Court File No. CV-24-00002378-0000

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

BARRIE MUNICIPAL NON-PROFIT HOUSING CORPORATION

Plaintiff / Responding Party

and

LEAH DYCK

Defendant / Moving Party

NOTICE OF MOTION
(TO DISMISS)

The Defendant, Leah Dyck will make a motion to the Ontario Superior Court on February 18, 2024, at 9:30 AM, or as soon after that time as the motion can be heard, to dismiss the defamation lawsuit launched against the Defendant by the Plaintiff, the Barrie Municipal Non-Profit Housing Corporation (BMNPHC), also known as Barrie Housing.

PROPOSED METHOD OF HEARING: The motion is to be heard by video conference because it is opposed.

THE MOTION IS FOR:

1. An order made under section 137.1 of the Courts of Justice Act (CJA) to dismiss the defamation action brought against the Defendant by the Plaintiff;

2. An order made under section 137.1 (9) of the CJA directing the Plaintiff to pay to the Defendant damages if the judge finds that the Plaintiff brought the proceeding in bad faith or for an improper purpose;

3. Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

4. The Plaintiff alleges that its name and reputation were damaged by public statements made by the Defendant, pursuant to *Libel and Slander Act*.

5. The Defendant says the Plaintiff's defamation action is "strategic litigation against public participation" and brings this motion to dismiss the action under s. 137.1 of the *Courts of Justice Act*[1] ("CJA"), often referred to as the "anti-SLAPP" law.

6. The Plaintiff is a large and powerful entity that is using litigation to intimidate the Defendant, a smaller and more vulnerable opponent, to silence her public expression. Therefore, because the public statements relate to a matter of public interest, the analysis in s. 137.1 of the CJA is engaged.

7. For the reasons set out below, the s. 137.1 analysis favours the Defendant and, as a result, the Plaintiff's defamation action must be dismissed.

8. Regardless of whether the Plaintiff's allegation that their reputation was damaged because of the Defendant's public statements or not, the decision to dismiss the defamation action is based solely on this court's application of the statutory analysis set out in s. 137.1 of the CJA.

9. The Plaintiff, the Barrie Municipal Not-Profit Housing Corporation (BMNPHC), also known as Barrie Housing, is a corporation incorporated pursuant to the Not-for-profit Corporations Act of Ontario. The Plaintiff is the largest housing services provider in the City of Barrie, and owns and operates 14 properties; 964 units, for the primary purpose of providing safe and affordable housing, to roughly 3,000 tenants.

10. The Defendant, Leah Dyck, has been a tenant of Barrie Housing since 2009.

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[1] *Courts of Justice Act,* R.S.O. 1990, c. C.43

11. The Defendant is also a registered charity: The VanDyck Foundation, with charitable status number 77364 5148 RR0001. The VanDyck Foundation serves and therefore represents a population group of disadvantaged, disabled women. Between June 2022 and January 2024, the Defendant coordinated the delivery of fresh food to +8,000 low-income recipients within the City of Barrie and the Township of Innisfil.

12. The Defendant uses her public platforms, Facebook and her website: www.FreshFoodWeekly.com, to publish the actions and behaviours of the Plaintiff that she witnesses, to inform the public.

13. The Defendant's tenancy, as well as her role in her charity provides her with qualified privileged access to both first and second-hand accounts of abuse and exploitation of disadvantaged tenants, regularly, by the Plaintiff.

14. The Defendant's publicly-stated allegations against the Defendant include but are not limited to:

    (a) Deliberately overcharging Rent-Geared-to-Income (RGI) tenants rent, without the intention of returning the overcharged rent, which is stealing;

    (b) Illegally evicting RGI tenants and masking these evictions as being legal;

    (c) Not fulfilling maintenance requests for RGI tenants, and partially fulfilling some maintenance requests in an inhumanely untimely manner;

    (d) Having no process in place for dealing with complaints of any kind by RGI tenants;

    (e) Treating their RGI tenants with absolutely no respect or dignity whatsoever;

15. The Plaintiff was granted an urgent motion hearing for October 29, 2024, which allowed the Plaintiff to then be granted the following interim and/or interlocutory orders:

    a. the Defendant to remove all posts, in any form or in any media whatsoever (including but not limited to Facebook and www.freshfoodweekly.com), all statements about the

Plaintiff (or its employees), directly or indirectly, which are false, misleading and/or defamatory; specifically posts alleging, expressly or impliedly, that the Plaintiff (or its employees) are criminals, are involved in criminal wrongdoing, are guilty of crimes, or otherwise any statements alleging criminality against the Plaintiff (or its employees);

b. restraining the Defendant from publishing, in any form or in any media whatsoever (including but not limited to Facebook and www.freshfoodweekly.com), any further statements about the Plaintiff (or its employees), directly or indirectly, which are false, misleading and/or defamatory; specifically posts alleging, expressly or impliedly, that the Plaintiff (or its employees) are criminals, are involved in criminal wrongdoing, are guilty of crimes, or otherwise any statements alleging criminality against the Plaintiff (or its employees);

c. Costs of the motion on a substantial indemnity basis, which amounted to $7,500.00.

16. The Defendant has also filed a notice of motion for leave to appeal with the Divisional Court in Toronto because the Motion Judge, Justice V.V. Christie did not read the filed materials of the Defendant, nor did she hear the words of the Defendant spoken to her during the urgent motion hearing dated October 29, 2024.

17. The Defendant submitted an undertaking/request form to the Barrie Courthouse's Court Reporter's Office, requesting a copy of the digital audio recording from the October 29, 2024 hearing.[2]

18. When the Defendant submitted this form in-person to the clerk at the service desk, the clerk informed the Defendant that they always release audio recordings within 24 hours of receiving the request form.

19. However, the Defendant hadn't heard anything from the Court Reporter's Office for three days, which prompted the Defendant to call the Barrie Courthouse and leave a voice mail message.

[2] **MR**, Exhibit "A", pg. 52-53

20. Shortly after the Defendant left a voice mail message with the Barrie courthouse's Court Reporter's Office, the Defendant received an email from the Recording Management Coordinator asking the Defendant why she wanted a copy of the digital audio recording.[3]

21. The Defendant told the Recording Management Coordinator she intends to appeal Justice V.V. Christie's decisions.[4]

22. The following day, the Recording Management Coordinator informed the Defendant that Her Honour Justice Christie has denied the Defendant access to the audio file at issue.[5]

23. The following statements below demonstrate the timeline of events leading to the rise of this motion to dismiss:

24. In 2019, the Plaintiff's employee Ashley Sutherland attempted to illegally evict the Defendant.[6] During a recorded phone call between the Defendant and the Plaintiff's CEO, Mary-Anne Denny-Lusk, which was recorded by the Defendant on April 26, 2022, the Defendant explained to Mary-Anne Denny-Lusk how Ashley Sutherland attempted to evict the Defendant in 2019, which resulted in the Defendant being charged a $175 eviction filing fee.[7] The Plaintiff did not acknowledge the Defendant's allegation.[8] During the recorded phone call, the Defendant explained to Mary-Anne Denny-Lusk that Ashley Sutherland called the Defendant and told her she didn't owe anymore rent money that month, and instructed her not to pay her rent the following month. On the first day of the following month, though, the Defendant found an eviction notice on her door and was billed the $175 eviction filing fee.

