



Office 513, 180 John Street  
Toronto, ON M5T 1X5

---

October 22, 2025

Hatim Kheir

Direct Line: [REDACTED]  
Email: [REDACTED]

VIA EMAIL: [REDACTED]

Dear [REDACTED]

RE: Mount Allison University's Trespass Order against Somesh Vyas

We are counsel for Somesh Vyas. We understand that you are counsel for Mount Allison University (the "**University**"). We write with respect to the University's letter dated September 11, 2025 prohibiting Mr. Vyas from University property (the "**Trespass Order**") and your subsequent correspondence dated September 23, 2025 (the "**September 23 Letter**"). We write to warn your client that its attempt to prohibit Mr. Vyas from entering University property while simply delivering food on the basis of his religious beliefs is a misapplication of the *Trespass Act*, RSNB 2012, c. 117 (the "**Act**") and an infringement of Mr. Vyas' constitutional and human rights.

### Background

Mr. Vyas has recently converted to Christianity. Since his conversion, he has felt called to evangelize his community and spread his faith. To that end, he has engaged in street evangelism and political advocacy. He stands in public areas with signs and engages in discussion with willing passersby.

Mr. Vyas has attended the University to engage in his evangelism and advocacy, believing that a university is a location uniquely disposed for discussion. However, after being asked to stay off of University property, Mr. Vyas has complied and keeps his advocacy to public sidewalks near the University. Nevertheless, on September 11, 2025, the University issued the Trespass Order against Mr. Vyas. Note that the purpose of this correspondence is not to challenge the Trespass Order *per se*.

On September 19, 2025, Mr. Vyas wrote to the University to confirm that he would be allowed to enter University property when fulfilling food delivery orders placed by students who occupy

University property pursuant to s. 12.1 of the *Act*. In the September 23 letter, you wrote to Mr. Vyas stating that the University's position is that "students living in residence...cannot provide [Mr. Vyas] permission or justification to attend." However, the University proposed offering an exemption to Mr. Vyas to attend University property to deliver food only if he agrees to "stay away from campus, including the crosswalks, sidewalks and streets" when engaging in evangelism and advocacy.

### **The University lacks authority to exclude Mr. Vyas when delivering food**

The University overstepped its authority under the *Act* in the September 23 Letter. Section 12.1 of the *Act* states that it is a defence to a charge of trespass if the person charged reasonably believed that they "had legal justification or the permission of an authorized person to enter on the premises or do to do the act complained of [emphasis added]."<sup>1</sup>

Authorized person is defined as "an occupier or owner of a premises and an agent of the occupier or owner [emphasis added]."<sup>2</sup>

Occupier is defined to include "a person who is in possession of premises."<sup>3</sup>

Students who live in residence are in possession of their premises and are thus occupiers for the purposes of the *Act*. Therefore, they are authorized persons capable of giving permission to enter the premises which would serve as a defence against a charge of trespass for an invitee. When Mr. Vyas responds to delivery orders, he is an invitee of the students placing the order.

Beyond the plain reading of the *Act*, the above interpretation is supported by judicial consideration of similar statutory language in Ontario. Under the *Trespass to Property Act*, RSO 1990, c T.21, occupier is defined with almost the exact same language.<sup>4</sup> As in the *Act*, it is a defence to a charge of trespass if the person charged has permission of an occupier.<sup>5</sup>

Under this similar statutory context, the Ontario Superior Court of Justice held that landlords have "the right under the *Trespass to Property Act* to prohibit a person from entering a rental project but only if the person is not an invitee of the tenant [emphasis added]."<sup>6</sup> The court noted that a person invited by a tenant would not be guilty of an offence under the *Trespass to Property Act* if he entered a premises after receiving a trespass notice from the landlord if he was an invitee of a tenant. The court noted that landlords generally have a right to exclude persons from common areas of a rental property but found that that statutory authority was limited by virtue of having leased a portion of those premises to a tenant.

The same reasoning applies in this situation. Students living in residence are in the position of tenants in that they possess the premises within which they live and are thus occupiers of the University's property. When Mr. Vyas fulfils a delivery order, he is acting as an invitee and has a defence to a charge under the *Act*.

---

<sup>1</sup> *Trespass Act*, [RSNB 2012, c. 117, s. 12.1\(b\)](#).

<sup>2</sup> *Ibid*, [s. 1](#).

<sup>3</sup> *Ibid*.

