

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

CITY OF TORONTO

Applicant

- and -

ATTORNEY GENERAL OF ONTARIO

Respondent

APPLICATION UNDER Rule 14.05(3)(d), (g.1) and (h) of the *Rules of Civil Procedure*.

AFFIDAVIT OF GARY DAVIDSON, Ph.D.

(Sworn August 27, 2018)

1. I, Gary Davidson, of the Village of Bayfield, Municipality of Bluewater, in the Province of Ontario, **MAKE OATH AND SAY:**

RELEVANT EDUCATION AND PROFESSIONAL EXPERIENCE

2. I have a Ph.D. in Political Science from the University of Western Ontario and a M.A. in Geography (Planning Program) from the University of Waterloo. I am a Fellow of the Canadian Institute of Planners and am a Registered Professional Planner with the Ontario Provincial Planners Institute. I have spent over 30 years of my career in various aspects of the planning field. Before becoming an independent consultant, I was the Director of Planning and Development for Huron County.

3. In addition to the City of Toronto, I have provided expert advice in ward boundary reviews in the City of Ottawa, the municipality of Hasting Highlands, for the York Regional District School Board, the City of Vaughan, and the Toronto District School Board.

4. From 2013 through 2016, as part of a consortium of consultants, I was retained to conduct the Toronto Ward Boundary Review (the "TWBR"), and subsequently made recommendations for new municipal ward boundaries to the City Council of the City of Toronto, through its Executive Committee. In line with the City's Request for Proposals, the TWBR operated at "arms'-length" from City staff and Members of Council. While Council Members' input was sought, they did not comment on the final recommendation prior to it being made public and its presentation to the City. The TWBR team consisted of the Canadian Urban Institute, which had expertise in project management, research, civic engagement, GIS, and document design/production; Beate Bowron, an expert in public consultation, myself, an expert in effective representation; and Tom Ostler, a demographer.

5. Together with Beate Bowron, I wrote all of the TWBR project reports, except for a Background Research Report, which was completed by the Canadian Urban Institute in December 2014. While I did not write the Background Research Report, I oversaw its preparation.

6. I have been qualified as an expert witness on numerous occasions to give opinion evidence on matters of land use planning and municipal ward boundary reviews before the Ontario Municipal Board.

7. In 2017, I was qualified as an expert witness by the Ontario Municipal Board and provided opinion testimony regarding the City of Toronto's Ward Boundary Review.

8. Details of my professional experience are outlined in my resume, a true and correct copy of which is attached to this affidavit as **Exhibit "A"**.

TORONTO WARD BOUNDARY REVIEW PROCESS

9. The TWBR was a substantial undertaking, including significant public consultation, requiring sizeable financial and human resources. It began in June 2013 and ended in April 2017, that is it took close to 4 years to complete. During this time, the project received over 1000 responses to an online survey, held over 100 face-to-face meetings with Members of Toronto City Council, School Boards and other stakeholder groups, held 24 public meetings and information sessions and produced 7 substantial reports. The following reports have been made exhibits to the Affidavit of Intervenor Susan Dexter and will not be reproduced in my affidavit. I will refer to the exhibit numbers in Ms. Dexter's affidavit and to the original page numbers of each report: Ward Population Background Brief; Background Research Report, Round One Report; Options Report; Final Report; Additional Information Report; and Supplementary Report. The Round Two Report has been made **Exhibit "L"** to the Affidavit of Giuliana Carbone and will not be reproduced in my affidavit. I will refer to Ms. Carbone's affidavit and the original page numbers of the Round Two Report.

10. Throughout the project the TWBR was able to draw on the experience of an outside Advisory Panel with expertise in municipal law, business, academe, civil society research and the Ontario Municipal Board ("OMB"). The Advisory Panel provided input into the project on three occasions coinciding with project milestones.

