

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

TORONTO STAR NEWSPAPERS LTD.

Applicant

-and-

**THE ATTORNEY GENERAL OF ONTARIO and WORKPLACE SAFETY
AND INSURANCE APPEALS TRIBUNAL**

Respondents

**FACTUM OF THE INTERVENERS,
ARCH DISABILITY LAW CENTRE, HIV & AIDS LEGAL CLINIC ONTARIO AND
THE INCOME SECURITY ADVOCACY CENTRE**

ARCH Disability Law Centre
1500-55 University Avenue
Toronto, ON M5J 2H7

**Mariam Shanouda
(LSO#66087J)**

Tel: 416-482-8255, ext 2224
Fax: 416-482-2981
Email: shanoum@lao.on.ca

HIV & Aids Legal Clinic Ontario
55 University Avenue, Suite 1400
Toronto, Ontario M5J 2H7

Khalid Janmohamed (LSO#57697Q)
Tel: 416-340-7790
Fax: 416-340-7248
Email: janmohak@lao.on.ca

**Income Security Advocacy
Centre**
1500-55 University Avenue
Toronto, ON M5J 2H7

Marie Chen

(LSO#31780G)

**Niiti Simmonds
(LSO#58440N)**

Tel: 416-597-5820

Fax: 416-597-5821

Email: simmondsn@lao.on.ca
chenmel@lao.on.ca

**Counsel for the Interveners, ARCH Disability Law Centre,
HIV & AIDS Legal Clinic Ontario and the Income Security
Advocacy Centre**

TO: BLAKE CASSELS & GRAYDON LLP
Barristers & Solicitors
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Paul Schabas (LSO#26355A)
Tel: (416) 863-4274
paul.schabas@blakes.com

Iris Fischer (LSO#52762M)
Tel: (416) 863-2408
iris.fischer@blakes.com

Jessica Lam (LSO#65589J)
Tel: (416) 863-5847
jessica.lam@blakes.com

**Counsel for the Applicant,
Toronto Star Newspapers Ltd.**

AND TO: MINISTRY OF THE ATTORNEY GENERAL
Constitutional Law Branch
McMurtry-Scott Building
720 Bay Street, 4th Floor
Toronto, Ontario M7A 2S9
Fax: 416-326-4015

Daniel Guttman (LSO#43748E)
Tel: (416) 326-4468
Email: daniel.guttman@ontario.ca

Yashoda Ranganathan (LSO#57236E)
Tel: (416) 326-4456
Email: yashoda.ranganathan@ontario.ca

Audra Ranalli (LSO#72362U)
Tel: (416) 326-4473
Email: audra.ranalli@ontario.ca

**Counsel for the Respondent, Ministry of
the Attorney General**

AND TO: PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1

Chris Paliare
Tel: (416) 646-4318
Email: chris.paliare@paliareroland.com

Daniel Rosenbluth
Tel: (416) 646-6307
Email: daniel.rosenbluth@paliareroland.com

**Counsel for the Respondent, Workplace Safety and Insurance
Appeals Tribunal**

AND TO: PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1
Tel: 416-646-4300

Linda R. Rothstein (LSO#21838K)
Tel: 416-646-4327
Email: linda.rothstein@paliareroland.com

Andrew Lokan (LSO#31629Q)
Tel: 416-646-4324
Fax: 416-646-4301
Email: andrew.lokan@paliareroland.com

Counsel for the Intervener, Ontario Judicial Council

AND TO: INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO
2 Bloor Street East Suite 1400
Toronto, ON M4W 1A8

William S. Challis (LSO#I7366R)
Tel.: (416) 326-3921
Fax: (416) 325-9186
Email: bill.challis@ipc.on.ca

**Counsel for the Intervener, Information and Privacy
Commissioner of Ontario**

AND TO: CAVALLUZZO LLP
Barristers & Solicitors
474 Bathurst Street, Suite 300
Toronto, ON M5T 2S6

Paul J.J. Cavalluzzo (LSO#13446V)
Adrienne Telford (LSO#56169T)
Tyler Boggs (LSO#72139H)

Tel: 416-964-1115
Fax: 416-964-5895

**Counsel for the Interveners, Laborers International Union of North
America and the Universal Workers Union, Laborers International
Union of North America, Local 183**

AND TO: JUSTICE FOR CHILDREN AND YOUTH
55 University Avenue, Suite 1500 Toronto, ON M5J 2H7

Mary Birdsell (LSO#38108V)
Jesse Mark (LSO#68500L)

Tel: 416-920-1633
Fax: 416-920-5855
Email: markj@lao.on.ca
birdsem@lao.on.ca

Counsel for the Intervener, Justice for Children and Youth

AND TO: BERSENAS JACOBSEN CHOUEST THOMSON BLACKBURN LLP
Barristers, Solicitors
33 Yonge Street, Suite 201
Toronto, Ontario M5E 1G4

Peter M. Jacobsen (LSO#17803P)
Tae Mee Park (LSO#50851N)
Julia L. Lefebvre (LSO#60176M)

Tel: 416-982-3800
Fax: 416-982-3801

**Counsel for the Intervener, Canadian Journalists for Free
Expression**

TABLE OF CONTENTS

PART I – OVERVIEW	1
PART II – STATEMENT OF FACTS	2
PART III – ISSUES AND ARGUMENT	2
A. Equality interests must inform whether access to HRTO, CICB and LTB records is a necessary precondition of expression	2
B. Access to HRTO, CICB and LTB records is not a “necessary precondition” of meaningful expression under s. 2(b)	4
i. The HRTO’s application of FIPPA allows for meaningful expression while also protecting the privacy of vulnerable and marginalized persons.....	4
ii. The CICB’s application of FIPPA allows for meaningful expression while also protecting the privacy of vulnerable and marginalized persons.....	7
iii. The LTB’s application of FIPPA allows for meaningful expression while also protecting the privacy of vulnerable and marginalized persons.....	8
C. The removal of FIPPA protections is a “countervailing” adverse impact on marginalized groups appearing before the HRTO, CICB and LTB	12
i. The removal of FIPPA would create a chilling effect on the ability of marginalized groups to access essential HRTO, CICB and LTB remedies.....	12
ii. The Dagenais/Mentuck test undermines access to justice and is not an effective substitute for FIPPA privacy protections.....	15
iii. Absent FIPPA, low-income and vulnerable litigants are left without an accessible low-cost forum to adjudicate their privacy disputes.....	18
D. Maintaining privacy protections is consistent with Canada’s international law obligations under the CRPD	19
E. The Coalition’s arguments are relevant to the s. 1 Charter test	20
PART IV – ORDER SOUGHT	20
SCHEDULE “A”	22
SCHEDULE “B”	24

PART I – OVERVIEW

1. ARCH Disability Law Centre, HIV & AIDS Legal Clinic Ontario and the Income Security Advocacy Centre (the “Coalition”) bring the perspective and interests of low-income and marginalized persons who access the Human Rights Tribunal of Ontario (“HRTO”), the Criminal Injuries Compensation Board (“CICB”) and the Landlord and Tenant Board (“LTB”). The Coalition’s client communities live with highly stigmatized conditions, such as mental health disabilities, HIV, or drug and alcohol dependence. They have heightened and unique privacy concerns and require the privacy presumptions and protections afforded by the *Freedom of Information and Protection of Privacy Act* (“*FIPPA*”)¹ when seeking relief before administrative tribunals.
2. At issue in this application is whether *FIPPA*’s limits on access to HRTO, CICB and LTB records to prevent the disclosure of stigmatizing medical and other deeply personal information substantially impedes meaningful expression.
3. The Coalition argues that meaningful expression is not “substantially impeded” by the application of *FIPPA* to the tribunals at issue. First, access to tribunal records is not necessary as the HRTO, CICB and LTB hold open hearings and their decisions, or summaries, are available to the public, which permits meaningful expression. Second, striking down *FIPPA* will impair access to justice for victims of discrimination, victims of violence and vulnerable tenants, a countervailing consideration under s. 2(b) of the *Charter of Rights and Freedoms* and a relevant consideration under the s. 1 *Charter* analysis. Finally, *FIPPA* accords with Canada’s

¹ RSO 1990, c F.31 [“*FIPPA*”].

obligations under the United Nations' *Convention on the Rights of Persons with Disabilities*.

