CITATION: Geoffrey Horsman v. Waterloo Region District School Board, 2026 ONSC 6591
COURT FILE NO.: DC-25-00000424-00JR
DATE: 25/11/2026

ONTARIO

SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

LeMay, Maxwell and S.E. Fraser JJ.

BETWEEN:	)	
GEOFFREY HORSMAN	)	*Hatim Kheir*, Counsel for the Applicant
Applicant	)	
– AND –	)	
WATERLOO REGION DISTRICT SCHOOL BOARD	)	*Nadya Tymochenko and Natalie Kolos*, Counsel for the Respondent
Respondent	)	

HEARD: October 6, 2026

REASONS FOR JUDGMENT

THE COURT:

I. Overview

[1] On this application for judicial review, the Applicant asks the Court to find that the Waterloo Region District School Board (the "Board") required the Kitchener-Waterloo Collegiate and Vocational School Council ("KCI Council") to begin its meetings with a territorial acknowledgment for purposes described later in these reasons. He asks the Court to declare that it did so without lawful authority.

[2] Alternatively, the Applicant submits that, should this Court find that the Board has this authority, the Court should declare that the mandated territorial acknowledgment violates his rights to freedom of conscience and freedom of expression guaranteed under ss. 2(a) and (b) of the *Canadian Charter of Rights and Freedoms* in a manner not justified under s. 1 of the *Charter*.

[3] School councils are created under the *Education Act,* R.S.O. 1990, c. E.2 (the "*Education Act*"). Their purpose is to improve student achievement and enhance the accountability of the education system to parents through active participation of parents. They are independent of and advisory to the school. The Applicant has been a member of the KCI School Council since 2024. He objects to KCI School Council's practice of opening its meetings with a territorial acknowledgment.

[4] Territorial acknowledgments within schools and school gatherings have their roots in the *Calls to Action of the Truth and Reconciliation Commission Report* (2015) ("Calls to Action") calling for a deeper understanding of the historical and contemporary contributions to Canada of Indigenous peoples.

[5] This decision is not about the value of territorial acknowledgments. It is about whether the *Education Act* permits the Board to require school councils to acknowledge the territory at each meeting. We find that the *Education Act* does not give the Board this power. Rather, the *Education Act* contemplates that school councils create their own practices and procedures for the conduct of their meetings.

[6] Accordingly, for these reasons, as further described below, we allow the application and remit the matter to the KCI School Council to decide. As the jurisdiction issue determined the application, we have not addressed the *Charter* issues raised by the Applicant. Nothing in these reasons should be taken as a comment on the merit of the Applicant's *Charter* breach claims.

II. Facts

a. Background

[7] The Ontario government created a framework for Indigenous education across all school boards in the *Ontario First Nation, Métis, and Inuit Education Policy Framework*, directing school boards to build Indigenous education resources, support Indigenous students in the school system and promote inclusivity and culturally responsive education. The Ministry of Education requires school boards to have a full-time position dedicated to supporting Indigenous education in school boards that works with the senior board administration, the Superintendent responsible for Indigenous education, school board staff, and Indigenous Education Councils.

[8] In response to the Calls to Action and the policy direction of the Ministry of Education, the Board has taken steps to establish policies and procedures for fostering a culture that supports awareness and education around historic barriers. Those steps include the Board's implementation of its Human Rights Policy, its Equity and Inclusion Policy, and its Anti-Racism Policy. It also developed strategies, curriculum tools, and professional development for educators designed to support eliminating barriers for students. The Board's Strategic Plan underscores its commitment to Indigenous education.

[9] The practice of opening Board meetings with a territorial acknowledgement was adopted by the Board of Trustees. Article 14.8 of the Board's by-laws states:

> 14.8.1. All Board meetings will begin with a territorial acknowledgment, followed by the singing of the Canadian national anthem.

[10] The Board also developed tools to assist schools and groups meeting within its schools to create a Territorial Acknowledgment, including resource guides entitled "Indigenous Education – The Territorial Acknowledgment" and "Supporting Land Acknowledgments".

