CITATION: Ruck v. City of Mississauga, 2026 ONSC 73
COURT FILE NO.: CV-25-1572
DATE: 2025 01 06

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Wolf Ruck, Applicant

AND:

The City of Mississauga, Respondent

BEFORE: M.T. Doi J.

COUNSEL: Wolf Ruck, self-represented Applicant

Daron L. Earthy, for the Respondent

Lauren Baker, for the Intervenor Canadian Constitution Foundation

HEARD: July 2, 2025

REASONS FOR JUDGMENT

Overview

[1] The applicant, Wolf Ruck, is seeking to restrain the City of Mississauga (the "City") from enforcing sections 5 and 6 of its Nuisance Weeds and Tall Grass Control By-law 0125-2017 (the "By-law") that prohibit property owners from growing grass over 20 cm in height and having certain nuisance weeds on their property. To enforce the By-law, the City arranged to cut his grass that exceeded the allowable height, removed nuisance weeds from his property, and added the costs of this work to his property tax bill.

[2] Mr. Ruck submits that the By-law was enacted arbitrarily and infringes his right to follow re-wilding and pollinator-friendly conservation practices on his property by growing tall grass and other plants to achieve biodiversity. He claims that the City's enforcement actions breached his right to procedural fairness, as well as his rights under s. 2(a), 2(b), 7, 11(d), 11(h) and 15(1) of the *Charter*. He is seeking $2.46 million in damages and other relief.

[3] The City submits that the By-law was properly enacted to address public health and safety risks and to achieve reasonable minimum property standards within the neighbouring environment.

The City concedes that the By-law provisions infringe Mr. Ruck's right to freedom of expression under s. 2(b) of the *Charter*, denies any breaches of procedural fairness or rights under s. 2(a), 7, 11(d), 11(h) or 15(1) of the *Charter*, and submits that the provisions are justified under s. 1 of the *Charter* as a reasonable limit on his right to free expression.

[4] As explained below, I find that the application should be granted in part.

The Record

[5] In filing his application materials, Mr. Ruck, who is self-represented, late-filed a sizable number of environmental or ecology-related publications including science articles, media reports, posts to social media, studies by government and other organizations, and deputation materials from an ecology advocate's presentation to municipal council. He filed no affidavits from others to support his position that growing tall grass and other plants on his property is better for the environment, and instead presented the collection of materials to support this general proposition. He effectively sought to have his materials accepted by judicial notice.

[6] The City consented to Mr. Ruck filing his materials with the court but objected to most of this content as being inadmissible hearsay. In addition, the City submitted that the court should not take judicial notice of the content of the materials as the test for judicial notice was not met.

[7] Judicial notice dispenses with the need for proof of facts that are clearly uncontroversial or beyond reasonable dispute. Facts that are judicially noticed are not proved by evidence under oath nor tested by cross-examination: *R. v. Find*, 2001 SCC 32 at para 48. As such, the threshold for taking judicial notice of facts is strict. The court is able to take judicial notice of facts that are either: (1) so notorious or generally accepted as not to be the subject of debate among reasonable persons; or (2) capable of immediate and accurate demonstration by resort to readily accessible sources of indisputable accuracy: *Ibid*, citing *R. v. Potts* (1982) 66 CCC (2d) 219 (ONCA); *R. v. Kruk*, 2024 SCC 7 at para 144. The doctrine of judicial notice does not allow a party to place controversial evidence before the court to the prejudice of the opposing party without a proper opportunity for its truth to be tested: *Public School Boards' Assn. of Alberta v. Alberta (Attorney General)*, 2000 SCC 2 at para 5; *Taylor v. Hanley Hospitality Inc.*, 2022 ONCA 376 at para 30.

[8] In my view, the implications of growing tall grass or other plants are not so notorious or uncontroversial as to allow the court to properly take judicial notice of these facts: *Find* at para 48. Moreover, Mr. Ruck did not point to any source of indisputable accuracy to demonstrate these assertions, much less a readily accessible one: *Ibid.* Although some articles seem to have a scientific or academic connection, there is no indication in the materials that any of these studies or articles were peer reviewed or scientifically evaluated. In light of this, I find that Mr. Ruck has not met the strict threshold for properly taking judicial notice of the untested scientific assertions. Given the lack of any expert or other evidence to support the assertions in these various materials, I find that they should not be admitted into evidence: *Public School Boards' Assn.* at para 14.

[9] That said, both parties reasonably consented to the court considering the correspondence which they had exchanged in this matter. In addition, they consented to the court taking judicial notice of the following generally accepted facts related to gardening practices:

a) Native pollinators (mainly bees, butterflies and moths) are best suited to pollinate native plants, with which they co-evolved;

b) Decline in native pollinator species due to climate change, habitat loss, and pesticide overexposure threatens ecosystems and food security; and

c) Individuals can support native pollinators by planting native flowering plants and recommended non-native flowering plants, mainly wildflowers and certain types of native flowering trees.

Litigation History

[10] On May 9, 2023, Mr. Ruck commenced an application for judicial review to the Divisional Court from the City's decision to take steps to enforce the By-law. On August 9, 2023, Emery J. dismissed that application after finding that the Superior Court of Justice provided an appropriate alternative venue for Mr. Ruck to seek declaratory and injunctive relief in this matter.

[11] On November 21, 2023, Mr. Ruck commenced a Rule 14.05 application for the same relief now being sought in the within application. On May 2, 2024, LeMay J. dismissed the application: *Ruck v. City of Mississauga*, 2024 ONSC 2579. Mr. Ruck brought an appeal from the decision.

[12] On July 3, 2024, Mr. Ruck argued a motion before the Court of Appeal to restrain the City from enforcing the By-law pending the hearing of his appeal from the judgment dismissing the application. On July 8, 2024, Rouleau JA dismissed the motion for injunctive relief.

