CITATION: Trinity Western University v. Law Society of Upper Canada, 2014 ONSC 5541
DIVISIONAL COURT FILE NO.: 250/14
DATE: 20140924

ONTARIO

SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

BETWEEN:	
TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT Applicants	*D. Bell & R. Agarwal*, for the applicants
– and –	
THE LAW SOCIETY OF UPPER CANADA Respondent	*G. Pratte & N. Effendi*, for the respondent
– and –	
CANADIAN COUNCIL OF CHRISTIAN CHARITIES, CHRISTIAN LEGAL FELLOWSHIP, JUSTICE CENTRE FOR CONSTITUTIONAL FREEDOMS, ASSOCIATION FOR REFORMED POLITICAL ACTION CANADA, EVANGELICAL FELLOWSHIP OF CANADA, CHRISTIAN HIGHER EDUCATION CANADA, CATHOLIC CIVIL RIGHTS LEAGUE, FAITH AND FREEDOM ALLIANCE, OUT ON BAY STREET, OUTLAWS, CANADIAN ASSOCIATION OF LABOUR LAWYERS, GERARD P. CHARETTE, CRIMINAL LAWYERS ASSOCIATION and THE ADVOCATES' SOCIETY Proposed Interveners	*B. Bussey & D. Ross*, for the proposed intervener, Canadian Council of Christian Charities *B. Miller*, for the proposed intervener, Christian Legal Fellowship *D. Santoro*, for the proposed intervener, Justice Centre for Constitutional Freedoms *K. Barsoum Debs*, for the proposed interveners, Association for Reformed Political Action Canada, Evangelical Fellowship of Canada and Christian Higher Education Canada *P. Horgan*, for the proposed interveners, Catholic Civil Rights League and Faith and Freedom Alliance

) *M. Edwardh, F. Mahon & P. Saguil*, for the proposed interveners, Out on Bay Street and OUTlaws
)
) *S. Ursel & K. Ensslen*, for the proposed intervener, Canadian Association of Labour Lawyers
)
) Gerard P. Charette, proposed intervener, in person
)
) *B. Davies*, for the proposed intervener, Criminal Lawyers Association
)
) *C. Paliare & J. Radbord*, for the proposed intervener, The Advocates' Society
)
) *R. Lee*, for the intervener, The Attorney General of Canada
)
)
) **HEARD at Toronto:** September 3 & 23, 2014

NORDHEIMER J.:

[1] There are eleven motions for leave to intervene in this judicial review application brought on behalf of fourteen organizations and individuals. On August 18, 2014, Associate Chief Justice Marrocco made an order, pursuant to r. 13.03(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, designating me as the judge to hear and determine all motions for leave to intervene in this proceeding.

[2] I will begin by setting out the basic principles that apply to motions to intervene since they are common to all of the motions. I will then very briefly set out the facts of this case in order to provide some framework for the motions to intervene. Next, I will briefly summarize who each of the proposed interveners are and the issues that they seek to address if granted intervener status. Thereafter, I will set out my conclusions as to who should be granted

intervener status and why I have reached those conclusions. Finally, I will address the terms upon which intervener status is granted.

The principles

[3] Rule 13.02 is the relevant rule applicable to these motions. It reads:

> Any person may, with leave of a judge or at the invitation of the presiding judge or master, and without becoming a party to the proceeding, intervene as a friend of the court for the purpose of rendering assistance to the court by way of argument.

[4] There does not appear to be any dispute between the various parties as to the relevant principles that are to guide the court's decision whether to grant leave to intervene on this basis. Those principles begin with the decision in *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd.* (1990), 74 O.R. (2d) 164 (C.A.) where Dubin, C.J.O. said, at p. 167:

> Although much has been written as to the proper matters to be considered in determining whether an application for intervention should be granted, in the end, in my opinion, the matters to be considered are the nature of the case, the issues which arise and the likelihood of the applicant being able to make a useful contribution to the resolution of the appeal without causing injustice to the immediate parties.

