

**Court of Appeal File No: C65861 (M49615)**  
Superior Court File Nos: CV-18-00603797-0000  
CV-18-00602494-0000  
CV-18-00603633-0000

**COURT OF APPEAL FOR ONTARIO**

---

BETWEEN:

**CITY OF TORONTO**

Applicant  
(Respondent in appeal – Responding Party)

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent  
(Appellant – Moving Party)

---

AND BETWEEN:

**ROCCO ACHAMPONG**

Applicant  
(Respondent in appeal – Responding Party)

and

**ONTARIO (HON. DOUG FORD, PREMIER OF ONTARIO), ONTARIO  
(ATTORNEY GENERAL)**

Respondents  
(Appellants – Moving Parties)

and

**CITY OF TORONTO**

Respondent  
(Respondent in appeal – Responding Party)  
(Title of Proceedings Continued on p. 2)

---

**MOTION RECORD OF THE MOVING PARTY,  
THE ATTORNEY GENERAL OF ONTARIO  
(STAY PENDING APPEAL)**

---

---

AND BETWEEN:

**CHRIS MOISE, ISH ADERONMU, and PRABHA KHOSLA, on her own  
behalf and on behalf of all members of Women Win TO**

Applicants  
(Respondents in appeal – Responding Parties)

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent  
(Appellant – Moving Party)

and

**JENNIFER HOLLET, LILY CHENG, SUSAN DEXTER, GEOFFREY KETTEL AND  
DYANOOSH YOUSSEFI**

Interveners  
(Respondents in appeal – Responding Parties)

---

**MOTION RECORD OF THE MOVING PARTY,  
THE ATTORNEY GENERAL OF ONTARIO  
(STAY PENDING APPEAL)**

---

**THE ATTORNEY GENERAL OF ONTARIO**  
Constitutional Law Branch  
720 Bay Street, 4<sup>th</sup> Floor  
Toronto, Ontario M7A 2S9  
Fax: 416-326-4015

**Robin Basu** (LSO# 32742K)  
Tel: (416) 326-4476  
Email: robin.basu@ontario.ca

**Yashoda Ranganathan** (LSO# 57236E)  
Tel: (416) 326-4456  
Email: yashoda.ranganathan@ontario.ca

**Audra Ranalli** (LSO# 72362U)

Tel: (416) 326-4473  
Email: audra.ranalli@ontario.ca

Of Counsel to the Respondent,  
Attorney General of Ontario

**TO:** **ROCCO K. ACHAMPONG**  
Barrister & Solicitor  
2500-1 Dundas Street West  
Toronto, Ontario, M5G 1Z3

**Rocco Achampong** (LSO# 57837J)  
**Gavin Magrath** (LSO# 51553A)  
**Selwyn Pieters** (LSO# 50303Q)

roccoachampong@gmail.com  
gavin@magraths.ca  
selwyn@selwynpieters.com

Applicant/Counsel for Applicant (Respondent in Appeal)  
Rocco K. Achampong

**AND TO:** **THE CITY OF TORONTO**  
City of Toronto Legal Services  
Metro Hall  
55 John Street, 26<sup>th</sup> Floor  
Toronto, Ontario M5V 3C6  
Fax: (416) 397-5624

**Glenn Chu** (LSO# 40392F)  
**Diana W. Dimmer** (LSO# 40392F)  
**Philip Chan** (LSO# 68681S)

glenn.chu@toronto.ca  
diana.dimmer@toronto.ca  
philip.k.chan@toronto.ca

Counsel for the Applicant (Respondent in Appeal),  
City of Toronto

**AND TO:** **GOLDBLATT PARTNERS LLP**  
20 Dundas Street West, Suite 1039  
Toronto, ON M5G 2C2

**Howard Goldblatt** (LSO# 15964M)  
**Steven M. Barrett** (LSO# 24871B)  
**Simon Archer** (LSO# 46263D)  
**Geetha Philipupillai** (LSO# 74741S)

hgoldblatt@goldblattpartners.com  
sbarrett@goldblattpartners.com  
sarcher@goldblattpartners.com  
gphilipupillai@goldblattpartners.com

Counsel for the Applicants (Respondent in Appeal),  
Chris Moise, Ish Aderonmu and Prabha Kosla on her own behalf and on  
behalf of all members of Women Win TO

**AND TO:**

**PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**  
155 Wellington Street West  
35th Floor  
Toronto, ON M5V 3H1

**Donald K. Eady** (LSO# 30635P)  
**Caroline V. (Nini) Jones** (LSO# 43956J)  
**Jodi Martin** (LSO# 54966V)

Counsel to the Interveners (Respondent in Appeal),  
Jennifer Hollet, Lily Cheng, Susan Dexter, Geoff Kettel, and Dyanoosh  
Youssefi

**AND TO:**

**DLA PIPER (CANADA) LLP**  
Suite 6000, 1 First Canadian Place  
PO Box 367, 100 King St. W.  
Toronto, ON M5X 1E2

**Derek Bell** (LSO# 43420J)  
**Ashley Boyes** (LSO# 74477G)

derek.bell@dlapiper.com  
ashley.boyes@dlapiper.com

Counsel for the Intervener,  
The Canadian Taxpayers Federation

**AND TO:**

**TORONTO DISTRICT SCHOOL BOARD**

Legal Services  
5050 Yonge Street, 5<sup>th</sup> Floor  
Toronto, ON M2N 5N  
**Patrick Cotter** (LSO# 40809E)

[patrick.cotter@tdsb.on.ca](mailto:patrick.cotter@tdsb.on.ca)

Lawyer for the Intervener,  
Toronto District School Board

# **INDEX**

# Index

## TAB

- 1 Notice of Motion
- 2 Notice of Appeal
- 3 Order of The Honourable Justice Belobaba, Dated September 10, 2018
- 4 Decision of The Honourable Justice Belobaba, Dated September 10, 2018.
- 5 Affidavit of Adam Kanji, sworn August 27, 2018
  - Exhibit “A” Report for Information: The Impact of the *Better Local Government Act, 2018* (Bill 5) on Toronto’s 2018 Municipal Election
  - Exhibit “B” Download of the Main City of Toronto Election Webpage
  - Exhibit “C” Download of the City of Toronto’s “General Information Portal”
  - Exhibit “D” Download of the City of Toronto’s “Candidate Information” Portal
  - Exhibit “E” Download of the City of Toronto’s “Voter Information” Portal
  - Exhibit “F” Screenshot of Search for “General Information” Web Portal
  - Exhibit “G” Screenshot of Search for “Candidate Information” Web Portal
  - Exhibit “H” City of Toronto News Release on the 44 Ward Election Model, March 21, 2000
  - Exhibit “I” 2014-2019 Housing Stability Service Planning Framework, December 2013
- 6 Student-Prepared Transcript of August 20, 2018 Toronto City Council Meeting

# **TAB 1**



**Court of Appeal File No: C65861 (M49615)**  
Superior Court File Nos: CV-18-00603797-0000  
CV-18-00602494-0000  
CV-18-00603633-0000

**COURT OF APPEAL FOR ONTARIO**

---

BETWEEN:

**CITY OF TORONTO**

Applicant  
(Respondent in appeal – Responding Party)

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent  
(Appellant – Moving Party)

---

AND BETWEEN:

**ROCCO ACHAMPONG**

Applicant  
(Respondent in appeal – Responding Party)

and

**ONTARIO (HON. DOUG FORD, PREMIER OF ONTARIO), ONTARIO  
(ATTORNEY GENERAL)**

Respondents  
(Appellants – Moving Parties)

and

**CITY OF TORONTO**

Respondent  
(Respondent in appeal – Responding Party)  
**(Title of Proceedings Continued on p. 2)**

---

**NOTICE OF MOTION  
(STAY PENDING APPEAL)**

---

AND BETWEEN:

**CHRIS MOISE, ISH ADERONMU, and PRABHA KHOSLA, on her own  
behalf and on behalf of all members of Women Win TO**

Applicants  
(Respondents in appeal – Responding Parties)

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent  
(Appellant – Moving Party)

and

**JENNIFER HOLLET, LILY CHENG, SUSAN DEXTER, GEOFFREY KETTEL AND  
DYANOOSH YOUSSEFI**

Intervenors  
(Respondents in appeal – Responding Parties)

**NOTICE OF MOTION  
(STAY PENDING APPEAL)**

The Respondent, the Attorney General of Ontario, will make an urgent motion to a judge of the Court on Tuesday, September 18, 2018 at 10 a.m. or as soon a time thereafter as a motion can be heard, at the Courthouse at 130 Queen St. West.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

- (a) An order staying the Order of the Superior Court of Justice dated September 10, 2018 made in the applications below pursuant to rule 63.02 of the *Rules of Civil Procedure*;
- (b) An order abridging the time for serving and filing this motion; and

(c) Any further or other order that this Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

**A. A single judge has jurisdiction to hear this motion**

1. Section 7(2) of the *Courts of Justice Act*, RSO 1990, c. C.34 provides that a motion in the Court of Appeal shall be heard and determined by one judge.
2. Rule 63.02(1)(b) of the *Rules of Civil Procedure*, RRO 1990, Reg 194 allows an interlocutory or final order to be stayed on such terms as are just by an order of a judge of the court to which an appeal has been taken.

**B. There is a serious issue to be adjudicated**

3. There is a serious issue to be adjudicated on appeal. This branch of the test for a stay sets a low threshold that the matter not be “vexatious or frivolous.” The provisions of the *Better Local Government Act, 2018* (the “Act”) declared by the Superior Court of Justice to be of no force and effect directed a 25-ward municipal election to be held on October 22, 2018 (the “Election”). The issues that will be raised by the Attorney General on appeal are whether the Honourable Judge below erred in law, *inter alia*: (a) in holding that s 2(b) of the *Charter* was infringed by the timing of the enactment of the Act; (b) in holding that s 2(b) of the *Charter* includes a right to effective representation, in effect importing into the municipal context the requirements of s 3 of the *Charter* which apply only to federal and provincial elections; (c) in holding that any breach of s 2(b) of the *Charter* was not justified under s 1; and (d) in declaring the operative provisions of the Act to be immediately of no force and effect (without providing an opportunity to the Attorney General to make submissions on the question of a suspension of the declaration of invalidity) and ordering as a remedy that a 47-

ward election be held on October 22 reviving the electoral regime that the Act had amended. In light of the existing appellate jurisprudence indicative of errors of law on the part of the Superior Court, it is clear that all of these are serious issues to be adjudicated on appeal. The first step of the test is met.

**C. Refusing to grant the stay would cause irreparable harm**

4. The stay should be granted if the harm flowing from a refusal to grant the stay cannot be remedied at a later date if the lower court's decision is overturned on appeal. A public authority can almost always show irreparable harm if a stay is not granted by demonstrating its actions have been taken to promote the public interest.
5. There will be irreparable harm if the 25-ward election is not allowed to proceed as scheduled on October 22. In this case, the City Clerk had already advised Council that (as of August 20, 2018) she was prepared to run a 25-ward election on October 22 and that reverting to a 47-ward election would cause her concerns regarding the integrity of the election and the possibility that the results would be controverted. In the circumstances, it is in the public interest for the 25-ward election to be held on October 22. In the event that the Attorney General is ultimately successful on appeal, no further action would be required. In the event that the applicants are successful on appeal, it does not follow that a 47-ward election will need to be held, because this Court may suspend its declaration of invalidity to allow for a legislative response.

**D. The balance of convenience favours allowing the 25-ward election to proceed pending appeal**

6. The balance of convenience favours a stay. Allowing the 25-ward election to proceed would avoid cost, disruption and inconvenience, rather than cause it. The Superior Court of Justice's

order that the operative provisions of the *Better Local Government Act, 2018* are unconstitutional has brought to a halt preparation for the 25-ward election.

7. Public interest is a special factor to be considered at the balance of convenience stage of the test. There is a legal presumption that statutes are enacted in the public interest. This presumption remains in effect even where a judge at first instance has held that the legislation is unconstitutional.

**E. Abridgment of the time for service and filing**

8. For the reasons set out above as to why a stay should be granted, it is also in the public interest to decide as soon as possible whether a stay will be granted.
9. The time for service and filing should be abridged to allow this motion to be determined in as expeditious a fashion as possible to preserve the integrity of the upcoming October 22, 2018 election.

**F. Other grounds**

10. Rules 2.03, 3.02, 37, 61.16, and 63.02 of the *Rules of Civil Procedure*, RRO 1990, Reg 194.
11. Section 106 of the *Courts of Justice Act*, RSO 1990, c C43.
12. Such further and other grounds as counsel may advise and this Court may deem just.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) The Affidavit of Adam Kanji filed in the applications below and Exhibits attached thereto;
- (b) The transcript of the City Clerk's report to Council on August 20, 2018 filed in the applications below.

**ESTIMATED TIME FOR ORAL ARGUMENT:** The amount of time estimated to argue the motion not including reply is two hours.

September 12, 2018

**ATTORNEY GENERAL OF ONTARIO**

Constitutional Law Branch  
McMurtry-Scott Building  
720 Bay Street, 4th Floor  
Toronto, ON M7A 2S9

**Robin Basu** (LSO# 32742K)

Tel: 416-326-4476

Email: robin.basu@ontario.ca

**Yashoda Ranganathan** (LSO# 57236E)

Tel: 416-326-4456

Email: yashoda.ranganathan@ontario.ca

**Audra Ranalli** (LSO# 72362U)

Tel: 416-326-4473

Email: audra.ranalli@ontario.ca

Of Counsel for the Attorney General of Ontario  
(Appellant)

**TO:**

**ROCCO K. ACHAMPONG**

Barrister & Solicitor  
2500-1 Dundas Street West  
Toronto, Ontario, M5G 1Z3

**Rocco Achampong** (LSO# 57837J)

**Gavin Magrath** (LSO# 51553A)

**Selwyn Pieters** (LSO# 50303Q)

roccoachampong@gmail.com

gavin@magraths.ca

selwyn@selwynpieters.com

Applicant/Counsel for Applicant (Respondent in appeal),  
Rocco K. Achampong

**AND TO:****THE CITY OF TORONTO**

City of Toronto Legal Services  
 Metro Hall  
 55 John Street, 26<sup>th</sup> Floor  
 Toronto, Ontario M5V 3C6  
 Fax: (416) 397-5624

**Glenn Chu** (LSO# 40392F)

**Diana W. Dimmer** (LSO# 40392F)

**Philip Chan** (LSO# 68681S)

glenn.chu@toronto.ca

diana.dimmer@toronto.ca

philip.k.chan@toronto.ca

Counsel for the Applicant (Respondent in appeal),  
 City of Toronto

**AND TO:****GOLDBLATT PARTNERS LLP**

20 Dundas Street West, Suite 1039  
 Toronto, ON M5G 2C2

**Howard Goldblatt** (LSO# 15964M)

**Steven M. Barrett** (LSO# 24871B)

**Simon Archer** (LSO# 46263D)

**Geetha Philipupillai** (LSO# 74741S)

hgoldblatt@goldblattpartners.com

sbarrett@goldblattpartners.com

sarcher@goldblattpartners.com

gphilipupillai@goldblattpartners.com

Counsel for the Applicants (Respondents in appeal),  
 Chris Moise, Ish Aderonmu and Prabha Kosla on her own behalf and on  
 behalf of all members of Women Win TO

**AND TO: PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**  
155 Wellington Street West  
35th Floor  
Toronto, ON M5V 3H1

**Donald K. Eady** (LSO# 30635P)  
**Caroline V. (Nini) Jones** (LSO# 43956J)  
**Jodi Martin** (LSO# 54966V)

Counsel to the Interveners (Respondents in appeal)  
Jennifer Hollet, Lily Cheng, Susan Dexter, Geoff Kettel, and Dyanooosh  
Youssefi

**AND TO: DLA PIPER (CANADA) LLP**  
Suite 6000, 1 First Canadian Place  
PO Box 367, 100 King St. W.  
Toronto, ON M5X 1E2

**Derek Bell** (LSO# 43420J)  
**Ashley Boyes** (LSO# 74477G)

derek.bell@dlapiper.com  
ashley.boyes@dlapiper.com

Counsel for the Intervener,  
The Canadian Taxpayers Federation

**AND TO: TORONTO DISTRICT SCHOOL BOARD**  
Legal Services  
5050 Yonge Street, 5<sup>th</sup> Floor  
Toronto, ON M2N 5N8

**Patrick Cotter** (LSO# 40809E)

patrick.cotter@tdsb.on.ca

Lawyer for the Intervener,  
Toronto District School Board



Court of Appeal File No.: C65861 (M49615)

ROCCO ACHAMPONG                      and                      ONTARIO                      and                      CITY OF TORONTO  
Applicant (Respondent in appeal)                      Respondent (Appellants)                      Respondent (Respondent on Appeal)

Superior Court File No.: CV-18-00602494-0000

THE CITY OF TORONTO                      and                      ATTORNEY GENERAL OF ONTARIO  
Applicant (Respondent in appeal)                      Respondent (Appellant)

Superior Court File No.: CV 18-00603797-0000

CHRIS MOISE *et al.*                      and                      ATTORNEY GENERAL OF ONTARIO and CITY OF TORONTO  
Applicants (Respondent in appeal)                      Respondent (Appellants)                      Respondent (Respondent on Appeal)

Superior Court File No. CV-18-00603633-0000

**COURT OF APPEAL FOR ONTARIO**  
**Proceeding commenced at Toronto**

**NOTICE OF MOTION**  
**(STAY PENDING APPEAL)**

**ATTORNEY GENERAL OF ONTARIO**

Constitutional Law Branch  
McMurtry-Scott Building  
720 Bay Street, 4<sup>th</sup> Floor  
Toronto, ON M7A 2S9  
Fax: 416-326-4015

**Robin Basu (LSO#32742K)**

Tel: 416-326-4476  
Email: robin.basu@ontario.ca

**Yashoda Ranganathan (LSO#57236E)**

Tel: 416-326-4456  
Email: yashoda.ranganathan@ontario.ca

**Audra Ranalli (LSO#72362U)**

Tel: 416-326-4473  
Email: audra.ranalli@ontario.ca

Of Counsel for the Attorney General of Ontario

## **TAB 2**

**Court of Appeal File No: C65861**  
Superior Court File Nos: CV-18-00603797-0000  
CV-18-00602494-0000  
CV-18-00603633-0000

**COURT OF APPEAL FOR ONTARIO**

---

BETWEEN:

**CITY OF TORONTO**

Applicant  
(Respondent in appeal)

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent  
(Appellant)

---

AND BETWEEN:

**ROCCO ACHAMPONG**

Applicant  
(Respondent in appeal)

and

**ONTARIO (HON. DOUG FORD, PREMIER OF ONTARIO), ONTARIO  
(ATTORNEY GENERAL)**

Respondents  
(Appellants)

and

**CITY OF TORONTO**

Respondent  
(Respondent in appeal)

**(Title of Proceeding Continued on p. 2)**

---

**NOTICE OF APPEAL**

---

AND BETWEEN:

**CHRIS MOISE, ISH ADERONMU, and PRABHA KHOSLA, on her own  
behalf and on behalf of all members of Women Win TO**

Applicants  
(Respondents in appeal)

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent  
(Appellant)

and

**JENNIFER HOLLET, LILY CHENG, SUSAN DEXTER, GEOFFREY KETTEL AND  
DYANOOSH YOUSSEFI**

Intervenors  
(Respondents in appeal)

---

**NOTICE OF APPEAL**

---

**THE APPELLANT**, The Attorney General of Ontario **APPEALS** to the Court of Appeal for Ontario from the Order of the Honourable Justice Edward Belobaba of the Superior Court of Justice dated September 10, 2018.

**THE APPELLANT ASKS** that the Order be set aside and an order be granted as follows:

1. That the appeal be allowed and the applications dismissed with costs;
2. Such further and other relief as counsel may advise and this Court deems just.

THE GROUNDS OF APPEAL are as follows:

3. On August 14, 2018, the *Better Local Government Act, 2018* (the “Act”) came into force. The Act, *inter alia*, reduced the number of wards within the City of Toronto from 47 to 25 for

the October 22, 2018 municipal election and changed the composition of Toronto's City Council such that it would consist of 25 Councillors with one Councillor per ward (plus the Mayor).

4. The City Clerk began preparation for the 25-ward election upon the introduction of the Act on July 30, 2018. As of August 20, 2018 the Clerk reported to City Council that she was ready for the election with 25 wards and that reversing course to a 47-ward election would raise concerns regarding the integrity of the election.

5. Between August 7 and 22, 2018, three separate applications were served challenging the constitutionality of the Act. They were heard together on an expedited basis before the Application Judge on August 31, 2018. On September 10, 2018, the Application Judge found that: sections 4 to 7 of Schedule 1 and Schedule 3 of the Act and O Reg 407/18 and O Reg 408/18 made pursuant thereto, subject to specified exceptions<sup>1</sup> (the "Impugned Provisions") infringed s 2(b) of the *Charter* and could not be saved under s 1. He declared the Impugned Provisions to be of no force and effect and ordered a 47-ward election to proceed on October 22, 2018. By his Order dated September 10, 2018, the Application Judge remains seized of the applications to address: (a) any requests for consequential or collateral relief required to allow the election to be carried out in accordance with the Order; (b) certain adjourned issues; and (c) costs. Item (a) is intended to address issues that could arise in the administration of the 47-ward election by the City Clerk in respect of which she may need court-ordered relief. Item (b) concerns issues raised by the applicant City of Toronto (impugning the Province's authority to remove from City Council the power to establish its ward boundaries and composition), which were adjourned by the City because those issues did not need to be addressed prior to the

---

<sup>1</sup> The exceptions were to: (a) the part of section 1 of Schedule 3 of the Act that adds subsection 10.1(1) and 10.1(10) to the *Municipal Elections Act, 1996*, SO 1996, c 32 Sch ("MEA"), to the extent that it is necessary to permits s 4, 5 and 12 of O Reg 407/18 to remain in force; (b) the part of section 1 of Schedule 3 of Bill 5 that adds subsection 10.2 to the MEA; and (c) sections 4, 5, 12 of O Reg 407/18.

October 22, 2018 election. None of items (a) through (c) are at issue on the within appeal.

**A. Error of law in finding *Charter* s 2(b) breach**

6. The Application Judge erred in law in holding that: (1) s 2(b) of the *Charter* was infringed as a result of the timing of the passage of the Act; (2) that s 2(b) was infringed by the change to the number of City wards and includes a right to “effective representation” as that term is understood under s 3 of the *Charter* (which only applies to federal and provincial elections).<sup>2</sup>

**1) No right to mid-campaign *status quo***

7. The Act does not limit any attempt to convey meaning in purpose or effect, let alone substantially interfere with the freedom of expression of candidates or any other person.

8. Section 2(b) protects the freedom to engage in political expression. It does not protect a right to “effective” expression. There is no duty on the state under s 2(b) to refrain from conduct or the implication of law that renders someone’s speech less persuasive or effective, or to refrain from steps that would result in making a person’s prior speech less relevant, or present or future speech less worthwhile.

**2) No right to effective representation in elections protected under s 2(b)**

9. Section 2(b) of the *Charter* does not protect effective representation in elections. The right to effective representation is protected under *Charter* s 3, which is expressly confined only to federal and provincial elections. Section 2(b) cannot be used to enlarge the scope of s 3 beyond its ambit. The Supreme Court has repeatedly insisted on the primacy of the text of the Constitution. The omission of municipal elections from the text of s 3 means that such a right

---

<sup>2</sup> Municipal elections are not protected under s 3 of the *Charter*. Municipalities are creatures of statute. Municipalities operate on power delegated by the Legislature. In delegating power to municipalities, the sovereign Legislature does not abdicate any of its power. The Legislature may revoke a municipality’s powers at any time.

should not be read into other provisions, such as s 2(b). Section 2(b) does not guarantee a particular constituent to representative ratio. In any event, even the concept of effective representation under s 3 of the *Charter* does not include any requirement for constituent to Councillor ratios. The Application judge erred in extending the application of the concept of “effective representation” so as to establish a maximum number of constituents per Councillor.

10. Section 2(b) of the *Charter* does not guarantee access to any particular statutory or other platform for expression. The Order of the Application Judge has the effect of constitutionalizing the previous 47-ward municipal electoral regime as a particular platform for expression to which the applicants are entitled.

11. In highly exceptional circumstances, s 2(b) may give rise to a positive right to state assistance, but only if the claimants can meet the stringent test set out in the jurisprudence (e.g. *Baier v Alberta*, 2007 SCC 31). The Application Judge did not apply the test which must be met for there to be any obligation on the Legislature to ensure access to a particular platform for expression. There was no finding that the three elements of the test were satisfied, namely that:

- 1) the claimants are excluded from a particular statutory regime enabling expression and their claim that the legislation is under-inclusive is grounded in a fundamental *Charter* freedom rather than the desire to access the particular statutory regime;
- 2) exclusion from the statutory regime substantially interferes with the claimant’s freedom of expression or has the purpose of infringing s 2(b); and
- 3) the state is responsible for the claimant’s inability to exercise the fundamental freedom.

#### **B. Error in finding any breach not justified under *Charter* s 1**

12. The Application Judge erred in law and made palpable and overriding errors of fact in finding that any *Charter* breach was not justified under section 1. In particular, the Application Judge:

- a) gave weight to irrelevant factors and erred in holding that Ontario had not put forward sufficient evidence of a pressing and substantial objective, despite the clearly stated evidence of the Legislature’s objectives reflected in the legislative debates and in the record overall, including the Ontario Municipal Board majority and dissenting reasons (in connection to the City’s 47-ward model and the 25-ward model later adopted in the Act), which formed part of the record;
- b) erred in holding that Ontario had not established minimal impairment because enacting the legislation after the election would have been “less impairing” despite the fact that delaying the intended reforms of Toronto City Council would not have achieved the government’s objectives at all, or as effectively.

13. To satisfy minimal impairment, the government is not required to select a measure that will not achieve its objectives, or not achieve them as effectively. Enacting the legislation after the 2018 election would not have achieved the objective of better approaching voter parity for the 2018 election or improving the effectiveness and efficiency of Council for the upcoming term.

**C. Error of law in ordering a 47-ward election as remedy**

14. The Application Judge erred in law in declaring the impugned provisions of the Act immediately of no force and effect and ordering a 47-ward election. The more appropriate course would have been for the Court to grant a suspended declaration of invalidity to permit the Legislature to decide how best to address the Court’s decision.

15. In choosing the appropriate remedy, a court should seek to avoid undue intrusion upon the legislative sphere. The first step in determining the appropriate remedy is to define carefully the extent of any inconsistency between the statute in question and the Constitution, and then to



declare inoperative: (a) only the portions found inconsistent, and (b) any part of the remainder of the legislation which it cannot be safely assumed the Legislature would have enacted without the portions found inconsistent.

16. The Application Judge overstepped what was necessary to remedy the constitutional breach he found, as well as the proper role of the Court, in mandating that the pre-existing 47-ward regime be revived. The *Charter* s 2(b) breach found by the Application Judge, now under appeal, only related to the timing of the Act and the ratio of City Councillors to constituents in each ward. These findings do not support the conclusion that a 47-ward election is constitutionally required.

17. Nor does the s 2(b) breach found by the Application Judge support reviving a pre-existing regime that no longer has the force of law due to a legislative amendment that was not found to be unconstitutional. The 47-ward / 47-Councillor regime that existed before the Act was passed was lawful only by virtue of by-laws passed by the City now deemed not to have been passed, and which were passed under statutory authority that has been removed from the City.

18. The Order directing a 47-ward election is inconsistent with the remedial objective of respecting legislative purpose while addressing the constitutional breach found by the Court. The fact that the Application Judge found that the 25-ward regime was unconstitutional does not render unconstitutional the policy objectives of achieving better voter parity for the 2018 election and improving the efficiency and effectiveness of Council by reducing its size.

19. In addition, the Application Judge erred in failing to provide the Attorney General an opportunity to make submissions regarding remedy, despite having advised the parties at the hearing that he would hear from them on the remedial order after ruling on the question of constitutionality. Had she been given the proper opportunity, the Attorney General would have

sought a suspension of the Court's declaration, consistent with her usual position in constitutional litigation and particularly apt given the impending election.

**D. Error of law in failing to provide procedural fairness to the Attorney General of Ontario in a manner that materially prejudiced Ontario's constitutional defence**

20. The Application Judge erred in ordering, at a case conference on August 21, 2018, the hearing of the merits in all three applications to proceed on August 31, 2018 before the *Moise et al* applicants and the *Hollet et al* interveners had served all their evidence and before the City had commenced its proceeding or filed any evidence. At that time, the Application Judge ordered the hearing to proceed over the objection of the Attorney General of Ontario that Ontario was being provided insufficient time to meaningfully respond to (or conduct cross-examinations on) the affidavit evidence served by the applicants and interveners, including evidence tendered as expert opinion, which were served on August 20, 21 and 22, 2018. Over those three days, Ontario was served with thousands of pages of evidence, including three expert affidavits, and many affidavits from non-experts (some of which also included opinion evidence). Under the schedule, Ontario's responding material was due August 27, 2018, the applicants and supporting interveners' *facta* were due August 28, 2018 and the Attorney General's and supporting intervener's *facta* were due August 29, 2018. The schedule provided no time at all for cross-examination. The applicants later insisted on and received the right to file reply *facta* on August 30, 2018.

21. The August 31, 2018 date, and the aggressive schedule for the exchange of evidence and *facta*, had been set at Civil Practice Court on August 14, 2018 when Rocco Achampong's claim was the only extant application and the City had not yet decided whether to bring an application. The Achampong application was not supported by any expert evidence and only made bald

allegations of a breach of *Charter* s 7 and unwritten constitutional principles in connection with an alleged failure to consult on the enactment of the Act. Mr Achampong sought only “interim relief”. At the August 14, 2018 Civil Practice Court attendance, August 31, 2018 was contemplated as a date for the hearing on the merits of the Achampong claim as well as an application by the City, if it brought one, but the Attorney General’s agreement to that date (and the schedule for the exchange of materials) was expressly subject to a caveat that the Attorney General did not yet know if the City would put facts into issue. In the circumstances, at the request of both the City and the Attorney General, the matter (as to both the August 31, 2018 hearing date and the schedule) was ordered spoken to again at a Civil Practice Court on August 21, 2018 (to address any issues that might impact timing).

22. At the Civil Practice Court of August 21, 2018, the *Moise et al.* applicants and *Hollett et al.* proposed interveners first appeared, raising *Charter* ss 2(b), (d) and 15 for the first time. They, the City (which had decided the previous day to bring a claim) and Mr Achampong insisted that all three applications be heard on the merits on August 31, 2018, and that the Attorney General should be bound to the schedule established on August 14, 2018, regardless of the dramatic change in the scope of the evidence and the nature of the claims to which the Attorney General would have to respond. In light of the disagreement among the parties, the Civil Practice Court transferred the matter to be spoken to before the Application Judge who, the parties were later informed, had been assigned to hear the merits. The Application Judge acknowledged that the Attorney General was facing an “avalanche” of new material, but he declined the Attorney General’s request to adjourn the matter to Civil Practice Court on August 28, 2018 or to a further case conference before him on or about August 24 or 27, 2018, after counsel for the Attorney General could review and digest the material that was being served on

August 20 to 22, 2018.

23. The Application Judge stated he might consider adjusting the schedule by “a day or two” if counsel for the Attorney General convinced him that cross-examinations were absolutely necessary, but he indicated that he would be extremely reluctant to accede to such a request. In the result, the Attorney General was not able, in the space of a few days, to engage an expert to respond to the opinion evidence proffered by the applicants or to assist counsel in conducting any cross-examination of the affiants tendered by the applicants as experts. The schedule could not accommodate any cross-examinations and an adjustment of a day or two would not have made a meaningful difference.

24. The Application Judge compounded this grave breach of procedural fairness in his decision by finding that the Attorney General had failed to put forward sufficient evidence to meet its onus under *Charter* s 1 and finding on the basis of the applicants’ expert evidence a failure of effective representation, when the Attorney General was not provided with any meaningful opportunity to respond to or test this evidence.

25. The Attorney General of Ontario will be seeking by way of motion before this Court to adduce fresh evidence on appeal and/or to conduct cross-examinations to cure this failure of procedural fairness which had a decisive impact on the findings of the Application Judge on what he considered, in his reasons, critical issues in the case.

