



Justice Centre

for Constitutional Freedoms

October 10, 2017

VIA EMAIL AND FACSIMILE

Terry Schneider
Director of Legislation & Procedures, City of Yorkton
P.O. Box 400
Yorkton SK S3N 2W3
Fax: 306-786-6880
tschneider@yorkton.ca

Dear Mr. Schneider,

Re: Yorkton's failure to uphold the rule of law and to adhere to its duty of neutrality

We write on behalf of Ted Deneschuk, President of Parkland Right for Life. The City of Yorkton has rejected Mr. Deneschuk's application for the City to proclaim a "Right for Life" week, and in doing so, the City has breached its duty of neutrality and has acted arbitrarily, unreasonably and with bias.

We request that the City of Yorkton cease its discriminatory treatment of pro-life views and of Mr. Deneschuk.

Background

On September 5, 2017, the President of Parkland Right for Life, Ted Deneschuk requested to appear before Yorkton City Council, to provide oral submissions in support of an application to have the City proclaim the week of October 1-7, 2017 as "Right for Life" week.

On September 6, 2017, you informed Mr. Deneschuk that the City had decided to deny his request. You indicated that the City Manager, the Mayor and yourself were the officials responsible for the decision. You then sent Mr. Deneschuk a letter, also on September 6, stating that his request was denied because a "Right for Life" week proclamation would contravene section 3.B.ii of the City's *Proclamation Policy*. The relevant section of the *Proclamation Policy* reads:

B. Proclamations will not be issued for:

...

ii. Matters of political controversy, ideological, or religious beliefs or individual, [sic] conviction;

Notwithstanding the *Proclamation Policy*, the City has made a practice of issuing proclamations for controversial, ideological and religious subjects. For example, the week of March 26-April 1, 2017 was proclaimed by the City as “Gender Diversity Week” on the application of Laura Budd, Education Coordinator of Moose Jaw Pride Incorporated, and May 13, 2017 was proclaimed as “Falun Dafa Day” on application of the Falun Dafa Association of Canada.¹

Government Duty of Neutrality

Canada’s Constitution preserves Canada as a free and democratic society. As such, governments at all levels are required to maintain neutrality regarding philosophical, ideological, and religious beliefs. The *Canadian Charter of Rights and Freedoms* (the “*Charter*”) requires that the City neither “favour nor hinder any particular belief, and the same holds true for non-belief”:

Mouvement laïque québécois v Saguenay (City), 2015 SCC 16, at para. 72. By mislabeling the proposed “Right for Life” week, and its associated pro-life viewpoint, as a “matter of political controversy, ideological, or religious beliefs or individual conviction”, but issuing proclamations regarding the belief in alternative genders (which remains deeply controversial in Canada) and Buddhist spiritual meditation, the City has violated its duty of neutrality, acted in a biased and arbitrary fashion, and engaged in the very favouritism prohibited by the Supreme Court of Canada.

Section 3.i of the *Proclamation Policy* states that proclamations may be issued “to support public awareness campaigns”. The City has invited the public to use proclamations to “encourage public awareness” and “educate and inform the citizens of the City”. Further, proclamations are designed to publicly convey “a message of importance, interest and/or benefit to the community”. A proclamation regarding “Right for Life” is of importance, interest and benefit to the community and would educate and raise awareness concerning issues of life. It is unreasonable to label increased awareness of, and advocacy for, the inherent value of human life as somehow “controversial” simply because some (or even all) elected officials or government employees disagree with pro-life views. There is nothing ideological or religious about promoting the value of human life. In fact, section 7 of the *Charter* expressly accords constitutional protection to the right to life.

To the extent the City of Yorkton relies on its *Proclamation Policy* to discriminate against viewpoints it disagrees with, such reliance is unwarranted. In *Greater Vancouver Transportation Authority v Canadian Federation of Students — British Columbia Component*, 2009 SCC 31, the Supreme Court of Canada struck down policies that prohibited controversial and political advertisements, finding that those policies prohibited a “highly valued form of expression in a public location that serves as an important place for public discourse.”

¹ Falun Dafa is an advanced practice of Buddha school of self-cultivation: <http://en.falundafa.org/introduction.html>.

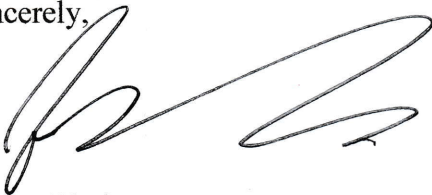
Conclusion

The City of Yorkton's discrimination against pro-life views and Mr. Deneschuk is unlawful. We request that the City reverse its arbitrary and biased decision to deny Mr. Deneschuk's application, and grant the application to proclaim a "Right for Life" week on the first available week.

We request a response from the City of Yorkton no later than close of business on October 18, 2017.

Govern yourself accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Kitchen', with a stylized, flowing script.

James Kitchen
Barrister and Solicitor
jkitchen@jccf.ca