<sup>4</sup> *Trespass to Property Act*, [RSO 1990, c T.21, s.1](#).

<sup>5</sup> *Ibid*, [s. 2](#).

<sup>6</sup> *Cunningham v. Whitby Christian Non-Profit Housing Corp.*, [1997 CanLII 12126 \(ON SC\)](#).

## **The University's attempt to restrict Mr. Vyas' evangelism infringes section 2 of the *Charter***

The University's proposal, which would hold Mr. Vyas' livelihood as leverage to compel him to cease his evangelism and advocacy, even when on public property, violates ss. 2(a) and (b) of the *Charter*.

The *Charter* applies to the University when it begins wielding statutory coercive power to shape public discourse. Universities will be subject to *Charter* review when they engage in governmental activities.<sup>7</sup> One particular form of governmental activity that attracts *Charter* scrutiny is an exercise of statutory authority. When a university exercises a "power of compulsion delegated to it by statute", the *Charter* will apply, particularly where that power "affect[s] the autonomy and livelihood" of an individual and when the behaviour being restricted has a public dimension.<sup>8</sup>

When the University goes beyond managing its own property and attempts to use its authority – and the attendant threat of punishment under statute – to leverage an individual's livelihood to compel that person to cease engaging in evangelism and advocacy on public property, it has encroached into governmental action. The attempt to use statutory powers of compulsion to regulate public behaviour off of University property is subject to *Charter* review.

Mr. Vyas' evangelism is a practice with a nexus with his religion as he believes he is bound to share the Gospel. The September 23 Letter places a non-trivial restriction on the practice of his faith by attempting to push his practice outside of the public sphere. This is an infringement of s. 2(a) of the *Charter*.<sup>9</sup>

Likewise, Mr. Vyas' evangelism and advocacy are expressive activity protected by s. 2(b). The September 23 Letter restricts that activity on the basis of a disapproval of the meanings it expresses, which is an infringement of s. 2(b) of the *Charter*.

The University's *Charter*-infringing conduct is not justifiable under s. 1. It does not serve any pressing and substantial objective to prohibit Mr. Vyas' respectful, good faith dialogue. Further, even if the University had a valid objective in excluding Mr. Vyas' speech, the September 23 Letter would not be rationally connected because the regulation of public spaces outside of the University's premises are totally and wholly outside of the University's ambit of concern. Similarly, there is no rational connection in prohibiting Mr. Vyas from delivering food which would not engage any concerns the University raises with his evangelism and advocacy.

The ultimatum given to Mr. Vyas in the September 23 Letter unjustifiably infringes his rights to freedom of religion and freedom of expression.

## **The University's conduct towards Mr. Vyas is discriminatory**

The University's September 23 Letter is also discriminatory, contrary to the *Human Rights Act*,

---

<sup>7</sup> *Pridgen v. University of Calgary*, [2012 ABCA 139](#).

<sup>8</sup> *Ibid.* at paras. [88-93](#); see also *R. v. Whatcott*, [2002 SKQB 399](#).

<sup>9</sup> *Syndicat Northcrest v. Amselem*, [2004 SCC 47](#) at paras. [56-58](#).

RSNB 2011, c. 171. The September 23 Letter is a "notice" and thus subject to s. 7 of the *Human Rights Act* which prohibits the indication of discrimination or an intention to discriminate against any person or class of persons on the basis of a prohibited ground of discrimination."<sup>10</sup> Creed and religion are prohibited grounds of discrimination.<sup>11</sup>

In restricting access to Mr. Vyas on the basis of religious activity he engages in off campus, the University is indicating its intention to discriminate against him on the basis of his religious practice of evangelism.

## Conclusion

In the September 23 Letter, the University has exceeded its authority under the *Act*, infringed Mr. Vyas's constitutionally protected freedoms of religion and expression, and violated his human right to be free from discrimination. The ultimatum contained in the September 23 Letter is illegal and ought to be retracted. The University must permit Mr. Vyas to fulfil food deliveries to students on University property. Should it fail to do so, it may face legal liability.

We look forward to your response.

Yours sincerely,

CHARTER ADVOCATES CANADA

Per:

A handwritten signature in black ink, appearing to read 'Hatim Kheir', with a stylized, cursive script.

Hatim Kheir  
Staff Lawyer

---

<sup>10</sup> *Human Rights Act*, [RSNB 2011, c. 171](#), s. 7(1).

<sup>11</sup> *Ibid*, s. 2.1(f).