

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

BETWEEN:

GEOFFREY HORSMAN

Applicant

and

WATERLOO REGION DISTRICT SCHOOL BOARD

Respondent

APPLICATION UNDER Rules 14.05(2) and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 and Sections 2(1) and 6(1) of the *Judicial Review Procedure Act*, R.S.O. 1990, c J.1.

FACTUM OF THE APPLICANT

April 17, 2026

CHARTER ADVOCATES CANADA

[REDACTED]

Hatim Kheir (LSO#79576J)

T. [REDACTED]
E. [REDACTED]

Counsel for the Applicant

I. OVERVIEW

1. The Applicant, Mr. Horsman, seeks judicial review of the decision of the Waterloo Region District School Board (the “**Board**”) imposing the mandatory practice of opening school council meetings with land acknowledgements and prohibiting school councils from debating the issue (collectively, the “**Decision**”). Mr. Horsman submits that the Decision ought to be quashed because it was made without statutory authority and infringed his rights to freedom of conscience and religion in a manner that was not proportionately balanced.

2. Mr. Horsman is the parent of students who attend schools within the Board. He is a member of a school council. The school council opens its meetings with land acknowledgements. Mr. Horsman has a deeply held conscientious belief in human dignity and equality regardless of race, sex, religion, or ethnicity. He objects to land acknowledgements because he believes they are contrary to the principle of equal human dignity and single out a specific ethnic group as holding special rights and privileges. He attempted to raise the issue for deliberation at the school council but was referred to Board personnel. Ultimately, the Board informed Mr. Horsman that school councils were required to read land acknowledgements and debate on the topic was prohibited.

3. **First**, the Decision was made without statutory authority. School councils are governed by the *Education Act*¹ and O. Reg. 612/00.² Under the regulation, school councils operate at arms-length from the school boards that institute them. Their purpose is to increase the accountability of school boards to the parents of students. To serve this function, school councils must maintain independence from school boards. The regulation provides school boards with narrow, specific grants of authority. Outside of the specific powers granted, school boards lack authority to control school councils. The Board acted outside its jurisdiction, rendering its decision unreasonable.

¹ *Education Act*, R.S.O. 1990, c. E.2.

² *School Councils*, O. Reg. 612/00.

4. **Second**, the Decision infringes Mr. Horsman's right to freedom of conscience. Mr. Horsman Section 2(a) of the *Charter* protects freedom of conscience and religion, which form part of an integrated concept. Mr. Horsman's belief in human dignity and equality are matters of conscience, analogous to religious beliefs in that they are foundational to his worldview and provide a basis for moral judgments. The reading of land acknowledgements is analogous to opening meetings with prayers in that the Board is professing and favouring one belief to the exclusion of others. The Board's Decision forces Mr. Horsman to either compromise his conscience or exclude himself from the room and single himself out for his beliefs. By requiring the reading of land acknowledgements, the Board has infringed Mr. Horsman's freedom of conscience in a manner that is neither trivial nor insubstantial.

5. **Third**, the Decision infringes Mr. Horsman's right to freedom of expression. The Board is preventing Mr. Horsman from debating the topic of land acknowledgments. The debate contains expressive content. But for the Board's Decision, school councils are well-suited to the topic Mr. Horsman wishes to raise given that they are empowered to make their own bylaws, which would include the procedure used to open meetings. The Board has targeted Mr. Horsman's expression based on its disapproval of the expression's content. The Board's Decision thus infringes s. 2(b) of the *Charter*.

6. The Board has failed to engage in the necessary balancing analysis to justify either *Charter* violation. Its failure to consider the relevant *Charter* rights renders its decision unreasonable and, therefore, it ought to be quashed.

II. FACTUAL BACKGROUND

7. The Applicant, Mr. Horsman, is the father of three children who attend schools in the Board, including the Kitchener-Waterloo Collegiate and Vocational School (“KCI”). He is a member of the KCI school council (the “Council”).³

8. The Council engages in a practice of opening its meetings with land acknowledgements.⁴ Land acknowledgements are doctrinal statements, generally read at the beginning of events, that single out First Nations people as purported holders of a special claim to the land on which the event is taking place.⁵ At times, the land acknowledgements read at Council meetings are lengthy expositions about the connection that First Nations people have with land including readings from books.⁶

9. Mr. Horsman has a deeply and conscientiously held belief in human dignity and the quality of all people, regardless of ethnicity, religion, sex, or nationality.⁷ On the basis of that belief, Mr. Horsman objects to land acknowledgements, which he views as racially discriminatory, and thus, contrary to equal human dignity.⁸ The practice of land acknowledgements at Council meetings places Mr. Horsman in the position where he must either compromise his conscience by sitting through the land acknowledgement or else single himself out and exclude himself during their reading.⁹

10. Wanting to bring an end to the Council’s practice of reading land acknowledgements, Mr. Horsman sought to act through the Council’s deliberative process.¹⁰ He started by approaching the

³ Application Record (“AR”), Tab 3, Affidavit of Geoffrey Horsman affirmed December 16, 2025 (“Horsman Affidavit”) at para. 3.

