

June 4, 2025

Confronting Anti-Black Racism Advisory Committee
100 Queen Street West
Toronto, ON M5H 2N2

Re: CR6.1 Upcoming Changes Impacting Access to Social Infrastructure

Dear Members of the Confronting Anti-Black Racism Committee,

I am writing to express concern over recent developments at the City of Toronto that set a dangerous precedent for policing and suppression of marginalized voices in this City. Specifically, I am writing to express concern over a decision made at the May 21 and May 22 meeting of Council regarding Item CC30.5, the “Proposed By-law Amendment to Provide Access to Social Infrastructure.” This letter endeavours to gain your support to request greater clarity for, and protections against, harms made possible by amendments to the Municipal Code, Chapter 743, on the Use of Streets and Sidewalks (“By-law to Provide Access to Social Infrastructure” or, “the By-law”).

Context

On May 22, 2025, City Council adopted item [2025.CC30.5](#), or the “Proposed By-law Amendment to Provide Access to Social Infrastructure.” In December 2024, City Council instructed the City Manager, in collaboration with the City Solicitor, relevant City divisions, the Toronto Police Service, and other key stakeholders, to develop a by-law that would restrict demonstrations at designated “safe zones” in Toronto. This report, shaped by public consultations and legal opinions on Charter Rights from the City Solicitor, would guide a by-law aimed at safeguarding certain institutions vaguely framed as “vulnerable” from protest activity—including places of worship, faith-based schools, and cultural organizations. The development process for this by-law was intended to uphold the City's commitment to protecting Torontonians from hate based on identity factors prohibited under the Ontario Human Rights Code, while ensuring Charter rights are respected.

On Tuesday, May 20, 2025, the Toronto City Clerk posted the City Manager’s recommendations as part of City Council’s agenda materials for the May 21-22 meetings. These recommendations were formatted as a set of amendments to the existing By-law to Provide Access to Social Infrastructure. Key features of these additions included:

- A 20-metre “bubble zone” aimed at restricting protests around places of worship, daycares and schools;
- An application process whereby an “owner of social infrastructure” must attest that certain protest activities near this site have occurred within the previous 90 days and could occur again; and
- An 180-day validity period of an approved “access area,” which can thereafter be renewed if requested.

At City Council on May 22, 2025, these recommendations were adopted with the following changes:

- An increased bubble restriction of 50 metres;

- Removal of attestation requirements from applicants regarding occurrence of previous protest activity;
- Increase of the validity period of the access area from 180 days to one year; and
- Inclusion of police officers to assist enforcement officers with alleged contraventions of the by-law.

From these amendments, it is clear that City Council has chosen to disproportionately suppress peaceful protest activity across 3000+ potential sites; increase the likelihood of by-law overreach and abuse; and facilitate conditions for further police violence on Black and other historically marginalized communities who use public protest as legitimate acts, and vehicles, of civic expression and progress toward justice for all.

Key Concerns with the Development and Implementation of the Amended By-law

It has been a noted concern of community members, organizations, and civic liberty organizations that the implementation of this by-law could gravely infringe on constitutionally protected freedoms of expression, assembly, and democratic dissent. The by-law's geographic scope is especially alarming. With over 3,000 institutions eligible for "access areas," vast sections of Toronto's public space—including sidewalks and roads in the downtown core—would effectively be off-limits for protest. This could turn much of Toronto into a protest exclusion zone, making peaceful assembly logistically unfeasible, and/or lead to the criminalization of spontaneous civic engagement. The development of this bylaw previously drew comparisons to abortion access-related bubble zones; however, this comparison is misleading due to a mismatch in scale, and the lack of judicial oversight and precedent supporting this form of municipal injunction. This makes this by-law wholly distinct and deeply problematic. The scale of potential coverage and enforcement authority is unmatched and dangerous, and fatally undermines the legitimacy of the by-law under the Oakes test, which requires any restriction of fundamental freedoms to be justified under strict scrutiny.

Removal of a detailed attestation process for access area applicants also increases the likelihood for – as originally phrased in the by-law documents submitted to City Council – “false, inaccurate, or misleading requests.” City Council voted to remove this clause. This dangerous omission could incite unfounded claims of hate or falsely characterize protests as hateful. How will targeted engagement and outreach to ‘owners of social infrastructure’ be conducted to ensure they ethically apply and use this by-law? How can the City ensure these requests are based on real, rather than perceived risks for prohibitive, actually harmful activity? How can, or will the City control for an overly broad coverage of access areas when owners cannot produce evidence of actual victimization?