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[3] **MR**, Exhibit "A", pg. 54

[4] **MR**, Exhibit "A", pg. 54

[5] **MR**, Exhibit "A", pg. 55

[6] **MR**, Exhibit "C", pg. 57

[7] **MR**, Exhibit "E", pg. 60

[8] **MR**, Exhibit "H", pg. 72

25. The Defendant called Ashley Sutherland multiple times and left messages on her voicemail, but her messages were never returned. The Defendant called other Barrie Housing managers and left them voicemails, but they too, did not return the Defendant's calls. This incident in 2019 is what led the Defendant to conclude that she needs to record phone calls with the Plaintiff's employees.

26. In 2021, the Defendant was laid-off from her job as a result of her employer going bankrupt. On September 28, 2021, the Defendant asked the Plaintiff what her new rental rate was, due to her decreased income.[9]

27. On September 28, 2021, the Defendant was informed by the Plaintiff that there was a credit (credit also referred to as "overcharge") on her housing account file,[10] but the Plaintiff did not statement the amount of the credit.

28. The Defendant had to ask the Plaintiff for the amount of her rental rate on four separate occasions: Sept. 28, 2021, Feb. 5, 2022, Mar. 14, 2022, and Apr. 10, 2022,[11] until she finally got an answer from the Plaintiff, and only after the Defendant threatened to tell national news outlets the Plaintiff wouldn't disclose the amount of the Defendant's new rent rate to her.[12]

29. On April 13, 2022, the Defendant was informed by the Plaintiff that they were conducting an audit on her housing account file to ensure her credit was a true credit.[13]

30. During the April 26, 2022 recorded phone call between the Defendant and the Plaintiff's CEO, Mary-Anne Denny-Lusk., the following statements were made by Mary-Anne Denny-Lusk at the following time stamps:

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[9] **MR**, Exhibit "F", pg. 61

[10] **MR**, Exhibit "F", pg. 61

[11] **MR**, Exhibit "F", pg. 61-66

[12] **MR**, Exhibit "F", pg. 65

[13] **MR**, Exhibit "F", pg. 65

i. **Time stamp 1:04:** *"But there is a large credit and a significant portion we can absolutely release before we even talk about that; the ODSP piece."*[14]

ii. **Time stamp 12:48:** *"... this is all you making overpayments because if you're double paying on your rent, we owe you that money back to you, not to ODSP."*[15]

iii. **Time stamp 17:05:** *"Yeah, and we'll just communicate that with you. Like, we'll break-it-down; this is how much is going to you, this is how much is going to ODSP, and then by the end of this, your balance should be zero."*[16]

31. On May 9, 2022, the Plaintiff issued a cheque in the amount of $2,628.53. At that time, the Defendant did not suspect the Plaintiff of being dishonest about the amount of the credit.[17]

32. On October 5, 2022 and October 17, 2022, the Plaintiff threatened to sue the Defendant for the first time regarding the Defendant's 12 Facebook posts about her charity's program recipients, claiming the posts were false and deeply offensive.[18] The Defendant kept the personal details of the people written about within these posts private, including their names and addresses, which meant that the Plaintiff did not know the identities of the recipients featured in the Defendant's Facebook posts—which they even admit, yet they still claimed the contents of these posts weren't true.

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[14] **MR**, Exhibit "H", pg. 68

[15] **MR**, Exhibit "H", pg. 69

[16] **MR**, Exhibit "H", pg. 70

[17] **MR**, Exhibit "G", pg. 67

[18] **MR**, Exhibit "I", pg. 73

33. Of these 12 posts, only five were about the Plaintiff's tenants. Of these five posts, only three even mentioned the Plaintiff. For the record, only post #3[19], #5[20], #8[21], #11[22], and #12[23] were tenants of the Plaintiff. Despite this, the Plaintiff demanded that the Defendant remove all 12 posts because they claimed every single one wasn't true and deeply offensive to them.

34. On April 21, 2023, the Defendant went out for lunch at Donaleigh's Irish Public House in Barrie, Ont., with Rob Cikoja, the CEO of Habitat for Humanity Huronia. Rob Cikoja was also a member of the Defendant's charity's advisory committee. During this meeting, Rob Cikoja told the Defendant, in-person, that the reason the County of Simcoe will never financially support her charity is because of "those posts" she published in 2022.[24]

35. The Plaintiff has alleged the Defendant of claiming the Plaintiff is preventing the Defendant from receiving donations in general. The Defendant never once said the Plaintiff was preventing her from receiving donations "in general". The Defendant has always claimed that the Plaintiff is preventing the Defendant from receiving grant funds administered by the County of Simcoe.

36. On August 30, 2023, the Defendant applied for a grant to the United Way of Simcoe Muskoka for +$600K. Dr. Matthew Orava is the Board Chair of the Barrie and Community Family Health Team,[25] and a letter of support from him was included in the Defendant's grant application.[26]

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[19] **MR**, Exhibit "J", pg. 79

[20] **MR**, Exhibit "J", pg. 81

[21] **MR**, Exhibit "J", pg. 86

[22] **MR**, Exhibit "J", pg. 90

[23] **MR**, Exhibit "J", pg. 91

[24] **MR**, Exhibit "K", pg. 92

[25] "Board of Directors" Barrie and Area Ontario Health Team (2024) Online: Barrie and Community Family Health Team < https://barriefht.ca/board-of-directors/>

[26] **MR**, Exhibit "L", pg. 93

37. On December 8, 2023, the United Way declined the Defendant's grant application.[27]

38. On or around January 19, 2024, the Defendant closed down her biweekly food security program because it had grown too big to be managed by one person and she needed funding to hire staff to help her run it properly.