11. The TWBR followed a respected methodology for conducting complex ward boundary reviews: analyzing the status quo; developing options; reviewing options; selecting a preferred

option; formulating a recommendation, refining the recommendation; and, bringing a final recommendation to Council. All phases of the TWBR included a meaningful consultation process and suggestions from that process were incorporated into its results.

12. The following table chronicles significant TWBR events and identifies reports that were published.

June 2013	City Council authorizes the City Manager to retain a third-party consultant to undertake a Ward Boundary Review for Toronto
November 2013 – January 2014	Request for Proposals for a Ward Boundary Review for the City of Toronto
March 2014	Project awarded to Consultant Consortium: Canadian Urban Institute; Beate Bowron Etcetera; The Davidson Group; Tom Ostler
March 2014	Launch of Project Website drawthelines.ca
June 2014	City Council approves <i>TWBR Work Plan, Civic Engagement and Public Consultation Strategy</i>
September 2014	Advisory Panel Meeting #1
October 27, 2014	Municipal Election
November 2014 (revised July 2015)	TWBR report <i>Why is Toronto Drawing New Ward Boundaries</i>
December 2014	<i>Toronto Ward Boundary Review: Background Research Report</i>
July 2014 – February 2015	Round One of Civic Engagement and Public Consultation
March 2015	TWBR <i>Round One Report on Civic Engagement + Public Consultation</i>
June 2015	Advisory Panel Meeting #2
August 2015	TWBR <i>Options Report</i> (revised October 2015)
August 2015 – November 2015	Round Two of Civic Engagement and Public Consultation
February 2016	TWBR <i>Round Two Report on Civic</i>

	<i>Engagement + Public Consultation: Feedback on the Options for New Ward Boundaries for the City of Toronto</i>
March 2016	Advisory Panel Meeting #3
May 2016	TWBR Final Report <i>New Wards for Toronto</i>
May 24, 2016	Executive Committee requests additional information/consultation on various issues
August – September 2016	Civic Engagement and Public Consultation on additional information
October 2016	TWBR <i>Supplementary Report</i>
November 2016	City Council approves New Wards for Toronto
March 2017	City Council approves By-law 267-2017
April 2017	City Council approves amending By-law 464-2017

13. In the TWBR's first report, the "Ward Population Background Brief," revised July 2015, the TWBR explained that Toronto was drawing new ward boundaries because:

As Toronto has grown, the equity of representative democracy across wards has changed as some wards now have considerably higher populations, and some lower, than the average ward population. ... Given the population growth that has taken place since 2000, Council has initiated this current review of ward boundaries, recognizing that the growing imbalance is not conducive to effective representation for the residents of Toronto.

(Record of the Intervenors, Jennifer Hollett, Lily Cheng, Susan Dexter, Geoffrey Kettell and Dyanoosh Youssefi, Tab C, Affidavit of Susan Dexter, sworn August 21, 2018, (hereinafter "**Dexter Aff.**"), **Exhibit 1**, page 2).

14. This report explained that the City would continue to grow, that the existing ward boundaries do not achieve the voter parity component of effective representation, and that the

ward population imbalance is projected to increase in future elections unless there is change made to the status quo. (Ibid. at pp. 15-22; Maps 8, 9, 10, and 11).

TWBR'S CONSIDERATION OF FEDERAL ELECTORAL DISTRICTS ("FEDS")

15. The TWBR considered a number of options for new ward boundaries for the City of Toronto. In its initial round of public consultation, the TWBR asked members of City Council, members of the public, and members of stakeholder groups about these options, including the Federal Electoral Districts ("FEDs").

