

April 12, 2025

Dear Mayor, Councillors and Staff,

Thank you for the opportunity to comment on the draft bylaw to protect safe access to vulnerable social infrastructure in the Town of Oakville. The comments that follow should be read together with my earlier submissions and my brief summary online.

It is commendable that the bylaw recognizes that Specified Protests and Graphic Images within the vicinity of vulnerable social infrastructure may have negative effects on the health, safety and well-being of citizens, and that it is necessary for vulnerable social infrastructure to have protection from certain activities to ensure the well-being of its users.

However, for reasons I explain below, the draft bylaw does not adequately ensure the well-being of the users of such infrastructure.

In so concluding, I will address five points.

1) The Definition of Specified Protests

The draft defines Specified Protests to include five activities. Each of these activities, if taking place, will likely already involve the commission of criminal offences. These include harassment, intimidation, mischief (interference with the lawful use and enjoyment of property), mischief relating to places of worship and other related locations and disturbances to an assemblage of persons met for religious worship or for a moral, social or benevolent purpose.

Bubble legislation is not designed to punish hate crime offenders. The criminal law is to serve that purpose. Bubble legislation is designed as a **preventative** measure to keep vulnerable community members safe and enable them to carry on their lives, with full access to their social infrastructure without fear for their safety and security. "Access" in this context does not only mean unimpeded physical access to places of worship and other community spaces of importance, but also the **ability to lawfully use and enjoy those spaces without fear**.

Municipal and provincial governments have the duty to take appropriate measures to protect their vulnerable community members from intimidation, harassment and fear. Ontario's Municipal Act, 2001, SO 2001, c.25 empowers municipalities to pass bylaws respecting the **health, safety and well-being** of its residents. It also empowers municipalities to prohibit and regulate respecting public nuisances, including matters that, in the opinion of council, are or **could become or cause** public nuisances (emphasis added). In the context of the Jewish community, the prime reason why protestors target Jewish neighborhoods, places of worship, schools and community centres is to intimidate. I respectfully remind you that one illustration of antisemitism is attributing collective responsibility to the Canadian Jewish community for the actions of a foreign state.

As stated, the Municipal Act (s. 128(1)) enables municipal governments to prohibit and regulate public nuisances, including **matters that are, could become, or cause** public nuisances. Excluding from such legislation lawful labour strikes (which necessarily target places of employment), it is the close proximity of protests to vulnerable community institutions, such as places of worship, day schools and community centres that is likely to cause intimidation. There should be no need for a **prior** showing of actions or expressions that intimidate (or otherwise constitute criminal offences) before the legislation can be

invoked. The objective is to **prevent** exposure to incitements to hatred, violence, intolerance, discrimination or similar acts or expressions of intimidation, not address such incitements after they have already taken place. Limits on protests within close proximity to vulnerable institutions minimally impair protected freedoms by preventing, not responding to, intimidation.

Accordingly, in my view, Oakville's bylaw should draw upon analogous language contained in various provincial statutes regulating, for example, protests directed against locations providing abortion services. Under the Oakville bylaw, a "specified protest" should be defined to include any act of disapproval or objection, by any means, including, without limitation, graphic, verbal or written means, with respect to issues perceived to relate to vulnerable social infrastructure or those who primarily use such infrastructure. It amounts to minimal impairment of freedom of speech or assembly to regulate such a protest's proximity to vulnerable social infrastructure.

2) The 20 metres proximity provision

A 20 metre proximity provision under s. 3(1) of the draft bylaw will not adequately protect those who regularly use vulnerable social infrastructure and equally important, will not inspire confidence in those users that they can safely access and use such infrastructure without fear of intimidation. Other jurisdictions have employed a 100 metre proximity provision which I urge the Town of Oakville to adopt as well.

3) The definition of vulnerable social infrastructure

The draft bylaw defines vulnerable social infrastructure as meaning "places of worship, hospitals, schools, daycares and libraries." In my view, this definition is underinclusive insofar as it does not include religiously-based seniors' residences and most important, religiously-based community centres. Although I have accurately stated that the municipal bylaw should not be designed to enforce existing criminal law provisions, you might find it helpful to draw upon, in this limited way, the categories of property set out in s. 430(4.101) of the Criminal Code. These categories were created to address criminal mischief relating to places of worship and related community centres, schools, daycare centres and seniors' residential facilities.

4) The definition of graphic image

I take no issue with the objective of prohibiting the use of graphic images in close proximity to vulnerable social infrastructure. I also recognize that, in relation to such images, the draft bylaw extends protection to 150 metres under s. 5(1). There have been examples of graphic images used in protests against vulnerable religiously-based social infrastructure. However, the most offensive imagery displayed on signs directed against Jewish places of worship and related institutions demonize all Zionists as evil and racist without distinction and therefore, the vast majority of Jews who support the existence of the State of Israel. Prime Minister Trudeau indicated, in his last speech as prime minister, that it is unacceptable to treat Zionism as a pejorative term. This has nothing to do with criticizing Israel, its policies, government or conduct. This has to do with demonizing Jews in or in close proximity to their vulnerable social infrastructure. The definition of graphic image is unlikely to serve in any effective way in protecting the Jewish community or ensuring their well-being and personal sense of security.

5) The Omission of City Manager's ability to close streets etc

In addition to provisions that regulate proximity of certain events to vulnerable social infrastructure, the City of Vaughan municipal bylaw appropriately empowers the Deputy City Manager, Community Services, or designate, to order the closure of any highway, including roadway, boulevard, sidewalk, trail or pathway, the closure of any public place, including facility, park, or parking lot, and/or redirect vehicular or pedestrian traffic in any way, including the placing of barricades, where necessary to ensure the health, safety, and well-being of any person. This power is an important one (and compliant with the Charter and the Municipal Act) grounded, as it is, in the necessity to ensure the health, safety and well-being of any person. This complementary preventative measure has been utilized effectively by Vaughan to address anticipated issues affecting community safety. I urge its inclusion in Oakville's municipal bylaw.

In my earlier submission, I described the pervasive antisemitism now being experienced by the Canadian Jewish community at levels unprecedented since WWII. One report reflects a 670% increase in antisemitism in Canada since October 7, 2023. Antisemitic hate crimes have spiralled out of control representing by far the largest percentage of religion-based hate crimes. Hate crimes include shootings, firebombings and vandalism of places of worship, Jewish day schools, and community centres. We have also seen an increase in hate crimes directed against other identifiable groups. Sadly, hate activities have become normalized in Canada. Statistics Canada recently released its report on 2023 hate crime activities and confirmed yet again, that antisemitic hate crimes have dramatically increased, and outnumber, by a significant margin, hate against any other group distinguished by religion. Simply put, although Oakville's municipal bylaw must be responsive to the well-being of all its citizens, it must be designed in a way that ensures that the well-being, safety and security of its most vulnerable and targeted citizens are truly protected. With respect, the draft bylaw does not yet do that.

Thank you for your continuing work on this important initiative.

I would be pleased to answer any questions you might have or assist in any way. Thank you for your consideration of these submissions.

Yours truly,

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