**THE BASIS FOR THE APPELLATE COURT’S JURISDICTION IS:**

1. Clause 6(1)(b) of the *Courts of Justice Act*, RSO 1990, c C43 (“*CJA*”);
2. The Order is a final order of a Judge of the Superior Court of Justice, that is not an order referred to in clause 19(1)(a) of the *CJA*; and

3. Leave to appeal is not required.

September 12, 2018

**ATTORNEY GENERAL OF ONTARIO**

Constitutional Law Branch  
McMurtry-Scott Building  
720 Bay Street, 4<sup>th</sup> Floor  
Toronto, ON M7A 2S9

**Robin K Basu** (LSO#32742K)

Tel: 416-326-4476

Email: robin.basu@ontario.ca

**Yashoda Ranganathan** (LSO# 57236E)

Tel: 416-326-4456

Email: yashoda.ranganathan@ontario.ca

**Audra Ranalli** (LSO# 72362U)

Tel: 416-326-4473

Email: audra.ranalli@ontario.ca

Of Counsel for the Respondent (Appellant),  
The Attorney General of Ontario

TO: **ROCCO K. ACHAMPONG**

Barrister & Solicitor  
2500-1 Dundas Street West  
Toronto, Ontario, M5G 1Z3

**Rocco Achampong** (LSO# 57837J)

**Gavin Magrath** (LSO# 51553A)

**Selwyn Pieters** (LSO# 50303Q)

roccoachampong@gmail.com

gavin@magraths.ca

selwyn@selwynpieters.com

Applicant/Counsel for the Applicant (Respondent in appeal)  
Rocco K. Achampong

AND TO: **THE CITY OF TORONTO**

City of Toronto Legal Services Metro Hall  
 55 John Street, 26th Floor  
 Toronto, Ontario M5V 3C6  
 Fax: (416) 397-5624

**Glenn Chu** (LSO# 40392F)  
**Diana W. Dimmer** (LSO# 40392F)  
**Philip Chan** (LSO# 68681S)

glenn.chu@toronto.ca  
 diana.dimmer@toronto.ca  
 philip.k.chan@toronto.ca

Counsel for the Applicant (Respondent in appeal),  
 City of Toronto

AND TO: **GOLDBLATT PARTNERS LLP**

20 Dundas Street West, Suite 1039  
 Toronto, ON M5G 2C2

**Howard Goldblatt** (LSO# 15964M)  
**Steven M. Barrett** (LSO# 24871B)  
**Simon Archer** (LSO# 46263D)  
**Geetha Philipupillai** (LSO# 74741S)

hgoldblatt@goldblattpartners.com  
 sbarrett@goldblattpartners.com  
 sarcher@goldblattpartners.com  
 gphilipupillai@goldblattpartners.com

Counsel for the Applicants (Respondent in appeal),  
 Chris Moise, Ish Aderonmu and Prabha Kosla on her own behalf and on behalf of  
 all members of Women Win TO

AND TO: **PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**

155 Wellington Street West  
35th Floor  
Toronto, ON M5V 3H1

**Donald K. Eady** (LSO# 30635P)  
**Caroline V. (Nini) Jones** (LSO# 43956J)  
**Jodi Martin** (LSO# 54966V)

Counsel to the Interveners (Respondent in appeal),  
Jennifer Hollet, Lily Cheng, Susan Dexter, Geoff Kettel, and Dyanoosh Youssefi

AND TO: **DLA PIPER (CANADA) LLP**

Suite 6000, 1 First Canadian Place  
PO Box 367, 100 King St. W.  
Toronto, ON M5X 1E2

**Derek Bell** (LSO# 43420J)  
**Ashley Boyes** (LSO# 74477G)

derek.bell@dlapiper.com  
ashley.boyes@dlapiper.com

Counsel for the Intervener,  
The Canadian Taxpayers Federation

AND TO: **Toronto District School Board**

Legal Services  
5050 Yonge Street, 5<sup>th</sup> Floor  
Toronto, ON M2N 5N8

**Patrick Cotter** (LSO# 40809E)

patrick.cotter@tdsb.on.ca

Lawyer for the Intervener,  
Toronto District School Board

ROCCO ACHAMPONG                      and                      ONTARIO                      and                      CITY OF TORONTO  
 Applicant (Respondent in appeal)                      Respondent (Appellants)                      Respondent (Respondent on Appeal)

**Court of Appeal File No.: C65861**

Superior Court File No.: CV-18-00602494-0000

THE CITY OF TORONTO                      and                      ATTORNEY GENERAL OF ONTARIO  
 Applicant (Respondent in appeal)                      Respondent (Appellant)

Superior Court File No.: CV 18-00603797-0000

CHRIS MOISE *et al.*                      and                      ATTORNEY GENERAL OF ONTARIO and                      CITY OF TORONTO  
 Applicants (Respondent in appeal)                      Respondent (Appellants)                      Respondent (Respondent on Appeal)

Superior Court File No. CV-18-00603633-0000

**COURT OF APPEAL FOR ONTARIO**

**Proceeding commenced at Toronto**

**NOTICE OF APPEAL**

**ATTORNEY GENERAL OF ONTARIO**

Constitutional Law Branch  
 McMurtry-Scott Building  
 720 Bay Street, 4<sup>th</sup> Floor  
 Toronto, ON M7A 2S9  
 Fax: 416-326-4015

**Robin Basu** (LSO#32742K)

Tel: 416-326-4476

Email: robin.basu@ontario.ca

**Yashoda Ranganathan** (LSO#57236E)

Tel: 416-326-4456

Email: yashoda.ranganathan@ontario.ca

**Audra Ranalli** (LSO#72362U)

Tel: 416-326-4473

Email: audra.ranalli@ontario.ca

Of Counsel for the Attorney General of Ontario



# **TAB 3**

**ONTARIO**

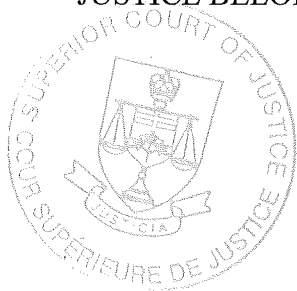
**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
JUSTICE BELOBABA

)  
)

MONDAY THE 10<sup>th</sup> DAY  
OF SEPTEMBER, 2018

**COURT FILES NO.:** CV-18-603797  
CV-18-602494  
CV-18-603633



**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

BETWEEN:

**CITY OF TORONTO**

Applicant

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent

AND BETWEEN:

**ROCCO ACHAMPONG**

Applicant

and

**ONTARIO (HON. DOUG FORD, PREMIER OF ONTARIO),  
ONTARIO (ATTORNEY GENERAL) and CITY OF TORONTO**

Respondents

---

AND BETWEEN:

**CHRIS MOISE, ISH ADERONMU, and PRABHA KHOSLA, on her  
own behalf and on behalf of all members of Women Win TO**

Applicants

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent

---

## **ORDER**

**THESE APPLICATIONS**, for a declaration that certain parts of the *Better Local Government Act, 2018*, S.O. 2018, c. 11 ("Bill 5") are of no force and effect, in addition to other relief, were heard on August 31, 2018, at 361 University Avenue in the City of Toronto.

**ON READING** the Application Records in the Applications; the Record of the Intervenors Hollett and others; the Responding Application Record of the Attorney General of Ontario; the affidavit of Andrew Gowdy, sworn August 24, 2018; the facts of the Applicants, the Intervenors Hollett and others, the Intervenor Canadian Taxpayers Federation, and the Intervenor Toronto District School Board, and the Attorney General of Ontario; in addition to other materials, all filed; and on hearing the submissions of counsel for the parties and intervenors;

1. **THIS COURT DECLARES** that, pursuant to s. 52(1) of the *Constitution Act, 1982*, sections 4 to 7 of Schedule 1, and Schedule 3 of Bill 5, and O. Reg. 407/18 and O. Reg. 408/18 made pursuant thereto, are of no force and effect, except for the following:

- (a) the part of section 1 of Schedule 3 of Bill 5 that adds subsections 10.1(1) and 10.1(10) to the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sch. (the “MEA”), to the extent that it is necessary to permit the sections of O. Reg. 407/18 referred to in clause 1(b) below to remain in force;
- (b) the part of section 1 of Schedule 3 of Bill 5 that adds subsection 10.2 to the MEA;  
and
- (c) sections 4, 5 and 12 of O. Reg. 407/18.

2. **THIS COURT DECLARES** that O. Reg. 391/18 (made under the *Education Act*, RSO 1990, c E.2) which amends O. Reg. 412/00 for the purpose of aligning certain school board boundaries with the 25-ward boundaries mandated by the provisions of Bill 5 are of no force and effect and, further, that any steps taken under O. Reg. 391/18 are of no force or effect.

3. **THIS COURT DECLARES** that all actions taken by the Toronto City Clerk, prior to the date Bill 5 came into force, continue to apply to the October 22, 2018 City of Toronto election (the “Election”).

4. **THIS COURT DECLARES** that all nominations certified by the Toronto City Clerk as of July 30, 2018 at 4:00 p.m., shall continue to apply to the Election, notwithstanding any actions that may have been taken pursuant to Bill 5, or the regulations passed under Bill 5, after Bill 5 came into force.

5. **THIS COURT DECLARES** that all actions taken by school boards affected by the 25-ward structure prior to the making of O. Reg. 391/18 on July 30, 2018, continue to apply to the

Election, and that all nominations certified by the Clerk as of July 30, 2018 at 4:00 p.m., shall continue to apply, notwithstanding any actions that may have been taken pursuant to Bill 5 or the regulations made thereunder after Bill 5 came into force and before certain portions of it were declared to be of no force and effect.

6. **THIS COURT ORDERS** that the Election shall proceed on the basis of the 47-ward structure set out in City of Toronto By-laws 267-2017 and 464-2017, as amended by the Ontario Municipal Board in its order of December 15, 2017 bearing file number MM170033.

7. **THIS COURT ORDERS** that the 15-day notice period pursuant to subsection 109(2.2) of the *Courts of Justice Act*, R.S.O. 1990, c C.43, for the delivery of the Notice of Constitutional Question with respect to the *Achampong Application*, the *Moise Application*, and the *City Application* to the Attorney Generals of Ontario and Canada be abridged to the notice period actually provided and that delivery of such notice be validated.

8. **THIS COURT ORDERS** that it remains seized with respect to (a) any requests for consequential or collateral relief required to allow the Election to be carried out in accordance with this Order, (b) the issues adjourned under paragraph 11 below; and (c) costs as set out below in paragraph 12.

9. **THIS COURT ORDERS** that the Applicant, Prabha Khosla, shall have leave to bring the *Moise Application* on behalf of all members of Women Win TO.

10. **THIS COURT ORDERS** that the following parties are granted leave, effective August 21, 2018, to intervene in the *Achampong Application*, the *Moise Application*, and the *City*

*Application*, and have the right to file evidence and make submissions in accordance with the terms of request in their respective Notices of Motion:

(a) Canadian Taxpayers Federation;

(b) Toronto District School Board; and

(c) Jennifer Hollett, Lily Cheng, Susan Dexter, Geoffrey Kettel and Dyanoosh Youssefi.

11. **THIS COURT ORDERS** that the balance of the relief sought with respect to sections 1, 2, 3 and 8 of Schedule 1 of the *Better Local Government Act, 2018* by the City of Toronto in its Notice of Application be adjourned to no fixed date.

12. **THIS COURT ORDERS** that the parties may make submissions as to costs if they are unable to agree, the applicants within 21 days of this Order and the Respondent Attorney General within 21 days thereafter.



---

ENTERED AT / INSCRIT À TORONTO  
BOOK NO:  
LE / DANS LE REGISTRE NO.:

SEP 11 2018

PER/PAR: MA

**B E T W E E N :**

**CITY OF TORONTO**

Applicant

- and -

**ATTORNEY GENERAL OF ONTARIO**

Respondent

**ROCCO ACHAMPONG**

Applicants

- and -

**ATTORNEY GENERAL OF ONTARIO et al.**

Respondents

**CHRIS MOISE et al.**

Applicants

- and -

**ATTORNEY GENERAL OF ONTARIO et al.**

Respondents

---

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

---

**ORDER**

---

**CITY SOLICITOR'S OFFICE**  
**City of Toronto, Legal Services**

Metro Hall  
55 John Street, 26th Floor  
Toronto, ON M5V 3C6  
fax: (416) 397 – 5624

**Diana Dimmer/Glenn K.L. Chu/Philip Chan**

LSO No. 24932L/40392F/68681S

Tel: (416) 392-7229/(416) 397-5407/(416) 392-1650

Fax: (416) 397-5624

diana.dimmer/glenn.chu/pchan7@toronto.ca

*Lawyers for the Applicant, City of Toronto*

# **TAB 4**



**CITATION:** City of Toronto et al v. Ontario (Attorney General), 2018 ONSC 5151  
**COURT FILES NO.:** CV-18-603797  
CV-18-602494  
CV-18-603633  
**DATE:** 20180910

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**CITY OF TORONTO**

Applicant

and

**ATTORNEY GENERAL OF ONTARIO**

Respondent

---

AND BETWEEN:

**ROCCO ACHAMPONG**

Applicant

and

**ONTARIO (HON. DOUG FORD, PREMIER OF ONTARIO),  
ONTARIO (ATTORNEY GENERAL) and CITY OF TORONTO**

Respondents

---

AND BETWEEN:

**CHRIS MOISE, ISH ADERONMU, and PRABHA KHOSLA, on her  
own behalf and on behalf of all members of Women Win TO**

Applicants

and

## ATTORNEY GENERAL OF ONTARIO

Respondent

---

**INTERVENORS**

- **Jennifer Hollett, Lily Cheng, Susan Dexter, Geoffrey Kettel and Dyanoosh Youssefi**, supporting the Applicants
  - **Toronto District School Board**, supporting the Applicants
  - **Canadian Taxpayers Federation**, supporting the Province
- 

**BEFORE:** Justice Edward P. Belobaba

**COUNSEL:** *Diana W. Dimmer, Glen K.L. Chu and Philip Chan* for the City of Toronto

*Gavin McGrath, Rocco K. Achampong, and Selwyn Pieters* for Applicant Rocco Achampong

*Howard Goldblatt, Steven M. Barrett, Christina Davies, Heather Ann McConnell and Geetha Philipupillai* for Applicants Chris Moise, Ish Aderonmu and Prabha Khosla on her own behalf and on behalf of Women Win TO

*Robin Basu, Yashoda Ranganathan and Audra Ranalli* for the Respondent Attorney General of Ontario

*Donald K. Eady, Caroline V. (Nini) Jones and Jodi Martin* for Intervenors Jennifer Hollett, Lily Cheng, Susan Dexter, Geoffrey Kettel and Dyanoosh Youssefi

*Derek Bell and Ashley Boyes* for Intervenor Canadian Taxpayer Federation

*Patrick Cotter* for Intervenor Toronto District School Board

**HEARD:** August 31, 2018

**Challenge to Provincial Bill 5 - Better Local Government Act, 2018**

**Reasons for Decision**

**Justice Edward P. Belobaba:**

[1] These applications, brought on an urgent basis, challenge the constitutional validity of Bill 5, also known as the *Better Local Government Act, 2018*.<sup>1</sup> For ease of reference, I will refer to the impugned provincial enactment as Bill 5 and I will refer to the provisions that are being challenged - that is, the provisions that change the number of wards and councillors from 47 to 25 - as the Impugned Provisions.

[2] Given the pressing need for a timely decision, I will forego a detailed analysis of every legal issue raised in this proceeding or the case law that pertains to these issues. I will focus primarily on the issues and authorities that, in my view, are the most determinative.

**The unprecedented nature of the case before me**

[3] The matter before me is unprecedented. The provincial legislature enacted Bill 5, radically redrawing the City of Toronto's electoral districts, in the middle of the City's election.

[4] The election period for Toronto City Council began on May 1, 2018 and was based on a 47-ward structure. Election day is October 22, 2018. At the end of July, shortly after taking power, the newly elected Ontario government announced that it would enact legislation directed primarily at the City of Toronto, reducing the number of City wards and councillors from 47 to 25 and *de facto* doubling the ward populations from an average of 61,000 to 111,000.

[5] Bill 5 received first reading on July 30, second reading on August 2, 7 and 8 and Royal Assent on August 14, 2018. Bill 5 took immediate effect in the middle of August, by which point some 509 candidates for the October 22 election had been certified, the candidates were in the midst of their campaigns and the City Clerk's preparations for a 47-ward election were well underway.

[6] The enactment of provincial legislation radically changing the number and size of a city's electoral districts in the middle of the city's election is without parallel in Canadian history. Here is how the City of Toronto put it in the opening line of its factum:

Never before has a Canadian government meddled with democracy like the Province of Ontario did when, without notice, it fundamentally altered the City of Toronto's governance structure in the middle of the City's election.

<sup>1</sup> S.O. 2018, c. 11.

[7] Most people would agree that changing the rules in the middle of the game is profoundly unfair. The question for the court, however, is not whether Bill 5 is unfair. The question is whether the enactment of Bill 5 is unconstitutional.

### **Decision**

[8] I am acutely aware of the appropriate role of the court in reviewing duly enacted federal or provincial legislation and the importance of judges exercising judicial deference and restraint. It is only when a democratically elected government has clearly crossed the line that the “judicial umpire” should intervene.

[9] The Province has clearly crossed the line.

[10] For the reasons set out below, I find that the Impugned Provisions of Bill 5 substantially interfered with both the candidate’s and the voter’s right to freedom of expression as guaranteed under section 2(b) of the *Canadian Charter of Rights and Freedoms*. I further find, on the evidence before me, that these breaches cannot be saved or justified under section 1.<sup>2</sup>

[11] The Impugned Provisions are unconstitutional and are set aside under s. 52 of the *Constitution Act, 1982*. The October 22 election shall proceed as scheduled but on the basis of 47 wards, not 25. If the Province wishes to enact another Bill 5-type law at some future date to affect future City elections, it may certainly attempt to do so. As things now stand – and until a constitutionally valid provincial law says otherwise - the City has 47 wards.

### **Arguments other than s. 2(b) of the Charter**

[12] The applicants and intervenors advanced a number of Charter and non-Charter arguments in addition to s. 2(b), namely that the Impugned Provisions breached association and equality rights under ss. 2(d) and 15(1) of the Charter, and the unwritten constitutional principles of the rule of law and democracy.

<sup>2</sup> I make no ruling in relation to the provisions in Bill 5 that change the selection process for the regional chairs in York, Peel, Niagara and Muskoka from election to appointment. I recognize that Mr. Achampong included a challenge to these provisions in his application and filed a supporting affidavit from the campaign manager of a candidate in York Region. However, the Achampong application asks that Bill 5 be “stayed”, a remedy that was not requested by any other applicant and is not being granted here because it requires a very different legal analysis: see *Manitoba (A.G.) v. Metropolitan Stores Ltd.* [1987] 1 S.C.R. 110. A more complete legal and evidentiary basis would be needed before this court could comfortably consider a challenge to the provisions in Bill 5 that deal with the appointment of the four regional chairs.

[13] I am inclined to agree with the Province that none of these additional submissions can prevail on the facts herein. However, I make no actual finding in this regard. The ss. 2(d) and 15(1) submissions, together with the rule of law and democracy submissions, may live another day, perhaps to be litigated in another court. It is sufficient for my decision today to focus only on s. 2(b) of the Charter and the guarantee of freedom of expression.

## Analysis

[14] Several preliminary points should be made clear before I explain why the Impugned Provisions infringe s. 2(b) of the Charter.

[15] First, there is no dispute that the Province has plenary authority under s. 92(8) of the *Constitution Act, 1867* to pass laws in relation to “Municipal Institutions in the Province”. Assuming the law falls under s. 92(8), or indeed any other provincial head of power, the Province can pass a law that is wrong-headed, unfair or even “draconian.”<sup>3</sup>

[16] The only proviso, and it is an important one, is that any such legislation must comply with the Charter (and, arguably, any applicable unwritten constitutional norms and principles). As long as a statute is “neither *ultra vires* nor contrary to the [Charter], courts have no role to supervise the exercise of legislative power.”<sup>4</sup> The remedy for bad laws that are otherwise *intra vires* and Charter-compliant is the ballot box, not judicial review.<sup>5</sup>

[17] Second, a federal or provincial legislature is sovereign and cannot bind itself. The provincial legislature can over-rule or contradict a previously enacted law. A subsequent enactment that is inconsistent with an earlier enactment is deemed to impliedly repeal the earlier enactment to the extent of the inconsistency.<sup>6</sup> Thus, the argument that the *City of Toronto Act*<sup>7</sup> somehow imposed an immutable obligation to consult cannot succeed. The

<sup>3</sup> *Babcock v Canada (Attorney General)*, [2002] 3 S.C.R. 3, at para. 57.

<sup>4</sup> *Reference re Canada Assistance Plan (B.C.)*, [1991] 2 S.C.R. 525, at para. 85.

<sup>5</sup> *British Columbia v. Imperial Tobacco Canada Ltd.*, [2005] 2 S.C.R. 473 at para. 66. Also see *East York v. Ontario (Attorney General)*, [1997] O.J. No. 4100 at para. 12: “[C]ourts can only provide remedies for the public grievances if those grievances violate legal as opposed to political proprieties. What is politically controversial is not necessarily constitutionally impermissible.”

<sup>6</sup> Sullivan, *Sullivan on the Construction of Statutes*, (6th ed.) at para 11.64.

<sup>7</sup> S.O. 2006, c. 11, Sch. A., ss. 6(1) and (2). Also see s. 6 of the Toronto-Ontario Cooperation and Consultation Agreement which provides that Ontario shall consult with the City on, among other things, “[a]ny proposed change in legislation or regulation that, in Ontario’s opinion, will have a significant ... impact on the City”. However, s. 14 of the same Agreement provides that a failure to abide by any of its terms does not give rise to any legal remedy.

Province was entitled to enact Bill 5 and ignore completely the promise to consult that was set out in the previous law.

[18] Third, speaking broadly and again absent a constitutional issue, the provincial legislature has no obligation to consult and no obligation of procedural fairness.<sup>8</sup> The doctrine of legitimate expectations, an aspect of procedural fairness, does not apply to legislative enactments.<sup>9</sup>

[19] At first glance, Bill 5 although controversial in content appears to fall squarely within the province's legislative competence. Upon closer examination of the surrounding circumstances, however, one discovers at least two constitutional deficiencies that cannot be justified in a free and democratic society. The first relates to the timing of the law and its impact on candidates; the second to its content and its impact on voters.

[20] As I explain in more detail below, the Impugned Provisions breach s. 2(b) of the Charter in two ways: (i) because the Bill was enacted in the middle of an ongoing election campaign, it breached the municipal candidate's freedom of expression and (ii) because Bill 5 almost doubled the population size of City wards from an average of 61,000 to an average of 111,000, it breached the municipal voter's right to cast a vote that can result in effective representation.

[21] Either breach by itself is sufficient to support a court order declaring that the Impugned Provisions are of no force or effect.

### **(1) Breach of the candidate's freedom of expression**

[22] Section 2(b) of the Charter guarantees "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication." Although set out in the Charter, the Supreme Court has made clear that freedom of expression did not originate in the Charter but was entrenched in the Constitution in 1982 as "one of the most fundamental values of our society."<sup>10</sup>

<sup>8</sup> The obligation of procedural fairness materializes at the level of subordinate legislation and in the judicial review of the administrative actions of agencies and tribunals – not at the level of primary legislation such as Bill 5 herein.

<sup>9</sup> *Old St Boniface Residents Assn Inc v Winnipeg (City)*, [1990] 3 S.C.R. 1170 at para 74; *Canada (A.G.) v Mavi*, [2011] 2 S.C.R. 504 at paras 44, 68-69; and *Reference re Canada Assistance Plan, supra*, note 4, at paras 58-61.

<sup>10</sup> *Libman v Quebec (Attorney General)*, [1997] 3 S.C.R. 569, at para. 28.

[23] The Supreme Court has frequently and consistently held that freedom of expression is of crucial importance in a democratic society.<sup>11</sup> All the more so when freedom of expression is engaged in the political realm. Political expression is at the very heart of the values sought to be protected by the freedom of expression guaranteed by s. 2(b) of the Charter.<sup>12</sup> Here is how the Court put it in *Keegstra*:

The connection between freedom of expression and the political process is perhaps the linchpin of the s. 2(b) guarantee, and the nature of this connection is largely derived from the Canadian commitment to democracy. Freedom of expression is a crucial aspect of the democratic commitment, not merely because it permits the best policies to be chosen from among a wide array of proffered options, but additionally because it helps to ensure that participation in the political process is open to all persons.<sup>13</sup>

[24] The Supreme Court has encouraged a broad interpretation of freedom of expression that extends the guarantee to as many expressive activities as possible. The Court has made clear that any activity or communication that conveys or attempts to convey meaning (and does not involve violence) is covered by the guarantee in s. 2(b) of the Charter.<sup>14</sup>

[25] It follows from this that the freedom of expression guarantee extends not only to candidates but to every participant in a political election campaign, including volunteers, financial supporters and voters.<sup>15</sup> Each of them would have a genuine s. 2(b) issue with Bill 5. However, for ease of understanding, I will focus only on the candidates.

[26] In a section 2(b) claim, the Court asks two questions: first, whether the activity in question falls within the scope of freedom of expression, and secondly, whether the purpose or *effect* of the legislation is to interfere with that expression.<sup>16</sup>

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid* at para. 29.

<sup>13</sup> *R. v. Keegstra*, [1990] 3 S.C.R. 697 at 763-64.

<sup>14</sup> *Libman*, *supra*, note 10, at para. 29.

<sup>15</sup> *Harper v Canada (Attorney General)*, 2004 SCC 33 at paras 15 and 20; *Vancouver Sun (Re)*, 2004 SCC 43 at para. 26; *Taman v Canada (Attorney General)*, 2015 FC 1155 at para 41.

<sup>16</sup> *Irwin Toy Ltd. V. Quebec (Attorney General)*, [1989] 1 S.C.R. 927 at 978.

[27] The expressive activity of candidates competing in the City's ongoing election obviously falls within the scope of s. 2(b). The more pertinent question is whether their freedom of expression has been infringed by the enactment of Bill 5. That is, whether the enactment of Bill 5 changing the electoral districts in the middle of the City's election campaign substantially interfered with the candidate's right to freedom of expression.<sup>17</sup>

[28] Perhaps the better question is "How could it not?"

[29] The evidence is that the candidates began the election campaign on or about May 1, 2018 on the basis of a 47-ward structure and on the reasonable assumption that the 47-ward structure would not be changed mid-stream. The 47-ward structure informed their decision about where to run, what to say, how to raise money and how to publicize their views. When Bill 5 took effect on August 14, mid-way through the election campaign, most of the candidates had already produced campaign material such as websites and pamphlets that were expressly tied to the ward in which they were running. A great deal of the candidate's time and money had been invested within the boundaries of a particular ward when the ward numbers and sizes were suddenly changed.

[30] Bill 5 radically altered the City's electoral districts, in most cases doubling both their physical size and the number of potential voters. The immediate impact of Bill 5 was wide-spread confusion and uncertainty. There was confusion about where to run, how to best refashion one's political message and reorganize one's campaign, how to attract additional financial support, and what to do about all the wasted campaign literature and other material. There was uncertainty flowing from the court challenge, the possibility that the court challenge might succeed and the consequences for all concerned if this were to happen.

[31] The evidence is that the candidates spent more time on doorsteps addressing the confusing state of affairs with potential voters than discussing relevant political issues. The candidates' efforts to convey their political message about the issues in their particular ward were severely frustrated and disrupted. Some candidates persevered; others dropped out of the race entirely.

<sup>17</sup> The case law is clear that the *Charter* cannot be subdivided into two kinds of guarantees - freedoms and rights. The freedom to do a thing, when guaranteed by the Constitution and interpreted purposively, implies a right to do it. Hence, I say "the right to freedom of expression". See *Ontario (Attorney General) v. Fraser*, [2011] 2 S.C.R. 3, at para. 67.



[32] There can be no doubt on the evidence before the court that Bill 5 substantially interfered with the candidate's ability to effectively communicate his or her political message to the relevant voters.

[33] This is not a situation where a provincial law changing the number and size of the City's electoral districts was enacted say six months before the start of the City's election period. Had this happened, the law would not have interfered with any candidate's freedom of expression and no candidate could have alleged otherwise. The Province is right to say that s. 2(b) of the Charter does not guarantee a 47-ward election platform.

[34] Here, the law changing the City's electoral districts was enacted in the middle of the City's election. This mid-stream legislative intervention not only interfered with the candidate's freedom of expression, it undermined an otherwise fair and equitable election process.

[35] Electoral fairness is a fundamental value of democracy.<sup>18</sup> As the Court noted in *Libman*,<sup>19</sup> the principle of electoral fairness flows directly from a principle entrenched in the Constitution: the political equality of citizens. Elections are fair and equitable only if candidates are given a reasonable opportunity to present their positions.<sup>20</sup>

[36] Here, as already noted, because Bill 5 took effect in the middle of the City's election, candidates were not given a reasonable opportunity to present their positions. The enactment and imposition of Bill 5, radically redrawing the electoral districts in the middle of the electoral process undermined the very notion of a "fair and equitable" election.

[37] Once the Province has entered the field and provided an electoral process, it may not suddenly and in the middle of this electoral process impose new rules that undermine an otherwise fair election and substantially interfere with the candidates' freedom of expression. Indeed, as the Supreme Court's decision in *Libman*<sup>21</sup> makes clear, where a democratic platform is provided (in that case a referendum, here a 47-ward election structure), and the election has begun, expressive activity in connection with that

<sup>18</sup> *Figueroa v. Canada (Attorney General)*, 2003 SCC 37, at para. 50.

<sup>19</sup> *Libman*, *supra*, note 10.

<sup>20</sup> *Ibid* at para 47; *Figueroa*, *supra*, note 18, at para 51.

<sup>21</sup> *Libman*, *supra*, note 10.

platform is protected against legislative interference under the traditional *Irwin Toy* analysis which focuses on substantial interference.<sup>22</sup>

[38] I have no difficulty finding on the evidence before me that the enactment of Bill 5 changing the number and size of the electoral districts in the middle of the election campaign substantially interfered with the candidate's freedom of expression. A breach of the municipal candidate's right to freedom of expression under s. 2(b) of the Charter has been established.

[39] I now turn to the municipal voter's right under the same provision of the Charter.

## **(2) Breach of the municipal voter's right to freedom of expression**

[40] I begin with three propositions that are not in dispute. First, the most fundamental of our rights in a democratic society is the right to vote.<sup>23</sup> Absent a right to vote, democracy cannot exist.<sup>24</sup> Second, voting is an expressive activity, indeed the "most important expressive activity"<sup>25</sup> and is fully protected under s. 2(b) of the Charter. Third, the right to vote is, in essence, the right to "effective representation" and not just voter parity.

[41] As the Supreme Court concluded in the *Saskatchewan Reference*:<sup>26</sup>

[T]he purpose of the right to vote enshrined in s. 3 of the Charter is not equality of voting power *per se*, but the right to "effective representation". Ours is a representative democracy. Each citizen is entitled to be represented in government. Representation comprehends the idea of having a voice in the deliberations of government as well as the idea of the right to bring one's grievances and concerns to the attention of one's government representative ... elected representatives function in two roles - legislative and what has been termed the "ombudsman role".

<sup>22</sup> *Ibid* at paras. 28 to 37. Also see *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, [2010] 1 S.C.R. 815 and *Fraser*, *supra*, note 17, at paras 46 and 69-70.

<sup>23</sup> *Reference re Provincial Electoral Boundaries (Sask.)*, [1991] 2 S.C.R. 158 at para. 1.

<sup>24</sup> *Haig v. Canada (Chief Electoral Officer)*, [1993] 2 S.C.R. 995, at para. 104.

<sup>25</sup> *Ibid* at para. 158.

<sup>26</sup> *Saskatchewan Reference*, *supra*, note 23, at para. 49.

[42] City councillors obviously function in both roles, legislative and ombudsman – in the former role when debating and passing bylaws or other resolutions; and in the latter role when handling the myriad of constituents’ grievances and concerns that find their way to their desks.

[43] The important legal issue is whether the comments by the Supreme Court about effective representation, made in the context of s. 3 of the Charter (which guarantees every citizen’s right to vote in a federal or provincial election, but not a municipal election), can also apply in the context of a municipal election. Can the concept of effective representation inform this court’s analysis of the municipal voter’s rights under s. 2(b) of the Charter?

[44] In my view it can, for the following reasons.

[45] The concept of effective representation is not rooted in s. 3 of the Charter. Its origins can be traced back to Canada’s founding fathers and the early debates about the appropriate design of electoral districts. As the Supreme Court explained in the *Saskatchewan Reference*:

[P]arity of voting power, though of prime importance, is not the only factor to be taken into account in ensuring effective representation. Sir John A. Macdonald in introducing the Act to re-adjust the Representation in the House of Commons, S.C. 1872, c. 13, recognized this fundamental fact (House of Commons Debates, Vol. III, 4th Sess., p. 926 (June 1, 1872)):

[I]t will be found that ... while the principle of population was considered to a very great extent, other considerations were also held to have weight; so that different interests, classes and localities should be fairly represented, that the principle of numbers should not be the only one.<sup>27</sup>

[46] Even if the concept of effective representation is found to have its origins in s. 3 of the Charter, there is no principled reason why in an appropriate case the “effective representation” value cannot inform other related Charter provisions such as the voter’s right to freedom of expression under s. 2(b). The Charter of Rights is not comprised of watertight compartments. As the Supreme Court noted in *Baier v. Alberta*,<sup>28</sup> “Charter

<sup>27</sup> *Ibid* at para. 51.

<sup>28</sup> *Baier v Alberta*, [2007] 2 S.C.R. 673

rights overlap and cannot be pigeonholed.”<sup>29</sup> And, as this court noted in *DeJong*,<sup>30</sup> the rights enshrined in s. 3 “have a close relationship to freedom of expression and to the communication of ideas ... there is an affinity between ss. 3 and 2(b) (freedom of expression) of the Charter.”<sup>31</sup>

[47] If voting is indeed one of the most important expressive activities in a free and democratic society, then it follows that any judicial analysis of its scope and content under the freedom of expression guarantee should acknowledge and accommodate voting’s core purpose, namely effective representation. That is, the voter’s freedom of expression must include her right to cast a vote that can result in meaningful and effective representation.

[48] The following caution from the Supreme Court in *Haig*<sup>32</sup> has direct application on the facts herein:

While s. 2(b) of the Charter does not include any right to any particular means of expression, where a government chooses to provide one, it must do so in a fashion that is consistent with the Constitution.<sup>33</sup>

[49] In other words, even though s. 2(b) does not guarantee a right to vote in municipal elections, if such an expressive right has been provided by the provincial government, then the right so provided must be consistent with and not in breach of the Constitution.

[50] Here, the Province has statutorily provided for a resident’s right to vote in municipal elections, including the upcoming election in the City of Toronto.<sup>34</sup> This right, having been provided, must be provided “in a fashion that is consistent with the Constitution.”<sup>35</sup> And where it is not, a municipal voter is entitled to allege constitutional infringement, including an infringement of s. 2(b) based on the denial of her right to cast a vote that can result in effective representation.

<sup>29</sup> *Ibid* at para. 58.

<sup>30</sup> *De Jong v. The Attorney General of Ontario*, (2007) 88 O.R. (3d) 335 (S.C.J.)

<sup>31</sup> *Ibid* at para. 25. Also see *Baier*, *supra*, note 28, at para. 57.

<sup>32</sup> *Haig*, *supra*, note 24.