⁴ Horsman Affidavit at para. 6.

⁵ Horsman Affidavit at para. 5.

⁶ See e.g. Horsman Affidavit at para. 13.

⁷ Horsman Affidavit at para. 7.

⁸ Horsman Affidavit at para. 7.

⁹ Horsman Affidavit at para. 22.

¹⁰ Horsman Affidavit at para. 8.

Council Chair, Christine Carmody, to put the issue on the agenda for debate and discussion. However, Chair Carmody refused to table the issue and instead referred Mr. Horsman to Sue Martin, the principal of KCI.¹¹

11. On May 9, 2025, Ms. Martin informed Mr. Horsman that the Board requires school councils to open meetings with land acknowledgements. She told Mr. Horsman that the Council was not permitted to debate the issue.¹² Ms. Martin referred Mr. Horsman to speak with a superior from the Board about the issue.

12. Chair Carmody added a topic titled “Discussion regarding Territorial Acknowledgements at KCI for those who wish to attend” to the agenda for the Council meeting on September 17, 2025 (the “**September 17 Meeting**”) *after* the adjournment of the meeting.¹³ At the September 17, 2025 meeting, after the meeting was adjourned, Ms. Martin introduced the topic of land acknowledgements. Mr. Horsman was permitted to make a statement on the Council’s practice of opening meetings with land acknowledgements. However, when he invited input from other parents, one parent started to raise his hand to speak, but Ms. Martin stated that no discussion or debate was permitted.¹⁴ Ms. Martin instructed that all comments were to be directed to her.¹⁵

13. On October 8, 2025, Mr. Horsman followed up with Ms. Martin to see if they could have a discussion with Chair Carmody about how to move forward with the issue.¹⁶ Mr. Horsman was directed to pursue the matter with Vinay Tiwari, the Board’s System Administrator of Equity and

¹¹ Horsman Affidavit at para. 9.

¹² Horsman Affidavit at para. 10.

¹³ Horsman Affidavit at para. 12; Exhibit A, KCI School Council Meeting Agenda dated September 17, 2025.

¹⁴ AR, Tab 4, Reply Affidavit of Geoffrey Horsman affirmed March 11, 2026 (“Reply Affidavit”) at paras. 10-11; Horsman Affidavit at para. 14.

¹⁵ Horsman Affidavit at para. 14.

¹⁶ Horsman Affidavit at para. 15; Exhibit B, Email Chain dated October 8, 2025.

Inclusive Education.¹⁷ Mr. Tiwari emailed Mr. Horsman and stated that he would be the “primary point of contact regarding this matter” going forward.¹⁸

14. On October 22, 2025, Mr. Horsman met with Mr. Tiwari and explained his beliefs and concerns with land acknowledgements and the discussions had with Chair Carmody and Ms. Martin up to that point. Mr. Tiwari stated that he would provide the Board’s written position after considering the issue.¹⁹

15. On October 29, 2025, Mr. Tiwari emailed Mr. Horsman stating that “territorial acknowledgements will continue to be part of School Council and WRDSB gatherings” (the “**Land Acknowledgement Mandate**”). Mr. Tiwari also stated that “conversations or actions that question the validity of equity-focused initiatives – including those designed to support historically and currently marginalized groups – risk undermining the dignity of members of our community. The WRDSB’s commitment to equity and human rights means that certain topics, particularly those that diminish or delegitimize the experiences of equity-deserving groups must be approached with care and in alignment with the *Ontario Human Rights Code*.”²⁰

16. On November 3, 2025, Mr. Horsman emailed Mr. Tiwari requesting clarity about whether school councils remained free to discuss the issue of land acknowledgements if done with care and respect.²¹ On November 10, 2025, Mr. Tiwari responded that “discussions that question or challenge established equity-focused practices, including territorial acknowledgements, fall outside the scope of School Council business. These expectations are in place to ensure that all

¹⁷ Horsman Affidavit at para. 16; Exhibit C, Email Chain dated October 9, 2025.

¹⁸ Horsman Affidavit at para. 17; Exhibit D, Email from Vinay Tiwari dated October 9, 2025.

¹⁹ Horsman Affidavit at para. 18.

²⁰ Horsman Affidavit at para. 19; Exhibit E, Email from Mr. Tiwari dated October 29, 2025.