PART II – STATEMENT OF FACTS

4. The Coalition accepts the facts as pled by the Respondents.

PART III – ISSUES AND ARGUMENT

5. The Coalition will make the following arguments:
- a. Section 15 equality interests should inform whether access to HRTO, CICB and LTB records is necessary for meaningful expression;
 - b. The HRTO, CICB and LTB's open proceedings and public decisions (or summaries) enable meaningful expression. Further access to these tribunals' records would adversely impact the privacy interests of marginalized groups and is not necessary for meaningful expression;
 - c. *FIPPA* protections must be upheld to prevent the countervailing adverse impact of a chilling effect on the access to justice rights of marginalized groups appearing before the HRTO, CICB and LTB; and
 - d. *FIPPA* privacy protections accord with Canada's obligations under the United Nations' *Convention on the Rights of Persons with Disabilities*.

A. Equality interests must inform whether access to HRTO, CICB and LTB records is a necessary precondition of expression

6. Section 2(b) of the *Charter* guarantees freedom of expression; not access to information.² Access to information is a derivative right under s. 2(b) that may arise only where access is a "necessary precondition" to permit meaningful expression on a matter of public importance. Even if necessity is established, a claim for production

² *Ontario (Public Safety & Security) v Criminal Lawyers' Association*, 2010 SCC 23, paras 30-31 ["CLA"], Respondent's Book of Authorities ("AG BOA"), Tab 1.

may be defeated based on countervailing considerations inconsistent with production.³

7. Section 15 of the *Charter's* equality interests are to be considered when interpreting the “scope and content” of other rights guaranteed by the *Charter*.⁴ This is because the equality guarantee applies to, strengthens and supports all other rights guaranteed by the *Charter*.⁵

8. A high proportion of litigants before the HRTO, CICB and LTB are marginalized, low-income persons experiencing intersecting social exclusions related to disability, gender, race and sexual orientation, among other s.15 protected characteristics. Many of these litigants live with stigmatized conditions, such as HIV, mental health disabilities or drug or alcohol dependence and have heightened privacy interests, particularly in relation to their personal medical information.

9. Under *FIPPA*, “personal information” includes information identifying a person’s race, sex, sexual orientation, or their medical, psychiatric, psychological, employment or financial history, amongst other factors.⁶ *FIPPA* permits access to records in the custody or control of institutions such as the HRTO, CICB and LTB. An institution may disclose third party personal information with consent,⁷ or where the disclosure of third party information does not constitute an unjustified invasion of personal privacy.⁸

³ *CLA, ibid*, paras 30-31, AG BOA, Tab 1.

⁴ *New Brunswick (Minister of Health & Community Services) v G. (J.)*, [1999] 3 SCR 46, para 112, Coalition’s Book of Authorities (“C BOA”), Tab 1.

⁵ *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143, p 185, C BOA, Tab 2.

⁶ *FIPPA, supra* note 1, s 2(1).

⁷ *FIPPA, supra* note 1, s 21(1)(a).

⁸ *FIPPA, supra* note 1, s 21(1)(f).

10. Disclosure is presumed to constitute an unjustified invasion of privacy where the personal information, among other things:

- a. Relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
- b. Relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- c. Relates to employment or education history;
- d. Describes an individual's financial information, history or creditworthiness;
- e. Indicates the individual's racial or ethnic origin, sexual orientation or religious or political beliefs or associations.⁹

11. The adverse impact of striking down *FIPPA* protections should form part of this Court's analysis when assessing whether public access to personal information filed in HRTO, CICB and LTB proceedings is a "necessary precondition" for the exercise of meaningful expression under the s. 2(b) CLA test.

B. Access to HRTO, CICB and LTB records is not a "necessary precondition" of meaningful expression under s. 2(b)

12. In order to determine whether s. 2(b) is engaged, *FIPPA*'s privacy provisions must be assessed in the context in which they are applied by the HRTO, CICB and LTB. These tribunals each ensure that the media and public have access to information to permit meaningful expression, while also applying *FIPPA* to protect the vital privacy interests of vulnerable groups.

i. The HRTO's application of *FIPPA* allows for meaningful expression while also protecting the privacy of vulnerable and marginalized persons

13. The HRTO is a highly specialized expert tribunal dedicated to adjudicating complaints of discrimination, harassment and reprisal under Ontario's *Human Rights*

⁹ *FIPPA*, *supra* note 1, s 21(3).

Code (“*Code*”) on a broad range of grounds, including race, ethnic origin, disability, sex, sexual orientation, gender identity and receipt of public assistance (in housing).¹⁰

14. The strong legal presumption is that the Tribunal’s processes will be open and transparent.¹¹ The HRTO holds public hearings and its decisions are publicly available. The public nature of HRTO proceedings permits meaningful expression about the important activities of this tribunal.

15. The majority of HRTO decisions identify the names of parties. In exceptional cases, the HRTO may order anonymization of an applicant’s name, an order granted sparingly in cases involving, for example, serious incidents of sexual assault, or disclosure of stigmatizing medical information, a person’s HIV positive status, sexual orientation or gender identity.¹² In cases where the high legal threshold for anonymization is met, the HRTO hearing nevertheless remains open to the public subject to a publication ban only on the applicant’s name.¹³

16. Over half of applicants are unrepresented in HRTO hearings.¹⁴ Applicants who appear before the HRTO experience intersecting grounds of social exclusion and marginalization, such as race, poverty, disability (particularly mental health disabilities).¹⁵ Over half of HRTO applicants allege disability related discrimination, followed by discrimination on the basis of race and sex.¹⁶

¹⁰ RSO 1990, c H.19 [“*Code*”]; *Okouneva v Ontario (Human Rights Tribunal)*, 2018 ONSC 374, para 20, C BOA, Tab 3.

¹¹ *Kim v Meet Market Adventures*, 2009 HRTO 1953, para 15 [Kim], C BOA, Tab 4; *HRTO Rules of Procedure*, rr 3.10-3.12, Exhibit “E” to Affidavit of Susan Benger, Respondent’s Record (“RR”), Vol 2, Tab 10E, p 542.

¹² Kim, *ibid*, para 20, C BOA, Tab 4; *S. and C. v Toronto Police Services Brd.*, 2008 HRTO 437, paras 1-2, C BOA, Tab 5; *H.S. v The Private Academy*, 2016 HRTO 1308, paras 36-40 [H.S.], C BOA, Tab 6.

¹³ H.S., *ibid* paras 38-40, C BOA, Tab 6.

¹⁴ Social Justice Tribunals Ontario (“SJTO”) 2015-2016 Annual Report, Tables 7 and 8, Exhibit “B” to Affidavit of Benjamin Ries, RR, Vol 4, Tab 15B, pp 932.

¹⁵ Affidavit of Susan Benger, para 4, RR, Vol 2, Tab 10, p 437.

¹⁶ SJTO 2015-2016 Annual Report, *supra* note 14, RR, Vol 4, Tab 15B, pp 930-931.

17. The *Code* expressly provides that *FIPPA* applies to its proceedings.¹⁷ *FIPPA*'s privacy protections are vital as they afford marginalized litigants a degree of "practical obscurity" in human rights proceedings, meaning that there is some protection from disclosure due to practical barriers to access, such as the need to travel to attend the hearing or the need to access a legal reporting service to read the decision.¹⁸

18. This practical obscurity is important because the HRTO's application and disclosure process is geared towards unrepresented applicants. Unlike civil pleadings, the HRTO application prompts applicants to provide a detailed factual narrative of the alleged discrimination and its impact, and to attach any documents, including privileged documents and medical records.¹⁹ As well, HRTO disclosure rules require parties to produce and file all "arguably relevant" documents.²⁰ However, admissibility of documents is only determined months or years later by the adjudicator at the time of the hearing. This means that any number of privileged, highly sensitive and/or inadmissible documents may form part of the HRTO "record," but will never be admitted into evidence at the hearing.²¹

19. For example, in *Lane v. ADGA Group Consultants Inc.*, Mr. Lane was terminated by his employer after disclosing his disability of bipolar disorder. At the hearing, Mr. Lane tendered several years' worth of his own psychiatric and mental health records in support of his claim. The HRTO refused to admit these medical records as they were of marginal probative value and because of the harm that would

¹⁷ *Code*, *supra* note 10, s 38.

