



REPORT

Council

Meeting Date: December 16, 2024

FROM: Municipal Enforcement Services Department
Legal Department

DATE: December 10, 2024

SUBJECT: Roles and Responsibilities in Managing Protests

LOCATION: Town-wide
WARD: Town-wide

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RECOMMENDATION:

1. The report from Municipal Enforcement Services and the Legal Department regarding “Roles and Responsibilities in Managing Protests” dated December 10, 2024 be received.
2. That staff be directed to monitor and report back on the status of any effective municipal approaches to address nuisance protests within a reasonable distance of community infrastructure.

KEY FACTS:

The following are key points for consideration with respect to this report:

- The Canadian Charter of Rights and Freedoms guarantees certain rights and fundamental freedoms, including the freedoms of opinion, expression and peaceful assembly
- Section 1 of the Charter provides for limitations on rights and freedoms
- In the event of a non-peaceful protest, persons can invoke the *Trespass to Property Act*, contact the Halton Regional Police Service, or seek a court injunction.

BACKGROUND:

On October 21, 2024, Council requested a report as follows:

That staff be requested to report back regarding the potential for an Oakville by-law that regulates nuisance protests within a reasonable distance of

institutions such as places of worship, schools, childcare centres, and town facilities, recognizing that nothing in the by-law should prevent peaceful protests or demonstrations.

Jurisdictional Scan

Vaughan passed a by-law in June 2024 to prohibit nuisance demonstrations within one hundred metres of ‘vulnerable social infrastructure’.¹ Vaughan intends to enforce using a “Joint Enforcement Framework” with York Regional Police.

City of Ottawa’s Council passed a resolution at its meeting of October 30, 2024 directing staff to review feasibility of a ‘vulnerable social infrastructure by-law’ as follows:

WHEREAS every resident of Ottawa deserves to feel safe within their community and to be free of discrimination on the basis of their religion, race, sexuality or immutable characteristics; and

WHEREAS in 2023 incidents of hate crimes against Muslim, Jewish, LGBT and other minority groups in Ottawa increased by 19%; and

WHEREAS no person should feel intimidated from attending their place of worship, community center or any other community gathering space; and

WHEREAS Ottawa’s Mosques, Churches, Synagogues, and related institutions provide onsite services for some of our most vulnerable community members, including seniors and children; and

WHEREAS the City of Ottawa has no intention to prohibit peaceful gatherings, protests or demonstrations, including any such activities that occur as part of a labour union strike; and

WHEREAS on June 18, 2024 Vaughan City Council passed the Protecting Vulnerable Social Infrastructure By-law, which defined vulnerable social infrastructure as religious institutions, schools, childcare centres, hospitals, and congregate care facilities;

THEREFORE BE IT RESOLVED THAT Council direct staff to:

1. Consider the feasibility of implementing a Vulnerable Social Infrastructure By-law similar to Vaughan’s as well as alternate (temporary or permanent) approaches to address the prevention of harassment and hate speech in connection to special events or demonstrations as part of the ongoing concurrent reviews of the Special Events on City Streets By-law and the Special Events on Private and Public Property By-law, including consulting with the Ottawa Police Service on the operational feasibility as part of this review; and

¹ [143-2024.pdf](#)

2. Report on findings as part of the staff report on the review of the special events by-laws in Q1 2025.

Mississauga recently passed the following resolution:

WHEREAS acts of intimidation against places of worship of all faiths are on the rise, including most recently the protests and attack on the Hindu Sabha Mandir in Brampton, followed by counter protests at both the Sri Guru Singh Sabha Malton and the Hindu Sabha Mandir that resulted in a number of charges laid with more to come;

AND WHEREAS, such protests in front of places of worship even when peaceful can create an intimidating barrier that has to be passed in order to access the place of worship;

AND WHEREAS, in 2023, Calgary City Council passed the Safe and Inclusive Access By-law, which is designed to help ensure safe and inclusive access to municipal recreation facilities and libraries by providing 100-metre "access zones" around these facilities;

AND WHEREAS, the right to protest peacefully has to be balanced with the right to be able to visit places of worship without intimidation;

THEREFORE BE IT RESOLVED THAT:

- 1) Council direct staff to consider the feasibility of implementing a by-law that prohibits demonstrations within 100 meters, or within reasonable distance, of places of worship at the earliest possible time.

Brampton City Council unanimously voted on November 27, 2024 to implement a ban on "nuisance" protests near places of worship amid concerns over violent clashes. A letter from the Chief of Police supported the by-law while a letter from the Civil Liberties Association raised concerns.²

Calgary passed a 'Safe and Inclusive Access By-law' on March 14, 2023, which sets out geographical 'access zones' to municipal facilities at specified times in an attempt to strike a balance between respecting the right to protest and providing safe and inclusive access to public services.³ The by-law is currently the subject of a judicial review application challenging the validity of the by-law, which is scheduled to be heard in February 2025.

Charter Rights

The *Canadian Charter of Rights and Freedoms* ("Charter") guarantees certain rights and fundamental freedoms, including the freedoms of opinion, expression and

² [2024_11_18_CCLA_039_s_Letter_to_the_Brampton_City_Council.pdf](#)

³ [Safe & Inclusive Access Bylaw](#)

peaceful assembly. Section 2 of the Charter states: Everyone has the following fundamental freedoms:

- freedom of conscience and religion;
- freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- freedom of peaceful assembly; and
- freedom of peaceful association.

