

HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

KEVIN ALEXANDER MCLEAN

APPLICANT

AND:

TORONTO POLICE SERVICES BOARD, ANTHONY ROMANO, MICHAEL KOLANKOWSKI, SERGEANT CASSIDY, GOLDVIEW PROPERTY MANAGEMENT LTD., LATOYA FERGUSON, AND APHRODITE ARTOPOULO

DECLARATION #7 OF THE APPLICANT

I, Mr. Kevin A. McLean (he/him), disabled, of Toronto, Ontario, declare the following under the penalty of perjury and knowing any statement here that is a false statement to be an offence:

1. I declare the following facts to be true. Where I have declared any facts on belief, I have cited the source of my belief. I adopt the definitions from the filed documents in this HRTO Proceeding which I refer to as the record of proceeding and define as the "ROP" as of today's date (see: section 20 of the *SPPA* and section 10 of the *JRPA*).
2. As promised and represented to the Tribunal and the respondents, through their counsel, I would provide a declaration #6 and #7 in relation to my opposition to two unclear, as they relate to my knowledge, requests of some of the respondents. I note that the respondents in Goldview and Ms. Ferguson ("**Ferguson**"), as per the HRTO's email and attachment, have not sought any dismissal or deferral of my **HRTO Application**.
3. This is my Declaration #7 in this HRTO Proceeding and is primarily purposed to address the TPS and **TPS Individual Respondents'** request for a deferral on account of the following language from the specifics and particulars represented to me by the HRTO [emphasis is mine]:

"The respondents, Toronto Police Service Board, Anthony Romano, Michael Kolankowski and Sean Cassidy have asked the Human Rights Tribunal of Ontario (HRTO) to:

'Defer considering the Application on the basis that there is an ongoing proceeding before the Toronto Police Service, which raises some or all of the facts and issues raised in this Application. See s.45 of the Code and Rule 14.' "

4. I thank the HRTO for providing me the above information and particulars involving the TPS Respondents' request for deferral and the section of the *HR Code* and the rule upon which they are relying upon.
5. I now quote from section 45 of the *HR Code*:

“Deferral of application

45 The Tribunal may defer an application in accordance with the Tribunal rules. 2006, c. 30, s. 5.”

Deferral of an Application by the Tribunal
--

6. I now quote from Rule 14 with each subrule below:
 - a. **Rule 14.1:** The Tribunal may defer consideration of an Application, on such terms as it may determine, on its own initiative or at the request of any party;
 - b. **Rule 14.2:** Where the Tribunal intends to defer consideration of an Application under Rule 14.1, it will first give the parties, any identified trade union or occupational or professional organization and any identified affected persons, notice of its intention to consider deferral of the Application and an opportunity to make submissions;
 - c. **Rule 14.3:** Where a party wishes the Tribunal to proceed with an Application which has been deferred the request must be made in accordance with Rule 19;
 - d. **Rule 14.4:** Where an Application was deferred pending the outcome of another legal proceeding, a request to proceed under Rule 14.3 must be filed no later than 60 days after the conclusion of the other proceeding, must set out the date the other legal proceeding concluded and include a copy of the decision or order in the other proceeding, if any; and
 - e. **Rule 14.5:** The Tribunal may, on its own motion, require a deferred Application to proceed in appropriate circumstances.
7. I am not aware of any tribunal known as the ‘Toronto Police Service’ as I believe that there are 13 tribunals that form Tribunals Ontario. However, perhaps this is a municipal (not provincial) tribunal of which I am unaware. I request that the TPS Respondents provide me with a copy of a file number before the Toronto Police Service involving the same.
8. It is unclear to me what the HRTO and the TPS meant by an ‘ongoing proceeding before the Toronto Police Service’ that raises some or all of the facts and issues in this **HRTO Application**.
9. As there is no ongoing proceeding that I am aware of before the ‘Toronto Police Service’, the request for deferral by the TPS Respondents is based on, as I believe by the absence of any evidence involving the same, a false premise. I am not aware of any tribunal known as the ‘Toronto Police Service’.
10. I cannot speculate regarding the same but I ask that this HRTO dismiss the TPS Respondents’ request for deferral.
11. I submit, without making any legal argument but to avoid any further wasted resources involving this deferral request of the TPS Respondents but as my position, that it would be legally impossible

to defer this HRTO Application in favour of an ongoing proceeding [sic] before the Toronto Police Service [sic] as no terms could be capable of compliance by myself if it were so deferred.