[13] On February 24, 2025, the Court of Appeal set aside the judgment below as notice of a constitutional question required under s. 109 of the *Courts of Justice Act*, RSO 1990, c. C.43 had not been served: *Ruck v. Mississauga (City)*, 2025 ONCA 147.

[14] On March 21, 2025, Mr. Ruck brought the within application. On July 2, 2025, I heard the application and reserved my decision.

[15] On July 18, 2025 (i.e., while my decision was under reserve), Mr. Ruck sought to bring a post-hearing motion to restrain the City's enforcement of the By-law pending the release of my decision. Given Rouleau JA's earlier decision dismissing Mr. Ruck's motion for injunctive relief, I declined to consider the motion.

The By-law

[16] Initially, the City controlled tall grasses (i.e., with a standard that grass could not be grown to exceed 30 cm in height) and certain noxious weeds through the *Weed Control Act*, RSO 1990, c W.5. However, in late 2002, the Ministry of Agriculture advised that the *Weed Control Act* was meant to regulate only agricultural and horticultural land and, therefore, it should not be used to regulate residential or commercial properties. After determining that the City could no longer use the *Weed Control Act*, staff recommended that the City create a new by-law to regulate tall grass and noxious weeds based on existing provisions of the Property Standards By-law and definitions from the *Weed Control Act*. The City passed this bylaw in 2003.

[17] In 2017, the City replaced the 2003 by-law with a new by-law that added a requirement for residents to maintain any City-owned boulevards adjacent to their properties along with their own properties. After passing the 2017 by-law, the City then enacted the current By-law to decrease the permitted height of tall grass from 30 cm to 20 cm and to shorten the service and compliance timeframes that applied to any notices of contravention issued to landowners.

[18] This application centers on s. 5 and 6 of the By-law that sets out the following standards:

5. Every Owner of Land shall cut and maintain tall grass to a height not exceeding 20 centimetres.

6. Every Owner of Land shall destroy and remove all Nuisance Weeds and Nuisance Weed Seeds on their Lands.

[19] Schedule "A" to the By-law sets out a Table of Nuisance Weeds as follows:

Item	**Common Name**	**Scientific Name**
1.	Black Dog-strangling Vine	*Vincetoxicum nigrum (L.) Moench*
2.	Buckthorn, European	*Rhamnus cathartica L.*
3.	Coltsfoot	*Tussilago farfara L.*
4.	Common Barberry	*Berberis vulgaris L.*
5.	Common Crupina	*Crupina vulgaris, Cass*.
6.	Cypress Spurge	*Euphorbia cyparissias L*.
7.	Dodder spp.	*Cuscuta spp.*
8.	Dog-strangling Vine	*Vincetoxicum rossicum (Kleopow) Barbar.*
9.	Giant Hogweed	*Heracleum mantegazzianum Sommier & Levier*
10.	Hemlock, poison	*Conium macalatum L.*
11.	Jointed goatgrass	*Aegilops cylindrica Host*
12.	Knapweed spp.	*Centaurea spp.*
13.	Kudzu	*Pueraria Montana (Lour.) Merr.*
14.	Leafy Spurge	*Euphorbia esula L.*
15.	Poison-ivy	*Toxicodendron radicans (L.) Kuntze*
16.	Ragweed spp.	*Ambrosia spp.*
17.	Serrated Tussock	*Nassella trichotoma Hackel ex Arech.*
18.	Smooth bedstraw	*Galium mollugo L.*
19.	Sow-thistle spp.	*Sonchus spp.*
20.	Tansy Ragwort	*Senecio jacobaea L.*
21.	Thistle, Bull	*Cirsium vulgare (Savi) Tenore*
22.	Thistle, Canada	*Cirsium Arvense (L.) Scopoli*
23.	Wild chervil	*Anthriscus sylvestris (L.) Hoffmann*
24.	Wild parsnip	*Pastinaca sativa L.*
25.	Woolly Cupgrass	*Eriochloa villosa (Thunb.) Kunth*

[20] The City's Corporate Report dated November 21, 2017 states the purpose of the By-law in the following manner:

> The Nuisance Weed and Tall Grass Control By-law contributes to a healthy and safe environment for occupants within the City. Nuisance weeds and long grass may contribute to allergic reactions or health problems, may disrupt ecological systems, and may pose a risk to safety and fire safety by impairing visual sightlines. Further, the regulations help to maintain a minimal reasonable condition of property standard requirements, in relation to the neighbouring environment.

[21] I would summarize the By-law's purposes as follows:

a. to promote public heath and safety by reducing the health and safety risks that tall grass and nuisance weeds may cause;

b. to reduce the disruption to ecological systems that nuisance weeds may cause;

c. to reduce the public safety risk that tall grass may cause by impairing visual sightlines;

d. to reduce the risk that tall grass and nuisance weeds may create habitats for insects, rodents, or other creatures; and

e. to prevent tall grass and nuisance weeds from contributing to neighbourhood blight.

[22] The By-law is enforced by municipal law enforcement officers ("MLEO's") who receive complaints from members of the public, investigate the complaints, and take enforcement action as required to ensure compliance.

The Property

[23] Mr. Ruck is the registered owner of a residential property located on Lincolnshire Blvd. in Mississauga. Around 2018 (i.e., before he began to re-naturalize his property), the front yard was largely covered with a traditional turfgrass lawn and a few trees and shrubs.

[24] Since at least August 2021, Mr. Ruck has allowed the turfgrass lawn on the property to grow to a height of over 20 cm. Certain areas of the property have wildflowers (i.e., primarily

goldenrod) that have become dominant to the point of overtaking the grass. In other areas, non-grass plants intersperse the grass-covered portions of the property. The non-grass plants include dog-strangling vine and sow thistle that are nuisance weeds under the By-law.

Enforcement History

[25] In August 2021, the City received its first complaint about tall grass at the property. An MLEO investigated the complaint, found the property to have tall grass exceeding 20 cm in height, and ordered the grass to be cut to bring the property into compliance. That year, Mr. Ruck complied with the order by cutting the grass before the City's follow-up inspection. In turn, the City closed the enforcement matter.

