

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)**

BETWEEN:

MADELINE WELD

Applicant

-and-

OTTAWA PUBLIC LIBRARY

Respondent

AFFIDAVIT OF DANIELLE MCDONALD

I, DANIELLE MCDONALD, of the City of Ottawa, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Chief Executive Officer (“CEO”) of the Ottawa Public Library (“OPL”) and as such, I have personal knowledge of the information hereinafter deposed. Where I make statements in this Affidavit based on information that is not within my personal knowledge, I have provided the source of such information and have stated my belief that the information is true.

The Governing Structure of the Ottawa Public Library

2. The Ottawa Public Library (“OPL”) was created in 2001 following the amalgamation of eleven municipal library systems within the Ottawa-Carleton region.
3. The Ottawa Public Library Board of Trustees (“Board”) composed of nine members (four elected councillors and five citizens) governs the OPL under the *Public Libraries Act*.

4. The Board is an independent agency from the City Council. As per the *Public Libraries Act*, there are only two matters for which City Council approval is required: a) budget (estimate), b) real property (sale or purchase of land or buildings).
5. The Board's primary focus is on setting strategic directions and objectives. It delegates authority to the CEO to create, oversee, implement and modify, if necessary, administrative and operational policies, such as the Meeting Room Booking policy, procedures, and terms and conditions.
6. For instance, some of my roles and responsibilities as CEO are:
 - a. providing leadership to the organization and its employees;
 - b. planning, organizing, and directing the operations;
 - c. interpreting Board policy on the library's purpose, direction, and strategies;
 - d. developing and implementing a policy and process for delegating decision-making to staff as appropriate;
 - e. implementing and enforcing ethical and behavioural guidelines, and monitoring adherence by library employees and customers;
 - f. developing, implementing, and managing a comprehensive risk management system;
 - and
 - g. being the public spokesperson for the library.
7. Therefore, as CEO I oversee the administrative or operational details of the OPL and its staff. Again, my powers and duties are delegated from the Board, which is an independent agent from the City Council.
8. More of my roles and responsibilities are outlined in Policy 009 (instated policy at the time) attached hereto as **Exhibit A** to my Affidavit.

The Viewing of "Killing Europe"

9. On or about October 25, 2017, Ms. Weld, on behalf of *ACT! for Canada*, booked the auditorium of the Main Branch to view the documentary *Killing Europe*. The booking request is attached

as **Exhibit B** to my Affidavit. This was the first time that I heard of the documentary *Killing Europe*.

10. To reserve a meeting room, a patron must fill out the online Booking Form which requires to describe the purpose of the booking, list topics for discussion and name the speakers and their affiliation.
11. Very little information was provided on the booking request other than the following sentence:
“We would like to show the film *Killing Europe*”.
12. However, it was through an email with an attachment of a Facebook posting that the Senior Management Team subsequently learned that after the showing, Michael Hansen, the producer, would answer questions and discuss the existential threat that Islam poses for the West. The Facebook posting is attached hereto as **Exhibit C** to my Affidavit.
13. On or about November 14, 2017, Catherine Seaman, the Division Manager, Branch Operations, contacted Ms. Weld to review the terms of the rental agreement, informed her of potential demonstrations based on the content of the documentary, and asked that *ACT! for Canada* hires police officers for the day of the event to ensure the security of the attendees and of the OPL premises/property.
14. On the same day, Catherine Seaman sent an email to Ms. Weld with a link to the Ottawa Police Services site with the details to booking a police officer. Attached as **Exhibit D** to my Affidavit is a copy of the email.
15. On or about November 16, 2017, constables from the Ottawa Police Services Special events unit visited the OPL and asked that staff be aware of the event and to call Ottawa Police Services if there were issues on the day of the event.
16. On or about November 21, 2017, Catherine Seaman verified with an *ACT! for Canada* representative’s whether they had booked a police officer.

17. *ACT! of Canada* was informed by the Ottawa Police Services that paid duty officers would not be available for the film screening. Therefore, Catherine Seaman contacted Ms. Weld to ask *ACT! for Canada* to cover the cost of two security guards.
18. Ms. Weld agreed to Catherine Seeman's request.
19. Throughout the weeks, the OPL received numerous objections toward the screening of *Killing Europe* because it was in contravention with the OPL's Terms and Conditions for rental bookings.
20. On or about November 23, 2017, Anthony Westenbroek, the Manager of the Main Branch contacted Neptune Security to have two additional security guards on site as a precaution because the number of complaints and objections regarding the viewing of the documentary was increasing and because they were worried that protests might occur.
21. On that day, in my capacity as CEO and subsequent to a full discussion with the Senior Management Team, we all agreed that based on the trailer of the documentary and the comments received from the public, the movie was likely to promote hatred and therefore it was hard to defend proceeding with the booking based on the language of our terms and conditions. The hyperlink of the trailer of the documentary is attached as **Exhibit E** of my Affidavit.
22. A cancellation email was sent on November 24, 2017, to Ms. Weld. A copy of the email is attached as **Exhibit F** to my Affidavit.
23. Furthermore, although not required by the Meeting Room Booking Policy and the Meeting Room Booking Terms and Conditions, OPL provided the organization with a 24 hours cancellation notice and a full reimbursement.

The Rental Contract

24. Any individuals or group who wishes to rent a meeting room must enter into a contract with the OPL subject to the Meeting Room Booking policy and its associated Meeting Room Booking Terms and Conditions.
25. The Meeting Room Booking policy attached hereto as **Exhibit G** to my Affidavit states that “library meeting rooms are provided as community service to individuals and organizations”.
26. It further mentions that the OPL “will make available meeting room space to the public on a fee basis and in a fair and consistent manner”.
27. Paragraph 10 of the Meeting Room Booking Terms and Conditions requires that the individual or organization making the booking respect all laws, by-laws and OPL policies. The Terms and Conditions are attached as **Exhibit H** to my Affidavit.
28. Paragraph 33 of the Meeting Room Booking Terms and Conditions specifically addresses cancellation. Under section 33, the OPL reserves the right to, *inter alia*, cancel the rental contract at any time in the case of emergencies, when unforeseen circumstances arise, when the person using the facility willfully damages OPL’s property or when the OPL facilities are used to promote or are likely to promote discrimination, contempt or hatred.
29. The OPL took the decision to terminate the contract with Ms. Weld, the representative of *ACT! For Canada*, pursuant to paragraph 33 of the Meeting Room Booking Terms and Conditions.

