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Mayor Scott Gillingham
City of Winnipeg
510 Main St.
Winnipeg, Manitoba
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Sent via e-mail from asurgenor@theccf.ca to mayorgillingham@winnipeg.ca

RE: Proposed “Safe Access to Vulnerable Social Infrastructure” By-Law

Dear Mayor Gillingham and members of Winnipeg City Council,

I am Counsel with the Canadian Constitution Foundation (the “CCF”). It has come to our attention that the City of Winnipeg is considering a by-law, namely the [“Safe Access to Vulnerable Social Infrastructure” by-law](#).

The by-law is an unconstitutional content-based speech restriction. The CCF has been involved in two legal challenges to similar bubble zones, and we are prepared to bring a legal challenge to this by-law should Winnipeg council proceed.

The stated aims of this by-law may be noble, but the CCF has grave concerns about its impact on freedom of expression and freedom of peaceful assembly, protected by sections 2(b) and 2(c) of the *Canadian Charter of Rights and Freedoms*.

The bylaw would ban any in-person protest or demonstration that involves expression of objection or disapproval towards an idea, action, person or group based on specified characteristics, such as race or gender, within 100 metres of cemeteries, community centres, schools, cultural centres, healthcare facilities, hospitals, libraries, rehabilitation homes, places of worship, and post-secondary institutions.

Meanwhile, certain activities, such as labour-related picketing, would be explicitly exempted from the by-law’s application. This is a purely content-based restriction, and content-based restrictions are highly suspect in a free and democratic society. Once the government decides what topics may be protested, the right to freedom of expression loses its meaning.

The result of the by-law is that protests related to the environment, labour disputes or healthcare funding would continue to be allowed, while protests against religious extremism, racist policing, immigration or the location of a homeless shelter would be pushed out of wide swaths of the city, and relegated to places where those protests are less likely to be effective. This is unacceptable and clearly unconstitutional.

The bylaw is also overbroad. A 100-metre exclusion zone outside every school, library, post-secondary institution, and countless other places, is much larger than the 50-metre exclusion zone that currently exists for other so-called vulnerable spaces in Manitoba.

The City’s concerns can be addressed with measures that already exist—those which do not offend the Charter. Intimidation, for instance, is an offence under subsection 432(1)(g) of the *Criminal Code* of

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Canada. By definition, the proposed by-law is superfluous and its practical effects can only be to transgress needlessly on the freedom of expression and freedom of assembly.

If the City of Winnipeg cannot or will not ensure that this unconstitutional legislation is abandoned or sufficiently cured of its violative defects, the Canadian Constitution Foundation will proceed with litigation.

We await your considered response and thank you for your attention to this matter.

Alexander Surgenor

A handwritten signature in black ink, appearing to be "AS" with a stylized flourish.

Counsel, the CCF

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