[11] In her affidavit, Ms. Martin asserts that territorial acknowledgments have been a long-standing practice at KCI Council meetings and are consistent with the policy direction established by the Ministry of Education as well as other practices in place at KCI. However, there is nothing in the record on this judicial review indicating when the practice was formally instituted by KCI Council, nor is there any evidence in the record of a by-law or resolution passed by KCI Council,

or meeting minutes affirming the implementation of territorial acknowledgments at KCI Council meetings, or of the procedure followed by KCI Council to discuss and decide the matter. We return to this point later in these reasons.

b. The Applicant's Communications with KCI Council and the Board

[12] In early 2025, the Applicant began raising his concern about the practice of reading a territorial acknowledgement at KCI Council meetings with Sue Martin, the principal of KCI, and Christine Carmody, the Chair of KCI Council. On a number of occasions, he expressed that the reading of the territorial acknowledgment was incompatible with his belief in human dignity and equality of all people and in school neutrality.

i. The February 2025 Correspondence

[13] On February 10, 2025, Ms. Carmody responded to the Applicant's email of February 8, 2025, in which he expressed concern that the school was expressing "aggressive and unbalanced political viewpoints", referring specifically to territorial acknowledgments. In response, Ms. Carmody wrote:

> The Territorial Acknowledgment is part of the WRDSB's reconciliation. This decision was, I believe, made at the board level many years ago. As a school council, we cannot enter into this type of discussion because whether the WRDSB has Territorial Acknowledgments is beyond the scope of School Councils' mandates, we would violate the rules that School Councils have to follow which are set by The Education Act/The Ministry of Education and we as a school council would risk violating members of our KCI School Community including students, staff and parents/caregivers/guardians' human rights which are protected under the Ontario Human Rights Code. School Councils have to respect the Ontario Human Rights Code first, above the Education Act, the Ministry of Education's policies and the WRDSB's policies. Because the Territorial Acknowledgment is a board level decision, you could bring your concerns as a delegation to the WRDSB's Meeting of the Whole. That is the appropriate place to have that discussion.

[14] The Applicant wrote back to Ms. Carmody on February 10, 2025, suggesting KCI Council meetings were an appropriate place to debate the issue, directing Ms. Carmody to s. 2(1) of Regulation 612, O. Reg. 612/00 (the "Regulation") of the *Education Act*, setting out the purpose of school councils. In response, Ms. Carmody wrote to the Applicant on February 17, 2025, stating:

> ... To reopen a discussion about not having Territorial Acknowledgments at the WRDSB risks violating Indigenous peoples' Human Rights and therefore that discussion is not permitted at WRDSB School Council meetings. That is why that discussion cannot take place at KCI Council's meetings. KCI School Council also has to follow WRDSB policy. I do not believe we can just choose to stop having Territorial Acknowledgments.
> […]
> What further adds to the reason why we cannot discuss Territorial Acknowledgments, is it is beyond the scope of School Council's mandate. The Territorial Acknowledgment is a WRDSB wide policy and part of the WRDSB's commitment to reconciliation. The WRDSB is the only entity that can make a change to this policy and KCI School Council has no ability to change this WRDSB policy… Your only avenue of pursuing this concern is with the decision makers at the WRDSB.

ii. The March to September 2025 Correspondence

[15] On March 26, 2025, Ms. Martin met with the Applicant to discuss the issue again. The Applicant shared his view that territorial acknowledgments were "personally offensive" to him and asked that KCI Council stop opening meetings with them. He suggested a debate and vote on the practice and advised that he would object at each meeting during the territorial acknowledgment. Ms. Martin advised the Applicant that territorial acknowledgments were a longstanding practice at KCI Council meetings. She told him she would consider his feedback.

[16] On April 30, 2025, Ms. Martin advised the Applicant that KCI Council would continue to open meetings with a territorial acknowledgment and that he could state his objection to the practice at the beginning of the meeting. In a further phone call on May 1, 2025, she advised the Applicant that the practice of opening meetings with a territorial acknowledgment would not be debated.