Lack of transparency

At the May 22, 2025 City Council meeting, Councillor Gord Perks introduced a motion for the City of Toronto to waive its solicitor-client privilege and authorize the public release of the City Solicitor's Confidential Attachment to the City Manager's report of recommendations. This report relates to the defensibility of the by-law against a Charter of Rights and Freedom challenge. The City Solicitor, when questioned several times by Councillors on the risks of releasing this report to the public, said she saw no issue or problems with doing so. Yet, 13-12 Councillors voted against this release, raising questions and doubt on the credibility of the by-law as constitutional. If it were, transparency would be more evident. Of important note, the City Solicitor had also made clear that

the proposed member amendments, as debated on the floor, were no longer subject to the same legal rigour given their on-the-floor introductions.

Disregard for consulted communities

The City claims to have engaged in robust consultation in the development of the by-law, with staff and contracted consultants repeatedly claiming a “multi-pronged” engagement strategy prioritizing “inclusivity, safety, access and privacy.” The process was in fact narrow, inaccessible, and biased in its framing. Consultations were not adequately promoted to our, and other affected communities, and questions used in surveying were leading, designed to elicit emotion-based support for the by-law. Numerous concerns were raised by community members and organizations during the public consultation process. And yet, despite these concerns, the consultant found that both the public and community-focused discussions revealed a strong opposition to a bubble by-law across all quantitative and qualitative measures. Across all sectors – labour, youth, faith-based, LGBTQ+, environmental, Indigenous, and racialized communities – participants opposed a targeted by-law. Many concerns included a risk for misapplication and overreach, and a view that the police already have broad existing powers to address safety concerns at demonstrations. Participants also called for alternatives such as public education, targeted community investments, and a clearer application of current laws. The sessions largely reflected a unified defense of protest as a democratic right, essential to accountability, freedom of expression, healing and social change. Implementation of this by-law essentially counters overwhelming support against these perspectives, which erodes public trust in City leadership and their ability to meaningfully consider the perspectives of Torontonians in policymaking.

Enforcement concerns

This by-law opens the door to selective, biased, and potentially discriminatory application and enforcement—especially against Black and marginalized communities who already face over-policing in public spaces. It is incredibly dismaying that City Council voted 20-5 to include assistance from a police officer to respond to alleged contraventions of this by-law. This decision reflects a complete disregard for individuals and communities who are routinely policed, and inconsistent with the City Manager’s claim that the by-law will implement an “education first” approach. Enforcement is not education. Police presence is a symbol of escalation, fear, and disorder, and the City Manager openly stated in his recommendation report that “with a clear statutory prohibition in place, police would be able to utilize the Trespass to Property Act more easily.” It is reasonable to suggest that additional police resources will be deployed for this purpose, noting that the TPS already spent more than 20M dollars in excess of their budget last year. And yet, the City Manager has suggested that existing resources will largely account for implementation efforts, in addition to an \$1.6M allocation to Transportation Services. With more than 3000 potential access areas in the City to police, this is a dubious and unrealistic claim.

This by-law is a symbolic crackdown on causes supporting racialized and marginalized protesters, as there is a high likelihood of bias in the owners who apply for an access area, and their intent to weaponize it against certain groups or identities. We already witness disproportionate policing and police violence at protests led by, and for our communities, and other communities we support in solidarity. This by-law invents a problem that existing laws can already manage, while manufacturing moral panic to justify increased police budgets and surveillance.

Why this Matters to CABRAC

Freedom of expression—especially in protest—is not a nuisance to be managed; it is a vital component of a functioning democracy. The City must not trade the right to dissent for the illusion of order, when freedom of expression has been a tool used by Black communities, and all of those in solidarity against state oppression, to advocate for fundamental rights. Protest is a social good; and this policy sets a dangerous precedent for the erasure of marginalized voices in pushing for social change and justice. This by-law fundamentally counters all of the principles of the 2024-2026 CABRAC workplan, and entrenches the emerging and persistent issues to be targeted by the 10-year Toronto Action Plan to Confront Anti-Black Racism. Rather than investing in housing, employment, child welfare, health, and education for the wellbeing of our communities, the by-law entrenches enforcement models of safety and surveillance of our existence in the City. Since the City has elected to adopt this regressive by-law, they must answer to our, and many Toronto residents' concerns and requests for transparency under this new, troublesome chapter.

Recommendations

The Confronting Anti-Black Racism Advisory Committee (CABRAC) is mandated to provide advice to City Council on confronting anti-Black racism in Toronto. In respect for the rights, safety, and health of Black people advocating against all forms of oppression – and those in solidarity – I present the following recommendation:

1. That the City Manager, in consultation with relevant City Divisions and the Toronto Police Service (TPS), present at a future meeting of CABRAC on a detailed plan for implementation of the by-law that includes:
 - a. An anticipated deployment of resources, including those of the TPS;
 - b. Equity implications and strategies to prevent harm to equity-deserving communities affected by the by-law;
 - c. Monitoring and reporting plans on the use and impact of the by-law, including commitments to share information with equity-deserving communities (e.g., CABRAC), and to consult them on any subsequent implementation changes.

Sincerely,

Lucina Rakotovao