16. In the "Round One Report: Civic Engagement and Public Consultation," dated March 31, 2015, the TWBR publicly reported on interviews with Councillors and members of stakeholder groups, public meetings, and online survey results. This report primarily compiled information that we had received from the consultation process at this stage. Among other matters reported:

- a. Only 7% of survey results suggested aligning municipal ward boundaries with provincial and federal ridings (**Dexter Aff., Exhibit 3**, p. 11);
- b. Council members suggested not making federal/provincial boundaries a determining factor (**Dexter Aff., Exhibit 3**, p. 2);
- c. Although certain stakeholder groups supported municipal ward boundaries that aligned with provincial and federal boundaries (**Dexter Aff., Exhibit 3**, p. 3), they agreed in interviews that wards of this size would be too large, and instead favoured smaller wards (**Dexter Aff., Exhibit 3**, p. 27);
- d. A plurality of responses (47%) to the survey favoured increasing Toronto's current number of wards to between 54 and 75. Twenty-two percent of the

- responses suggest fewer wards, with only 8% indicating 22 to 25 wards, i.e. creating one ward for each of the federal/provincial ridings (**Dexter Aff., Exhibit 3, p. 13**);
- e. Public meetings showed support for smaller wards (**Dexter Aff., Exhibit 3, p. 16**) and cautioned against aligning wards with provincial and federal ridings. (**Dexter Aff., Exhibit 3, p 19**); and
 - f. During the Round One public consultation, the TWBR interviewed 53 Councillors who served the City during the 2010-2014 and 2014-2018 Council term. Only 11 Councillors supported wards that were close in size to the FEDs (ranging from 80,000 to 120,000 people). Of those, six Councillors stated they would require additional staff resources to manage the larger wards. Three Councillors rejected the idea of larger wards even with additional resources. (**Dexter Aff., Exhibit 3, pp. 21-23**).

17. On December 3, 2015, the currently existing FEDs were adopted by the Province to elect members to the Legislative Assembly of Ontario when the *Representation Act, 2015*, S.O., C. 31, Sched. 1, received royal assent.

18. In its "Options Report", published August 11, 2015, and revised on October 16, 2015, the TWBR put forward a number of options for ward boundaries based on its expert, independent analysis of the public consultation conducted in Round One. I was directly involved in finalizing the options that were presented and together with Beate Bowron, I wrote the Options Report.

19. The Options Report explained that the TWBR team considered the FEDs, but split them in half by population based on the public feedback (**Dexter Aff., Exhibit 4, p. 3**). This would

result in a 50 ward structure. The reason for splitting the FEDs was that otherwise the wards were too large. Based on the Round One public consultation, there was no appetite for wards with populations as large as the FED ridings (**Dexter Aff., Exhibit 4**, p. 5). Further, in our independent, professional opinion this did not satisfy the capacity to represent criterion of effective representation, discussed below. The TWBR team then screened out the FEDs options because it had been directed to assess options that would last for three or four election cycles, and in its analysis, the FEDs would not meet the test of effective representation over such a time period. In particular, the FEDs would not provide voter parity in 2026, the target year that the TWBR used to design the ward boundary options (**Dexter Aff., Exhibit 4**, p. 4). Even when the FEDs were split in half (by population) the TWBR team found that they would not achieve voter parity in 2026 (**Dexter Aff., Exhibit 4**, p. 30).

20. In February 2016, following a second round of public consultation on the options developed by the TWBR, the TWBR published its Round Two Report. As its subtitle suggests, the Round Two Report provided the TWBR's findings on "Feedback on the Options for New Ward Boundaries for the City of Toronto." A true and correct copy of the Round Two Report is attached to the Affidavit of Giuliana Carbone, sworn August 22, 2018, (hereinafter "**Carbone Aff.**" as **Exhibit "L"**).

21. The Round Two Report explains that FEDs were not pursued as an option primarily because the TWBR found that they would not achieve voter parity in 2026 (**Carbone Aff., Exhibit "L"**, p. 1)

22. Although, the TWBR heard some support for using the FEDs at public meetings, generally those supportive agreed that the FEDs should be divided in two, creating 50 wards (**Carbone Aff., Exhibit "L", p. 29**).