¹⁸ Geist Report, para 20, RR, Vol 1, Tab 2B, p 55; *Atas v LSUC*, 2017 HRTO 1520, para 15, C BOA, Tab 7.

¹⁹ *HRTO Rules of Procedure*, r 6, Exhibit "E" to Affidavit of Susan Benger, RR, Vol 2, Tab 10E, p 543; Exhibit "B" to Affidavit of Michelle Henry, Applicant's Record ("AR"), Vol 3, Tab 7B, p 1411-1412, 1415.

²⁰ *HRTO Rules of Procedure*, r 16, *ibid*, RR, Vol 2, Tab 10E, p 550.

²¹ *Drost v Ottawa-Carleton District School Board*, 2012 HRTO 235, paras 15-16, C BOA, Tab 8.

flow to Mr. Lane from the disclosure.²² However, as a result of the HRTO rules, these inadmissible psychiatric records would nevertheless be contained in the HRTO “record” as a result the disclosure process.

20. In this context, *FIPPA*’s privacy protections do not substantially impair expression. Meaningful expression is not substantially impeded when the public and media are prevented from accessing (or provided with redacted access to) inadmissible medical records and other documents contained in the HRTO “record” but which are not ultimately entered as exhibits in the proceeding.

21. For those documents not admitted into evidence, the HRTO’s presumptively open proceedings and detailed reasons ensure that expression about the activities of the HRTO is not impeded. Members of the media and public may attend the hearing, learn parties’ names, and listen to the testimony and witness descriptions of the documentary evidence. Absent in person attendance, HRTO written decisions are extremely detailed, describing both the testimony and documentary evidence.²³

22. *FIPPA* therefore balances privacy and openness by ensuring that the media and public may not access or publish a litigant’s private information, such as details of mental health records, HIV status or drug or alcohol dependence, *beyond* the evidence that is disclosed at the hearing and referred to in the HRTO decision.

ii. The CICB’s application of *FIPPA* allows for meaningful expression while also protecting the privacy of vulnerable and marginalized persons

²² *Lane v ADGA Group Consultants Inc.*, 2007 HRTO 34, paras 17-21 [“*Lane*”], C BOA, Tab 9.

²³ *Lane*, *ibid*, C BOA, Tab 9; *O.P.T. v Presteve Foods Ltd.*, 2015 HRTO 675, C BOA, Tab 10; *L.B. v Toronto District School Board*, 2015 HRTO 1622, C BOA, Tab 11; Affidavit of Susan Bengler, para 34, RR, Vol 2, Tab 10, p 444.

23. The CICB is a specialized administrative tribunal that assesses and awards financial compensation for victims and family members of deceased victims of violent crimes committed in Ontario.

24. CICB claimants are often disadvantaged by gender, poverty, race, disability and gender identity.²⁴ Most CICB applications arise from crimes of sexual assault and domestic violence.²⁵ CICB awards compensate survivors of violence for their pain and suffering and for specific expenses. Such awards are often essential for applicants who may otherwise have no means to pay for mental health therapies.²⁶

25. CICB proceedings are presumptively open to the public but may be closed or subject to a publication ban in narrow circumstances involving intimate personal, medical or financial matters, or where a public hearing is not in the interests of a victim of sexual assault or child abuse.²⁷ If a request to close the proceeding is made, the CICB will only close the part of the hearing where the victim's personal medical and counselling records are disclosed.²⁸ The CICB is also required to prepare and publish summaries of its reasons and decisions.²⁹ The CICB's open proceedings and decision summaries allow for meaningful expression about the activities of the CICB.

26. The evidentiary record bears this out: in one CICB proceeding, one of the Applicant's reporters walked freely into a CICB hearing room, listened to the testimony and learned the names of the parties and witnesses. Through an FOI

²⁴ Affidavit of Susan Bengler, para 4, RR, Vol 2, Tab 10, p 437; Affidavit of Deirdre McDade, para 11, RR, Vol 3, Tab 12, p 591; SJTO 2015-2016 Annual Report, *supra* note 14, RR, Vol 4, Tab 15B, p 906.

²⁵ SJTO 2015-2016 Annual Report, *supra* note 14, RR, Vol 4, Tab 15B, p 925.

²⁶ Affidavit of Deirdre McDade, para 10, RR, Vol 3, Tab 12, Vol 3, Tab 12, p 591.

²⁷ *Compensation for Victims of Crime Act*, RSO 1990, c C.24, s. 12 ["CVCA"]; Affidavit of Deirdre McDade, paras 15-16, RR, Vol 3, Tab 12, p 592; *CICB Rules of Procedure*, r 7.5, Exhibit "A" to Affidavit of Deirdre McDade, RR, Vol 3, Tab 12A, p 624.

²⁸ Affidavit of Deirdre McDade, paras 17-19, RR, Vol 3, Tab 12, p 593-594.

²⁹ *CVCA*, *supra* note 27, s. 4; See Criminal Injuries Compensation Board, 39th Annual Report, 2013-2014, p 32, C BOA, Tab 23: Referenced in affidavit of Robert Cribb, para 69, AR, Vol 1, Tab 4, p 51.

request, this reporter also obtained the reasons for the decision and the adjudicator's hearing notes summarizing the evidence heard in the hearing.³⁰

27. Outside of the information available at the hearing or in the decision summary, *FIPPA* protects CICB applicants by denying the public and media access to records such as mental health and other medical reports, and the underlying application setting out particulars of the violence and abuse they experienced.

28. *FIPPA* protections are important given the processes of the CICB, which are geared towards unrepresented applicants. In a CICB application, claimants include a personal narrative of the violence and injuries they suffered, details of their doctors' names and treatment provided, and any supporting medical or other records.³¹

29. As with the HRTO, the CICB application and disclosure process can result in documents being filed and forming part of the CICB "record" that may or may not be accepted as evidence in the hearing. *FIPPA* protects applicants in this scenario by ensuring that stigmatizing medical and other sensitive personal information can only be accessed by the public and media during the hearing, or through summary or redacted reasons for decision. At the same time, the openness measures adopted by the CICB ensure that meaningful expression about its activities is not impeded.

iii. The LTB's application of *FIPPA* allows for meaningful expression while also protecting the privacy of vulnerable and marginalized persons

30. The LTB is a tribunal dedicated to resolving disputes between residential landlords and tenants. The LTB receives approximately 80,000 applications a year

³⁰ Affidavit of Robert Cribb, para 71, AR, Vol 1, p 51; Exhibits WWW, XXX and YYY to Affidavit of Robert Cribb, AR, Vol 3, Tabs 4WWW, 4YYY, 4ZZZ, p 1131-1195.

³¹ Affidavit of Deirdre McDade, para 18, RR, Vol 3, Tab 12, pp 593-594; *CICB Rules of Procedure*, r 2.1, Exhibit "A" to Affidavit of Deirdre McDade, RR, Vol 3, Tab 12A, p 618.

and is the busiest Tribunal in Canada.³² The LTB conducts open proceedings and its written decisions are available to the public, measures that facilitate meaningful expression about the activities of the LTB.³³

31. Many tenants appear before the LTB without representation. A survey of tenants accessing LTB duty counsel services reflected that a high number of these tenants are low-income and racialized and from lone-parent families.³⁴ Three quarters of these tenants were living in poverty; many had histories of homelessness, had experienced discrimination in housing and/or were living with a disability.³⁵ While the vast majority of LTB applications are landlord applications for eviction, the survey disclosed that a significant number of tenants experienced problems in their housing, such as infestation, maintenance and repair issues, illegal charges and harassment.³⁶

32. Like the HRTO and CICB, parties are expected to submit to the LTB all the materials or documentary evidence on which they intend to rely.³⁷ The LTB has relaxed rules of evidence and accepts hearsay and documents that are not authenticated by a live witness.³⁸

33. During eviction hearings, tenants, who are often unrepresented, routinely provide oral and documentary evidence of a highly sensitive or personal nature, such

³² Affidavit of Benjamin Ries, para 6, RR, Vol 4, Tab 15, p 893; SJTO 2015-2016 Annual Report, *supra* note 14, RR, Vol 4, Tab 15B, p 935.

