

March 20, 2025

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Dear Mayor and Councillors of the Regional Municipality of Springfield:

RE: Recording policy at public meetings of the RM Council

As you know from our previous correspondence dated September 16, 2024, Charter Advocates Canada (CAC) is a charity and civil society organization registered with the Law Society of Ontario. Our purpose is to promote constitutional freedoms and human rights across Canada. CAC is dedicated to defending Canada's fundamental freedoms, including freedom of expression.

Background

Karen Insley is a resident of Springfield, Manitoba, and attended a public meeting of Rural Municipality Council ("RM Council") on February 4, 2025. During the public meeting of RM Council, Ms. Insley recorded a delegation in council chambers on her cellular phone. Ms. Insley was sitting quietly with her phone pointed at council to record the proceeding. At some point, Mayor Therrien asked whether she was recording and asked her to stop. He stated that it was against the new by-law rules of procedure, 24-10.

The Chief Administrative Officer ("CAO") then added that by-law 24-10 permitted *media* to record meetings if they made arrangements with the CAO 48 hours prior to a public meeting of RM Council. She also stated that RM Council would post audio recordings of the meeting within 2 days of a meeting, notwithstanding unforeseen circumstances. Mayor Therrien then added that it was fine for people watching remotely to record the Zoom broadcast.

There is no authority under the by-laws or the *Municipal Act*¹ ("Act") to prohibit members of the public from recording public meetings.

¹ *Municipal Act*, CCSM c. M225.

As a statutory delegate, RM Council's powers must be grounded in the Act. The Act states a council may only act through resolution or by-law.² There is no by-law which prohibits members of the public from recording public meetings of RM Council.

Section 15.10 of by-law 24-10 speaks to arrangements that *media* must undertake with CAO prior to public meetings. There may or may not be a good basis to have specific arrangements related to media's attendance and recording. However, this does not speak to any parameters related to the *public* recording public meetings they attend.

As Ms. Insley's was only quietly sitting and recording the meeting on February 4, 2025, it cannot be said, nor was it alleged, that she was in any way disruptive or engaging in improper conduct contrary to section 16 of by-law 24-10. Further, improper behaviour must have legal standards. It must be behaviour which *disrupts* RM Council meetings to the extent it negatively affects them, otherwise it would be a free-ranging power for the Chair to expel anyone acting in a way he or she dislikes.

The Chair cannot arbitrarily declare lawful activities prohibited, absent a duly passed resolution or by-law. As there is no by-law or resolution currently prohibiting recording of public meetings, nor was there improper conduct. As a result, there is no authority to prohibit this otherwise legal exercise by a member of the public.

As the Manitoba Court of Appeal held regarding RM councils and by-laws, "[i]n a rule-of-law society such as ours, attention to due process and fundamental rights can never be forgotten or taken for granted."³

RM Council's Duty to Respect the *Canadian Charter of Rights and Freedoms*

If a by-law or resolution were to exist now or in the future which completely bans the public from recording meetings, it would be unconstitutional. Recording and broadcasting has been held to be expressive activity protected by section 2(b) of the *Charter*.⁴

Government owned property is often required to allow free expression on its premises, so long as the expression serves to enhance: (1) democratic discourse; (2) truth finding; and (3) self-fulfilment.⁵ Recording a meeting of RM Council clearly supports all three purposes. A ban on recording diminishes these purposes rather than supporting them.

RM Council meetings are by their very nature, public. The RM is a public institution and when it holds a public meeting, the free engagement of residents with their RM is a fundamental component of democracy, where limitations must be carefully constructed to invite public engagement rather than to constrain it. Although the RM publishes its own recordings through its own processes, there is no reasonable basis to prevent the public from recording meetings, except where such activity is coupled with disruptive or improper conduct already prohibited. Furthermore, the Act highlights the importance of the public nature

² *Ibid* at s 140(1).

³ *John Deere Financial Inc., v. MacDonald (Rural Municipality)*, 2020 MBCA 90 at para 23.

⁴ *Canadian Broadcasting Corp. v. Canada (Attorney General)*, 2011 SCC 2 at para 40-41. [CBC]

⁵ *City of Montreal v. 2952-1366 Quebec Inc.*, 2005 SCC 62 at para 74.

of such meetings where it requires all meetings of council to be conducted in public, subject to limited exceptions.⁶

RM Council meetings are not forums where witnesses testify or where quality of evidence could be impacted by public attendants recording, such as in a Court proceeding. However, the importance of what takes place in an RM Council meeting is similar to a Court proceeding, where the public has a significant interest to know what takes place. It is perfectly reasonable for the public to obtain such information from the recordings published by the RM Council itself with all of its limitations (ex., muting, lack of video, technical difficulties etc.), or by other attendees who may publish their own recordings, to bring awareness to specific issues addressed at the RM meeting.

If the mayor supports the public to record the Council's own broadcast (with its limitations) as he stated on February 4, 2025, then there is no reason that the public should not record the meeting directly, unless the mayor's intention is to control publication of the meetings, subject to the limitations inherent in the Council's publication of the meeting.

Conclusion

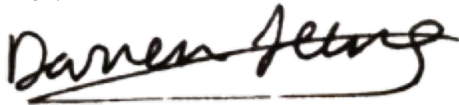
All actions of the RM Council must have legal authority in either the Act, by-law or resolution. So long as members of the public record in a non-disruptive manner, such as in Ms. Insley's case, the RM Council and the Chair have no legal basis to prohibit recording at their meetings.

We invite the RM Council to consider our concerns cautiously and to conduct meetings in a way respectful to *Charter* rights. We herein demand that the Chair forthwith cease denying Ms. Insley, or any other resident who attends a public meeting in person, from recording the meetings, so long as it is done in a non-disruptive manner.

Yours truly,

CHARTER ADVOCATES CANADA

Per:



DARREN LEUNG

Staff Lawyer

⁶ *Municipal Act* at s 152.