<sup>33</sup> *Ibid* at para 84.

<sup>34</sup> *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A, s. 135(2) and *Municipal Elections Act, 1996*, S.O. 1996, c. 32, s. 17(2).

<sup>35</sup> *Haig*, *supra*, note 24, at para. 84.

[51] A finding that Bill 5 has infringed the municipal voter’s freedom of expression by abridging her right to cast a vote that can result in effective representation does not constitutionalize a third level of government. Nor does it constitutionalize a right to vote at the municipal level. The finding of Charter infringement flows from the application of the Supreme Court’s caution in *Haig*<sup>36</sup> to the facts of this case – once provided, a right to vote in a municipal must comply with the Charter, and in particular s. 2(b).

[52] This very approach was taken by the Court of Appeal in the “mega-city” amalgamation case.<sup>37</sup> The amalgamation legislation was challenged on the ground that the resulting voter/councillor ratios were too high and denied meaningful access to one’s elected representative. The applicants’ challenge was based in part on s. 2(b) of the Charter. The Court of Appeal noted that it was “mindful”<sup>38</sup> of the caution in *Haig*<sup>39</sup> and proceeded to consider the s. 2(b) argument. The Court of Appeal found no breach of s. 2(b) because in that case there was no suggestion of “any curtailment of the right to vote” and no “evidence” that the size of the electoral districts post-amalgamation infringed the concept of effective representation.<sup>40</sup>

[53] Here, however, the applicants before this court allege a clear curtailment of the right to vote and have filed extensive evidence about effective representation. I refer, of course, to the findings and conclusions of the Toronto Ward Boundary Review.

[54] The TWBR began in 2013 and concluded in 2017. Over the course of the almost four-year review, the TWBR conducted research, held public hearings, and consulted widely. The TWBR considered the “effective representation” requirement and the ward size that would best accomplish this objective. The option of reducing and redesigning the number of wards to mirror the 25 Federal Election Districts was squarely addressed and rejected by the TWBR. City Council’s decision in 2017 to increase the number of wards from 44 to 47 was directly based on the findings and conclusions of the TWBR,

<sup>36</sup> *Ibid.*

<sup>37</sup> *East York, supra*, note 5.

<sup>38</sup> *Ibid* at para. 2.

<sup>39</sup> *Haig, supra*, note 24, at para. 84.

<sup>40</sup> *East York, supra*, note 5. at paras. 4 and 8.

which in turn were affirmed on appeal to the Ontario Municipal Board and the Divisional Court.<sup>41</sup>

[55] Put simply, the 25 FEDs option was considered by the TWBR and rejected because, at the current 61,000 average ward size,<sup>42</sup> city councillors were already having difficulty providing effective representation.

[56] Local government is the level of government that is closest to its residents. It is the level of government that most affects them on a daily basis. City councillors receive and respond to literally thousands of individual complaints on an annual basis across a wide range of topics - from public transit, high rise developments and policing to neighbourhood zoning issues, building permits and speed bumps.

[57] Recall what the Supreme Court said in *Saskatchewan Reference* about how effective representation includes “the right to bring one's grievances and concerns to the attention of one's government representative.”<sup>43</sup> This right must obviously be a meaningful right. This is particularly relevant in the context of the councillor's role in a mega-city like Toronto.

[58] The evidence before this court supports the conclusion that if the 25 FEDs option was adopted, City councillors would not have the capacity to respond in a timely fashion to the “grievances and concerns” of their constituents. Professor Davidson, who filed an affidavit in this proceeding, and also participated in the TWBR as a consultant, provided the following expert evidence:

It is the unique role of municipal councillors that distinguishes municipal wards from provincial and federal ridings. Boundaries that create electoral districts of 110,000 may be appropriate for higher orders of government, but because councillors have a more involved legislative role, interact more intimately with their constituents and are more involved in resolving local issues, municipal wards of such a large size would impede individual councillor's capacity to represent their constituents.

<sup>41</sup> With the exception of a minor change in one ward boundary. Leave to appeal the decision of the OMB, (now known as the Local Planning Appeal Tribunal) in *Di Ciano v Toronto (City)*, 2017 CanLII 85757 (ON LPAT), was denied by the Divisional Court: *Natale v City of Toronto*, 2018 ONSC 1475.

<sup>42</sup> The average ward size in other Ontario cities is 32,600.

<sup>43</sup> *Saskatchewan Reference*, *supra*, note 23, at para. 49.

It is my professional opinion that the unique role of councillors, as well as the public feedback received by the TWBR, and comparison with ward-size in other municipalities, demonstrates that a ward size of approximately 61,000 people provides councillors with capacity to provide their constituents with effective representation and that ward sizes of approximately 110,000 do not.

[59] On the basis of the evidence before me, I find that the Impugned Provisions (that impose a 25-ward structure with an average population size of 111,000) infringe the municipal voter's right under s. 2(b) of the Charter to cast a vote that can result in meaningful and effective representation. Once the Province has provided for a right to vote in a municipal election, that right must comply with the Charter.

[60] In sum, I have found two distinct breaches of s. 2(b) – the first, that the Impugned Provisions substantially interfered with the candidate's right to freedom of expression when it changed the City's electoral districts in the middle of the election campaign; the second, that the Impugned Provisions substantially interfered with the voter's right to freedom of expression when it doubled the ward population size from a 61,000 average to a 111,000 average, effectively denying the voter's right to cast a vote that can result in effective representation.

[61] I further find, for the reasons that follow, that neither of these breaches can be justified or "saved" under s. 1 of the Charter.

### **Breaches of s. 2(b) not saved under s. 1**

[62] Section 1 of the Charter provides that the rights and freedoms guaranteed therein are subject to "such reasonable limits ... as can be demonstrably justified in a free and democratic society."

[63] The analytic approach that a court must take under s. 1 has been repeated and refined in numerous Supreme Court decisions since it was first set out in *Oakes*.<sup>44</sup> Here is the prevailing articulation:

[T]he Court must first ask whether the objective the statutory restrictions seek to promote responds to pressing and substantial concerns in a democratic society, and then determine whether the means chosen by the government are proportional to that objective. The proportionality test involves three steps: the restrictive measures chosen must be rationally connected to the objective, they must constitute a minimal impairment of

<sup>44</sup> *R. v. Oakes*, [1986] 1 S.C.R. 103.

the violated right or freedom and there must be proportionality both between the objective and the deleterious effects of the statutory restrictions and between the deleterious and salutary effects of those restrictions.<sup>45</sup>

[64] The onus of justification under s. 1 is on the government. The standard of proof is the civil standard, namely proof on a balance of probabilities.<sup>46</sup> Normally, the defending government files extensive evidence attempting to provide a justification for the breach under s. 1 of the Charter. Here, either because of time constraints or because there was little in the way of supporting evidence, the Province only filed one news release and some excerpts from *Hansard* setting out what was said by the Premier and others when Bill 5 was debated in the legislature.

[65] The news release that was issued by the Premier's office on July 27, 2018 provided two rationales for Bill 5, improved efficiency and overall cost savings. The Premier observed that Toronto City Council "has become increasingly dysfunctional and inefficient through a combination of entrenched incumbency and established special interests" and that Bill 5 would create an effective municipal government that saves taxpayers money.

[66] On August 2, 2018 at the second reading of Bill 5, the Minister of Municipal Affairs and Housing set out three objectives for the legislation:

First, they [councillors in support of a 25-ward model] agree that a smaller council will lead to better decision-making at Toronto city hall, which would benefit Torontonians as a whole. They gave an example of the current 44-member council having 10-hour debates on issues that would end with the vast majority of councillors voting the same as they would have at the beginning of the debate. ...

Second, they point out that it will save money ...

Third, it would result in a fair vote for residents, which was the very reason Toronto itself undertook a review of its ward boundaries. The Toronto councillors I referred to earlier reminded everyone that the Supreme Court of Canada said that voter parity is a prime condition of effective representation. They gave examples of the current ward system, where there are more than 80,000 residents in one ward and 35,000 in another. They acknowledge that this voter disparity is the result of self-

<sup>45</sup> *Libman*, *supra*, note 10, at para. 38.

<sup>46</sup> *Ibid* at para. 39.



interest, and that the federal and provincial electoral district process is better because it is an independent process which should apply to Toronto as well. ... The wards we are proposing are arrived at through an independent process.

[67] It is important to note that, in the debate that followed, the Premier and the MPPs who spoke in support focused on two rationales for Bill 5: improved efficiency and cost savings, and did not refer to voter parity. The Premier added some anecdotal evidence from his days as a City councillor:

I can tell you that I was there numerous times for a 10-hour debate on getting Mrs. Jones' cat out of the tree. We would sit there and debate about anything for 10 hours. After 10 hours and thousands of pieces of paper going around, nothing got done. Nothing got done. And guess what. At the end of 10 hours, we all agreed to go get Mrs. Jones's cat out of the tree. That's a waste of time ... That is why it is time to reduce the size and cost of municipal government.

[68] During the debate on second reading, the MPPs who spoke in support of Bill 5 focused on two objectives – improved efficiency and saving taxpayers money. Other than the brief reference by the Minister (in the excerpt set out above) nothing more was said about voter parity. The Province has indicated to the court that it does not rely on the costs saving objective for the s. 1 analysis. This leaves two objectives: improved efficiency (“better decision-making”, a “more streamlined” City Council) and voter parity (barely mentioned).

[69] The Supreme Court noted in *Health Services*<sup>47</sup> that it can be useful in the context of the s. 1 analysis to ask whether the government considered other options or engaged in consultation with the affected parties before enacting the challenged legislation:

Legislators are not bound to consult with affected parties before passing legislation. On the other hand, it may be useful to consider, in the course of the s. 1 justification analysis, whether the government considered other options or engaged in consultation with the affected parties, in choosing to adopt its preferred approach. The Court has looked at pre-legislative considerations in the past in the context of minimal impairment. This is simply evidence going to whether other options, in a range of possible options, were explored.<sup>48</sup>

<sup>47</sup> *Health Services and Support Facilities Subsector Bargaining Assn. v. British Columbia*, 2007 SCC 27.

<sup>48</sup> *Ibid* at para. 157.

[70] Here, there is no evidence that any other options or approaches were considered or that any consultation ever took place. It appears that Bill 5 was hurriedly enacted to take effect in the middle of the City's election without much thought at all, more out of pique than principle.

[71] In any event, the constitutional problem here is two-fold: (i) there is no evidence (other than anecdotal evidence) that a 47-seat City Council is in fact "dysfunctional" or that more effective representation can be achieved by moving from a 47-ward to a 25-ward structure; and (ii) even if there was such evidence, there is no evidence of any urgency that required Bill 5 to take effect in the middle of the City's election.

[72] In my view, the Province's justification of the Impugned Provisions in Bill 5 fails at the first step of the s. 1 analysis. There is simply no evidence that the two objectives in question were so pressing and substantial that Bill 5 had to take effect in the middle of the City's election.

[73] The Supreme Court has stated time and again that "preserving the integrity of the election process is a pressing and substantial concern in a free and democratic society."<sup>49</sup> Passing a law that changes the City's electoral districts in the middle of its election and undermines the overall fairness of the election is antithetical to the core principles of our democracy.

[74] Even if the Province could establish that the two rationales that were provided to explain Bill 5 were so pressing and substantial as to justify its enactment in the middle of the City's election, the Province could not establish proportionality, and in particular minimal impairment. As the Supreme Court noted in *RJR-MacDonald*,<sup>50</sup> "[I]f the government fails to explain why a significantly less intrusive and equally effective measure was not chosen, the law may fail."<sup>51</sup>

[75] Dealing with the first objective, improved efficiency in City Council debates, the Province has not shown why a significantly less intrusive and equally effective measure was not chosen, such for example, imposing time limits on debate, or more to the point, delaying the coming into force of the City Council restructuring law until *after* the City's election.

<sup>49</sup> *Figueroa*, *supra*, note 18, at para. 72.

<sup>50</sup> *RJR-MacDonald Inc. v Canada (Attorney General)*, [1995] 3 S.C.R. 199.

<sup>51</sup> *Ibid* at para. 160.

[76] Dealing with the second objective, voter parity, and giving the Minister the benefit of the doubt that he understood that the primary concern is not voter parity but effective representation, there is no evidence of minimal impairment. The Province's rationale for moving to a 25-ward structure had been carefully considered and rejected by the TWBR and by City Council just over a year ago. If there was a concern about the large size of some of the City's wards (by my count, six wards had populations ranging from 70,000 to 97,000) why not deal with these six wards specifically? Why impose a solution (increasing all ward sizes to 111,000) that is far worse, in terms of achieving effective representation, than the original problem? And, again, why do so in the middle of the City's election?

[77] Crickets.

[78] I am therefore obliged to find on the evidence before me that the breaches of s. 2(b) of the Charter as found above cannot be demonstrably justified in a free and democratic society and cannot be saved as reasonable limits under s. 1.

### **Is it too late to return to the 47-ward structure?**

[79] The Province's final submission is that it's too late to return to the 47-ward structure. The Province points to the City Clerk's candid admission at the August 20, 2018 council meeting that she is not "confident" that the City could now return to the 47-ward structure.

[80] The City Clerk may not feel confident about a 47-ward election but she is not saying that the hurdles are insurmountable. In any event, the City itself is asking explicitly for a return to the 47-ward structure and it is entitled to do so. I must assume that the City has considered the attendant logistical challenges and has concluded that an October 22 election based on the 47-ward structure can indeed be achieved in the short time that remains.

### **Conclusions**

[81] I find that the Province's enactment of Bill 5 in the middle of the City's election substantially interfered with the municipal candidate's freedom of expression that is guaranteed under s. 2(b) of the Charter of Rights.

[82] I find that the reduction from 47 to 25 in the number of City wards and the corresponding increase in ward-size population from an average of about 61,000 to 111,000 substantially interfered with the municipal voter's freedom of expression under s. 2(b) of the Charter of Rights, and in particular her right to cast a vote that can result in effective representation.

[83] I further find on the evidence filed by the parties that these breaches of s. 2(b) cannot be demonstrably justified in a free and democratic society and cannot be saved as reasonable limits under s. 1 of the Charter of Rights.

### **Disposition**

[84] The applications filed by the City of Toronto, Rocco Achampong, Chris Moise, Ish Aderonmu and Prabha Khosla (on her own behalf and on behalf of Women Win TO) asking this Court to set aside the Impugned Provisions in Bill 5 that purport to reduce the number of wards from 47 to 25 are granted.

[85] The Impugned Provisions have no force and effect and are set aside immediately.

[86] It follows from this decision that the City's election on October 22, 2018 shall proceed as scheduled but on the basis of 47 wards and not 25 wards. If the provincial government wishes to enact another Bill 5-type law at some future date to affect future City elections, it may certainly attempt to do so. As things now stand - and until a constitutionally valid provincial law says otherwise - the City has 47 wards.

[87] I shall remain seized of this matter to fashion the appropriate draft Order, including any related remedies being sought by the Toronto District School Board with regard to TDSB school board elections and recently enacted provincial regulations.

[88] If the parties cannot agree on costs, they may forward brief submissions to my attention. The applicants shall file their costs submissions within 21 days and the Province within 21 days thereafter.

[89] I am very much obliged to all counsel for their co-operation and assistance.

*(Signed) Justice Belobaba*

---

Justice Edward P. Belobaba

**Date:** September 10, 2018

# **TAB 5**

Court File Nos: CV-18-00602494-0000  
CV-18-00603797-0000  
CV-18-00603633-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**CITY OF TORONTO**

Applicant

-and-

**ATTORNEY GENERAL OF ONTARIO**

Respondent

AND BETWEEN:

**ROCCO ACHAMPONG**

Applicant

-and-

**ONTARIO (PREMIER), ONTARIO (ATTORNEY GENERAL), and CITY OF TORONTO**

Respondents

AND BETWEEN:

**CHRIS MOISE, ISH ADERONMU and PRABHA KHOSLA on her own behalf and on behalf of  
all members of WOMEN WIN TO**

-and-

**ATTORNEY GENERAL OF ONTARIO and  
THE CORPORATION OF THE CITY OF TORONTO**

Respondents

---

**AFFIDAVIT OF ADAM KANJI**

---

I, ADAM KANJI, of the City of Brampton in the Province of Ontario MAKE OATH AND SAY:

1. I am a Student-at-Law with the Constitutional Law Branch of the Ontario Ministry of the Attorney General. I have been in this position since August 7, 2018. The information set out in this affidavit was obtained by accessing publicly available sources of information, primarily from the City of Toronto website, and by attending the public portions of the City Council meeting held on August 20, 2018. As such, I have knowledge of the matters set out in this affidavit. To the extent that my knowledge is based on information and belief, I state the source of the information and believe it to be true.

**A. City Clerk reports readiness for 25 Ward election**

2. On August 17, 2018, the City Clerk published her Report to City Council titled “Report for Information: The Impact of the *Better Local Government Act, 2018* (Bill 5) on Toronto’s 2018 Municipal Election” (the “City Clerk’s Written Report to Council”). I downloaded the City Clerk’s Written Report to Council from the City of Toronto’s website on August 18, 2018 and subsequently reviewed its contents. Attached as **Exhibit A** is a copy of the August 17, 2018 Report to Council.

3. The City Clerk’s Written Report to Council describes the timeframe adjustments made to the 2018 municipal election; the contingency planning which took place to ensure a 25 ward election could be administered with confidence; and the Clerk’s assessment of whether or not she could administer the 2018 municipal election in the event of a reversion to a 47 ward model.

4. In the City Clerk’s Written Report to Council the City Clerk states, among other things, that:

- The additional costs associated with running a 25 ward election is “approximately \$2.5M over and above the current budget of \$14.9M”;<sup>1</sup>

---

<sup>1</sup> Exhibit A at p. 2.

- On July 30, 2018, “the City Clerk undertook emergency contingency planning to prepare to administer the election pursuant to the changes in [Bill 5] in the event that the legislation became law”;<sup>2</sup>
- In developing a contingency plan for a 25 Ward election she “leveraged resources from within the City, partnerships with the Municipal Property Assessment Corporation (MPAC), Elections Ontario, Ministry of Municipal Affairs and Housing, City agencies and others...”<sup>3</sup>
- “Until the Bill received Royal Assent, the City Clerk continued to administer the election based on 47 wards”;<sup>4</sup>
- “The level of support and cooperation across the Toronto Public Service, partners and vendors has been unprecedented and has been a key factor in enabling the City Clerk to prepare for [the changes in Bill 5]”;<sup>5</sup>
- “The City Clerk is confident that she has the capacity to administer the 2018 municipal election on a 25 ward basis”;<sup>6</sup> and
- “In the event a challenge to Bill 5 is successful in the courts...the City Clerk has assessed the risk and capacity to revert back to 47 wards ... assuring compliance with the principles of the [*Municipal Elections Act, 1996*] and ensuring the integrity and confidence in the electoral process will be severely compromised. Reverting back to a 47 ward model so close to Election Day raises unacceptable levels of risk and undermines the trust and confidence of the candidates and voters.”<sup>7</sup>

## B. City Clerk’s report at August 20 City Council meeting

5. On August 20, 2018, Toronto City Council held a special meeting to discuss “Legal Options to Challenge Bill 5, the *Better Local Government Act, 2018*” (the “August 20 City Council Meeting”). I attended the entirety of this meeting and took detailed notes on what the City Clerk and the Deputy City Clerk, Fiona Murray, said to Council.

---

<sup>2</sup> Exhibit A at p. 4.

<sup>3</sup> Exhibit A at p. 4.

<sup>4</sup> Exhibit A at p. 4.

<sup>5</sup> Exhibit A at p. 5.

<sup>6</sup> Exhibit A at p. 5.

<sup>7</sup> Exhibit A at p. 5.



6. On August 23, 2018, I reviewed the online footage of the August 20, 2018 City Council Meeting to ensure the accuracy of my notes and, in particular, those statements that are quoted below in paragraph 7.

7. During the August 20 City Council Meeting, the City Clerk and her Deputy City Clerk answered questions from Councillors on the City Clerk's Written Report to Council discussed above.

The following additional statements were made in the City Clerk's verbal report to Council:

- When asked whether the Clerk and her team could carry out a 47 ward election at this point in time, the Clerk stated that, "I am absolutely not confident that I can turn this around with as much support as I can find from anywhere";
- According to the Clerk, Elections Ontario, the Municipal Property Assessment Corporation ("MPAC") and the school boards have saved the City Clerk's office approximately "4 day's worth of work";
- Councillor Shiner brought up the fact that in July the City Clerk had remarked that she was not confident in administering a 25 Ward election model, and now her view is that it is harder to revert to a 47 Ward election. In response to this, the City Clerk stated that her view has changed due to the "extraordinary support" received from the Province, MPAC and the Toronto District School Board. Specifically, "the Province contacted us immediately upon introduction and discussed with us when and how the timelines would need to change to implement the legislation. They then drafted the regulations. I can't say enough about how Elections Ontario stepped forward to provide us with the revised voter list for 25 Wards. They also provided us with additional assistance on the voting subdivisions which they used, the staffing models which they have utilized for their voting places. MPAC was incredibly proactive in providing us with all of the information we requested. The school boards provided all of their information in a timely manner."
- When asked about accessibility standards for a 25 ward election, the Deputy City Clerk stated that her office "certainly intends" to ensure that the 25 Ward election will be "fully accessible" for all Toronto residents;
- The Deputy City Clerk clarified the remarks made the Clerk's Written Report to Council on the contingency planning which took place when Bill 5 was introduced in the Legislature. Specifically, on July 30, 2018, the City Clerk started to work concurrently on preparing for a 25 Ward model election and a 47 Ward model

election. On August 14, 2018, however, when Bill 5 received Royal Assent, the Clerk ceased preparations on the 47 Ward model;

- In responding to questions about her ability to prepare two election models concurrently going forward, the Clerk stated that “it would be impossible to prepare for both election models going forward...it is not possible to go forwards and backwards at the same time”;
- Councillor Wong-Tam asked whether \$25M will actually be saved over four years, as stated by Premier Ford. In response to this, the City Clerk said that she believes the number will be different, but that the Province “is actually not far off from our calculations”;
- The City Clerk stated that it takes approximately 15,000-18,000 people to run an election. Reverting to a 47 ward model at this point “will risk confusing the public, confusing candidates, confusing our workers – all of which need to be trained... it simply is not feasible to run systems and do all the preparation work for two elections at the same time”;
- The City Clerk is concerned that, if she is required to administer a 47 Ward election, that there will be a controverted election application under section 83 of the *Municipal Elections Act, 1996*;
- The City Clerk was asked whether, at the time the Province announced Bill 5, she was ready to administer the 47 Ward election. In response, the Clerk stated that she had “months of work” left to do in preparation for the 47 Ward election; and
- When asked by Councillor Shiner for specifics on what would need to be fixed in the event that the City reverts to a 47 Ward election, the Clerk and Deputy Clerk provided a list of revisions that would need to be made, “none of them are simply fixes”:
  - “Some work related to geography”;
  - “Remap voting places”;
  - “Re-permit voting locations”;
  - “Manual data entry on staffing system to accommodate reassigning 15,000-18,000 election day staff”;
  - “Repack all of our bags, which are thousands”;
  - “Redo all of our distribution for the warehouse”;
  - “The biggest issue is the ballot production is a very involved process...we have over 2 million ballots that we produce with an external vendor. We

are incredibly careful and build a lot of accuracy into it. That activity becomes very compressed if we need to go back to a 47 Ward model”;

- “We rely heavily on information technology – we have a data hub and a results chain and many applications that we use to automate manual business practices. All of those systems would have to be rejigged and end-to-end tests conducted”; and
- “Provide notice to the electorate on where they are able to vote...one of the applications we have developed is MyVote...the electorate puts their address in and it gives them a voting location...we would have to recode this back to a 47 Ward model.”

### C. 2018 Election Information on the City of Toronto Website

8. On August 18, 2018, I accessed and viewed the content on the City of Toronto’s election webpage.<sup>8</sup> Attached as **Exhibit B** is a copy of the City of Toronto’s main election webpage.

9. This website provides information to all members of the public on the current status of the 2018 municipal election. In particular, I accessed the portals provided for “General Information”, “Candidate Information”, and “Voter Information.” Within each portal are subpages that contain specific information related to the 2018 municipal election.

10. The “General Information” portal<sup>9</sup> has subpages divided into the categories of:

- “Bill 5”: this subpage contains hyperlinks to the legislation and regulations passed by the Province of Ontario; general, voter and candidate frequently asked questions about the 25 Ward election; relevant forms for candidates; and ward maps for the 25 Ward election and 47 Ward election;<sup>10</sup>
- “Election Accessibility Plan”: this subpage provides information about the City’s election initiatives to improve accessibility for voters and candidates in the 2018 election;<sup>11</sup>

<sup>8</sup> <https://www.toronto.ca/city-government/elections/>.

<sup>9</sup> <https://www.toronto.ca/city-government/elections/general-information/>.

<sup>10</sup> <https://www.toronto.ca/city-government/elections/general-information/better-local-government-act-2018-bill-5/>.

<sup>11</sup> <https://www.toronto.ca/city-government/elections/general-information/election-accessibility-plan/>.

- “News & Updates”: this subpage provides updates to the public on information that is relevant to the 2018 municipal election;<sup>12</sup>
- “Election Results”: this subpage provides information on all election results from 2003 to present;<sup>13</sup> and
- “Voting Days”: this subpage informs the public about the election date of October 22, 2018, as well as the information they need to bring with them in order to cast their ballot.<sup>14</sup>

Attached as **Exhibit C** is a copy of the City of Toronto’s “General Information Portal”.

11. The “Candidate Information” portal,<sup>15</sup> while largely duplicative of the “General Information” portal, also has subpages divided into the categories of:

- “Become a Candidate”: this subpage contains information on the 2018 nomination process for the 25 ward model election;<sup>16</sup>
- “Candidates’ Guide, Forms & Presentations”: this subpage contains a comprehensive list of information that candidates need to know regarding the nomination and election process;<sup>17</sup>
- “Key Dates”: this subpage lists all the key dates for candidates and third party advertisers;<sup>18</sup>
- “Bulletins, Letters & Notices”: this subpage contains important information, documents and updates for candidates and third party advertisers as they become available;<sup>19</sup>
- “Rules & Information”: this page contains a list of all rules and information candidates need to be aware of in relation to canvassing, contribution rebates and other aspects;<sup>20</sup> and
- “You Asked Us”: this subpage contains the answers to frequently asked questions, as well as the contact information for candidates and third party advertisers.<sup>21</sup>

<sup>12</sup> <https://www.toronto.ca/city-government/elections/general-information/news-updates/>.

<sup>13</sup> <https://www.toronto.ca/city-government/elections/general-information/election-results/>.

<sup>14</sup> <https://www.toronto.ca/city-government/elections/voter-information/voting-days/>.

<sup>15</sup> <https://www.toronto.ca/city-government/elections/candidate-information/>.

<sup>16</sup> <https://www.toronto.ca/city-government/elections/candidate-information/become-a-candidate/>.

<sup>17</sup> <https://www.toronto.ca/city-government/elections/candidate-information/candidates-guide/>.

<sup>18</sup> <https://www.toronto.ca/city-government/elections/candidate-information/key-dates-2018-2019/>.

<sup>19</sup> <https://www.toronto.ca/city-government/elections/candidate-information/bulletins-letters-notices/>.

<sup>20</sup> <https://www.toronto.ca/city-government/elections/candidate-information/rules/>.

Attached as **Exhibit D** is a copy of the City of Toronto's "Candidate Information Portal".

12. The "Voter Information" portal<sup>22</sup> contains a voter guide for the municipal and school board election, and also contains subpages divided into the categories of:

- "Who Can Vote": this subpage outlines the qualifications needed to vote in the municipal and school board elections.<sup>23</sup>
- "Identification": this subpage contains a list of all acceptable identification needed in order to cast a ballot in the 2018 municipal election.<sup>24</sup>
- "Voters' List": this subpage provides information for the electorate on how to determine if they are eligible to cast a ballot in the 2018 election.<sup>25</sup>
- "Appoint a Voting Proxy": this subpage provides information to the electorate on how to appoint a voter proxy<sup>26</sup>; and
- "Additional Voting Options & Accommodations": this subpage contains detailed information on the various options and services available to the electorate in order to access the 2018 municipal election.<sup>27</sup>

Attached as **Exhibit E** is a copy of the City of Toronto's "Voter Information Portal".

13. In addition to accessing these webpages on August 18, 2018, on August 24, 2014, I performed a google search in order to determine what date these webpages were originally posted. This process involved taking the URL for all three of the portals which I had accessed and placing them into the Google search bar.

14. The results of my URL search provide the date upon which the "General Information" and "Candidate Information" webpages were originally placed onto the World Wide Web. Attached as

---

<sup>21</sup> <https://www.toronto.ca/city-government/elections/candidate-information/you-asked-us/>.

<sup>22</sup> <https://www.toronto.ca/city-government/elections/voter-information/>.

<sup>23</sup> <https://www.toronto.ca/city-government/elections/voter-information/who-can-vote/>.

<sup>24</sup> <https://www.toronto.ca/city-government/elections/voter-information/identification/>.

<sup>25</sup> <https://www.toronto.ca/city-government/elections/voter-information/voters-list/>.

<sup>26</sup> <https://www.toronto.ca/city-government/elections/voter-information/appoint-a-proxy-voter/>.

<sup>27</sup> <https://www.toronto.ca/city-government/elections/voter-information/accommodations-for-voters/>.

**Exhibit F** is a screenshot of my google search for the “General Information” portal which reveals that page was first posted on August 14, 2018. Attached as **Exhibit G** is a screenshot of my google search for the “Candidate Information” portal which reveals that page was first posted on August 14, 2018. My google search for the “Voter Information” page did not provide me with any information regarding when that page was first posted.

**D. City of Toronto adopted the prior 44 Ward structure based on the FEDS**

15. On August 26, 2018, I accessed a City of Toronto News Release, posted on March 21, 2000 (the “March 21, 2000 News Release”), which briefly explains how the City of Toronto chose its prior 44 Ward boundary structure. Attached as **Exhibit H** is a downloaded copy from the City of Toronto’s website of this News Release.

16. The March 21, 2000 News Release indicates that “City Council adopts the 44 single-member wards on January 19, 2000 in response to the provincial government’s Bill 25...these wards are based on the current 22 federal/provincial ridings in the City. The new Ward boundaries reduce the number of City councillors from 57 to 44.”

**E. 2014-2019 Housing Stability Service Planning Framework**

17. On August 26, 2018, I accessed and viewed the City of Toronto’s 2014-2019 Housing Stability Service Planning Framework (the “Framework”). The Framework, approved by City Council in December, 2013, guides the delivery of shelter, support and housing administration services over the applicable time period. This framework indicates that, when the City of Toronto considered strategies to ensure housing for all homeless persons, they specifically took into

account the needs of women and those who could be classified as 'indoor homeless persons'.

Attached as **Exhibit I** is a copy of the 2014-2019 Housing Stability Service Planning Framework.

AFFIRMED BEFORE ME in the City of  
Toronto in the Province of Ontario, This 27<sup>th</sup>  
Day of August, 2018



Commissioner for the Taking of Affidavits

LSO 68538H  
Hayley Pitcher



ADAM KANJI

# **Exhibit A**



Exhibit "A"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.

CC45.1b



## REPORT FOR INFORMATION

# The Impact of the Better Local Government Act, 2018 (Bill 5) on Toronto's 2018 Municipal Election

Date: August 17, 2018

To: City Council

From: City Clerk

Wards: All

### SUMMARY

The Better Local Government Act, 2018 (Bill 5) received Royal Assent on August 14, 2018 amending the City of Toronto Act, 2006 (COTA) and the Municipal Elections Act, 1996 (MEA) requiring the City Clerk to administer the 2018 municipal election on the basis of 25 wards. The Minister of Municipal Affairs and Housing filed regulations under COTA and the MEA providing implementation details for these changes.

The legislative and regulatory changes require the City Clerk to:

- Accept nominations for councillor and school board trustee beginning August 20, 2018 until 2:00 p.m. on September 14, 2018;
- On September 17, 2018:
  - Initiate voting proxy applications;
  - Issue the voters' list to certified candidates; and
  - Begin the revision period for the voters' list.

Nominations for the office of the mayor closed at 2:00 pm on July 27, 2018 and were not extended. The City Clerk has certified thirty-five mayoral candidates whose names will appear on the ballot on October 22, 2018.

Adjusting the administration of the 2018 election from 47 to 25 wards for implementation on October 22, 2018, requires extraordinary efforts and is only possible by leveraging support and partnerships with the Toronto Public Service, Municipal Property Assessment Corporation (MPAC), Elections Ontario, vendors and others.

The City Clerk continues to make the necessary adjustments to administer the 2018 municipal election on the basis of 25 wards while upholding the principles and legislative framework governing elections.

The City Clerk is concerned that further ward boundary changes will provide insufficient time to undertake the actions necessary to administer the election in accordance with the principles of election administration. Further ward boundary changes for implementation on October 22, 2018 in such compressed timelines are likely to compromise the integrity and security of the 2018 municipal election. Additional ward boundary changes so close to the election will result in an unacceptable level of risk to the City.

## **FINANCIAL IMPACT**

---

The additional costs associated with adjusting the administration of the election from 47 wards to 25 wards is approximately \$2.5M over and above the current budget of \$14.9M.

Funding for the 2018 municipal election is included in the City Clerk's Office approved 2018 Operating and Capital budgets and is recovered from the Election Reserve Fund. The City is required to pay all election-related costs once certified by the City Clerk.

The Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

---

At its meeting on July 23, 2018 City Council considered on an urgent basis, the Provincial Government's Plan to Reduce the Size of City Council and made a number of decisions that included that the City Solicitor report backs to City Council at a special meeting on August 20, 2018 with respect to Bill 5, Better Local Government Act, 2018.

City Council also exempted the City Clerk from City policies or procedures related to procurement, human resources, budget and information technology that the City Clerk believes is necessary or desirable in order to conduct the election.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM44.128>

### **Issue/Background**

The MEA designates the City Clerk as the person responsible for administering Toronto elections, by-elections and questions on the ballot and performs a statutory role in this regard, independent from the City.

