

COURT OF APPEAL FOR ONTARIO

CITATION: Heegsma v. Hamilton (City), 2025 ONCA 588

DATE: 20250807

DOCKET: COA-25-CV-0166

Favreau J.A. (Case Management Judge)

BETWEEN

Kristen Heegsma, Darrin Marchand, Gord Smyth,
Mario Muscato, Shawn Arnold, Cassandra Jordan, Julia Lauzon,
Ammy Lewis, Ashley MacDonald, Corey Monahan, Misty Marshall,
Sherri Ogden, Jahmal Pierre, and Linsley Greaves

Applicants (Appellants)

and

City of Hamilton

Respondent (Respondent)

Sujit Choudhry, for the appellants

Sharon Crowe and Jordan Diacur, for the respondent

Heard: August 5, 2025

ENDORSEMENT

[1] The appellants are a group of individuals who allege that the respondent, the City of Hamilton, violated their *Charter* rights when they were evicted from City parks between August 2021 and August 2023. The application judge dismissed their application: *Heegsma v. Hamilton (City)*, 2024 ONSC 7154. I have been assigned to case manage the appeal.

[2] The first case conference was held on May 5, 2025. The respondent brought a motion to quash certain grounds of appeal, which was dismissed on July 22, 2025 (*Heegsma v. Hamilton (City)*, 2025 ONCA 554). I had directed that the second case conference proceed after the motion to quash was determined.

[3] On August 5, 2025, I conducted a second case conference for the purpose of scheduling the next steps in the appeal, including the exchange of materials between the parties and motions for intervention. My directions arising from the second case conference are set out below.

Deadlines for the parties' materials

[4] The parties are to serve and file their materials in accordance with the following schedule:

- a. The appellants are to perfect their appeal by **August 29, 2025**; and
- b. the respondent is to serve and file responding materials by **October 31, 2025**.

Length of factum

[5] Counsel requested leave to file factums exceeding the word and page limits set by the Court's practice directions in light of i) the extensive evidentiary record surrounding the fourteen individual appellants, and ii) the multiple issues on this appeal. The practice directions provide that the factum length shall not exceed

9,200 words or 40 pages. Counsel requested a limit of 12,000 words, noting that their factums below were approximately 20,000 words.

[6] The parties are permitted to each file a factum not exceeding **12,000 words**, excluding cover pages, schedules, and appendices. In addition, the parties are permitted to attach appendices to their facta setting out tables with summaries of key evidence which pinpoint references to the record (for example, a table setting out a chronology and/or a table setting out the personal circumstances of each appellant). While the 12,000 word limit does not include the content of the appendices, the parties are directed to be concise in their appendices and to make sure that they are a useful resource for finding key evidence in the record.

Motion for fresh evidence

[7] In light of this court's decision dismissing its motion to quash part of the appeal, the respondent intends to bring a motion for fresh evidence. The respondent has advised that the proposed fresh evidence is intended to respond to evidence put forward by the appellants that was not admitted by the application judge below, which now forms part of the appellants' grounds of appeal.

[8] The motion for fresh evidence is to be heard by the panel hearing the appeal.

[9] The following schedule is set for the exchange of materials on the motion for fresh evidence:

- a. The respondent is to serve its materials by **September 10, 2025**; and
- b. the appellants are to serve their responding materials by **October 6, 2025**.

[10] The parties anticipate that the appellants may seek to cross-examine on the respondent's evidence filed for the motion for fresh evidence and that there may be disputes over the scope of cross-examinations. I urge the parties to try to resolve any such issues. However, if the parties require another case conference to address this issue, they can request one.

Intervention motions

[11] The parties have provided a list of organizations that have expressed an interest in intervening on the appeal: the British Columbia Civil Liberties Association, the Canadian Centre for Housing Rights, the Canadian Civil Liberties Association, the Charter Committee on Poverty Issues, the National Right to Housing Network, the Income Security Advocacy Centre, the Mental Health Legal Committee, the Niagara Community Legal Clinic, the Ontario Human Rights Commission, and the Women's Legal Education and Action Fund.

[12] The Attorney General for Ontario also intends to intervene as of right.

[13] I will hear the motions for interventions on **December 12, 2025 at 10:00** via Zoom.

[14] The schedule for the exchange of materials for the intervention motions is as follows:

- a. the proposed intervenors are to serve and file their motion materials by **November 14, 2025** (their materials are to include a draft of the factum the propose filing on the appeal); and
- b. the parties are to serve and file their responding materials, if any, by **December 8, 2025**. If the parties do not serve responding materials, they are to advise the court about their position on each proposed intervention.

[15] If leave to intervene is granted, deadlines for the filing of materials by the intervenors and supplementary facta by the parties will be set after the motion is heard and decided.

Hearing date

[16] The appeal will be scheduled for two days in the new year, preferably in late January or in February. The court has already provided potential dates to the parties. They are to advise of their availability, after which dates for the hearing of the appeal will be set.

Conclusion

[17] I would ask the parties to provide a copy of this endorsement to counsel for the Attorney General for Ontario and to counsel for the proposed intervenors. If any additional parties seek to intervene on the appeal, they are to notify the court

and counsel for the parties, and to abide by the schedule set out above for intervention motions.

[18] If any further issues arise between the parties, they can request a further case conference.

“L. Favreau J.A.”