[5] Those basic principles were expanded upon somewhat as they apply to cases involving the *Canadian Charter of Rights and Freedoms* by the subsequent decision in *Bedford v. Canada (Attorney General)* (2009), 98 O.R. (3d) 792 (C.A.) where the court said, at para. 2:

> Where the intervention is in a *Charter* case, usually at least one of three criteria is met by the intervenor: it has a real substantial and identifiable interest in the subject matter of the proceedings; it has an important perspective distinct from the immediate parties; or it is a well recognized group with a special expertise and a broadly identifiable membership base.

[6] I do not view the criteria set out in *Bedford*, though, as overriding the fundamental requirements set out in *Peel*. In other words, it is not sufficient to be granted status as an intervener for a proposed intervener to just satisfy one of the *Bedford* criteria. I reach that conclusion because if the criteria in *Bedford* were to be read literally, since they are stated to be disjunctive as opposed to conjunctive, an organization that was, for example, a well-recognized

group with a special expertise and broadly identifiable membership base would gain status as an intervener even though they did not offer a perspective different from that of the parties. That would not be an acceptable result and thus it should be self-evident that something more than just satisfying that one criterion is necessary.

[7] I conclude, therefore, that, even under the principles set out in *Bedford*, a proposed intervener must still satisfy the basic requirement that their participation will result in them making a useful and distinct contribution not otherwise offered by the parties. Concluding that that is a basic requirement is consistent with the principles employed by the Supreme Court of Canada and enunciated by McLachlin J. in *R. v. Finta*, [1993] 1 S.C.R. 1138 at para. 5:

> The criteria under Rule 18 [now rule 57] require that the applicant establish: (1) an interest and (2) submissions which will be useful and different from those of the other parties. [emphasis added]

[8] I believe that it is helpful to mention three other principles that govern the granting of intervener status. First, it is a general principle that the threshold for granting intervener status in a public interest or public policy case, is lower than it is for a private interest case: *Jones v. Tsige* (2011), 106 O.R. (3d) 721 (C.A.). There is no dispute that the issues raised in this case engage both the public interest and public policy.

[9] Second, in *Charter* cases, it is recognized that it is important for the court "to receive a diversity of representations reflecting the wide-ranging impact of its decision": *Ontario (Attorney General) v. Dieleman* (1993), 16 O.R. (3d) 32 (Gen. Div.).

[10] Third, it is also a principle that the fact that the proposed intervener is not indifferent to the outcome of the appeal is not a reason to deny it the right to intervene: *Oakwell Engineering Ltd. v. Enernorth Industries Inc.*, [2006] O.J. No. 1942 (C.A.) at para. 9. I would add one observation regarding the application of that principle, however. It seems to me that when there are multiple applicants for leave to intervene, some of which favour the position of the applicant/appellant while others favour the position of the respondent, the court should take into account the general desire that there should, in the end result, be some balance between the positions to be advocated when granting intervener status. While I accept that this would be a

secondary consideration to the main considerations established by the decision in *Peel*, it is nonetheless a factor that should be considered in the overall mix.

Background

[11] Trinity Western University ("TWU") is a Christian university located in Langley, British Columbia. TWU submitted a proposal to establish a School of Law to the British Columbia Ministry of Advanced Education and the Federation of Law Societies of Canada in June 2012. The new law school is planned to start in September 2016.

[12] Of relevance to this matter is the fact that all TWU students, faculty and staff are required annually to sign a Community Covenant Agreement. Contained within the Community Covenant Agreement are a variety of terms by which TWU community members agree to regulate their conduct through, among other things, voluntarily abstaining from various actions including "sexual intimacy that violates the sacredness of marriage between a man and a woman".

