

Supplementary Report on Proposed By-law Amendment to Provide Access to Social Infrastructure

Date: May 16, 2025

To: City Council

From: City Solicitor

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains advice or communications that are subject to solicitor-client privilege. This report is about litigation or potential litigation that affects the City of Toronto.

SUMMARY

At its meeting of December 17 and 18, 2024, City Council directed the following:

3. City Council direct the City Manager, in consultation with the City Solicitor, applicable City divisions, the Toronto Police Service and other applicable stakeholders, to report to City Council in the first quarter of 2025, informed by public consultations and a constitutional legal expert opinion on the Charter Rights implications from the City Solicitor, with a proposed by-law, with an emphasis on protecting vulnerable institutions such as places of worship, faith-based schools and cultural institutions, that supports the City's commitment to keeping Torontonians safe from hate and protects Charter rights that address impacts of demonstrations that target people based on their identity as prohibited under the Ontario Human Rights Code.

Our office has worked closely with the City Manager's Office in the development of the proposed by-law. This Supplementary Report, including Confidential Attachment 1, outlines the Charter Rights implications of the proposed by-law.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege and is about litigation or potential litigation that affects the City of Toronto.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the recommendation beyond what has already been approved in the current year's budget.

DECISION HISTORY

At its meeting on December 17 and 18, 2024, City Council directed the City Manager, in consultation with the City Solicitor, applicable City divisions, the Toronto Police Service and other applicable stakeholders, to report to City Council in the first quarter of 2025, informed by public consultations and a constitutional legal expert opinion on the Charter Rights implications from the City Solicitor, with a proposed by-law, with an emphasis on protecting vulnerable institutions such as places of worship, faith-based schools and cultural institutions, that supports the City's commitment to keeping Torontonians safe from hate and protects Charter rights that address impacts of demonstrations that target people based on their identity as prohibited under the Ontario Human Rights Code. Council's decision is available here: <https://secure.toronto.ca/council/agenda-item.do?item=2024.CC24.2>

COMMENTS

Our office has worked closely with the City Manager's Office in the development of the proposed by-law. This Supplementary Report, including Confidential Attachment 1, outlines the Charter Rights implications of the proposed by-law. The Report from the City Manager, dated May 13, 2025, outlines the concerns and impacts of demonstrations occurring in close proximity to social infrastructure, like schools, places of worship and childcare centres. The proposed by-law attempts to carefully balance those concerns and impacts while respecting the City's obligation to comply with the Canadian Charter of Rights and Freedoms ("Charter").

The remainder of this report, including Confidential Attachment 1, outlines the Charter implications of the proposed by-law.

Charter of Rights and Freedoms

Legislation and enforcement must comply with the Canadian Charter of Rights and
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Freedoms (the “Charter”).

The Charter identifies the following among the guaranteed fundamental freedoms:

- freedom of thought, belief, opinion and expression;
- freedom of peaceful assembly; and
- freedom of association.

All levels of government, the police and City staff are legally obligated to respect Charter protected rights and freedoms. As such, legislation, by-laws, policies, practices and enforcement activities that are alleged to result in an infringement of those fundamental freedoms may be challenged in the courts.

An allegation of infringement will only be upheld if the impugned activity or expression actually falls within the protected right and if the infringement does not pass the justification test set out in section 1 of the Charter.

Confidential Attachment 1 provides more information and advice in relation to these requirements.

CONTACT

Cory Lynch
Director, Municipal Law, Legal Services
Cory.Lynch@toronto.ca

Fred Fischer
Director, Litigation, Legal Services
Fred.Fischer@toronto.ca

Scott Nowoselski
Solicitor, Municipal Law, Legal Services
Scott.Nowoselski@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Supplementary Report on the Proposed Bylaw Amendment to Provide Access to Social Infrastructure