

Court File No.

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

FRANCES BAARS and DEREK BAARS

Applicants

and

THE CHILDREN'S AID SOCIETY OF HAMILTON

Respondent

APPLICATION UNDER section 97 of the *Court of Justice Act* and rule 14.05 of the *Rules of Civil Procedure*.

AFFIDAVIT OF FRANCES BAARS

I, Frances Ann Baars, of the City of Calgary, MAKE OATH AND SAY:

1. I have personal knowledge of the matters and facts hereinafter deposed to by me, except where same are stated to be based upon information and belief, in which cases I believe them to be true.

The Applicants

2. I am 31 years old and received a diploma in Early Childhood Education from Conestoga College. I am also an experienced nanny, babysitter and a homemaker.
3. I am married to Derek Baars, age 36. Derek has a Masters degree, and is in the process of becoming an ordained minister of the Reformed Presbyterian Church of North America (RPCNA).
4. Derek and I have been married since 2010. We desired to have children of our own, but have been unable to conceive. We have a strong religious faith and are members of the RPCNA.

The Respondent

5. On May 29, 2015, Derek and I applied to the Respondent, the Children's Aid Society of Hamilton, to open a foster home. The Children's Aid Society of Hamilton was established in 1894, and is mandated under the *Child and Family Services Act*, RSO 1990 c C11 (attached as **Exhibit "A"** to this affidavit) as a "children's aid society." The Respondent is funded, and subject to, the Government of Ontario

through the Ministry of Children and Youth Services (see print out from the Respondent's website, <http://www.hamiltoncas.com/en/about/us/>, attached as **Exhibit "B"** to this affidavit).

Approval of Our Foster Home

6. At the time of our application to the Respondent, we were aware of the need for foster parents that the Respondent had. The Respondent continues to have an urgent need for more foster parents, as reported on by the Hamilton News (see <https://www.hamiltonnews.com/community-story/7065355-children-s-aid-society-of-hamilton-needs-foster-families/>, attached as **Exhibit "C"** to this Affidavit).
7. In July of 2015, Derek and I successfully completed the Respondent's Parent Resources for Information, Development and Education (PRIDE) training. During this week-long course, the trainers explained to us that we would not be expected to do anything that contradicts our beliefs. We had talked with the trainers about the fact that we do not celebrate Halloween, for example. The trainers told us that in such a situation, the foster children's worker would pick up the children to take them trick-or-treating to ensure the parents' wishes in those areas were met, if necessary.
8. From May 29, 2015 to November 25, 2015, the Respondent conducted an extensive process called a "homestudy", including numerous interviews and home visits. The SAFE Homestudy Report was completed on December 11, 2015 (attached as **Exhibit "D"** to this affidavit), and recommended that we be approved for foster care.
9. On December 17, 2015, Derek and I entered into a "Foster Parent(s) - Society Service Agreement" with the Respondent (attached as **Exhibit "E"** to this affidavit). Due to the urgent need for foster homes, the very next day (December 18, 2015) the Respondent brought two biological sisters, ages three and four, to live with us. From the beginning, it was our delight to have the girls with us. We loved them from the moment that they came to us.