²¹ Horsman Affidavit at para. 20.

participants experience School Council as a safe, respectful, and inclusive space” (the “**Debate Prohibition**”).²²

III. ISSUES AND LAW

17. The Applicant raises the following issues on this application:

- a. the applicable standard of review;
- b. whether the Board exceeded its statutory authority in imposing the Land Acknowledgement Mandate and Debate Prohibition;
- c. whether the Board’s Land Acknowledgement Mandate unjustifiably infringes Mr. Horsman’s right to freedom of conscience under s. 2(a) of the *Charter*; and
- d. whether the Board’s Debate Prohibition unjustifiably infringes Mr. Horsman’s right to freedom of expression under s. 2(b) of the *Charter*.

A. Standard of Review

i) Governing Principles

18. The starting position is that the standard of reasonableness presumptively applies. Courts may depart from the presumption where required by legislation or the rule of law, such as constitutional questions.²³ The category of constitutional questions includes “whether a *Charter* right arises, the scope of its protection, and the appropriate framework of analysis.”²⁴

ii) Principles Applied

19. Whether the Board exceeded its statutory authority is reviewable on a standard of reasonableness. However, with respect to the issues of whether the Board infringed Mr. Horsman’s

²² Horsman Affidavit at para. 21; Exhibit F, Email from Vinay Tiwari dated November 10, 2025.

²³ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at paras. 31-32, 53 [Vavilov].

²⁴ *York Region District School Board v. Elementary Teachers’ Federation of Ontario*, 2024 SCC 22 at para. 63.

rights to freedom of conscience and expression, whether right arises and was infringed is reviewable for correctness.²⁵ Similarly, a failure to consider an applicable *Charter* right attracts a correctness standard of review.²⁶ Whether the Board proportionately balanced the infringement is reviewable for reasonableness.²⁷ However, a failure to engage in a balancing analysis is necessarily unreasonable.²⁸

B. The Board Exceeded Its Statutory Authority

i) Governing Principles

20. Section 170(1)(17.1) of the *Education Act*, provides that boards are to establish school councils for each school in accordance with the regulations.²⁹ School councils are governed by O. Reg 612/00, which the Lieutenant Governor in Council has made under s. 170(3).³⁰

21. O. Reg. 612/00 provides that the “purpose of school councils is, through the active participation of parents, to improve pupil achievement and to enhance the accountability of the education system to parents.”³¹ School councils are empowered to “make by-laws governing the conduct of [their own] affairs.”³² The regulation outlines only four limited areas where school board policies apply to the school council; namely, reimbursement of members, conflict resolution processes, fundraising activities, and the use of funds.³³

22. In *Zemer et al. v. Toronto District School Board*, the Divisional Court considered O. Reg. 612/00 and judicially determined the scope of school boards’ authority with respect to school

²⁵ *Ibid.*

²⁶ *Canadian Broadcasting Corporation v. Ferrier*, [2019 ONCA 1025](#) at para. 35 [*Ferrier*].

²⁷ *Commission scolaire, supra*, at para. 67.

²⁸ *Guelph and Area Right to Life v. City of Guelph*, [2022 ONSC 43](#) at paras. 81-85, 94 [*Guelph*].

²⁹ *Education Act*, [R.S.O. 1990, c. E.2](#), s. 170(1)(17.1)

³⁰ *Ibid.*, s. 170(3); *School Councils and Parent Involvement Committees*, [O. Reg. 612/00](#).

³¹ *School Councils and Parent Involvement Committees*, [O. Reg. 612/00](#), s. 2(1).

³² *Ibid.*, s. 15(1).

³³ *Ibid.*, ss. 11(2), 15(2)(3), 22(2)-(3).

councils.³⁴ In that case, the school board determined that there had been irregularities in the election of a school council and disbanded the council to hold new elections. The Court quashed the school board's decision and declared that the school council had never been disbanded because the board lacked jurisdiction to override the election.³⁵

23. In coming to its conclusion, the Divisional Court affirmed the independent nature of school councils and rejected arguments made by the school board in support of a broad authority of school council activity. The Court held that a "school council is at arms-length from a school board and the rest of the education system."³⁶ The Court referred to the limited, explicit powers granted to boards in O. Reg 612/00 and noted that there "would be no need for these specific authorizing provisions...if a school board had broad authority to control a school council's activities..."³⁷

24. The Court rejected arguments made by the school board that attempted to categorize school councils as "schools" or "resources" of school boards. The Divisional Court held that such an interpretation would be inconsistent with the purpose of school councils, which is to hold the education system accountable. The Court found that there existed a "clear legislative intention...that school councils be independent of and advisory to schools."³⁸ The Court concluded that the school board lacked authority to disband the school council. It held that the board's failure to discern the legislative intent behind its grant of authority and to interpret the scope of its authority in a manner consistent with the text, context, and purpose of the legislation rendered the decision unreasonable.³⁹

ii) Principles Applied

³⁴ *Zemer et al. v. Toronto District School Board*, [2025 ONSC 4551](#).

³⁵ *Ibid*, at paras. 59, 73.

³⁶ *Ibid*, at para. 50.

³⁷ *Ibid*, at para. 52.