[17] On May 7, 2025, Ms. Carmody requested that KCI Council members send any agenda items for the next meeting. The Applicant sent an email seeking to have territorial acknowledgments added to the agenda. Ms. Martin followed up on May 9, 2025, and advised the Applicant of KCI Council's commitment to Truth and Reconciliation and that KCI Council would continue to narrate a territorial acknowledgment to open KCI Council meetings. Due to the death of a family member, the Applicant did not attend the May 2025 meeting and the issue was not discussed.

[18] There was further email correspondence between Ms. Martin and the Applicant in May of 2025 in which the Applicant reiterated his position that territorial acknowledgments are a "political statement".

[19] On September 15, 2025, in anticipation of KCI Council's upcoming meeting, the Applicant emailed Ms. Carmody and advised that he wished to discuss the topic of territorial acknowledgments at the meeting scheduled for September 17, 2025.

[20] Ms. Carmody advised the Applicant that the topic had been added to the agenda for September 17, 2025, but it would be addressed after the meeting was adjourned. Ms. Carmody explained, in response to the Applicant's inquiry as to why the issue would be discussed post-adjournment, that because of the nature of the topic, it was made "optional" for KCI Council members who wished to attend. According to the affidavit of Ms. Martin filed on the judicial review, putting the topic after the adjournment of the meeting would allow members who did not wish to remain and listen to the discussion to leave without missing other agenda items. The matter was set out at the end of the agenda, and after the agenda item listed as "Adjournment", as "Discussion regarding Territorial Acknowledgments at KCI for those who wish to attend".

iii. The KCI Council Meeting on September 17, 2025, and Ms. Martin's Correspondence dated October 8, 2025

[21] Ms. Martin opened the September 17, 2025, KCI Council meeting with a territorial acknowledgment. The meeting then proceeded to address the rest of the agenda items.

[22] After the meeting was adjourned, the Applicant was given the opportunity to share his perspective on territorial acknowledgments. Ms. Martin then delivered her prepared closing remarks, after which the Applicant continued to share his views. When another parent raised their hand, Ms. Martin advised that the discussion had concluded and that any comments could be directed to her afterward.

[23] On October 8, 2025, the Applicant wrote to Ms. Carmody and Ms. Martin to request a meeting with them to further discuss the territorial acknowledgment issue. Ms. Martin replied and stated that, after reflection and with the feedback received, a decision had been made to continue with the territorial territorial acknowledgment at the start of KCI Council meetings. She offered to

coordinate a meeting with Vinay Tiwari, the System Administrator of Equity and Inclusion Education at the Board, if the Applicant wished to discuss the matter further. She also advised that Ms. Carmody would not be part of the ongoing dialogue on the topic.

iv. Communications with Mr. Tiwari

[24] On October 22, 2025, Mr. Tiwari met with the Applicant. Mr. Tiwari advised him that he would consider their discussion and the Applicant's concerns and would follow up with him with the Board's written position.

[25] On October 29, 2025, Mr. Tiwari informed the Applicant via email of the Board's position, stating:

> The Waterloo Region District School Board is firmly committed to advancing Truth and Reconciliation, and to upholding human rights and equity obligations under the Ontario Human Rights Code. As a public education system, we have a responsibility to ensure that all spaces connected to our work – including School Councils – reflect respect for human dignity, reconciliation, and inclusion.
>
> While we recognize that differing viewpoints may exist, these principles are not optional: they are foundational to the work of the WRDSB and are protected under provincial legislation. The *Ontario Human Rights Code* guarantees the right to equal treatment in education and obligates school boards to prevent and address discrimination and harassment. The *Education Act* further mandates that boards promote student well-being, equity, and inclusive learning environments, while the *Anti-Racism Act (2017*) requires public institutions to identify and eliminate systemic racism. Together, these statutes establish a clear legal duty for the WRDSB to ensure that all school spaces, including School Councils, uphold human rights, reconciliation, and equity in both practice and dialogue.
>
> As part of this ongoing commitment, territorial acknowledgments will continue to be part of School Council and WRDSB gatherings…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.