The Clerk is required to administer elections, by-elections and questions on the ballot in compliance with the following principles:

- The secrecy and confidentiality of individual votes is paramount;
- The election should be fair and non-biased;
- The election should be accessible to the voters;
- The integrity of the process should be maintained throughout the election;
- Voters and candidates should be treated fairly and consistently within a municipality;
- There should be certainty that the results of the election reflect the votes cast; and
- The proper majority vote governs by ensuring that valid votes are counted and invalid votes are rejected so far as reasonably possible.

The MEA provides the City Clerk with significant discretion in administering elections and the independence of a municipal clerk for election purposes is a fundamental underpinning of the legislative framework.

To ensure the integrity, fairness and transparency of municipal elections, unless the MEA provides a specific role, municipal councils have no authority to direct the conduct of an election. Given that the City is currently in an election period, directions or requests to the City Clerk with respect to the conduct of the 2018 election are inappropriate.

## COMMENTS

---

City Council requested the City Solicitor to report to City Council at its meeting on August 20, 2018 on a range of matters including whether the capacity of the City Clerk to implement ward changes contemplated by the introduction of Bill 5 impacted the validity of the constitutionality of the legislation. The City Solicitor has also submitted a supplementary report outlining the Regulations recently enacted under COTA and the MEA, which provide further implementation details related to the 2018 municipal election.

This report is supplementary to the City Solicitor's report, Legal Options to challenge Bill 5, the Better Local Government Act, 2018 and provides further information with respect to the administration of the 2018 municipal election and the City Clerk's capacity to implement the legislative changes.

### 1. Implications on the Administration of the 2018 Municipal Election

Bill 5 became law on August 14, 2018 requiring the City Clerk to administer Toronto's election on October 22, 2018 on a 25-ward model for the offices of councillor and trustee for the Toronto District School Board, Toronto Catholic District School Board, Conseil scolaire Viamonde, and Conseil scolaire catholique MonAvenir.

Nominations for the offices of councillor and school board trustee are extended from August 20, 2018 until September 14, 2018 at 2:00 pm.

Candidates already certified by the City Clerk for the 47-ward model may provide notice to the City Clerk (using a prescribed form) of their intention to run in the 25-ward model and for which ward. Certified candidates who do not notify the City Clerk by September 14, 2018 by 2:00 p.m. will be deemed to have withdrawn and their names will not appear on the ballot. The voters' list will be available to candidates on September 17, 2018.

Nominations for the office of the mayor closed on July 27, 2018 at 2:00 pm and were not extended. The City Clerk has certified thirty-five candidates for the office of mayor whose names will appear on the ballot.

Voting proxy applications will be available beginning September 17, 2018 and this is also the date that the revision period starts, which will enable eligible electors to add, delete or amend their information on the voters' list.

## **2. Contingency Plans to Administer the Election under a 25-ward Model**

Bill 5 was introduced in the Legislature on July 30, 2018 and proposed changes that would significantly impact the administration of Toronto's 2018 municipal election. The City Clerk undertook emergency contingency planning to prepare to administer the election pursuant to the changes in the event that the legislation became law. Until the bill received Royal Assent, the City Clerk continued to administer the election based on 47 wards and ensured that election systems, data and information associated with the 47 ward model was retained and secured.

Extraordinary effort was expended to develop contingency plans in very compressed timelines to prepare to administer the election on a 25 ward basis to comply with Bill 5. Electoral geography is the basis of election administration requiring significant changes to election systems, processes and activities to accommodate new boundaries. The City Clerk leveraged resources from within the City, partnerships with the Municipal Property Assessment Corporation (MPAC), Elections Ontario, Ministry of Municipal Affairs and Housing, City agencies and others in developing a contingency plan. The level of support and cooperation across the Toronto Public Service, partners and vendors has been unprecedented and has been a key factor enabling the City Clerk to prepare for these changes.

The key activities the City Clerk has taken or will take to administer the 2018 municipal election under a 25-ward model include:

- Revising the geography (wards and subdivisions) based on the Provincial electoral districts and assessing all voting locations;
- Adjusting election information technology systems, applications and vote counting equipment to administer the election on revised geography and undertaking additional cyber security testing;

- Additional communications, advertising and outreach to voters about the changes and how, where and when to vote;
- Additional communications and information sessions for candidates;
- Adjusting staffing, warehouse distribution and supply packaging to new wards and subdivisions;
- Assessing advance vote dates and locations; and
- Executing a data sharing agreement with Elections Ontario related to wards and subdivisions, voting locations, staffing models and the voters' list.

The City Clerk is confident that she has the capacity to administer the 2018 municipal election on a 25 ward basis and has taken the necessary steps to develop contingency plans to accommodate these changes in time for October 22, 2018.

### **3. Additional Ward Changes for the 2018 Municipal Election**

In the event a challenge to Bill 5 is successful in the courts (which could be subject to further appeals), the City Clerk has assessed the risk and capacity to revert back to 47 wards in the administration of the October 22, 2018 election.

Assuring compliance with the principles of the MEA and ensuring the integrity and confidence in the electoral process will be severely compromised. Reverting back to a 47 ward model so close to election day raises unacceptable levels of risk and undermines the trust and confidence of candidates and voters. The City Clerk is concerned she will be unable to undertake the necessary due diligence required to administer an election while meeting the principles of the MEA including the ability to

- produce an accurate voters list based a revised 47 ward model.
- secure additional and re-permit voting places that meet the accessibility requirements outlined in legislation;
- design, produce, print and perform logic and accuracy testing of 2 million ballots across 235 ballot types and required end-to-end testing of election systems;
- amend and print training materials and execute training for over 18,000 election day workers; and
- provide revised communication and information to voters, candidates and the public; about their ward and where to vote.

**CONTACT**

---

Fiona Murray, Deputy City Clerk, Election Services; City Clerk's Office  
416-392-8019; [fiona.murray@toronto.ca](mailto:fiona.murray@toronto.ca)

**SIGNATURE**

---

Ulli S. Watkiss  
City Clerk

# **Exhibit B**

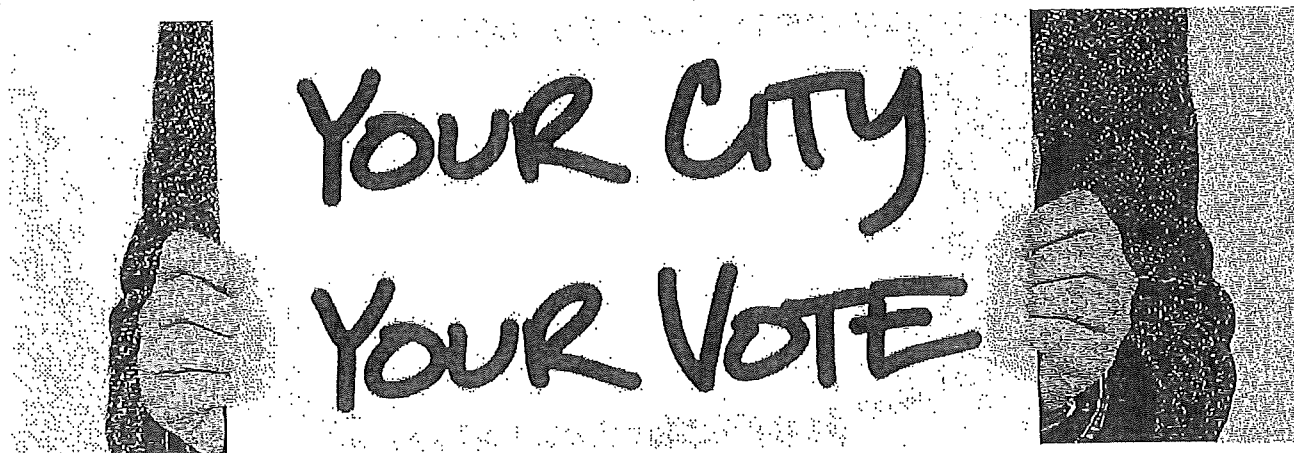


Exhibit "B"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.



## Elections



### Update on the 2018 Municipal Elections

On August 14, 2018, the Bill 5, the Better Local Government Act, 2018<sup>[2]</sup>, was passed by the Government of Ontario and received Royal Assent. The Act reduces the number of Toronto wards from 47 to 25, and extends the nomination period for councillor and school board trustee nominations. Mayoral nominations were not extended; the nomination deadline for the office of mayor was July 27. The new 25 ward boundaries align with the current federal and provincial electoral ridings, with minor adjustment to stay within geographic boundaries of Toronto.

The Minister of Municipal Affairs and Housing enacted the following regulations Ontario Regulation 408/18: Wards<sup>[2]</sup> and Ontario Regulation 407/18: 2018 and 2022 Regular Elections<sup>[2]</sup> to provide further details for implementation.

All new changes will be in place for the October 22, 2018 municipal election.

#### General Information

- Bill 5 - Better Local Government Act, 2018 (<https://www.toronto.ca/city-government/elections/general-information/better-local-government-act-2018-bill-5/>)
- Election Accessibility Plan (<https://www.toronto.ca/city-government/elections/general-information/election-accessibility-plan/>)
- Election Results (<https://www.toronto.ca/city-government/elections/general-information/election-results/>)

- News, Notices & Updates (<https://www.toronto.ca/city-government/elections/general-information/news-updates/>)
- View All (<https://www.toronto.ca/city-government/elections/general-information/>)

## Voter Information

- Who Can Vote (<https://www.toronto.ca/city-government/elections/voter-information/who-can-vote/>)
- Identification (<https://www.toronto.ca/city-government/elections/voter-information/identification/>)
- Additional Voting Options & Accommodations (<https://www.toronto.ca/city-government/elections/voter-information/accommodations-for-voters/>)
- Voting Days (<https://www.toronto.ca/city-government/elections/voter-information/voting-days/>)
- View All (<https://www.toronto.ca/city-government/elections/voter-information/>)

## Candidate Information

- Become a Candidate (<https://www.toronto.ca/city-government/elections/candidate-information/become-a-candidate/>)
- Guides, Forms & Presentations (<https://www.toronto.ca/city-government/elections/candidate-information/candidates-guide/>)
- 2018 Election Key Dates (<https://www.toronto.ca/city-government/elections/candidate-information/key-dates-2018-2019/>)
- Rules & Information for Candidates (<https://www.toronto.ca/city-government/elections/candidate-information/rules/>)
- View All (<https://www.toronto.ca/city-government/elections/candidate-information/>)

- [Guides & Tools \(https://www.toronto.ca/city-government/elections/election-resource-library/guides-tools/\)](https://www.toronto.ca/city-government/elections/election-resource-library/guides-tools/)
- [By-laws, Legislation, Policies & Procedures \(https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/\)](https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/)
- [Election Reports \(https://www.toronto.ca/city-government/elections/election-resource-library/reports/\)](https://www.toronto.ca/city-government/elections/election-resource-library/reports/)

## Contact Information

### Election Services

100 Queen St. W., 1st Floor  
Toronto, ON M5H 2N2

89 Northline Rd.  
Toronto, ON M4B 3G1


Monday to Friday (except holidays)


8:30 a.m. to 4:30 p.m.

Telephone: 416-338-1111

Fax: 416-395-1300

Email: [elections@toronto.ca](mailto:elections@toronto.ca) (mailto:[elections@toronto.ca](mailto:elections@toronto.ca))

 /ElectionServices <sup>↗</sup>

 @torontovotes <sup>↗</sup>

## Related Information

[MyVote \(https://myvote.toronto.ca\)](https://myvote.toronto.ca)

[List of Candidates / Third Parties \(http://app.toronto.ca/vote/campaign.do\)](http://app.toronto.ca/vote/campaign.do)

[Search Campaign Finances \(http://app.toronto.ca/EFD/jsf/main/home.xhtml?campaign=0\)](http://app.toronto.ca/EFD/jsf/main/home.xhtml?campaign=0)


[By-laws, Legislation, Policies & Procedures \(https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/\)](https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/)

8/22/2018

Elections -- City of Toronto

Election Signs (<https://www.toronto.ca/city-government/public-notices-bylaws/bylaw-enforcement/election-signs/>)

---

Election Complaints 

---

2018 Voting Places (<https://www.toronto.ca/city-government/elections/election-resource-library/voting-places/>)

---

2018 Ward Maps (<https://www.toronto.ca/city-government/elections/election-resource-library/ward-maps/>)

# **Exhibit C**

Exhibit "C"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.



## General Information

### Update on the 2018 Municipal Elections

On August 14, 2018, the Bill 5, the Better Local Government Act, 2018<sup>[2]</sup>, was passed by the Government of Ontario and received Royal Assent. The Act reduces the number of Toronto wards from 47 to 25, and extends the nomination period for councillor and school board trustee nominations. Mayoral nominations were not extended; the nomination deadline for the office of mayor was July 27. The new 25 ward boundaries align with the current federal and provincial electoral ridings, with minor adjustment to stay within geographic boundaries of Toronto.

The Minister of Municipal Affairs and Housing enacted the following regulations Ontario Regulation 408/18: Wards<sup>[2]</sup> and Ontario Regulation 407/18: 2018 and 2022 Regular Elections<sup>[2]</sup> to provide further details for implementation.

All new changes will be in place for the October 22, 2018 municipal election.

#### Bill 5 - Better Local Government Act, 2018

Information about Bill 5 - the Better Local Government Act, 2018, the new legislation introduced by the Provincial Government on August 14, 2018.

(<https://www.toronto.ca/city-government/elections/general-information/better-local-government-act-2018-bill-5/>)

#### Election Accessibility Plan

One of the most important mandates of the City Clerk's Office is to ensure that elections are accessible to all.

(<https://www.toronto.ca/city-government/elections/general-information/election-accessibility-plan/>)



## News & Updates

Election related news releases, notices and other important updates.

(<https://www.toronto.ca/city-government/elections/general-information/news-updates/>)

## Election Results

Election results from 2003 to present.

(<https://www.toronto.ca/city-government/elections/general-information/election-results/>)

## Voting Days

Opportunities to vote in the 2018 municipal election.

(<https://www.toronto.ca/city-government/elections/voter-information/voting-days/>)

## Contact Information

8/26/2018

General Information – City of Toronto

**Election Services**

100 Queen St. W., 1st Floor  
Toronto, ON M5H 2N2

89 Northline Rd.  
Toronto, ON M4B 3G1


Monday to Friday (except holidays)


8:30 a.m. to 4:30 p.m.

Telephone: 416-338-1111

Fax: 416-395-1300

Email: [elections@toronto.ca](mailto:elections@toronto.ca) (<mailto:elections@toronto.ca>)

 /ElectionServices [↗](#)

 @torontovotes [↗](#)

## Related Information

---

[MyVote \(https://myvote.toronto.ca\)](https://myvote.toronto.ca)

---

[List of Candidates / Third Parties \(http://app.toronto.ca/vote/campaign.do\)](http://app.toronto.ca/vote/campaign.do)

---

[Search Campaign Finances \(http://app.toronto.ca/EFD/jsf/main/home.xhtml?campaign=0\)](http://app.toronto.ca/EFD/jsf/main/home.xhtml?campaign=0)

---

[By-laws, Legislation, Policies & Procedures \(https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/\)](https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/)

---

[Election Signs \(https://www.toronto.ca/city-government/public-notice-bylaws/bylaw-enforcement/election-signs/\)](https://www.toronto.ca/city-government/public-notice-bylaws/bylaw-enforcement/election-signs/)

---

[Election Complaints !\[\]\(166772600a13ad0a433053f90fe45649\_img.jpg\)](#)

---

[2018 Voting Places \(https://www.toronto.ca/city-government/elections/election-resource-library/voting-places/\)](https://www.toronto.ca/city-government/elections/election-resource-library/voting-places/)

---

[2018 Ward Maps \(https://www.toronto.ca/city-government/elections/election-resource-library/ward-maps/\)](https://www.toronto.ca/city-government/elections/election-resource-library/ward-maps/)

# **Exhibit D**

Exhibit "D"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.



# Candidate Information







## Update on the 2018 Municipal Elections

On August 14, 2018, the Bill 5, the Better Local Government Act, 2018<sup>[2]</sup>, was passed by the Government of Ontario and received Royal Assent. The Act reduces the number of Toronto wards from 47 to 25, and extends the nomination period for councillor and school board trustee nominations. Mayoral nominations were not extended; the nomination deadline for the office of mayor was July 27. The new 25 ward boundaries align with the current federal and provincial electoral ridings, with minor adjustment to stay within geographic boundaries of Toronto.

The Minister of Municipal Affairs and Housing enacted the following regulations Ontario Regulation 408/18: Wards<sup>[2]</sup> and Ontario Regulation 407/18: 2018 and 2022 Regular Elections<sup>[2]</sup> to provide further details for implementation.

All new changes will be in place for the October 22, 2018 municipal election.

### Forms

- Change of Ward Notification 
- Nomination form – English 
- Déclaration de candidature / Nomination form – French 
- Endorsement of Nomination – Form 2 
- Notice Withdrawal of Nomination – English 
- Avis Retrait de candidature / Notice Withdrawal of Nomination – French 

### Bill 5 - Better Local Government Act, 2018

Important information about the new 25 ward model including, links to legislation, maps, forms and frequently asked questions

(<https://www.toronto.ca/city-government/elections/general-information/better-local-government-act-2018-bill-5/>)



## Become a Candidate

Information for people interested in running for mayor, councillor or school board trustee.

(<https://www.toronto.ca/city-government/elections/candidate-information/become-a-candidate/>)

## Candidates' Guide, Forms & Presentations

2018 candidates' guide for Ontario municipal council and school board elections.

(<https://www.toronto.ca/city-government/elections/candidate-information/candidates-guide/>)

## Key Dates

Candidate key dates for the 2018 municipal election.

(<https://www.toronto.ca/city-government/elections/candidate-information/key-dates-2018-2019/>)

## Bulletins, Letters & Notices

Important information, documents and updates for candidates.

(<https://www.toronto.ca/city-government/elections/candidate-information/bulletins-letters-notices/>)



## Rules & Information

Information on canvassing, the contribution rebate program, and other rules for candidates.

(<https://www.toronto.ca/city-government/elections/candidate-information/rules/>)

## You Asked Us

Questions from candidates and third party advertisers to the City about services and programs and answers from City Divisions.

(<https://www.toronto.ca/city-government/elections/candidate-information/you-asked-us/>)

## Ward Maps

Ward Maps for the 2018 election including City wards, school board wards and a quick reference chart.

(<https://www.toronto.ca/city-government/elections/election-resource-library/ward-maps/>)

## Voting Places



8/22/2018

Candidate Information – City of Toronto

List of voting places for the 2018 election. Details include: building name and address, room, preferred and accessible entrances as well as additional information about accessibility.

(<https://www.toronto.ca/city-government/elections/election-resource-library/voting-places/>)

## Contact Information

### Election Services



100 Queen St W, 1st Floor  
Toronto, ON M5H 2N2



Monday – Friday (except holidays)  
8:30 a.m. – 4:30 p.m.

Telephone: 416-338-1111

Fax: 416-395-1300

Email: [candidateinfo@toronto.ca](mailto:candidateinfo@toronto.ca) (mailto:[candidateinfo@toronto.ca](mailto:candidateinfo@toronto.ca))


 /ElectionServices 

 @torontovotes 

## Related Information


By-laws, Legislation, Policies & Procedures (<https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/>)

Election Signs (<https://www.toronto.ca/city-government/public-notices-bylaws/bylaw-enforcement/election-signs/>)

Election Complaints 

List of Candidates / Third Parties (<http://app.toronto.ca/vote/campaign.do>)

MyCampaign (<https://www.toronto.ca/city-government/elections/mycampaign/>)

Search Campaign Finances (<https://www.toronto.ca/city-government/elections/search-campaign-finances/>) 



8/22/2018

Candidate Information – City of Toronto

---

2018 Voting Places (<https://www.toronto.ca/city-government/elections/election-resource-library/voting-places/>)

---

2018 Ward Maps (<https://www.toronto.ca/city-government/elections/election-resource-library/ward-maps/>)



# **Exhibit E**

Exhibit "E"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc..



# Voter Information

## Update on the 2018 Municipal Elections

On July 30, 2018, the Province of Ontario introduced Bill 5, the **Better Local Government Act, 2018**. The Bill received Royal Assent on August 14, 2018 reducing the number of Toronto City wards from 47 to 25 with the boundaries aligning with current federal and provincial electoral ridings. It is anticipated that the Minister of Municipal Affairs and Housing will be enacting regulations to provide further details to implement the new legislation. These changes will be in place for the October 22, 2018 municipal election.

The City Clerk will provide notice to candidates, electors and the public as it becomes available. Please continue to check the **Election Services** (<http://www.toronto.ca/elections>) website regularly for updated information, and visit the **Ministry of Municipal Affairs and Housing** to obtain additional information for the 2018 municipal election.

### Who Can Vote

Voter qualifications for the 2018 municipal and school board election, information for students and who is prohibited from voting.

(<https://www.toronto.ca/city-government/elections/voter-information/who-can-vote/>)

### Identification

A list of all acceptable identification. Identification (ID) is needed when you go to vote. Remember to bring one piece of ID showing your name and qualifying Toronto address.



(<https://www.toronto.ca/city-government/elections/voter-information/identification/>)

## Voters' List

The voters' list is a list of eligible electors in the City of Toronto. Find out how and when to get on the list for election day.

(<https://www.toronto.ca/city-government/elections/voter-information/voters-list/>)

## Appoint A Voting Proxy

If you are unable to vote for any reason on any of the voting days you may appoint another eligible elector to vote on your behalf. Find out how.

(<https://www.toronto.ca/city-government/elections/voter-information/appoint-a-proxy-voter/>)

## Additional Voting Options & Accommodations

8/22/2018

Voter Information – City of Toronto

Options and services for voters that may need assistance in or out of the voting place, accessible voting equipment, translated materials and language services and the full election accessibility plan.



(<https://www.toronto.ca/city-government/elections/voter-information/accommodations-for-voters/>)

## Voting Days


When you can vote in the 2018 municipal election.

(<https://www.toronto.ca/city-government/elections/voter-information/voting-days/>)

## Voter Guide:

- The 2018 voter's guide for Ontario municipal council and school board elections is available in English  and French .

## Contributions to Candidates Guide:

- Contribution Rebate Guide for Contributors 

8/22/2018

Voter Information – City of Toronto

**Videos:**

## Contact Information

---

**Election Services**

100 Queen St. W., 1st Floor  
Toronto, ON M5H 2N2

89 Northline Rd.  
Toronto, ON M4B 3G1



Monday to Friday (except holidays)  
8:30 a.m. to 4:30 p.m.

8/22/2018

Voter Information – City of Toronto

Telephone: 416-338-1111

Fax: 416-395-1300

Email: [elections@toronto.ca](mailto:elections@toronto.ca) (<mailto:elections@toronto.ca>) /ElectionServices [↗](#) @torontovotes [↗](#)

## Related Information

---

[MyVote \(https://myvote.toronto.ca\)](https://myvote.toronto.ca)

---

[List of Candidates / Third Parties \(http://app.toronto.ca/vote/campaign.do\)](http://app.toronto.ca/vote/campaign.do)

---

[Search Campaign Finances \(http://app.toronto.ca/EFD/jsf/main/home.xhtml?campaign=0\)](http://app.toronto.ca/EFD/jsf/main/home.xhtml?campaign=0)

---

[By-laws, Legislation, Policies & Procedures \(https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/\)](https://www.toronto.ca/city-government/elections/election-resource-library/election-rules/)

---

[Election Signs \(https://www.toronto.ca/city-government/public-notice-by-laws/by-law-enforcement/election-signs/\)](https://www.toronto.ca/city-government/public-notice-by-laws/by-law-enforcement/election-signs/)

---

[Election Complaints !\[\]\(e3f255517d37bb309a3a931ec4849e6a\_img.jpg\)](#)

---

[2018 Voting Places \(https://www.toronto.ca/city-government/elections/election-resource-library/voting-places/\)](https://www.toronto.ca/city-government/elections/election-resource-library/voting-places/)

---

[2018 Ward Maps \(https://www.toronto.ca/city-government/elections/election-resource-library/ward-maps/\)](https://www.toronto.ca/city-government/elections/election-resource-library/ward-maps/)

---



# **Exhibit F**

Exhibit "F"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.

Google  
https://www.toronto.ca/city-government/elections/general-information/

All News Images Maps Videos More Settings Tools

About 12,700,000 results (0.82 seconds)

### General Information – City of Toronto

<https://www.toronto.ca> > City of Toronto > City Government > Elections > Aug 14, 2018 - General Information. Print. Update on the 2018 Municipal Elections ... Government Act, 2018, was passed by the Government of Ontario and received ... Information about Bill 5 - the Better Local Government Act, 2018, the new ...



### Elections – City of Toronto

<https://www.toronto.ca/city-government/elections/> > Update on the 2018 Municipal Elections On August 14, 2018, the Bill 5, the ... On August 14, 2018, the Bill 5, the Better Local Government Act, 2018, was passed by the Government of Ontario and received Royal Assent. ... General Information. 2018 Election Key Dates - Become a Candidate - General Information - Employment

### 2018 Election Key Dates – City of Toronto

<https://www.toronto.ca> > ... > City Government > Elections > Candidate Information > Update on the 2018 Municipal Elections. On July 30, 2018, the Province of Ontario introduced Bill 5, the Better Local Government Act, 2018. The Bill received ...

### Become a Candidate – City of Toronto

<https://www.toronto.ca> > ... > City Government > Elections > Candidate Information > Aug 14, 2018 - Update on the 2018 Municipal Elections ... Government Act, 2018, was passed by the Government of Ontario ... 2018 Nomination Information.

### Election Results – City of Toronto

# **Exhibit G**

Exhibit "G"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.



https://www.toronto.ca/city-government/elections/candidate-information/

All News Images Videos Maps More Settings Tools

About 16,700,000 results (0.688 seconds)

### Candidate Information - City of Toronto

<https://www.toronto.ca> > City of Toronto > City Government > Elections > Aug 14, 2018 - Candidates' Guide, Forms & Presentations. 2018 candidates' guide for Ontario municipal council and school board elections.



### Elections - City of Toronto

<https://www.toronto.ca/city-government/elections/> > The Act reduces the number of Toronto wards from 47 to 25, and extends the nomination period for councillor and school board trustee nominations. ... The new 25 ward boundaries align with the current federal and provincial electoral ridings, with minor adjustment to stay within geographic boundaries of Toronto.

Candidate Information - 2018 Election Key Dates - Become a Candidate

### 2018 Election Key Dates - City of Toronto

<https://www.toronto.ca> > ... > City Government > Elections > Candidate Information > Jul 30, 2018 - The Better Local Government Act, 2018 (Bill 5) was passed by the Government of Ontario and received Royal Assent, reducing the number of Toronto wards from 47 to 25 and extending the nomination period for councillor and school board trustee nominations. The nomination deadline for the office of mayor was on July 27.

### Become a Candidate - City of Toronto

<https://www.toronto.ca> > ... > City Government > Elections > Candidate Information > Update on the 2018 Municipal Elections On August 14, 2018, the Bill 5, the Better Local ... On August 14, 2018, the Bill 5, the Better Local Government Act, 2018, was passed by the Government of Ontario and received Royal ... 2018 Nomination Information ... Nominations will only be accepted at

# **Exhibit H**

Exhibit "H"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.





HOME CONTACT US HOW DO I...? SEARCH

LIVING IN TORONTO

DOING BUSINESS

VISITING TORONTO

ACCESSING CITY HALL

- All news releases
- Last 30 days
- By month
- Search

■ Newsroom

- Archived news release by year
  - 2013
  - 2012 - 2011 - 2010
  - 2009 - 2008 - 2007
  - 2006 - 2005 - 2004
  - 2003 - 2002 - 2001
  - 2000 - 1999 - 1998

■  RSS

March 21, 2000

 [Print-friendly version](#)

**Final Ward Boundaries for City of Toronto Established by Provincial Regulation**

On March 20, 2000, the provincial government issued Ontario Regulation 191/00, establishing the City of Toronto's new ward structure, effective December 1, 2000.

City Council adopted the 44 single-member wards on January 19, 2000, in response to the provincial government's Bill 25, the Fewer Municipal Politicians Act, 1999. These wards are based on the current 22 federal/provincial ridings in the City. The new ward boundaries reduce the number of City councillors, from 57 to 44 and take effect for the next municipal election, November 13, 2000.

Toronto's City Clerk sent the City's ward boundary recommendations to the Minister of Municipal Affairs and Housing, Tony Clement, who has final authority under the Act to prescribe the number and boundaries of the wards. The final ward boundaries are now set in a Provincial Regulation, released by the Minister.

**Media Contact**  
Access Toronto  
416-338-0338

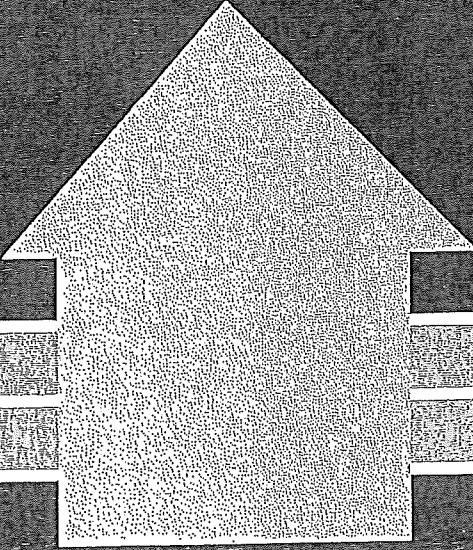
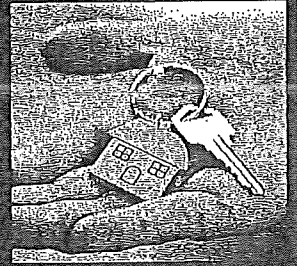
# **Exhibit I**

Exhibit "I"  
to the affidavit of Adam Kanji  
affirmed before me this 27<sup>th</sup> day  
of August, 2018

  
A Commissioner, etc.



2014 to 2019



# Housing Stability Service Planning Framework

December 2013\*

\*Unanimously approved by Council December 2013.  
This version includes amendments as directed by Council.

## EXECUTIVE SUMMARY

The 2014-2019 Housing Stability Service Planning Framework will help shape the transformation of Toronto's housing and homelessness services into an integrated, client-centered, outcome-focused service system that will enable residents to remain in their homes longer and improve their well-being. It will guide Shelter, Support and Housing Administration (SSHA), other City divisions, and the community partners on which it depends in the planning, management, and delivery of SSHA's full range of housing and homelessness services over the next five years as we transition from a system that is now primarily focused on the administration of social housing programs and emergency responses to homelessness.

This work builds on the policy directions in *Housing Opportunities Toronto: An Affordable Housing Action Plan, 2010-2020* (HOT Plan). Approved by City Council in 2009, the HOT Plan is the roadmap for the City's policy-work and investment decisions aimed at providing housing opportunities for everyone. The overarching goal that emerges from this Framework is to improve housing stability for vulnerable Toronto residents. Consistent with Toronto's Housing Charter, this Framework defines housing stability as having a place to live that is affordable, safe, secure, healthy, comfortable, and located in a neighbourhood of choice as well as being able to access and keep housing as one's needs change over time.

More than 2,000 voices were heard through the Toronto Housing Services Consultations, the result of an extensive engagement process that included a public opinion poll, online surveys, focus groups, in-person discussion sessions and key informant interviews. Key themes to emerge from the consultations include:

- Housing affordability is a key issue and concern for many Torontonians and is compounded by the lack of availability and new construction of affordable housing
- Need for access to a diverse range of affordable housing opportunities with client-centered supports
- The importance of housing follow-up supports to support increased housing stability
- The importance of homelessness prevention and the need to prioritize it within service planning
- The importance of more partnerships and better collaboration between service providers, service sectors and government to support effective and innovative solutions.

## ENVIRONMENTAL SCAN

The context of funding relationships with other orders of government, socio-economic and demographic trends in the city, and service sector trends is changing, including:

- Less funding available for social housing and for housing and homelessness services
- Increased demand for emergency shelter
- An increase in people experiencing outdoor homelessness
- An increasingly unaffordable housing market characterised by rents that are rising faster than social assistance payments and minimum wage rates and falling rental vacancy rates
- An insufficient number of subsidized or social housing units to meet demand

- Limited amount of new affordable housing being built
- Emerging service needs among equity seeking groups including women, seniors, Aboriginal People and LGBTQ youth
- A growing and aging population in Toronto.

## STRATEGIC DIRECTIONS 2014-2019

Nine strategic directions are each linked to a set of key actions that will support and strengthen programs and the service delivery system. The key actions are based on our research, analysis, and input from stakeholders including clients, community partner agencies including housing providers, the public, and City staff. They are summarized here.