³⁸ *Ibid*, at para. 56.

³⁹ *Ibid*, at para. 59.

25. The Board lacks authority to impose either the Land Acknowledgement Mandate or the Debate Prohibition on the Council. As held by the Divisional Court in *Zemer*, school councils are independent and operate at arms-length from school boards. The Board’s authority over the Council is limited to the specific authorizations contained in O. Reg. 612/00. The regulation does not grant the Board authority to either impose specific procedural requirements for Council meetings or to prohibit debate on specific topics.

26. In imposing both the Land Acknowledgement Mandate and Debate Prohibition, the Board exceeded its jurisdiction. Just like the board in *Zemer*, the Board failed to reasonably determine the scope of its authority in a manner consistent with the text, context, and purpose of the *Education Act* and O. Reg. 612/00. Accordingly, the Decision is unreasonable and ought to be quashed.

C. The Land Acknowledgement Mandate Infringes the Right to Freedom of Conscience

i) Governing Principles

a) *The Doré Framework*

27. Judicial review of an administrative decision’s compliance with the *Charter* is assessed with a two-part test. The Court must first determine “whether the discretionary decision limits *Charter* protections” and, if so, whether “the decision reflects a proportionate balancing of *Charter* rights or the values underlying them.”⁴⁰

28. In determining whether a discretionary decision limits *Charter* protections, the Court must first assess whether the rights or values are relevant to the decision and thus must be taken into account.⁴¹ If so, the Court must evaluate whether the Decision limited those rights.⁴² Whether a

⁴⁰ *Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)*, [2023 SCC 31](#) at para. [73](#) [*Commission scolaire*].

⁴¹ *Ibid.*, at paras. [66](#), [75-83](#).

⁴² *Ibid.* at paras. [84-91](#).

“*Charter* right arose” on a particular set of facts and the determination of the scope of that right are reviewable on a standard of correctness.⁴³

29. If a decision maker considered the relevant *Charter* rights and engaged in a balancing analysis, the reasonableness standard will apply to the issue of whether the decision achieved a proportionate balance between the rights at play and the relevant statutory objectives.⁴⁴ The onus is on the government actor to demonstrate that the decision limited *Charter* rights and values “no more than reasonably necessary” to achieve the relevant statutory objectives.⁴⁵

b) *Freedom of Conscience*

30. Section 2(a) of the *Charter* provides that everyone has the “freedom of conscience and religion. Unlike freedom of religion, freedom of conscience remains underdeveloped in the jurisprudence. However, foundational s. 2(a) caselaw provides guiding principles that can be used to develop a legal doctrine for the freedom of conscience.

31. In *Big M Drug Mart Ltd.*, the Supreme Court explored the historical basis of s. 2(a), emphasizing the centrality of conscience.⁴⁶ The Supreme Court noted that protection of belief has its origin in an opposition to the state’s use of coercion to secure obedience to religious precepts. The basis of the opposition shifted from a belief that the state was enforcing the wrong set of beliefs to the “perception that belief itself was not amendable to compulsion.”⁴⁷ The Court explained that, from this basis, the concepts of freedom of religion and freedom of conscience became associated and formed a “single integrated concept of ‘freedom of conscience and religion’” that was ultimately enshrined in s. 2(a) of the *Charter*.

⁴³ *York Region District School Board v. Elementary Teachers’ Federation of Ontario*, [2024 SCC 22](#) at paras. 63-64.

⁴⁴ *Doré v. Barreau du Québec*, [2012 SCC 12](#) at paras. 57-58.

⁴⁵ *Loyola High School v. Quebec (Attorney General)*, [2015 SCC 12](#) at para. 146 [*Loyola*].

⁴⁶ *R. v. Big M Drug Mart Ltd.*, [1985 CanLII 69 \(SCC\)](#), [1985] 1 SCR 295.

⁴⁷ *Ibid.* at para. 120.

32. The Supreme Court highlighted the “centrality of individual conscience” as the foundation of the belief that it is inappropriate for the government to compel or constrain its manifestation.⁴⁸ This centrality underlies the primacy of the First Amendment in American jurisprudence and the designation of s. 2 rights as “fundamental” in the *Charter*.⁴⁹ Protection of conscience means that every individual must be free to hold and to manifest whatever beliefs and opinions his conscience dictates subject to the equal freedom of others. This includes the freedom to manifest non-belief. The Supreme Court identified religious belief as being “historically prototypical” and “paradigmatic of conscientiously-held beliefs and manifestations.”⁵⁰

33. For Dickson C.J. in *Big M*, religious beliefs were one subset of a broader category of conscientious beliefs. In her concurring opinion in *Morgentaler*, Wilson J. further clarified the scope of freedom of conscience beyond religious beliefs.⁵¹ Wilson J. stated that while religion is the paradigmatic example of conscientiously held beliefs, the latter is not restricted to the former. Rather, “conscientious beliefs which are not religiously motivated are equally protected by freedom of conscience in s. 2(a).”⁵² She reasoned that “as a matter of statutory interpretation, ‘conscience’ and ‘religion’ should not be treated as tautologous if capable of independent, although related, meaning.”⁵³ Thus, s. 2(a) broadly protects non-religious, conscientiously held beliefs and the freedom to refrain from participating in beliefs.