Intellectual Freedom and Freedom of Speech

30. The Intellectual Freedom Position Statement, which is attached as **Exhibit I** to my Affidavit, recognizes that intellectual freedom is a fundamental tenet of public libraries.

31. The Intellectual Freedom Position Statements provides the following: “The OPL statement on Intellectual Freedom does not apply to the expression or dissemination of views that promote and/or incite hatred as defined by the *Criminal Code of Canada*. Such communications are prohibited on library premises and may result in a person’s immediate expulsion from the premises and referral of the matter to the Ottawa Police Services”.
32. As for the freedom of speech, unlike intellectual freedom, the OPL does not have an express policy or statement on that matter. Indeed, the only mention of the constitutionally recognized freedom of speech is through the Intellectual Freedom Position Statement. A screenshot of the OPL website Library policies and statements page are attached at **Exhibit J** to my Affidavit.
33. The OPL is not a government entity and it is not fully integrated into a governmental organ (i.e. municipal council). Indeed, as per Board policy 001 and policy 002 (instated policies at the time) attached respectively as **Exhibits K and L** to my Affidavit, it is the responsibility of the OPL Board to manage its own affairs, allocate its fund and to pursue its own goals.
34. Policy 001 explicitly states that: “The Board is accountable for the full range of decisions affecting the Ottawa Public Library [...] Its attention is on the long-term needs and goals for the library, not the administrative or operational details”.
35. I make this Affidavit in response to the Application to Divisional Court for Judicial Review and for no other purpose.

SWORN BEFORE ME at the City of
Ottawa, in the Province of Ontario on
December 14, 2018



Commissioner for Taking Affidavits
(or as may be)



DANIELLE MCDONALD

Michel Doucet
a Commissioner, etc.,
Province of Ontario,
for Caza Saikaley s.r.l./LLP
Law Firm.
Expires November 3, 2020

This is **Exhibit "A"** to the Affidavit of
Danielle McDonald sworn in the City of
Ottawa, on this 14th day of December 2018



Commissioner of affidavits, etc.

Michel Doucet
a Commissioner, etc.,
Province of Ontario,
for Caza Saikaley s.r.l./LLP
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009 - OPLB Roles and Responsibilities of the CEO

CEO Role

The CEO has two fundamental roles: one is to act as the primary advisor to the Ottawa Public Library Board (the Board); the other is to be the operational leader and manager of the library.

The CEO is accountable for the full range of operational outcomes and results of the library as well as all decisions delegated to him or her by the Board under the Delegation of Authority Policy.

CEO Responsibilities

As the primary advisor to the Board, the CEO's responsibilities include:

- identifying and explaining the impact of new legislation and regulations;
- identifying and recommending potential changes to the Board's Rules of Procedure By-laws;
- recommending policies, mission, values, goals, objectives, frameworks, and plans;
- recommending good governance practices and advising the Board regarding procedural and policy issues as may be appropriate;
- facilitating the work and business of the Board;
- informing the Board on all issues of substance;
- developing and maintaining an effective working relationship with the Chair and Trustees;
- working closely and cooperatively with the Chair and Trustees on all Board matters;
- assisting the Board by organizing a new Trustee orientation and ongoing education; and,
- completing all duties as, and reporting to the Board on issues related to being the secretary and/or treasurer.

As the Chief Executive Officer, the CEO's responsibilities include:

- understanding and adhering to the Public Libraries Act;
- providing leadership to the organization and its employees;

- implementing Board policies and directions;
- planning, organizing, and directing the operations;
- interpreting Board policy on the library's purpose, direction, and strategies;
- selecting, managing compensation, setting objectives for, and assessing the performance of the senior management team;
- adhering to the Delegation of Authority Policy which defines the CEO's decision-making powers as delegated from the Board;
- developing and implementing a policy and process for delegating decision-making to staff as appropriate;
- ensuring the proper stewardship of all financial affairs and resources;
- developing and recommending major strategies, plans, and decisions;
- developing and recommending objectives for, and reporting on the performance of the library;
- ensuring that the library meets the community's needs, as well as its stated goals and City Council's budgetary directions;
- developing and maintaining the adequacy of financial reporting and controls, and financial information systems;
- implementing and enforcing ethical and behavioural guidelines, and monitoring adherence by library employees and customers;
- developing, implementing, and managing a comprehensive risk management system;
- working with the Board to develop, implement, and utilize a CEO performance management process;
- being the public spokesperson for the library;
- acting as a link between the library, the community, and City of Ottawa staff;
- ensuring that his or her membership or duties in other bodies will not interfere with duties as the CEO, nor bring the library into disrepute nor place him or her in a conflict of interest; and,
- reporting regularly on the library's effectiveness to the Board.

The detailed list of CEO decision-making authority as delegated by the Board is contained in the Delegation of Authority policy (002-OPLB).

| | |
|--|--|
| Effective Date: February 10, 2015 | Last Review Date: November 30, 2011 |
|--|--|

This is **Exhibit "B"** to the Affidavit of
Danielle McDonald sworn in the City of
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Edit booking

[View \(/en/booking/76255\)](/en/booking/76255)[Edit \(/en/booking/76255/edit\)](/en/booking/76255/edit)

A note about the reservation time

Please note that the reservation time must include any setup time needed. The reservation time indicates the time at which the room is required. The start time of the event = reservation time + setup time.)

Nov 25, 2017

Availability

Start

End

Details

Booked

9:00am

1:30pm

[OPL \(/en/booking/81081\)](/en/booking/81081)

Available

1:30pm

4:30pm

Booking ID: 76255

Status

Cancelled



Booking Moderation

Comments

If you have any comments you wish to send to the user, include them here.

Booking Info

- **Date:** Nov 25, 2017
- **Branch:** Main
- **Room/Equipment:** Auditorium

Time *

1:30 pm

Enter the time at which the booking should start.

Duration *

2 hours 30 min ▼

Select the length of time for your booking. Bookings are charged at an hourly rate. See our [room rates \(/en/room-rates\)](#) for more details.