Program Transformation Directions	
Strategic Directions	Key Actions
<p><b>1. Preventing homelessness</b></p> <p>Providing services to help people keep their housing or find housing better suited to their needs is one of the best ways to reduce homelessness. Preventing homelessness requires not only collaboration with a wide range of service providers but also effective, timely, and appropriate service interventions tailored to the individual needs of clients.</p>	<p>1.1 Develop a comprehensive eviction prevention strategy that builds on relationships with TCH, non-profit and cooperative housing providers, private-sector landlords, community partner service agencies and other City divisions that encounter vulnerable households.</p> <p>1.2 Develop partnerships with the health care, child welfare and corrections systems to coordinate transition planning strategies that prevent people from being discharged from other service systems into homelessness.</p> <p>1.3 Drawing from best practices, identify priorities and resource requirements to improve the effectiveness of housing follow-up support services aimed at achieving stable and successful tenancies.</p> <p>1.4 Leverage investments in community-based programs that increase community connectivity, social integration, and economic well-being in order to support successful tenancies.</p>
<p><b>2. Supporting the transition to housing</b></p> <p>Building on the Housing First approach, SSHA will seek to transform services for those</p>	<p>2.1 Refocus the Streets to Homes program to ensure program resources are best targeted to helping persons living without shelter find and maintain housing.</p> <p>2.2 Develop a service delivery model in consultation with community and other service partners that</p>

<p>experiencing homelessness from strictly temporary solutions to those focused on supporting a transition to permanent, stable housing.</p>	<ul style="list-style-type: none"> <li>• ensures every person entering the emergency shelter system has an individualized service plan in place and supports to move out of the shelter and into housing within a defined timeframe</li> <li>• addresses the complex needs of clients who stay in shelters longer than one year.</li> </ul> <p>2.3 Develop a new shelter funding model in consultation with shelter providers that is predictable and performance based with a continued focus on moving shelter users into appropriate housing as quickly as possible.</p>
<p><b>3. Creating housing opportunities</b></p> <p>SSHA has an important role to play in creating new housing opportunities for vulnerable Toronto households by working with private sector landlords as well as affordable and social housing providers, providing direct financial assistance to increase affordability and by pursuing reforms to outdated policies and systems that may no longer meet today's housing needs.</p>	<p>3.1 Create a permanent housing allowance program to help address housing affordability challenges.</p> <p>3.2 Create a proactive, coordinated access system for social and affordable housing, consistent with Council direction, by implementing changes to City policies, modernizing system administration and empowering applicants with better information and more choices.</p> <p>3.3 Develop a strategy that leverages existing shelter and housing assets to create a range of housing types and supports to meet the diverse and changing needs of households as they transition to housing stability.</p> <p>3.4 Develop a strategy to work with private-sector landlords to create new points of entry to housing for clients experiencing homelessness or affordability issues and to help resolve tenancy issues.</p> <p>3.5 Review the service-level standards and rules governing the administration of rent-geared-to-income housing and develop recommendations for a standard that is inclusive of a range of City-administered housing options.</p>
<p><b>System Transformation Directions</b></p>	
<p><b>Strategic Directions</b></p>	<p><b>Key Actions</b></p>
<p><b>4. Fostering system stewardship and innovation</b></p>	<p>4.1 Protect and leverage public investments in social housing by</p>

<p>SSHA will pursue opportunities for system innovation, review and implement appropriate accountability measures, and protect and invest in assets over the long term. It will be an effective steward of the housing stability service system.</p>	<ul style="list-style-type: none"> <li>• developing a strategic framework for continued operation of social housing projects whose operating agreements are expiring</li> <li>• continuing to support implementation of the recommendations of the Special Housing Working Group and Council's ten year capital financing plan for TCH</li> <li>• developing a social housing asset management and capital renewal program that supports non-profit and co-operative housing providers</li> <li>• supporting the City's advocacy with other orders of government to create a sustainable funding program for the social housing portfolio.</li> </ul> <p>4.2 Address the long-term sustainability of the shelter system through the development of a ten year capital management and infrastructure strategy that supports the maintenance and redevelopment of the shelter sites city-wide and is sensitive to changing and diverse needs of people who are homeless.</p> <p>4.3 Strengthen program administration by improving contract management, program monitoring and accountability practices.</p>
<p><b>5. Improving access and equity</b></p> <p>All Torontonians have a right to access housing and homelessness services that address their needs, without being disadvantaged as a result of identity, ability or where they reside in the city. SSHA is committed to ensuring that all households are treated in a fair and equitable manner when seeking housing assistance.</p>	<p>5.1 Ensure information about services and resources is easy to access, up to date, and accessible to all clients.</p> <p>5.2 Develop comprehensive strategies to ensure that housing services are responsive to the needs of specific client groups including women, seniors and older adults, Aboriginal People, LGBTQ, and people with substance use and/or mental health issues.</p> <p>5.3 In consultation with community partners, improve shelter access and service outcomes by</p> <ul style="list-style-type: none"> <li>• strengthening the existing centralized access system for shelter services</li> <li>• developing a co-ordinated, outcome-focused needs assessment system for clients accessing shelter services.</li> </ul> <p>5.4 Develop an occupancy policy for the shelter system to ensure all people experiencing homelessness seeking a</p>



	<p>bed can be accommodated in a timely manner that respects client diversity and choice to the greatest extent possible.</p> <p>5.5 In consultation with community partners, service users and other stakeholders, develop a harm reduction framework for shelter services that enhances client access and choice.</p>
<p><b>6. Delivering high quality service</b></p> <p>All clients are entitled to respectful and considerate treatment by SSHA and related service providers, from the individual receiving support in moving off the street to the family seeking to register for the social housing waiting list. SSHA will work with community partners to ensure that all City, agency and housing provider staff deliver high quality customer service.</p>	<p>6.1 Implement an SSHA People Plan including a recruitment strategy, staff training, customer service standards and initiatives that boost employee health and wellness in the workplace including strategies to mitigate the negative health impacts of working in highly stressful environments.</p> <p>6.2 Review and update the current Shelter Standards to provide shelter operators and clients with a clear set of guidelines and expectations for the provision of shelter services to ensure services are delivered in ways that are client-centered and respect client diversity.</p> <p>6.3 Improve the collection and reporting of service information by developing detailed performance indicators that define and measure the achievements of service goals and objectives.</p> <p>6.4 Expand the capacity of the Shelter Management Information System (SMIS) as a City-wide housing services management information system.</p> <p>6.5 Continue to monitor best practices and research in the field of housing and homelessness and apply this knowledge as necessary to programs and services in Toronto.</p>
<p><b>7. Strengthening partnerships and coordination</b></p> <p>Partnership and collaboration between SSHA and a wide range of community sector agencies and service providers are key and critical components of the service</p>	<p>7.1 Support and help foster local capacity building initiatives that promote coordination among community partner agencies.</p> <p>7.2 Explore ways to improve service coordination with community partner agencies and other City divisions working with vulnerable persons or with mutual interests such as the Affordable Housing Office,</p>

<p>system. SSHA will engage on ways to enhance service delivery by leveraging existing opportunities, identify service needs and gaps, implementing best practices.</p>	<p>Employment &amp; Social Services, Children's Services, Municipal Licensing &amp; Standards, and City Planning.</p> <p>7.3 Increase coordination with the health care system and City divisions such as Toronto Public Health and Long-Term Care Homes &amp; Services to better connect vulnerable people experiencing homelessness to appropriate services.</p> <p>7.4 Increase and enhance engagement opportunities through the development of a community engagement framework to support ongoing service planning.</p> <p>7.5 Partner on research initiatives to support evidence-based policy development.</p>
<p><b>8. Continuing to maintain a strong emergency shelter system</b></p> <p>Emergency shelters help people meet their basic needs during a housing crisis. The City recognizes its responsibility to provide emergency shelter services as a last resort to all who need a bed.</p>	<p>8.1 Achieve a 90 percent occupancy standard.</p> <p>8.2 Together with community partners, build a shelter system that achieves high shelter standards.</p>
<p><b>9. Advocating to other orders of government</b></p> <p>Other orders of government are key program and funding partners in the development of new affordable housing and the delivery of housing and homelessness programs. However, they continue to withdraw and reduce their financial support to these critical programs which places a greater burden on the City. Continued advocacy efforts by the City and its community partners to other</p>	<p>9.1 Advocate to other orders of government to develop new affordable permanent housing and provide homeless-related operating funds.</p>

<p>orders of government may help secure much needed new and ongoing funding for new affordable housing and housing and homelessness programs.</p>	
---	--

The nine strategic directions will help address opportunities and challenges in housing and homelessness service delivery facing Toronto over the next few years. Actions and new initiatives undertaken by SSHA over the next five years will support and strengthen these directions and be consistent with this framework.

Service planning is a continual and ongoing process. At the end of five years, the goal is to achieve improved service quality, increased access to services, strengthened partnerships, and better coordination between service providers including the City, resulting in better outcomes for vulnerable, low-income Torontonians.

## TABLE OF CONTENTS

Executive Summary .....	i
<b>1. Introduction .....</b>	<b>1</b>
<b>2. Overview .....</b>	<b>2</b>
2.1. The HOT plan.....	2
2.2. What is housing stability? .....	3
2.3. Housing and homelessness services in Toronto.....	3
2.4. The need for a Service Planning Framework for SSHA .....	4
<b>3. What we know .....</b>	<b>6</b>
3.1. Socio-economic trends .....	6
3.2. Housing and homelessness in Toronto.....	7
3.3. Legislative and policy context .....	8
3.4. Current funding environment .....	9
3.5. Overview of the current service delivery system .....	11
<b>4. Establishing a framework for service planning.....</b>	<b>15</b>
4.1. Key challenges and opportunities .....	15
4.2. Research and public consultation.....	16
4.3. A vision for housing stability services .....	22
<b>5. Strategic directions for service planning, 2014-2019.....</b>	<b>26</b>
5.1. Guiding principles .....	26
5.2. Strategic directions.....	26
Strategic direction 1: Preventing homelessness .....	27
Strategic direction 2: Supporting the transition to housing .....	28
Strategic direction 3: Creating housing opportunities .....	29
Strategic direction 4: Fostering system stewardship and innovation .....	30
Strategic direction 5: Improving access and equity .....	31
Strategic direction 6: Delivering high quality services .....	32
Strategic direction 7: Strengthening partnerships and coordination .....	33
Strategic direction 8: Continuing to maintain a strong emergency shelter system.....	34
Strategic direction 9: Advocating to other orders of government.....	34
<b>6. Conclusion.....</b>	<b>35</b>

**FIGURES**

Figure 1 The purpose of the Housing Stability Service Planning Framework..... 5  
 Figure 2: Overview of the current housing and homelessness service system .....12  
 Figure 3: City-funded housing and homelessness supports and services.....14  
 Figure 4: Distance from housing stability.....23  
 Figure 5: Services from a client-centered perspective .....24  
 Figure 6: A range of housing options with different levels of support.....25

**APPENDIX**

Appendix A: Housing and Homelessness Services Administered by the City.....37

## 1. INTRODUCTION

---

This document contains a framework for the planning and provision of Shelter, Support and Housing Administration's (SSHA) full range of housing and homelessness services over the next five years that will strive to see a decline in homelessness and an improvement in the housing stability of vulnerable Torontonians.

Over the summer of 2013, SSHA heard more than 2,000 voices tell us that the system of services in place to help vulnerable people find and keep permanent housing was in need of repair. Input from clients, agency and City frontline and management staff that serve them, housing providers, and the general public clearly articulated that the City did a good job of reacting to emergencies — through such services as street outreach and Out-of-the-Cold meals — but that improvements are needed to better address longer-term housing stability needs.

The current services overseen by SSHA evolved in ad hoc responses to decades of intermittent and mostly decreasing funding, the resulting collage of programs and rules imposed by other orders of government, and the need to meet the changing needs of Toronto residents. As a result, there is insufficient integration of services at the same time that demand for housing services is rising as a fast-growing population struggles with increasing rents, declining vacancy rates, and increased difficulty in obtaining jobs that have the tenure and salary levels required for long-term housing stability in Toronto.

The timing to review and revise the system could not be better. There is agreement that supports to find and keep permanent housing are critical to vulnerable people in Toronto and to the city's liveability for everyone. Many thousands of people use this form of assistance, whether as a subsidized unit in social housing, a drop-in service to connect to services, assistance to find affordable housing through a Housing Help Centre, a Rent Bank loan, an emergency shelter bed, or on-site assistance and supports to daily living. Another almost 90,000 households remain underserved as they wait for a subsidized unit to become available. All this is happening while investments by other orders of government in social housing, eviction prevention services, and housing follow-up programs is declining. The good news is that municipalities are being handed more flexibility to respond to local needs, sharpened by the consolidation of program funding.

Mindful that system improvements can only be shaped and effectively operated with the ongoing collaboration with and among the community agencies that actually deliver many of the services, we will not move forward by destabilizing the status quo. Instead, this planning framework is intended to set a course for a gradual transformation of the system.

Several bedrock principles ground this framework—Housing First as an approach, service integration and coordination as a means, and improved information and access to services as a path. Nine strategic directions form the infrastructure upon which we intend to build priorities, actions and new initiatives over the next five years to transform the system and to move from a focus on emergency responses to homelessness to an integrated service system that will help people achieve greater housing stability.

## 2. OVERVIEW

---

### 2.1. The HOT plan

Housing is fundamental to the well-being of individuals and families. It creates a foundation from which a household can prosper and grow. Freedom from constant worry about becoming homeless or maintaining decent housing without sacrificing other basic necessities is fundamental to residents reaching full potential. Housing is also foundational for the city to be a healthy, prosperous, vibrant, and great place to live for all residents.

In 2009, Toronto City Council adopted *Housing Opportunities Toronto: An Affordable Housing Action Plan, 2010-2020* (HOT). The plan is the roadmap for the City's policy-work and investment decisions to provide housing opportunities for all Torontonians. The HOT Plan is also the City's local ten year housing and homelessness plan, as required by the provincial government.

There are eight strategic themes that support the HOT Plan:

- 1.1 Create housing opportunities in all neighbourhoods
- 2.1 Help homeless and vulnerable people find and keep homes
- 3.1 Assist individuals and families to afford rents
- 4.1 Preserve and repair rental housing
- 5.1 Revitalize neighbourhoods
- 6.1 Create new affordable rental housing
- 7.1 Help people to buy and stay in their homes
- 8.1 Working together

A cornerstone of the HOT Plan is Council's policy statement taken directly from the Council-approved *Toronto Housing Charter – Opportunity for All*:

It is the policy of the City of Toronto that fair access to a full range of housing is fundamental to strengthening Toronto's economy, its environmental efforts, and the health and social well-being of its residents and communities.

In that regard:

All residents should have a safe, secure, affordable and well-maintained home from which to realize their full potential.

All residents should be able to live in their neighbourhood of choice without discrimination.

All residents, regardless of whether they rent or own a home, or are homeless, have an equal stake and voice in Toronto's future.

All residents have the right to equal treatment in housing without discrimination as provided by the Ontario Human Rights Code, and to be protected from discriminatory practices which limit their housing opportunities.

All housing in Toronto should be maintained and operated in a good and safe state of repair.

## **2.2. What is housing stability?**

Providing opportunities for all Torontonians to live in places that are affordable, safe, secure, healthy, and comfortable, without discrimination and located in a neighbourhood of choice is the overarching goal of the HOT Plan and of the work we do at the City. This is what we mean by housing stability.

Housing stability builds on a Housing First service approach which helps people find permanent housing as quickly as possible and provides the necessary supports to keep housing. But housing stability is also about more than just finding housing. It means being able to access and keep housing over time as one's needs change. Social integration and economic well-being are also key pillars contributing to housing stability as they increase a person's connection to his or her community and overall wellbeing.

The vision of helping Torontonians achieve greater housing stability is the starting place for this service planning process. It anchors a new approach for the delivery of housing and homelessness services in the City by taking into account that integrated responses are needed to address housing and homelessness challenges. This creates new opportunities to move beyond traditional, emergency-based solutions towards more personalized, holistic responses that are client-centered and focused on meeting individual needs.

## **2.3. Housing and homelessness services in Toronto**

The City of Toronto provides a wide range of housing and homelessness services intended to support all Torontonians to achieve housing stability. At least half a dozen City divisions are involved, to varying degrees, in the delivery of these services.

SSHA is the division with primary responsibility for increasing housing stability for low-income and vulnerable residents by investing directly in a range of housing and homelessness services designed to help people find and keep permanent housing.

But the Affordable Housing Office (AHO), Toronto Employment and Social Services (TESS) and other City divisions also contribute to housing stability among Toronto residents. Their services include developing new affordable housing, social assistance and other income support payments, work preparation and job finding assistance, public health and recreation programs, and childcare subsidies. In addition, policies such as the Toronto Official Plan which sets out



Council's long-term vision for growth and development in the City and by-laws administered and enforced by City Planning and Municipal Licensing and Standards (MLS) play a key role in regulating the supply and quality of housing options in Toronto.

## 2.4. The need for a Service Planning Framework for SSHA

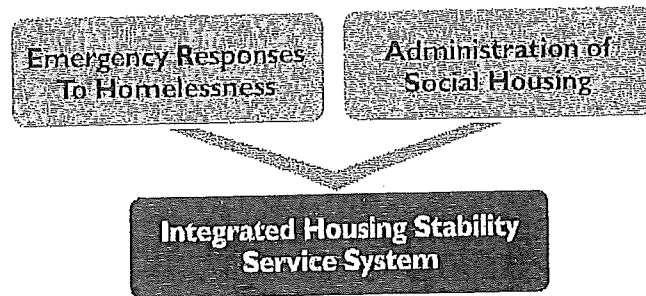
Since amalgamation in Toronto in 1998, SSHA has delivered housing and homelessness services that have been shaped by five key factors:

1. City Council's approval of the HOT Plan and its policy objectives and strategic targets for housing services and the creation of new affordable housing.
2. The constraints on service planning and integration imposed by a prescriptive, uncoordinated, and at times conflicting framework of funding programs from other orders of government with various statutory requirements, and legacy agreements that often led to silos preventing integrated responses to locally specific challenges.
3. A lack of ongoing and consistent funding for critical services. Although periodic investments by the federal and provincial governments have contributed to the effectiveness of housing and homelessness services in Toronto, these funding initiatives have typically been unpredictable and rule-bound, and have made meaningful service planning very difficult.
4. Insufficient funding when there are new funding allocations. Several factors make the long-term outlook for federal and provincial funding uncertain as both governments continue to withdraw ongoing funds for housing programs placing an even greater burden on City property tax payers.
5. A demand for housing and homelessness services that currently outstrips funding and service availability, and is fueled by the downloading of responsibility, but not the funding, for social housing by both the federal and provincial governments, constraints in other program areas (e.g. social assistance), and rapidly increasing housing prices coupled with growing shortages of affordable housing.

The legacy of this context is the fragmented and incohesive service delivery system for housing and homelessness services that now exists in Toronto. In reality, the system that is managed by SSHA is a collection of separate service silos that have evolved in response to specific historic provincial, federal and municipal funding programs, some of which go back decades and few of which were created in harmony with others. Because the existing service system is fragmented and pushed by funding programs and rules, rather than by local needs and priorities, it lacks a unifying view. The housing and homelessness service system is thus facing a number of key challenges that impact service planning but also create opportunities to leverage existing resources and foster innovative and creative responses and solutions.

This Housing Stability Service Planning Framework aims to address this gap. It creates the opportunity to rethink the scope, purpose, and delivery of SSHA's existing housing and homelessness programs. Its purpose is to facilitate the transformation of Toronto's housing and homelessness services into an integrated, client-centered, outcome-focused service system that improves the ability of residents to find and remain in homes that are safe, secure and affordable. It will move us away from the existing loose network of legacy programs primarily focused on the administration of historic, downloaded social housing programs and emergency responses to homelessness.

**FIGURE 1 THE PURPOSE OF THE HOUSING STABILITY SERVICE PLANNING FRAMEWORK**



This planning framework will help SSHA to fulfill its legislated role as service system manager by guiding SSHA and its many partners in the planning, management and delivery of a full range of housing and homelessness services over the next five years. And it will help position SSHA to contribute more effectively to the implementation of Council's HOT plan.

### 3. WHAT WE KNOW

---

This section describes the socio-economic, legislative and funding contexts within which the City delivers housing and homelessness services, and the current service delivery system in Toronto.

#### 3.1. Socio-economic trends

The state of housing stability in Toronto reflects the changes to the city's demographic make-up and fluctuations in the economy. These affect housing availability, affordability, and homelessness. Between 2006 and 2011, Toronto's population grew by 4.5 percent – five times the population growth in the previous five year period for Toronto.

Toronto's population is also aging. The two fastest growing age groups identified in the latest Census are 60-64 year olds and people 85 years of age and older. Projections show this population increasing by one-third between 2011 and 2031.<sup>1</sup>

Changing labour markets in Toronto are also reducing housing stability across the city. It is difficult for many people to find a job and to maintain employment. At just over 8.5 percent, Toronto's unemployment rate is higher than the provincial and national rates.<sup>2</sup> In addition, overall job quality is falling, with full-time, well-paid manufacturing jobs being replaced by temporary, part-time and contract jobs that provide lower wages, less security and few, if any, benefits. In southern Ontario, at least 20 percent of those who are employed find themselves with this type of precarious employment, an increase of nearly 50 percent in the last 20 years.<sup>3</sup>

Poverty remains a persistent and difficult challenge within the city. Considerable research identifies the changing nature of income and poverty.<sup>4</sup> David Hulchanski's research on *The Three Cities within Toronto* (2010) shows that middle income neighbourhoods in Toronto shrank drastically from 1970 to 2005, while high- and low-income areas grew.<sup>5</sup> In 1970 two thirds of the neighbourhoods in Toronto were defined as middle income, compared to only 29 percent in 2005. During that same period, the proportion of high-income neighbourhoods grew from 15 percent to 19 percent, and low-income areas grew from 19 percent to 53 percent.

People who live in Toronto also continue to be poorer than those who live in the rest of the Greater Toronto and Hamilton Area (GTAH). Indeed, they are more likely to have low incomes than those who live in the rest of Ontario and the rest of Canada as well. In 2010, 19 percent of the population had an after-tax income below Statistics Canada's Low Income Measure.<sup>6</sup>

<sup>1</sup> *Toronto's Senior Strategy: Towards an Age-Friendly City*. City of Toronto. 2013.

<sup>2</sup> City of Toronto, Economic Indicators, September 2013.

<sup>3</sup> *It's More than Poverty*. United Way of Toronto and McMaster University. 2013.

<sup>4</sup> See Neighbourhood Change Research Partnership and Poverty and Employment Precarity in Southern Ontario

<sup>5</sup> J. David Hulchanski, *The Three Cities Within Toronto: Income Polarization Among Toronto's Neighbourhoods, 1970-2005*. University of Toronto, 2010.

<sup>6</sup> City of Toronto, 2011 National Household Survey Backgrounder, September 2013.

Income security programs that provide short-term support for people who are unemployed or unable to work are inadequate to pay Toronto rents, with rates frequently falling well below the poverty line and not indexed to the cost of living in Toronto.

All of these factors combine to shape the operating environment for services to help people find and keep housing in Toronto.

## 3.2. Housing and homelessness in Toronto

### HOUSING AFFORDABILITY

Many Toronto residents struggle to pay the rent. Paying 30 percent or more of one's income on rent or shelter costs (including mortgage payments, taxes, and repairs, etc.) is widely used as a measure of housing unaffordability. In Toronto, 43.5 percent of all renter households which represents 19.8 percent of total households spend 30 percent or more of their pre-tax income on rent. 27.6 percent of owner households also experience affordability issues.<sup>7</sup> Approximately two thirds of the renter households in the GTA with affordability challenges live in Toronto.<sup>8</sup>

According to Canada Mortgage and Housing Corporation (CMHC), rents in Toronto continue to increase; the average bachelor unit cost \$840 a month in 2012, while a one bedroom unit was \$1,010 per month.<sup>9</sup> This means that someone working fulltime at minimum wage would be spending 57 percent of their gross monthly income on rent for a one bedroom unit, or 47 percent for a bachelor unit. Ontario Works pays individuals a maximum shelter benefit of \$376, less than half the amount needed for the average rent of a bachelor apartment in Toronto.<sup>10</sup>

Housing affordability is made worse by a low rental vacancy rate (1.7 percent in 2012), which makes affordable, safe, and suitable units even harder to find.<sup>11</sup> Toronto has one of the lowest rental vacancy rates among major Canadian centres and has experienced very low rates for the past 40 years with the exceptions of a few years in the mid-2000s.<sup>12</sup>

The City, especially through the activities of the AHO, continues working to increase the supply of affordable housing. In 2013, 1,641 new affordable rental and homeownership homes were under development utilizing federal-provincial-city investments. However, despite the City's best efforts, the new supply of affordable housing is inadequate to meet demand. The high cost of housing combined with low vacancy rates and a lack of new affordable opportunities has real impacts on individuals and families trying to make ends meet. For many it means going without basic necessities or needing to make difficult trade-offs between paying the rent and buying groceries.

<sup>7</sup> City of Toronto, 2011 National Household Survey Background, September 2013.

<sup>8</sup> Ibid.

<sup>9</sup> The Canada Mortgage and Housing Corporation (CMHC), CHS - Rental Market Survey, December 2012.

<sup>10</sup> Ministry of Community and Social Services, Ontario Works Policy Directives, September 2013.

<sup>11</sup> The Canada Mortgage and Housing Corporation (CMHC), CHS - Rental Market Survey, December 2012.

<sup>12</sup> City of Toronto, Profile Toronto, Rental Housing Supply and Demand Indicators, City Planning Policy and Research, September 2006.

## HOMELESSNESS

While much has been done to address homelessness in Toronto, it continues to be a serious and persistent issue. The 2013 Street Needs Assessment results provide a detailed picture of the state of homelessness in Toronto. On April 17, 2013 there were an estimated 5,253 individuals experiencing homelessness on Toronto's streets, in the shelter system as well as hospitals, other treatment centres, and correctional facilities. Although the overall count is relatively stable with the previous Street Needs Assessment conducted in 2009, the estimated number of individuals sleeping outdoors increased by 24 percent to 477.

The indoor estimate was 4,776. Overall, about 76 percent of homeless people on April 17, 2013 were staying in City-administered shelters, 7 percent in provincially administered Violence Against Women (VAW) shelters, 4 percent in health and treatment facilities, and 5 percent were incarcerated in Toronto-area detention centres.

The Street Needs Assessment provides a snapshot of the number of absolutely homeless people on one specific day. Many more people experience homelessness each year, even if only for a short time. In 2012, about 17,500 unique clients accessed the City administered shelter system.

There is a lot of diversity among people experiencing homelessness as demonstrated by the Street Needs Assessment and data on users of the City's emergency shelters. The Street Needs Assessment indicated that there is a persistently high representation of Aboriginal People among the homeless population. A number of key themes and challenges related to Aboriginal homelessness continue to emerge in the research such as substance abuse, discrimination and racism, and the perception that Aboriginal people who are experiencing homelessness are viewed as a lesser priority for services and support.

The Street Needs Assessment also indicates that there are emerging service needs among other client groups. For example, the homeless population is aging. Additionally, one in five homeless youth identified as members of the LGBTQ community. The duration of homelessness also varies between different sub-groups of the homeless population.

There is little information or data about the "hidden homeless" – those couch surfing, or staying temporarily with friends or family because they have no other option. It is difficult to estimate how large this group is as they are not necessarily using emergency services such as shelters.

### 3.3. Legislative and policy context

#### HOUSING SERVICES ACT, 2011

The City is the Consolidated Municipal Service Manager for housing and homelessness programs under the provincial *Housing Services Act, 2011* (HSA), which governs the administration and funding of social housing in Ontario. As Service Manager, the City is

responsible for planning, administering and delivering affordable and social housing programs and service initiatives that help individuals and families at-risk of or experiencing homelessness to find and maintain permanent housing. This includes the management and administration of rent-g geared-to-income (RGI) assistance within its social housing portfolio. The City is required by the HSA to meet a legislatively defined "service level standard" for RGI subsidized units in Toronto.

The HSA was a welcomed replacement to the overly prescriptive *Social Housing Reform Act* which preceded it. In general, the HSA gives service managers more flexibility to meet local needs. This includes reducing some requirements for Ministerial Consents (i.e., provincial approval), for things such as easements and refinancing mortgages, so that municipalities can make locally relevant decisions and streamline administration. The HSA also provided service managers with the opportunity to modernize how they manage the waiting list for social housing, including new policies and systems to improve customer service and applicants' ability to make informed housing choices.

#### **LONG-TERM AFFORDABLE HOUSING STRATEGY**

In November 2010, the provincial government released its Long-Term Affordable Housing Strategy (LTAHS) with a vision to improve Ontarians' access to adequate, suitable, and affordable housing. The centrepiece of the provincial strategy was to shift greater authority for housing and homelessness service planning to municipal governments under a more flexible provincial framework. This was consistent with a commitment in the final report of the Provincial Municipal Fiscal Service Delivery Review (PMFSDR) released two years earlier where it was noted that the Province and municipalities would work together towards consolidating the existing range of housing and homelessness programs into a single funding envelope to be managed at the municipal level as dictated by local needs. The LTAHS also includes the requirement under the HSA that municipalities create local ten year housing and homelessness plans. The City's ten year HOT Plan meets this legislative requirement.

### **3.4. Current funding environment**

SSHA's approved 2013 gross operating budget is \$665.6 million (\$225 million net).

With this budget, SSHA manages funding from all three orders of government and invests it through grants in housing and homelessness programs and through subsidies to social housing providers for social housing programs. SSHA currently directs approximately 70 percent of its gross budget to social housing.

#### **COMMUNITY HOMELESSNESS PREVENTION INITIATIVE**

As part of its LTAHS, the provincial government recently consolidated funding from five previously separate provincial homelessness programs into a single funding envelope to allow municipalities to use funding in a more flexible manner, reflective of local need. Beginning this

year, the Community Homelessness Prevention Initiative (CHPI) replaced existing funding in Ontario for emergency hostels, the Consolidated Homelessness Prevention Program, the Rent Bank, the Emergency Energy Fund and Domiciliary Hostels (Toronto does not have any of these).

But while the new CHPI program provides greater flexibility, there is less money for homelessness prevention services. This is because the Province eliminated the Community Start-Up and Maintenance Benefit (CSUMB) in the 2012 provincial budget. This funding helped individuals and families who receive social assistance to move into housing, reduced evictions and addressed other types of emergencies that may affect housing stability. Only 50 percent of the funding previously allocated to CSUMB in Ontario is now included in CHPI.

### **HOMELESSNESS PARTNERING STRATEGY**

The federal government has designated the City as the Community Entity under its Homelessness Partnering Strategy (HPS) to select, administer and manage projects supported through that very important funding stream. The City has administered federal homelessness funding since 2000. HPS funding is used to provide programming that assists individuals and families who are experiencing homelessness, at-risk of homelessness or recently housed.

Although this is not permanent, ongoing funding, the federal government has maintained its commitment to investing in programs to prevent and reduce homelessness. In the 2013 budget the federal government announced the extension of HPS until March 2019. The renewed program will place an increased focus on a Housing First approach to address the needs of individuals experiencing chronic and episodic homelessness. While this represents a more prescriptive approach from the federal government, it is consistent with the Housing First approach embraced by the City since 2005.

### **INVESTMENT IN AFFORDABLE HOUSING**

The 2013 federal budget also included a commitment to renew the joint federal-provincial Investment in Affordable Housing (IAH) program for five years when it expires at the end of March 2014. While the federal and provincial governments have not yet entered into an agreement, it is expected that the provincial government will also renew its contribution. The City uses approximately half of current IAH funding for housing allowances and the remainder for retrofit and construction of affordable housing and assistance with affordable home ownership.

### **FUNDING FOR SOCIAL HOUSING**

Approximately 60 percent of ongoing social housing costs in Toronto are currently funded through transfers from the federal and provincial governments. However, over the next decade, funding commitments made by other orders of government are due to expire, placing an ever greater burden of social housing costs on the City.

The federal government currently provides funding for social housing through the *Social Housing Agreement* (SHA) signed with Ontario in 1999. In turn, the Province provides the majority of this funding to Toronto and other service managers, loosely apportioned according to historic agreements with individual housing providers in each jurisdiction. As these historic agreements expire, the associated federal funding is being withdrawn – even though social housing projects will continue to operate (in accordance with provincial legislation) and maintenance expenses will continue to be incurred. As of 2013, the scheduled reduction in federal funding has resulted in a gross loss of just under \$20 million annually. Over the next five years, these reductions will continue to accelerate, resulting in a reduction of gross funding from \$155 million in 2013 to \$117 million in 2017. In 2032, all federal funding for social housing in Toronto under the SHA is scheduled to disappear.

In addition to the ongoing pressure created by the withdrawal of federal funding, the Province announced in 2013 that it would eliminate the Toronto Pooling Compensation grant (TPC) over the next three years. This provincially-funded grant was established to mitigate the cost of the City's disproportionate share of the Greater Toronto and Hamilton Area's social housing stock – Toronto has more than 90 percent of the region's public housing. The elimination of the TPC will represent a further loss of \$114 million in annual funding for social housing in Toronto by 2017.

Over the next decade and beyond, the most significant challenge for social housing in Toronto is finding a way to address the growing number of major capital maintenance and repair needs in the portfolio. Although significant capital investments have been made by the federal and provincial governments in recent years, through the one-time Social Housing Renovation and Retrofit Program (SHRRP), this funding was inadequate to the scale of the challenge. Even after SHRRP, the level of investment required to address the current capital backlog at Toronto Community Housing alone, which comprises the oldest buildings in the portfolio, has been projected at \$862 million. TCH's capital needs over the next ten years are forecast to be \$2.6 billion. And while a full understanding of capital repair needs among the City's other non-profit and cooperative housing providers is still emerging, it can be anticipated that, if left unaddressed, total capital liabilities in that part of Toronto's social housing portfolio could exceed \$500 million in ten years.