³³ Affidavit of Susan Benger, paras 13-15, RR, Vol 2, Tab 10, p 439; *The LTB Rules of Practice*, rr 24, 26, Exhibit "B" to the Affidavit of Susan Benger, RR, Vol 2, Tab 10B, pp 487-489.

³⁴ *Access to Justice: The Case for Ontario Tenants, Final Report of the Tenant Duty Counsel Review*, Exhibit "C" to the Affidavit of Benjamin Ries, RR, Vol 4, Tab 15C, p 965.

³⁵ *Access to Justice: The Case for Ontario Tenants, Final Report of the Tenant Duty Counsel Review, ibid*, RR, Vol 4, Tab 15C, p 965.

³⁶ *Access to Justice: The Case for Ontario Tenants, Final Report of the Tenant Duty Counsel Review, ibid*, RR, Vol 4, Tab 15C, p 965-966.

³⁷ *The LTB Rules of Practice*, r 19, *supra* note 33, RR, Vol 2, Tab 10B, pp 482.

³⁸ *The LTB Rules of Practice*, r 19, *supra* note 33, RR, Vol 2, Tab 10B, pp 482; *Statutory Powers Procedure Act*, RSO 1990, c S.22, s 15.

as evidence of a mental health disability, poverty,³⁹ domestic violence or sexual abuse, drug or alcohol dependence,⁴⁰ a history of homelessness and employment and financial difficulties, as such factors may be considered to avoid eviction.⁴¹

34. For example, in SWL-81318-15, the tenant disclosed detailed particulars of his mental health disabilities and status as a social assistance recipient to explain his inability to maintain the cleanliness of his rental unit, which was infested with cockroaches. At the hearing, the tenant, who resided in housing for persons with disabilities, filed voluminous irrelevant psychiatric records; his application for social assistance disability benefits; and medical reports documenting his impairments with activities of daily living, planning, concentration and memory.⁴² The vast majority of these medical records were not relevant for the adjudication of the case; therefore, preventing access to them under *FIPPA* would not impede meaningful expression.

35. While landlord, tenant and witness names are redacted from LTB written decisions, members of the public and the media can learn the names of parties and witnesses in a LTB matter by attending the hearing or by requesting the landlord's name through an FOI request.⁴³ These measures of openness ensure that meaningful expression on the activities of the LTB is not substantially impeded.

36. The absence of any impairment to the Applicant's expression is demonstrated by the evidence: the Toronto Star reported widely on Nina Willis, a tenant who was convicted of fraud and who the Toronto Star sensationally labelled a "tenant from

³⁹ *EAL-61137 (Re)*, 2017 CanLII 98288 (ON LTB), para 6, C BOA, Tab 12.

⁴⁰ *TEL 72255-16 (Re)*, 2016 CanLII 88399 (ON LTB), paras 21-22, C BOA, Tab 13.

⁴¹ Affidavit of Benjamin Ries, para 9, RR, Vol 4, Tab 15, p 894.

⁴² *SWL-81318-15* (22 December 2017), Kitchener (ON LTB), paras 43, 64, 70 and 75, C BOA, Tab 14.

⁴³ Susan Benger Transcript, pp 73-74, Q337-Q339, Further Supplementary Application Record ("Supp AR"), Vol 1, Tab E, pp 385-386.

hell,” “nightmare renter” and “convicted fraudster.”⁴⁴ *FIPPA* did not impair the Toronto Star’s ability to reveal the name of this tenant and report on this case.

C. The removal of *FIPPA* protections is a “countervailing” adverse impact on marginalized groups appearing before the HRTO, CICB and LTB

37. The adverse impact on the access to justice rights of vulnerable litigants before the HRTO, CICB and LTB is a countervailing consideration under the s. 2(b) test, weighing against access and against the removal of *FIPPA* privacy protections.

i. The removal of *FIPPA* would create a chilling effect on the ability of marginalized groups to access essential HRTO, CICB and LTB remedies

38. There is a significant public interest in ensuring that victims of discrimination, victims of violence and low-income marginalized tenants are encouraged to access their fundamental legal rights and entitlements, in particular their quasi-constitutional rights under the *Code*. Unbridled access to tribunal records pursuant to the “open court principle” may have the unintended and harmful chilling effect of discouraging participation in the justice system, as well as other social ills.⁴⁵

39. If publicly accessible tribunal records are posted online, the ill-effects of this disclosure and breach of privacy can include serious harms such as discrimination, harassment and stalking, to more routine incidents of employee and tenant cyberscreening, identity theft, disinformation, fraud and spam.⁴⁶ The harm resulting from disclosure of tribunal records and pleadings is aggravated when tribunal records are posted online without the appropriate context. Unrestrained disclosure of private

⁴⁴ Exhibit “A” to the Affidavit of Emily Mathieu, Reply Application Record, Tab 2A, p 99 and 108.

⁴⁵ Karen Eltis, *The Judicial System in the Digital Age: Revisiting the Relationship between Privacy and Accessibility in the Cyber Context* (“*Judicial System in the Digital Age*”), Exhibit 13 to the Cross-examination of Michael Geist (“Geist Transcript”), Supp AR, Vol 3, Tab N13, p 1597; Geist Transcript, p 47, Q 192, Supp AR, p 1320; Affidavit of Mary Ellen McIntyre, para 21, RR, Vol 3, Tab 13, p 765.

⁴⁶ *Judicial System in the Digital Age*, *ibid*, Supp AR, Vol 3, Tab N13, p 1596; Geist Report, para 26, RR, Vol 1, Tab 2B, p 56.

information may be seen as too great a “transactional cost” of diminished privacy for marginalized litigants, thereby significantly chilling their access to the administrative justice system.⁴⁷ This transactional cost of diminished privacy is experienced more harshly by low-income and marginalized persons who may have no choice but to pursue essential and fundamental remedies at the HRTO, CICB and LTB for their financial survival or to preserve their housing.⁴⁸

40. The evidence demonstrates that adverse consequences result from the disclosure of medical and other private information when vulnerable litigants pursue remedies before the HRTO, CICB and LTB. For example, at the HRTO, litigants advancing discrimination claims in employment have experienced employers raising inflammatory counter-allegations to deter applicants from pursuing their claim to a full hearing where such counter-allegations may become public.⁴⁹ Further, HRTO decisions may disclose a person’s disability, HIV status, medical information or employment history, which can create barriers to future employment. Persons with disabilities already face significant societal barriers related to employment.⁵⁰ This disadvantage may be exacerbated where prospective employers’ cyberscreen candidates to avoid hiring persons with disabilities and/or who have been involved in human rights claims against a former employer. Absent *FIPPA*, this harm is worsened as mental health or other medical records and/or unproven allegations found in

⁴⁷ *Judicial System in the Digital Age*, *ibid*, Supp AR, Vol 3, Tab N13, p 1597.

⁴⁸ Geist Report, para 27, RR, Vol 1, Tab 2B, p 56.

⁴⁹ Affidavit of Mary Ellen McIntyre, paras 7-8, RR, Vol 3, Tab 13, p 762-763.

