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## More Not Less

### Jim Enos

Ontario President, CHP Canada

The Judicial Review of CHP Canada vs. The City of Hamilton took place on October 28 in the Ontario Superior Court of Justice. It was overseen by 3 judges, very much like the Judicial Review of 2018—with the difference being that this review took place by Zoom rather than in person. The Zoom setting provided opportunity for CHP members across Canada to attend and a number of CHP members were in attendance.

The focus of the Review was a poster that CHP had applied to have placed on City of Hamilton bus shelters in February of 2023. The request was denied by the City's ad agency, Outfront Media. The ad contained a photograph of a young woman and the caption, 'Woman: An Adult Female.'<sup>1</sup> Below the caption was the slogan, 'Bringing Respect for Life and Truth to Canadian Politics' and below that contact information for The Christian Heritage Party of Canada and the CHP Canada logo.

The opening presentation at the Judicial Review was made by CHP counsel Lia Milousis of Acacia Group with some of her points being:

- CHP Canada is a registered Canadian federal political party and as such is not subject to the Canadian Ads Standard Code.
- City acknowledged the incorrect Code application but went on to reject the ad.
- There is no reasonable ground for rejecting the ad.
- City is a political entity and cannot legally hinder a political party.
- City has an impoverished understanding of Charter Rights.
- Political free speech must be Canada-wide not on a city-by-city basis.
- The Ontario Human Rights Code does not apply.
- Neither the City nor the intervener (EGALE) have raised specific concerns with the ad, only with the political views of CHP; City allows only ads that agree with their views.
- This ad is a question of males in female spaces, not a denial of the existence of people who self-identify as trans-gender.
- CHP chooses to defend the biological definition of woman.
- City in their rejection letter states that the ad raises controversy.
- City never at any time during their decision-making process consulted with CHP; City chose not to engage with CHP because the issue was with our differing views, not ad content.
- City admitted it cannot reject political ads but goes on to do just that.

- In the Enos affidavit are photos of buses with Lover Shop ads giving their website address; their website contains pornographic imagery and other sexually explicit materials. Evidence shows that porn material may lead to rape and sexual objectification of women, yet City accepted those ads.
- There must be a fair and open process allowing for applicants to take part in decision making . . . not after a decision is made.
- EGALE submitted that there is no more discussion on this topic but in fact: yes, there is much public debate ongoing.
- In the 2018 case of CHP Canada vs. Hamilton the court noted that nowhere in the City affidavit did the City state how the ad was discriminatory or illegal: This is the same situation with this 2023 ad; no evidence.
- The 2018 and 2023 City decisions were both attempts to remove the ability of CHP Canada to advertise on City property. This kind of control is tyrannical and undemocratic. The City has an obligation to be truly pluralistic.
- The 2018 case was a unanimous decision in favour of CHP Canada; City does not have the authority to regulate what does and does not meet proper public discussion.
- CHP exists to put forth views of its membership; those views may differ from views of others. However, CHP and members are equal participants in democracy.

In closing her opening presentation Lia referenced the Supreme Court of Canada case of Hansman vs. Neufeld<sup>2</sup> in which the Court ruled that a defamation lawsuit against Hansman was barred from proceeding even if his speech was defamatory as in this case the allegedly defamatory speech was protected as being part of legitimate public debate. She summed this up as meaning:

The solution in dealing with controversial public discussions is not about less free speech, it is about more free speech.

Both the City and EGALE legal counsel then argued that in fact the City's decision was reasonable with EGALE going so far as to argue that the CHP ad is illegal.

In her closing response, Lia argued that the function of the City is not to shelter the public from viewpoints with which they disagree. Section 2b of the Charter is about freedom to speak beliefs. The City's decision is unreasonable.

At stake here is the right of a registered political party to peacefully declare their policy in public spaces regardless of the views or feelings of others; a loss of that right would be a loss for free speech and a win for tyranny. Please pray for our Lord's intervention as we await the ruling of the court and remember—regardless of the outcome—He is sovereign in all things.

## **Footnotes**

<sup>1</sup> [www.chp.ca/images/uploads/woman-an-adult-female-ad.jpg](http://www.chp.ca/images/uploads/woman-an-adult-female-ad.jpg)

<sup>2</sup> [decisions.scc-csc.ca/scc-csc/scc-csc/en/item/19911/index.do](https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/19911/index.do)

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

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