[13] TWU has sought accreditation for its law school from a number of Provincial law societies. In April of this year, the Law Society of Upper Canada ("LSUC") voted against the accreditation of TWU's proposed new law school. TWU has brought an application for judicial review of that decision before this court.

The proposed interveners

[14] I now turn to each of the proposed interveners and the issues that they propose to address if granted intervener status. I will provide just a brief summary of both the nature of the proposed interveners and their issues. I believe that a brief summary is sufficient for the purposes of these motions in terms of explaining who the proposed interveners are and what they submit they can add to the consideration of the issues raised by this judicial review application. I should add that neither the applicants nor the respondent opposed any of the motions to intervene.

A. Canadian Council of Christian Charities

[15] The Canadian Council of Christian Charities ("CCCC") was founded in 1972 to aid in ensuring that Christian charities in Canada would follow good stewardship practices and thus be more effective in conducting their Christian work. It is an association made up primarily of charities. CCCC provides assistance to such charities in management and accountability including tax and accounting compliance.

[16] CCCC currently serves over 3,300 charities. It provides advice and answers specific questions that arise. CCCC employs lawyers in-house to assist these charities and also represents their interests in submissions to governments and before the courts. Of note is that included within the membership of CCCC are fifty-four colleges and universities.

[17] If granted intervener status, CCCC will advance arguments outlining the wide application of this court's pending decision on religious communities and charities across Canada. It will also address potential impacts on post-secondary universities that may arise from the decision including other disciplines that may be subject to regulatory approval.

B. The Christian Legal Fellowship

[18] The Christian Legal Fellowship ("CLF") was founded in the mid-1970s. It is a national non-profit association of lawyers, law students and law professors, among others. The CLF has over 550 active members drawn from more than thirty Christian denominations. The CLF includes among its members current law students who hold undergraduate degrees from TWU.

[19] The CLF includes among its objects a commitment "to encourage and facilitate among Christians in the vocation of law the integration of a biblical faith with contemporary legal, moral, social and political issues". It has a particular interest in how the regulation of the practice of law and legal education in Canada can place limits on the rights to religious freedoms.

[20] If granted intervener status, CLF will argue before this court that freedom of religion includes the right to have a religiously informed conception of marriage and sexuality; that the

Law Society of Upper Canada's ("LSUC") accreditation decision imperils the ability of legal professionals to hold such religious views and that the accreditation decision violates the *Charter* rights of such professionals by infringing on their rights to religious freedom and freedom of expression.

C. Justice Centre for Constitutional Freedoms

[21] The Justice Centre for Constitutional Freedoms ("JCCF") was established as a non-profit corporation in 2010. It is a registered charitable organization based in Calgary, Alberta whose mission is to promote and defend the constitutional freedoms of Canadians through litigation and education. The JCCF acts for citizens whose *Charter* rights have been infringed by government.

[22] If granted intervener status, the JCCF will argue that the *Charter* freedom of association protects the rights of individuals to associate with an organization even if that organization espouses unpopular beliefs and practices. JCCF will also argue that the accreditation decision of the LSUC infringes the freedom of religion and freedom of expression of the TWU students.

D. The Association for Reformed Political Action Canada

[23] The Association for Reformed Political Action Canada ("ARPAC") is a non-profit organization devoted to educating, equipping and assisting members of Canada's Reformed churches and the broader Christian community. ARPAC believes that Christian faith must be applied to Canadian society in both word and deed. The Reformed Christian faith upholds the sovereignty of God and consequently the importance of applying His Word to all of life including the social, moral and political spheres.

[24] If granted intervener status, ARPAC will argue that the *Charter* right of freedom of religion should be interpreted in the broadest sense. It will also argue that the *Charter* right of freedom of association includes the protection of individuals who associate for the purpose of exercising their religious freedom. ARPAC will also argue that the equality rights under s. 15 of the *Charter* should be interpreted in a fashion that does not restrict other *Charter* rights.

