i. \$15,000 from the Municipality;
 - ii. \$10,000 from Mayor McQuaker, personally and without recourse to the Municipality or its insurer;
 - iii. \$10,000 from Councillor Bovan, personally and without recourse to the Municipality or its insurer; and
 - iv. \$10,000 from Councillor Toles, personally and without recourse to the Municipality or its insurer;
- b. Requiring the Individual Respondents to enroll, attend, and complete at their own expense, within six (6) months, an in-person training program on diversity, inclusion, and human rights, with a focus on LGBTQ2 issues;
- c. Requiring each of the Individual Respondents to prepare a personal written reflection on LGBTQ2 rights, of at least five-hundred (500) words, within thirty (30) days of the

completion of the aforementioned training, to be provided to the Tribunal, the Applicants, and the Municipality;

- d. Requiring the Municipality to publish an unreserved apology to the community, in writing, within seven (7) days, in respect of their wrongful and discriminatory decision to refuse to recognize LGBTQ2 Pride, with such apology to be read at the next meeting of Council and recorded in the minutes of such meeting;
- e. Requiring the Municipality to install permanent signage at the entrance or waiting area of its main office affirming its obligations under the *Code* with specific reference to *Code*-protected bases of discrimination, with wording satisfactory to the Applicants;
- f. Requiring the Municipality to specifically address harassment and discrimination on the basis of sexual orientation, gender identity, gender expression, and family status within its *Code of Conduct*;
- g. Requiring the Municipality to proclaim June 2020 as Pride Month in their community;
- h. Requiring the Municipality to fly, raise, or display the rainbow flag at its offices (or other significant municipal location) on a week chosen by BP, notwithstanding any policy or protocol the Municipality may have to the contrary;
- i. Requiring the Municipality to continue to proclaim June as ‘Pride Month’ in Emo Township in future years;
- j. Awarding costs in the Application to the Applicants; and
- k. Granting such other and further relief as the Tribunal finds just.

4. Authority Relied On

47. The Tribunal will be referred to the following:

- a. The *Human Rights Code*, R.S.O. 1990, c. H.19; particularly s. 1 thereof;
- b. The *Municipal Act, 2001*, S.O. 2001 c. 25;

- c. The *Canada Not-for-profit Corporations Act*, S.C. 2009, c. 23;
- d. Township of Emo By-Law No. 2018-28, *A By-law to Amend By-law 2018-06, Being a By-law to Establish a Code of Conduct for Members of Council*; particularly Schedule “A” thereto; and
- e. Such other and further authorities as the Tribunal finds just.