### **3.5. Overview of the current service delivery system**

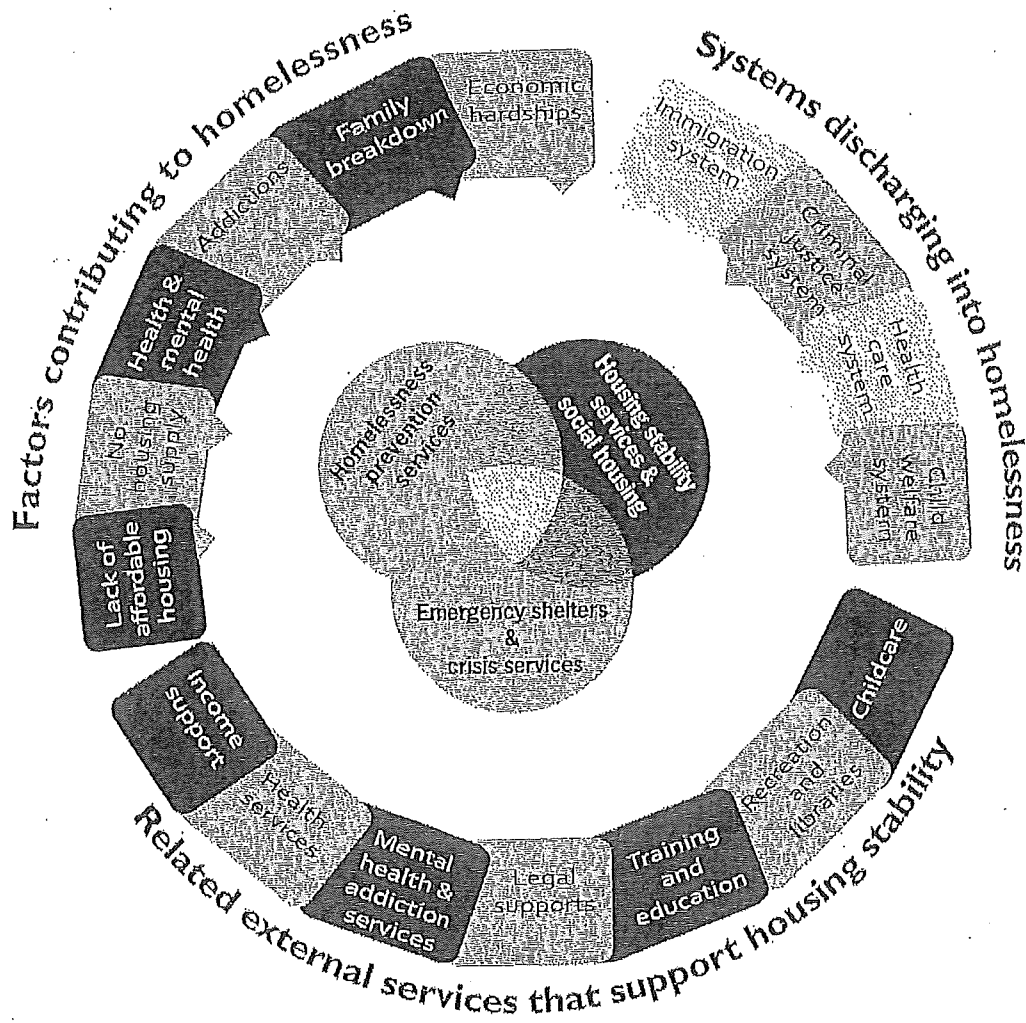
#### **A COMPLEX AND INTERDEPENDENT SERVICE ENVIRONMENT**

Many factors contribute to the experience of housing instability and homelessness. These include a lack of affordable housing, insufficient supply of housing, inadequate income and/or employment opportunities, challenges or changes to an individual's physical or mental health, addictions, and family breakdown. Often, it is a series of crises that lead an individual or family to experience homelessness.



FIGURE 2: OVERVIEW OF THE CURRENT HOUSING AND HOMELESSNESS SERVICE SYSTEM

A complex range of factors contributes to the demand for assistance



The current housing and homelessness service system as depicted in figure 2 has evolved in response to the pressures of external factors and systems. Factors such as downturns in the economy, or social policy changes implemented by other orders of government impact housing instability in Toronto.

Additionally, lack of coordination among different service systems contributes to the need for the housing and homelessness services provided by the City. The health care, child welfare,

criminal justice and immigration systems, which are within provincial and federal jurisdiction, all discharge individuals and families into homelessness and the City's emergency shelter system. Inadequate capacity in provincially mandated programs, such as Violence Against Women (VAW) shelters, means women seek shelter and services through the City's shelter system which puts strain on our women's shelters and leaves vulnerable women and children without the specialized services provided through the VAW sector.

The current service delivery system is characterized by the delivery of three types of services and supports for clients at-risk of homelessness: homelessness prevention services; housing stability services and social housing; and emergency shelters and crisis services. These services and supports may be delivered by the City and/or others. Activities that fall under each of these service types may be distinct to that service, or may be offered by more than one of these types of services. For example, housing help can both prevent homelessness by intervening before a housing issue results in homelessness, as well help individuals maintain housing stability by providing landlord mediation for households who are in rental arrears.

In addition to the pressures of external factors on the housing and homelessness service system, there are also many related external services that underpin and support housing stability. These services, while distinct, often work in tandem with our own housing and homelessness services to address a range of client needs. Services such as income support, education and childcare are critical to helping people address the wide range of needs that both help people improve their housing stability, as well as improve their overall quality of life.

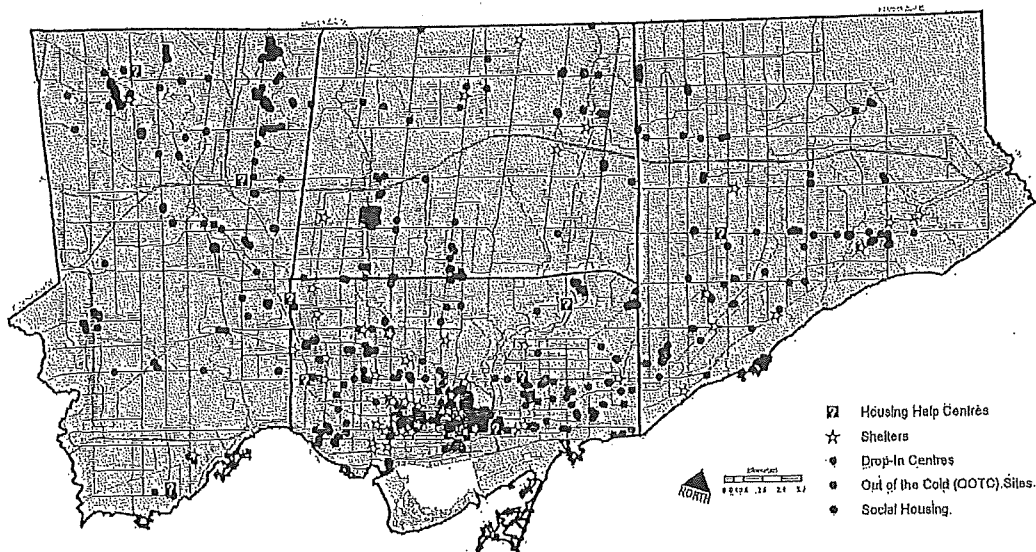
#### **HOUSING AND HOMELESSNESS SERVICES ADMINISTERED BY THE CITY**

City-administered housing and homelessness programs in Toronto are delivered through a mixed service model where some services are operated directly by the City, with most services delivered by community agencies, either under purchase of service agreements with the City, or using City grants. Although services are available in neighbourhoods across the city, most are clustered in the downtown core as can be seen in figure 3.

FIGURE 3: CITY-FUNDED HOUSING AND HOMELESSNESS SUPPORTS AND SERVICES

Available in many neighbourhoods but clustered in the downtown

### City-funded Housing and Homelessness Supports and Services



The City provides stewardship to the system through its role as a funder, the provincial service system manager, and as the federal community entity. On behalf of the City, SSHA provides this system oversight, supports capacity building among community agencies, and is responsible for meeting federal, provincial and City Council reporting requirements.

Many thousands of people annually use the housing and homelessness services managed, funded, and delivered by SSHA. Some clients are experiencing homelessness and living in an emergency shelter or on the streets. Others live in either private market housing or in social housing but are struggling to both pay the rent and feed their families, living in poor quality housing, or need additional social and health supports.

An overview of City-administered housing and homelessness services is provided in Appendix A.

## 4. ESTABLISHING A FRAMEWORK FOR SERVICE PLANNING

---

### 4.1. Key challenges and opportunities

The development and delivery of housing and homelessness services in Toronto has evolved over time in response to changing community needs, the emergence of best practices, and the on-again, off-again availability of funding. An example of such evolutionary change is the City's implementation of a Housing First approach to end homelessness in 2005. This progression in service delivery was supported by an increasing body of evidence and best practices from other jurisdictions that demonstrated that helping clients to find housing and supporting them in their new homes was an effective way to help clients' transition from the street to permanent housing.

Additionally, as funding streams have been consolidated, and new funding introduced, SSHA has introduced structures to better plan the service activities and to develop resources and tools to support the community partner agencies that deliver those services. Recognizing the importance of our community agencies and housing providers as key partners in the planning and delivery of services, SSHA works closely with networks of community partner agencies to identify emerging needs and service challenges, and to develop innovative solutions.

However, as described in previous sections, the delivery of housing and homelessness programs is challenging and complex. Furthermore, the development and delivery of some programs is constrained by the fact that some funding is unpredictable and not permanent. Prescriptive funding requirements and rules have occasionally had the unintended consequence of creating isolated programs that are not well integrated with other service clusters. When coupled with the complex issues that many clients live with, the result is a service system that is difficult for clients to navigate. This is a situation made worse by the fact that overall funding for housing and homelessness services has declined even though demand has clearly been on the rise.

This Housing Stability Service Planning Framework is an opportunity to reset the scope, purpose, and delivery of existing housing and homelessness programs to an integrated client-centered system led by our common vision, goals, and objectives. At the centre of this is the goal of helping clients achieve positive outcomes through increased housing stability.

We are now facing a number of key challenges that impact service planning but also create opportunities to leverage existing resources and foster innovative and creative responses and solutions.

High rents and low vacancy rates make housing unaffordable for many people in Toronto. Many middle income households are being squeezed out of the private rental and home ownership market. This growing affordability gap puts the social housing system in Toronto under increasing pressure, with high demand for subsidized units and other housing assistance. In 2012, the demand for RGI units reached its highest level, with over 87,000 households registered on the centralized waiting list by year end, seven percent higher than 2011 and 30 percent more than when the list was established a decade ago. The supply of social housing

has not nearly kept pace with rising demand. Essentially, the overall number of RGI units remains unchanged over the past decade. As a result, the majority of applicants for RGI are left waiting up to five years before getting an offer of housing, and some wait much longer.

Meanwhile, operating agreements with some social housing providers are beginning to expire. As noted, this will result in a decrease in the already limited federal funding for social housing as well as potentially the loss of affordable stock. While this is challenging, the expiring operating agreements could provide an opportunity to explore and develop different models for social housing and new more flexible relationships with providers that meet local needs.

The 2013 Street Needs Assessment shows that the total estimated number of homeless people in Toronto remains relatively stable between 2009 and 2013. Despite this, there is increased pressure on the emergency shelter system, especially in the adult women, co-ed, and family sectors. Changes to the provincial funding model put all funding for homelessness services into a single envelope and so provincial funding for shelters no longer fluctuates with demand. Funding for shelter services is capped and this makes it difficult for Toronto to respond to shifts in demand for shelter services since increases in spending on shelters can mean changes in funding available for other homelessness services. There is only one pot of money. And with the new provincial funding model and the elimination of CSUMB, overall provincial funding for housing and homelessness services has decreased.

The bottom line is that recent policy, legislative, and funding changes by the provincial and federal governments provide both the impetus and the opportunity to develop a service planning framework that supports consolidation and transformation of existing City-managed housing and homelessness programs into an integrated, client-centered, outcome-focused housing stability service system.

## 4.2. Research and public consultation

A series of consultations throughout summer 2013 provided invaluable input from a range of stakeholders to the service planning process. We consulted with and learned from

- youth
- seniors
- Aboriginal People
- people experiencing homelessness
- people staying in shelters
- those with applications on the social housing waiting list
- housing service users
- members of the general public
- individuals and families who had recently secured housing
- housing providers
- front-line community agency and City staff who deliver housing and homelessness services or work with vulnerable populations.

We heard more than 2,000 voices through in-person discussions, online surveys, focus groups, key informant interviews, a public opinion poll, and an online workbook with background information.

Additional input and advice was provided by a reference group consisting of senior representatives of City divisions that work directly with vulnerable Torontonians.

We also conducted a literature review to develop an understanding of the key principles, goals, definitions and implementation strategies used in housing and homelessness plans within a municipal or regional government framework. Housing and homelessness plans from across Ontario, Canada, the United States, Australia and the United Kingdom and other research were examined to identify best practices, key common strategic areas of focus and emerging trends.

## KEY FINDINGS

The following is a summary of the key themes to emerge from the consultations, research, and other activities undertaken as part of SSHA's service planning process.

### Common goal of ending homelessness

Many of the plans that we reviewed include ending homelessness as their overarching, aspirational goal. Recently, a focus on increasing and enhancing housing stability is also emerging in other jurisdictions as part of their vision for the future or as a strategic direction of their plans.

### Housing First approach

Almost all of the jurisdictions reviewed based their plans on a Housing First approach to end homelessness. Housing First is founded on the principle that the first and most fundamental assistance to be afforded to people experiencing homelessness is to enable them to find a safe, secure, affordable home, with supports as necessary, from which they can make changes and stabilize their lives. Other barriers, such as lack of employment skills, addictions and poor mental and physical health, are best addressed once a person has stable housing. In a Housing First approach, housing is not dependent on the person accepting treatment for any physical health, mental health or substance use issues, although these are offered. In other words, Housing First means that housing is offered as soon as possible with few conditions.<sup>13</sup>

Toronto has embraced a Housing First approach to ending homelessness since 2005. It underpins the Streets to Homes program and is reinforced in the HOT Plan.

<sup>13</sup> *Building on evidence: 13 things to include in Ontario's municipal homelessness reduction strategies.* Centre for Research on Inner City Health, St. Michael's Hospital.

The importance of Housing First was borne out once again in the City's 2013 Street Needs Assessment which found that 93 percent of people experiencing homelessness indicated a desire to get into permanent housing.

### **Housing affordability and other system-level challenges**

A common theme expressed by all stakeholder groups in all of the consultations was that overall housing affordability in Toronto is challenging, making it difficult for low-income families to secure and maintain housing. This challenge is compounded by a lack of availability of affordable housing and the reality that not enough new affordable housing is being built.

Clearly evident from the 2013 Street Needs Assessment is that most homeless respondents want housing and, above all else, it is a lack of affordable housing that stands in their way. To the question "What is the one most important thing that would help you get housing," almost two-thirds of responses related to housing affordability, indicating that more than anything homeless people say they need help to pay the rent.

Stakeholders raised other systemic challenges including the inadequacy of current social assistance rates, the underfunding of both the housing and social assistance service systems, and the need for increased advocacy from the City for more money for the housing and homelessness service system.

### **Access to a diverse range of affordable housing opportunities**

Stakeholders expressed strong support for mixed income communities (consistent with the vision set out in HOT) that increase community, social, and economic integration leading to increased overall housing stability. They spoke about the need for a range of client-centered services and supports to help people achieve greater housing stability and also for a range of housing options, such as increased transitional housing, to meet those needs.

A key component of many of the plans reviewed is their focus on increasing the stock and access of individuals to a full range of affordable housing opportunities such as transitional housing, long-term supportive housing, social housing, and private-market rental. This supports a Housing First service approach as it is important that a complete range of housing options be available to help achieve success. There is also consensus around the importance of mixed-income neighbourhoods and scattered housing. In other words, a full range of housing options should be available in every neighbourhood.

### **Housing stability and the importance of follow-up supports**

Housing stability is about more than just housing. There was broad consensus among stakeholders that housing stability is about having housing that is affordable, suitable, safe and in a healthy community. Feedback also emphasized the need to support residents' social, economic and community integration to help them achieve greater attachment to home and ultimately achieve greater housing stability.

Stakeholders also agreed that helping residents achieve greater housing stability is an appropriate goal for the service planning framework. At the same time, stakeholders clearly articulated that greater housing stability will not be achieved in Toronto unless there are significant improvements to the availability and types of follow-up supports for clients after they are housed or once the initial housing issue has been addressed. Again, it is not just about the housing itself.

A majority of stakeholders felt that the availability and appropriateness of follow-up supports were a critical part of a successful and sustainable Housing First approach to ending homelessness, especially for clients with complex needs.

### **Importance of homelessness prevention**

Homelessness prevention as a key priority in the overall service system received broad support from all stakeholders. This also translated to a strong belief that the City should intervene when people are in hardship as opposed to when they are about to be evicted or are looking for admission to the shelter system. Timely, targeted, appropriate and creative interventions which support the household in achieving greater housing stability can successfully help individuals and families avoid homelessness.

The majority of the plans reviewed also identified homelessness prevention as a key strategic element to end homelessness. Many plans include actions related to increasing the amount and availability of resources dedicated to prevention services. Many include actions aimed at identifying and targeting services to those who are most vulnerable and place emphasis on strengthening front-line intake and assessment to ensure individuals are connected to the right services as part of a prevention strategy.

### **Importance of client-centered services**

The importance of client-centered services was stressed by stakeholders throughout the consultations. Interventions used to help people move out of homelessness should be determined by the client's individual circumstance and needs. Stakeholders spoke to the critical importance of specialized or customized supports based on an individualized assessment of need in order to achieve greater housing stability as an outcome.

### **Perceptions of current service quality**

The degree to which services are sensitive and responsive to the client's needs and perspective also has an impact on the client's service experience. Overall perceptions of the current quality and effectiveness of housing and homelessness services by stakeholders were varied. Many believed that current services are not meeting the needs of residents. Stakeholders thought that current services providing an emergency response to homelessness, such as street outreach service or Out of the Cold meals, were more effective than services that address longer-term



housing stability needs. It seems that many stakeholders think the City is better at reacting to emergencies than meeting longer-term housing stability needs.

Ongoing and continued investments in staff training can help improve overall service quality. Many stakeholders identified the need for training to ensure staff members are able to help clients navigate services and access them easily. Training also helps front-line service providers stay current with best practices, gain additional experience and expertise assisting service users with specific needs or complexities. In recent presentations to a City standing committee, advocates have emphasised the importance of staff training in anti-oppression, anti-racism, harm reduction and understanding trauma based behaviour.

### **Information and access to services**

Stakeholders spoke about the need to increase the availability of information, and awareness among Torontonians about services, as well as a need to improve access to services. Many service users reported finding it initially difficult to access services as they did not know about them or where they were located. Improved information and access can support a greater focus on homelessness prevention.

Information about services and access to services are also mutually dependent. Vulnerable households must first be aware of services in order to access them and take advantage of them. However, clients reported finding out about the range of services through a case worker or social worker, a service provider, or through word of mouth, underscoring the importance of an existing service connection to find information about services.

Female service users reported more difficulty accessing services than men. Women were also much less likely to state that their housing situation had improved as a result of using the services and were less likely than men to say the services they had used had been helpful. This may be consistent with an analysis of shelter usage which shows higher occupancy pressures in the adult women's sector than the adult men's sector.

### **Working together better**

The importance of more partnerships and better collaboration was a theme throughout the consultations. This applied both among service providers and between the housing and homelessness service sector and other service sectors, such as health and corrections. It also applied in an inter-governmental sense as well, with stakeholders saying that all orders of government need to work more closely and more collaboratively.

Partnerships and increased collaboration are especially important as they can generate effective and innovative solutions that help meet different client needs in the community. They also support improved service access and coordinated case management for clients. Collaboration with other service sectors such as health and corrections can help reduce and prevent homelessness by ensuring common clients receive adequate supports and services, including coordinated discharge planning.

Different stakeholder groups identified that landlords, both non-profit and private sector, are key partners in the service delivery system and need to be recognized as such. Landlords can be critical in helping prevent homelessness by identifying – before a crisis point is reached – those households that may need additional supports to maintain their housing. Improved communication among clients, their case workers/managers and landlords can contribute to the early identification of any issues that may put a tenancy at-risk. In addition, partnerships with landlords are key to securing housing for individuals experiencing homelessness.

### **Service integration**

Service integration was a common theme throughout many of the different types of consultation activities. Several interpretations of service integration emerged. For some participants, it was about ensuring that clients have streamlined and simplified access to a range of services and information through a single service visit. The idea of creating more service hubs in communities across the city was frequently suggested as a way to improve service integration since this would bring together both services and service providers.

For others, improving service integration was linked to improved access and sharing of client information. This would allow front-line service workers to better understand clients' past service needs and service use, which in turn could help more effectively match them to the best services to meet their current needs.

Most jurisdictions whose plans were reviewed have also identified the importance of service integration to housing stabilization, and put this as a key strategy in their plans. Service integration makes service delivery more effective and helps to align resources to clients and their needs. Through integration, communities develop a shared system of services which are effectively coordinated, seamless and tailored to the needs of people. Integration provides an accountable response and improves the quality of outcomes for clients.

### **Importance of an evidence-based approach**

All jurisdictions that were reviewed used evidence-based knowledge to support development of their plans and to inform the evolution of the plans over time. Appropriate data and research support service delivery in several ways. Tangible evidence helps provide a better understanding of people experiencing homelessness or housing instability and their service needs. It also helps identify best practices and define service expectations.

Many jurisdictions identified the need to reform their current mainstream systems and data collection tools and several promoted or planned to implement a central homeless management information system. Establishing performance measures and collecting data lead to continuous learning with planning and funding that is strategic, innovative, flexible and sustainable. When evaluation strategies and performance measures are developed it is important that they capture

not just outputs, but meaningful outcomes such as the number of people who have moved to housing they are satisfied with.<sup>14</sup>

### **Outcome-focused service system**

The importance of an evidence based approach was also reflected in the input gathered through the consultations. There was consensus among stakeholders that an outcome-focused service system is important to ensure goals and objectives are being met. There was little consensus, however, on the best way to measure the service system's performance in helping clients achieve greater housing stability, although the suggestions indicated a strong desire for quantitative measures. One of the most common suggestions related to appropriate outcome measures that involved tracking the amount of time clients stay housed after they have moved into housing. A key piece of feedback is that improved housing stability takes time to achieve. This means that positive client outcomes may not be immediately apparent and that mechanisms to measure outcomes over time will be important.

### **Ongoing engagement**

Many stakeholders expressed the need for ongoing engagement among the City, clients, community-based service providers and staff to support ongoing service planning, partnership development and increased collaboration. Staff and service providers have on-the-ground expertise and can help identify best practices, service gaps and emerging service needs.

## **4.3. A vision for housing stability services**

The feedback and input received through the stakeholder and public consultations and the review of emerging and best practices in other jurisdictions reaffirms the City's vision in the HOT Plan that all residents should have a safe, secure, affordable, and well-maintained home from which to realize their full potential. This should be achieved through flexible and responsive services for those that need some supports that are part of a client-centered, outcome-focused, and accountable service system. Supporting households to achieve improved community, economic, and social integration contributes to the vision.

### **TOWARDS A CLIENT-CENTERED SERVICE SYSTEM**

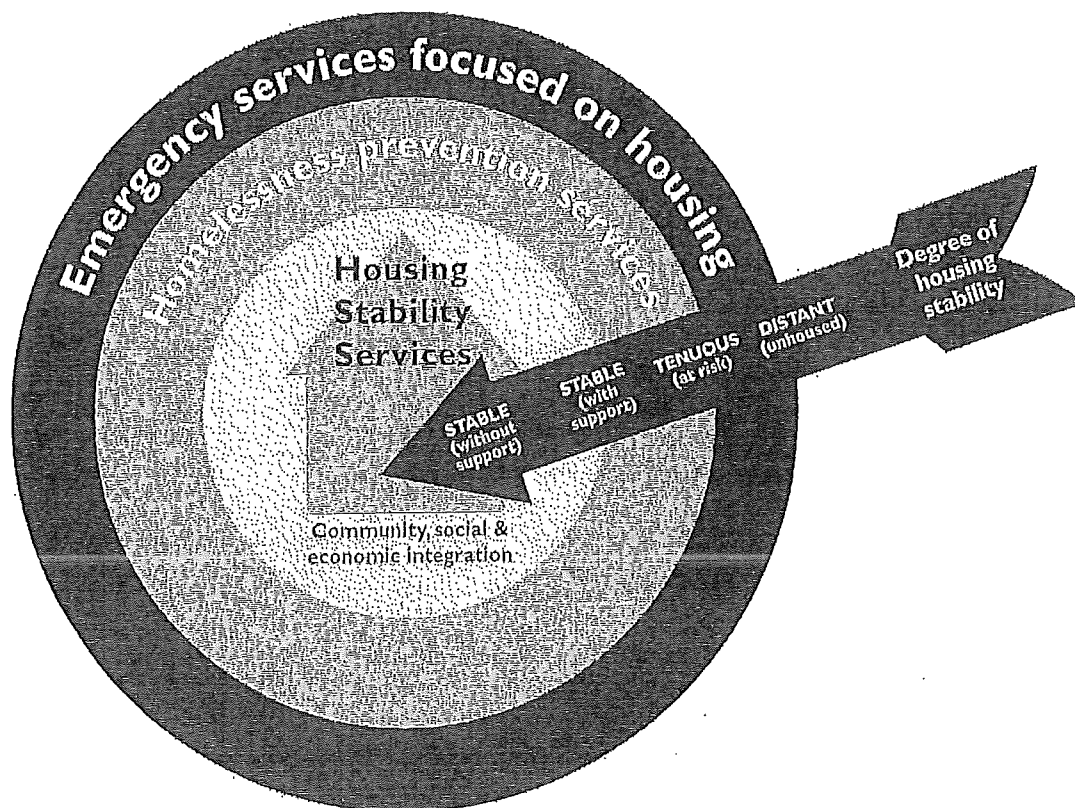
People experience housing instability and homelessness for different reasons. For some it is due to economic circumstances or a breakdown in family relationship. For others, health, substance use and/or mental health challenges and lack of appropriate supports make it difficult to sustain employment or maintain a home. Thus, when different clients first engage with services, they exhibit a range of different needs that impact where they may be along a housing stability continuum. Where they are along the continuum depicted in figure 4 will impact what

<sup>14</sup> Building on evidence: 13 things to include in Ontario's municipal homelessness reduction strategies. Centre for Research on Inner City Health, St. Michael's Hospital, October 2013.

types of services they need and at what intensity. Therefore, helping people with different needs achieve greater housing stability requires different types and intensity of service intervention to achieve successful outcomes.

**FIGURE 4: DISTANCE FROM HOUSING STABILITY**

Services and intensity of response depend on a client's situation and may change over time



Some clients will move very quickly from being distant from housing stability and experiencing homelessness to being stable in housing and integrated into their community without any additional supports. For others, improved housing stability will require ongoing supports tailored to their needs while others may transition to greater housing stability with little ongoing support. For many, this is not necessarily a straight line experience or process. The figure above represents a way of thinking about how and when to intervene depending on people's needs, strengths, and challenges. What is critical is that clients are connected to the appropriate services to best meet their needs.

A transformed housing and homelessness service system will include a shift to client-centeredness in the identification and delivery of services. This change means that connecting clients to service will not be focused on service availability; instead it will shift to an approach

that puts the client first, identifies his or her unique needs and then connects him or her to a broad range of services. This is depicted in the figure below. This approach recognizes that access to service should not be structured around the limitations of a service system, but more importantly around the needs of a client. It is also grounded in the reality that establishing housing stability means addressing a wide range of non housing-specific needs such as social, health, and employment needs. In addition to client-centeredness, there are five additional service delivery principles which will ensure that people can access consistent, responsive services: Integrated services; a focus on outcomes; Housing First; improved housing stability; and high quality services. These principles will ensure the delivery of a service system that is of the highest quality, coordinated and designed to respond to the changing needs of individuals.

**FIGURE 5: SERVICES FROM A CLIENT-CENTERED PERSPECTIVE**

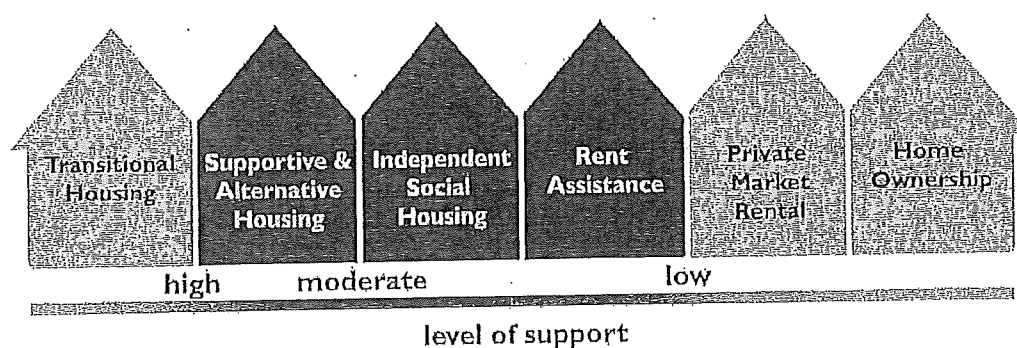
Illustrates putting the client at the centre and the services available to best meet their needs



## TOWARDS A RANGE OF HOUSING OPPORTUNITIES

The availability of a healthy and full range of housing opportunities is critical to achieving the vision of ensuring that all residents have a safe, secure, affordable, and well-maintained home from which to realize their full potential. Any healthy and complete community includes a range of housing options from short-term transitional accommodation to subsidized options such as supportive and social housing, and options with less-intensive supports that include private market rentals and homeownership.

**FIGURE 6: A RANGE OF HOUSING OPTIONS WITH DIFFERENT LEVELS OF SUPPORT**



People move toward housing stability when they are able to access the right housing opportunity, coupled with the right level of service intervention. As service system manager for social housing, the City has the opportunity to ensure that housing subsidies are employed effectively to make this happen. SSHA, in this role, oversees partnerships and funding for social housing providers that provide a range of non-market and market housing opportunities as part of the range of housing options in Toronto. These community-based organizations have provided valuable assistance for many years to thousands of households, with funding from all three orders of government. In Toronto, this public investment has resulted in the creation of over 90,000 units. The renewal of these partnerships, as part of service planning, is essential in light of new challenges and opportunities.

As part of transforming the current service system to one that is more client-centered and focused on improved housing stability outcomes, it is essential that the City build on and expand partnerships with housing providers, and maximize the use of the social housing stock to meet our service planning objectives. As service system manager for social housing, the City can help ensure that housing subsidies are providing the right housing assistance, at the right time, in the right place, and with the right supports.

## 5. STRATEGIC DIRECTIONS FOR SERVICE PLANNING, 2014-2019

---

Achieving greater housing stability can be difficult for many people. The service system has to be flexible to meet clients where they are at any point in time by providing referrals and delivering services to help people meet their unique needs. Ultimately, housing stability increases as one's house becomes one's home.

For SSHA, this means having a framework for service planning that will transform the system into one that is client-centred, outcome-focused and approaches all of the different types of service intervention in an integrated and coordinated way.

We need to leave behind the service system that has evolved into one that works in silos, focussing on responding to emergency situations, while administering an inadequate supply of downloaded RGI housing according to prescriptive provincial regulations. We have to do better than that.

### 5.1. Guiding principles

The development of this Service Planning Framework is being guided by the following key principles:

1. A Housing First approach to helping people find and maintain permanent housing
2. A focus on helping the most vulnerable
3. A commitment to achieving the most positive outcomes for clients
4. Services that are easy for clients to access and are integrated and administratively streamlined
5. System change that is phased in over time to avoid disruption in service to clients
6. Engagement of service users, community partners and stakeholders in developing priorities and solutions
7. Directions that are consistent with Council policy including the HOT Plan, the City of Toronto Strategic Actions 2013-2018, the Toronto Senior's Strategy, the housing policies of the City's Official Plan, and Equity, Diversity, and Human Rights policies.

### 5.2. Strategic directions

The nine strategic directions presented below, which were identified through consultation with clients and residents, service providers, City staff, and other community stakeholders, will support and strengthen housing and homelessness services over the next five years and help achieve the desired outcome of improved housing stability. They are presented here, along with key actions and success factors.

The first three strategic directions address the needs of SSHA's program areas; the other six directions focus on the management of the service system. Together they work towards transforming the housing and homelessness service system overseen by SSHA from one focused on emergency responses into one aimed at coordinated delivery of services that are client-centered and support all households to achieve housing stability.

### **PROGRAM TRANSFORMATION DIRECTIONS**

1. Preventing homelessness
2. Supporting the transition to housing
3. Creating housing opportunities

### **SYSTEM TRANSFORMATION DIRECTIONS**

4. Fostering system stewardship and innovation
5. Improving access and equity
6. Delivering high quality service
7. Strengthening partnerships and coordination
8. Continuing to maintain a strong emergency shelter system
9. Advocating to other orders of government

## **Strategic direction 1: Preventing homelessness**

The best way to address the challenge of homelessness in Toronto is to ensure that households that are at-risk of ending up on the street or in a shelter – whether as a result of a catastrophic life event or due to ongoing service needs – remain housed. Homelessness prevention services, including eviction prevention, coordinated discharge planning, and ongoing housing supports are a priority in service planning processes.

Preventing homelessness requires collaboration across a wide range of sectors and stakeholders, including public health, primary health, mental health and substance use services, corrections, child welfare, social housing providers and private landlords. Timely, appropriate, and creative interventions can successfully prevent individuals and families from becoming homeless in the first place and support them in achieving greater stability in their housing.

### **SUCCESS FACTORS**

- People at-risk of losing their housing remain housed
- The number of people being discharged into homelessness is reduced
- People experience improved community, social, and economic integration
- People retain and improve the quality of their housing



## KEY ACTIONS

- 1.1 Develop a comprehensive eviction prevention strategy that builds on relationships with TCH, non-profit and cooperative housing providers, private-sector landlords, community partner service agencies and other City divisions that encounter vulnerable households.
- 1.2 Develop partnerships with the health care, child welfare and corrections systems to coordinate transition planning strategies that prevent people from being discharged from other service systems into homelessness.
- 1.3 Drawing from best practices, identify priorities and resource requirements to improve the effectiveness of housing follow-up support services aimed at achieving stable and successful tenancies.
- 1.4 Leverage investments in community-based programs that increase community connectivity, social integration, and economic well-being in order to support successful tenancies.

## Strategic direction 2: Supporting the transition to housing

SSHA provides a range of emergency and transitional services to individuals and families experiencing homelessness to ensure that everyone has access to at least temporary accommodation and can meet their basic needs. Many of these services have seen their mandate expand in recent years to meet the pressures of increasing poverty and insufficient housing.