39. On January 22, 2024, BarrieToday (dot) com published an online article stating that the Defendant's food security program closed-down due to a lack of funding.[28]

40. On February 21, 2024, the Plaintiff promoted Ashley Sutherland—the Barrie Housing employee who attempted to illegally evict the Defendant in 2019 and whom stole $175 from her, to manage the Defendant's housing project.[29]

41. On April 17, 2024, the Defendant received an email from BarrieToday (dot) com reporter Nikki Cole, asking the Defendant for any insight/assistance with the Housing series she was embarking on. Nikki Cole informed the Defendant that she was assigned to speak to someone currently living in social housing within Barrie and was seeking insight into the challenges of obtaining the housing to begin with, if it's hard to get out of social housing, pride of ownership, etc.[30]

42. Nikki Cole ignored the Defendant after she sent her the recorded phone call from April 2022 and threatening letters from the Plaintiff's lawyer from October 2022.[31]

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[27] **MR**, Exhibit "M", pg. 94

[28] "'Drained': Fresh Food Weekly folding due to lack of funding. Macleans Magazine (January 22, 2024) Online: BarrieToday (dot) com. <https://www.barrietoday.com/local-news/drained-fresh-food-weekly-folding-due-to-lack-of-funding-8141747#:~:text=%E2%80%9CI%20am%20estimating%20it's%20over,can't%20afford%20to%20eat%20%E2%80%A6>

[29] **MR**, Exhibit "N", pg. 95

[30] **MR**, Exhibit "O", pg. 96

[31] **MR**, Exhibit "O", pg. 96

43. On June 11, 2024, Dr. Matthew Orava copied and pasted sections of a PSI Foundation grant for the Defendant to start working on.[32]

44. On June 28, 2024, the Defendant emailed a local architect, [redacted] in Barrie, Ontario, seeking a donation of architectural drawings for the Defendant's food security research study she was writing grants for.[33]

45. On July 4, 2024, the Defendant had a really great phone call with architect [redacted], and [redacted] offered to donate one drawing for a sheltered refrigerated mailbox cluster.

46. Nikki Cole ended up interviewing the City of Barrie Mayor Alex Nuttall for her 'Housing series' instead, despite Alex Nuttall no longer residing in social housing.[34] This fact is evidence that Nikki Cole could not find one single RGI tenant in Barrie to say something positive about the Plaintiff.

47. On July 16, 2024, the Defendant submitted an MFIPPA request to the County of Simcoe, seeking the number of bedrooms per RGI unit for all of the Plaintiff's housing projects.[35]

48. On July 19, 2024, the Defendant registered a petition with the House of Commons regarding the transfer of the control, functions and supervision of certain portions of the Public Administration of the Special Priority Policy to the Department of Public Safety and Emergency Preparedness Act (from the Housing Services Act). Nothing in this petition mentioned the Plaintiff.[36]

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[32] **MR**, Exhibit "P", pg. 97-99

[33] **MR**, Exhibit "R", pg. 102

[34] "SERIES: Barrie mayor calls childhood in social housing his 'biggest blessing'". Macleans Magazine (July 4, 2024) Online: BarrieToday (dot) com <https://www.barrietoday.com/local-news/series-barrie-mayor-calls-childhood-in-social-housing-his-biggest-blessing-8995078>

[35] **MR**, Exhibit "S", pg. 103

[36] **MR**, Exhibit "T", pg. 104

49. The Defendant sent emails to 30-ish people all over the province, some of whom included tenants of the Plaintiff, which asked email recipients if they would sign the petition.[37]

50. Of these 30-ish people, one person said she didn't want to sign. Her name is Yanet Montero, and she was a recipient of the Defendant's food security program for nearly three years. She's also an RGI tenant of the Plaintiff. Consequently, the Defendant removed Yanet Montero's name from the email list that requested a signature.[38]

51. On July 25, 2024, the Human Rights Tribunal of Ontario (HRTO) served the Defendant's Application 1 Form to the Plaintiff.[39]

52. On July 31, 2024, Yanet Montero emailed the Plaintiff's employee Soula White, to inform Soula that she was not involved in the Defendant's petition about Barrie Housing,[40] despite the petition not being about Barrie Housing.

53. The Defendant believes that Yanet did this in an effort to protect herself from being mistakenly associated with the Defendant's Human Rights lawsuit against the Plaintiff, and she didn't want to receive any retributive action from the Plaintiff as a result of mistaken association.

54. On August 6, 2024, the City of Barrie responded to the Defendant's complaint regarding the Plaintiffs refusal to provide the financial breakdown of her credit (in which they already said they would provide to her), and instructed the Defendant to contact the Plaintiff directly regarding her financial accounting records.[41]

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[37] **MR**, Exhibit "U", pg. 105

[38] **MR**, Exhibit "U", pg. 105

[39] **MR**, Exhibit "V", pg. 106

[40] **MR**, Exhibit "W", pg. 107

[41] **MR**, Exhibit "X", pg. 108

55. On August 20, 2024, Ontario Ombudsman Paige McWilliams informed the Defendant via telephone that the Ontario Ombudsman does not have jurisdiction over the BMNPHC or the SCHC because of the way these corporations are structured.

56. On August 21, 2024, the Defendant delivered a typed letter to the doors of 85 percent of her own housing project.[42] The Plaintiff alleges this letter was defamatory, and was an attempt to incite or recruit, on false pretences, other tenants into fabricating complaints against the Plaintiff.[43]

57. This letter did no such thing. This letter informed tenants of a private Facebook group they could join if they wanted to witness/participate in conversations about the Plaintiff's myriad of contract breaches, among other things.

58. The Defendant asked the Plaintiff to point-out which statement(s) in this letter were attempts to incite or recruit, on false pretences, other tenants into fabricating complaints against the Respondent, or anyone else for that matter.[44] The Plaintiff never answered this question.[45]

59. On August 22, 2024, the County of Simcoe submitted a Form 11 to the Human Rights Tribunal of Ontario (HRTO). In their response, they state;

> *"Attached as Schedule "A" is the information requested by the Applicant that the County and/or SCHC are entitled to disclose and for which they have documentation. No order is required. This information is publicly available on the County's website."*

And

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[42] **MR**, Exhibit "Y", pg. 109-110

[43] **MR**, Exhibit "GG", pg. 129

[44] **MR,** Defendant's Statement of Defence & Counterclaim, pg. 23

[45] **MR,** Plaintiff's Statement of Defence to Counterclaim, pg. 30

> *"No order is required because the County and SCHC will provide all documents that they have in their possession and are entitled to disclose. This does not include the personal information of individual tenants, their addresses, or their personal tenancy records."*

And

> *"The County supports public access to information and uses its best efforts to comply with its obligations under the Municipal Freedom of Information and Protection of Privacy Act, 1990."*

60. The information provided in the Defendant's MFIPPA request did not include any of the requested information.

61. Upon receiving the County of Simcoe's Form 11, the Defendant emailed the County of Simcoe, the City of Barrie and the Plaintiff's lawyer, stating;