[26] On November 3, 2025, the Applicant wrote to Mr. Tiwari to ask whether KCI Council was allowed to discuss the issue and indicated his intention to do so with care and respect. Mr. Tiwari responded on November 10, 2025, stating:

> The Waterloo Region District School Board requires that territorial acknowledgments continue to be included as part of School Council meetings. This expectation comes from the Board and reflects our shared commitment to Truth and Reconciliation, equity, and inclusion across all school communities.

[27] He went on to address the Applicant's interest in discussing the issue at KCI Council meetings:

> …councils are encouraged to engage in open, thoughtful dialogue that supports student achievement, well-being, and belonging. However, discussions that question or challenge established equity-focused practices, including territorial acknowledgments, fall outside the scope of School Council business. These expectations are in place to ensure that all participants experience School Council as a safe, respectful and inclusive space.

III. Issues to be Determined

[28] The following issues must be addressed:

a. The applicable standard of review;

b. Were the decisions implementing the reading of a land acknowledgment at KCI Council meetings and imposing a prohibition on debate on the matter decisions of KCI Council or the Board?

c. If the decisions were made by the Board, did the Board exceed its statutory authority in imposing a land acknowledgment mandate and debate prohibition?

IV. Analysis

a. Standard of Review

[29] The parties agree that whether the Board exceeded its statutory authority is determined on a reasonableness standard, including where the decision-maker is interpreting the scope of its own jurisdiction: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653.

[30] As noted in *Vavilov* at para. 67, a reasonableness review does not give administrative bodies “free rein” in interpreting their enabling statutes to enlarge their powers beyond what the legislature intended.

[31] A reasonable decision is one that is "based on an internally coherent and rational chain of analysis" and "justified in relation to the facts and law that constrain the decision maker": *Metrolinx v. Amalgamated Transit Union, Local 1587*, 2025 ONCA 415, at para. 4; *Vavilov*, at paras. 85, 101.

b. Were the Decisions to Mandate a Territorial Acknowledgment at KCI Council Meetings and Prohibit Debate on the Practice Decisions of the Board or KCI Council?

[32] The Applicant asserts that the decision to mandate the reading of a territorial acknowledgment at KCI Council meetings and the decision to prohibit debate on the matter were decisions made by the Board. He points to the email communications of Mr. Tiwari dated October 29, 2025, communicating the Board’s decision mandating the reading of a territorial acknowledgment at KCI Council meetings and his email of November 10, 2025, communicating the Board’s decision prohibiting debate on the matter.

[33] The Respondent submits that the decision to read a territorial acknowledgment at the opening of KCI Council meetings was a decision made by Ms. Carmody and Ms. Martin, as members of the KCI Council, communicated through Ms. Martin’s email correspondence on October 8, 2025, and not a decision made by the Board. The Respondent submits that Ms. Martin and Ms. Carmody, in their capacity as KCI Council members, made a decision to provide the Applicant with an opportunity to express his opinions after the adjournment of the meeting on September 17, 2025. Ms. Martin then made a decision, communicated in her email of October 8, 2025, that the practice of opening meetings with a territorial acknowledgment would continue at KCI Council meetings.

[34] The Respondent argues that the Applicant has misconstrued the email communications from Mr. Tiwari. The exchanges between the Applicant and Mr. Tiwari were intended only to help the Applicant understand the rationale for territorial acknowledgments and the restriction on

debating the matter, and to express the Board's support for KCI Council's decisions on those matters.

[35] As noted earlier, there is no evidence in the record before this Court of any deliberation process, vote, or procedure followed by KCI Council at any point to arrive at a decision to institute or continue with territorial acknowledgments at KCI Council meetings, or of any procedure KCI Council adopted for discussing and deciding the issue.

[36] Based on the record before this Court, we conclude that requiring the reading of a territorial acknowledgment at KCI Council meetings and prohibiting debate on the topic were decisions made at the Board level.