⁵⁰ See for example, *Lane v ADGA*, *supra* note 22, C BOA, Tab 9.

pleadings could be posted online, unredacted, without the context of the HRTO decision, thereby causing reputational harm and disinformation.⁵¹

41. Removal of *FIPPA* protections from the CICB would also adversely impact marginalized women who are victims of violence.⁵² Survivors of violence may choose not to pursue a CICB claim, or may limit which medical records they are willing to put into evidence, for fear that their private counselling records could be posted online or accessed by the offender. Applicants in CICB proceedings routinely fear for their safety and of being re-victimized by the offender, fears that are aggravated if pleadings, exhibits and other CICB records are posted online unredacted.⁵³

Removing *FIPPA* privacy protections from the CICB is squarely at odds with courts' recognition of the importance of protecting the privacy of victims of sexual assault and encouraging the reporting of sexual assault and other forms of violence.⁵⁴

42. Removal of *FIPPA* privacy protections would also adversely impact the ability of low-income marginalized tenants, particularly those with mental health and other disabilities, to secure housing. Landlords may cyberscreen and deny rental accommodations to tenants whose mental health disability and/or involvement in a previous LTB proceeding is disclosed online. Tenants would be reticent to turn to the LTB to access their rights, for fear of having their names or private medical information disclosed. The harm to tenants is borne out by the experience of the New York City Housing Court, where the publication of incomplete eviction case data has resulted in significant tenant blacklisting and cyberscreening of innocent persons by

⁵¹ *Judicial System in the Digital Age*, *ibid*, Supp AR, Vol 3, Tab N13, p 1596, 1599; Affidavit of James B. Fishman, para 29, RR, Vol 4, Tab 16, p 1183.

⁵² Affidavit of Deirdre McDade, para 23, RR, Vol 3, Tab 12, p 596.

⁵³ Affidavit of Deirdre McDade, para 12, RR, Vol 3, Tab 12, p 591.

⁵⁴ *Canadian Newspapers v Canada*, [1988] 2 SCR 122 at 130, AG BOA, Tab 20.

landlords.⁵⁵ It would be a gross injustice if, in the absence of *FIPPA* protections, persons with disabilities or HIV, or survivors of domestic violence were denied housing in the future simply for having enforced their rights under the *Act*.⁵⁶

43. Access to justice is also impaired when tribunals' lose the ability to control their processes or preserve the integrity of their records. Absent *FIPPA*, the efficacy of tribunal anonymization orders may be undermined due to practical difficulties associated with controlling and deleting information on the internet.⁵⁷ When records subject to a publication ban are improperly posted online but cannot be effectively deleted or recalled, this undermines access to and the administration of justice.⁵⁸

ii. The *Dagenais/Mentuck* test undermines access to justice and is not an effective substitute for *FIPPA* privacy protections

44. The Toronto Star asserts that the *Dagenais/Mentuck* test can protect the privacy interests of litigants before administrative tribunals. However, *FIPPA*'s privacy protections are fundamentally different than the considerations developed under the *Dagenais/Mentuck* test.⁵⁹ The *Dagenais/Mentuck* test presumes that records will be disclosed. In contrast, *FIPPA* flips that presumption for a subset of private records held by administrative tribunals, providing vital privacy protection to litigants when their medical and other personal records are filed in administrative proceedings.

45. As reviewed above, low-income and marginalized litigants before the HRTO, CICB and LTB routinely file sensitive and stigmatizing records that may identify them as a person living with HIV, a person with a mental health disability, a survivor of

⁵⁵ Affidavit of James B. Fishman, paras 28-30, RR, Vol 4, Tab 16, p 1183.

⁵⁶ Affidavit of Grace Alcaide Janicas, para 11, RR, Vol 3, Tab 14, p 858.

⁵⁷ Geist Report, para 43, RR, Vol 1, Tab 2B, p 59.

⁵⁸ *Judicial System in the Digital Age*, *ibid*, Supp AR, Vol 3, Tab N13, p 1598.

⁵⁹ *Dagenais v CBC*, [1994] 3 SCR 835, Star BOA, Tab 25; *R v Mentuck*, [2001] 3 SCR 442, Star BOA, Tab 2.

sexual violence or abuse, or a person receiving social assistance benefits. Under *FIPPA*, vulnerable litigants justifiably benefit from the statutory presumption that disclosure of such records is an unjustified invasion of privacy.

46. While *FIPPA* does not strictly prescribe how tribunals are to apply its provisions, the HRTO, CICB and LTB are expert tribunals that have developed procedures and rules for managing a high volume of applications from low-income, marginalized and often unrepresented parties. These tribunals are to be afforded deference in applying *FIPPA* to their unique contexts, subject to guidance from the Information and Privacy Commissioner or the courts on judicial review.

47. By contrast, the common law framework developed in *Dagenais* and *Mentuck* requires parties seeking a sealing or confidentiality order to demonstrate that such an order is necessary to prevent a serious risk to the administration of justice and that reasonably alternative measures will not prevent the risk. The salutary effects of the confidentiality order are then weighed against its deleterious effects, including the effects on the right to free expression.⁶⁰

48. In order to meet this high threshold, a party seeking a confidentiality order must establish a real and substantial risk of harm to the administration of justice that would result from the disclosure of the records; a harm that must be “well grounded in the evidence.”⁶¹ Under *Dagenais/Mentuck*, the overriding concerns are the administration of justice, fairness to the parties and the public interest in an open proceeding.⁶²

⁶⁰ *Sierra Club of Canada v Canada (Minister of Finance)* [2002] 2 SCR 522, para 40 [*“Sierra Club”*], Star BOA, Tab 29.

⁶¹ *Sierra Club, ibid*, paras 40, 46, Star BOA, Tab 29.

⁶² *Sierra Club, ibid*, paras 47, 50, 83, Star BOA, Tab 29.

49. The *Dagenais/Mentuck* framework is ill-suited for HRTO, CICB and LTB proceedings for three reasons. First, the *Dagenais/Mentuck* framework is impractical because it is not automatic and requires an adjudicator to conduct a case-by-case assessment of the applicable factors, rather than the presumption against disclosure of private information provided by *FIPPA*. This institutional impact on the functioning of administrative tribunals is a countervailing consideration under s. 2(b). Further, *Dagenais/Mentuck* is ill-suited for the HRTO, CICB and LTB disclosure processes, which may result in inadmissible documents forming part of the tribunal “record.”

50. Second, parties seeking a sealing order or publication ban under *Dagenais/Mentuck* must put the media on notice and the media may seek standing to make submissions on the proposed order.⁶³ This notice to media requirement creates an immediate chilling effect and would be a strong deterrent on vulnerable litigants to either seek a confidentiality order or to commence a HRTO, CICB or LTB proceeding altogether for fear that their private information will be published.

51. Finally, the legal threshold under *Dagenais /Mentuck* for sealing medical records is very high, may require expert evidence⁶⁴ and presents a significant barrier to low-income, unrepresented and marginalized parties. In applying *Dagenais/Mentuck*, courts have routinely held that stigmatization, emotional distress, embarrassment and adverse individual employment or reputational consequences, are “purely personal interests” and do not constitute a risk to the administration of

⁶³ *A.M. v Toronto Police Service*, 2015 ONSC 5684, para 3, C BOA, Tab 15.

⁶⁴ *M.E.H. v Williams*, 2012 ONCA 35, para 30 [*M.E.H.*], C BOA, Tab 16.

justice.⁶⁵ This framework is unsatisfactory for marginalized litigants and a significant departure from the legislated privacy protections afforded by *FIPPA*.

iii. Absent *FIPPA*, low-income and vulnerable litigants are left without an accessible low-cost forum to adjudicate their privacy disputes

52. The Applicant proposed “alternatives” to *FIPPA* to protect privacy, such as de-indexing protocols or one-off requests to search providers to remove links to private information (although not the private content itself).⁶⁶ However, de-indexing protocols are not presently mandatory for search providers in Canada. In any event, de-indexing protocols can be easily circumvented and there is no guarantee of search provider compliance with such requests.⁶⁷ Removing private information from the internet poses innumerable challenges and the information may never disappear.⁶⁸

53. Unless a right to request de-indexing or content removal is made law, court applications or injunctions against search providers and/or to remove private information online are an illusory remedy for low-income, marginalized clients who lack the resources to pursue such cases.⁶⁹ Conversely, the Information and Privacy Commissioner is a low cost, accessible and expert administrative forum for adjudicating privacy disputes.⁷⁰ Further, post-facto requests to remove sensitive private information are of little assistance to the marginalized individual who has been passed over for an employment or rental opportunity because of their mental health disability or whose HIV positive status has been disclosed to their community.