[26] In June and July 2022, the City received multiple complaints about tall grass at Mr. Ruck's property. After investigating the complaints, the City determined that the property had tall grass over 20 cm in height and ordered the grass to be cut. Mr. Ruck did not comply with the order by the required date after apparently deciding to establish a bird and wildlife sanctuary on the property and maintain long grass as a food source for the wildlife. Due to Mr. Ruck's non-compliance, the City hired a contractor to cut the grass and added the associated costs to his property tax bill in accordance with the cost-recovery provisions under the By-law.

[27] In May 2023, the City received a complaint regarding tall grass at the property. An MLEO conducted an initial investigation of the complaint on May 24, 2023 and returned to the property on June 6 ,2023 to conduct a further investigation with a forestry technician to assess whether nuisance weeds were on the property. The technician found two nuisance weeds on the property, being dog-strangling vine and sow thistle. On July 17, 2023, the City ordered Mr. Ruck to cut the grass and remove the nuisance weeds to bring the property into compliance with the By-law. The timing of the order was complicated by Mr. Ruck's impending application for judicial review. After he did not bring the property into compliance by the required date, the City again hired a contractor to perform the ordered remedial work. The City paid its contractor $287.59 to perform the work and added this cost to Mr. Ruck's property tax bill pursuant to the By-law.

[28] On July 17, 2023, the City issued a notice of contravention to Mr. Ruck that required him to cut and maintain the grass to a height not exceeding 20 cm and remove all nuisance weeds and

weed seeds on the land by July 24, 2023. Mr. Ruck did not bring the property into compliance and continued to grow tall grass and nuisance weeds on the property that contravened the By-law.

Issues

[29] In submissions, Mr. Ruck raised a number of grounds to support his position that the By-law should be struck down. These grounds may be grouped into two (2) categories:

a. the City's enforcement actions under the By-law allegedly breached procedural fairness and/or natural justice; and

b. the By-law allegedly infringed his rights under s. 2(a), 2(b), 7, 11(d), 11(h) and 15(1) of the *Charter* and could not be justified under s. 1 of the *Charter*.

[30] Mr. Ruck has not challenged the City's legislative authority to enact the By-law.

Analysis

[31] As set out below, I find that the application should be granted in part.

a. The City's Enforcement Activities did Not Breach Administrative Law Principles

[32] In my view, the City's enforcement activities did not breach procedural fairness or natural justice. Even though the parties argued the application primarily on constitutional grounds with comparatively less attention on the administrative law grounds that Mr. Ruck raised, I shall first consider the non-constitutional grounds as the court need not answer constitutional questions if a case may be decided without having to do so: *Skoke-Graham v. R.,* [1985] 1 SCR 106 at pp. 121-122; *Bisaillon v. Keable*, [1983] 2 SCR 60 at p. 71.

[33] In considering Mr. Ruck's administrative law grounds, I am guided by the principles in *Baker v. Canada (Minister of Citizenship & Immigration)*, [1992] 2 SCR 817 at paras 19-28, and *Knight v. Indian Head School Division No 19*, [1990] 1 SCR 653 at pp. 682-683 that identify the factors informing the duty of fairness. The duty of procedural fairness is flexible and varies depending on the particular circumstances and issue at hand. In determining the content of the duty of fairness, it is relevant to consider: (1) the nature of the decision and the process followed in making it; (2) the nature of the legislative scheme being administered; (3) the importance of the

decision to the affected individual; (4) the legitimate expectations of the person challenging the decision; and (5) respect for the choice of procedures by the administrative agency itself: *Clifford v Ontario (Attorney General),* 2009 ONCA 670 at para 7, leave to appeal denied 2010 CanLII 3417 (SCC).

[34] I am not persuaded by Mr. Ruck's submission that his right to procedural fairness in this case was breached because MLEO's tasked with enforcing the By-law are not weed inspectors under the *Weed Control Act*. According to Mr. Ruck, this somehow voids the City's enforcement activities under the By-law. However, the By-law does not originate from the *Weed Control Act* as the City enacted the By-law pursuant to its authority under the *Municipal Act 2001*, SO 2001, c.25. In addition, the City lacks authority to enforce the *Weed Control Act*, as discussed earlier. It follows that the lack of a weed inspector appointed under the *Weed Control Act* will not preclude the City from properly enforcing the By-law as it did in this case.

[35] I do not agree with Mr. Ruck's companion argument that the MLEO's who inspected his property and made compliance orders against him were improperly trained and did not correctly identify nuisance weeds for removal from the property. There is no evidence to show that MLEO's were improperly trained or improperly removed any plants from the property. As noted earlier, a forestry technician accompanied the MLEO to inspect the property on June 6, 2023 and found dog-strangling vine and sow thistle, which are prohibited nuisance weeds, and tall grass exceeding the permissible height. Based on these findings, the MLEO ordered Mr. Ruck to remove the weeds and cut the grass to bring the property into compliance. Having considered the evidentiary record on this application, I am not persuaded that any plants were improperly identified or removed from the property. In any event, even if there had been plants that were improperly removed, that would not cause the By-law to somehow become unenforceable.

[36] I do not accept Mr. Ruck's submission that the City is improperly enforcing the By-law by responding to anonymized public complaints. I find nothing improper with the City using a complaints-based enforcement process. The City has a policy of keeping confidential the names and other personal information of complainants so that they may submit their complaints or tips without fear of reprisal. I am satisfied that the City's use of an anonymized complaints-based process is not arbitrary and does not support a claim of discrimination. Moreover, the City assigns an MLEO to investigate every complaint by conducting a site inspection to determine whether any

contraventions of the By-law are occurring. A complaint to the City, regardless of the motive behind it, will not establish a contravention unless an MLEO finds a contravention after conducting an inspection.