12. I note that the TPS Respondents have not filed any responsive materials to my NOM #1 which was the request to expedite proceedings. I note the same in relation to the other respondents.
13. I adopt the facts in my pleadings, NOM #1, and written submissions for my NOCQ, served in November 2024, as my evidence expressly herein.
14. I also provide further evidence to the Tribunal concerning Ms. Aphrodite Artopoulos' request to dismiss my HRTO Application, based on a civil proceeding that she and the HRTO believe is ongoing and seeks an order under section 46.1 of the *HR Code* (the “**Imaginary Section 46.1 Court Proceeding**”).
15. I respectfully submit that it would be legally impossible for the Tribunal to dismiss my **HRTO Application** based on an **Imaginary Section 46.1 Court Proceeding** that was never initiated by me and could not remain ongoing as a matter of fact.
16. In relation to Ms. Aphrodite Artopoulos' request for dismissal, I note the following under the *HR Code* with respect to the inability to dismiss a matter without providing an opportunity for oral submissions. I now quote from the following section of the *HR Code*:

“Tribunal rules

43 (1) The Tribunal may make rules governing the practice and procedure before it. [2006, c. 30, s. 5.](#)

Required practices and procedures

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

1. An application that is within the jurisdiction of the Tribunal shall not be finally disposed of without affording the parties an opportunity to **make oral submissions** in accordance with the rules.
2. An application may not be finally disposed of without written reasons. [2006, c. 30, s. 5.”](#)

17. I submit that the **HRTO Application** is within the jurisdiction of the Tribunal as there is no **Imaginary Section 46.1 Court Proceeding** as Ms. Aphrodite Artopoulos would believe that there is.
18. I welcome the opportunity to make oral submissions in relation to Ms. Aphrodite Artopoulos' request for dismissal but only after this **Imaginary Section 46.1 Court Proceeding** is provided to me. Perhaps, an individual impersonated me in relation to the same.
19. I respectfully submit to this **HRTO Tribunal** that orders, as a matter of law, must follow for the following:

- a. An Order that the Respondent Aphrodite Artopoulos' request for a dismissal of the Applicant's HRTTO Application is hereby dismissed as there was no evidence that there was any commenced court proceeding by the Applicant, or an ongoing court proceeding that seeks any order under section 46.1 of the *HR Code*; and
 - b. An Order that the TPS Respondents' request for deferral of the HRTTO Application predicated on the bases that there is an ongoing proceeding before the 'Toronto Police Service' which raises some or all of the same facts and issues as this HRTTO Application.
20. I thank the Tribunal for drawing the above two requests to my attention but I cannot find any evidence that would support the same. I respectfully submit that they must be dismissed forthwith so this HRTTO Application can be governed in accordance with, *inter alia*, section 40 and 41 of the *HR Code*. I reproduce the same below with my emphasis:

“Disposition of applications

40 The Tribunal shall dispose of applications made under this Part by adopting the procedures and practices provided for in its rules or otherwise available to the Tribunal which, in its opinion, offer the best opportunity for a fair, just and expeditious resolution of the merits of the applications. [2006, c. 30, s. 5.](#)

Interpretation of Part and rules

41 This Part and the Tribunal rules shall be liberally construed to permit the Tribunal to adopt practices and procedures, including alternatives to traditional adjudicative or adversarial procedures that, in the opinion of the Tribunal, will facilitate fair, just and expeditious resolutions of the merits of the matters before it. [2006, c. 30, s. 5.](#)”

21. I will promptly notify the Tribunal if I do ever bring a claim before a court for relief under section 46.1 of the *HR Code*. However, I can confirm at this time that I will not do so. The same is applicable to any matter before the 'Toronto Police Service' as I am not aware of any such tribunal or any legal authority for the TPS itself to determine similar facts and issues to this HRTTO Proceeding. I note the paramountcy of the HR Code to other provincial legislation (see: section 47(2) of the *HR Code*).
22. I reserve the right to rely upon all of my filing and service of the same upon the Respondents in the event I need to bring a notice of application for judicial review.
23. I declare the following facts to be true, for no improper purpose and for purposes herein.



Mr. Kevin A. McLean (B.A., J.D., CIM)