

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE )  
 )  
JUSTICE IAN CARTER )

FRIDAY, THE 24<sup>th</sup>  
DAY OF NOVEMBER, 2023

B E T W E E N:



THE CORPORATION OF THE CITY OF KINGSTON

Applicant

and

JASON ENGLISH, SUZANNE LAVIGNE, NORMAN SERO,  
MELISSA MILLIGAN, JUSTIN DANIEL, PATRICK PRICE,  
JAMES JOHNSON, TAYLOR WILKINSON, TABATHA LEEMAN,  
ZACHARY PRINGLE, TRINITY LIDDARD, VICTORIA LADOU CER,  
VINCENT SHAVER, PAUL LUYTEN, JOHN DOE and JANE DOE

Respondents

and

CANADIAN CIVIL LIBERTIES ASSOCIATION

Intervenor

APPLICATION UNDER *Rules 14.05(3)(d), (g) and (h)*

**JUDGMENT**

THIS APPLICATION, made by the Applicant for a permanent injunction, and THIS NOTICE OF CONSTITUTIONAL QUESTION, given by the Respondents, was heard on October 30 and 31, 2023 at the court house, 5 Court Street, Kingston ON K7L 2N4.

ON READING the Application Record of the Applicant, the Supplementary Application Record of the Applicant, the Further Supplementary Application Record of the Applicant, the Further Further Supplementary Application Record of the Applicant, the Third Further Supplementary Application Record, the examination transcripts filed by the parties, the Applicants' Factum, the Applicants' Supplementary Factum, the Respondents' Notice of Constitutional Question, the Responding Application Record of the Respondents, the Supplementary Responding Application Record of the Respondents, the Further Supplementary Responding Application Record of the Respondents, the Parties' Statement of Agreed Facts, the Factum of the Respondents, the Supplementary Factum of the Respondents, the Factum of the Intervenor, the Factum of the Amicus Curiae, and on hearing the submissions of the lawyer(s) for the parties:

1. THIS COURT ORDERS AND ADJUDGES that the Application for a permanent injunction requiring the Respondents to:

(i) Vacate and cease occupation of the property known as Belle Park/K&P Trail, located near 661 and 731 Montreal Street, Kingston Ontario as well as its surrounding areas (the "Encampment");

(ii) Remove all tents, shelters, personal chattels, structures, and other things present at the Encampment; and

(iii) Refrain from re-entering the Encampment except as authorized by The Corporation of the City of Kingston.

is dismissed.

2. THIS COURT DECLARES that section 11 of the Corporation of the City of Kingston's By-Law Number 2009-76 violates s. 7 of the Charter in that it deprives homeless people of life, liberty and security of the person in a manner not in accordance with the principles of fundamental justice and is not saved by s. 1 of the Charter.

3. THE COURT ORDERS that, to remedy the constitutional problem posed by s. 11 of the By-Law, an exception will be read in that the prohibition on camping does not apply to the erecting of temporary shelter in parks by homeless persons commencing one hour before sunset and ending one hour after sunrise.

4. THIS COURT ORDERS that there shall be no costs.

*Ian Carter*

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*(Signature of judge, officer or registrar)*

THE CORPORATION OF THE CITY OF KINGSTON  
Applicant

-and- JASON ENGLISH et al.  
Respondents

Court File No. CV-23-00000188-0000

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
PROCEEDING COMMENCED AT KINGSTON

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**ORDER**

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**Lawyers for the Respondents**