[37] I am not persuaded by Mr. Ruck's submission that City staff acted improperly by entering his property without a search warrant. A municipal officer acting under a property standard by-law may enter upon land without a warrant at any reasonable time: s. 446(2) of the *Municipal Act*. In addition, the City was authorized to pass by-laws to allow it entry on land at any reasonable time for the purpose of determining whether a municipal by-law is being complied with and to complete work to bring land into compliance with the By-law: s. 436(1) and 446(1) to (2) of the *Municipal Act*. As a result, I find that MLEO's entered the property with legal authority and that there was no requirement for them to obtain judicial authorization to enter the property to enforce the By-law: *Meloche v. The Township of Alfred and Plantagenet*, 2014 ONSC 5430 at para 6. Although Mr. Ruck purported to issue a trespass notices to bar City staff or agents from entering his property to conduct enforcement or compliance-related activities, I find that the trespass notices had no legal effect as entry to his property was made with legal authority.

[38] I do not find that the By-law's lack of an appeal process (i.e., like the one under the *Weed Control Act*) led to breaches of procedural fairness or natural justice. There is no legal requirement for a regulatory procedure to have an appeal mechanism. As Mr. Ruck has fully argued all of the issues raised in this case, I find no basis to support a breach of procedural fairness or natural justice.

[39] Although Mr. Ruck is opposed to the By-law listing the dog-strangling vine and sow thistle as nuisance weeds that landowners cannot grow or maintain on their property, he led no expert evidence to show how or why the City's decision to list these nuisance weeds was problematic or improper. Accordingly, I decline to interfere with the list of nuisance weeds in the By-law.

[40] I am not persuaded that the City acted in bad faith. In my view, Mr. Ruck has not met the heavy onus to establish that the City engaged in bad faith due to a lack of candour, frankness or impartiality, or by engaging in arbitrary or unfair conduct, or by exercising powers to serve private purposes at the expense of the public interest: *Friends of Lansdowne Inc. v. Ottawa (City),* 2012 ONCA 273 at para 79, citing *Equity Waste Management of Canada v. Halton Hills (Town)* (1997), 35 OR (3d) 321 (CA); *wpd Sumac Ridge Wind Incorporated v. Kawartha Lakes (City),* 2016

ONCA 496 at para 86. From the evidentiary record, I find that the City took reasonable action to enforce the tall grass and nuisance weed requirements under the By-law after investigating complaints and finding contraventions on Mr. Ruck's property. Taking everything into account, I find that the City acted appropriately and with moderation in taking steps to enforce the By-law by issuing notices to explain the contraventions to Mr. Ruck and by taking other compliance action in an impartial, measured, and reasonable fashion.

[41] Accordingly, I am not persuaded that the City breached procedural fairness or natural justice in taking enforcement steps to bring Mr. Ruck's property into compliance with the By-law.

b. Constitutionality of the By-law

i. Section 2(b) of the *Charter*

[42] In my view, the City has fairly conceded that the tall grass and nuisance weed provisions at ss. 5 and 6 of the By-law infringe Mr. Ruck's constitutional right to freedom of expression under s. 2(b) of the *Charter*. The s. 2(b) protection is intended to, "ensure that everyone can manifest their thoughts, opinions, beliefs, indeed all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream": *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 SCR 927 at p. 968; *Benchwood Builders Inc. v. Prescott*, 2025 ONCA 171 at para 21, leave to appeal denied 2025 CanLII 107868 (SCC). The test for finding an infringement of the s. 2(b) right to free expression involves three (3) inquiries: (1) does the activity in question have expressive content to bring it within the reach of s. 2(b)? (2) is the activity excluded from protection due to the method or location of expression? and (3) if the activity is protected, does an infringement of the protected right result from either the purpose or the effect of the government action?: *Canadian Broadcasting Corp. v. Canada (Attorney General)*, 2011 SCC 2 at para 38, citing *Ontario (Public Safety and Security) v Criminal Lawyers' Association*, 2010 SCC 23 at para 32 and *Montréal (City) v. 2952-1366 Québec Inc.*, 2005 SCC 62 at para 56; *Langenfeld v. Toronto Police Services Board*, 2019 ONCA 716 at para 18, leave to appeal denied 2020 CanLII 25159 (SCC). Expressive activity that is performed to convey meaning is protected under s. 2(b) and is afforded a large and liberal interpretation: *Canadian Broadcasting Corp.* at para 34; *Irwin Toy* at pp. 968-970.

[43] As the right to free expression has broad application, I accept that gardening, including the efforts by Mr. Ruck to maintain a naturalized garden on his property with tall grass and nuisance

weeds, has expressive content conveying meaning that is protected under s. 2(b) of the *Charter*: *Bell v. Toronto (City)*, [1996] OJ No 3146 (Prov Div) at para 52.

[44] I find no basis to exclude Mr. Ruck's non-conventional gardening activity from protection under s. 2(b) of the *Charter*. As an environmentalist, Mr. Ruck has adopted a landscaping form on his property to convey his views about the importance of co-existing with nature, the need for biodiversity and wildlife-friendly naturalization efforts in urban areas, and the value of maintaining harmony with the natural environment. In my view, nothing in the method or location of this form of expression conflicts with the values protected by s. 2(b) to make it unsuitable for exercising the right to free expression: *Canadian Broadcasting Corp.* at para 37.

[45] Having regard to the nature of the tall grass and noxious weed restrictions under ss. 5 and 6 of the By-law, I accept that the purpose and effect of these provisions, when enforced, prevent Mr. Ruck from expressing himself in the manner and place of his choosing. Accordingly, I accept that the By-law has the effect of infringing his right to free expression under s. 2(b) of the *Charter*.

ii. Section 2(a) of the *Charter*

[46] Given the record on the application, I do not find that Mr. Ruck has established a breach of his rights under s. 2(a) of the *Charter*.

[47] Section 2(a) of the *Charter* provides that everyone has the right to freedom of conscience and religion.