23. From interviews with Councillors, the TWBR heard concerns about the size of wards and Councillors' capacity to represent their constituents. The TWBR reported that "Councillors are uneasy with ward sizes above 70,000." (**Carbone Aff., Exhibit "L", p. 5**). Based on their ranking of options, a majority of Councillors favoured wards with populations comparable to the existing ward size or smaller. (**Carbone Aff., Exhibit "L", pp. 15-19**).

24. In May 2016, the TWBR published its Final Report, which was also presented to City Council's Executive Committee. In the Final Report, the TWBR explained why it had chosen a 47 ward map of Council boundaries and also explained that it had not recommended the FEDs as an option because of their large size and because they would not achieve voter parity in 2026 (**Dexter Aff., Exhibit 5, p. 7**). The TWBR found that there was a minority of support for using the FED boundaries for the City's wards among members of the public and members of Council (**Dexter Aff., Exhibit 5, p. 25**) and stated that not achieving voter parity in 2026 was a key factor (**Dexter Aff., Exhibit 5, p. 27**).

ADDITIONAL TWBR CONSIDERATION OF FEDS

25. At its May 24, 2016 meeting, the Executive Committee directed the TWBR, among other things, to give further consideration to the FEDs. Accordingly, the TWBR conducted another round of public consultation, and issued two further reports.

26. In August 2016, the TWBR released its Additional Information Report, explaining Executive Committee's direction for the purposes of public consultation. With respect to its consideration of the FEDs, the TWBR explained that the 25 ward configuration would not achieve voter parity in 2026. Instead, the TWBR considered a 26 ward configuration, adding a ward to the City's Downtown. However, the TWBR explained that there would still be concerns with voter parity in Etobicoke-Lakeshore, due to the City's population growth (**Dexter Aff., Exhibit 7**, pp. 10-16).

27. In October 2016, the TWBR released its Supplementary Report, which reviewed the results of its additional public consultation and analysis and recommended a revised 47-ward map to the Executive Committee.

28. The Supplementary Report raised the TWBR's concerns that the FEDs would not achieve voter parity in 2026 (**Dexter Aff., Exhibit 8**, p. 6); explained that at public meetings the TWBR heard concerns about councillors' capacity to represent (**Dexter Aff., Exhibit 8**, p. 36); and that the TWBR heard concerns that the FEDs would result in too many communities of interest lumped together in one ward. The TWBR also heard feedback from Councillors (**Dexter Aff., Exhibit 8**, p. 37) and from the public (**Dexter Aff. Exhibit 8**, p. 51) that the FEDs would result in wards that were too large, in part because municipal councillors perform a different role than Members of Parliament or Members of the Legislative Assembly.

29. At its October 26, 2016 meeting, the Executive Committee adopted the TWBR's recommended 47 ward option and recommended it to City Council, which adopted it at its meeting of November 8 and 9, 2016.

30. At the November 8 and 9 City Council meeting, Council rejected motions introduced by individual councillors to adopt the 25 FEDs and to adopt the 26 wards that the TWBR had considered based on the FEDs. During the appeal of the 47-Ward Boundary system to the Ontario Municipal Board, the Board heard evidence about the TWBR's public consultation process and also heard about the public hearings that were held by the Federal Electoral Boundaries Commission. In the 2012 review of the FEDs, the Ontario Commission held two days of public hearings. One in downtown Toronto and one in North York. (A list of the Commission's public hearings, printed from its website, is attached hereto as **Exhibit "B"**.)

CARTER CRITERIA

31. The TWBR process was guided by the legal test for effective representation established by the Supreme Court of Canada in *Reference re Provincial Electoral Boundaries (Sask)*, [1991] 2 S.C.R. 158 (S.C.C.), which is commonly referred to as the "Carter" case. *Carter* has been adopted by the Ontario Municipal Board in appeals of municipal ward boundary reviews, and used as the standard by Ontario municipalities when considering new ward boundaries.