Going forward, SSHA will seek to transform services for those experiencing homelessness from strictly temporary solutions (such as a shelter bed) to those focused on supporting a transition to permanent, stable housing consistent with the Housing First approach.

## SUCCESS FACTORS

- Those experiencing homelessness move into housing
- The number of people living on the streets is reduced
- The average length of stay in the shelter system is decreased

## KEY ACTIONS

- 2.1 Refocus the Streets to Homes program to ensure program resources are best targeted to helping persons living without shelter find and maintain housing.

2.2 Develop a service delivery model in consultation with community and other service partners that

- ensures every person entering the emergency shelter system has an individualized service plan in place and supports to move out of the shelter and into housing within a defined timeframe
- addresses the complex needs of clients who stay in shelters longer than one year.

2.3 Develop a new shelter funding model in consultation with shelter providers that is predictable and performance based with a continued focus on moving shelter users into appropriate housing as quickly as possible.

### **Strategic direction 3: Creating housing opportunities**

Whether it is the persistently high share of Toronto households that reside in unaffordable, unsuitable or inadequate housing, or the ever-increasing number of applicants on the social housing waiting list, there are clear indications that Toronto faces a housing *opportunity* challenge.

In part this challenge is met by the work of the City's Affordable Housing Office, which supports the development of new affordable housing stock, in addition to other vital housing programs. SSHA has an equally important role to play in creating new housing options for vulnerable Toronto households by working collaboratively with private sector landlords as well as existing affordable and social housing providers, providing direct financial assistance to increase affordability and by pursuing reforms to outdated policies and systems that may no longer meet today's housing needs.

#### **SUCCESS FACTORS**

- The availability of housing options for clients with a range of service needs is enhanced through new programs, new service linkages and by developing new ways to connect clients with the services they want and need

#### **KEY ACTIONS**

3.1 Create a permanent housing allowance program to help address housing affordability challenges.

3.2 Create a proactive, coordinated access system for social and affordable housing, consistent with Council direction, by implementing changes to City policies, modernizing system administration and empowering applicants with better information and more choices.

- 3.3 Develop a strategy that leverages existing shelter and housing assets to create a range of housing types and supports to meet the diverse and changing needs of households as they transition to housing stability.
- 3.4 Develop a strategy to work with private-sector landlords to create new points of entry to housing for clients experiencing homelessness or affordability issues and to help resolve tenancy issues.
- 3.5 Review the service-level standards and rules governing the administration of rent-geared-to-income housing and develop recommendations for a standard that is inclusive of a range of City-administered housing options.

## **Strategic direction 4: Fostering system stewardship and innovation**

Moving from a system that is primarily focused on short-term emergency responses to one that is focused on long-term innovative solutions will improve residents' housing stability. But changes need to be made gradually so as not to destabilize the current service sector. Service planning needs to ensure the financial sustainability of housing programs as well as the overall sustainability of our shared assets and infrastructure such as shelter sites and social housing developments. Good stewardship of the housing stability service system will be key to the transformation of the system itself.

In order to ensure the effectiveness and sustainability of housing and homelessness services in Toronto, SSHA will pursue opportunities for system innovation, review and implement appropriate accountability measures, and protect and invest in assets over the long term. A key part of this strategic direction is service planning to ensure sustainable and predictable funding for programs, shelter sites and social housing. It also means having the appropriate policies, administrative structures and contractual terms in place so that investments in the housing system meet their stated aims; in other words, ensuring that SSHA is an effective steward of the housing stability service system.

### **SUCCESS FACTORS**

- The City-administered social housing portfolio is responsive to evolving housing needs and is sustainable in the long-term
- Asset management processes improve
- Contracting with SSHA is simplified for community partner agencies

### **KEY ACTIONS**

- 4.1 Protect and leverage public investments in social housing by
- developing a strategic framework for continued operation of social housing projects whose operating agreements are expiring

- continuing to support implementation of the recommendations of the Special Housing Working Group and Council's ten year capital financing plan for TCH
- developing a social housing asset management and capital renewal program that supports non-profit and co-operative housing providers
- supporting the City's advocacy with other orders of government to create a sustainable funding program for the social housing portfolio.

4.2 Address the long-term sustainability of the shelter system through the development of a ten year capital management and infrastructure strategy that supports the maintenance and redevelopment of shelter sites city-wide and is sensitive to changing and diverse needs of people who are homeless.

4.3 Strengthen program administration by improving contract management, program monitoring and accountability practices.

## **Strategic direction 5: Improving access and equity**

Consistent with Toronto's Housing Charter, all Torontonians have a right to access housing and homelessness services that address their needs, without being disadvantaged as a result of identity, ability or where they reside in the city. SSHA is committed to ensuring that all households are treated in a fair and equitable manner when seeking housing assistance.

This includes connecting people to appropriate supports while recognizing that one-size does not fit all and that some may require access to specialized services. Offering clients streamlined, coordinated, and equitable access to a range of housing services is necessary if people are to be connected with the right supports.

This also means acknowledging that in the case of housing subsidy programs, due to insufficient supply, many households may not have their needs met within an optimal timeframe. In such cases where there are fewer resources available than households to receive them, it is incumbent on SSHA to ensure that the allocation process is as transparent, accountable and fair as possible.

### **SUCCESS FACTORS**

- All households are treated fairly in accessing housing and homelessness services that address their needs

### **KEY ACTIONS**

5.1 Ensure information about services and resources is easy to access, up to date, and accessible to all clients.

- 5.2 Develop comprehensive strategies to ensure that housing services are responsive to the needs of specific client groups including women, seniors and older adults, Aboriginal People, LGBTQ, and people with substance use and/or mental health issues.
- 5.3 In consultation with community partners, improve shelter access and service outcomes by
- strengthening the existing centralized access system for shelter services
  - developing a co-ordinated, outcome-focused needs assessment system for clients accessing shelter services.
- 5.4 Develop an occupancy policy for the shelter system to ensure all people experiencing homelessness seeking a bed can be accommodated in a timely manner that respects client diversity and choice to the greatest extent possible.
- 5.5 In consultation with community partners, service users and other stakeholders, develop a harm reduction framework for shelter services that enhances client access and choice.

## **Strategic direction 6: Delivering high quality services**

All clients are entitled to respectful and considerate treatment by SSHA-related service providers, from the individual receiving support in moving off the street to the family seeking to register for the social housing waiting list. SSHA will work with community partners to ensure that all City, agency and housing provider staff deliver high quality customer service. This will involve new staff training and development as necessary, quality assurance reviews, and housing service sector support initiatives that increase the quality of services being delivered. In addition, improving the collection and reporting of service information to ensure client-focused outcomes are being achieved is key to ensure high quality service delivery.

### **SUCCESS FACTORS**

- People are satisfied with the services they receive

### **KEY ACTIONS**

- 6.1 Implement an SSHA People Plan including a recruitment strategy, staff training, customer service standards and initiatives that boost employee health and wellness in the workplace including strategies to mitigate the negative health impacts of working in highly stressful environments.
- 6.2 Review and update the current Shelter Standards to provide shelter operators and clients with a clear set of guidelines and expectations for the provision of shelter services to ensure services are delivered in ways that are client-centered and respect client diversity.

- 6.3 Improve the collection and reporting of service information by developing detailed performance indicators that define and measure the achievements of service goals and objectives.
- 6.4 Expand the capacity of the Shelter Management Information System (SMIS) as a City-wide housing services management information system.
- 6.5 Continue to monitor best practices and research in the field of housing and homelessness and apply this knowledge as necessary to programs and services in Toronto.

## **Strategic direction 7: Strengthening partnerships and coordination**

The housing and homelessness services provided by the City of Toronto would not be possible without partnership and collaboration between SSHA and a wide range of community-based agencies and service providers. However, there still exist a number of yet to be realized opportunities to enhance services for system users through further service integration and/or coordination and the development of new partnerships. As such, SSHA will engage with partners on ways to enhance service delivery by leveraging existing opportunities, identify service needs and gaps, and implementing best practices.

### **SUCCESS FACTORS**

- The number of partnerships developed is increased
- There is meaningful engagement with stakeholders

### **KEY ACTIONS**

- 7.1 Support and help foster local capacity building initiatives that promote coordination among community partner agencies.
- 7.2 Explore ways to improve service coordination with community partner agencies and other City divisions working with vulnerable persons or with mutual interests such as the Affordable Housing Office, Employment & Social Services, Children's Services, Municipal Licensing & Standards, and City Planning.
- 7.3 Increase coordination with the health care system and City divisions such as Toronto Public Health and Long-Term Care Homes & Services to better connect vulnerable people experiencing homelessness to appropriate services.
- 7.4 Increase and enhance engagement opportunities through the development of a community engagement framework to support ongoing service planning.
- 7.5 Partner on research initiatives to support evidence-based policy development.

## **Strategic direction 8: Continuing to maintain a strong emergency shelter system**

Emergency shelters help people meet their basic needs during a housing crisis. The City recognizes its responsibility to provide emergency shelter services as a last resort to all who need a bed.

### **SUCCESS FACTORS**

- All those seeking a bed can be accommodated in a timely manner while respecting client diversity and choice to the greatest extent possible

### **KEY ACTIONS**

- 8.1 Achieve a 90 percent occupancy standard.
- 8.2 Together with community partners, build a shelter system that achieves high shelter standards.

## **Strategic direction 9: Advocating to other orders of government**

Other orders of government are key program and funding partners in the development of new affordable housing and the delivery of housing and homelessness programs. However, they continue to withdraw and reduce their financial support to these critical programs which places a greater burden on the City. Continued advocacy efforts by the City and its community partners to other orders of government may help secure much needed new and ongoing funding for new affordable housing and housing and homelessness programs.

### **SUCCESS FACTORS**

- Recognition by other orders of government of their obligation to provide increased funding and policy support in order to improve housing affordability and reduce homelessness

### **KEY ACTIONS**

- 9.1 Advocate to other orders of government to develop new affordable permanent housing and provide homeless-related operating funds.

## 6. CONCLUSION

---

The purpose of the 2014-2019 Housing Stability Service Planning Framework is to guide the planning, management and delivery of SSHA's housing and homelessness services to Torontonians. It is a roadmap to the transformation of the service system from one focused on emergency responses to homelessness into an integrated service system focused on helping people achieve greater housing stability.

Priorities, actions, and new initiatives undertaken over the next five years will support nine divisional strategic directions and be consistent with this plan. These directions and actions are based on input received from stakeholders including service users, community partner agencies and the general public, documented best practices from other jurisdictions, as well as the opportunities and challenges in housing and homelessness service delivery facing Toronto over the next few years.

SSHA is committed to adhering to the principles that support this proposed Housing Stability Service Planning Framework including the focus on Housing First, service integration and coordination, and improved information and access to services.

Service planning is a continual and ongoing process. Community consultation is a key element in this process. A critical next step will be the development and implementation of a community engagement strategy to continue the conversation which took place during the Toronto Housing Services Consultations with key stakeholders including clients, the general public, community partners, and staff. Housing stability is a system goal. Achieving this goal will require enhanced collaboration and coordination with a wide range of community partners and stakeholders. Ongoing and meaningful engagement is key to successful service planning, building partnerships and improving service integration.

Key elements of a proposed ongoing community engagement strategy include

- Developing a broad-based multi-stakeholder community leadership forum to support ongoing service planning
- Establishing a process to engage with service users and people with lived experiences of homelessness
- Ensuring that forums for consultation are inclusive of a broad range of stakeholders that include service users, community service providers, researchers and academic representatives, community leaders, other City divisions and representatives from other orders of government, City staff and the general public
- Exploring a range of modalities and formats for ongoing engagement that allow for enhanced opportunities for participation and varied input



- Establishing mechanisms to ensure that stakeholder input and the outcome of the consultation process are reflected in policy and program decisions.

This framework and the strategic directions outlined in this report provide a broad overview of the key elements of a transformed housing stability service system. SSHA is also committed to developing more detailed performance measures and improving the collection, reporting and monitoring of service outcomes. Through continued community and stakeholder engagement and consultation, the City will be able to more effectively advance the collective efforts to develop a well functioning and integrated housing stability system.

At the end of five years, the goal is to achieve improved service quality, increased access to services, strengthened partnerships, and better coordination between service providers including the City, resulting in better outcomes for vulnerable, low-income Torontonians.

## APPENDIX A: HOUSING AND HOMELESSNESS SERVICES ADMINISTERED BY THE CITY

The following provides an overview of the housing and homelessness services administered by SSHA and other City divisions.

### SOCIAL HOUSING

As the provincially-designated service system manager for social housing, the City has funding and oversight relationships with over 240 community-based non-profit housing providers. The City is also the owner (sole shareholder) of the largest municipal housing company in Canada, Toronto Community Housing (TCH). SSHA fulfills the service manager role for social housing on behalf of the City.

The social housing that SSHA administers is home to more than 91,000 Toronto households. Approximately three quarters, or some 69,000 households live in rent-g geared-to-income units, calculated at 30 percent of the household's gross income. More than 58,000 social housing units are owned and managed by TCH. Community-based non-profit and co-operative housing corporations provide the remaining units, along with private sector landlords through rent supplement agreements.

Social housing providers are landlords but they receive operating funding in order to provide affordable and safe housing for their residents. Some housing providers offer various support services to their residents funded through a range of different sources.

Residents generally access subsidized social housing through the centralized waiting list system administered by Housing Connections, a subsidiary of TCH. Housing providers may also have referral agreements with service agencies for some or all of their units or accept applicants directly.

At the end of 2012, there were more than 87,000 households representing more than 161,000 people — only slightly fewer than the number of individuals already living in TCH — on the centralized waiting list for social housing. This is the highest level of demand for social housing recorded since the list was established in 2002.

### HOUSING ALLOWANCE PROGRAMS

In addition to social housing, the City administers housing allowance programs which provide qualifying tenants with a fixed amount of money on a monthly basis to help pay the rent. As of 2013, more than 4,000 households received \$250 or \$400 a month through the Toronto Transitional Housing Allowance Program (TTHAP) funded by the federal-provincial IAH program.

Housing allowances are an increasingly important component of the housing supports available in Toronto, in part due to their flexibility in helping people meet their housing needs.

Partnerships with the Ministry of Finance and other City divisions have enabled their delivery and supported successful housing allowance programs. These partnerships will continue especially as the use of allowances expands.

## EMERGENCY SHELTER SERVICES

Emergency shelter services must play an important role in any overall housing and homelessness services system. They are available at a time of crisis in people's lives to provide them immediately with temporary accommodation and help them find and move into permanent housing. In response to limited availability of affordable housing and reductions in other service sectors, over the years shelter services have expanded to provide transitional services, and, in some cases, de facto permanent housing where there have not been appropriate housing options available to meet clients' needs. An example of this is the long-term care program for elderly men experiencing homelessness at Seaton House, a City-operated shelter for adult men. These transitional shelter programs are typically designed with a longer period of stay in mind and can only be accessed through referral after a client assessment has been made.

Toronto's City-administered shelter system is currently comprised of a base capacity of 3,800 permanent beds at 57 shelter locations. Nine of these locations, with approximately one-third of the system's capacity, are operated directly by the City through SSHA. Through purchase of service agreements with the City, 30 non-profit organizations operate the remaining 48 sites. There are over 727 additional beds that supplement the base capacity including emergency spaces, motels when family shelters are at or near capacity, and Out of the Cold programs.

The current capacity is allocated between the different shelter sectors as follows:

	Shelter Sector					
	Total	Adult Men	Adult Women	Mixed Adult	Family	Youth
Total Capacity	3,800	1,662	537	298	806	497
Emergency Shelter Capacity	2,776	1,056	477	206	650	387
Transitional Shelter Capacity	1,024	606	60	92	156	110

While the number of unique individuals seeking emergency shelter services has declined over the past two years, the average length of stay in shelters has increased. This has pushed nightly occupancy rates up and increased pressure on shelter capacity.

There is also evidence that City shelters for women are absorbing overflow from the provincially mandated VAW shelters. In 2012, Toronto's emergency shelter system admitted more than 840 unique clients self-reporting they were fleeing violence. This translates to 5 percent of all admissions to the emergency system in 2012.

## **STREETS TO HOMES**

Streets to Homes is an outreach-based program focused on helping people living outdoors or who are street involved and homeless move into permanent housing. It uses a Housing First approach and is based on a partnership model between City staff and a number of community-based programs run by non-profit agencies. People access Streets to Homes services through contact with a street outreach worker or through the Streets to Homes Assessment and Referral Centre, a centrally located 24/7 facility that provides a number of services targeted at those who are essentially living on the streets.

Streets to Homes delivers a range of services including

- the Streets to Homes Assessment and Referral Centre (SHARC) at 129 Peter Street in downtown Toronto
- street outreach services that include a multi-disciplinary team to work with people experiencing mental health issues and/or concurrent disorders housing supports and follow-up
- community response and specialized programs for individuals being released from custody, people who are Aboriginal, and newcomers.

At the SHARC, individuals can get street respite, use the shelter referral service to get a shelter bed, and use the housing walk-in program which assists eligible individuals to find permanent housing and connects them to follow-up supports once housed. Additionally, through the Transition to Housing program, up to 40 beds are available at this site for individuals and couples who are living outdoors or who are street involved and are actively working on a housing plan with a Streets to Homes counsellor.

Since inception in 2005, Streets to Homes has housed more than 4200 people directly from the street into permanent housing. Over eighty percent of clients remain housed 12 months after they initially found housing.

In 2012, the Streets to Homes Program worked with over 3000 unique individuals including 717 new clients encountered by street outreach staff. Staff helped 437 unique individuals to find housing, and another 208 people were re-housed. More than 1300 people also received follow-up supports to assist them to keep their homes.

## **HOUSING STABILITY AND HOMELESSNESS PREVENTION SERVICES**

Housing stability and homelessness prevention services provide important supports to clients to help them find and maintain permanent housing. These services are mostly operated by community agencies funded through SSHA. Currently, 112 community partner agencies provide over 200 housing and homelessness supports and services. These services include drop-ins, housing help, supports to daily living, tenant supports, and employability services.

Drop-in services help people experiencing homelessness or housing instability by providing them with a safe space where they can have meals, take a shower, do their laundry, meet with outreach or follow-up workers, and engage in group activities to foster social and community

connections. Toronto drop-ins receive over 800,000 visits annually and the daily average number of users per drop-in is 105. In 2012, SSHA funded 30 community agencies to operate drop-in services.

Housing Help Centres (HHCs) are located in neighbourhoods across the city and help people to find and keep housing through housing search assistance, help with housing applications, counselling, budgeting supports, landlord mediation, and referrals to other services in the community. There are nine HHCs operated by eight community agencies and all but one are also Rent Bank Access Centres. Six of the agencies also provide specialized housing help services through intensive case management programs for clients with complex needs. In 2012, more than 19,000 clients were served through the HHCs.

Other housing help services are provided by an additional 36 community agencies. These programs either provide specialized supports to targeted client groups such as youth, seniors, Aboriginal People, immigrants and newcomers, or provide such services such as bed bug remediation, employability supports or trusteeship programs.

The Toronto Rent Bank prevents evictions by providing low-income tenants who do not receive social assistance and who are in imminent danger of eviction due to unpaid rent with interest-free loans to cover rental arrears. Rental deposit loans are also available to cover first and last month's rent so that households can move into more affordable accommodation. Over 1,000 Rent Bank loans are approved annually.

Supports to Daily Living (SDL) services assist vulnerable tenants living in social housing who require significant personal supports in order to retain their housing. These tenants generally have complex needs such as mental health or addiction issues, or may be victims of violence. There are 11 community agencies that provide these services and more than 2,000 households were served in 2012.

Tenant supports help low and moderate income tenants in private rentals across the city maintain housing stability by providing them with information about tenant rights and through referrals to other appropriate services. The Tenant Hotline is an example of this. In 2012, it responded to over 9,000 service requests.

SSHA provides two types of employability supports to its clients within a shared-delivery model that includes direct client service and system support. The SSHA Employability Support Team provides direct service to clients such as vocational assessment, work preparation and job coaching. In addition, the SSHA team provides system support to both City-operated and community-delivered service providers through knowledge exchange and sharing of best practices to facilitate a range of employability programming. In 2012, the Employability Support Team served more than 790 participants. Further, the SSHA team actively engages and educates the broader service and stakeholder community to envision, promote and implement employability strategies that assist in ending homelessness.

## OTHER SERVICES AND SUPPORTS

The Affordable Housing Office (AHO) leverages City, provincial, federal and private sector resources to facilitate the construction of new affordable rental and ownership housing. The AHO also administers programs aimed at providing home ownership opportunities for lower income households and retrofitting housing to maintain its suitability for an aging population.

Toronto Employment and Social Services (TESS) also provides a range of supports and services through income supports, employment services, and case management that help people improve their housing stability. The Housing Stabilization Fund (HSF) administered by TESS helps people receiving income support from Ontario Works (OW) or the Ontario Disability Support Program (ODSP). These funds help people to avoid eviction or move to more suitable housing with non-repayable, limited financial support for rental arrears, rent deposits, and household start-up costs. Additionally, TESS administers the Emergency Energy Fund for low-income people facing energy-related emergencies.

Other services provided through several City divisions that assist Torontonians with their housing challenges and support them in achieving greater housing stability include

- childcare subsidies available through Toronto Children's Services
- recreation programs available through Parks, Forestry and Recreation
- literacy programs and other supports through Toronto Public Libraries
- health supports including supports to vulnerable adults through Toronto Public Health
- policies and by-laws administered by City Planning including the Toronto Official Plan which sets out City Council's long-term vision for growth and development in the City and policies to preserve the existing housing stock and encourage the production of new affordable housing
- rooming house licensing, by-laws and property standards enforced by Municipal Licensing and Standards (MLS) which play an important role in regulating the supply and quality of housing options in Toronto.

ROCCO ACHAMPONG  
Applicant

and

ONTARIO *et al.*  
Respondents

Court File No.: CV-18-00603797-0000

THE CITY OF TORONTO  
Applicant

and

ATTORNEY GENERAL OF ONTARIO  
Respondent

Court File No.: CV 18-00603797-0000

CHRIS MOISE *et al.*  
Applicants

and

ATTORNEY GENERAL OF ONTARIO *et al.*  
Respondents

Court File No. CV-18-00603633-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE

AFFIDAVIT OF ADAM KANJI

ATTORNEY GENERAL OF ONTARIO

Constitutional Law Branch  
720 Bay Street, 4<sup>th</sup> Floor  
Toronto, ON M7A 2S9  
F: (416) 326-4015

Robin K. Basu/ Yashoda Ranganathan/ Andra Ranalli  
Tel: 416-326-4476 / 416-326-4456/ 416-326-4473  
robin.basu@ontario.ca/ yashoda.ranganathan@ontario.ca/  
andra.ranalli@ontario.ca

Of Counsel for the Respondent,  
Attorney General of Ontario





# **TAB 6**

## Aug 20, 2018 – Special City Council Meeting Transcript

Video 1 of 2 – City Clerk/Deputy City Clerk Only

Time	Speaker	
Video 1 time: 1:11:41	Paula Fletcher	Madame Clerk was there any consultation on any of this?
	Ulli Watkiss – City Clerk (UW)	Not prior to the enactment of the act, no.
	Fletcher	We had to establish our wards. We were under a lot of pressure from you actually to establish our new wards before 2018 in order to be legal for the 2018 election, as I recall. Is that why you urged us to have our decision in 2017, or 2016 and to make any other decisions that would enable you to have this legal framework for the election?
1:12:20	UW	Yes that's correct. I've been encouraging council for several terms now to look at its ward structure to ensure that there was effective representation.
1:12:30	Fletcher	But you told us that we had to have our decision made at a certain point because we could not change ward boundaries during an election year, that was your advice to us?
1:12:43	UW	Yes that's correct. It's very hard to conduct an election when you change the very basic element that is required for that election.
12:54	Fletcher	It is not, somewhere, it was required that we were not allowed to do that.
	Solicitor	The legislation established a deadline for doing that.
1:13:12	Mammoliti	I want to follow up on the last time we got advice from the clerk. Since then you've had some on-going discussions with the province with respect to the legislation. Are you a little more comfortable than you were prior to these discussions with the provincial folks?
1:13:39	UW	Madame Speaker, we have had extensive consultation with all of our partners. We have had discussions with the ministry and have received phenomenal support from Election Ontario who provided us with information on the basis of the 25 jurisdiction model. We had support from all of our partners, MPAC, notably. We had support from our vendors and certainly from our IT people, they've been phenomenal. We've also had support from our staff, our incredible hardworking staff and elections staff to make this work.
1:14:46	Mammoliti	Ok so are we ready at all levels to go? Are you

		comfortable that election with all the information provided, with reasonable time to all candidates?
1:14:56	UW	Recognizing that there is an incredible amount of work in front of us because we are working in a very compressed time frame, yes I believe that I can meet the principles of the act that require me to conduct the election with utmost integrity.
1:15:22	Mammoliti	So we can actually have an election, in October, October 22 as it stands right now. And we are all relatively comfortable?
1:15:45	UW	We are as comfortable as I can be. I believe that staff is in a position with various partners and vendors and the election day staff to make this as ready as we can be. It's not going to be easy.

1:17:50	Mammoliti	We went from moving with 47 councillors and within a month or so we are now looking at an election of 25. And we are ready to go with an election. If we stall here at the City of Toronto by using whatever mechanism some people might want, we are going to go right back to the square one. How much more difficult might that be if this thing takes another month and can we run an election if that's the case?
1:17:40	UW	I am absolutely not confident at this point that I can turn this around with as much support as I can find anywhere because we would have to go back to the very basic geography there is, although we were locked down with the legislation passed at 47, there is simply too much more to do.
1:18:08	Mammoliti	If there is an attempt to go back yet again it becomes even more difficult to run a municipal election?
	Speaker	That was your last question.
	[Someone unnamed]	I didn't hear your answer to that
1:18:35	UW	Yes, the time frames are too compressed.

1:22:55	Doucette	I wanted to ask the Clerk a process questions. We have been awarded I believe, or at least recognized for all of the accessibility elements in our elections. We have used accessible communication strategies, we have done outreach, we have had extensive advanced polling, we have ensured all of those accessibility elements are met. Will they be met in this 25 ward model?
1:23:22	Fiona Murray – Dept. City Clerk (FM)	Through the speaker, one of the key principles that we are required to uphold when administering a municipal election is that it must be accessible to voters. So when

		we looked at moving to a 25 ward option one of the key components that we wanted to assure ourselves of is that we would still be able to meet our accessibility standards. And we certainly plan to do so.
1:26:18	Doucette	Now going to accessibility during an election, if we have to change from 47 to 25, will we have to change our polling stations?
	UW	No we need to go back and make sure the voting subdivision boundaries fit within the 25 so there are some changes that need to be made to the voting stations.
1:26:45	Doucette	Continuing to the clerk. We heard that we had to know how many wards by the end of the year to give you as many months possible to run an election?
1:26:50	UW	That's correct and remembers also that the legislation that we work under was just changed recently.
	Doucette	Right I appreciate that but you were working under 47 for 8 months, and when did you actually switch from working on 47 to 25?
1:27:14	UW	Whenever the Bill was passed, whatever date that was, August...
1:27:16	Doucette	Was it August 14? Ok right...So you were still working on everything up to August 14?
1:27:34	UW	We froze effectively the work that we were doing on 47 at that time, yes.
1:27:41	Doucette	Even after July 27 when we heard that this was coming, you continued going and gathering what you needed for 47, is that correct?
1:27:54	UW	Yes we did.
1:27:59	Doucette	Did you also receive everything you needed from the province to continue with 47?
1:28:08	UW	At that point we were not requiring anything of the province.
1:28:11	Doucette	At the last meeting you mentioned that on the following Tuesday July 31 you would be receiving the voters list?
1:28:21	UW	That's right, the preliminary list of electors, that's correct, from MPAC not the province.
1:28:24	Doucette	Oh Sorry I think the MPAC is province but that's probably me. Did we receive that voters list on July 31?
1:28:35	UW	Yes we did, which is the earliest date that the legislation would allow us to receive that.
1:28:42	Doucette	And the plan was to then get that voters list to the candidates on what, September 3 <sup>rd</sup> ? 4 <sup>th</sup> ?
1:28:50	FM	Through the speaker, we were planning to release the voter list to candidates on September 4 <sup>th</sup> the reason that

		we get it from MPAC on July 31 <sup>st</sup> is we require a lot of cleaning of the list before its ready for public consumption. So we go through it and removed deceased electors, duplicate records that kind of thing.
1:29:12	Doucette	Thank you.
1:29:57	Pasternak	If you look at municipalities across the western world there are dozens of different formulations of representation, and they are rarely referred to as city councillors actually. This legislation talks about city councillors, did anyone ever talk about the borough president model in New York City, a community council of elected chair, councillors at large, did we explore added representation in a formula that actually does not violate the legislation?
	City Manager	Best person to answer that would be Fiona Murray [Dept. City Clerk].
1:31:21	FM	Through the speaker, Councillor, we have looked historically when we do governance research at the city manager's office at other options and opportunities like the way they organize themselves in New York City and London, to do any level of deep analysis really needs to be part of an over-arching governance review. Last time City did a governance review we did look at some of those options but they were not pursued further.
1:31:55	Pasternak	Would community elected chairs or representatives at large be in violation of the legislation, or is that a violation of in camera...?
1:32:04	UW	That's something that would have to be looked at in a governance review and madam speaker I'm not sure that topic is before us today.
1:33:15	Pasternak	Candidates hundreds of them across the city, have been promised ward lists, I guess electoral lists in the combined formula, I guess the 25, they've been promised lists and maps by, I don't know, September 1 <sup>st</sup> is what's come across my desk. Is that realistic to have all of that ready for all registered candidates by Sept 1?
1:33:36	UW	That date, Madam Speaker, was changed in one of the regulations by the province. It is now a date of Sept 17.
1:33:52	Pasternak	So Voters Lists and Ward Maps will be available on Sept. 17 and the election is Oct 22, in your opinion is that really a fair opportunity for candidates to be campaigning? Does that sound...?
1:34:10	UW	Councillor I can't answer that question my job is to administer the legislation that is put before me.

1:35:20	Wong-Tam (W-T)	Did the 3 <sup>rd</sup> party consultant, were they given any supervision through any type of advisory panel?
1:35:40	FM	Through the Speaker, for the ward boundary review, we had an internal staff steering committee that we worked with closely. We met the consultants on a monthly basis, essentially really to give them access to city information that they required to do their study. In addition they had an external expert panel that they used to bounce ideas off of that included academics, municipal lawyers and other electoral experts.
1:35:59	W-T	So this third party independent reviewer had internal advisory panel as well as external advisory panel with subject matter experts.
1:36:09	FM	That's correct councillor.
1:36:10	W-T	And is it true they held over 100 face-to-face meetings with various members of council, school boards and other stakeholder groups, as well as 24 public meetings, information sessions that led them to produce seven substantial reports?
1:36:24	FM	That's correct.
1:36:26	W-T	And each one of those reports, I guess, one is the background research report. And that background research report, why is it important to do that? It takes a look at ward history, OMB decisions, projected development, and electoral issues. Why did they put together that report?
1:36:53	FM	Through the Speaker, that was kind of their kick off preliminary foundation research that they felt was important so they had the context before they started consultation on the current 44 ward model, they wanted to ensure that they understood our history, our context so that they were well versed and had deep expertise and knowledge before they went any further.
1:37:19	W-T	Thank you. And with respect to the ward boundary review, consultants also did put forth for consideration a 25 ward structure that would have followed the federal boundaries, is that not correct?
1:37:22	FM	Through the Speaker, that is correct.
	W-T	Was there a lot of support for that in the public or perhaps even within the group of academics and expert advisors?
1:37:36	FM	Through the speaker, I don't have those numbers in front of me, ultimately that wasn't an option that council pursued.
1:37:43	W-T	Is it not true that the general public in the report said that there was little support for that outcome?