> *"Hey Alex, I know this is a little informal but tomorrow I'll respond to everyone with a formal response. I'm not sure if you guys were honestly trying to be cooperative and didn't realize the info you provided wasn't what I was looking for or if you're deliberately being uncooperative, but I was aware that info was publicly available online. I'm looking for the specific number of RGI units by bedroom number, per property. In the original FOI, I layout the format. I know the layout I provided appears similar to the layout you provided, but it is not the same. The reason I want this information is simply to know the size of mailbox a unit needs. I cannot figure this out without knowing how many bedrooms a unit has, and I only care about the RGI units. This info will allow an architect to do the drawings, which will provide an appraisal, which is imperative when requesting funds for grants. So I'll be reiterating this to everyone, again, in my response, first thing tomorrow morning. Leah"*[46]

[46] **MR**, Exhibit "Z", pg. 113

62. Shortly after this incident, the Defendant watched the Barrie City Council meeting that occurred on August 14, 2024. During this meeting, the City of Barrie created a bylaw that prevents them from sharing the sought information regarding the number of bedrooms per housing project that the Defendant needs in order to get the structures appraised.[47]

63. This isn't the first time the City of Barrie has created a bylaw to prevent starving residents from eating either. On June 21, 2023, the City of Barrie tried to pass bylaws 67 and 68, which would have made it illegal for charitable groups to distribute food, literature, clothes, tents and tarps to unhoused people on public property.[48]

64. On August 28, 2024, the Plaintiff submitted their Form 2 Response to the Human Rights Tribunal of Ontario (HRTO).[49] In paragraph 17, the Plaintiff claimed they promptly refunded the Defendant for her overpayment in May 2022.[50]

65. In paragraph 28, the Plaintiff accuses the Defendant of enticing other tenants to falsify and fabricate concerns[51] regarding the email blast the Defendant delivered to tenants and non-tenants asking them if they would sign her petition launched through the House of Commons' website.

66. On September 4, 2024, the Plaintiff delivered a 'Notice Served on Leah Dyck'. Paragraph 3 states;

> *"Our client is further aware that you are disseminating defamatory letters to tenants of our client, making defamatory verbal statements to tenants of our client and*

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[47] **MR**, Exhibit "AA", pg. 114

[48] "City of Barrie backs down on plan to ban giving food to homeless people on its property" (June 21, 2023) Online: CBC Toronto <https://www.cbc.ca/news/canada/toronto/barrie-homelessness-bylaws-ban-meeting-1.6884615>

[49] **MR**, Exhibit "BB", pg. 115-117

[50] **MR**, Exhibit "BB", pg. 116

[51] **MR**, Exhibit "BB", pg. 117

members of the public, and attempting to incite or recruit, on false pretences, other tenants of our client into fabricating complaints against it."[52]

67. On September 5, 2024, the Plaintiff discovered words written in chalk on the sidewalk of their housing project located at 49 Coulter Street.[53] These words stated *"No More Abuse!"*. The Plaintiff claims this is *"vandalism",* admits they know who the *"vandal"* is, and based on who the *"vandal"* is, the Plaintiff claims the Defendant inspired the *"vandalism"*.

68. On September 7, 2024, a tenant of 49 Coulter Street, [redacted], who was also an avid volunteer of the Defendant's food security program, emailed the Plaintiff's CEO, Mary-Anne Denny-Lusk with a long list of complaints she had regarding the Plaintiff's inability to manage the housing project.[54]

69. On October 1, 2024, the Defendant submitted a complaint to the Barrie Police and later that day, the police replied, indicating her matter was civil and therefore was not allowed to become involved.[55]

70. On October 4, 2024, the Plaintiff's CEO, Mary-Anne Denny-Lusk stated in her sworn affidavit the following;

"On or about May 9, 2022, the respondent (Leah Dyck) had a credit on her account due to an overpayment of her rent. The respondent was paying her monthly rent directly, and at the same time, ODSP was paying directly to Barrie Housing a portion of the respondent's rent. Upon discovery of such overpayment, Barrie Housing credited the respondent with a cheque in the sum of $2,628.53."

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[52] **MR**, Exhibit "GG", pg. 129

[53] **MR**, Exhibit "HH", pg. 130

[54] **MR**, Exhibit "II", pg. 131-133

[55] **MR**, Exhibit "JJ", pg. 134-135

"For context, attached hereto as Exhibit "K" is a copy of the phone recording between the respondent (Leah Dyck) and Ms. Denny-Lusk… On plain listening to this recording, it is clear that:

ii) Barrie Housing was determining the proper manner of handling this credit as the overpayment was due, in part, to ODSP paying Barrie Housing directly, and Barrie Housing believed that the credit, or a portion of that credit, ought to be repaid to ODSP;

iii) The respondent acknowledges and admits that she was receiving ODSP as well as some form of pension payment — which is not permitted — and that she owed some of those monies back."

"i) …The respondent herself admits in this phone call that she was receiving extra income that she ought not be receiving, which resulted in an overpayment of her rent, which was eventually returned."[56]

71. On October 4, 2024, the Plaintiff stated in their 'Factum of the Plaintiff' that:

"…she has been reckless in disseminating posts without investigating, whatsoever, the truth of her allegations".[57]

72. On October 10, 2024, the Defendant submitted a Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) request to the County of Simcoe that sought the audit documents conducted on the Defendant's housing account file in April 2022, which are in the sole possession of the Plaintiff.[58]

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[56] **MR,** Affidavit of Mary-Anne Denny-Lusk sworn on October 4, 2024, pg. 35-37

[57] **MR**, Exhibit "KK", pg. 137

[58] **MR**, Exhibit "LL", pg. 138

73. The above MFIPPA request was rejected by the County of Simcoe because they do not have access to the Plaintiff's financial records.[59]

74. On October 11, 2024, the Defendant submitted an MFIPPA request to the County of Simcoe for the number of evictions made by the Plaintiff for each year since 2020.[60]

75. On October 29, 2024, the Plaintiff's lawyer, Riley Brooks, told the Motion Judge that the audit was not a "CRA audit" and therefore, it was irrelevant.

76. On October 31, 2024, the Ontario Ministry of Children, Community and Social Services (CCSS) released the Defendant's entire Ontario Disability Support Program (ODSP) file to her, which included the ledger of direct payments that ODSP made directly to the Plaintiff on behalf of the Defendant.[61]

77. The Defendant then downloaded all her bank statements as far back as she could go, which was only back to November 1, 2017.[62] The Defendant then cross-matched her payments made directly from her personal bank account, with the payments made directly by ODSP, and the tenant ledger provided by the Plaintiff.

78. This curated data was used by the Defendant to create her own version of a tenant ledger[63] and determined the Plaintiff was grossly negligent in reporting payments made in the tenant ledger they provided to the Defendant in August 2024. The Defendant's curated data reveals the Plaintiff still owes the Defendant between $1,814.20 and $2,289.20,[64] which amounts to a total credit and overcharge of around $5,000.00, and not the $2,628.53 the Plaintiff continues to claim.