Registrant Info

Library card number

22950015970585

First name *

Madeline

Last name *

Weld

Organization

ACT for Canada

If you are making a non profit booking or have a partnership with the library, please enter the name of your organization. If you are not booking/renting on behalf of an organization or business, please enter "Not applicable".

Email *

madweld@rogers.com

You can edit your email in your account settings
(<https://biblioottawalibrary.ca/notification>)

Phone number

613-833-3198

Expected attendance

N/A

Please note that the max capacity for this room is 189. You may leave this field blank if you are uncertain as to the projected capacity

Purpose *

We would like to show the film "Killing Europe."

Please describe the purpose of your booking. Please list topics for discussion and names of speakers and their affiliation. Meeting room users are subject to rules of the Customer Conduct Position Statement and activities should not interfere with normal library operations.

Notes

We will need a table outside the auditorium and if possible one inside as well.

If you have any special information you wish to include with your registration, please include it here.

Rate selection

Rate class

Private activity: \$57.52 ▼

Bookings are charged at an hourly rate. See our **room rates (/en/room-rates)** for more details. Time includes any setup and takedown required for the meeting. All rates include applicable taxes.

Rate: \$172.56 + Tax: \$22.43 = Total: \$194.99

- ☒ I have read and agree to the **room booking policy (/en/meeting-room-booking-policy).** *

Submit



This is **Exhibit "C"** to the Affidavit of
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a Commissioner, etc.,
Province of Ontario,
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Stephanie McEvoy • Steven Myatt- The Patriotically Correct

2h · 🇺🇸

Please join us at the main branch of the Ottawa Public Library for the showing of "KILLING EUROPE" produced by Michael Hansen, also known as "The Missing Dane." Hansen left his native Denmark for America fifteen years ago. He recently returned to Europe to make his documentary about the changes that have occurred since his departure. The extent of the Islamization of Europe is shocking – terrorist attacks, no-go zones, riots and gang rapes – with those in authority both in denial and cowed, seemingly blind to the catastrophe their "multicultural" doctrine has unleashed. Michael Hansen will be attending the showing of his film and will be available afterwards to answer questions and discuss the existential threat that Islam poses for the West.

https://www.youtube.com/watch?v=eBW_M0evFh8

Date: Saturday, November 25, 2017

Time: 2 p.m. to 4:00 p.m.

Location: Ottawa Public Library, Main Auditorium

Address: 120 Metcalfe St. (corner of Laurier Ave. W.)

Cost: \$20.00; students with ID \$15.00

For further information, please contact info@actforcanada.ca



KILLING EUROPE: Trailer

VIEW AT: <https://vimeo.com/ondemand/killingeurope>

YOUTUBE.COM

This is **Exhibit "D"** to the Affidavit of
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From: Seaman, Catherine
To: "madweld@rogers.com"
Subject: Booking a police officer for the afternoon of Nov. 25th
Date: Tuesday, November 14, 2017 1:26:15 PM
Attachments: image001.gif

Hello Madeline. Here is the link to the Ottawa Police Service site with the details for booking a police officer: <https://www.ottawapolice.ca/en/contact-us/hire-police-for-an-event.asp>. Please let me know once you have a police officer confirmed for the afternoon of November 25th.

Many thanks,

Cathy

Catherine Seaman
Division Manager/Directrice
Branch Operations/Opérations des succursales
5th floor, 120 Metcalfe, Ottawa, ON K1P 5M2
Tel/Tél: 613-580-2424 x24259 cell: 613-894-9509
Fax/Téléc: 613-567-8815
Catherine.Seaman@BiblioOttawaLibrary.ca

This is **Exhibit "E"** to the Affidavit of
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Exhibit E : Hyperlink to the documentary

https://www.youtube.com/watch?v=eBW_M0evFh8

This is **Exhibit "F"** to the Affidavit of
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Riviere, Sheri

From: Marecak, Dylan on behalf of McDonald, Danielle
Sent: Friday, November 24, 2017 11:43 AM
To: madweld@rogers.com
Cc: Seaman, Catherine; Desormeaux, Monique
Subject: OPL Meeting Room Rental - November 25, 2017

Dear Ms. Weld,

I am writing in respect of your rental booking with the Ottawa Public Library for Saturday, November 25th, 2017.

As a result of a number of complaints that have been raised, Library staff have undertaken a further review of the presentation entitled, Killing Europe, which you have proposed to screen at the Ottawa Public Library's Main branch tomorrow.

As you are presumably aware, the Terms and Conditions governing bookings on Ottawa Public Library premises state as follows:

The Library will not provide public space, facilities and/or properties within its jurisdiction to an individual or group that supports or promotes views, ideas or presentations which promote or are likely to promote discrimination, contempt or hatred to any person on the basis of race, national or ethnic origin, color, religion, age, sex, marital status, family status, sexual preference, or disability, gratuitous sex and violence or denigration of the human condition. The Library reserves the right to cancel a contract if any of the above-noted circumstances arise.

Based on my review of the presentation, it is my view that the content falls within the category of material that the Library is not prepared to have displayed or screened on its property. As a result, I must advise that the Library is immediately cancelling the booking in question.

Any deposit paid to reserve the space will be returned to you shortly.

Regards,

DANIELLE MCDONALD

Chief Executive Officer | Directrice générale

Ottawa Public Library | Bibliothèque publique d'Ottawa

120 Metcalfe Street | 120, rue Metcalfe | Ottawa, ON K1P 5M2

☎ 613.580.2424 ext. | poste 32189 | ☎ 613.567.8815 | ✉ danielle.mcdonald@bibliooottawalibrary.ca

This is **Exhibit "G"** to the Affidavit of
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Meeting Room Booking Policy ^[1]

Purpose

To offer meeting spaces in Ottawa Public Library (OPL) locations as a community service to individuals and organizations.

Statement

The OPL is a community meeting place and information source for customers and, as such, will make available meeting room space to the public on a fee basis and in a fair and consistent manner.

The OPL supports intellectual freedom as the prerequisite for an informed, democratic society. In addition, it strives to provide facilities that are welcoming, convenient and accessible and act as a community-gathering place.

Access to Library Meeting Rooms

As a community service, Library Meeting Rooms will be made available to the public for rental purposes.

Priority for the use of Library Meeting Rooms is given to Library and Library partnered meetings, programs or events. When these needs have been met, the Library will accommodate requests from the public. However, with the exception of Library and Library partnered events, events where liquor is served are not permitted.