E. The Evangelical Fellowship of Canada and Christian Higher Education Canada

[25] The Evangelical Fellowship of Canada ("EFC") and Christian Higher Education Canada ("CHEC") ask collectively for intervener status. EFC was founded in 1964 and is a national association of Protestant denominations, churches and educational institutions. In addition, over one hundred other organizations and post-secondary education schools are affiliated with EFC. CHEC is a non-profit charity. It is an association of Christian higher education institutions across Canada that was created in 2005.

[26] If granted intervener status, EFC and CHEC will argue that freedom of religion includes not only the right to hold religious beliefs but the right to live one's life according to those beliefs. They will also argue that freedom of association includes the right to practice one's religion and that includes in the classrooms of CHEC's members. EFC and CHEC will further argue that the accreditation decision of the LSUC infringes not only the *Charter* right of freedom of religion but also equality rights under s. 15.

F. Catholic Civil Rights League and Faith and Freedom Alliance

[27] Catholic Civil Rights League ("CCRL") and Faith and Freedom Alliance ("FFA") collectively seek intervener status. CCRL was formed in 1985 and is a national lay Catholic organization committed to working with the media to secure a fair hearing for Catholic or Christian positions on issues of public debate. FFA was established in 2004 as a national non-denominational Christian organization. It seeks to promote a Gospel-inspired conception of freedom of religion, conscience and expression under constitutional and human rights legislation across the country. FFA also seeks to increase public awareness regarding the potential dangers of secularism.

[28] If granted intervener status, CCRL and FFA will advance submissions regarding the necessary limitations on secularism contrasted with the freedom of religion guaranteed by the *Charter*. They will argue against any concept that secularism must mean a greater absence of religion in public matters. They will focus their submissions on the issues concerning secularism

and discrimination and their interplay with freedom of religion and the values of pluralism and multiculturalism under the *Charter*.

G. Gerard P. Charette

[29] Gerard P. Charette is the only individual who seeks to intervene in this matter. Mr. Charette is both a member of the LSUC and is an ordained Roman Catholic permanent deacon. Mr. Charette intends to enroll in professional law courses at TWU. Mr. Charette currently carries on a private practice of law in Windsor, Ontario.

[30] If granted intervener status, Mr. Charette will make submissions as to the possible impact of the LSUC's accreditation decision on his ability to secure continuing professional development from a variety of organizations including the Roman Catholic Archdiocese of Toronto. Mr. Charette will also make submissions as to the possible impact that the LSUC's accreditation decision may have on his ability to continue his pro bono law practice that provides legal assistance to Christian persons whose self-expression of religious belief has been adversely affected by the actions of non-governmental groups or other persons.

H. Canadian Association of Labour Lawyers

[31] The Canadian Association of Labour Lawyers ("CALL") is a non-profit organization of labour and employment lawyers founded in 1989. It has over four hundred and ninety members from forty-six law firms and thirty-five unions. It is the only such organization of union-side labour lawyers in Canada.

[32] If granted intervener status, CALL will make submissions as to the appropriate balance to be struck between religious freedom and equality rights. It will also make submissions on that balance as it relates to the LSUC's responsibility to accredit law schools who provide educational services to those who will practice in a public sector legal system. It will also make submissions on the obligations of the LSUC to consider the application of the *Charter*, applicable human rights legislation and other related legislation in making decisions about accreditation.

I. Criminal Lawyers' Association

[33] The Criminal Lawyers' Association ("CLA") is a non-profit organization founded in 1971. It comprises over one thousand criminal defence lawyers practising in the Province of Ontario. The objects of the CLA are to educate, promote and represent the membership on issues relating to criminal and constitutional law.

[34] If granted intervener status, the CLA will argue that the LSUC, in reaching its accreditation decision, had an obligation to protect the public interest and a duty to avoid discrimination and promote equality in the profession. It will argue that the LSUC was entitled to weigh and balance competing interests in coming to a decision that is in keeping with the guiding principles set out in its governing statute. The CLA will further argue that the LSUC was entitled to look beyond the adequacy of the TWU curriculum in deciding whether to accredit TWU.

