

Freedom to 'Define Woman' Heading to Court

Jim Enos

Ontario President, CHP Canada

In late January of 2023, CHP Hamilton submitted our 'Define Woman' artwork to Outfront Media for approval in a May bus shelter campaign on City of Hamilton bus shelters; surprisingly, the ads were declined. After a few e-mail inquiries to Outfront Media to obtain clarification (without any response), we had our legal counsel send a letter to the City of Hamilton in March of 2023, informing the City of the actions of their agent and asking them to advise as to the legal basis for their agent's decision. This led to a few exchanges back and forth between our legal counsel and the City, when finally—in July of 2023—we received the City's 5-page letter declining the ad.

The CHP National Board agreed that the City's rejection of the ad should be challenged in the courts, and we brought the concern to you, our members; you responded with financial pledges of support. Since then, our challenge has been making its way into the courts. We thought it likely that the City might forfeit prior to proceeding to court, based on their loss to us in 2018; there, the Ontario Superior Court ruled that the City had wrongly removed CHP's 'Competing Human Rights—Where is the Justice?' bus shelter ads, and the City's recent forfeit to ARPA Canada regarding their pro-life bus ads.

But such was not the case. On March 8, 2024, our legal counsel filed a 36-page Factum with Ontario Superior Court of Justice and with opposing counsel. The current intended schedule is for this case to be in court during the week of June 3 in Hamilton.

Below are some excerpts from the Factum:

Our Case

11. *The City acted unreasonably and discriminatorily when it rejected the Applicants' political expression in the Proposed Ad because the Proposed Ad relied on a definition of gender that the City deems as "narrow and exclusionary" and feels "carries an exclusive undertone."*¹² **Political expression is almost always offensive and exclusionary.**

12. *By the City's own admission, the Proposed Ad (see Appendix 1) used "a simple definition found in most dictionaries".¹³ The City's admission highlights the unreasonableness of its position. By the City's standard, a dictionary in a public library may perpetuate offense and harm against the LGBTQ+ community. The City's real concern was with the underlying doctrinal belief informing the message of the Proposed Ad. The City hid this censorious motivation by reframing its concern as being about potential harm.*

13. *The City's Decisions were about shutting down what the City views as blasphemy: namely, any public expression of a dogmatic belief about human sexuality informed by "conservative values" (and reflected in the dictionary),¹⁴ which is incompatible with the City's equally dogmatic belief about human sexuality informed by its progressive values.*

14. *The Applicants will not ask this Honourable Court to decide which belief is correct, as that is outside the purview of this judicial review.¹⁵ However, it is unreasonable for the City to use its governmental power to censor the Applicants' belief. Such an act of political and religious censorship goes beyond the legitimate authority of the City, violates the principle of state neutrality, and infringes the Applicants' Charter rights.*

So this case will not be about the actual definition of woman, rather, it will be about the improper use of government to censor political and religious belief and speech; this is certainly a fight that must be had.

Argument

82. *The Applicants' religious beliefs regarding human sexuality rest on thousands of years of theological study and tradition. The City's recently adopted beliefs on this doctrinal issue rest on the emerging view that human sexuality is fluid, discretionary, and detached from the human body. While there is a scientific and legal aspect to the issue of human sexuality, there is also a doctrinal aspect to it.*

97. *This is not the first time that the City has attempted to regulate debate about this topic by silencing the Applicants.¹¹⁷ The City has repeatedly violated the Applicants' Charter rights (and the Charter rights of other groups with which it disagrees). **The fact that the City has not learned from the courts' previous warning and appears to be attempting to hide its bias better this time around using retroactive Reasons is deeply concerning.***

Order Requested

104. *The Applicants request that the Court issue an Order quashing the City's Decision, a declaration that the Decision and the Reasons given for the Review Decision were unreasonable, and a mandamus Order requiring the City to accept the Proposed Ad.*

107. *The Applicants also seek an Order for their costs in this Application, as well as such further and other order as this Honourable Court deems just.*

If a registered Canadian federal political party does not have the freedom to articulate and post their political platforms and policies in and on public space, then democracy and liberty are dead. Thank you for supporting us in this critical battle, we will endeavour to keep you updated about the case and court date as more details become known to us. CHP Canada continues to stand with you in defence of biblical morality and—just as importantly—the right of free people in a free society to express their views. You can support us in this battle for free speech by donating here.¹ You can help us continue to defend liberty by becoming a member of CHP Canada here.²

We must act now! . . . while we still have the freedom to do so!

Footnotes

¹ www.chp.ca/donate/

² www.chp.ca/get-involved/

The Christian Heritage Party of Canada

www.chp.ca • NationalOffice@chp.ca • 1-888-VOTE-CHP (868-3247)

PO Box 4958, Station E, Ottawa, Ontario K1S 5J1

Authorized by the Official Agent of the Christian Heritage Party of Canada and may be copied.