	FM	So again councillor I don't have those numbers in front of me I'd have to look them up. But at the end of the day the council adopted a 47 ward model.
1:38:00	W-T	Thank you very much that's helpful. With respect to the claims that 25 million dollars will be saved over a 4 year period, how is that substantiated and how did that information come about?
1:38:13	UW	Councillor, I don't have those numbers in front of me, but I'm not sure how the province arrived at those figures but they are actually not far off from our own calculations.
1:38:30	W-T	Is that including the elimination of the staff budgets that all councillors have. For example we may have five or six staff in our office. Is that the elimination of that as well?
1:38:39	UW	No. What we did was compare apples to apples; we did not make any exceptions for staffing.
1:38:52	W-T	And with respect to – those are very interesting answers – but with respect to the – well, because the number just don't add up. That's why I'm asking. With respect to the additional cost that the city of Toronto will bear because of the change to the electoral process, what is that additional cost that is before us now and that you have to take out of the election reserve fund in order for us to change the elections?
1:39:14	FM	So, through the speaker, we have estimated that in order to move to a 25 ward model this late in the election process it will cost us approximately 2.5 million above and beyond our approved budget.
	W-T	Can you say that again.
1:39:38	FM	It will cost us approximately an additional 2.5 million above and beyond our already approved annual budget for the election.
1:40:45	Cressy	So if I could ask the Clerk, if city council were to direct you to conduct the 47 ward election that was already underway which we determined the boundaries of, would you conduct that election?
1:41:03	UW	No, I am not allowed to do that. My obligation is now under Bill 5 as it was enacted on Aug 14.
1:41:25	Matlow	To the Clerk, I have a motion to request that you – while you have to adhere to Bill 5 that you also continue to prepare the 47 ward option in case we are successful in our court challenge. Along with the resources necessary to do it. Earlier the speaker ruled that any instruction from the clerk would be ruled out of order. What I need to understand from you is, if the fact remains that council, not the candidate but council before the election year,

		already directed you to do a 47 ward model and administer a 47 ward election, if we were to simply tell you to or request that you continue that as an option so that if we are successful in court that it be prepared and ready to go, why would you not do that, or would you do it.
1:42:26	FM	Through the speaker, Councillor, the municipal elections act gives council very limited discretion over directing the clerk in undertaking and conducting an election. We took extraordinary efforts in order to develop a plan that we can implement with confidence and still assure the integrity of our election in the last few weeks on a 25 ward basis. I think our report before you today was quite clear that we would find it incredibly challenging and the risks would be substantial for us to then revert back to a 47 in the event that there is a successful court challenge.
1:43:15	Matlow	I appreciate that it would be challenging and that you're concerned about it. As the representatives of Toronto, if we decide to take a stand to challenge Premier Ford, to challenge Bill 5 and if we are successful then would it not be responsible at the very least to have the 47 model there, ready prepared to move forward with as long as we provide you with the resources to ensure that there as an alternative option. And by the way, if I can just add onto that, we would not in that motion in any way suggests that you not adhere to Bill 5 and fulfill your responsibilities under the act. What we would be saying to you is continue the work that this <del>the</del> council already requested that you do to have it prepared for the possibility of a successful court challenge to ensure that that election take place?
1:44:13	UW	Madame Speaker – there simply is not the ability with the integrity and security of the election principles that I refer to that I must adhere to conduct two different elections at the same time. We further risk confusing the public, confusing candidates, confusing our workers – all of whom need to be trained and I need to have somewhere in the order of 16 to 17,000 people ready to administer an election on October, well the earliest vote date is October the 6 <sup>th</sup> . It's simply not feasible to run systems and do all the preparation work for two at the same time. The law is 25.
1:46:06	Matlow	Madame Speaker I'm not actually asking about two parallel elections at the same time. What I'm asking about is having that contingency plan prepared and



		ready, not to confuse anyone, I think Doug Ford has already confused enough people himself.
1:46:21	Speaker	That was your last question, Councillor Matlow. No, no – but Councillor Maltow, you've asked that question before. Want to just answer that?
1:46:32	FM	Through the Speaker: So councillor, administering an election of the magnitude, size, and complexity of Toronto is a million different details that one has to organize and oversee and administer. And we don't feel that we have the capacity to be administering on a 25 ward basis in such compressed timelines while at the same time preparing our self under a 47. Because the geography of an election is your starting point for all your other planning and processes so your geography becomes your fundamental beginning point for your staffing models, your voting places, your warehouse packing, your distribution centers, everything. So in order to plan for a 47 while administering a 25 would essentially be doing two elections at one time in order to get one million little details organized under both those scenarios and get ready to go. And again, in our view, we have done a very deep dive on this, we appreciate the interest of this council but in our view we do not have the confidence that we can assure the integrity to do that at this moment in time.
1:48:10	Pallazio	So here we two models that has been in discussion in terms of 25 and 47 so are you ready for the 25 model?
1:48:15	UW	No no more so than I would be for 47 but I'm certainly working on the 25 ward implementation and we will be ready to conduct the election in accordance with the time frames.
1:48:28	Pallazio	You have all the tools, all the data, all the manpower, and polling stations, everything that's required to move forward with 25?
	UW	Yes Councillor.
	Pallazio	Great. Now, the purpose of the municipal elections act is to ensure that the integrity and the confidence of the electoral process is not compromised in any way. And in your report, the yellow pages, you're eluding to that aspect, if there was a change between the 25 and the 47, can you just elaborate to that aspect.
1:49:11	FM	Through the speaker, councillor, when Bill 5 was introduced and it looked like there may be move to a 25 ward model the clerk and her elections staff took extraordinary efforts over a very short period of time to

		develop a 25 ward contingency plan that we feel quite confident in administering. If we reverted back to a 47 ward model, if the court challenge is successful, our view is that we do not have sufficient time to undertake that change and administer the election with confidence and integrity on October 22.
1:49:47	Pallazio	Thank you, so within the report you are stating that if that was to happen, if you were to report back to the 47 model, that will compromise and will create an unacceptable and severely undermine the trust of the voters and candidates which is something that is not quite clear and the public has every right to understand what is happening in these council chambers as we move forward with the discussion. Can you please elaborate because that is at the heart of the discussion.
1:50:42		So councillor so when we have undertaken very deep due diligence on our ability to revert back to a 47 ward model. And there are many steps one is required to take in election administration. So the geography of the election is your foundation for all of your other election planning processes and we have insufficient time to change all those processes, particularly related to ballot production, we quality test our ballots and do some fairly deep analysis to ensure the accuracy of our ballots. We have a complicated ballot. We are a big city, we produce over 2 million ballots and if we revert back to a 47 that would be 235 different ballot styles. That is a very complex print job that requires a lot of testing and quality assurance to ensure its accuracy. We also have to do end to end system tests of all of our information technology that support the election, particularly the results chain for results on election night. So those are some of the administrative details that we feel in a 47 model revert back this late in the game we would be unable to be confident to undertake.
1:52:08	Holyday	Thank you, through you madam speaker, I think it's the clerk on this one. The report talks about an additional cost of \$2.5 million to administer the changes. Can you elaborate just a little bit on what those costs are?
1:52:25	FM	Through the speaker, the costs relate to overtime, there certainly has been overtime that we've had to assume in the last three weeks in developing and implementing our contingency plan to move to a 25 ward model. We also had to retain and extend contracts of all of our system testers. Again, we have a fairly complex information

		technology system that supports election administration and they all underwent privacy impact assessments, vulnerable risk assessments and threat risk assessments, so some of that we've had to redo because we had to recode record the back end. WE also had to renegotiate some of our vender contracts to meet different specifications and timelines that in effect cost us some extra money.
	Holyday	Thank you. Is most of that money already spent?
1:53:31	FM	Not at this point, Councillor. We have probably expended, I would estimate, spent and committed about \$300,000 today.
1:53:40	Holyday	Thank you this is a more general question for the clerk. I understand that a couple of wards in the city currently have a much higher population. Would you agree that I think it's the material online, says that ward 23 and 20 have a population of 95,000 according to the 2016 census?
1:54:00	UW	Yes, that's my recollection. Somewhere in that order.
1:54:10	Holyday	To Madam Clerk, do you remember what Council did to respond to the concerns of those Councillors that approached council saying we have some higher population than everybody else. What did we do as a council?
1:54:20	UW	Councillor there was a formula that was adopted by council and I don't remember it precisely but it authorized the city manager to provide funds to those councillors to obtain additional assistance to run their offices, to deal with the extra population.
1:54:43	Holyday	Right so a handful of the wards in the city were able to hire additional constituency assistance. Can you tell me what is the general cost of the constituency assistance, I know there is a range but do you have a planning figure in mind?
1:54:55	UW	Not with me I'd have to get that councillor.
1:54:59	Holyday	Would it be fair to say it would be between \$50 and \$100,000?
	UW	That sounds about right.
1:55:15	Holyday	So a few of the people that have a population of 95,000 now have an extra constituency assistant, the cost of that is between 50 to 100,000 each. Can you tell me, Is there a general planning figure for the cost of running a councillor office include the administration, the staff, and the councillor themselves. Just tell me is there a general figure, is it a million dollars, half a million? Just a planning figure.

	UW	I don't recall off the top councillor.
1:55:40	Holyday	Substantively more than the cost of an additional constituency assistant.
1:55:42	UW	Yes.
1:55:44	Holyday	So from a net financial basis, would you say that the changes that have been brought forward, even in light of the additional \$2.5 million dollars that the city is actually saving some money?
1:55:58	UW	It is possible, yes.
1:55:59	Holyday	Thank you, next question for solicitor [...]
1:57:34	Shan	Thank you madam speaker through you to the clerk's office. On July 30 <sup>th</sup> on Monday, a communication was sent from the deputy city clerk saying to candidates that the current legislation at that time, not Bill 5, the previous legislation, would be followed in accordance, and this email was sent to all the candidates. Am I safe to assume that from July 27 when the talk was happening until Aug 14 that you were continuing to prepare for 47 word election?
1:58:08	FM	Through the speaker, that's correct. We would be obligated to continue to administer under 47 until Bill 5 received royal assent.
1:58:24	Shan	So until last week you were going forward with 47. I want to understand the context of the contingency plan that you had. I heard at one point there was nothing was being done on the 25 model until the legislation passed and then there's also some talk about some work being done preparing for 25 models. So how long ago did that work start?
1:58:41	FM	Through the Speaker, so Councillor when Bill 5 was introduced in the legislature my staff and I did begin some fairly intense contingency planning right away and have continued to do that contingency planning over the last three weeks while at the same time continuing to administering the election under 47 and ensured that we secured all of the data and information related to a 47 while we started to move forward on a 25 ward basis.
1:59:10	Shan	So during the time when Bill 5 was not law the contingency plan was happening, how is this any different from when Councillor Matlow was asking when a contingency plan for the other model still continued to happen? What I see is that you when the legislation was not Bill 5 you actually went ahead to plan for Bill 5 and why not continue the contingency plan for moving forward for the 47 model. Because it doesn't seem to be

		a contradiction to me, both seems to be along the same lines.
1:59:38	FM	Through the speaker, the clerk is required to follow the Municipal Elections Act so when the provincial government suggested and introduced changes to the act, the clerk is required to prepare for those in order to administer that on October 22 <sup>nd</sup> . I can't emphasize strongly enough the extraordinary efforts we had to go through in order to, during an election period, after we had certified our candidates and nominations had closed, to develop a contingency plan that still gave us confidence that we could administer the election on Oct 22 with integrity. My staff and I have worked 18 hr days for the last three weeks. We got extraordinary assistance from MPAC and Elections Ontario and others stakeholders and partners, that enabled us to do quite frankly the impossible.
2:00	Shan	The question about the voters list, I hear that the list is going to be available on September 17 <sup>th</sup> that is about 13 days after when candidates were originally promised. Now candidates are going to have the list that is almost double the size in some cases triple the size with 10 less days less to prepare. Do you think that that would constitute a fair election for candidates who are getting this massive list with about three weeks before advanced polling?
2:01:05	UW	Councillor we are required to follow the law as it is at the time. I can't comment on your ability or inability as a candidate to campaign during that period.
2:01:20	Shan	One of the reasons we get a list is to conduct a fair election, I would assume that's why we give the list in a timely manner?
1:1:25	UW	The purpose of the list is to advise candidates of who is eligible to vote in their wards.
1:1:32	Shan	And the timing of the list being given and a certain time is to make ensure that there is fair elections. I would assume that because otherwise the incumbents who ran beforehand would have an advantage on the list I'm assuming.
2:01:53	UW	We really cannot answer that question.
2:01:55	Shan	So ten days, I understand that your role is to implement the legislation, but your role is also to conduct a fair election. Do you think it is fair that candidates are getting triple the lists or double the lists of people with 10 less days moving towards the election?
2:02:20	UW	Madam Speaker, I can't address the issue of legislative

		fairness, I only have a job to do in accordance with the legislation.
2:08:50	Gord Perks	To the clerk. SO I'm not asking the question that Councillor Shan was asking about whether or not its fair. I just want to understand factually the voters list will be made available to candidates later in the process than it was during the last election. Is that correct?
	UW	Yes.
2:09:16	Gord Perks	Okay. In addition the information to the public about the advances voting days will be made available to the public later in the process during this election than it was during the last one. Is that correct?
	UW	Yes. It has to be taken into account in the planning that we are doing to run the 25 and to determine when we would be capable of holding those under – in accordance with the integrity principles.
2:09:48	Gord Perks	Thank you. Are there other elements about this election for 25 which are not up to the same standard as we achieved in the previous election?
2:09:57	FM	Through the speaker, no I don't believe so Councillor. We have been very careful to ensure that all of our accommodation, communication and planning is meeting best practice election administration.
2:10:11	Gord Perks	I didn't ask about best practice. I asked if they were up to the same standard as last time.
	FM	Yes they are.
2:10:17	Gord Perks	Okay so the only two that are not up to standard are the access to the voters list and information to the public about advanced days?
2:10:28	UW	Councillor, I can't definitively answer that as we are still busily trying to implement this but those are the two that come to mind immediately.
2:10:39	Gord Perks	Two that come to mind. Can we guarantee that there will be as many days or hours of advanced voting as there were in the last election?
20:10:49	FM	Through the speaker, Councillor, we are undertaking a detailed analysis of our capacity to conduct advanced vote and we haven't quite determined what that might look like. We are doing our best so that we don't have an impact on advanced vote but there are some challenges given that nominations close September 14 <sup>th</sup> at 2:00 pm and advanced vote starts on October 6 <sup>th</sup> and our current scenario with producing ballots in time.
	Gord Perks	In three weeks essentially.

	UW	Yes.
2:11:21	Gord Perks	So okay. So we can't yet tell the public whether they will receive as many opportunities to participate in advance vote as they did in the previous election?
	FM	Through the speaker, again, we are undertaking that assessment and we are not quite sure yet.
	Gord Perks	You don't have an answer today?
	FM	That's right.
	Gord Perks	Thank you.
2:11:50	David Shiner	To the city clerk, Madame Clerk, just so I understand when we last discussed this there was a lot of concern that you wouldn't be able to be ready for the election and I believe your report says you can now. Going back, and I think this was asked earlier, it would be even more work to go back to anything other than the 25. That being the case and the fact that the province really held an election using those ward boundaries, have you been in touch with the province, the provincial folks that manage their elections or have they been in touch with you to provide some assistance?
2:12:31	UW	Yes. The province contacted us immediately upon the introduction and discussed with us the introduction and discussed with us when the timelines, how the timelines would need to change in order to implement the legislation and they helped – they then drafted the regulations. I can't say enough about how elections Ontario stepped forward to provide us with the revised voters list for 25 wards. They also provided us with additional assistance on the voting subdivisions which they used; the staffing models with which they have utilized for their voting places. MPAC was incredibly proactive in providing us with all of the information that we requested. The school boards provided their information in a very timely manner. Staff in the City in particular IT and others have been incredibly supportive and our own election services staff as Ms. Murray has indicated has worked 18 days plus since this has happened,
2:13:54	David Shiner	So an awful lot was put upon you by the province. Have you ever had as much cooperation or organization with them in the past in regards to getting ready for an election?
	UW	While the province generally is cooperative, Councillor, we've never had a need for this much support but it has been given freely.

	David Shiner	Thank you.
2:15:35	Michael Thompson	[...] With respect to the city clerk, Madame Clerk, through you speaker, you have given us an overview with respect to the challenges and so on that you would face with respect to a 25 electoral system. Obviously you would face challenges with respect to a 47 is that correct?
2:15:53	UW	Yes. As Ms. Murray has explained the difficulty is that we would be asked to move backwards and forwards at the same time because we have to go back and sort out the electoral geography and various assigning voters into their proper voting stations which would have to be reconfigured, re-permitted and re-inspected for accessibility and then we would have to move forward from where we were on August the 14 <sup>th</sup> . The problem is that all electoral processes are interdependent and it is not possible to go back and go forward at the same time.
2:17:24	Michael Thompson	Through you Madame Speaker to the clerk with respect to the size of the electorate and so on, looking at an area that I signed to run in –Scarborough Center – it would be about 112,000 people 600 give or take, I wanted to understand, through you speaker, how will the mechanism and the system work with respect to 25 given that we have now about 60 to 65,000 people. Will the staffing component be the same and who will make those particular decisions? Will councillors have the ability to have constituency offices in those areas if you don't have one now as a member of this council of 45? Who makes those decisions? Will it be clerks, city council, the premier the legislature? Who will make those decisions?
	UW	Those decisions are entirely up to the council.
	Michael Thompson	Which council? The new council? Would that be the new council?
	UW	They are decisions for council.
	Michael Thompson	So the new council would make that particular decision?
	UW	Yes.
2:20:00	Mary Fragedakis	Thank you Madame Speaker. Through you to staff I understand that the city has entered into a confidential agreement with the provincial government in order to administer this 25 ward council and I'm wondering if we could know details about that confidential agreement?
	FM	Through the speaker, the city clerk executed a data sharing agreement with the chief electoral officer of



		Ontario that provided us some data and information on a 25 ward basis to assist us in our contingency plan. Some of the information included for example a shape file they would use at a 25 geography that saved us about four days of work from creating it ourselves.
	Mary Fragedakis	Did you get the same information for 47?
	FM	We did not because they don't operate on a 47. They operate on a 25. So they were prepared to share their information on a 25 basis to assist us in our election administration.
2:21:05	Mary Fragedakis	So they only wanted to assist in 25 but they weren't going to cut four days off and save us any effort on the 47?
	FM	We already had 47 Councillor, so they were providing us information on the electoral geography that they conduct their election under.

## Aug 20, 2018 – Special City Council Meeting Transcript

Video 2 of 2 – City Clerk/Deputy City Clerk Only

Time	Speaker	
Video 2 Time: 1:23:06	Councillor Holyday	Thank you Madam Speaker. I just wanted to follow along – along the line of questioning from Councillor Perks about what the next steps would be if the City was to – um, ah – see a change in the courts and a change in the validity of Bill 5. How would the City cope with a change once again that we just finished going through and we have now reopened underneath the 25 model? How would we manage going forth?
	City Solicitor	Through you Madam Speaker, I believe that this is a question for the Clerk and I am going to get the Clerk.
	Councillor Holyday	Madam Speaker, can I ask that you just hold my time for a moment, we just have to get the Clerk here to answer.
	Madam Speaker	Yes.
1:24:05	Councillor Holyday	Madam Speaker, I guess I have to re-do my question.
	Madam Speaker	Yes.
	Councillor Holyday	Would you mind restarting me please?
	Madam Speaker	Yes. Okay, there is a question to the Clerk. Councillor Holyday.
	Councillor Holyday	Thank you Madam Speaker. I just wanted to follow on Councillor Perks's questions about what would happen if the courts were to make a change in the validity of Bill 5? How would the City manage? What is the Clerk's appraisal of the process going forward in consideration that we just finished changing to a 25 ward model which is now active today, with the complete process to revalidate the candidates and so on?
1:24:42	Ulli Watkiss - City Clerk (UW)	Madam Speaker, at that point, I will have to assess our situation and just how close we were and we'd have obviously consultations with the City Solicitor. We may have to make requests of the province. We may have to get further court orders. I'm not sure and I can't really assess that until I have the situation that I'm faced with in front of me.
	Councillor Holyday	With the resources that you have and that we've given you, how confident are you that you could deliver under a significant change to Bill 5? To deliver an election that wouldn't be contested?
	UW	It's not a question of resources. I know that the City

		Manager would provide whatever resources I need, but that's not the issue. The issue is that I have principles that I need to apply, that give me the standards, which I must meet, and I extremely concerned about some of those standards in particular because there is not enough time to do what is necessary and do it right. And elections are about doing a million things right.
	Councillor Holyday	Would it be fair to say that public confidence in our government relies on an election that goes off correctly without a contest to it?
	UW	That is very much the case.
1:26:07	Councillor Holyday	So, uh, we are currently in a process where we went from 47 wards to 25. And you are now undergoing a process that those 25 wards now need to revalidate all of their candidates, which takes some time, I don't know, is it a couple of weeks. What would happen if you now needed to re-establish the candidates if the courts made a ruling let's say as early as beginning of September because I think the date here is August for an outside court action on this. What would happen? Would you have a final list of candidates at the end of September and how could you have an election three weeks later?
	UW	It depends on what the courts would do. But we assume that they would say that the list that existed –the 544 candidates that had registered and were certified by July the 27 <sup>th</sup> are the list of candidates in a 47 ward election.
	Councillor Holyday	Does the court have the power to change the election date?
	UW	Highly unlikely.
1:27:16	Councillor Holyday	Highly unlikely. Are there any other, uh, are there any other significant concerns other than just re-establishing the candidates if you had you know, really just over a month to prepare for another change from 25 to 47? And that's assuming that a court decided very very rapidly on this.
	UW	Yes, we have to move both backwards to redo some of our geography and you know, get our voters list reconciled with the 47 wards again and make sure we still had or have to go out and seek again space in which to establish our voting stations. We would have to reassign yet again our 15 to 18,000 workers to their correct voting stations. The list is endless. And most importantly, we would have to ensure that our systems were all aligned and recoded and re-tested from a vulnerability and a threat risk perspective. And do end to end testing over again. It's not a simple process.

	Councillor Holyday	And would it be fair to say that, and you may have entered this in questions, that you know through help from the province, through incredible work in overtime you have just been able to make the change to 25 to meet this date to, I think what you could characterize as confidence in delivering an election on October 22 under the current ward model. We would be talking about an entirely new process once again if there was a change to 47. Considering that you just managed to get to this now.
1:29:01	UW	An entirely new process are not the words that I would use because we have the work that was done and saved until the 14 <sup>th</sup> of August. But there is a, as I said, because the wards are the foundational piece to running an election we would have to really go back and <u>redo</u> some of those pieces and then try to move forward at the same time with a series of processes that are completely interdependent and need to be done in a particular order.
1:33:44	Councillor Matlow	<i>(Previous question to City Solicitor)</i> In particular I mean if we're successful in overturning Bill 5 and moving forward with a 47 ward model, then the Clerk would have to figure it out, we'd have to provide her and her team with adequate resources. But we would have to figure out how to move forward. And if we did that, would there ever be a scenario where we might have to ask for a postponement of the Oct 22 election date to enable that to happen effectively?
	UW	Yes, that is a distinct possibility.
1:36:05	Councillor Hart	Thank you Speaker. I just want to follow up on Councillor Matlow's question. If the Clerk gets to the situation where we've gone for it and we've won and we're back to 47 councillors, and when you're at that stage you determine you cannot deliver the election on October 22, is it not the Clerk's responsibility to go forward to do whatever is necessary with the province, with whatever support that she needs either with internal council or external council – would be the Clerk's responsibility to identify whether or not she could do that and what resources she needs to do it. But it is ultimately her responsibility is that correct?
	UW	Yes, it's difficult to hear, sorry. Yes, it is my responsibility and I would be working with the province to see what the solution might be.
	Councillor Hart	And you would make that determination and no one else, correct?

	UW	That's correct, I might consult legal advice, but yes, it would be my decision.
1:37:30	Councillor Fletcher	Yes, I just want to go back over some of the dates because Councillor Shan had asked a question earlier, in our earlier session that had to do with an email that went out to, I forget how many candidates – I think you said 544 registered candidates in the election?
	UW	That's correct. 35 of which are mayor, so there are 509 candidates that are impacted by this.
	Councillor Fletcher	Ok. So 509 candidates who were signed up between May 1 and July 27.
	UW	For councillor and trustee.
	Councillor Fletcher	For councillor and trustee. Thank you for clarification, Clerk. And on January the 30 <sup>th</sup> , which was after council had met, that was on the Monday, candidates got a letter that said, "on July 27, the province of Ontario announced its intention to pass legislation that would reduce the number of Toronto city council seats from 47 to 25. The proposed 25 ward structure is intended to align with provincial and federal riding boundaries, etc. The City Clerk will continue to administer the election in accordance with the current – current - provincial legislation." And that legislation was the legislation for the 47 seats, the one that we passed ourselves, is that right?
	UW	<i>Inaudible</i>
1:38:51	Councillor Fletcher	So, I'm just doing another date. That was the end of July, Monday the 13 <sup>th</sup> . Did I hear you respond to someone and say that you had been working on the model of the 47 up to August the 14 <sup>th</sup> the day before the bill was made legal?
	Fiona Murray - Deputy City Clerk (FM)	Through the Speaker, we were obligated under law to continue to administer the election under the Municipal Elections Act and 47 wards until Bill 5 received Royal Assent.
	Councillor Fletcher	And that was August the -
	FM	14 <sup>th</sup> I believe.
	Councillor Fletcher	August 14. So we've been six days now with the royal assent Bill. So obviously you were preparing some of that 25 seats based on the bill at the same time as you were continuing with the 509 candidates and the 47 election. Would I be right to put it like that?
	FM	That is correct. We developed – were developing contingency planning to implement a 25 ward structure in the event the bill received royal assent, while we

		continued to administer under a 47 ward model.
	Councillor Fletcher	And you were to get the MPAC list for the 47 ward. I believe it was the end of July. Did they get those to you?
	FM	The MPAC did provide us with a preliminary list of electors on July 31 based on a 47 ward model.
1:40:15	Councillor Fletcher	Oh, July 31 based on the 47. Preliminary list of electors, which would be based on who's an owner, who's a tenant. Does it have the information about which school board – who, they're– if they're supporting the Catholic board?
	FM	Yes, that's correct.
	Councillor Fletcher	All of that, so all of that fulsome information is there and the preliminary list of electors would be something, sorry Speaker, trying to ask questions and the boys are at it. Thank you. That by, we were to get the voters list on what date for the 47 election? The 1 <sup>st</sup> of September was that not the date that it was to be available?
	FM	Through the Speaker, the statutory date for elections to provide the electoral list to candidates was September 1, which is a Friday, I believe it would be September 4 bringing it over the weekend.
	Councillor Fletcher	So you would've had that, you would've been working on that, and we would've had that voters list for that 47 wards, based on wards, based on polls, based on everything?
	FM	That is correct.
1:41:30	Councillor Di Ciano	Yup. Thank you Madam Speaker. To the City Clerk: Through you, are you confident that at this point, now that Bill 5 is enacted that you can run an election for 25 Wards successfully?
	UW	Yes. We've received as I explained earlier extraordinary support from both this organization and the staff and the province, elections Ontario, and our vendors and partners.
	Councillor Di Ciano	Great. Now, should the court date change the rules again and make Bill 5 obsolete, are you confident at that point that you can run an election with 47 wards?
	UW	No.
1:42:29	Councillor Di Ciano	And, uh, you don't have confidence can you give me a little bit of a scenario of what could happen if we mishandle a 47 ward election?
	UW	My concern with the ever increasingly compressed timelines is that an error will be made. We are only human. And those errors could give rise to a controverted election application under section 83 of the

		Municipal Elections Act.
	Councillor Di Ciano	So in order to give certainty – because I know a lot of my colleagues in this room have been arguing about certainty – in order to give certainty to the entire electorate moving forward and ensuring that the next election is legitimate, you're suggesting that the safest way to do so is moving forward with 25 seats?
	UW	I'm not suggesting a number of wards, councillor. I am simply saying at some point, like right now, and preferably even before now we knew what our fundamental electoral geography was in order to carry on with the preparations for an election that met all of the integrity requirements.
1:44:04	Councillor Di Ciano	Right. Just one last question. If a - somehow just because you were given an impossible timeline to go back to 47 wards, in a controverted election application were filed what does that look like and how does a council govern on infrastructure issues like mass transit when there is a controverted election application and is it a legitimate government at that point?
	UW	Well I think the government is legitimate until something else happens like a court declaration, but I mean council went through this. One of our councillors went through this just not that long ago with an application in Ward 9.

1:47:00	Janet Davis (JD)	To the clerk, I think that I heard that you had been continuing on with preparation for a 45 ward sorry 47 ward election up until the 14 <sup>th</sup> . Is that correct?
	UW	Yes that's correct.
	JD	In fact the election was well underway. Is it not the case that you were virtually ready for a 47 ward?
	UW	No absolutely not. There were months' worth of work that still needed to be done as is always the case.
1:47:43	JD	So you then established in both your report and in answers to your questions that you began a contingency preparation process for a 25 ward.
	UW	Yes.
1:47:58	JD	You were doing both at the same time?
	UW	No, we weren't doing both at the same time. We were at different stages in all of the – in the various models and we were to a point where we were. Now we are going- we had to go back. The only reason we could get to where we were ready with ward maps and such is because we able to get the 25 ward technical data from

		the province.
1:48:30	JD	SO now I'm very confused. I keep hearing about when you started preparation for the 25 ward model and when you stopped preparation for the 47 ward model. Then you said you weren't doing them both at the same time.
	UW	Councillor, obviously when we get word from the ministry that this legislation was moving forward we had to start making contingency plans.
1:49:00	JD	And when was that?
	UW	I believe that answer has already been given because one of the provisions required that we be ready at 8:30 this morning to continue to receive nominations.
1:49:16	JD	And then on July 27 <sup>th</sup> you decided at that point that you would then -when did you decide that you were shifting completely to a 25 ward model, on the 14 <sup>th</sup> or the 27 <sup>th</sup> .
	UW	On August the 14 <sup>th</sup> .
1:49:38	JD	So between August 14 <sup>th</sup> and August 20 <sup>th</sup> these six days have convinced you that you are prepared for the 25 ward election?
	UW	Councillor, obviously we have had discussions, and I've answered this before, with the province as we were required to do and you'll look at some of the regulations and see some of the earlier dates in which the school boards had to receive certain information from MPAC. That required us to start thinking about 25 wards.
1:50:19	JD	So you said that one of the reasons you have confidence is because there was extraordinary cooperation with MPAC, the province, vendors and the city divisions. Do you have any reason to believe that you would not get extraordinary cooperation from MPAC, the province, vendors, the city divisions if the court decided that we ought to have a 47 ward election?
	UW	They would have really very little to provide us at that point. And I think that in terms of the vendors we would have to start a process of negotiation to see if they were capable of assisting or not with shrunken timeframes.
1:51:01	JD	And why would you not have a contingency plan in the event that the city would win this court challenge that would start today.
	UW	Councillor, we are in the process of working on that. The timeframes here have been so fast that it is impossible to do hundreds of things, thousands of things at the same time.
1:51:28	JD	So I think I just heard you say that you would be



		proceeding with the 47 model to have a contingency plan if we decided that today. Did I just hear that?
	UW	We will have a contingency plan obviously Councillor, but I have no confidence that we can meet the requirements that we are required to meet in the timeframe that we have. I cannot read code systems while I am operating them in another ward configuration. That's not possible. And then there are tests that need to be done to ensure the security of the system. It's not that simple.
	JD	Thank you.
1:52:25	David Shiner	So my questions are of the clerk. Ulli. Ulli My questions are of you. I know that you said it once and you might have said it twice but somehow it seems as if some people still aren't hearing you. You went down the road, you were ready for 47. You were set, you were in place, going ahead and then things changed. So you said the province gave you unprecedented help. Can you go through the list of things that you have to change to be able to go forward so people understand the difficulties and the fact that its not just – if I'm correct its not just pressing a button and having two sets of input, its – I can see from the frustration you are having with our questions – how difficult it is. Can you try and tell us how difficult it is and. When you have the work and the assistance you got from the province to change over what work you'd have to do to go back if at all possible to a 47 model and still have something that you felt would work because there seems to be this thought that we put a contingency plan in place and you just pick, 25 or I'll pick 47 and we'll go forward with it.
1:54:02	FM	Through the speaker, so because we have some work already completed on a 47 ward model when bill 5 was introduced and we started contingency planning for 25 we ensured that all of our systems and the geography based on 47 was secured. So we have those secured. If we have a court order that suggests bill 5 is struck down, the work that we would have to redo is some work related to the geography, we would have to remap our voting places, some of the voting places that we already <u>had</u> identified and permitted under a 47 ward model we had to change for a 25 ward model and some of those locations have now been lost. So we would need to re-permit some voting locations. We would need to do manual data entry on our staffing model and staffing

		<p>system to accommodate reassigning about fifteen to eighteen thousand election day staff to a different voting location and poll. We would have to repack all of our bags, which are thousands, redo all of our distribution for our warehouse. And the biggest issues from Ulli's and I's perspective, the clerk and I, the ballot production is a very involved process. So we have over two million ballots that we produce with an external vendor. We are incredibly careful with our ballot production We build a lot of quality assurance and accuracy tests into it to ensure the validity of the results. So that activity becomes very compressed if we need to go back to a 47 ward model. The last piece is that we rely very heavily on information technology at elections. We have a data hub and a results chain and many applications that we use to automate manual business practices. All of those systems would need to be rejigged back to a 47 and retested and end to end tests conducted.</p> <p>So again in a six week scenario that becomes incredibly tight and worrisome that with all of those details we would miss something and that we wouldn't be able to assure the integrity of that process.</p>
1:56:33	UW	And just to add to that point I think the other important aspect us to provide notice with some certainty to the electorate as to where they might be able to vote.
1:56:47	David Shiner	Which means? Sorry if you could extrapolate on that a little bit.
	FM	Through the speaker, one of the applications that we've developed that we launched just before bill 5 was introduced is called my vote. It's available on our website. It allows an elector in Toronto to put their address in and it will tell them their ward they're in and it eventually it will tell them their voting location once we've confirmed all of our poll information. If we revert back to a 47 ward model -we had to recode my vote on a 25 ward model basis – we would have to recode it back to a 47.in order that people understood that they could put their name through understand what ward they are in under this scenario, what voting poll and where they would be able to cast their vote.

ROCCO ACHAMPONG                      and                      ONTARIO                      and                      CITY OF TORONTO  
Applicant (Respondent in appeal)                      Respondent (Appellants)                      Respondent (Respondent on Appeal)

THE CITY OF TORONTO                      and                      ATTORNEY GENERAL OF ONTARIO  
Applicant (Respondent in appeal)                      Respondent (Appellant)

CHRIS MOISE *et al.*                      and                      ATTORNEY GENERAL OF ONTARIO and                      CITY OF TORONTO  
Applicants (Respondent in appeal)                      Respondent (Appellants)                      Respondent (Respondent on Appeal)

**Court of Appeal File No.:** C65861 (M49615)

Superior Court File No.: CV-18-00602494-0000

Superior Court File No.: CV 18-00603797-0000

Superior Court File No. CV-18-00603633-0000

**COURT OF APPEAL FOR ONTARIO**  
**Proceeding commenced at Toronto**

**MOTION RECORD**  
**(STAY PENDING APPEAL)**

**ATTORNEY GENERAL OF ONTARIO**

Constitutional Law Branch  
McMurtry-Scott Building  
720 Bay Street, 4<sup>th</sup> Floor  
Toronto, ON M7A 2S9  
Fax: 416-326-4015

**Robin Basu (LSO#32742K)**

Tel: 416-326-4476  
Email: robin.basu@ontario.ca

**Yashoda Ranganathan (LSO#57236E)**

Tel: 416-326-4456  
Email: yashoda.ranganathan@ontario.ca

**Audra Ranalli (LSO#72362U)**

Tel: 416-326-4473  
Email: audra.ranalli@ontario.ca

Of Counsel for the Attorney General of Ontario