J. Out On Bay Street and OUTlaws

[35] Out On Bay Street and OUTlaws collectively seek intervener status. Out On Bay Street is a non-profit organization established in 2007 that facilitates the professional development of lesbian, gay, bisexual, transgender and queer ("LGBTQ") students as they move from school to career. The organization primarily serves LGBTQ students at law and business schools. OUTlaws is an association of LGBTQ student groups at various law schools across Canada. It seeks to advance the interests of LGBTQ law students including working towards making law schools and legal education more inclusive of those students.

[36] If granted intervener status, Out On Bay Street and OUTlaws will make submissions regarding the effect of TWU's Community Covenant Agreement on LGBTQ students. They will also make submissions addressing the proper approach to balancing equality rights and religious freedoms with the LSUC's obligation to act in the public interest. They will further make submissions regarding the impact of the TWU covenant on the equality rights of LGBTQ students.

K. The Advocates' Society

[37] The Advocates' Society was established in 1963 as a province-wide professional association for trial and appellate lawyers in Ontario. It is a not for profit corporation that currently represents over 5,000 advocates in Ontario as well as in other provinces. It engages in advocacy education, legal reform and the promotion of access to, and improvement of the administration of, justice.

[38] If granted intervener status, The Advocates' Society will argue that the LSUC must advance the cause of justice, facilitate access to justice and protect the public interest. It will also argue that the LSUC could not condone discrimination in reaching its accreditation decision and that its conclusion in that regard respects *Charter* values.

Conclusions

[39] Of the fourteen proposed interveners, the first ten (as I have listed them above) support the position of TWU. The final four support the position of the LSUC.

[40] I will begin my analysis by saying that I do not doubt the sincerity of the interests displayed by all of the proposed interveners. It is clear that they all have a strong interest in the issues raised by this judicial review application. Also, all of the organizations are established ones that have their own individual expertise and experience to offer. Mr. Charette also has his own unique background and experience that could be brought to bear on the issues.

[41] Where my difficulty arises is with the requirement that the proposed interveners offer a viewpoint that is distinct not only from the parties but from each other. While the degree of overlap with the parties is limited, there is some overlap nonetheless. However, in a case such as this, a degree of overlap is going to be unavoidable. The fact that there is some overlap, though, does not change the fact that the interveners bring a different perspective to the issues than the parties necessarily do. More importantly, however, is that I see considerable overlap among the positions that each of the proposed interveners would seek to advance.

[42] On that latter point, I recognize that each of the proposed interveners has a slightly different perspective on the issues raised. They couch their proposed submissions in slightly different terms. But in considering the issue of granting intervener status, the court does not look for slight nuances. It looks, as was said in *Bedford*, for "an important perspective distinct from the immediate parties". I would add to that requirement something that I believe is implicit in the requirement itself and that is that the perspective must not only be distinct from the immediate parties but it must also be different from the other proposed interveners. There is no benefit to the court in hearing and determining complex issues, of the type that are raised in this judicial review application, to have the same central points repeated by multiple interveners.

[43] The court process is not akin to a public consultative process where every conceivable difference of opinion or view is to be gathered and digested. The principle focus of the court is to resolve the issues that are in dispute between the parties in accordance with the applicable legal principles but, in doing so, to be guided by considerations of the broader impacts that the court's decision may have, that is, impacts beyond just the interests that the parties present. It is to this latter consideration that the interveners can provide assistance but that assistance does not require every permutation and combination of views to be expounded upon. If it were otherwise, there would be no need for a threshold determination of standing for interveners to be made. We would simply open up the process to all interested persons. Such a result would greatly encumber the core adjudicative process, however. Consequently, there must be some limits placed on the intervention process. Those limits may seem to some to be arbitrary or unfair but it is a necessary part of deciding such matters. As Adams J. observed in *Dielman*, at para. 7:

> Therefore, some line-drawing is inevitable.

