



June 21, 2017

[REDACTED]

Geoff Oberg, Board Chair
Edmonton Northlands
P.O. Box 1480
Edmonton, Alberta, Canada T5J 2N5

Dear Mr. Oberg,

RE: Klondike Days and Edmonton Pro-Life

We have been retained by Edmonton Pro-Life (“EPL”) in regard to Edmonton Northlands’ (“Northlands”) refusal to permit EPL to have a booth at the 2017 K-Days festival (“K-Days”), which takes place this year from July 21 – July 30.

As you are aware, Northlands operates K-Days. EPL has had a booth at K-Days for over 15 consecutive years, and has never before had difficulty registering a booth for K-Days. Despite the foregoing, on January 6, 2017, a Northlands “Exhibit Sales Specialist” emailed EPL and informed our client that EPL would no longer be permitted to have a booth at K-Days because Northlands had adopted a new policy prohibiting “political and religious organizations” from having booths at K-Days (the “Decision”).

We hereby request that you reconsider the Decision, as well as the applicability of Northland’s supposed “new policy”, which our client was not provided a copy of, despite several requests, nor were we able to locate anywhere in any of Northlands’ materials available online. Aside from the obvious fact that EPL is neither a religious nor political organization, and therefore is not precluded under the “new policy”, the Decision is arbitrary and unreasonable. After more than 15 years of uninterrupted booths at K-Days, Northlands has provided insufficient and unintelligible justification for the Decision.

Further, K-Days is operated on property owned entirely by the City of Edmonton (the “City”). Northlands receives the bulk of its funds from government, and numerous government representatives and employees are on the board of Northlands, such as the mayor of the City, Don Iveson, two City councillors, a provincial MLA, a representative from Alberta Health Services, and a seat for a federal appointee.

Given the substantial connection between Northlands and municipal and provincial government, the fact that K-Days takes place on municipal land (leased to Northlands for the grand sum of \$1) and Northlands’ continued accountability to the City in regard to the use of the funds it receives, the *Canadian Charter of Rights and Freedoms* applies to the Decision to prevent the expression of EPL, and is an infringement of section 2(b) of the *Charter*.



Justice Centre for Constitutional Freedoms

Canada's Constitution preserves Canada as a free and democratic society. It is a hallmark of our democracy that freedom of expression is safeguarded by the Courts as a fundamental necessity.¹

As the Supreme Court of Canada stated in *Irwin Toy Ltd. v. Quebec (Attorney General)*,² freedom of expression was guaranteed in the *Charter* "so as to ensure that everyone can manifest their thoughts, opinions, beliefs, indeed all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream". In our view, it is apparent that the exclusion of EPL is related solely to the content of its expression, and not to any legitimate application of the "new policy".

Separate and apart from the *Charter*, the Decision is unreasonable, violates the administrative law principles of procedural fairness, has the appearance of bias, and fails to meet the standard of proper exercise of discretion as set out by the Supreme Court of Canada in *Roncarelli v. Duplessis*,³ *Baker v. Canada (Minister of Citizenship and Immigration)*,⁴ and *Blencoe v British Columbia (Human Rights Commission)*,⁵ and *Dunsmuir v. New Brunswick*.⁶

We request that Northlands reconsider its Decision to preclude EPL from having a booth at K-Days. We request a response to this letter by Wednesday, June 28, 2017, failing which we expect to obtain instructions to take further steps to assert EPL's legal rights. In particular, if it remains Northlands' position that EPL is either a religious or a political organization and therefore is precluded from having a booth by the "new policy", we request that Northlands advise in writing as to which excluded group EPL falls under – religious or political – and Northland's rationale behind this assertion.

We look forward to your response.

Sincerely,

Michelle Gussdal

For Jay Cameron, B.A., LL.B.
Justice Centre for Constitutional Freedoms
Counsel for Edmonton Pro-Life

Cc: Edmonton Northlands Board via email

¹ See, for example, *Saskatchewan (Human Rights Commission) v. Whatcott*, [2013] 1 SCR 467, at para. 64.

² 1989 CanLII 87 (SCC) at p. 968

³ [1959] SCR 121

⁴ [1999] 2 SCR 817

⁵ [2000] 2 SCR 307

⁶ [2008] 1 SCR 190