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[59] **MR**, Exhibit "LL", pg. 139

[60] **MR**, Exhibit "MM", pg. 140-141

[61] **MR**, Exhibit "PP", pg. 144

[62] **MR**, Exhibit "RR", pg. 150-152

[63] **MR**, Exhibit "SS", pg. 153-159

[64] **MR**, Exhibit "SS", pg. 159

79. The above curated data doesn't include the overcharges made on the Defendant's account file from the extra income she received during the 2020 pandemic and in which she's now paying back slowly each month. The Defendant cannot calculate the above rental charges without knowing the percentage of income charged by the Plaintiff, which is usually 30 percent but is not necessarily 30 percent.[65]

80. On November 1, 2024, the Defendant's ODSP case worker, Ashley Walker, informed the Defendant that she confirms the Plaintiff did not reimburse ODSP with any overcharged rent monies as the Defendant's entire ODSP file did not reveal any such reimbursements.[66]

81. On November 1, 2024, the Plaintiff's lawyer delivered by email to the Defendant a letter in response to the Defendant's recent findings regarding the 'Leah's Version Tenant Ledger'. The summary of the contents of this letter are that they deny they still owe the Defendant money.[67]

82. On November 5, 2024, the Motion Judge issued an Endorsement / Order ordering the Defendant to pay $7,500.00 to the Plaintiff.[68] The Defendant was dumbfounded and shocked that such a perversion of justice could have happened.

83. On November 13, 2024, the Defendant delivered by email to the Plaintiff's lawyer a Request to Admit form.[69]

84. On November 14, 2024, the Plaintiff delivered to the Defendant by email their Response to Request to Admit form[70] and outrightly denied the existence of the audit documents they conducted on the Defendant's housing account file in April 2022, and also denied the authenticity of the transcript of the recorded phone call between the Defendant and the

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[65] **MR,** Affidavit of Mary-Anne Denny-Lusk sworn on October 4, 2024, pg. 34

[66] **MR**, Exhibit "TT", pg. 160

[67] **MR**, Exhibit "UU", pg. 162

[68] **MR**, Exhibit "VV", pg. 164-166

[69] **MR**, Exhibit "WW", pg. 167-168

[70] **MR**, Exhibit "XX", pg. 170

Plaintiff's CEO Mary-Anne Denny-Lusk, even though Mary-Anne Denny-Lusk already confirmed many statements she made within this recorded phone call in several of her own affidavits in October 2024.[71]

85. On November 22, 2024, the Defendant wrote a letter to the Divisional Court in Toronto and also filed it with this court as well. This letter included screenshots of the Defendant's response to Justice V.V. Christie's second endorsement.[72]

86. On November 24, 2024, the Defendant curated more data released to her from her October 11, 2024 MFIPPA request, which indicates that the Plaintiff segregates its most vulnerable tenants into three out of their 14 housing projects within the City of Barrie:[73]

    i. Allanview Place

    ii. Mill Creek

    iii. Penetang Court

87. This data also reveals that 43 percent of tenant deaths occur between July and September each year since 2021, which are the hottest months of the year. It also reveals that 50 percent of the 30 tenant deaths between July 2021 and September 2024 occurred at three locations:[74]

    i. Coulter Glen

    ii. Summitview

    iii. Edgehill Terrace

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[71] **MR,** Affidavit of Mary-Anne Denny-Lusk sworn on October 4, 2024, pg. 36, and the affidavit of Mary-Anne Denny-Lusk sworn on October 16, 2024, pg. 50

[72] **MR**, Exhibit "AAA", pg. 174-176

[73] **MR**, Exhibit "BBB", pg. 177-178

[74] **MR**, Exhibit "BBB", pg. 177-178

88. On November 25, 2024, the Ontario Ministry of Children, Community and Social Services (CCSS) responded with their Form 2 Response[75] to my Application 1 Form filed with the HRTO and paragraph 4 states;

> *"The Ministry is not an appropriate Respondent. The complaint may be more appropriately made against the Barrie Municipal Non-Profit Housing Corporation and the Simcoe County Housing Corporation. The Ministry is not responsible for the actions of those corporations, their employees or their administration."*

89. Although the CCSS matter is a completely different matter, the Defendant believes this statement may also be an allegation against of the Plaintiff's criminal wrongdoing, although clearly not a direct allegation.

90. On November 30, 2024, the Defendant delivered by email, a letter of Notice of Intent to Prosecute, to the Plaintiff's lawyer.[76]

The "anti-SLAPP" Law

91. Courts have struggled for years to find the right balance between free expression and the protection of private reputation, especially in areas of public controversy.[77] As the Supreme Court of Canada noted in 2008 in *WIC Radio*:

> The function of the tort of defamation is to vindicate reputation, but many courts have concluded that the traditional elements of that tort may require modification to provide broader accommodation to the value of freedom of expression. ... When controversies erupt, statements of claim often follow as night follows day, not only in serious claims ... but in actions launched simply for the purpose of intimidation. Of course, "chilling" false and defamatory speech is not a bad thing in itself, but chilling debate on matters of legitimate public interest raises issues of inappropriate

[75] **MR**, Exhibit "YY", pg. 171

[76] **MR**, Exhibit "FFF", pg. 193-195

[77] *WIC Radio Ltd. v. Simpson,* [2008] 2 S.C.R. 420, 2008 SCC 40, at paras. 14-15

> censorship and self-censorship. Public controversy can be a rough trade, and the law needs to accommodate its requirements.[78]

92. In 2015, the provincial legislature stepped in to provide some guidance. The "anti-SLAPP" law is now set out in s. 137.1 of the CJA.[79] This statutory provision is primarily designed to deal with genuine SLAPP suits – that is "lawsuits initiated against individuals or organizations that speak out or take a position on an issue of public interest."[80] As the Supreme Court recently explained in *Pointes Protection*:

> SLAPPs are generally initiated by plaintiffs who engage the court process and use litigation not as a direct tool to vindicate a bona fide claim, but as an indirect tool to limit the expression of others. In a SLAPP, the claim is merely a façade for the Plaintiff, who is in fact manipulating the judicial system in order to limit the effectiveness of the opposing party's speech and deter that party, or other potential interested parties, from participating in public affairs.[81]

93. The Supreme Court noted in *Pointes Protection* that the Advisory Panel's Report to the Attorney General "explicitly discouraged the use of the term 'SLAPP' in the final legislation in order to avoid narrowly confining the s. 137.1 procedure ... and the legislature obliged."[82] The broader concern of the anti-SLAPP provisions is to provide a statutory mechanism "to screen out *lawsuits that unduly limit expression on matters of public interest* through the identification and pre-trial dismissal of such actions."[83]

94. So it is that Plaintiff's defamation action falls within the reach of s. 137.1 of the CJA. The Plaintiff is a powerful entity that is suing the Defendant to gag her public expression. Because

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[78] *WIC Radio Ltd. v. Simpson,* [2008] 2 S.C.R. 420, 2008 SCC 40, at para. 15

[79] Protection of Public Participation Act, 2015, S.O. 2015, c. 23, adding ss. 137.1 to 137.5 to the CJA.