[37] We come to this conclusion on the totality of the evidence in the record before this Court, including:

- Ms. Carmody's statement in her email of February 10, 2025, in which she expressed her understanding that the Board decided that territorial acknowledgments would be imposed and that KCI Council could not debate the topic;
- Ms. Carmody's statements in her email of February 17, 2025, that territorial acknowledgments are a "WRDSB wide policy" and that the Board was the only entity that could make any changes to the policy;
- The decision to place the topic of territorial acknowledgments after the adjournment of the September 17, 2025, meeting, effectively taking the discussion outside of KCI Council's business for the meeting;
- After the September 17, 2025, meeting, the decision to remove Ms. Carmody from the discussions with the Applicant and to direct any further discussion on the matter to Mr. Tiwari in his capacity as System Administrator of Equity and Inclusion Education at the Board;
- Mr. Tiwari's statement in his email of October 29, 2025, that as part of the Board's ongoing commitment to human rights and reconciliation, territorial acknowledgments would continue to be part of KCI Council and WRDSB gatherings;
- Mr. Tiwari's statements in his email of November 10, 2025, that the Board required that territorial acknowledgments continue to be included as part of KCI Council meetings, that this expectation came from the Board, and that discussions that questioned or challenged territorial acknowledgments fall outside the scope of KCI Council business.

[38] We do not accept the Respondent's position that Ms. Martin's email of October 8, 2025, represented a decision reached by KCI Council. There is nothing in the email to suggest that KCI

Council played any role in determining how the matter would be addressed. Rather, the email appears to convey Ms. Martin's decision on the matter. Under s. 15(3) of the Regulation, a school principal is a non-voting member of a school council. As such, Ms. Martin's "decision" on the matter cannot be said to represent a decision by KCI Council.

[39] We are also unable to accept the Respondent's argument that in his emails Mr. Tiwari was simply expressing support for KCI Council's decision on territorial acknowledgments and KCI Council's decision to prohibit debate on the topic. The language in Mr. Tiwari's communications is clear – from the Board's perspective, KCI Council was required to have a territorial acknowledgment at its meetings to comply with the Board's broader commitment to uphold human rights, reconciliation and equity, and discussions critiquing the practice would not be permitted. This interpretation of Mr. Tiwari's communications is consistent with the point of view expressed by Ms. Carmody in her emails to the Applicant that the issue of opening KCI Council meetings with a territorial acknowledgment was not something over which KCI Council had any discretion.

[40] The record before us demonstrates that the Board directed KCI Council to begin meetings with a territorial acknowledgment and prohibited KCI Council from debating the issue. The questions of whether territorial acknowledgments should form part of KCI Council meetings and/or whether debate on the issue should be permitted were matters that both the Board and KCI Council viewed as entirely within the Board's authority.

c. Was the Board's Decision to Require the Recitation of a Territorial Acknowledgment at KCI Council Meetings and to Impose a Prohibition on Debate *Ultra Vires* the Board's Statutory Authority under the *Education Act*?

[41] Section 170(1) (17.1) of the *Education Act* provides that boards must establish school councils for each school in accordance with the regulations.

[42] The *Education Act* provides that the purpose of school councils is, through active participation of parents, to improve student achievement and enhance the accountability of the education system to parents: O. Reg. 612/00, s. 2. The primary means by which a school council achieves its purpose is by making recommendations to the principal of the school and to the board that established the council. School councils can make recommendations to the principal and/or

the board on any matter: O. Reg. 612/00, s. 20. School boards must also solicit recommendations from school councils with respect to a variety of matters, including the policies and guidelines related to pupil achievement, accountability of the education system to parents, criteria for selecting and placing principals and vice-principals, periodic review of policies and procedures related to the conduct of persons in school, and the development of bullying prevention and intervention plans.

[43] To serve their advisory role and increase accountability of school boards, school councils must maintain independence from boards and operate at arm's length from the school boards that institute them. In *Zemer et al. v. Toronto District School Board,* 2025 ONSC 4551, this Court held, at para. 56, that there existed a "clear legislative intention…that school councils be independent of and advisory to schools."

