

Court Decision regarding the Decision to Provide Financial Support to the Legal Challenge against Quebec's Bill 21

Date: October 5, 2023

To: City Council

From: City Solicitor

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. This report also contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

This report summarizes the decision of the Ontario Superior Court of Justice released on July 13, 2023. This court application concerns the decision of the City of Toronto to commit up to \$100,000 to fund the legal challenge brought by the National Council of Canadian Muslims, the World Sikh Organization, and the Canadian Civil Liberties Organization to Bill 21 – the Quebec legislation that prohibits public service employees from wearing visible religious symbols in the workplace. The confidential portion of this report (Attachment 1) provides confidential information and recommendations regarding this decision.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1 to this report from the City Solicitor;

2. City Council authorize the public release of the Confidential Recommendations contained in Confidential Attachment 1 to this report from the City Solicitor, if adopted by City Council; and

3. City Council direct that the balance of Confidential Attachment 1 to this report from the City Solicitor is to remain confidential, as it contains advice about litigation or potential litigation that affects the City of Toronto and contains advice or communications that are subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial impacts are identified in Confidential Attachment 1.

DECISION HISTORY

At its April 16 and 17, 2019, meeting, City Council considered and approved the recommendations presented in Members Motion MM 6.29 - "Reaffirming Toronto's Strong Support for Freedom of Religion and Expression".

[Agenda Item History – 2019.MM6.29 \(toronto.ca\)](#)

At its October 29 and 30, 2019, meeting, City Council considered and approved the recommendations presented in Members Motion MM 11.20 - "City of Toronto Condemning Quebec's Bill 21 (An Act Respecting the Laicity of the State)".

[Agenda Item History - 2019.MM11.20 \(toronto.ca\)](#)

At its December 15, 16, and 17, 2021, City Council considered and approved the recommendations presented in Members Motion MM 38.43 – “Reaffirming Toronto's Opposition and Providing Financial Support to the Legal Challenge against Quebec's Bill 21”.

[Agenda Item History - 2021.MM38.43 \(toronto.ca\)](#)

ISSUE BACKGROUND

Overview of the Challenge to Bill 21

Bill 21 received royal assent and came into force on June 16, 2019. A few groups initiated legal challenges to Bill 21, including the National Council of Canadian Muslims, the World Sikh Organization, and the Canadian Civil Liberties Association. On April 20, 2021, the Quebec lower court upheld most of Bill 21. On December 2, 2021, that decision was appealed to, and is now before, the Quebec Court of Appeal.

Toronto Council's Consistent Stance in Opposition to Bill 21

In 2019, Council unanimously approved a motion in response to Bill 21 when it was first proposed in the Quebec National Assembly. The Motion stated:

City Council once again reaffirm its support for freedom of religion and expression, and, further state its opposition to any legislation that would restrict or prohibit such freedoms and by doing so, Toronto states its position that the City continues to be a source of worldwide inspiration.

Later that year, after Bill 21 was approved, Council again voiced its opposition, stating:

1. City Council oppose Quebec's Bill 21, An Act respecting the laicity of the State and reaffirm the City's commitment to upholding religious freedoms as outlined in the Canadian Charter of Rights and Freedoms.
2. City Council endorse the initiative proposed by Calgary City Council and supported by the Regional Municipality of Peel that asks the Canadian Coalition of Municipalities Against Racism and Discrimination, of which the City of Toronto is a member, to create a nationwide campaign that highlights the harmful widespread impacts of Bill 21 on social cohesion and inclusion in Canada.
3. City Council encourage the Federal Government to unequivocally condemn and challenge Quebec's Bill 21.

Decision to Fund the Legal Challenge to Bill 21

Council voted to commit up to \$100,000 to the Bill 21 legal costs of the National Council of Canadian Muslims, the World Sikh Organization, and the Canadian Civil Liberties Association at its meeting of December 15, 16, and 17, 2021 (the "funding decision").

The Court Application to Quash Toronto Council's Funding Decision in MM38.43

A legal proceeding was brought to challenge the City's funding decision. In light of the legal challenge, the City agreed to not take any additional steps to release the funds pending determination of the Court Application.

The Applicant challenged Bill 21 arguing the decision to provide the funds for the Bill 21 challenge was not addressing municipal issues and was not passed for a municipal purpose. It was therefore ultra vires the City of Toronto Act, and otherwise illegal

COMMENTS

The Court decision, released on July 13, 2023, found that Bill 21 applies only to the citizens of Quebec and does not have an extra-territorial reach. The funding of groups challenging the Quebec legislation in the Quebec courts is not a valid municipal purpose. As a result, the Court found that it was beyond Toronto's authority to make the funding decision.

The Court decision is available online at:

[2023 ONSC 4616 \(CanLII\) | Labreque v. City of Toronto | CanLII](#)

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Information