[80] *1704604 Ontario Ltd. v. Pointes Protection Association,* 2020 SCC 22, [2020] 2 S.C.R. 587, at para. 2.

[81] *Ibid*.

[82] *Ibid.*, at para. 24.

[83] *Ibid.*, at para. 16 (Emphasis added).

the complained of public statements made by the defendant relate to a matter of significant public interest, the s. 137.1 analysis is engaged.

The Applicable Test

95. Under the *Protection of Public Participation Act*, 2015, a Defendant can bring a motion to dismiss a SLAPP at the earliest stages of the litigation process.

96. Sections 137.1-137.5 of the *Courts of Justice Act* (CJA) provides a process by which Defendant can seek the early dismissal of an action that has been commenced against her, if the action constitutes an attempt to unduly limit expression on matters of public interest.

(i) Does the proceeding arise from an expression that relates to a matter of public interest (the threshold question)?

(ii) Are there grounds to believe that the proceeding against the Defendant has substantial merit and that they have no valid defence to the claims against them (the merits-based hurdle)?

(iii) Is the harm suffered by the Plaintiff as a result of the Defendants' expressions sufficiently serious that the public interest in permitting the action to continue outweighs the public interest in protecting that expression (the public interest hurdle)?

(iv) Should damages be awarded to either the Defendant under s. 137.1(9)?

Analysis

97. Recall that in this step of the analysis the Plaintiff must satisfy the court that there are grounds to believe that the Defendant has no valid defence to the action. In *Pointes Protection*, the Supreme Court paraphrased this requirement as follows: the Plaintiff has the burden to show that there are grounds to believe "that the defences have no real prospect of success."[84]

[84] *Ibid.*, at para. 60.

98. The Supreme Court explained that a "real prospect of success" is less than a "likelihood of success" but more than merely "some chance of success" or even "a reasonable prospect of success."[85] The addition of the word "real" suggests a *solid* prospect of success – more than just a chance or even a reasonable chance, but less than probability. Again, if the court concludes that even one of the defences has a real prospect of success, that is enough to dismiss the Plaintiff's action.

99. For the purposes of the s. 137.1 motion, only two defences are being advanced – fair comment and qualified privilege.

100. The Plaintiff has not shown that the defence of fair comment has no real prospect of success. This alone is enough to dismiss this defamation action.

101. There are five elements to the defence of fair comment: (i) the comment must be on a matter of public interest; (ii) the comment must be based on fact; (iii) the comment, although it can include inferences of fact, must be recognizable as comment; (iv) the comment must be one that any person could honestly make on the proved facts; and (v) the comment was not actuated by express malice.[86]

Public Interest

102. The words complained of are matters of public interest because they allege misuse of public funds resulting in the escalation of Nazi-concentration camp-like living conditions within public housing projects managed by the Plaintiff, as well as a mass-scale fraud scheme of administered social assistance benefits to potentially 3,000 of the Plaintiff's tenants, all of whom qualify as low-income households.

Fact

103. The words complained of were based on fact because the evidence shows that the:

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[85] *Ibid.*, at para. 50.

[86] *WIC Radio Ltd.*, supra, note 4, at para. 28.

(a) Defendant still has a credit on her housing account file that the Plaintiff does not intend to return to her. In fact, the Plaintiff continues to deny the existence of the credit despite the evidence (which is posted publicly at: www.FreshFoodWeekly.com);

(b) Plaintiff refuses to provide a financial breakdown of how they determined the Defendant's credit of $2,628.53, which they said they would provide her with on April 26, 2022;

(c) Plaintiff's CEO Mary-Anne Denny-Lusk admitted that the Defendant was overcharged for two reasons; 1) for paying her rent while ODSP also paid her rent, and 2) for the additional social assistance monies she received in 2020 that she's now paying back incrementally each month;

(d) Plaintiff did not reimburse ODSP with any of the Defendant's overcharged rent monies;

(e) Plaintiff did not reimburse the Defendant with the full credit she's owed and that the Plaintiff's CEO, Mary-Anne Denny-Lusk thought a portion of the Defendant's credit should be returned to ODSP instead of the Defendant;

(f) Plaintiff could have overcharged up to 3,000 tenants, and if these overcharges amount to the same as or more than the Defendant's overcharges, they would become bankrupt upon paying-back their overcharged tenants;

(g) Plaintiff segregates their most vulnerable tenants into three select housing projects, which is discrimination;

(h) Defendant did not entice anyone to falsify concerns or complaints about the Plaintiff;

(i) Plaintiff has been using their lawyer, Riley Brooks, to harass the Defendant since 2022, regarding the Defendant's public statements of significant public import.

Comment

104. There is no dispute that the words complained of are recognized as comments. Words that may appear to be statements of fact may, in pith and substance, be properly construed as comment.[87] What is comment and what is fact must be determined from the perspective of a "reasonable viewer or reader."[88] The notion of "comment" includes "deduction, inference, conclusion, criticism or judgment"[89] and is "generously interpreted."[90]

Belief

105. Three is no dispute that the words complained are words that many people already believe. The Plaintiff has provided statements in sworn affidavits of various tenants, staff, board members and community partners who are concerned about the allegations the Defendant has made against the Plaintiff. If the words complained of were so manifestly defamatory that any jury verdict to the contrary would be considered perverse, then there would not be so many people inquiring about the words being complained of and its corroborating evidence.

106. In the Defendant's view, no reasonable journalist or member of the public would have taken the Defendant's statement that the Plaintiff "is a group of thieving witch Nazi's" as meaning that in actual fact the Plaintiff practices witchcraft and murders people with guns or gas chambers. In any event, the Defendant herself added in the statement, *"I don't think they practice witchcraft"*, which the Plaintiff does not dispute.[91]

107. There is also no basis for the Plaintiff's submission that these statements lacked a factual backdrop. To qualify as comment, the background facts must be well-known and already understood by the audience.[92] The listeners' knowledge or understanding of the factual

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[87] *Ibid.*, at para. 26.

[88] *Ibid.*, at para. 27.

[89] *Ibid.*, at para. 26.

[90] *Ibid.,* at para. 26.