Our Service as Foster Parents

10. The Respondent informed us that they intended for the two young girls to stay with us temporarily until they could eventually be reunited with their biological family. Each week the girls were given supervised visits with their mother and their father. A communication book was exchanged each week between the girls' mother and us. I would write updates on how the girls were doing, and the girls' mother would respond, often providing further specific directions and desires she had for the girls' care. These instructions included directions to bathe the girls every other evening, oil their hair daily with a particular brand of olive oil, give the girls a particular kind of body lotion and take them to the doctor at a particular time. We carefully carried out each of the instructions.
11. When the holiday season came, the girls accompanied Derek and me to my parents' house for dinner with my extended family. We made sure the girls had an enjoyable time and they received presents from us, the same as the other children in my extended family.
12. Unfortunately, issues arose on or about January 6, 2016, when our Homestudy Worker Susan Ross brought our "Placement Support Worker" Tracey Lindsay to our home to meet us. At this meeting, Ms. Lindsay interviewed the girls and acknowledged to us that they looked well cared for in all respects. However, Ms. Lindsay challenged Derek and I on how we were going to celebrate Easter with the girls. Ms. Lindsay informed us that it was part of our duty as foster parents to teach the girls about the giant imaginary rabbit known as the Easter Bunny, because she considered it part of Canadian culture. My husband and I were confused by Ms. Lindsay's insinuations that we were not meeting the children's needs, since the girls were happy and content. As Ms. Lindsay continued to insist that we tell the girls the Easter Bunny was real, I asked her if she actually believed in the Easter Bunny or realized that it was fictitious. After evading this question initially, she finally admitted that the Easter Bunny was not real, but she did not consider it lying to tell children it was real; she believed it to be an essential part of every Canadian child's experience.

13. Thereafter, each subsequent time Ms. Lindsay called us she would reiterate the “requirement” that we celebrate Easter with the foster children by informing them that the Easter Bunny was real. This made us feel attacked and very uncomfortable. We informed Ms. Lindsay that on Easter we intended to hide chocolate eggs and have the girls find them, and play other games. Ms. Lindsay was dissatisfied with our response. She pressed us, insisting that we inform the foster girls in our care that the Easter Bunny was real as part of the Easter celebration.
14. We thought about complaining about Ms. Lindsay’s repeated insistence and threatening demeanour regarding Easter Bunny to her superiors, but reassured ourselves that the Respondent could see that we were taking excellent care of the girls, and that that was much more important. The girls were well fed, well dressed, and we did many activities with them, such as regularly taking the girls to the park near our home, attending and hosting playdates with other children the same ages as the girls, playing educational games, and painting with the girls, which provided hours of entertainment for them.
15. Unfortunately, Ms. Lindsay was unimpressed with a warm house and a loving environment. In late January or early February 2016, she found another pretence for criticising our care of the girls. She informed us that the girls’ mother had wanted a picture of them with a Santa Claus. This was a surprise to us, because the biological parents had not requested this. Despite weekly communications with the girls’ mother, she had never told us she wanted her girls to have a picture with a Santa Claus. Ms. Lindsay castigated us on several occasions for not having the girls photographed with Santa Claus, indicating that, as foster parents, we were required to do so because, apparently, it was a part of the girls’ cultural needs.
16. We were increasingly alarmed at Ms. Lindsay’s fixations, and the air of unreality that our relationship with her was taking on. From our perspective, we were doing everything that a good foster parent should. The girls in our care were loved and well cared for. Ms. Lindsay’s constant haranguing was a source of stress and anxiety. After phone calls with Ms. Lindsay, it was hard to put on a smile and

pretend all was well, for the girls' sake. Further, I could not discuss these phone calls with Derek until the girls were sleeping, so as not to disturb their sense of security in our home, which resulted in my having trouble sleeping.

Violation of Applicants' Charter Rights

17. In late February 2016, Ms. Lindsay dramatically escalated the issue by informing us that the girls would be taken away from us and our foster home permanently closed if we refused to inform the girls that the Easter Bunny was a real entity. My husband and I were shocked, and had an awful sense of unreality. We were distressed by Ms. Lindsay's fixation on this issue. We informed Ms. Lindsay that we were being reasonable by doing Easter activities which we would not otherwise participate in, such as hiding and finding chocolate eggs, buying special 'Easter' dresses for the girls, etc.. While going out of our way to comply with Ms. Lindsay's wishes as much as we could, we would not lie, for we believe all lying to be morally wrong. We also reminded Ms. Lindsay of the girls' happiness in our home, and our desire to care for them until they could be returned to their parental home.
18. We also repeatedly told Ms. Lindsay that we were not making any effort to convince the girls that there was no such entity as the Easter Bunny, and that we had no intention of telling the girls that the Easter Bunny was not real, unless the girls directly asked us. However, Ms. Lindsay insisted that to fulfil our responsibilities as foster parents, we must positively tell the girls that the Easter Bunny was a real entity.
19. Seeing that we could not fulfil Ms. Lindsay's requirement without violating our beliefs that it is wrong to lie, we offered to let the girls stay with another foster family over the Easter period. Ms. Lindsay refused to consider this offer.
20. On or about the end of February, we again spoke with Ms. Lindsay over the phone. She informed us that she had met with other senior staff of the Respondent, who apparently confirmed that our foster girls would be taken from us, and that our foster home would be closed, if we refused to tell the girls