[48] A breach of s. 2(a) of the *Charter* is made out where: (1) the claimant sincerely believes in a belief or practice that has a nexus with religion; and (2) the impugned measure interferes with the claimant's ability to act in accordance with their religious beliefs in a manner that is more than trivial or insubstantial: *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at para 32; *Multani v. Commission scolaire Marguerite-Bourgeoys*, 2006 SCC 6 at para 34.

[49] In this case, Mr. Ruck has not provided any evidence of a sincerely held belief or practice having a nexus with religion or conscience. In addition, there is no evidence that the requirements under ss. 5 or 6 of the By-law interfere with his ability to act in accordance with his religious

beliefs, practices, or conscience in a way that is more than trivial or insubstantial. Accordingly, I decline to find a breach of his rights under s. 2(a) of the *Charter*.

iii. Section 7 of the *Charter*

[50] I find that Mr. Ruck has not established a breach of his rights under s. 7 of the *Charter*.

[51] To establish a breach of s. 7 of the *Charter*, the claimant must, at minimum, prove: (1) a deprivation of life, liberty, or security of the person; and (2) a violation of the principles of fundamental justice: *Abarquez v. Ontario*, 2009 ONCA 374 at para 42, leave to appeal denied 2009 CanLII 71471 (SCC). To be a principle of fundamental justice, the principle must: (1) be a legal principle; (2) be regarded by Canadian society as vital to the operation of the legal system; and (3) be capable of being identified with precision and applied in a manner that yields predictable results: *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)*, 2004 SCC 4 at para 8; *Chaoulli v. Quebec (Attorney General)*, 2005 SCC 35 at paras 208-209.

[52] In my view, Mr. Ruck has not proven a breach of s. 7 of the *Charter*. The application does not plead meaningful particulars for the alleged s. 7 breach and Mr. Ruck has led no evidence to show a deprivation of life, liberty, or security of the person, or that a principle of fundamental justice has been infringed. In my view, the By-law standards on tall grass and noxious weeds do not fall within the "irreducible sphere of personal autonomy wherein individuals may make inherently private choices free from state interference": *Godbout v. Longueuil (City)*, [1997] 3 SCR 844 at para 66. Importantly, *Charter* rights cannot be stretched to protect whatever activity a person chooses to define as being central to their lifestyle as a society that extends constitutional protection to any and all lifestyles is ungovernable: *R. v. Malmo-Levine*, 2003 SCC 74 at para 86; *R. v. Schmidt*, 2014 ONCA 188 at para 40, leave to appeal denied 2014 CanLII 46939 (SCC). Given the absence of any medical evidence on the application, I decline to find that the City has infringed Mr. Ruck's right to security of the person due to psychological prejudice or harm as there is no evidence of a causal link or a serious and profound effect on his psychological integrity as required to engage this right: *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 at paras 57, 60; *R. v. Gowdy*, 2016 ONCA 989 at paras 101, 110, leave to appeal denied 2017 CanLII 46409 (SCC).

[53] I find that the City's efforts to have vegetation cut or removed to enforce the By-law does not engage a right to life, liberty, or security of the person. In my view, Mr. Ruck cannot establish any infringement of his rights under s. 7 of the *Charter*.

[54] In any event, I would not give effect to Mr. Ruck's further submission that the regulation of tall grass and nuisance weeds under ss. 5 and 6 of the By-law is somehow arbitrary. I recognize that arbitrariness is a principle of fundamental justice against which laws that impinge on s. 7 rights may be measured: *Chaoulli* at para 130. However, s.7 of the *Charter* is not a mechanism that allows courts to engage in a free-standing inquiry into whether a particular legislative measure 'strikes the right balance' between individual and societal interests: *R. v. Malmo-Levine*, 2003 SCC 74 at para 96. Regardless, as set out earlier, I accept that the City enacted ss. 5 and 6 of the By-law for the purpose of establishing a healthy and safe environment, avoiding health problems or ecological disruption, avoiding other public safety risks, and having minimal reasonable property condition standards. In turn, I would find that the challenged By-law provisions are reasonably related to the policy objectives for which they were enacted. In the context of a s.7 challenge, 'arbitrariness' has a narrow and specific meaning that is engaged only where a challenged measure bears no relation to or is inconsistent with the objectives behind the legislation: *Robertson v. Ontario*, 2024 ONCA 86 at para 76, leave to appeal denied 2024 CanLII 90826 (SCC), citing *Abarquez* at para 49. Given the correlation between ss. 5 and 6 and the By-law's policy goals, I would not have found these provisions to be arbitrary even had they implicated a right to life, liberty, or security of the person.

[55] Accordingly, I decline to find a breach of s. 7 of the *Charter*.

iv. Section 8 of the *Charter*

[56] I find that Mr. Ruck has not established a breach of his rights under s. 8 of the *Charter*.

[57] I decline to find that the City breached Mr. Ruck's right under s.8 of the *Charter* to be free from an unreasonable search. The City conducted searches of Mr. Ruck's property by gaining entry to his yard without a warrant for the purpose of enforcing the By-law. As the City conducted warrantless searches, it has the onus to establish, on a balance of probabilities, that the search was authorized by law. If the search was authorized by law and the law was reasonable, there will be

no *Charter* violation: *Hunter v. Southam Inc*, [1984] 2 SCR 145 at p. 161; *R. v. Reeves*, 2018 SCC 56 at para 14; *R. v. Jackson*, 2025 ONCA 717 at para 18.

[58] A municipal officer acting under a property standard by-law may enter upon land without a warrant at any reasonable time: s. 446(2) of the *Municipal Act*. In addition, the City could pass by-laws to allow it entry on land at any reasonable time for the purpose of determining whether a municipal by-law is being complied with and to complete work to bring land into compliance with the By-law: s. 436(1) and 446(1) to (2) of the *Municipal Act*. As a result, there was no requirement for the City to obtain judicial authorization to enter Mr. Ruck's property in order to enforce the By-law: *Meloche* at para 6.