[44] I recognize that the task of determining which interveners bring a sufficiently distinct perspective to the issues raised, and the amount of overlap that may be involved, is complicated by the fact that the parties have not as yet filed their facta in this matter. I do not, therefore, have the benefit (nor do any of the proposed interveners) of knowing precisely what issues the parties will address and in what manner. Nevertheless, the reality is that the scheduling requirements of this court did not allow for these motions to await all of that being done without greatly delaying the hearing of the application for judicial review itself.

[45] The overlap to which I make reference is most apparent in considering the applications of CCCC, CLF, ARPAC, EFC, CHEC, CCRL and FFA. While I repeat that each of these organizations has its own particular viewpoint, they all essentially wish to make submissions on the right to freedom of religion and freedom of association and how those rights cannot be sidelined or rendered secondary to other rights. Those two freedoms, along with others, will be central to the issues raised in the judicial review application. The broader implications for those freedoms that arise from the judicial review application raise important considerations. All of that said, though, it is not necessary for seven organizations to be given intervener status in order to gain an appreciation of those important considerations or of their implications.

[46] In my view, CLF, given its membership, has a more direct role in the issues raised and more directly addresses some of the broader issues that the court will have to consider. I note, in particular, that CLF includes within its membership current law students who hold undergraduate degrees from TWU. They are a group that are directly affected by the issues raised in this judicial review application. In a somewhat similar way, I also view the EFC and the CHEC as more directly representing another group directly affected by the issues here and that is educational institutions or, at least in the case of these proposed interveners, Christian educational institutions. EFC and CHEC will also address another issue and that is the interplay between secularism and freedom of religion. I view the interests of CCCC, ARPAC, CCRL, and FFA to be less direct than these other organizations and, to some considerable degree, to be encompassed within the submissions that CLF, EFC and CHEC say that they will make.

[47] I therefore grant intervener status to the Christian Legal Fellowship, and jointly to the Evangelical Fellowship of Canada, and the Christian Higher Education Canada but deny intervener status to the Canadian Council of Christian Charities, the Association for Reformed Political Action Canada, the Catholic Civil Rights League and the Faith and Freedom Alliance.

[48] Unlike the organizations that I have just dealt with, JCCF is a non-religious organization. As such, it brings a different perspective to the issues. It concentrates its submissions on the freedom of association issue as it may relate to any group that holds and espouses views that may be unpopular or controversial. In my view, its view point is sufficiently distinct that it may be valuable to the court hearing this matter.

[49] I therefore grant intervener status to the Judicial Centre for Constitutional Freedoms.

[50] Gerard Charette also provides a distinct and separate point of view as both a lawyer and an ordained Roman Catholic permanent deacon. I do not, however, view the issues that Mr. Charette wishes to raise as being central to the issues that this court will have to determine. Mr. Charette's concerns appear to be very much directed towards his rights to choose where he attends for the purposes of continuing education and professional development. He is concerned that the position taken by the LSUC regarding TWU's accreditation could ultimately impact on what sources of continuing education and professional development the LSUC will sanction. While that could occur, it is very much a prospective and hypothetical concern and one that has the potential for deflecting attention from the central issues that are raised in this proceeding.

[51] I decline to grant intervener status to Gerard Charette.

[52] CALL, CLA, The Advocates' Society, Out on Bay Street and OUTlaws made a combination of joint and individual submissions on their motions. I draw certain distinctions between them, however.

[53] Out on Bay Street and OUTlaws represent a group of individuals who are directly affected by the issues raised in this judicial review application. Much as CLF represented a group of individuals directly affected, Out on Bay Street and OUTlaws represent another side of those directly affected. Their perspective on the ramifications of the outcome of this matter are equally important.