proactively that the Easter Bunny was real. We could not believe what we were hearing, and felt anxious and frustrated. During the same conversation, Ms. Lindsay also introduced a new, offensive and entirely unfounded complaint against us: she informed us that she was personally afraid that if a same-sex adoptive couple met us, that we would not treat them well. Ms. Lindsay repeatedly made derogatory statements and disparaging accusations against us based on our Christian faith. She stated that she did not think we would treat same sex couples with respect, and that we might teach the children who were to be adopted that the couple was “living in sin”, thereby prejudicing the foster children against the adoptive parents.

21. Ms. Lindsay’s comments did not relate to any actual situations we were facing as foster parents. We had not interacted with any prospective adoptive couples, nor would we be doing so, because the plan with our foster girls was that they would be reunited with their biological family. We repeatedly protested this offensive allegation. We assured Ms. Lindsay that we would treat any same-sex adoptive parents as people worthy of dignity and respect. Yet, Ms. Lindsay, without any factual basis or grounding, persisted in telling us that because of our religious faith, we would discriminate against same-sex couples. Ms. Lindsay told us that she intended to prevent us from ever encountering a same-sex couple, and that she intended to close our foster home.

22. On March 3, 2016, Ms. Lindsay told us that our foster home would be shut down, and the girls would be taken away the next morning. We requested a transition period for the girls, which was denied. This denial was cruel and needless. We did not think such a sudden transition was wise or appropriate for the girls, who should have been given more than 24 hours to process the change. We were required to tell the girls that they were going to leave our home the next day. They asked us many questions. They are intelligent girls, who wanted to know everything, and trusted us to tell them the truth. We could not answer the girls’ questions about where they were going, because Ms. Lindsay refused to provide any information. It was only after we specifically asked Ms. Lindsay that we were able to

assure the girls that they would be kept together. We had poured our lives into taking care of the girls. To have them suddenly ripped away from us was deeply painful.

23. The girls' most persistent question was why they were being taken away from us. There was no good answer to this question. We did not want to discuss the Easter Bunny or Ms. Lindsay's other unreasonable and offensive accusations. We explained to them that we believed in telling the truth, and that we were in trouble for refusing to tell them something that was not true, because we did not believe in lying.
24. We earnestly appealed to the Respondent to keep our foster home open. In conversation with Ms. Lindsay, we asked if the Respondent would keep our home open, even if it was just for infants. We also asked Ms. Lindsay whether our home could be kept open for children from families that did not engage in the cultural practices of Santa Claus and the Easter Bunny. The Respondent refused all these requests.
25. On the morning of March 4, 2016, the Respondent removed the foster girls from our home. It seemed unreal. The girls knew the worker who picked them up, so they went easily, even with a smile as she got them engaged. I don't think they fully understood. They had often been picked up by various drivers to visit their mother. The girls viewed it as a short trip away, saying things like "see you later" and "when we come back". They didn't seem to grasp that they weren't coming back. When they left, we smiled and waved for their sake, wanting their transition to go as well as we could possibly make it go. It was the days after they left that the house felt empty without them. I lacked desire to do anything. As remains of their belongings kept popping up—we had so little time to pack the girls' belongings that we weren't able to collect everything—it finally struck me that they weren't coming back. Several weeks later the girls' worker stopped by to pick up their remaining belongings, including the scrapbooks I had made for the girls, which I had purposely held on to so I could finish the scrapbooks before sending them on. The scrapbooks were my final way of showing our love and care,

and to provide them with reminders of all the good times we had together. A picture of the girls is still on our fridge, so we can remember the happy times we shared.