⁶⁵ *M.E.H.*, *ibid* para 25, C BOA, Tab 16; *R v Bartholomew*, 2017 ONSC 3084, paras 34-36, C BOA, Tab 17; *Law Society of Upper Canada v Nicolas Xynnis*, 2014 ONLSAP 9, para 44, C BOA, Tab 18.

⁶⁶ Applicant’s Factum, para 94.

⁶⁷ *Judicial System in the Digital Age*, *ibid*, Supp AR, Vol 3, Tab N13, p 1598; Geist Report, para 62, RR, Vol 1, Tab 2B, p 61.

⁶⁸ *Judicial System in the Digital Age*, *ibid*, Supp AR, Vol 3, Tab N13, p 1598; Geist Report, para 43, RR, Vol 1, Tab 2B, p 59.

⁶⁹ Affidavit of Mary Ellen McIntyre, para 22, RR, Vol 3, Tab 13, p 765; General, O Reg 222/98 (*Ontario Disability Support Program Act, 1997*), ss 30-31: the maximum monthly disability benefit rate is \$1,128.

⁷⁰ *Ontario (Community and Social Services) (Re)*, 1994 CanLII 6646 (ON IPC), p 3, C BOA, Tab 19.

D. Maintaining privacy protections is consistent with Canada’s international law obligations under the *CRPD*

54. The privacy interests protected by *FIPPA* facilitate access to justice for litigants with disabilities appearing before the HRTO, CICB and LTB in a manner that is consistent with Canada’s obligations under the *CRPD*.⁷¹ *CRPD* Article 22 mandates that the privacy rights of persons with disabilities shall be respected, and provides for a right to protection against interference or attacks on the “honour and reputation” of persons with disabilities.⁷² *CRPD* Article 13 further mandates that persons with disabilities must have effective access to justice on an equal basis with others.⁷³ These articles must be read together and in light of the entire treaty.⁷⁴ Removing *FIPPA*’s privacy protections constructs barriers to access to justice, including a chilling effect as detailed above, and would be inconsistent with Canada’s international law obligations.

55. The presumption of conformity, a well-established principle of statutory interpretation, provides that domestic legislation will be interpreted as presuming to comply with Canada’s international law obligations unless the wording of the statute clearly compels an interpretation that violates international law. No such legislative intent to violate the *CRPD* can be found in *FIPPA*.⁷⁵ Another applicable principle of international law is the presumption against retrogressive measures denying persons

⁷¹ *Convention on the Rights of Persons with Disabilities*, 30 March 2007, 2515 UNTS 3 at 70, Can TS 2010 No 8 (entered into force 3 May 2008, ratified by Canada 11 March 2010) [“*CRPD*”].

⁷² *CRPD*, *ibid*, Article 22.

⁷³ *CRPD*, *ibid*, Article 13.

⁷⁴ *Vienna Convention on the Law of Treaties*, 23 May 1969, 1155 UNTS 331, (1969) 8 ILM 679, Article 31 (entered into force 27 January 1980).

⁷⁵ *R v Hape*, [2007] 2 SCR 292, para 53, C BOA, Tab 20; *Baker v Canada (Ministry of Citizenship and Immigration)*, [1999] 2 SCR 817, para 70, C BOA, Tab 21.

with disabilities full enjoyment of their rights under the law.⁷⁶ *FIPPA*'s privacy presumptions and protections afford persons with disabilities the ability to seek redress for infringement of their rights under various statutes, including the *Code*, without the fear that their private information will become fodder for the public. The *Code* has been described as the "final refuge of the disadvantaged" and the "last protection of the most vulnerable members of society."⁷⁷ The removal of *FIPPA* privacy protections, which will impair access to justice for persons with disabilities, would be just such a retrogressive measure and an infringement of Canada's obligation to conform to the *CRPD*.

E. The Coalition's arguments are relevant to the s. 1 *Charter* test

56. If it is determined that the application of *FIPPA* to the HRTO, CICB and LTB infringes s. 2(b) of the *Charter*, then the above submissions are relevant to this Honourable Court's s. 1 *Charter* analysis. In particular, the foregoing adverse impacts of the removal of *FIPPA* privacy protections demonstrate i) *FIPPA*'s pressing and substantial objective of providing a right of access while also protecting privacy; ii) a rational connection between the *FIPPA*'s underlying objectives and its application to the tribunals at issue; iii) the benefits of the application of *FIPPA* to the HRTO, CICB and LTB for the purposes of the balancing required in the final stage of the s. 1 proportionality analysis.

PART IV – ORDER SOUGHT

57. The Coalition takes no position on the order sought.

All of which is respectfully submitted on this 20th day of March, 2018.

⁷⁶ *International Convention on Economic, Social and Cultural Rights*, General Comment 3: The nature of State Parties obligations (Art 2, para 1 of the Convention) Fifth Session, 1990.

⁷⁷ *Tranchemontagne v Ontario*, 2006 SCC 14, para 49, C BOA, Tab 22.

Marie Chen (LSUC #31780G)

Khalid Janmohamed (LSUC #57697Q)

Mariam Shanouda (LSUC #66087J)

Niiti Simmonds (LSUC #58440N)

Counsel for the Interveners, ARCH Disability Law Centre,
HIV & AIDS Legal Clinic Ontario and the Income Security Advocacy Centre

SCHEDULE “A”
LIST OF AUTHORITIES

1. *New Brunswick (Minister of Health & Community Services) v G. (J.)*, [1999] 3 SCR 46.
2. *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143.
3. *Okouneva v Ontario (Human Rights Tribunal)*, 2018 ONSC 374.
4. *Kim v Meet Market Adventures*, 2009 HRTO 1953.
5. *S. and C. v Toronto Police Services Board*, 2008 HRTO 437.
6. *H.S. v The Private Academy*, 2016 HRTO 1308.
7. *Atas v LSUC*, 2017 HRTO 1520.
8. *Drost v Ottawa-Carleton District School Board*, 2012 HRTO 235.
9. *Lane v ADGA Group Consultants Inc.*, 2007 HRTO 34.
10. *O.P.T. v Presteve Foods Ltd.*, 2015 HRTO 675.
11. *L.B. v Toronto District School Board*, 2015 HRTO 1622.
12. EAL-61137-16 (Re), 2017 CanLII 98288 (ON LTB)
13. TEL-72255-16 (Re), 2016 CanLII 88399 (ON LTB)
14. SWL-81318-15, (22 December, 2017), Kingston (ON LTB).
15. *A.M. v Toronto Police Service*, 2015 ONSC 5684.
16. *M.E.H. v Williams*, 2012 ONCA 35.
17. *R v Bartholomew*, 2017 ONSC 3084.
18. *Law Society of Upper Canada v Nicolas Xynnis*, 2014 ONLSAP 9.
19. *Ontario (Community and Social Services) (Re)*, 1994 CanLII 6646 (ON IPC).
20. *R v Hape*, 2007 SCC 26 (CanLII).
21. *Baker v Canada, (Ministry of Citizenship and Immigration)*, 1999 CanLII 699 (SCC)

22. *Tranchemontagne v Ontario (Director, Disability Support Program)*, 2006 SCC 14.

Secondary Sources:

23. Criminal Injuries Compensation Board, 39th Annual Report, 2013-2014.

SCHEDULE “B”

The Constitution Act, 1982,

Being Schedule B to the *Canada Act 1982 (UK), 1982, c 11*

PART I

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Guarantee of Rights and Freedoms

Rights and freedoms in Canada

1. 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.

Fundamental Freedoms

2. Everyone has the following fundamental freedoms:

...

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

Freedom of Information and Protection of Privacy Act, RSO 1990, C F.31

Purposes

1 The purposes of this Act are,

- (a) to provide a right of access to information under the control of institutions in accordance with the principles that,
 - (i) information should be available to the public,
 - (ii) necessary exemptions from the right of access should be limited and specific, and
 - (iii) decisions on the disclosure of government information should be reviewed independently of government; and
- (b) to protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information.