[59] The City's compliance and enforcement activities were, *prima facie*, authorized under the By-law. There is no evidence to suggest that the City's compliance efforts were conducted for any purpose other than to enforce the By-law. The evidence establishes that the City responded to complaints about Mr. Ruck's property after conducting site inspections and finding that the state of the property contravened the By-law. From the evidence, I accept that the City reasonably found that the state of the land did not comply with the By-law. The City gave Mr. Ruck a reasonable period to rectify the contraventions but to no avail. There is no evidence to suggest that the City's compliance and enforcement activities exceeded the regulatory process in the By-law.

[60] Taking everything into account, I am satisfied that the City has met its onus to show that its searches of Mr. Ruck's property were authorized by law, the law was reasonable, and the manner in which the City conducted the searches was reasonable. Accordingly, I find no violation of Mr. Ruck's rights under s. 8 of the *Charter*.

v. Section 11(d) and (h) of the *Charter*

[61] I am not persuaded that Mr. Ruck has established a breach of s. 11(d) or (h) of the *Charter*.

[62] Sections 11(d) and (h) of the *Charter* provide as follows:

> 11. Any person charged with an offence has the right
> …
>
> (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;

…

> (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; [Emphasis added]

[63] By its express terms, the protections under s. 11 of the *Charter* apply to persons "*charged with an offence*." In this case, the City enforced the By-law by issuing notices of contravention and orders for remedial work to bring the property into compliance. This activity did not involve any charges or true penal consequences: *John Howard Society of Saskatchewan v. Saskatchewan (Attorney General)*, 2025 SCC 6 at paras 27-30; *R. v. Wigglesworth*, [1987] 2 SCR 541 at pp. 560-561; *Sutherland Estate v. Murphy*, 2025 ONCA 227 at paras 39-40. Given the absence of charges or true penal consequences, the activities by the City to enforce the By-law did not engage the protections under s. 11 of the *Charter*: *Ibid*.

[64] In any event, I accept the City's submission that its efforts to enforce Mr. Ruck's repeated and multiple contraventions of the By-law on separate occasions did not contravene his protection against double-jeopardy under s. 11(h) of the *Charter*.

[65] Accordingly, I find no breach of Mr. Ruck's rights under s. 11(d) or (h) of the *Charter*.

vi. Section 15(1) of the *Charter*

[66] I find that Mr. Ruck has not established a breach of his rights under s.15(1) of the *Charter*.

[67] Section 15(1) of the *Charter* provides as follows:

> Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

[68] To establish a breach of s. 15(1) of the *Charter*, the claimant must demonstrate that the impugned law or state action:

> (a) creates a distinction based on enumerated or analogous grounds, on its face or in its impact; and

> (b) imposes a burden or denies a benefit in a manner that has the effect of reinforcing, perpetuating, or exacerbating disadvantage.
>
> *Dickson v. Vuntut Gwitchin First Nation*, 2024 SCC 10 at para 188; *R. v. Sharma*, 2022 SCC 39 at para 28; *R. v. C.P.*, 2021 SCC 19 at paras 56 and 141; *Fraser v. Canada (Attorney General)*, 2020 SCC 28 at para 27; *Kahkewistahaw First Nation v. Taypotat*, 2015 SCC 30 at paras 19-20.

[69] Once a claimant shows that the impugned law or state action creates a distinction, either on its face or by its impact, they must show that the distinction is based on an enumerated ground under s. 15(1) of the *Charter* or a ground that is analogous. The defining feature used in identifying an analogous ground is immutability. For a personal characteristic to be immutable, and therefore recognized as an analogous ground that is protected under s. 15(1), it must be actually immutable or changeable only at an unacceptable cost to personal identity: *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 SCR 203 at para 13; *Withler v. Canada (Attorney General)*, 2011 SCC 12 at para 33.

[70] As Mr. Ruck has not established that the City differentially treated him on any enumerated or analogous grounds, I find that he is unable to satisfy the first part of the test for showing a breach of s. 15(1) of the *Charter*. I add my view that this is not a proper case for recognizing any new analogous grounds given the limited evidence and submissions on this: *Fraser* at paras 117-123; *Thibault and Ramsay v. Attorney General of Ontario*, 2025 ONSC 647 (Div Ct) at para 64.

[71] Accordingly, I decline to find a breach of s.15(1) of the *Charter*.

vii. Section 1 of the *Charter*

[72] As discussed below, I find that the By-law's infringement of Mr. Ruck's right to freedom of expression under s. 2(b) of the *Charter* is not justified under s. 1 of the *Charter*.

[73] Section 1 of the *Charter* provides as follows:

> 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.

[74] Legislation that infringes a *Charter* right or freedom may be justified under s. 1 of the *Charter* if the infringement is demonstrably justified as a reasonable limit in a free and democratic society: *R. v. Oakes*, [1986] 1 SCR 103 at paras 62-71. As the party seeking to justify the By-law's infringement of Mr. Ruck's right to free expression, the City bears the onus to show that the impugned provisions are justified under s.1 of the *Charter*: *Oakes* at paras 66-67.

[75] The justification test under s.1 of the *Charter* is well-established. The specific questions that must be considered in the s. 1 analysis are summarized as follows:

1. Is the limit prescribed by law?
2. Is the purpose for which the limited is imposed pressing and substantial?
3. Is the limit rationally connected to the purpose?
4. Does the limit minimally impair the right?
5. Is the law proportionate in its effect?

Oakes at paras 69-70; *Hutterian Brethren* at paras 39-73.

(1) Limit prescribed by law

[76] In this case, the limit on Mr. Ruck's right to freedom of expression arises from a duly enacted By-law. It follows that the limit is "prescribed by law" and, therefore, may potentially be justified under s. 1 of the *Charter*: *Hutterian Brethren* at paras 39-40, 46.