32. As the TWBR explained in its Background Research Report, the factors of effective representation guided Toronto's review of its ward boundaries. These factors include:

- a. 'Representation by Population' or voter parity, the idea that each person should get one vote and that all votes should count equally. Based on these principles, every elected official should represent generally the same number of constituents (**Dexter Aff., Exhibit 2, p. 14**)
- b. "The protection of communities of interest", which refers to recognizing settlement patterns, traditional neighbourhoods and community groupings (social,

historical, economic, religious, and political diversities). Applying this principle to a ward boundary configuration means that communities of interest should not be divided by a ward. As a rule, lines are drawn around communities, not through them. Secondly, wards should group together communities with common interests, where there is some identifiable similarity such as age, assessed value and configuration of housing, the life-stage and demographics of the residents, and municipal service provisions and amenities. It is often considered specifically to include linguistic, ethnic, or racial minorities (**Dexter Aff., Exhibit 2**, p. 15).

- c. Consideration of Present and Future Population Trends, which refers to accommodating for and balancing future increases or decreases in population to maintain a general equilibrium in representation by population (**Dexter Aff., Exhibit 2**, p. 16).
- d. Consideration of Natural and Physical Boundaries, which recognizes that natural and physical boundaries shape patterns of life in cities, so ward designs should work within these features to keep wards contiguous and group communities of interest (**Dexter Aff., Exhibit 2**, p. 17).
- e. Capacity to represent. Referring to the issue of “effective representation”, in the 1992 Carter decision, Madam Justice McLachlin stated,

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; as noted in *Dixon v. B.C. (A.G)*, [1989] 4 W.W.R. 393, at p. 413, elected representatives function in two roles- legislative and what has been termed the “ombudsman role.”

This statement refers to the fact that councillors play both a legislative role (i.e. considering and establishing policies) and a constituency role (i.e. consulting with and answering to their constituents). The ratio of 'councillor to residents' is one indication of how well a councillor can perform the constituency role. A councillor has only a certain amount of time in each day to deal directly with the residents and electors and thus, the larger the population a councillor represents, the less time is available for direct contact with each constituent. (**Dexter Aff., Exhibit 2, pp. 18-19**).

33. In the Background Research Report, the TWBR explained that:

Effective representation is the overriding principle and ultimate goal of all electoral boundary reviews. It encompasses all the other principles. Effective representation aims at achieving equal representation for voters to the greatest extent possible. The primary consideration is voter parity, but it also takes into account the other criteria, such as geography, community history, community interests and minority representation. In the Carter Case and many subsequent OMB cases, the Court has cautioned that only those deviations from absolute voter parity that lead to more effective representation should be allowed.

(**Dexter Aff., Exhibit 2, pp. 17-18**).

THE EXISTING FEDS WILL NOT PROVIDE VOTER PARITY IN TORONTO IN 2026

34. As set out above and in the TWBR's reports, the FEDs did not meet the *Carter* criteria for voter parity in the TWBR because the TWBR was designing wards that would last for multiple election cycles (for example, 2018, 2022, 2026, and possibly 2030). As required by the *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c. E-3, the current FEDs are based on the population counted during the 2011 decennial census. As Toronto's population moves and grows, the current FEDs will grow out of parity. In contrast, the 47-ward system adopted by

City Council was designed to grow into parity for a target year of 2026 (**Dexter Aff., Exhibit 8, Table 10, p. 46**). In a fast growing city like Toronto, it is better that fast-growing wards grow into parity during their rapid growth phase, than away from parity.

