

THE KING'S BENCH
Winnipeg Centre

APPLICATION UNDER: *Municipal Act, C.C.S.M. c. M.225*
 Constitutional Questions Act, C.C.S.M. c. 180
 Court of King's Bench Rules, M.R. 553/88

BETWEEN:

DANIEL ROBERT PAGE, KAREN LALONDE, JANET NYLEN AND GLORIA ROMANIUK

Applicants

- and -

THE RURAL MUNICIPALITY OF SPRINGFIELD

Respondent

NOTICE OF APPLICATION
HEARING DATE: August 20, 2025, at 10:00 am

Charter Advocates Canada
Darren Leung/Andre Memaui

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TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing before a judge, on **Wednesday, August 20, 2025**, at 10 am, at The Law Courts, 408 York Avenue, Winnipeg, Manitoba.

IF YOU WISH TO OPPOSE THIS APPLICATION, you or a Manitoba lawyer acting for you must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must serve a copy of the evidence on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as

possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGEMENT MAY BE
GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date

Issued _____
Deputy Registrar

To:
Rural Municipality of Springfield

APPLICATION

The Applicants make application for:

- a. A declaration that the Mayor of the Rural Municipality of Springfield (“**RM Springfield**”), Patrick Therrien (“**Mayor**”) acted outside the scope of his authority by categorically prohibiting any member of the public from recording at open public meetings of RM Council (the “**Recording Prohibition**”) without a duly passed by-law, contrary to sections 140(1) and 149(2) of the *Municipal Act* C.C.S.M. c. M.225 (“**Act**”);
- b. A declaration that the Applicants have the right to record public meetings of RM of Springfield Council (“**RM Council**”) at which they are present, so long as the act of recording does not disrupt proceedings;
- c. In the alternative, a declaration pursuant to section 52(1) of the *Constitution Act, 1982*, that section 15.10 and/or 16.0(c) of Procedural By-law 24-10 (“**By-Law**”) unjustifiably infringes on the Applicants’ rights and freedoms guaranteed by section 2(b) of the *Canadian Charter of Rights and Freedoms* (“**Charter**”) to the extent it categorically prohibits recording of open meetings of RM Council and therefore is of no force or effect;
- d. A declaration pursuant to section 24(1) of the *Charter* that the section 2(b) *Charter* rights of the Applicant Daniel Robert Page (“**Dr. Page**”) were unreasonably infringed on March 26, 2025, when his request to record a public meeting of the RM Council was denied by the Chief Administrative Officer (“**CAO**”) of the RM Council;

- e. The Applicants seek no costs and request that no costs be ordered against them; and
- f. Such further and other relief as counsel may advise and this Honourable Court deems just and equitable.

The grounds for the Application are:

The Applicants

1. The Applicant, Dr. Page is a resident of RM Springfield who regularly attends public meetings of RM Council and occasionally speaks at delegations to RM Council. He provides the local community with social media news updates (“**News Updates**”) respecting RM Council meetings.
2. Dr. Page finds that the live Zoom footage of RM Council meetings provided by the RM Council is not easily accessible and contains issues such as speakers being muted or not picked up by the microphone or is otherwise of poor quality. Audio recordings of the RM Council meetings are made available by the RM Springfield, but the audio recordings are challenging to follow, as listeners are often unable to accurately hear or understand what occurs at the RM Council meetings.
3. Dr. Page would like to record RM Council meetings or parts of meetings he attends, in order to have accurate and understandable audio/video recordings in his News Updates to inform the residents of RM Springfield about debates and decisions made at RM Council meetings.
4. The Applicants Karen Lalonde, Janet Nysten and Gloria Romaniuk are residents of RM Springfield and regularly attend RM Council meetings either in person, or via the Zoom broadcast. They find that the Zoom broadcast is challenging to hear, as the audio does not always capture what the speakers are saying, and it is difficult to understand what is taking place, as the video footage often excludes speakers. They also find that the Zoom video broadcast is limiting, as it is only available live. Further they find that in listening to the audio recordings made available by

RM Council, it is often difficult to understand what is being said and taking place at the RM Council meetings.

Background

5. RM Springfield spans a large geographic area. RM Council meets at the administration building on the outskirts of Oakbank, Manitoba. RM Council meetings can seat approximately 40 people in the gallery. The average meeting has approximately 5-10 people observing in the gallery. However, some members of the community are occasionally unable to attend RM Council meetings due to a full gallery.