The Library will only pre-empt customers who have already paid to rent a Library Meeting Room, with sufficient advance notice (two (2) days where possible) when emergencies arise or when unforeseen Library requirements for meeting rooms arise. Payment will be refunded or another booking scheduled, at the preference of the customer.

The Library does not necessarily endorse or recommend the positions, views, programs or policies of those using Library Meeting Rooms, and does not necessarily support statements made during meetings in Library Meeting Rooms.

Bookings

[Click here for a list of meeting rooms available for booking through the OPL Online Meeting Room \(OMeRo\) Booking System](#) ^[2].

All bookings will be reviewed by Branch employees, to ensure groups meet Policy requirements. Branch employees will finalize the Meeting Room transaction by marking it confirmed.

If the booking application does not meet Policy requirements, employees will follow up as required.

Fees

Library Meeting Rooms are provided as a community service and are not rented solely to generate revenue.

Fees include the use of the room's basic equipment installed and supplies as specified in the Library General Terms and Conditions for Rentals. [Click here for a list of fees for meeting rooms available for booking through the OPL Online Meeting Room \(OMeRo\) Booking System](#) ^[3].

The Harmonized Sales Tax of 13% is included in the rental fees.

If paid online through Paymentus (online payment system), totals of \$750 or over are charged a service fee. The customer must check a box agreeing to pay the fee.

Payment of bookings must be verified prior to the customer using the room.

Fees for the use of Library Meeting Rooms are waived in the following circumstances:

- For Library and Library partnered events, meetings, and programs
- For all Ottawa City Council and City of Ottawa employees doing City business
- For training offered by approved English as a Second Language (ESL), Français langue seconde (FLS), literacy groups, and Library Settlement Partnerships organizations

Payments

Payment for meeting room bookings will not be accepted by phone.

Payments may be done online at time of booking or in person at a Library branch within a maximum seven (7) days of making the booking. If not paid within seven (7) days, the booking will be released.

Bookings made under a week's notice must be paid prior to the rental date and time. If not paid, the booking will be released.

When payment is made online, an email will be sent to the customer regarding receipt of payment.

When payment is made in person, the customer will receive a printed receipt.

Customers whose credit cards are declined in Paymentus will need to arrange for payment to be completed in person at a Library branch.

Refunds

Contract holders must give to the Library two (2) business days' (based on the meeting room branch location hours of operation) notice in writing, before the day of the event to cancel or request a modification to their rental contract. Refunds will not be granted once the notification period has expired.

Refunds relating to credit card payments made online using Paymentus will be referred to InfoService.

Refunds relating to payments made in a Library branch will require Contract holders to show the original cash register receipt

Publicity & Signage

In any advertising or promotional material, only the proper name of the Library shall be used, and any such material shall refer to the place of meeting as Ottawa Public Library, name of branch, and shall designate its proper municipal address. No use of the Library's logo is permitted without explicit consent of the Library.

Advertising will not imply endorsement by the Library of the content of the meeting or event.

Permission to post notices of the event or program in the Library must be given by the location's manager.

Signs will be posted outside all meeting rooms that are available for public use, indicating that the positions taken or statements made do not necessarily reflect the opinion of the Ottawa Public Library Board.

Links

[1] <https://bibliottawalibrary.ca/en/meeting-room-booking-policy>

[2] <https://bibliottawalibrary.ca/en/booking-meeting-room>

[3] <https://bibliottawalibrary.ca/en/rates-and-fees>

This is **Exhibit “H”** to the Affidavit of
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Terms and conditions ^[1]

General Terms and Conditions

CONTRACT HOLDER: PLEASE READ ALL OF THESE PROVISIONS

In consideration of the Ottawa Public Library ("Library") issuing the attached Ottawa Public Library Meeting Room Rental Contract ("the contract"), the contract holder (and the sponsoring organization, if applicable) is voluntarily assuming the risks associated with holding the described event and is confirming they have read, fully understand and will adhere to the following general terms and conditions:

The Contract and the Contract holder

The contract holder must be the full age of 18 years.

The contract holder must have a copy of the contract readily available at all times.

The person who signs the contract must be duly authorized to do so on behalf of the contract holder (and of the sponsoring organization, if applicable).

The contract must be accepted online before confirmation of room is given or access to the facility will be denied.

The contract holder and the sponsoring agency cannot transfer or assign the contract without prior authorization from the Library.

It is the responsibility of the contract holder to make all members of its group using the Library facility aware of the terms and conditions of the Rental Contract, and to provide the members with a copy of these terms and conditions, if requested.

THE EVENT

The use of decorations or special effects, not provided by the Library, must comply with public safety and fire regulations and be authorized in advance by the Library Branch. Permission to post notices in the Library must be given by the location's manager or designate.

9. The Library shall seek full restitution for damages caused to the Library facility or equipment by the contract holder, its employees, volunteers or attendees, arising from the use of the facility. The Library may also take such other action as may be deemed necessary to offset any costs incurred by the Library resulting from the use of the facility/premises by the contract holder.

Application of Other Laws

The contract holder must comply with all applicable Federal, Provincial and Municipal by-laws (including but not limited to those relating to taxes, copyright fees, and licensing matters) and shall be responsible for any associated taxes, fees, tariffs and levies that may apply to the use of the facility/premises and function for which this contract is issued. The contract holder must comply with all applicable rules and regulations, policies and procedures of the Library, all City of Ottawa By-laws, including but not limited to By-laws that prohibit smoking, the Noise By-law, Signage By-law, and Parks By-law. Permission to use Library facilities/premises in no way constitutes approval to engage in any unlawful activity or conduct in a manner that would violate any Federal, Provincial or Municipal Law.

The Facility

The contract holder shall use Library facilities/premises, equipment and furnishings provided in a manner consistent with their intended use.

The rental fee covers only the space itself, plus tables and chairs. The inclusion of additional equipment is limited to the equipment permanently installed in the rented meeting room.

Persons using Library facilities are responsible for the set-up and arrangement of the room. The facilities are to be left in their original condition and room arrangement.

Smoking is not permitted in Library facilities or their meeting rooms.

Alcoholic beverages may not be dispensed or consumed on Library property.