34. Given that freedom of conscience and religion form a “single integrated concept” the scope and application of freedom of conscience should mirror the protection afforded to freedom of religion.⁵⁴ Just as in matters of religion, the state has a duty of neutrality with respect to matters

⁴⁸ *Ibid.* at para. [121](#).

⁴⁹ *Ibid.* at para. [122](#).

⁵⁰ *Ibid.* at para. [123](#).

⁵¹ *R. v. Morgentaler*, [1988 CanLII 90 \(SCC\)](#), [1988] 1 SCR 30 per Wilson J. concurring.

⁵² *Ibid.* at para. [258](#).

⁵³ *Ibid.* at para. [260](#).

⁵⁴ See *Big M*, *supra*, at para. [120](#).

of conscience. It must “neither favour nor hinder any particular belief, and the same holds true for non-belief.”⁵⁵ Indeed, the state must “abstain from taking any position and thus avoid adhering to a particular belief.”⁵⁶ State neutrality is necessary because when the state “adheres to a belief, it is not merely expressing an opinion on the subject. It is creating a hierarchy of beliefs and casting doubt on the value of those it does not share.”⁵⁷ State neutrality is connected to the democratic character of Canadian society because it encourages everyone to participate freely in public life regardless of their beliefs.⁵⁸

35. The test for a violation of the state’s duty of neutrality, and thus s. 2(a), is whether: 1) “the state is professing, adopting or favouring one belief to the exclusion of all others”; and 2) “the exclusion has resulted in interference with the complainant’s freedom of conscience and religion.”⁵⁹ The first step is met where “state officials, in the performance of their functions, profess, adopt or favour one belief to the exclusion of all others.”⁶⁰ The second step requires that the state practice have the effect of interfering with an individual’s freedom of conscience and religion by impeding the individual’s ability to act in accordance with his beliefs.⁶¹

36. The duty of neutrality prohibits state actors from consciously adopting professions of belief at the expense of all others.⁶² Where the profession of belief places individuals in the position of choosing between either refusing to participate by physically excluding themselves or else compromising their conscience by participating, their freedom of conscience is infringed.⁶³ The feelings of isolation and exclusion that follow from being required to reveal one’s non-belief are

⁵⁵ *Mouvement laïque québécois v. Saguenay (City)*, [2015 SCC 16](#) at paras. [71-72](#).

⁵⁶ *Ibid.*, at para. [72](#).

⁵⁷ *Ibid.*, at para. [73](#).

⁵⁸ *Ibid.*, at para. [75](#).

⁵⁹ *Ibid.*, at para. [83](#).

⁶⁰ *Ibid.*, at para. [84](#).

⁶¹ *Ibid.*, at para. [85](#).

⁶² *Ibid.*, at para. [87](#).

⁶³ *Ibid.*, at para. [121](#).

neither trivial nor insubstantial.⁶⁴ For example, reading prayers and the beginning of meetings or school days is an infringement of s. 2(a). The opportunity to exclude oneself or obtain an exemption did not make the practices constitutionally compliant.⁶⁵ The Court of Appeal has found that imposing prayers cannot be justified under s. 1 because the very purpose of the practice is to impose a Christian “moral tone.”⁶⁶

ii) Principles Applied

37. The Board limited his right to freedom of conscience and failed to engage in the necessary *Doré* balancing exercise.

c) *The Board Infringed Mr. Horsman’s Right to Freedom of Conscience*

38. The Board’s Land Acknowledgement Mandate infringes the Applicant’s freedom of conscience. The Applicant submits that freedom of conscience ought to be treated analogously to freedom of religion. It ought to be assessed under the same test applied to conscience beliefs, rather than purely religious ones.

39. The Board has adopted the beliefs contained in the land acknowledgements about the privileged status of First Nations people regarding Canadian land and mandated their profession at school council meetings. The Board has also prohibited the expression of any contrary beliefs or debate on the topic.

40. The Land Acknowledgement Mandate infringes the Applicant’s freedom of conscience. Mr. Horsman holds the belief that all human possess inherent dignity and are equal regardless of ethnicity, religion, sex, or nationality.⁶⁷ He views land acknowledgements as contrary to the equal

⁶⁴ *Ibid.*

⁶⁵ *Ibid.* at paras. [124-125](#); *Zylberberg v. Sudbury Board of Education*, [1988 CanLII 189 \(ON CA\)](#) at pp. [13-14](#); *Freitag v. Penetanguishene (Town)*, [1999 CanLII 3786 \(ON CA\)](#) [*Freitag*].