[91] **MR**, Affidavit of Mary-Anne Denny-Lusk sworn on October 16, 2024, par. 8a, pg. 49

[92] *Ibid.*, at paras. 31 and 34.

backdrop allows them to make up their own minds on the merits of the Defendant's comment.[93]

108. When the Defendant made the words complained of, the evidence of the Plaintiff denying the Defendant's requests for the financial breakdown records—that they agreed to provide to her on April 26, 2022—were well-known. In other words, the 'background facts' requirement is easily satisfied.

109. The Plaintiff says that the words complained of were slanderous and defamatory, which could only mean that the Defendant had already been found guilty of defamation—and because a trial hadn't happened yet, the words complained of couldn't have be deemed slanderous or defamatory.

110. Considering the facts and evidence before this Honourable court, there is a strong likelihood that the Defendant does indeed have a real prospect of showing at trial that the words complained of were true.

111. *Could honestly be made by any person.* As the Supreme Court noted in *WIC Radio*, "The common law judges long ago decided that the gravamen of the defence of fair comment [was] whether the comment reflected honest belief."[94] Honest belief requires "the existence of a nexus or relationship between the comment and the underlying facts."[95] There must be a linkage or connection.

112. The Defendant's initial evidence included her reasonable reliance on the refusal of the Plaintiff to provide the Defendant with the financial breakdown document of how they determined her overcharged rent monies —**that they already said they'd provide to her**— that it was the Defendant's honest opinion based on this refusal that the Plaintiff had been dishonest. This is, to be sure, compelling evidence of the required linkage or connection.

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[93] *Ibid.*, at para. 31.

[94] *Ibid.*, at para. 37.

[95] *Ibid.,* at para. 40.

113. However, the best measure of the honest belief component is to ask if someone else could have honestly made the same comment on the same known facts as the commentator.[96] Here, as it turns out, there is such evidence, as provided by the Plaintiff's CEO Mary-Anne Denny-Lusk in her sworn affidavit dated October 4, 2024:

114. In paragraph 32 of the affidavit of Mary-Anne Denny-Lusk dated October 4, 2024, Mary-Anne states;

> *"In addition, I personally, including other members of Barrie Housing's board of directors, have been approached by our various community partners who have learned of the respondent's online campaign and have expressed concerns to us."*

115. In paragraph 33 of the affidavit of Mary-Anne Denny-Lusk dated October 4, 2024, Mary-Anne states;

> *"For example, I was recently interviewing an applicant/candidate for a director vacancy. That applicant specifically inquired with me as to posts she had seen on Facebook and on the respondent's website about the background of that dispute and how it is being managed."*

116. In paragraph 34 of the affidavit of Mary-Anne Denny-Lusk dated October 4, 2024, Mary-Anne states;

> *"Another partner, Kids Club, which is organized through local churches, contacted my staff to enquire what was going on with the respondent as a result of her posts."*

117. In paragraph 35 of the affidavit of Mary-Anne Denny-Lusk dated October 4, 2024, Mary-Anne states;

> *"I have been contacted by community partners connected to Habitat for Humanity who have seen the respondent's postings and expressed concern."*

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[96] *WIC Radio, supra,* note 4, at paras. 40, 41 and 49-51.

Malice

118. The last element is *absence of malice.* The defence of fair comment can be defeated by evidence of malice.[97] On the facts herein, malice can be established in two ways: (i) by showing that the Defendant's dominant purpose in making the words complained of was to injure the Plaintiff; or (ii) by showing that the Defendant made the statements knowing they were not true or did so with reckless indifference to their truth.[98]

119. The Plaintiff stated in their Form 2 Response to the HRTO, paragraph 9, that Leah Dyck;

> *"is misinformed and erroneously believes that she, as well as other tenants, are and have been "overcharged". The misinformed and erroneous belief of the applicant appears to relate to an instance in which Barrie Housing calculated an increase in the applicant's rent for one month because she was employed and receiving ODSP…"*

120. There cannot be a dispute regarding the Defendant as having acted in malice, as even the Plaintiff acknowledged the Defendant believes the words complained of are true. Regardless of the fact that the Plaintiff stated this, though, the evidence proves the words complained of are based on facts and evidence.

121. There is no evidence to support either of these two prongs of possible malice. There is no evidence that the Defendant's dominant purpose in stating the words complained of was to harm the Plaintiff. To the contrary, the Defendant has repeatedly stated that her intention of stating the words complained of is to trigger an investigation and ensure public accountability of the Plaintiff's misuse of publicly administered funds.[99]

122. In the Defendant's September Newsletter, she states;

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[97] *WIC Radio, supra* note 4, at para. 63.

[98] *Ibid.* Also see *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130, at para 145–147 and *Canadian Standards Association v. P.S. Knight Co. Ltd.*, 2019 ONSC 1730, at para 104.

[99] **MR,** the Defendant's Statement of Defence and Counterclaim, pg. 22, and Exhibit "I", pg. 74, as well as the September Newsletter, Exhibit "FF", pg. 128

> *"I know some people are getting sick and tired of seeing me post about these issues and others have told me to use other channels (even though I've reached out to +200 national news reporters and no one will report on this). I hear you. I continue publishing for the thousands of Rent-Geared-to-Income (RGI) tenants in Simcoe County who're being impacted by something nobody wants to stand-up against, and no one in authority cares about."*

123. And the Defendant's food charity's Facebook Page's cover image is a quote from Martin Luther King Jr., stating:

> *"Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. - Martin Luther King Jr."*[100]

124. The two threatening letter from the Plaintiff's lawyer back in October 2022 show that the Plaintiff's CEO Mary-Anne Denny-Lusk displays paranoid delusions regarding the content of the Defendant's Facebook posts complained of in October 2022. As those posts only mentioned the Plaintiff in three out of the 12 posts, and despite this fact, the Plaintiff demanded that all 12 posts be removed because they were all lies and deeply offensive to the Plaintiff.[101]

125. The allegations made by the Plaintiff about the Defendant disseminating letters to recruit or incite, under false pretences, to get other tenants to falsify or fabricate complaints or concerns about the Plaintiff exhibits deliberate defamation against the Defendant as anyone with a grade three reading level can see that these allegations are also false.

126. Suffice it to say, for the reasons just stated, the "dominant purpose" prong of the malice test cannot succeed.

127. The Plaintiff next argues that the Defendant has been reckless in disseminating posts without investigating, whatsoever, the truth of her allegations.

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[100] **MR**, Exhibit "GGG", pg. 196

[101] **MR**, Exhibit "I", pg. 73

128. The Defendant cannot ideate any reasoning to this statement at all, due to the sheer number of FIPPA and MFIPPA requests submitted by the Defendant, that sought answers to the words being complained of.