Space is allocated for the dates and times stated on the contract only. No storage is permitted in the Library branch between bookings

Only the areas identified on the contract(s) are to be used by the contract holder or sponsoring organization, unless prior authorization has been received from authorized Library employees.

All exits in the facilities must be kept free from obstructions in case of fire or other emergency.

Safety and Responsibility

- The contract holder shall ensure all attendees follow the Library's Customer Code of Conduct.
- The contract holder shall attend the event for which the contract was issued and be responsible for decision making during and after the event.
- The contract holder shall ensure the physical setting in the rented facility is kept safe for participants and the general public attending the event.
- If the contract holder becomes aware of activities or conduct during the use of the facility that could lead to personal injury or property damage, the contract holder shall take immediate and decisive action to prevent participants and the general public attending the event from engaging in these activities or conduct.
- The Library may require a security plan to be submitted by the contract holder and/or the presence of police officers or security guards may be required during the event, the cost of which shall be borne by the contract holder.
- In the event of an incident the contract holder must follow the Incident Reporting Procedures described below. An incident includes bodily injury to the contract holder, a participant and the public, or damage to Library property or third party property.

- Call 911, when Police, Ambulance, Fire etc., assistance is required.
- Immediately advise onsite Library employees of the incident. If a Library employee is not readily available, for major incidents call 311 to report or, for minor incidents, contact Library employees the next working day.

The contract holder, the sponsoring organization, their employees, volunteers and agents, shall cooperate with Library employees, Library representatives, police, investigating authorities and the insurance companies involved in the incident and, shall provide Library employees access to all rental spaces.

INSURANCE

Contract holders and sponsoring organizations renting Library facilities/premises to conduct low risk activities are strongly encouraged to maintain liability insurance coverage to a limit of \$1,000,000 inclusive per occurrence for bodily injury, death and damage to property in one of the following forms: Commercial General Liability, Special Events Liability, Home Owners' Personal Liability, Tenants or Condominium Owners' Personal Liability.

At the discretion of the Library, contract holders or sponsoring organizations renting Library facilities/premises to conduct medium or high risk activities will be required to maintain the above insurance and if requested by the Library, such insurance shall name the Library as an additional insured there under. The Library may require the contract holder or sponsoring organization using Library facilities/premises for medium or high risk activities to provide a Certificate of Insurance evidencing the above insurance coverage prior to holding the described event.

The Library reserves the right to increase the limit of insurance required. Compliance with the above insurance requirement is the sole responsibility of the contract holder or sponsoring organization.

Indemnification

29. The contract holder agrees to indemnify and save harmless the Library from all claims, demands, causes or action, loss, costs or damages that the Library may suffer, incur or be liable for resulting from the contract holder's negligence, acts or omissions, obligations, failure to adhere to the terms of conditions related to the holding of the event described in the contract.

Payments

30. The contract holder shall be held responsible for payment of the contract. Payment is due as specified in the contract and Library Meeting Room Policy.

CANCELLATIONS/REFUNDS

31. Contract holders must give to the Library two (2) business days notice (based on the meeting room branch location hours of operation), in writing, before the day of the event to cancel or request a modification to their rental contract. Refunds will not be granted once the notification period has expired.

32. If requested and granted a modification to the rental period in accordance with item #31 noted above, the Contract holder will be provided with an amended Rental Contract via email reflecting the approved modifications, for information. The terms and conditions of the signed Rental Contract will continue to apply to the rental and use of the facility, and is binding on the Contract holder.

33. The Library reserves the right to cancel the rental contract at any time in the case of emergencies or when unforeseen circumstances arise. In such cases the Library will make every effort to provide the Contract holder with 24 hours' notice of cancellation, however, such notice may not be possible in all circumstances. In the case where the rental period is for more than one day's use, cancellation may be made on any one or more of the booked dates. The Library will make every attempt to grant the Contract holder access to the premises at another time or allow a proportionate rebate for the period of rental time cancelled.

The Library shall have the right to cancel the rental contract immediately without notice if, in the opinion of the Library, the Contract holder or any person(s) using the facility with the consent of the Contract holder, wilfully damages Library property, displays misconduct, unlawfully consumes alcoholic beverages, is in violation of any terms of this rental contract or a City By-law, the Library's Customer Code of Conduct or any applicable Federal or Provincial law.

The Library will not provide public space, facilities and/or properties within its jurisdiction to an individual or group that supports or promotes views, ideas or presentations which promote or are likely to promote discrimination, contempt or hatred to any person on the basis of race, national or ethnic origin, color, religion, age, sex, marital status, family status, sexual preference, or disability, gratuitous sex and violence or denigration of the human condition. The Library reserves the right to cancel a contract if any of the above-noted circumstances arise.

Non-compliance with the terms and conditions of this contract could result in the immediate suspension of the contract(s) or a written warning. A second incidence of non-compliance will result in the cancellation of the contract.

Links

[1] <https://bibliooottawalibrary.ca/en/terms-and-conditions-0>

This is **Exhibit "I"** to the Affidavit of
Danielle McDonald sworn in the City of
Ottawa, on this 14th day of December 2018



Commissioner of affidavits, etc.

Michel Doucet
a Commissioner, etc.,
Province of Ontario,
for Caza Saikaley s.r.l./LLP
Law Firm.
Expires November 3, 2020

Intellectual Freedom ^[1]

The Ottawa Public Library (OPL) supports intellectual curiosity and enquiry, and supports intellectual freedom as the prerequisite for an informed, democratic society as part of its core values as expressed in the *OPL Strategic Directions and Priorities*. The Ottawa Public Library defends “the right of library users to freedom of thought, belief, opinion and expression as the basis of a democratic society”, as embodied in the Canadian Charter of Rights and Freedoms, the Ottawa Public Library values, and as expressed by the Canadian Federation of Library Associations and the Ontario Library Association in their statements on intellectual freedom.

The OPL statement on Intellectual Freedom does not apply to the expression or dissemination of views that promote and/or incite hatred as defined by the *Criminal Code of Canada*. Such communications are prohibited on library premises and may result in a person’s immediate expulsion from the premises and referral of the matter to the Ottawa Police Services.

1. Canadian Federation of Library Associations Statement on Intellectual Freedom (1)

All persons in Canada have the fundamental right, subject only to the Constitution and the law to have access of the full range of knowledge, imagination, ideas, and opinion, and to express their thoughts publicly. Only the courts may abridge free expression rights in Canada.