⁶⁶ *Freitag, supra*, at para. [50](#).

⁶⁷ *Horsman Affidavit* at para. 7.

human dignity of all because it singles out one particular ethnic group as holding a special claim and relationship to the land we are on.⁶⁸ He feels that his beliefs are excluded by the mandatory reading of land acknowledgements at Council meetings. He is forced to either compromise his conscience by staying or else single himself out for his beliefs by excluding himself during the land acknowledgements.⁶⁹

41. Mr. Horsman's beliefs are conscientious. His belief in human dignity and equality is the type of foundational principle that is foundational to an overall worldview, analogous to religious precepts. It is not an isolated, political belief. Rather, it is a principle of broad applicability that governs the way he views the world and his moral obligations within it. His belief is as important and fundamental as any religious person's faith. It ought to be afforded the same protection under s. 2(a).

42. The land acknowledgements are like prayers recited at the opening of meetings. They are ritualized recitations that involve collective statements of belief. The Board's recommended land acknowledgement includes a collective acknowledgement of "the enduring presence and deep traditional knowledge, laws and philosophies of Indigenous Peoples."⁷⁰ It includes a collective statement of moral responsibility that "[w]e are all treaty people with a responsibility to honour all our relations."⁷¹

43. The Land Acknowledgement Mandate's impact on Mr. Horsman's conscientious belief in equality is equivalent to the impact of opening prayers on those of differing religions or no religion. He objects to the practice and its imposition forces him to either compromise his belief or single

⁶⁸ Horsman Affidavit at paras. 5, 7.

⁶⁹ Horsman Affidavit at para. 22.

⁷⁰ Responding Record, Tab 2, Affidavit of Vinay Tiwary affirmed February 27, 2026 at para. 30.

⁷¹ *Ibid.*

himself out. Whichever option he chooses, his freedom of conscience has been limited by the Board.

d) *The Board Failed to Engage in the Necessary Doré Balancing Analysis*

44. The Board failed to proportionately balance the Land Acknowledgement Mandate's impact on Mr. Horsman's right to freedom of conscience with any statutory objectives. Administrative decision makers must consider the *Charter* values relevant to their decisions.⁷² *Charter* values become relevant when there is a link between the value and the matter under consideration.⁷³ In the present case, the Land Acknowledgement Mandate infringes Mr. Horsman's right to freedom of conscience, making it relevant to the Board's decision. Its failure to consider a relevant *Charter* right renders its Decision unreasonable.⁷⁴

45. Even if the Board had engaged in a *Doré* analysis, the Decision is unreasonable because there is no relevant statutory objective. Decision makers must ensure that *Charter* protections are limited "no more than necessary given the applicable statutory objectives."⁷⁵ The Board does not have any statutory objectives that obligate it to require that *parents* sit through land acknowledgements at school council meetings. It is entirely disconnected from the educational purpose of the Board. In the absence of any applicable statutory objective, the infringement of Mr. Horsman's right to freedom of conscience is unjustified and unreasonable.

⁷² *Commission scolaire, supra*, at para. 66.

⁷³ *Ibid.*

⁷⁴ *Ibid.*, at para. 68; *Guelph, supra*, at paras. 81-85, 94; *Ferrier, supra*, at para. 35 (note that the Court of Appeal characterizes the failure to engage in the balancing analysis as reviewable correctness. Whether the failure is incorrect or necessarily unreasonable, the result is the same; the Decision cannot stand).

⁷⁵ *Loyola, supra*, at para. 4;

D. The Debate Prohibition Infringes the Right to Freedom of Expression

i) Governing Principles

46. The *Doré Framework* set out above at paragraphs 27-29 applies to the Debate Prohibitions infringement of freedom of expression under s. 2(b) of the *Charter*.

47. The test for an infringement of the right to freedom of expression requires that the Court ask 1) whether the affected conduct or speech has expressive conduct, 2) whether the method or location removes the expression from protection, and 3) whether the impugned law or decision infringes freedom of expression in purpose or effect.⁷⁶

48. First, anything that conveys a meaning has expressive content.⁷⁷ Second, expression is only removed from protection if the method of expression is violent or if its location's function is incompatible with free expression in light of the place's historical or actual function and whether expression in the location would undermine the values underlying free expression.⁷⁸ Third, government action limits free expression in its purpose if it regulates the content of the expression. Where government action limits free expression in its purpose, it necessarily infringes s. 2(b) of the *Charter*.⁷⁹

ii) Principles Applied

49. The Debate Prohibition infringes Mr. Horsman's right to freedom of expression. The Board has failed to engage in the necessary *Doré* balancing analysis rendering the Decision unreasonable.

⁷⁶ *Montréal (City) v. 2952-1366 Québec Inc.*, [2005 SCC 62](#) at para. 56 [*Montreal (City)*].