CAPACITY TO REPRESENT AND MUNICIPAL WARD BOUNDARIES

35. The TWBR also had concerns about municipal councillors' capacity to represent their constituents.

36. As the TWBR explained in its Options Report, in the municipal context:

Capacity to represent is often equated with Councillors' workload. It encompasses ward size, types and breadth of concerns, ongoing growth and development, complexity of issues, etc. For example, wards with high employment, major infrastructure facilities, tourism attractions, or special areas such as the Entertainment District, generate a host of issues a Councillor has to deal with in addition to the concerns of local residents. The courts have noted that Councillors perform two functions. The first is legislative and refers to passing by-laws and considering city-wide issues. All Councillors have this role in common. The courts have referred to the second function as the 'ombudsman role', which is interpreted as a constituency role. This speaks to a Councillor's responsibility to represent the interests of a ward's residents to the city government and its administrative structure. This latter function, the constituency role, is captured by the concept of the 'capacity to represent'. This role can vary greatly depending on the issues prevalent in any given ward. There is no specific information or data set to quantify this criterion. Some data on growth pressures can be gleaned from development pipeline reports and areas that play a special role in the city's economic life are known. Wards with these types of issues can remain in the lower reaches of the voter parity range. Homogeneous, stable wards can rise to the upper end of the voter parity range.

(**Dexter Aff., Exhibit 4, p. 14**).

FEEDBACK ON CAPACITY TO REPRESENT IN TWBR

37. On this issue of capacity to represent, the TWBR relied on the feedback it received in its public consultation and its interviews with Councillors. As set out in its public reports, the

TWBR heard that wards with populations of approximately 61,000 each, which was the average size of the City's wards following the 2010 election, was desirable. Some Councillors had stated that even with additional resources, they would not be able to represent larger wards, with populations over 75,000 or 100,000.

38. Further, it is my experience that members of the public want to be able to communicate directly with their elected officials, and not just merely with their staff.

39. The TWBR also compared the size of wards in other municipalities in Ontario and in Canada. In its Background Research Report, the TWBR compared the size, ward structure, and population ranges of the 10 most populous cities in Canada and concluded that Toronto's average ward population is in the upper part of that range at 60,958 people per ward (**Dexter Aff., Exhibit 4**, pp. 29-30).

THE SIZE OF THE FEDS IN TORONTO

40. I have reviewed the Elections Ontario data on the populations for the 25 FEDs covering Toronto based on the 2016 census. The average population is approximately 110,000. A true and correct copy of my analysis of this data is attached as **Exhibit "C"**. A municipal ward of over 109,000 people is nearly double the size of the 61,000 population ward that was supported in the TWBR's public consultations. It is also significantly larger than the ward populations in other cities in Ontario. Attached hereto, as **Exhibit "D"** is a chart of municipalities in Ontario, after Toronto, that updates the chart found in the TWBR's 2014 Background Research Report. The number of councillors for each municipality are those who sit on the local council, regardless of whether the municipality is also part of an upper tier or regional government. The average ward size for these cities is approximately 32,600. The average ward size for Toronto,

using the FEDs would be more than three times as large as the average ward size for these other Ontario municipalities.

THE UNIQUE ROLE OF MUNICIPAL COUNCILLORS

41. The other factor that distinguishes municipal councillors' capacity to represent from legislators at the provincial and federal levels of government is that the role of municipal councillors, and the structure of municipal governments in Canada, differs significantly from the role of provincial and federal legislators.

42. In particular, there is no Westminster System of government at the municipal level. Rather, Toronto, and other municipalities have what is known as a "strong council" system, meaning that the Mayor "has only one vote in Council and no formal authority for appointments budgeting or directing staff." André Côté, "The Maturing Metropolis: Governance in Toronto a Decade on from Amalgamation," Institute on Municipal Finance and Governance, University of Toronto, March 2009, p. 11. The full text of this article is attached hereto as **Exhibit "E"**.

