



# Justice Centre for Constitutional Freedoms

March 31, 2017

Via email (hard copy to follow): [Janice.Harland@novascotia.ca](mailto:Janice.Harland@novascotia.ca)

Janice Harland  
Director of Road Safety  
Registrar of Motor Vehicles  
1672 Granville Street  
PO Box 186  
Halifax, NS B3J 2N2

Dear Ms. Harland,

***RE: Violation of Freedom of Expression by Cancelling Personalized License Plate***

We represent Lorne Grabher, whose personalized license plate featuring his surname was cancelled as of January 13, 2017.

### **Background**

Mr. Grabher received a letter dated December 9, 2016, from the Office of the Registrar of Motor Vehicles (the “Registrar”) which stated that a complaint had been received regarding his personalized license plate. As a result of the complaint, the Registrar decided to cancel Mr. Grabher’s plate, despite acknowledging it was an explicit reference to Mr. Grabher’s surname. The reason provided for the cancellation was that the plate could be “misinterpreted” as a “socially unacceptable slogan”.

Mr. Grabher responded to the Registrar on December 19, 2016, and reminded the Registrar that the license plate had been used by three generations of his family, for over 20 years. Each successive year the plate was renewed, without incident, and at no time was our client advised that the plate had been the subject of complaints or community concern.

### **Government’s obligations when addressing expression in a free society**

Canada’s Constitution preserves Canada as a free and democratic society. As such, governments at all levels are required to respect fundamental freedoms, including freedom of expression. Practically, this requires that when a concern is raised relating to expression, government

agencies, such as the Registrar of Motor Vehicles, must respect free expression, and only limit expression in a minimal way if to do so is truly necessary to meet a pressing and substantial concern.

In the present case, your office received a complaint concerning Mr. Grabher's license plate. Your office is obligated by the *Canadian Charter of Rights and Freedoms* to respect Mr. Grabher's freedom of expression, including his right to self-fulfillment in publicly expressing his own name,<sup>1</sup> a right which you have respected for over 20 years. In responding to the anonymous complaint, it would be appropriate for your office to inform the complainant that this is someone's surname, and that it is unreasonable to imply a separation between the letters and an offensive interpretation.

Instead of respecting freedom of expression as protected by the *Charter*, your office simply and directly banned Mr. Grabher's last name from appearing on his license plate. Your response is arbitrary and unreasonable. Mr. Grabher's surname is unaltered. It was not obscene or inappropriate during the past 20 years, and it is not obscene or inappropriate today.

Arbitrary action, as in the instant case, is an affront to the dignity of Canadians, and particularly those Canadians who are not of Anglo-Saxon descent. The name Grabher belongs to many Canadians, both personally and in business. For example, Mr. Grabher's wife's own company is Grabher's Consulting. Is the name of her business an offense to the community? We think not.

Your office's "knee jerk" reaction is a response to the complainant's mistaken feeling of offense. Had you considered the matter carefully, the complaint could have been resolved by a simple explanation that the license plate contains a person's surname. Your actions in handling this matter are discriminatory and unjustifiable in Canada's free society.

### **Conclusion**

In a multicultural society, government must respect individuals' heritage and freedom, and encourage community understanding. Pandering to an unreasonable complaint and canceling our client's plate perpetuates misunderstanding, subverts the dignity and heritage of our client and many other Canadians, and violates the freedom of expression protected by the *Charter*.

We request that you reinstate Mr. Grabher's personalized license plate, listing his surname, no later than Thursday April 6, 2017.

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<sup>1</sup> The freedom of expression is animated by the three purposes: democratic discourse, truth finding and self-fulfillment. See *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 SCR 927, at p. 976.

If by April 6, 2017, you have not provided us with written confirmation evidencing your commitment to reinstating the license plate, our client will have no choice but to take further steps to assert his legal rights.

Govern yourself accordingly.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Carpay', written over a horizontal line.

John Carpay

Justice Centre for Constitutional Freedoms

Counsel for Lorne Grabher