The Canadian Federation of Library Associations affirms further that libraries have a core responsibility to support, defend, and promote the universal principles of intellectual freedom and privacy.

The Canadian Federation of Library Associations holds that libraries are a key institution in Canada for rendering expressive content accessible and affordable to all. Libraries are essential gateways for all persons living in Canada to advance themselves through literacy, lifelong learning, social engagement, and cultural enrichment.

Libraries have a core responsibility to safeguard and facilitate access to constitutionally protected expressions of knowledge, imagination, ideas, and opinion, including those which some individuals and groups consider unconventional, unpopular, or unacceptable. To this end, and in accordance with their mandates and professional values and standards, libraries provide, defend, and promote equitable access to the widest possible

variety of expressive content and resist calls for censorship and the adoption of systems that deny or restrict access to resources.

Libraries have a core responsibility to safeguard and foster free expression and the right to safe and welcoming places and conditions. To this end, libraries make available their public spaces and services to individuals and groups without discrimination.

Libraries have a core responsibility to safeguard and defend privacy in the individual's pursuit of expressive content. To this end, libraries protect the identities and activities of library users except when required by the courts to cede them.

Furthermore, in accordance with established library policies, procedure and due process, libraries resist efforts to limit the exercise of these responsibilities while recognizing the right of criticism by individuals and groups.

Library employees, volunteers and employers as well as library governing entities have a core responsibility to uphold the principles of intellectual freedom in the performance of their respective roles.

2. Ontario Library Association Statement on the Intellectual Rights of the Individual (2)

In affirming its commitment to the fundamental rights of intellectual freedom, the freedom to read and freedom of the press, as embodied in the Canadian Charter of Rights and Freedoms, the Ontario Library Association declares its acceptance of the following propositions:

1. That the provision of library service to the public is based upon the right of the citizen, under the protection of the law, to judge individually on questions of politics, religion and morality.
2. That intellectual freedom requires freedom to examine other ideas and other interpretations of life than those currently approved by the local community or by society in general, and including those ideas and interpretations, which may be unconventional or unpopular.
3. That freedom of expression includes freedom for a creator to depict what is ugly, shocking and unedifying in life.
4. That free traffic in ideas and opinions is essential to the health and growth of a free society and that the freedom to read, listen and view is fundamental to such free traffic.
5. That it is the responsibility of libraries to maintain the right of intellectual freedom and to implement it consistently in the selection of books, periodicals, films, recordings, other materials, and in the provision of access to electronic sources of information including access to the Internet
6. That it is therefore part of the library's service to its public to resist any attempt by any individual or group within the community it services to abrogate or curtail access to information, the freedom to read, view and listen by demanding the removal of, or restrictions to library information sources in any format

7. That it is equally part of the library's responsibility to its public to ensure that its selection of material is not unduly influenced by the personal opinions of the selectors, but determined by the application of generally accepted standards of accuracy, style and presentation

(1) Canadian Federation of Library Associations *Statement on Intellectual Freedom*, February 2017

(2) Ontario Library Association *Statement on the Intellectual Rights of the Individual*, 1998; reaffirmed by OLA Board of Directors, December 2005.

Approved by the Ottawa Public Library Board on May 9, 2017

Links

[1] <https://bibliootawalibrary.ca/en/intellectual-freedom>

This is **Exhibit "J"** to the Affidavit of
Danielle McDonald sworn in the City of
Ottawa, on this 14th day of December 2018



Commissioner of affidavits, etc.

Michel Doucet
a Commissioner, etc.,
Province of Ontario,
for Caza Saikaley s.r.l./LLP
Law Firm.
Expires November 3, 2020

► **About OPL** (</en/aboutopl>)

Contact us (</en/contact>)

Media room (</en/mediaroom>)

Board of Trustees (/en/opl_board)

Get a library card (</en/card>)

Support OPL (</en/make-donation>)

Ottawa Central Library (<http://ottawacentrallibrary.ca/>)

Library policies and statements

About OPL (Main page) (</en/aboutopl>)

■ Policies and statements (</en/policies>)

Accessible formats and communication supports policy (</en/content/accessible-formats-and-communication-supports-policy>)

Accessibility policy (</en/content/accessibility-policy>)

Commemorative naming policy (</en/node/16285>)

Disability accommodation requests (</en/content/disability-accommodation-requests>)

Display space and bulletin board use policy (</en/content/display-space-and-bulletin-board-use-policy>)

Customer code of conduct (</en/content/customer-code-conduct>)

Intellectual freedom statement (</en/intellectual-freedom>)

Meeting room booking policy (</en/meeting-room-booking-policy>)

Privacy statement (</en/privacy-statement>)

Public network access policy (</en/public-network-access-policy>)

Public computer terms of use (</en/terms-use-public-network>)

Social media policy (</en/social-media-policy>)

Material Selection Criteria (</en/content/material-selection-policy>)

Taking photos / videos (</en/taking-photos-videos>)

OPL contest rules (</en/contestrules>)

Strategic Directions and Priorities 2015-2018 (</en/stratplan>)

Careers (</en/careers-ottawa-public-library>)

Annual reports (</en/annual-report-archive>)

Management team (</en/management-team>)

Partners (</en/partners>)

[History \(/en/node/18718\)](/en/node/18718)

[Fraud and Waste Hotline \(/en/fraud-and-waste-hotline\)](/en/fraud-and-waste-hotline)

[Interactive report on the economic impact of OPL \(/en/impact\)](/en/impact)

[Budget 2018 \(/en/budget-2018\)](/en/budget-2018)

[Accessibility policy \(/en/content/accessibility-policy\)](/en/content/accessibility-policy)

[Accessible formats and communication supports policy](/en/content/accessible-formats-and-communication-supports-policy)

[\(/en/content/accessible-formats-and-communication-supports-policy\)](/en/content/accessible-formats-and-communication-supports-policy)

[Commemorative naming policy \(/en/node/16285\)](/en/node/16285)

[Customer code of conduct \(/en/content/customer-code-conduct\)](/en/content/customer-code-conduct)

[Disability accommodation requests \(/en/content/disability-accommodation-requests\)](/en/content/disability-accommodation-requests)

[Display space and bulletin board use policy \(/en/content/display-space-and-bulletin-board-use-policy\)](/en/content/display-space-and-bulletin-board-use-policy)

