

There is no right to party (Waterloo (City) v. Persons Unknown)

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Social media, among other things, allows people to organize “pop up” events that can result in the gathering of large crowds. Although these events can be positive for attendees and valuable to a business or charity, certain “pop up” events, like street parties, have become a target for municipalities because of their potential to negatively impact local neighbourhoods and result in property damage, road blockages and public safety risks.

To prevent the holding of large unsanctioned events, municipalities have enacted “Nuisance Party” by-laws and engaged the courts to obtain injunctive relief whenever they become aware that large-scale unsanctioned street parties are being organized.

The decision in *Waterloo (City) v. Persons Unknown*, 2025 ONSC 1572 is an example of a case in which the City of Waterloo used the court to obtain injunctive relief against persons unknown to shutdown the holding of expected large unsanctioned St. Patrick’s Day (“SPD”) gatherings within the City.

Between March 1 and 15, 2025, the Waterloo Regional Police Service became aware of social media posts that promoted the coordinating and planning of unsanctioned SPD gatherings in the City.

Since 2014, the City had been tracking attendance during SPD, recording crowds as high as tens of thousands of individuals during the days leading up and including SPD. The large crowds were primarily centred on neighbourhoods around Wilfred Laurier University, the University of Waterloo and Conestoga College.

In 2019, SPD attracted more than 33,000 people to the City, with police laying 232 charges and making 18 arrests. The City also issued 32 noise and nuisance penalties in connection with the 2019 SPD gatherings and incurred costs of approximately of \$750,000.

Although no unsanctioned gatherings were held during the COVID-19 pandemic, unsanctioned SPD events restarted in the City in 2022. By 2024, the City’s total costs to respond to the SPD gatherings exceeded \$1 million despite the events attracting significantly fewer people than in 2019. The estimated attendance in 2022, 2023 and 2024 was 4,000, 8,000 and 9,500 people, respectively.

Under a City by-law that prohibits and regulates public nuisances, “nuisance parties” are prohibited.

A “Nuisance Party” is defined under section 1 of the Nuisance By-law as including gatherings on public or private property that results in any one or more of the following: a) public disorderly conduct; b) public intoxication or drunkenness; c) the unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances; d) the deposit of refuse on public or private property; e) damage to or destruction of public or private property; f) pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services; g) unreasonable noise, or Nuisance Noise, including loud music or shouting that is of such a volume or nature as likely to disturb the inhabitants of the City; h) unlawful open burning or fireworks; i) use of smoke grenades or similar devices; j) public disturbances, including public brawls or public fights; k) outdoor public urination and defecation or other bodily emissions; or l) use of entry upon a Roof not intended for such occupancy.

Given the past history of the unsanctioned SPD gatherings, the City sought a statutory injunction under section 440 of the *Municipal Act, 2001* to prohibit the planned 2025 gatherings.

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Section 440 of the *Municipal Act, 2001* states:

If any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened, in addition to any other remedy and to any penalty imposed by the by-law, the contravention may be restrained by application at the instance of a taxpayer or a municipality or local board.

The City also sought a *quia timet* injunction, which restrains wrongful acts which are threatened or imminent but have not yet occurred, under section 101 of the *Courts of Justice Act* (the “CJA”), and Rule 40 of the *Rules of Civil Procedure*.

Section 101 of the CJA provides:

In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

As a preliminary issue in this case, the court held that the City's application for injunctive relief could be considered despite the gatherings being organized by persons unknown.

The court explained that other courts in Ontario have granted injunctive relief against persons unknown in other similar cases, such as *Wasaga Beach (Town) v. Persons Unknown*, 2023 ONSC 4929, that the moving party was only required to demonstrate that there was urgency for the injunction, that full and frank disclosure to the court was made, and that the tripartite test for the granting of an injunction in *RJR-MacDonald Inc. v. Canada (Attorney General)*, 1994 CanLII 117 (SCC) was satisfied.

Furthermore, the court recognized that an injunction could be brought against non-parties under the principle that “non-parties may be seen as being, if not technically bound by the Order, bound to obey the Order.”

With respect to the statutory injunction, the City was only required to demonstrate that it had a *prima facie* case. It was not required to satisfy the court that it would suffer irreparable harm if the injunction was not granted or that the balance of convenience favoured the City.

In the circumstances, the court was satisfied that the social media postings discovered by police were sponsoring, creating and causing unsanctioned 2025 SPD “nuisance parties” and that the by-law was clearly being breached.

With respect to *quia timet* injunctive relief, the City was required to demonstrate that there was a serious issue to be tried, that it would suffer irreparable harm if the injunction was not granted, and that the balance of convenience favoured the City.

The City had already satisfied the court that it had a strong *prima facie* case, and therefore the first part of the tripartite injunction test was met.

The City also satisfied the court that there was a high probability of irreparable harm as the gatherings would cause a distraction and diversion of public and first responder resources and result in the City spending significant sums to respond to the gatherings. The costs incurred by the City were unrecoverable from the faceless online entities who were organizing the gatherings.

Lastly, the City also satisfied the third prong of the test. The court reasoned that the City would suffer significant harm in the absence of an injunction, in contrast to the unknown organizers who would not suffer any harm. The court noted that the City's injunction was limited in scope and time, and that events which were compliant with the Nuisance By-law were not being prohibited.

Although there was no responding party before the court to raise any issues regarding the freedom of assembly or the freedom of expression, the court concluded as well that any rights under section 2 of the *Canadian Charter of Rights and Freedoms* did not impact the balance of convenience prong of the test.

The court noted that the *Charter* did not give anyone the legal right to unlawfully trample on the legal rights of others, to threaten public safety, or to disregard lawful municipal enactments. There was simply no “right to party.”

The key takeaways from this case are that courts can grant injunctive relief against faceless online persons and that cities can control and prohibit unsanctioned gatherings through duly enacted nuisance by-laws. Although the promotion of activities which encourage people to gather joyously and socialize is a social good, such gatherings can result in unwanted conduct and cause governments to incur significant costs. In general, municipalities have a process for the issuance of permits for large gatherings and these should be followed.

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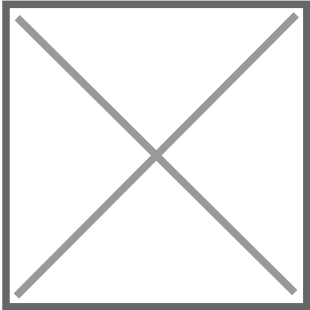
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However, this decision, like the [decision](#) that granted an injunction to the University of Toronto to remove student encampments from its property, may also have ramifications beyond its particular facts because of the court's comments about *Charter* rights. Some cities have turned a blind eye to enforcing municipal by-laws against campers who establish permanent encampments in public parks. Although a court [prevented](#) the City of Waterloo from removing an encampment in a public park based on the *Charter*, these encampments trample upon the legal rights of others to use a public park. Accordingly, it is arguable that unlawful encampments in public parks should be denied any protection under the *Charter* and cities should be able to freely remove such encampments from public parks without fear of court intervention. A PDF version is available to download [here](#).

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(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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