Definitions

2 (1) In this Act,

...

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual’s name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

...

Personal information

(2) Personal information does not include information about an individual who has been dead for more than thirty years.

Business identity information, etc.

(3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

Same

(4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

...

PART II FREEDOM OF INFORMATION

Right of access

10 (1) Subject to subsection 69 (2), every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless,

- (a) the record or the part of the record falls within one of the exemptions under sections 12 to 22; or
- (b) the head is of the opinion on reasonable grounds that the request for access is frivolous or vexatious.

Severability of record

(2) If an institution receives a request for access to a record that contains information that falls within one of the exemptions under sections 12 to 22 and the head of the institution is not of the opinion that the request is frivolous or vexatious, the head shall disclose as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions.

Measures to ensure preservation of records

10.1 Every head of an institution shall ensure that reasonable measures respecting the records in the custody or under the control of the institution are developed, documented and put into place to preserve the records in accordance with any recordkeeping or records retention requirements, rules or policies, whether established under an Act or otherwise, that apply to the institution.

Obligation to disclose

11 (1) Despite any other provision of this Act, a head shall, as soon as practicable, disclose any record to the public or persons affected if the head has reasonable and probable grounds to believe that it is in the public interest to do so and that the record reveals a grave environmental, health or safety hazard to the public.

Notice

(2) Before disclosing a record under subsection (1), the head shall cause notice to be given to any person to whom the information in the record relates, if it is practicable to do so.

Contents of notice

(3) The notice shall contain,

- (a) a statement that the head intends to release a record or a part of a record that may affect the interests of the person;
- (b) a description of the contents of the record or part that relate to the person; and
- (c) a statement that if the person makes representations forthwith to the head as to why the record or part thereof should not be disclosed, those representations will be considered by the head

Representations

(4) A person who is given notice under subsection (2) may make representations forthwith to the head concerning why the record or part should not be disclosed.

...

Personal privacy

21 (1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (d) under an Act of Ontario or Canada that expressly authorizes the disclosure;
- (e) for a research purpose if,

- (i) the disclosure is consistent with the conditions or reasonable expectations of disclosure under which the personal information was provided, collected or obtained,
 - (ii) the research purpose for which the disclosure is to be made cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (iii) the person who is to receive the record has agreed to comply with the conditions relating to security and confidentiality prescribed by the regulations; or
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

Criteria re invasion of privacy

(2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

Presumed invasion of privacy

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment or educational history;
- (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations; or
- (h) indicates the individual's racial or ethnic origin, sexual orientation or religious or political beliefs or associations.

Limitation

(4) Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

- (a) discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution or a member of the staff of a minister;
- (b) discloses financial or other details of a contract for personal services between an individual and an institution;
- (c) discloses details of a licence or permit or a similar discretionary financial benefit conferred on an individual by an institution or a head under circumstances where,

(i) the individual represents 1 per cent or more of all persons and organizations in Ontario receiving a similar benefit, and

(ii) the value of the benefit to the individual represents 1 per cent or more of the total value of similar benefits provided to other persons and organizations in Ontario; or

- (d) discloses personal information about a deceased individual to the spouse or a close relative of the deceased individual, and the head is satisfied that, in the circumstances, the disclosure is desirable for compassionate reasons.

Refusal to confirm or deny existence of record

(5) A head may refuse to confirm or deny the existence of a record if disclosure of the record would constitute an unjustified invasion of personal privacy.

...

Exemptions not to apply

23 An exemption from disclosure of a record under sections 13, 15, 15.1, 17, 18, 20, 21 and 21.1 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

Human Rights Code, RSO 1990, c H-19

Preamble

Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And Whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;

And Whereas these principles have been confirmed in Ontario by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in Ontario;

...

PART I - FREEDOM FROM DISCRIMINATION

Services

1 Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

Accommodation

2 (1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance.

Harassment in accommodation

(2) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance.

Contracts

3 Every person having legal capacity has a right to contract on equal terms without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

Accommodation of person under eighteen

4 (1) Every sixteen or seventeen year old person who has withdrawn from parental control has a right to equal treatment with respect to occupancy of and contracting for accommodation without discrimination because the person is less than eighteen years old.

(2) A contract for accommodation entered into by a sixteen or seventeen year old person who has withdrawn from parental control is enforceable against that person as if the person were eighteen years old.

Employment

5 (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

Harassment in employment

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

Vocational associations

6 Every person has a right to equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

Sexual harassment

Harassment because of sex in accommodation

7 (1) Every person who occupies accommodation has a right to freedom from harassment because of sex, sexual orientation, gender identity or gender expression by the landlord or agent of the landlord or by an occupant of the same building.

Harassment because of sex in workplaces

(2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee.

Sexual solicitation by a person in position to confer benefit, etc.

(3) Every person has a right to be free from,

- (a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person

Reprisals

8 Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing.

Infringement prohibited

9 No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

...

Intervention by Commission

37 (1) The Commission may intervene in an application under section 34 on such terms as the Tribunal may determine having regard to the role and mandate of the Commission under this Act.

Intervention as a party

(2) The Commission may intervene as a party to an application under section 34 if the person or organization who made the application consents to the intervention as a party.

Disclosure of information to Commission

38 Despite anything in the *Freedom of Information and Protection of Privacy Act*, at the request of the Commission, the Tribunal shall disclose to the Commission copies

of applications and responses filed with the Tribunal and may disclose to the Commission other documents in its custody or in its control.

...

Statutory Powers Procedure Act

42 (1) The provisions of the *Statutory Powers Procedure Act* apply to a proceeding before the Tribunal unless they conflict with a provision of this Act, the regulations or the Tribunal rules.

Conflict

(2) Despite section 32 of the *Statutory Powers Procedure Act*, this Act, the regulations and the Tribunal rules prevail over the provisions of that Act with which they conflict.

Tribunal rules

43 (1) The Tribunal may make rules governing the practice and procedure before it.

Required practices and procedures

(2) The rules shall ensure that the following requirements are met with respect to any proceeding before the Tribunal:

1. An application that is within the jurisdiction of the Tribunal shall not be finally disposed of without affording the parties an opportunity to make oral submissions in accordance with the rules.
2. An application may not be finally disposed of without written reasons.

Same

(3) Without limiting the generality of subsection (1), the Tribunal rules may,

- (a) provide for and require the use of hearings or of practices and procedures that are provided for under the *Statutory Powers Procedure Act* or that are alternatives to traditional adjudicative or adversarial procedures;
- (b) authorize the Tribunal to,
 - (i) define or narrow the issues required to dispose of an application and limit the evidence and submissions of the parties on such issues, and
 - (ii) determine the order in which the issues and evidence in a proceeding will be presented;
- (c) authorize the Tribunal to conduct examinations in chief or cross-examinations of a witness;

- (d) prescribe the stages of its processes at which preliminary, procedural or interlocutory matters will be determined;
- (e) authorize the Tribunal to make or cause to be made such examinations of records and such other inquiries as it considers necessary in the circumstances;
- (f) authorize the Tribunal to require a party to a proceeding or another person to,
 - (i) produce any document, information or thing and provide such assistance as is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce the information in any form,
 - (ii) provide a statement or oral or affidavit evidence, or
 - (iii) in the case of a party to the proceeding, adduce evidence or produce witnesses who are reasonably within the party's control; and
- (g) govern any matter prescribed by the regulations.

General or particular

- (4) The rules may be of general or particular application.

Consistency

- (5) The rules shall be consistent with this Part.

Compensation for Victims of Crime Act, RSO 1990, c C.24**Publishing reports**

4 The Board shall prepare and periodically publish a summary of its decisions and the reasons therefor.

...

Hearings to be open to public; exceptions

12 All hearings shall be held in public except where, in the opinion of the Board, it is necessary to hold a hearing that is closed to the public for the reason that a public hearing,

- (a) would be prejudicial to the final disposition of the criminal proceedings against the person whose act or omission caused the injury or death; or
- (b) would not be in the interests of the victim, or of the dependants of the victim, of an alleged sexual offence or child abuse.