[Intellectual Freedom \(/en/intellectual-freedom\)](/en/intellectual-freedom)

[Material Selection Criteria \(/en/content/material-selection-policy\)](/en/content/material-selection-policy)

[Meeting Room Booking Policy \(/en/meeting-room-booking-policy\)](/en/meeting-room-booking-policy)

[Privacy statement \(/en/privacy-statement\)](/en/privacy-statement)

[Public network access policy \(/en/public-network-access-policy\)](/en/public-network-access-policy)

[Social media policy \(/en/social-media-policy\)](/en/social-media-policy)

[Taking photos / videos \(/en/taking-photos-videos\)](/en/taking-photos-videos)

[Terms of use - public network \(/en/terms-use-public-network\)](/en/terms-use-public-network)



About OPL (/en/aboutopl)
Media room (/en/mediaroom)
OPL Board (/en/opl_board)
Get a library card (/en/card)
Loan periods and fees (/en/fees-and-fines)

Donate (/en/make-donation)
Friends of the Ottawa Public Library Association (/en/friends-public-library)
Volunteer (/en/volunteer)

Contact us (/en/contact)
Kids' Zone (/en/kid-zone)
Staff Blogs (/en/staff-blogs)

Accessibility (/en/accessibility)
Loan Periods and Fees (/en/fees-and-fines)
Privacy statement (/en/privacy-statement)
Site map (/en/sitemap)

This is **Exhibit “K”** to the Affidavit of
Danielle McDonald sworn in the City of
Ottawa, on this 14th day of December 2018



Commissioner of affidavits, etc.

Michel Doucet
a Commissioner, etc.,
Province of Ontario,
for Caza Saikaley s.r.l./LLP
Law Firm.

Expires November 3, 2020

001 - OPLB Roles and Responsibilities of the Board and Trustees

Board Role and Governance Model

The Board is accountable for the full range of decisions affecting the Ottawa Public Library ("library"). The Board approaches its role using a policy or strategy model of governance that focuses on setting strategic direction and objectives, making decisions on major projects and monitoring library and CEO performance. Its attention shall primarily be on the long-term needs and goals for the library, not the administrative or operational details.

Board Responsibilities

The Board's main responsibilities include:

- understanding and adhering to the Public Libraries Act;
- maintaining awareness of, and implementing new legislation and regulations as required;
- establishing and periodically updating the Board's Rules of Procedure By-laws;
- defining the library's purpose and direction;
- selecting, compensating, setting objectives for, and assessing the performance of the CEO;
- developing and maintaining an effective working relationship with the CEO;
 - Establishing and regularly updating the governance policies for the organization;
 - Establishing and regularly updating a Delegation of Authority Policy by which the CEO is delegated authority and resources to run the library;
- reviewing and approving major strategies, plans, and decisions;
- reviewing and approving objectives for, and monitoring, the performance of the library;
 - ensuring that the library meets the community's needs and stated goals, as well as City Council's budgetary directions;
 - establishing and ensuring the adequacy of financial reporting and controls, and financial information systems;
 - establishing ethical and behavioural guidelines, and ensuring adherence by library employees and customers;

- establishing and monitoring the results of a comprehensive risk management system;
- practicing good governance principles including evaluating its own performance regularly;
- providing advice to City Council on the ideal competency profile when appointments are made to the Board;
- providing an orientation to new Trustees as well as ongoing continuing education/development;
- acting as a bridge between the library, the community, and City Council; and,
- reporting regularly on the library's effectiveness to City Council and the public.

The detailed list of Board responsibilities, as defined by decision-making authority or delegation thereof, is contained in the Delegation of Authority policy (002-OPLB).

Trustee Role

As members of the Ottawa Public Library Board, trustees are representatives who ensure the community has appropriate and efficient library service. Each trustee is a primary member of a corporate body who, from a position of "trust", manages the assets of others and ensures that those assets are preserved and developed.

In keeping with good governance principles and best practices, Trustees as fiduciaries have the following duties and associated expectations:

| Duty | Description |
|-----------|---|
| Fiduciary | To act honestly, in good faith, and with a view to the best interests of the organization. |
| Care | To exercise the due care, diligence and skill that a reasonably prudent person would in comparable circumstances. |
| Diligence | To be responsible for, and be well informed about the organization. |
| Skill | To exercise the degree of skill expected from a person with the particular member's knowledge and experience. |
| Prudence | To act carefully and practically, and to anticipate problems and opportunities. |
| Obedience | To comply with all applicable laws and the Library's by-laws and policies. |
| Conflicts | To avoid and/or declare conflicts of interest. |

Trustee Responsibilities

Trustees are required to:

- accept fiduciary responsibility including making decisions in keeping with the best interests of the OPL;
- commit sufficient time to fully perform Board duties which may include, but are not limited to, participating in monthly Board meetings, committee or work group meetings, training opportunities, conferences, ceremonial events, and other relevant activities;
- be aware of, and responsive to, the needs of the community;
- be accessible to the public to receive input on library issues, whether at public consultations or via electronic means;
 - advocate on behalf of the library with City Council, community groups, the business community, and members of the public at large; and,
- function as a member of a team in keeping with the principles of good governance.

| | |
|--|--|
| Effective Date: February 10, 2015 | Last Review Date: November 14, 2011 |
|--|--|

This is **Exhibit "L"** to the Affidavit of
Danielle McDonald sworn in the City of
Ottawa, on this 14th day of December 2018



Commissioner of affidavits, etc.

Michel Doucet
a Commissioner, etc.,
Province of Ontario,
for Caza Saikaley s.r.l./LLP
Law Firm.
Expires November 3, 2020

002 - OPLB Delegation of Authority

Background and Principles

In keeping with the *Public Libraries Act, RSO 1990, c.P.44 (the Act)*, other relevant statutes, laws, and good governance practices, the Board retains accountability for the full range of decisions affecting the organization. The Board has decided, however, to use a policy or strategic model of governance that focuses most of the attention of the Trustees on setting strategic direction and objectives, making decisions on major projects and monitoring performance.

In keeping with section 15 of the *Act*, the Chief Executive Officer (CEO) shall have general supervision over, and direction of, the operations of the public library and its staff and shall have the other powers and duties that the Board assigns to him or her from time to time.