⁷⁷ *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989 CanLII 87 \(SCC\)](#), [\[1989\] 1 SCR 927](#) at p. 968 [*Irwin Toy*].

⁷⁸ *Montreal (City)*, *supra*, at para. 74.

⁷⁹ *Irwin Toy*, *supra*, at p. 974.

a) *The Debate Prohibition Infringes the Right to Freedom of Expression*

50. The Debate Prohibition infringes Mr. Horsman’s right to freedom of expression. First, his goal of raising the issue of land acknowledgements at a Council meeting so that the practice can be debated and voted on has expressive content.

51. Second, Mr. Horsman’s expression is not removed from s. 2(b) protection by either its method or location. His expression is not violent. The location’s actual function is well-suited to Mr. Horsman’s intended expression. The location is the Council meetings. The purpose of school council is to improve pupil achievement “through the active participation of parents” “by making recommendations in accordance with” O. Reg. 612/00.⁸⁰ School Councils are also empowered to make by-laws governing the conduct of their own affairs, which would include whether to open meetings with land acknowledgements.⁸¹ The expression that Mr. Horsman wishes to engage in is explicitly permitted by the relevant regulations and so the location’s actual function is well-suited to the expression in question.

52. Third, the Debate Prohibition limits Mr. Horsman’s expression in its purpose. The Board has singled out a specific viewpoint that cannot be discussed at school council meetings; namely, the perspective that land acknowledgements ought not to be read.⁸² It limits the expression’s content, and so infringes s. 2(b) of the *Charter*.

53. The infringement is not remedied by the fact that Mr. Horsman was allowed to speak about land acknowledgements after the September 17 Meeting. Mr. Horsman is not seeking to merely express himself about land acknowledgements, he is seeking to debate and vote on the practice at a Council meeting. He was only permitted to speak after the meeting had ended. Further, no

⁸⁰ *School Councils*, [O. Reg. 612/00](#), s. 2.

⁸¹ *Ibid.*, s. 15(1).

⁸² Horsman Affidavit, Exhibit F, AR p. 40.

discussion was permitted on the topic. Mr. Horsman saw another parent attempt to join in who was not allowed to contribute.⁸³ The right to freedom of expression protects the listeners as much as speakers.⁸⁴

b) The Board has Not Engaged in the Necessary Balancing Analysis

54. The Board's failure to engage in the required *Doré* analysis renders its decision unreasonable. As the Debate Prohibition limits free expression, the Board was required to consider the *Charter*-protected right to free expression and to balance the infringement with relevant statutory objectives.⁸⁵ Its failure to do so renders the Decision unreasonable.⁸⁶

IV. ORDER REQUESTED

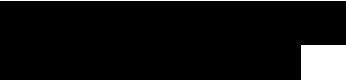
55. The Decision is unreasonable. Accordingly, Mr. Horsman asks that this Court quash the Decision and issue declarations that the decision was made without jurisdiction and violated Mr. Horsman's rights to freedom of conscience and expression. Such a declaration would provide guidance to the Board in handling this issue going forward.

Dated April 17, 2026



Hatim Kheir

CHARTER ADVOCATES CANADA



Hatim Kheir (LSO#79576J)

T. 
E. 

Counsel for the Applicant

⁸³ Horsman Affidavit at para. 14; Reply Affidavit at paras. 10-11.

⁸⁴ *Ford v. Quebec (Attorney General)*, [1988 CanLII 19 \(SCC\)](#), [\[1988\] 2 SCR 712](#) at p. 767.

⁸⁵ *Commission scolaire, supra*, at paras. 66, 68.

⁸⁶ *Ibid*; *Guelph, supra*, at paras. 81-85, 94; *Ferrier, supra*, at para. 35.

Schedule A

List of Authorities

<i>Canada (Minister of Citizenship and Immigration) v. Vavilov</i> , 2019 SCC 65
<i>Canadian Broadcasting Corporation v. Ferrier</i> , 2019 ONCA 1025
<i>Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)</i> , 2023 SCC 31
<i>Doré v. Barreau du Québec</i> , 2012 SCC 12
<i>Ford v. Quebec (Attorney General)</i> , 1988 CanLII 19 (SCC) , [1988] 2 SCR 712
<i>Freitag v. Penetanguishene (Town)</i> , 1999 CanLII 3786 (ON CA)
<i>Guelph and Area Right to Life v. City of Guelph</i> , 2022 ONSC 43
<i>Irwin Toy Ltd. v. Quebec (Attorney General)</i> , 1989 CanLII 87 (SCC) , [1989] 1 SCR 927
<i>Loyola High School v. Quebec (Attorney General)</i> , 2015 SCC 12
<i>Montréal (City) v. 2952-1366 Québec Inc.</i> , 2005 SCC 62
<i>Mouvement laïque québécois v. Saguenay (City)</i> , 2015 SCC 16
<i>R. v. Big M Drug Mart Ltd.</i> , 1985 CanLII 69 (SCC) , [1985] 1 SCR 295
<i>R. v. Morgentaler</i> , 1988 CanLII 90 (SCC) , [1988] 1 SCR 30
<i>York Region District School Board v. Elementary Teachers' Federation of Ontario</i> , 2024 SCC 22
<i>Zemer et al. v. Toronto District School Board</i> , 2025 ONSC 4551
<i>Zylberberg v. Sudbury Board of Education</i> , 1988 CanLII 189 (ON CA)