129. Given the contents of the emails exchanged between the Plaintiff and the Defendant from September 2021 to April 2022[102], and the contents of the letters exchanged between the Plaintiff's lawyer and the Defendant in October 2022,[103] coupled with the contents of the Facebook posts in 2022[104], and given the contents of the disseminated letters about the Plaintiff authored by the Defendant in 2024,[105] and given the evidence provided through the Defendant's MFIPPA requests,[106] and the absence of any evidence of malicious purpose or reckless interpretation, the fair comment defence has a real prospect of success.

130. This alone is enough to dismiss the defamation action.

131. Even if the fair comment defence failed, though, the Defendant would still prevail regarding the weight of the two public interests.

132. The final step under s. 137.1(4)(b) requires the Plaintiff to satisfy the court that the harm suffered by the Plaintiff as a result of the Defendant's expression is sufficiently serious that the public interest in permitting the Plaintiff's action to continue outweighs the public interest in protecting that expression.

133. In *Pointes Protection*, the Supreme Court noted that before the weighing exercise begins, the Plaintiff must show two things: (i) the existence of some harm and (ii) that the harm was caused by the Defendant's expression.[107]

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[102] **MR**, Exhibit "F", pg. 61-66

[103] **MR**, Exhibit "I", pg. 73-76

[104] **MR**, Exhibit "J", pg. 77-91

[105] **MR**, Exhibit "Y", pg. 109-110

[106] **MR**, Exhibit "MM", pg. 140-141

[107] *Pointes, supra*, at para. 68.

134. The Defendant submits that there is no evidence of either harm or causation. That is, the Plaintiff has led no evidence of any personal or economic harm or any damage to its reputation as a result of the Defendant's public statements that are alleged to be defamatory.

135. There is also no evidence of any resulting financial or economic harm. There is no evidence that the Plaintiff was disciplined by any authoritative body whatsoever because of the Defendant's allegations (which is a crime in itself), or that they lost income. The claim of potential lost employees because of the Defendant's allegations is also without support.

136. If any harm was actually sustained by the Plaintiff, it flows out of their abuse and exploitation of their most vulnerable tenants, which has been occurring since at least 2019.

137. In short, the Plaintiff has not cleared the threshold of showing harm and causation.

138. On the other hand, there is a significant public interest in hearing the Defendant's comments about her allegations of major crimes and discrimination. These matters are of considerable public import, and justify fulsome expression and debate in the public forum.

139. The importance of freedom of expression cannot be overstated. One quote from the case law is sufficient. Free expression is "the matrix, the indispensable condition of nearly every other form of freedom ... and [is] ... little less vital to man's mind and spirit than breathing is to his physical existence."[108]

140. An individual's right to vindicate their good name and reputation is of course important and should be accorded reasonable protection. It should not be treated as "regrettable but unavoidable roadkill on the highway of public controversy." However, there will be cases, as the Supreme Court of Canada noted in WIC Radio, when concerns about personal reputation must give way to a greater public interest:

> An individual's reputation is not to be treated as regrettable but unavoidable road kill on the highway of public controversy, but nor should an overly solicitous regard for

[108] *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927, at para. 105

personal reputation be permitted to "chill" freewheeling debate on matters of public interest.[109]

141. By the weighing of the two public interests, favouring free expression and public debate is clear. Tracking the language in s. 137.1(4)(b), the Plaintiff has not satisfied the court that the harm suffered by the Plaintiff as a result of the Defendant's expression is sufficiently serious that the public interest in permitting the Plaintiff's action to continue outweighs the public interest in protecting that expression.

Applicable Rules and Statutory Provisions

142. Dismissal of proceedings that limits debate are governed by ss. 137.1-137.5 of the *Protection of Public Participation Act,*. Pursuant Rule 137.1 (1), the purposes are,

(a) to encourage individuals to express themselves on matters of public interest;

(b) To promote broad participation in debates on matters of public interest;

(c) To discourage the use of litigation as a means of unduly limiting expression on matters of public interest; and

(d) To reduce the risk that participation by the public in debates on matters of public interest will be hampered by fear of legal action. 2015, c. 23, s. 3.

143. Pursuant s. 137.1 (2), the definition of "expression" means any communication, regardless of whether it is made verbally or non-verbally, whether it is made publicly or privately, and whether or not it is directed at a person or entity. 2015, c. 23, s. 3.

144. Pursuant s. 137.1 (3), on motion by a person against whom a proceeding is brought, a judge shall, subject to subsection (4), dismiss the proceeding against the person if the person satisfies the judge that the proceeding arises from an expression made by the person that relates to a matter of public interest. 2015, c. 23, s. 3.

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[109] *WIC Radio, supra,* note 4, at para. 2.

145. Pursuant s. 137.1 (4), a judge shall not dismiss a proceeding under subsection (3) if the responding party satisfies the judge that,

(a) there are grounds to believe that,

(i) the proceeding has substantial merit, and

(ii) the moving party has no valid defence in the proceeding; and

(b) the harm likely to be or have been suffered by the responding party as a result of the moving party's expression is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting that expression. 2015, c. 23, s. 3.

146. Pursuant s. 137.1 (5), once a motion under this section is made, no further steps may be taken in the proceeding by any party until the motion, including any appeal of the motion, has been finally disposed of. 2015, c. 23, s. 3.

147. Pursuant s. 137.1 (6), unless a judge orders otherwise, the responding party shall not be permitted to amend his or her pleadings in the proceeding,

(a) in order to prevent or avoid an order under this section dismissing the proceeding; or
(b) if the proceeding is dismissed under this section, in order to continue the proceeding. 2015, c. 23, s. 3.

148. Pursuant s. 137.1 (7), if a judge dismisses a proceeding under this section, the moving party is entitled to costs on the motion and in the proceeding on a full indemnity basis, unless the judge determines that such an award is not appropriate in the circumstances. 2015, c. 23, s. 3.

149. Pursuant s. 137.1 (8), if a judge does not dismiss a proceeding under this section, the responding party is not entitled to costs on the motion, unless the judge determines that such an award is appropriate in the circumstances. 2015, c. 23, s. 3.

150. Pursuant s. 137.1 (9), if, in dismissing a proceeding under this section, the judge finds that the responding party brought the proceeding in bad faith or for an improper purpose, the judge may award the moving party such damages as the judge considers appropriate. 2015, c. 23, s. 3.

151. Such further and other grounds as the self-represented Defendant may seek and this Court permits.

DATE: December 3, 2024

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RCP-E 61A (February 1, 2021)

Court File No. CV-24-00002378-0000

Courts of Justice Act

BACKSHEET

BARRIE MUNICIPAL NOT-PROFIT HOUSING CORPORATION	*-and-*	*LEAH DYCK*
Plaintiff		*Defendant / Moving party*

Court File No. *CV-24-00002378-0000*

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
BARRIE

Factum of the Defendant

LEAH DYCK
December 3, 2024

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Self-represented Defendant

RCP-E 4C (September 1, 2020)