

# COURT OF APPEAL FOR ONTARIO

CITATION: Ontario (Attorney General) v. Cycle Toronto, 2025 ONCA 659

DATE: 20250919

DOCKET: COA-25-CV-1047

Zarnett J.A. (Case Management Judge)

BETWEEN

Attorney General of Ontario and Minister of Transportation

Respondents (Appellants)

and

Cycle Toronto, Eva Stanger-Ross, and Narado Kiondo

Applicants (Respondents)

Josh Hunter, Cara Zwibel and Elizabeth Guilbault, for the appellants

Andrew Lewis, Greta Hoaken, Catherine Dunne, and Bronwyn Roe, for the respondents

Nikolas de Stefano, for the proposed intervener, Canadian Public Health Association<sup>1</sup>

Amy Chen, for the proposed intervener, Greenpeace Canada<sup>2</sup>

Vilko Zbogar, for the proposed intervener, For Our Kids – Toronto<sup>3</sup>

Heard: September 15, 2025

## REASONS FOR DECISION

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<sup>1, 2, 3</sup> Counsel for three proposed interveners (all of whom had intervened in the court below) attended but, not yet having been granted intervener status in this court, did not make any submissions.

[1] The appellants have appealed the decision of the Superior Court of Justice dated July 30, 2025 declaring that s. 195.6 of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 as it read from November, 2024<sup>4</sup> to June 4, 2025, infringed s. 7 of the *Canadian Charter of Rights and Freedoms* and could not be justified under s. 1 of the *Charter*, and that any steps taken to remove the physical separation between motor vehicle traffic and the bicycle lanes on four specific roadways in Toronto would breach s. 7 of the *Charter* and not be saved by s. 1 of the *Charter*.

[2] These reasons relate to (i) a case management conference that was scheduled to address the timetable for the appeal and to provide directions about potential motions for leave to intervene in the appeal, and (ii) the appellants' motion to expedite the hearing of the appeal. The parties agreed to the matters being dealt with together.

[3] The major issue concerning the timetable for the appeal arises from the appellants' request to shorten the time for the respondents to deliver their responding materials (which would otherwise be due 60 days after the appellants perfect the appeal) to facilitate an earlier hearing date for the appeal. The appellants make that request so that, if successful on the appeal, they can take advantage of the 2026 construction season which, they say, exists between April 8

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<sup>4</sup> The notice of appeal uses the date of November 11, 2024. The section received Royal Assent on November 25, 2024.

and 30, during the months of August and September, and in the first two weeks of October 2026.<sup>5</sup>

[4] The respondents oppose shortening the time for their response, emphasizing the importance of the issues that need to be addressed and pointing out that the appellants have still not perfected the appeal. They also point out that the affidavit in support of the request for an expedited appeal date identifies the windows within which construction could take place in 2026 but contains no commitment that the construction would actually proceed during the identified times if the appeal were successful.

[5] Balancing the public importance of the issues, practical considerations, and the need to have the matter fully and fairly briefed, I set the following timetable to govern the appeal. This timetable fixes an early (January 2026) hearing date,<sup>6</sup> avoids the need to abridge the respondents' time to deliver their materials, and provides time for meaningful consideration of intervention requests and proper preparation for the appeal hearing.

- (1) The appeal shall be perfected by September 22, 2025.

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<sup>5</sup> The periods before April 8, 2026 and after October 16, 2026 are excluded to avoid construction that would interfere with City of Toronto snow clearing and anti-icing operations, respectively, and the period from May 1 to July 31, 2026 is excluded to avoid construction that could affect traffic and cause congestion during the FIFA World Cup 2026 tournament that Toronto is hosting.

<sup>6</sup> The date comes close to accommodating the requests of both sides – the appellants asked for a hearing date in December or early January, while the respondents stated that a date in late January or February would be preferable.

- (2) The respondents shall deliver their responding materials by November 21, 2025.
  - (3) Intervention motions shall be determined in writing. Any interested person who wishes permission to intervene shall deliver their motion materials by December 1, 2025.
  - (4) Any party opposing any of the intervention motions shall deliver their responding materials by December 9, 2025.
  - (5) Any proposed intervener wishing to respond to opposition to their intervention request may file a reply of no longer than three (3) pages by December 12, 2025.
  - (6) Any interveners granted leave to intervene in the appeal shall deliver their materials on the appeal by January 12, 2026.
  - (7) Any party wishing to reply to any of the interveners' materials on the appeal may deliver a reply of no longer than five (5) pages by January 19, 2026.
  - (8) The appeal will be heard on January 28, 2026.
- [6] The time for oral argument will be determined after the appeal is perfected.

“B. Zarnett J.A.”