Schedule B
Statutes and Regulations

<i>Education Act, R.S.O. 1990, c. E.2.</i>
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<i>School Councils and Parent Involvement Committees, O. Reg. 612/00</i>
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EXCERPTS OF STATUTES and REGULATIONS

Education Act

R.S.O. 1990, CHAPTER E.2 Consolidation Period: From November 27, 2025 to the e-Laws currency date. Last amendment: 2025, c. 15, Sched. 6, s. 1.

s. 170(1), (17.1) and 170(3)

Duties of boards

170 (1) Every board shall,

appoint treasurer

1. appoint a treasurer who, in the case of a board of not more than five elected members, may be a member of the board; R.S.O. 1990, c. E.2, s. 170 (1), par. 1; 2009, c. 25, s. 16 (1).

school councils

17.1 establish a school council for each school operated by the board, in accordance with the regulations; 1997, c. 31, s. 80 (2).

Teachers' assistants, etc.

170.3 The Lieutenant Governor in Council may make regulations governing duties and minimum qualifications of persons who are assigned,

(a) to assist teachers or to complement instruction by teachers in elementary or secondary schools, except in junior kindergarten or kindergarten;

(b) to assist teachers and designated early childhood educators or to complement instruction by teachers and the work of designated early childhood educators in junior kindergarten or kindergarten; or

(c) to assist designated early childhood educators or to complement the work of designated early childhood educators in extended day programs. 2010, c. 10, s. 7.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 81 - 31/08/1998 2010, c. 10, s. 7 - 03/06/2010

ONTARIO REGULATION 612/00

SCHOOL COUNCILS AND PARENT INVOLVEMENT COMMITTEES

Historical version for the period November 27, 2020 to April 3, 2022.

Last amendment: 674/20.

Ibid, s. 15(1).

¹ *Ibid*, ss. 11(2), 15(2)(3), 22(2)-(3).

Part II School Councils

Purpose

2. (1) The purpose of school councils is, through the active participation of parents, to improve pupil achievement and to enhance the accountability of the education system to parents. O. Reg. 612/00, s. 2 (1).

Remuneration

11. (2) Every board shall establish policies respecting the reimbursement of members and officers of school councils established by the board. O. Reg. 612/00, s. 11 (2).

By-laws

15. (1) A school council may make by-laws governing the conduct of its affairs. O. Reg. 612/00, s. 15 (1).

15. (2) Every school council shall make the following by-laws:

3. A by-law that, in accordance with any applicable policies established by the board that established the council, establishes a conflict resolution process for internal school council disputes. O. Reg. 612/00, s. 15 (2).

Fundraising

22. (1) Subject to subsection (2), a school council may engage in fundraising activities. O. Reg. 612/00, s. 22 (1).

(2) A school council shall not engage in fundraising activities unless,

(a) the activities are conducted in accordance with any applicable policies established by the board; and

(b) the activities are to raise funds for a purpose approved by the board or authorized by any applicable policies established by the board. O. Reg. 612/00, s. 22 (2).

(3) A school council shall ensure that the funds raised by it are used in accordance with any applicable policies established by the board. O. Reg. 612/00, s. 22 (3).

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

BETWEEN:

GEOFFREY HORSMAN

Applicant

and

WATERLOO REGION DISTRICT SCHOOL BOARD

Respondent

APPLICATION UNDER Rules 14.05(2) and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 and Sections 2(1) and 6(1) of the *Judicial Review Procedure Act*, R.S.O. 1990, c J.1.

APPLICANT'S CERTIFICATE

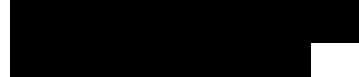
The Applicant's counsel estimates that 1.5 hours will be required for his oral argument, not including reply. The Applicant's counsel certifies that he is satisfied that the authorities cited in the factum are all authentic.

Dated April 17, 2026



Hatim Kheir

CHARTER ADVOCATES CANADA



Hatim Kheir (LSO#79576J)

T. 
E. 

Counsel for the Applicant

GEOFFREY HORSMAN

APPLICANT

-and-

WATERLOO REGION DISTRICT SCHOOL BOARD

RESPONDENTS

Court File No.: DC-25-00000424-00JR

ONTARIO SUPERIOR COURT OF JUSTICE

Proceeding Commenced at HAMILTON

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