These freedoms are set out in the Charter to ensure that Canadians are free to create and express their ideas, gather to discuss them and communicate them widely to other people. These activities are basic forms of individual liberty. They are also important to the success of a democratic society like Canada. For example, the Supreme Court of Canada has stated that freedom of expression was guaranteed in the *Charter* "so as to ensure that everyone can manifest their thoughts, opinions, beliefs, indeed all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream."⁴ If the repugnancy or offensiveness of an idea does not exclude it from *Charter* protection, they cannot, in themselves, be sufficient to justify a limitation on expression.

However, the rights and freedoms in the Charter are not absolute. Section 1 of the Charter, provides for limitations on rights and freedoms, states: "The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." This means that Charter rights can be limited to protect other rights or important national values. For example, freedom of expression may be limited by laws against hate propaganda.⁵ The Supreme Court has recognized that "freedom of expression does not extend to protect threats of violence or acts of violence. It would not protect the destruction of property, assaults, or other clearly unlawful conduct." In addition, in some cases, the reasonable limits prescribed by law will also apply.

HRPS duties during protests

Halton Regional Police Services ("HRPS") provides information regarding various rights of citizens in a protest or demonstration.⁶ The following is a list of some of the relevant [Criminal Code of Canada](#) sections that limit certain activities:

- blocking or obstructing a highway (Section 423(1)(g))
- causing a disturbance (Section 175)
- common nuisance (Section 180)
- interfering with transportation facilities (Section 248)
- breach of the peace or imminent breach (Section 31)

⁴ [1989 CanLII 87 \(SCC\) | Irwin Toy Ltd. v. Quebec \(Attorney General\) | CanLII](#)

⁵ [Guide to the Canadian Charter of Rights and Freedoms - Canada.ca](#)

⁶ [Demonstrations, Protests and Marches - Halton Regional Police Service](#)

- offensive volatile substance (Section 178)
- riots (Sections 32, 33, 64, 65, 67, 68, 69)
- unlawful assembly (Section 63)
- mischief (Section 430)
- intimidation (Section s.423 - physically stopping, blocking, threats, etc)

An arrest for breach of the peace, whether under the Criminal Code of Canada or the common law, does not result in a charge. The purpose of an arrest for breach of peace is to restore order. There are numerous other Criminal Code of Canada sections that may also apply to protest situations.

Protests at Town facilities

Town staff will be advised of the date, time, place and subject of a protest to be held at Town Hall or at a Town facility, if known. Staff are advised if Town Hall or the facility will remain open and instructed to gain entry to buildings at staff entrances using their security badge. Facility Services, Roads & Operations and Municipal Enforcement Services staff may be called on by Halton Regional Police to support their efforts to ensure public safety and a peaceful assembly. Measures taken may include closing roads or designating a protest zone.

COMMENT/OPTIONS:

The following options can be taken by persons in the event of a protest:

1. Invoke the Trespass to Property Act, R.S.O. 1990, c. T.21 (TPA)

Persons are prohibited from entering or remaining on private property if:

- The property owner or occupier has explicitly prohibited entry;
- Signs are posted indicating that entry is prohibited;
- The person was told to leave by the owner or occupier and failed to do so.

If a protest takes place on private property, the property owner or occupier may invoke the *Trespass to Property Act*, R.S.O. 1990, c. T.21 (TPA) to have the protesters removed by the HRPS if the protesters refuse to leave.

Under the TPA, school boards have all the rights and duties of an occupier in respect of its school sites as defined in the *Education Act*. The TPA can also be used on public property; especially if protesters block entrances or impede access or they engage in conduct that violates posted rules (e.g. hours of operation, permitted use of a space).

2. Contact HRPS

A person may contact HRPS in the event of a protest. HRPS' officers have a sworn duty to preserve the peace, prevent offences, enforce the law, protect

property, preserve life and protect against serious injury, among other duties. Their objectives for demonstrations are:

- to maintain public order and preserve the peace;
- to remain neutral where possible and facilitate the building of trust between police, participants and the community;
- to ensure the safety and security of the public and the emergency services personnel;
- to minimize disruption for Halton residents, businesses and visitors;
- to identify and assess threat and risk and develop contingency plans to mitigate where required;
- to provide security commensurate to the threat level, and;
- to enforce laws and investigate offences where warranted while respecting the democratic freedoms of thought, belief, opinion, expression and peaceful assembly.

3. Court Injunction

Property owners can also pursue a court injunction in circumstances where there is a high degree of probability that the harm will in fact occur, such as repeated trespasses or criminal actions. Courts in Canada have issued 'buffer zone' injunctions in cases involving protests and blockades. For example, the Ontario Superior Court of Justice recently granted an injunction preventing protests within 100 metres of a Hindu temple in Toronto between 8 a.m. and 6 p.m. on a specific date due to concerns that worshippers would feel intimidated.⁷ The British Columbia Supreme Court also recently granted an injunction to the Khalsa Diwan Society imposing a 50 metre 'buffer zone' to restrict and prohibit protestors from trespassing due to serious concerns that protesters may disrupt religious programs.⁸

Conclusion

Property owners can invoke the TPA, request enforcement of criminal law offences by HRPS, or seek a court injunction to provide regulation of non-peaceful protests to ensure access to places of worship. However, staff will continue to monitor and report back on the status of any effective municipal approaches to address nuisance protests within a reasonable distance of community infrastructure.

CONSIDERATIONS:

(A) PUBLIC N/A

⁷ *Lakshmi Narayan Mandir v. John Doe and Jane Doe*, 2024 ONSC 6660

⁸ *Khalsa Diwan Society v. John Doe* [2024] B.C.J. No. 2101

(B) FINANCIAL

N/A

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This report has been prepared in consultation with the Legal Department.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council's strategic priority/priorities: Community Belonging, and Accountable Government.

(E) CLIMATE CHANGE/ACTION

N/A

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