(2) Pressing and Substantial Purpose

[77] I am satisfied that the impugned tall grass and nuisance weed provisions at ss. 5 and 6 of the By-law have a pressing and substantial purpose. I find that the By-law provisions were enacted to protect the public from the health and safety risks posed by tall grass and nuisance weeds, to avoid a disruption of ecological systems, and to maintain minimal reasonable property standards within the neighbouring environment. The purpose of avoiding aesthetic blight can be a pressing and substantial objective: *Ramsden v. Peterborough (City)*, [1993] 2 SCR 1084 at p. 1105; *R. v. Guignard*, 2002 SCC 14 at para 29; *Vann Niagara Ltd. v. Oakville (Town of)*, 2002 CanLII 44984 (ON CA) at paras 24 and 50, reversed but not on this point 2003 SCC 65 at para 2. Accordingly, I find that the City has met its burden to show that the purpose of the limit is pressing and substantial.

(3) Limit Rationally Connected to Right

[78] I am satisfied that the tall grass and nuisance weed provisions are rationally connected to the asserted public health and safety, ecological, and aesthetic goals under the By-law. To establish a rational connection, the City must show a causal connection between the infringement and the benefit sought based on reason or logic: *Hutterian Brethren* at para 48; *RJR-MacDonald Inc.* at para 153. The City must show that it is reasonable to suppose that the limit may further the goal, not that it actually will do so, as the issue at the rational connection stage is simply whether there is a rational link between the infringing measure and the government goal: *Hutterian Brethren* at paras 48, 51. Given the requirements at ss. 5 and 6 of the By-law, I find that it is reasonable and logical to suppose that the tall grass and nuisance weed provisions will further the City's stated goals for these provisions. Accordingly, I find that the City has established that these provisions are rationally connected to their asserted objectives.

(4) Limit is Not Minimally Impairing

[79] In this case, I find that the limit does not minimally impair the right. The question at this stage of the analysis is whether the limit on the right is reasonably tailored to the pressing and substantial goal put forward to justify the limit: *Hutterian Brethren* at para 53. To satisfy minimal impairment, a legislator is not required to pursue the least drastic means of achieving its goal but must adopt a measure that "falls within a range of reasonable alternatives" and could be used to pursue the pressing and substantial goal: *RJR-MacDonald Inc.* at para 160; *Health Services and Support - Facilities Subsector Bargaining Assn. v. British Columbia*, 2007 SCC 27 at para 150; *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1 at para 149. Importantly, the legislator must give evidence of a search for a minimally impairing solution to the problem it sought to address, and cannot simply assert that the law minimally impairs the right: *Health Services* at para 151.

[80] In appropriate circumstances, courts will give elected legislators a measure of deference, particularly on complex social issues where the legislator may be better positioned and able to balance complex and divergent interests and choose among a range of alternatives to arrive at decisions in the public interest: *Hutterian Brethren* at para 53; *Nanaimo (City) v. Rascal Trucking Ltd.*, 2000 SCC 13 at para 35. However, giving a level of deference appropriate to the context will

not relieve the legislator of its burden to demonstrate through evidence, supplemented by common sense and inferential reasoning, that the law should be justified under the *Oakes* analysis: *R. v. Sharpe*, 2001 SCC 2 at para 78; *Guignard* at para 28.

[81] The City adduced no evidence about what, if any, consideration it gave to enacting by-law standards that minimally impaired the right to free expression. Although the City conducted a jurisdictional review of what by-laws other municipalities have enacted to regulate tall grass and nuisance weeds, no evidence was filed to show what if any search efforts it performed to identify minimally impairing by-law standards. Without making any findings about the constitutionality of similar by-laws in other municipalities, as they are not before me, I share the view Flaherty J. recently stated in *Armstrong v. The Township of Russell*, 2025 ONSC 3790 at para 39 that "it is not sufficient for [a municipality] to say, 'we are doing what everyone else is doing' [as the municipality] must present evidence of a search for a minimally impairing solution." In this case, the City, like the Township in *Armstrong*, led no evidence that it, or any of the other municipalities it canvassed, searched for and selected standards that fell within a range of reasonably minimally impairing solutions to achieve its pressing and substantial objectives: *RJR-MacDonald Inc.* at para 160; *Health Services* at para 150. No evidence was led to show how a maximum grass height of 20 cm or the removal of enumerated nuisance weeds and seeds would impact public health or safety and ecological diversity in urban settings where the By-law applied, or why any of these standards fell within a reasonable range to address any of the asserted objectives of the By-law. In addition, no meaningful evidence was led to explain how or why the prescribed grass height and the proscribed nuisance weeds would achieve the aesthetic goals under the By-law.

[82] Accordingly, I find that the City has not met its onus to show that the tall grass and nuisance weed standards of the By-law minimally impair freedom of expression.

(5) Proportionality

[83] In my view, the impugned By-law provisions do not survive the proportionality arm of the *Oakes* analysis.

[84] In assessing proportionality, the court must examine the purpose of the legislation against its effect on the infringed *Charter* right. Some limits on certain *Charter*-protected rights and freedoms will be more serious than others in terms of the nature of the right or freedom that is

violated, the extent of the violation, and the degree to which the limit trenches upon integral principles in a free and democratic society: *Oakes* at para 71. While the first stages of the *Oakes* analysis are anchored in an assessment of the impugned law's purpose, the proportionality analysis at this stage takes full account of the severity of the deleterious effects of the limit on individuals or groups: *Hutterian Brethren* at para 76. Some types of expression are more important and thus more deserving of protection than others, while some limits on freedom of expression are easier to justify than others: *Harper v. Canada (Attorney General)*, 2004 SCC 33 at para 10.