43. As one scholar puts it:

This model is in sharp contrast to both the strong-executive Westminster parliament at the federal and provincial levels and the 'strong mayor' in some American cities, where power is more centralized and there is a sharp division between the executive and legislative branches. Largely through convention, prime ministers and premiers have executive authority to select their Cabinet, appoint and direct senior public servants, set budgets and dole out different forms of patronage; they also have control of the apparatus of their party, allowing them to enforce party discipline in the legislature, and ensure loyalty through the selection of candidates. Similarly, the mayors of cities like New York and Chicago operate within a party system, with significant executive powers over appointment, administration and budgets. In Chicago, the Mayor can also veto Council decisions.

(**Exhibit "E"**, p. 12).

44. Not having a party system, or a strong division between executive and legislative authority, means that councillors as part of City Council decision making have a role in appointments of high level staff and City Boards, directing City staff, setting budgets, and consulting with their colleagues on individual decisions. This is a more involved legislative role, without additional resources or support, than that of legislators at other levels of government.

45. Further, in contrast to other orders of government, the City of Toronto meets in closed or 'in camera' sessions under very limited circumstances. Decisions resulting from such sessions must still be made in public. Similarly, staff reports and Council deliberations are public. (Exhibit "E", p. 19). As a result of this transparent decision-making process, citizens can, and do, participate intimately in City decision-making. This also affects the role of individual, elected Councillors to effectively represent and respond to their constituents.

46. Further, councillors are intimately involved in a way that other orders of government are not, in resolving local issues:

As the order of government that sits closest to citizens, elected representatives also retain an important local role. Resolving local issues for constituents remains a priority for Councillors. ... Among Councillors, the balance between city-wide and local focus clearly varies, but it is apparent that local interests continue to play prominently even on city-wide issues.

(Exhibit "E", p. 20).

47. This analysis of Councillors' role is consistent with the public feedback the TWBR received from constituents who wanted to be able to connect directly with their elected officials, rather than staff, and felt that wards of 70,000 or 100,000 people were too large.

48. Further, Toronto is a single tier municipality, and in that way is distinguishable from most other municipal governments in Ontario. Where services are split between two tiers of

local governments, elected officials at both levels share the burden of providing services, making decisions, and responding to constituent concerns. In Toronto, there is only one councillor per ward who is primarily responsible for such local concerns.

49. Further, based on my experience working across Ontario conducting ward boundary reviews and as a land use planner, there are a number of complex issues that are unique to Toronto. For example, it is the only Ontario municipality with a subway system, it has a more diverse population than any other city in Ontario, and has far more (and more complex) land development applications than any other municipality. In interviews the TWBR conducted with individual councillors in 2014 and 2015, councillors repeatedly referred to development pressures, social housing issues, working with Business Improvement Areas, trying to respond to residents as compared to issues raised by businesses or industries. Councillors also spoke to the time and resources needed to reach specific populations, such as workers who come and go during the day, visitors who seek out entertainment in the evenings or on weekends, students, who may only live in a ward temporarily, people more reliant on community services, and immigrant communities where communication is more effective in languages other than English.

50. At the Ontario Municipal Board hearing of the appeals of the 47-ward system adopted by City Council, the Appellants' raised the issue that Toronto's large council was dysfunctional. An expert witness contended that reducing the number of wards (and thus the number of councillors) would reduce the length of council meetings because there would be fewer councillors to speak to each item. However, when presented with the City Clerk's statistics on the number of items that City Council considered, the expert agreed that even as the number of bylaws passed increased over time, there was a general downward trend in the number of days City Council met. A copy of the City Clerk's statistics for City Council is attached hereto as **Exhibit "F"**.

51. 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.

52. 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 councillors' capacity to represent their constituents.

COMMUNITIES OF INTEREST AND THE TWBR

53. The TWBR's Background Research Report includes a sidebar which provides examples of communities of interest. It specifically lists: Neighbourhoods, Heritage Conservation Districts, Business Improvement Areas, and Ethno-cultural groups that live in the same area. (**Dexter Aff., Exhibit 2, p. 15**).