Table 1 provides the framework regarding the range of decisions that may be required to operate the library and whether the Board retains decision-making powers or delegates them to the CEO or his/her designate. The Board may impose such terms and conditions upon any delegation as it sees fit, and this shall include the power to vary such terms or rescind the delegation in question.

Policy Interpretation and Details

2.1 Further Delegation of Authority

The CEO is authorized to further delegate and to authorize further delegations of any powers, duties and functions delegated to the CEO by the Board under this or any other policy to any member of OPL staff provided such delegations are authorized in writing. Where authority is delegated to a specific employee in this policy, the authority may be further delegated by the authorized person to other employees provided that such delegation is authorized in writing and does not exceed the authority delegated to the authorized person.

2.2 Emergency or Special Circumstances

In cases of emergency or special circumstances where it is necessary to act within or outside the normal mandate of the OPL, but such action is not strictly within the terms of a delegated authority, the CEO may take such action as

necessary to rectify the situation and all such actions shall be reported immediately to the Chair and then the Board.

2.3 Resolution of Conflicts

The Board retains the power to resolve any conflict or ambiguity regarding the delegation of decision-making authority. The CEO is authorized to resolve any conflict or ambiguity regarding the delegation of the CEO's decision-making powers to OPL staff.

Delegation of Authority Framework

The following table provides a summary of the range of decisions and authority for each decision.

Table 1: Delegation of Authority

| Approval / Decision | Board | CEO ¹ |
|--|-------------------------|------------------|
| Purchase and Finance | | |
| 1. Transfer budget funds to, or from, the City of Ottawa. | X | |
| 2. Set new or modify purchasing and contracting policies. | X | |
| 3. Review and recommend annual Budget Estimates to City Council. | X | |
| 4. Approve general competitive and non-competitive expenditures as per the City of Ottawa Purchasing By-Law No. 50 of 2000 (as amended from time to time) including, but not limited to: <ul style="list-style-type: none"> • Operational expenses • Leases (single or multi-year with total expenditure within financial authority) • Single or multi-year tenders or contracts (including any contingencies) per vendor • Settlement and lawsuit payments • Software license agreements | ≥\$500,000 ² | <\$500,000 |
| 5. Exercise approved spending authority for all library collections ³ up to the annual approved operating and capital budgets. | | X |

¹ Includes the CEO or the CEO's designate

² Includes GST / HST and other taxes as appropriate. Spending authority for Deputy CEO <\$250,000; Division Managers <100,000.

| Approval / Decision | Board | CEO4 |
|--|--------|--------|
| 6. Exercise approved spending authority for all capital projects up to the annual approved capital amount. | | X |
| 7. Apply for grants and other funding | | X |
| 8. Approve, amend, extend and execute agreements with the federal, provincial, and international governments and agencies. | | X |
| 9. Approve, amend, extend and execute service agreements, contribution agreements and grant agreements. | | X |
| 10. Approve additional expenditures for amendments to previously approved projects based on the deviation from the originally approved amount. | ≥10% | <10% |
| 11. Sign contracts for projects once required Board approval is obtained. | | X |
| 12. Approve trustee attendance at conferences and conventions | X | |
| 13. Set or change prices for merchandise or services. | X | |
| 14. Approve fundraising activities performed by third parties for the library's purposes and to coordinate issuance of donation receipts with the City of Ottawa's finance department. | | X |
| 15. Approve cash or near-cash prizes | >\$300 | ≤\$300 |
| Policies and plans | | |
| 16. Approve OPL Board policies ⁵ . | X | |
| 17. Approve OPL Strategic Plan. | X | |
| 18. Approve OPL Long Range Financial Plan. | X | |
| 19. Approve strategic frameworks for key OPL services ⁶ . | X | |
| 20. Approve strategic frameworks for advocacy, fundraising and major sponsorships. | X | |
| 21. Implement and manage the strategic frameworks for key services, advocacy and fundraising. | | X |

³ Includes collections and materials in all formats

⁴ Includes the CEO or the CEO's designate

⁵ Policies to support governance will be defined by Board policy. This would include a policy determining CEO reporting requirements as per the delegation of authority.

⁶ Examples include Revenue Generation, Alternative Services, Materials Selection, Technology Roadmap

| Approval / Decision | Board | CEO⁷ |
|--|--------------|------------------------|
| 22. Set or modify administrative and operational policies ⁸ . | | X |
| 23. Approve naming rights recommendations. | X | |
| 24. Permanently close branches, modify bookmobile stops or kiosk services. | X | |
| 25. Temporarily close or relocate branches in keeping with the branch closure policy; temporarily modify bookmobile stops, or temporarily modify kiosk services. | | X |
| 26. Approve sites for new branches, buildings, bookmobile stops, or kiosk services. | X | |
| 27. Approve architectural designs for new buildings. | | X |
| 28. Approve website designs and modifications. | | X |
| Human Resources | | |
| 29. Recruit, compensate, dismiss the CEO; monitor and evaluate the performance of the CEO. | X | |
| 30. Set general compensation policies and salary levels for the organization. | X | |
| 31. Set the organizational structure for the organization, including the structure of departments and the number of staff, including Senior Staff. | | X |
| 32. Assess the performance of, and set salaries for individual staff. | | X |
| 33. Hire, appoint, promote, suspend, dismiss and manage the performance of individual staff ⁹ . | | X |
| 34. Set bargaining mandates. | X | |
| 35. Negotiate collective agreements. | | X |
| 36. Ratify negotiated collective agreements. | X | |

Policy Review

This policy will be reviewed every four years in the first quarter of the second year of the term of the Board, or as required in order to ensure consistency and alignment with related City of Ottawa policies.

| | |
|--------------------------------------|-------------------------------------|
| Effective Date: November 2015 | Last Review Date: April 2015 |
|--------------------------------------|-------------------------------------|

⁷ Includes the CEO or the CEO's designate

⁸ Administrative and operational policies include, but are not limited to: hours of operation, borrowing rules, loan periods.

⁹ The CEO shall advise the Board of any hiring and/or dismissal of senior staff (Deputy CEO, Division Managers)

MADÉLINE WELD

Applicant

—and—

OTTAWA PUBLIC LIBRARY

Respondent

Court File No. DC-18-00002401-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

Proceeding Commenced at Toronto

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