6. Inclement weather during the winter makes it difficult for some residents to attend RM Council meetings in person, especially for those who live a significant distance from Oakbank.

7. Some meetings of RM Council are scheduled during normal business hours making it difficult for some residents to attend in person or to view the live Zoom broadcast.

8. The RM Springfield posts audio recordings of public meetings on its official website. However, the audio recordings often fail to provide listeners with a full understanding of what is occurring at the RM Council meetings, because there is no corresponding video footage, and the recordings often fail to pick up exchanges between councillors and between the public and councillors. Listeners to the audio recording are therefore not able to hear all that is communicated at RM Council meetings and are not able to see what occurs, causing confusion.

9. Sections 149(1) and 149(3)(e) of the Act require the Respondent to pass by-laws on rules respecting public participation at council meetings. On December 17, 2024, the Respondent passed the By-law.

10. Section 15.10 of the By-law provides that “the media may audio/video tape meeting proceedings, including public hearings, providing that arrangements are made with the CAO at least 2 days (48hrs) prior to the meeting or public hearing.” The By-law does not define what makes up “media”.

11. Section 16(c) of the By-law provides that members of the public may not “Behave in a disorderly manner including engaging in debate or conversation, or other behaviours that may prove disruptive”.

12. The By-law does not contain a provision categorically banning members of the public from recording public meetings of RM Council.

The Prohibition on Recording

13. On February 4, 2025, Dr. Page was granted a delegation and desired a recording of his delegation for the purposes of his News Updates. Mrs. Karen Insley (“**Mrs. Insley**”), another resident of the community in attendance at the meeting, recorded the meeting and provided it to Dr. Page for his News Updates.

14. Mrs. Insley sat in the front row of the gallery and unobtrusively recorded the delegation with her phone for approximately 15 minutes, at which point in time the Mayor interrupted the delegation and asked whether Mrs. Insley was “videotaping” and told her that “you can’t video tape this, it’s in our procedural bylaw...”. Councillor Mark Miller (“**Councillor Miller**”) raised a point of order and asked the CAO whether the Bylaw prohibits the public from using cell phones for recording.

15. The CAO then cited Rule 15.10 of the By-law, which provides that media could record with two days’ notice. The Mayor and Councillor Miller both agreed that Mrs. Insley was not the media

but the Mayor continued to say, “people are videotaping from home that’s fine...our procedural Bylaw says that we are not having video cameras inside here otherwise this is the kind of stuff that we get.”

16. On February 11, 2025, the Mayor opened the meeting by announcing that cell phones were prohibited in chambers for the purpose of recording. Councillor Miller raised a point of order, asking the Mayor to identify the authority he relied on to categorically prohibit recording. The Mayor stated that the prohibition was in the Bylaw. Councillor Miller replied that the limits were on the media, which required them to provide 48-hours’ notice to the CAO that they wished to record, and that it did not apply to the public. The Mayor then claimed that it would be disruptive if people were recording with their cell phones.

17. On March 11, 2025, Dr. Page attended a public meeting of RM Council and saw a sign stating: “Please be advised that as per procedural by-law no. 10-26, no audio or video taping of council meetings are permitted without 72-hour prior approval from the Chief Administrative Officer. Please refrain from using electronic devices in the council chambers”.

18. On March 18, 2025, Dr. Page attended a public meeting of RM Council and saw a revised sign which stated: “Please be advised that as per procedural by-law no. 24-10, no audio or video taping of council meetings are permitted without 72-hour prior approval from the Chief Administrative Officer. Please refrain from using electronic devices in the council chambers.”

19. On March 26, 2025, Dr. Page requested permission from the RM Council to record the special meeting on March 28, 2025. In response, the CAO cited the Bylaw generally and denied his request.