Publication of evidence

13 (1) The Board may make an order prohibiting the publication of any report or account of the whole or any part of the evidence at a hearing where the Board considers it necessary but in making an order under this subsection the Board shall have regard to the desirability of permitting the public to be informed of the principles and nature of each case.

Offence

(2) Any person who publishes a report or account of any evidence at a hearing contrary to an order of the Board under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

Residential Tenancies Act, 2006, SO 2006, c 17

Other powers of Board

201 (1) The Board may, before, during or after a hearing,

- (a) conduct any inquiry it considers necessary or authorize an employee in the Board to do so;
- (b) request a provincial inspector or an employee in the Board to conduct any inspection it considers necessary;

Note: On July 1, 2018, clause 201 (1) (b) of the Act is repealed and the following substituted: (See: 2016, c. 25, Sched. 5, s. 4)

- (b) request an employee in the Board to conduct any inspection it considers necessary;
- (c) question any person, by telephone or otherwise, concerning the dispute or authorize an employee in the Board to do so;
- (d) permit or direct a party to file additional evidence with the Board which the Board considers necessary to make its decision;
- (e) view premises that are the subject of the hearing; or
- (f) on its own motion and on notice to the parties, amend an application if the Board considers it appropriate to do so and if amending the application would not be unfair to any party.

Same

(2) In making its determination, the Board may consider any relevant information obtained by the Board in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it.

Same

(3) If a party fails to comply with a direction under clause (1) (d), the Board may,

- (a) refuse to consider the party's submissions and evidence respecting the matter regarding which there was a failure to comply; or
- (b) if the party who has failed to comply is the applicant, dismiss all or part of the application.

Parties may view premises with Board

(4) If the Board intends to view premises under clause (1) (e), the Board shall give the parties an opportunity to view the premises with the Board.

Statutory Powers Procedure Act, RSO 1990, c S.22

Disclosure

5.4 (1) If the tribunal's rules made under section 25.1 deal with disclosure, the tribunal may, at any stage of the proceeding before all hearings are complete, make orders for,

- (a) the exchange of documents;
- (b) the oral or written examination of a party;
- (c) the exchange of witness statements and reports of expert witnesses;
- (d) the provision of particulars;
- (e) any other form of disclosure.

Other Acts and regulations

(1.1) The tribunal's power to make orders for disclosure is subject to any other Act or regulation that applies to the proceeding.

Exception, privileged information

(2) Subsection (1) does not authorize the making of an order requiring disclosure of privileged information.

...

Hearings to be public, exceptions

9. (1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

- (a) matters involving public security may be disclosed; or
- (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing in the absence of the public.

Written hearings

(1.1) In a written hearing, members of the public are entitled to reasonable access to the documents submitted, unless the tribunal is of the opinion that clause (1) (a) or (b) applies.

Electronic hearings

(1.2) An electronic hearing shall be open to the public unless the tribunal is of the opinion that,

- (a) it is not practical to hold the hearing in a manner that is open to the public; or
- (b) clause (1) (a) or (b) applies.

Maintenance of order at hearings

(2) A tribunal may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.

...

Evidence

What is admissible in evidence at a hearing

15. (1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

- (a) any oral testimony; and
- (b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

What is inadmissible in evidence at a hearing

(2) Nothing is admissible in evidence at a hearing,

- (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or
- (b) that is inadmissible by the statute under which the proceeding arises or any other statute.

Conflicts

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

Copies

(4) Where a tribunal is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

Photocopies

(5) Where a document has been filed in evidence at a hearing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified copy admissible in evidence

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document.

Ontario Regulation 222/98 (*Ontario Disability Support Program Act, 1997*)

GENERAL BUDGETARY REQUIREMENTS

30. (1) The budgetary requirements for an applicant or recipient to whom sections 32, 33 and 33.1 do not apply shall be equal to the sum of the following amounts:

1. The amount payable for basic needs determined in accordance with the following:

TABLE

Number of Dependants other than a Spouse	Number of Dependants 18 Years or Older	Number of Dependants 0-17 Years	Recipient See Note 1 below Amount in dollars	Recipient and Spouse See Note 2 below Amount in dollars	Recipient and Spouse See Note 3 below Amount in dollars
0	0	0	662	954	1,321
1	0	1	805	954	1,321
1	1	0	1,025	1,139	1,506
2	0	2	805	954	1,321
2	1	1	1,025	1,139	1,506
2	2	0	1,211	1,345	1,712

...

SHELTER

31. (1) In this section,

“shelter” means the cost for a dwelling place used as a principal residence with respect to any of the following:

1. Rent, other than amounts paid for parking and cable.
2. Principal and interest on a mortgage or loan incurred to purchase the dwelling place or to make repairs that the Director determines are necessary in order for the property to continue to be used as a dwelling place.
3. Occupancy costs paid under an agreement to purchase the dwelling place.
4. Taxes.
5. Premiums for an insurance policy with respect to the dwelling place or its contents.
6. Reasonable and necessary payments, approved by the Director, for the preservation, maintenance and use of the dwelling place.

7. Common expenses required to be contributed for a condominium unit or a co-operative housing unit except that portion of the common expenses allocated to the cost of energy for heat.
8. The following utilities, if they are not included in rent or common expenses:
 - i. An energy source used for household purposes other than for heat.
 - ii. Water and sewage.
 - iii. Rental of a furnace and a hot water heater.
9. Rent under a land lease.
10. The cost of energy for heat. O. Reg. 222/98, s. 31 (1); O. Reg. 167/99, s. 5.

(2) The following rules apply for calculating the cost of shelter:

1. Determine the actual cost payable for shelter under subsection (1).
2. Determine the maximum amount payable for shelter in accordance with the following Table:

TABLE

Benefit Unit Size	Maximum Monthly Shelter Allowance Amount in dollars
1	489
2	769
3	833
4	904
5	976
6 or more	1,010

3. Subject to paragraph 4, the amount payable for shelter shall be the lesser of the amount determined under paragraph 1 and the maximum amount determined under paragraph 2.

...

International Law Instruments

Convention on the Rights of Persons with Disabilities, 30 March 2007, 2515 UNTS 3 at 70, Can TS 2010 No 8 (entered into force 3 May 2008, ratified by Canada 11 March 2010)

Article 13: Access to Justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 22: Respect for Privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

International Covenant on Economic, Social and Cultural Rights, (1976) 993 UNTS 13, Can. T.S. 1976 No. 46 (entered into force 3 January 1976, accession by Canada 19 May 1976, entered into force in Canada on 19 August 1976)

Article 2:

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331, (1969) 8 ILM 679, (entered into force January 27, 1980)

Article 31: General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - (a) agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;
 - (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
 - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
 - (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
 - (c) any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.

TORONTO STAR NEWSPAPERS LTD. - and - THE ATTORNEY GENERAL OF ONTARIO et. Al.

Applicant

Respondents

Court File No. CV-17-569061

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**FACTUM OF THE INTERVENERS, ARCH
DISABILITY LAW CENTRE, HIV & AIDS LEGAL
CLINIC ONTARIO AND
THE INCOME SECURITY ADVOCACY CENTRE**

ARCH Disability Law Centre
1500-55 University Avenue
Toronto, ON M5J 2H7
Mariam Shanouda (LSO#66087J)
Tel: 416-482-8255, ext. 2224/Fax: 416-482-2981

HIV & Aids Legal Clinic Ontario
1400-55 University Avenue
Toronto, Ontario M5J 2H7
Khalid Janmohamed (LSO#57697Q)
Tel: 416-340-7790, ext. 4045/Fax: 416-340-7248

Income Security Advocacy Centre
1500-55 University Avenue
Toronto, Ontario M5J 2H7
Marie Chen (LSO#31780G)
Niiti Simmonds (LSO#58440N)
Tel: (416) 597-5820, ext. 5152/5156

**Lawyers for the Interveners, ARCH Disability
Law Centre, HIV & AIDS Legal Clinic Ontario
and the Income Security Advocacy Centre**