Attempts to Appeal the Decision

26. After the girls were taken away and we had been told we could no longer be foster parents, we contacted the United Foster Parents of Canada Corporation (UFPCC) seeking their help in appealing the Respondent's decision and mediating a resolution. A few weeks after we contacted UFPCC in early March 2016, we were informed that representatives of UFPCC had met with the Respondent to appeal the closure of our foster home. We had not been notified in advance of this meeting, or invited to attend. Following the meeting, UFPCC told us that their meeting with the Respondent had been fruitless and there was nothing further they could do to help.
27. On March 16, 2016, the Respondent sent us a letter (attached as **Exhibit "F"** to this affidavit) confirming that they had closed our foster home.
28. After receiving the letter, we called Ms. Karen Chardola, the Respondent's Supervisor of Resource, Placement and Support, who along with Ms. Lindsay had signed the letter, and asked what we could do to appeal the closure of our home. Ms. Chardola stated that there was no appeal, and that our home was shut down because we were not prepared to change our behaviour to meet cultural needs. We asked Ms. Chardola if we could tell our side of the story, and she told us to write a letter which would be put in our file.
29. In a letter dated April 13, 2016, to Ms. Lindsay and Ms. Chardola (attached as **Exhibit "G"** to this affidavit), we reiterated our position.
30. The Respondent did not respond to our letter, or advise us of any other options to appeal their closure of our foster home.

Our Request for Our File

31. We are concerned at how the Respondent's closure of our foster home will limit our chances of serving as foster parents, or even adoptive parents, in the future. In December 2016, we called the Respondent to request a copy of our file. Eventually after several calls, we were connected with Julie Joel, who told us to send a fax specifying whether we needed the file for legal or personal use. Ms. Joel said that once they received the fax, they would send us a consent form in order to release our file. On January 9, 2017, we sent a letter to the Respondent requesting our file (attached as **Exhibit "H"** to this affidavit).
32. After we sent our letter, we received a call from the Respondent's senior counsel, James Wood, in which he tersely stated that our file belonged to the Respondent and would not be released to us.
33. On January 27, 2017, we sent another letter requesting our file (attached as **Exhibit "I"** to this affidavit), and received a written reply from the Respondent on January 31, 2017 (attached as **Exhibit "J"** to this affidavit), confirming the Respondent's prior refusal to provide us with our file.
34. We verily believe that it is not a cultural requirement to believe in the Easter Bunny or to promote belief in this entity as real. Neither of our foster girls' biological parents had ever communicated to us that they required or desired that we tell their girls that the Easter Bunny or Santa Claus is real. We are capable, loving and responsible caretakers. We are informed by our counsel, and do verily believe, that Canada is a multicultural society where many people believe many things, and yet each person must be treated equally before the law. We believe that there are many Canadians of diverse ethnic and cultural backgrounds who do not believe in, or celebrate, the Easter Bunny, and who could nevertheless be good foster parents. There are many Canadians who do not believe in the Easter Bunny, Santa Claus, or God, for that matter. Yet they are permitted to be foster parents without being subjected to the emotional and procedural abuses that our foster girls suffered through, and that we suffered through.

35. We want very much to be foster parents again; to help and serve children in need. The unfair and biased record created by the Respondent, without proper process or any meaningful avenue of appeal is an offence to the Rule of Law and procedural fairness, and our *Charter* rights as Canadians.

36. I respectfully make this Affidavit in support of the accompanying Application and for no improper purpose.

Sworn before me at the City of Calgary
in the Province of Alberta, on April 10th, 2017.



Marty Moore
Barrister and Solicitor


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FRANCES BAARS AND DEREK BAARS
v.
THE CHILDREN'S AID SOCIETY OF HAMILTON

Court file no.

ONTARIO SUPERIOR COURT OF JUSTICE

Proceeding commenced at Hamilton

AFFIDAVIT OF FRANCE BAARS

Sworn April 10th, 2017

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