Legal Grounds

- a. RM Council must act by bylaw in the context of governing public participation at RM Council meetings having regard to sections 140(1) and (2), 149(1) and 149(3)(e) of the Act;
- b. Pursuant to section 149(2) of the Act, RM Council must govern itself by the Bylaw it duly passed and authorized on December 17, 2024, which does not contain any provision(s) categorically banning the recording of public meetings by any member of the public;
- c. Section 15.10 of the Bylaw concerns arrangements to be made by “media” with the CAO, concerning its attendance to audio/video record RM Council meetings/public hearings;
- d. Under the Respondent’s interpretation of section 15.10, Dr. Page is not media;
- e. Section 16.0(c) of the Bylaw prohibits members of the public from engaging in a “disorderly manner” including “behaviours that may prove disruptive” which does not authorize the categorical ban on members of the public recording RM Council meetings open to the public;
- f. The act of recording has been, and can be, done in a manner that is not disorderly or disruptive;
- g. The Bylaw does not grant authority to RM Council to categorically ban members of the public present at the RM Council meetings from recording such meetings, and therefore the Recording Prohibition is not based upon a bylaw contrary to section 140(1) of the Act.

- h. RM Council must act within the authority granted to it by the Act and the RM council acted in excess of its jurisdiction by imposing the Recording Prohibition;
- i. The aims of transparency, openness and public participation at RM Council meetings is foundational to municipal governance as recognized in jurisprudence and as reflected at sections 152(1) - (2.1) of the Act;
- j. The ability for the public, including the Applicants, to record public meetings and disseminate the recordings or to view recorded public meetings of RM Council, increases access to information regarding RM Council meetings for the broader community, thereby increasing awareness of issues important to members of the community who may not otherwise have access or awareness;
- k. The act of recording public meetings and disseminating the recordings or to view recordings of public meetings of RM Council are constitutionally protected activities pursuant to section 2(b) of the *Charter* and strike at the core of section 2(b) protection;
- l. The Recording Prohibition extinguishes such protected activity and is disproportionate to any hypothetical benefits which may be derived from prohibition;
- m. Further, or in the alternative, if the Bylaw permits the Recording Prohibition, the RM Council, in passing the Bylaw permitting the Recording Prohibition, acted in excess of its jurisdiction as the Recording Prohibition is an unjustified violation of section 2(b) of the *Charter* and is therefore invalid, *ultra vires* and of no force or effect pursuant to section 52(1) of the *Charter*; and

- n. While the Act provides RM Council the authority to regulate public participation at its meetings pursuant to section 149(3(e), it does not authorize RM Council to regulate public participation in a manner which amounts to an unjustified violation of *Charter* section 2(b);
- o. Pursuant to sections 382(1) and 382(3) of the Act, the Court may grant a declaration that a bylaw is invalid and may make any other order it considers appropriate, when a bylaw is invalid on the ground that the council acted in excess of its jurisdiction;
- p. RM Council's decision by its CAO on March 26, 2025 to deny Dr. Page's request to record the special meeting was an unreasonable violation of Dr. Page's section 2(b) *Charter* rights, warranting a declaration pursuant to section 24(1) of the *Charter*; and
- q. Costs are not warranted on the account of the issues of public interest raised in this proceeding.

The following documentary evidence will be used at the hearing of the application:

- A) The Affidavit of Dr. Daniel Page, to be sworn;
- B) The Affidavit of Karen Lalonde, to be sworn;
- C) The Affidavit of Janet Nylen, to be sworn;
- D) The Affidavit of Gloria Romaniuk, to be sworn; and
- E) Such further and other materials as counsel may advise and this Honourable Court may allow.

The Applicants intend to rely on the following Acts and Rules:

- A) *Court of King's Bench Rules*, M.R. 553/88
- B) *Constitutional Questions Act*, C.C.S.M. c. 180

- C) *Canadian Charter of Rights and Freedoms*
- D) *Municipal Act*, CCSM c M225
- E) Rural Municipality of Springfield Procedural By-law 24-10
- F) Such other enactments as the Applicants may advise.

June 20, 2025

Charter Advocates Canada

Darren Leung/Andre Memauro

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Counsel for the Applicants

FURTHER MATERIAL REQUIRED - AFFIDAVIT(S)

EVIDENCE BY AFFIDAVIT

Evidence on a motion or application may be given by affidavit unless a statute or these rules provide otherwise.

Affidavit in support

Where a motion or application is made on notice, the affidavits on which the motion or application is founded shall be served within the time for service of the motion or application, and shall be filed in the court office where the motion or application is to be heard not later than 2 p.m. on the day before the hearing.

Affidavits in opposition

Affidavits to be used at the hearing in opposition to a motion or application or in reply shall be served and filed in the court office where the motion or application is to be heard not later than 2 p.m. on the day before the hearing.