[44] Consistent with their independent and advisory role, the *Education Act* contemplates that school councils will determine their own practices and procedures. Councils are authorized to pass by-laws governing "the conduct of their affairs": O. Reg. 612/00, s. 15(1). The *Education Act* also sets out specific areas in which school councils *must* pass by-laws: election procedures, rules respecting participation in council proceedings where there is a conflict of interest, and conflict resolution processes and council disputes: O. Reg. 612/00, s. 15(2).

[45] Further, the *Education Act* provides that school councils may, in accordance with their by-laws, establish committees to make recommendations to the council: O. Reg. 612/00, s. 13(1).

[46] In addition to specific provisions empowering school councils to determine their own practices and procedures, the *Education Act* makes explicit the limited ways in which board policies will apply to school councils: reimbursement of members, conflict resolution processes, fundraising activities, and the use of funds: O. Reg. 612/00, ss. 11(2), 15(2)(3), and 22(2)-(3).

[47] These provisions highlight the legislative intent that, with some specific exceptions, school councils operate independently from the boards which establish them.

[48] Where, in making a decision, a board interprets the scope of its authority more broadly than what is provided in the text, context, and purpose of the legislation, the decision is unreasonable: *Ontario (Health Insurance Plan) v. K.S.*, 2025 ONCA 306, at paras. 46-47.

[49] In this case, it is our view that 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 the Regulation. Neither the *Act* nor the Regulation gave the Board authority to impose specific procedural requirements for KCI Council meetings or to prohibit debate on specific topics at KCI Council meetings: *Zemer*, at para. 47.

[50] As this Court noted in *Zemer* at paras. 52-53, there would be no need for the authorizing provisions in ss. 11(2), 15(2)(3) and 22(2)(3) of the Regulation if a school board had broad authority to control a school council's activities under the mandate of "effective stewardship" of the Board's resources under s. 169.1 of the *Education Act*. The Court noted, at para. 50:

> A school council is not a resource (e.g. good or service) that a school board can allocate. Further, a school council is not "entrusted" to a school board. A school council is at arms-length from a school board and the rest of the education system.

[51] The Court in *Zemer* went on to state, at para. 56:

> To find that a school council is a "resource" of a school board within the meaning of s. 169.1(1)(b) or s. 169.1(5) of the Education Act or that it is a "school" for purposes of s. 11(1) of O. Reg. 298 such that a principal or superintendent has authority to manage a school council, or that a school council is a "school activity authorized by the board" would be inconsistent with one of the purposes of a school council which is "… to enhance the accountability of the education system to parents". Such an interpretation would result in a school council being controlled by a school board when the clear legislative intention is that school councils be independent of and advisory to schools.

[52] We are bound by this Court's interpretation of the scope of the Board's power under the *Education Act* set out in *Zemer*. We agree with that interpretation and see no basis upon which it would not apply to the circumstances of this case.

[53] This Court recognizes the important principles and values advanced by the Calls to Action, the Ontario government's policy framework for Indigenous education across all school boards, and a number of Board policies and procedures to establish a culture that supports the success of

all students by recognizing and dismantling historic barriers. However, matters concerning how KCI Council governs its meetings, including whether it will include a territorial acknowledgment to open its meetings or permit debate on the matter, are for the KCI Council to decide.

V. CONCLUSION

[54] The Application for judicial review is granted. This Court declares that the decisions of the Board imposed on KCI Council were made without jurisdiction and are of no force. The matter is remanded to the KCI Council to reach its own decision about the practice of reciting territorial acknowledgments at KCI Council meetings, whether debate on the issue will be permitted, and the rules governing the discussion and voting, if applicable.

[55] The Court wishes to reiterate that the application has been determined based on the jurisdictional issue raised by the Applicant. We have not addressed the *Charter* issues and make no comment on the merit of the Applicant's *Charter* breach claims.

[56] As per the agreement of counsel, there will be no costs awarded.

LeMay J.

Maxwell J.

S.E. Fraser J.

Released: November 25, 2026

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REASONS FOR JUDGMENT

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