54. The Background Research Report, citing previous studies, explained that people who identify with communities of interest want those communities to be part of a larger electoral district to provide some representation to the views the communities represent. However, it also explained that communities of interest are difficult to define and that they have been the subject of debate in electoral boundary reviews, including the City of Ottawa's municipal ward boundary review in 2005.

55. In my experience, if a community of interest is divided by an electoral boundary, it is a problem for representation at all levels of government. When a community of interest is divided by electoral boundaries, it can mean that the community is unable to elect a representative that reflects its interests or that the community is unable to reach out to its elected representatives in a cohesive way, and that as a result, its representatives may not understand or be able to advocate for a community's needs.

TORONTO COMMUNITIES DIVIDED BY THE FEDS

56. During Toronto's ward boundary review, the TWBR team heard from the St. Lawrence neighbourhood (and Councillor McConnell) that they were concerned about their community being divided by the FEDs (**Dexter Aff., Exhibit 2, Appendix "D"**). Representatives from the St. Lawrence neighbourhood informed the TWBR that they had attended the hearings of the Federal Electoral Boundaries Commission and raised this issue. As a result, the TWBR took care not to divide the community in the recommended (and subsequently adopted) 47-ward boundary map.

57. The FEDs also divide the Toronto neighbourhoods known as Thorncliffe Park and Flemingdon Park. These neighbourhoods have large immigrant populations and are areas with lower incomes and similar needs. The TWBR heard feedback that a Muslim community in this area was divided during its public consultation (**Dexter Aff, Exhibit 2, Appendix "D"**) and also heard feedback that the communities had formed a joint residents' association. In the 47-ward model adopted by Toronto City Council, both neighbourhoods are in a single ward, Ward 33.

58. The FEDs also divide the Toronto neighbourhood of Morningside Heights. However, the TWBR considered this to be a community of interest and in the 47-ward model, it is contained in a single ward.

59. There are neighbourhoods in Toronto whose populations are too large to be represented by a single electoral district. For example, the communities of Malvern and Jane and Finch are each communities of interest, but neither the FEDs nor the TWBR's 47-ward system incorporate them into a single electoral district. The TWBR heard about Malvern being split during its public consultation (**Dexter Aff., Exhibit 2, Appendix "D"**) and heard about Jane and Finch being split during the OMB appeal of the 47-ward system adopted by City Council. The TWBR considered these divisions and balanced them against other factors of effective representation, such as voter parity and capacity to represent, articulated in *Carter*. Further, the TWBR often used major streets to draw ward boundaries. These streets might be considered physical boundaries in some cases and in other cases also represent historic electoral boundaries.

COMMUNITIES OF INTEREST SUBMERGED IN A FED

60. As stated above, the TWBR also heard concerns about too many communities of interest being combined in a single FED (**Dexter Aff., Exhibit 8, p. 36**). Combining too many communities of interest in a single electoral district puts them at risk because a specific community of interest may have its voice drowned out (or its interests and voting power diluted) among other constituencies. As a result, the candidate elected for a given electoral district (in this case a municipal ward) may not reflect the values or interests of groups of electors in the district. For example, in recent years, a number of news organizations have reported and

members of Toronto City Council have remarked on the relative lack of women and people of colour on the City Council.

61. Communities of interest which are submerged among many constituencies in a large municipal ward are more impacted than they might be when included in a large provincial or federal riding because municipalities perform different functions than higher orders of government. Municipalities often provide more services directly to communities and provide more community-oriented services (such as public safety services and social services), which are often organized around local communities of interest. As a result if a community of interest is unable to elect, or not effectively represented by an official that does not understand its needs, it may mean that community members are left without necessary public services.

62. I make this affidavit for use in these proceedings and for no other purpose.

Sworn before me at the City of Toronto,)
in the Province of Ontario, this 27th day)
of August, 2018.)
)
_____)
MATTHEW S. SCHUMAN)
Commissioner for Taking Affidavits, etc.)


_____)
GARY DAVIDSON)