[85] In this case, I find that the impact of the By-law's tall grass and nuisance weed provisions on the right to freedom of expression is relatively serious. The provisions serve to restrict societal expression at a landowner's home. Given the nature of Mr. Ruck's expressive content about the importance of ecological conservation and re-wilding with nature, and his desire to convey this by offering his lifestyle as an example for others, the impugned provisions of the By-law serve to restrict his right to free expression on his own private property in a manner that is not insignificant. As noted earlier, the City led no meaningful evidence to explain how any of these limits would advance the goals under the By-law.

[86] I find that the City has not established that the benefits of the impugned provisions of the By-law are proportionate to the infringement of the right to freedom of expression.

Remedy

[87] I conclude that ss. 5 and 6 of the By-law violate Mr. Ruck's right to freedom of expression under s.2(b) of the *Charter,* and that these violations are not justified under s. 1 of the *Charter*. Section 52 of the *Constitution Act, 1982* requires any law that is inconsistent with the provisions of the constitution to be struck down, but only to the extent of the inconsistency.

[88] In my view, the most appropriate remedy is to strike down the unconstitutional provisions of the By-law. In granting an appropriate remedy involving invalid legislation, and depending on the circumstances, a court may strike down the legislation, strike down and temporarily suspend the declaration of invalidity, or resort to the techniques of reading down or reading in: *Ontario (Attorney General) v. G.*, 2020 SCC 38 at para 101; *Schachter v. Canada*, [1992] 2 SCR 679 at p. 695. The City did not argue that a delayed declaration of invalidity was necessary to protect the rule of law, public safety, or any reliance interests: *G.* at para 118. Given the limited nature of the

legislative evidence in the record, and to avoid treading on the City's legislative sphere, I decline to resort to reading down or reading in: *G.* at para 165; *Schachter* at p. 705.

[89] I shall decline to award damages to Mr. Ruck for harms caused by the unconstitutional enactment of the tall grass and nuisance weed provisions under the By-law. To obtain damages for an unconstitutional enactment, a claimant must show that the legislation was "clearly unconstitutional" in the sense that the unconstitutionality was readily or obviously demonstrable when the legislation was enacted and could not be subject to any serious debate: s.24(1) of the *Charter*; *Canada (Attorney General) v. Power*, 2024 SCC 26 at paras 103-105, 243. A finding of clear unconstitutionality will usually imply that the state either knew that the law was clearly unconstitutional, or was reckless or wilfully blind as to its unconstitutionality: *Power* at para 105.

[90] Despite finding that the impugned By-law provisions infringe s.2(b) of the *Charter* and are not justified under s.1 of the *Charter*, I do not find that the unconstitutionality of these provisions was of a nature that was clearly, readily, or obviously demonstrable when the City enacted the By-law on July 5, 2017. Given the limited or incomplete nature of the record, I am unable to determine whether the impugned By-law provisions were the subject of a search for minimally impairing limits, whether they satisfy the proportionality analysis for the s. 1 justification test, or whether they set out clearly unconstitutional standards that could never survive constitutional scrutiny. But as discussed earlier, other municipalities seem to have similar by-law provisions with comparable tall grass and nuisance weed standards. Although this does not directly support the constitutionality of the impugned By-law provisions, the fact that other municipalities enacted comparable by-laws certainly points away from finding that the standards are clearly unconstitutional as legislators generally avoid enacting unconstitutional legislation.

[91] Taking everything into account, I am not satisfied that this case falls within the category of cases where the impugned By-law provisions were readily known to be unconstitutional. I am not satisfied that the City either knew that the By-law was clearly unconstitutional or was reckless or wilfully blind to its unconstitutionality due to a deliberate failure to inquire about the likelihood of a *Charter* breach: *Power* at para 105. I add that negligence by the City in enacting the By-law would not give rise to the sort of grave misconduct that is capable of establishing the "clearly unconstitutional" threshold under this analysis: *Power* at para 102.

[92] I conclude that the "clearly unconstitutional" threshold for awarding *Charter* damages has not been established in this case. Accordingly, I decline to award any such damages.

[93] Given the infringement to Mr. Ruck's right to free expression under s. 2(b) of the *Charter*, the court has broad powers under s. 24(1) of the *Charter* to grant such remedies as it considers appropriate and just in the circumstances of the case: *G.* at paras 1 and 36-40. To vindicate and restore Mr. Ruck for the infringement, I find it appropriate and just to set aside the work charges for bringing the property into compliance that the City added to his property tax bill.

Disposition

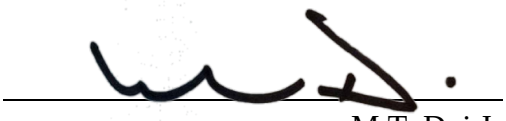
[94] Based on all of the foregoing, I make the following orders:

a. Sections 5 and 6 of the By-law are declared to infringe s. 2(b) of the *Charter*, are not justified under s.1 of the *Charter,* and are constitutionally without force or effect pursuant to s.52(1) of the *Constitution Act, 1982*;

b. The work charges for bringing Mr. Ruck's property into compliance that the City added to his property tax bill are set aside; and

c. the balance of the application is dismissed.

[95] If the parties are unable resolve the issue of costs for the application, Mr. Ruck may deliver costs submissions of up to 3 pages (excluding any costs outline or offer(s) to settle) within 15 days, and the City may deliver responding costs submissions on the same terms within a further 15 days. Reply submissions shall not be delivered without leave of the court.



Date: January 6, 2026 M.T. Doi J.

CITATION: Ruck v. City of Mississauga, 2026 ONSC 73
COURT FILE NO.: CV-25-1572
DATE: 2025 01 06

ONTARIO
SUPERIOR COURT OF JUSTICE

RE: Wolf Ruck, Applicant

AND:

The City of Mississauga, Respondent

BEFORE: M.T. Doi J.

COUNSEL: Wolf Ruck, self-represented Applicant

Daron L. Earthy, for the Respondent

Lauren Baker, for the Intervenor Canadian Constitution Foundation

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REASONS FOR JUDGMENT

M.T. Doi J.

DATE: January 6, 2026