[54] I therefore grant intervener status jointly to Out on Bay Street and OUTlaws.

[55] There is an element of overlap involved when it comes to considering the positions of CALL, CLA and The Advocates' Society. The Advocates' Society has a recognized and lengthy background of speaking on behalf of advocates on important issues generally. It is also well-positioned to speak to the issue of the protection of the public as it may arise in this context. The CLA advances a similar position but its perspective differs at least in the sense that its members are almost always involved in acting for persons who are vulnerable and whose conduct does not often accord with what the public at large would view as acceptable. The CLA thus brings a

different perspective from that of The Advocates' Society. The CALL also advances a similar position although its membership and background is much narrower than the other two.

[56] The issue of the protection of the public and the issue of how regulatory bodies should deal with accreditation decisions in the context of these types of issues are also important considerations and ones that the court will likely benefit from having submissions on. Nevertheless, there have to be limits on that participation. In my view, CALL's perspective is more narrow than the other two and would not add a sufficient dimension to warrant separate standing.

[57] I therefore grant intervener status to The Advocates' Society and the Criminal Lawyers Association but I would decline intervener status for the Canadian Association of Labour Lawyers.

Conditions applicable to the interveners

[58] Most of the conditions that would apply to the interveners were not the subject of any dispute. One issue that did arise, however, is whether the question of granting the interveners the right to make submissions should await the filing of all of the facta. This is the route taken by the Supreme Court of Canada and was urged by TWU and the LSUC. The proposed interveners differed in their views on this question.

[59] I do not see any pressing need to defer this issue to await the filing of the facta. The Supreme Court of Canada is in a very different position on these matters generally. It will normally have had the benefit of two (and sometimes more) decisions by courts on the issues and, in those circumstances, it may be more evident that additional oral submissions will not likely assist over and above the written material that is filed. I note in that regard that the length of oral submissions in the Supreme Court of Canada is already very limited even for the parties.

[60] It is much more the usual case in this court, and in the Court of Appeal, that the granting of intervener status will carry with it the right to make limited oral submissions. I do not see any reason to depart from that usual result in this case. Given that the granting of intervener status is predicated on the belief that it will be of assistance to the court, I view the oral submissions as

being very much a part of that assistance. All of that said, however, it is ultimately up to the panel hearing this judicial review application to determine how much time they will permit the parties and the interveners to make submissions. By that point, the panel will have the facta of all of the participants and from that be able to make a much more informed decision as to the need for, and benefit to be gained from, oral submissions by the interveners. Nothing I decide here is intended to interfere with the panel's discretion in that regard.

[61] Consequently, I impose the following conditions on each of the interveners:

(i) the interveners will accept the record as prepared by the parties and not add to it or adduce further evidence or raise new issues;
(ii) the factum of each intervener will be limited to fifteen pages;
(iii) each intervener will have thirty minutes to make its submissions subject to the direction of the panel hearing the judicial review application;
(iv) the interveners will make every reasonable effort to avoid duplicating the submissions of any of the parties or each other;
(v) the interveners will receive the record of the proceedings, the applicants' and the respondent's application records, facta and books of authorities in electronic form;
(vi) service of all materials will be done electronically;
(vii) the interveners will comply with the schedule that will subsequently be ordered by the court for the delivery of all materials, and;
(viii) each of the interveners will not seek, nor will they be subject to, any award of costs including the costs of these motions.

[62] Finally, I should record the fact that counsel for the Attorney General of Canada appeared on these motions. The Attorney General of Canada is intervening in this matter as a matter of right. To facilitate matters, the Attorney General of Canada has voluntarily agreed to be bound by the same conditions that are applicable to all of the other interveners.

NORDHEIMER J.

Date of Release: SEP 24 2014

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– and –

THE LAW SOCIETY OF UPPER CANADA

Respondent

REASONS FOR DECISION

NORDHEIMER J.

Date of Release: SEP 2 4 2014