

ONTARIO SUPERIOR COURT OF JUSTICE

AMENDED THIS **BETWEEN 3 2025** PURSUANT TO
MODIFIÉ CE CONFORMÉMENT À
 RULE/LA RÈGLE 26.02 (A)
 THE ORDER OF _____
L'ORDONNANCE DU _____
DATED / FAIT LE _____
Diana Pallet
REGISTRAR SUPERIOR COURT OF JUSTICE GREFFIER COUR SUPÉRIEURE DE JUSTICE

LEAH DYCK

Plaintiff / Moving Party

and

BARRIE MUNICIPAL NON-PROFIT HOUSING CORPORATION

Respondent

APPLICATION UNDER SECTION 182, 183 and 184 of the *Ontario Not-for-Profit Corporations Act*, 2010, S.O. 2010, c. 15

AMENDED NOTICE OF APPLICATION FOR LEAVE

(RETURNABLE FEBRUARY 4, 2025)

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing

[X] By video conference

at the Barrie courthouse, 75 Mulcaster Street, Barrie, Ontario on Tuesday, February 4, 2025 at 9:30 AM.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

DATE: January 13, 2025

Issued by: _____

Local registrar

Address of
court office: 75 Mulcaster St.
Barrie, ON L4M 3P2

TO: HGR Graham Partners LLP
Lawyer of the Respondent
190 Cundles Road East, Suite 107
Barrie, ON L4M 4S5
Tel: (705) 737-1249 ext. 171
Email: RBrooks@hgrgp.ca

APPLICATION FOR LEAVE

1. THE APPLICANT MAKES APPLICATION FOR:

- (a) An order granting the Applicant, Leah Dyck, leave to commence and prosecute the proposed derivative action in the name of and on behalf of the Respondent, the BARRIE MUNICIPAL NON-PROFIT HOUSING CORPORATION against the Defendant, the BARRIE MUNICIPAL NON-PROFIT HOUSING CORPORATION in intended proceeding;

- (b) An order granting the Respondent to pay the Applicant's reasonable legal fees and any other costs reasonably incurred in connection with the proposed derivative action;
- (c) An order authorizing the Applicant to control the conduct of the action leave is sought for;
- (d) An order authorizing the Applicant to give directions for the conduct of the action leave is sought for;
- (e) Such further and other relief as to this Honourable Court may seem just.

2. THE GROUNDS FOR THE APPLICATION ARE:

The Parties

3. The Applicant, the BARRIE MUNICIPAL NON-PROFIT HOUSING CORPORATION ("BMNPHC"), also known as "Barrie Housing", is a corporation with its head office in Barrie, Ontario. It is incorporated pursuant to the *Not-for-Profit Corporations Act of Ontario*. The Applicant 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;

AND

4. The Applicant, Leah Dyck, an individual residing in the City of Barrie, Ontario, as a tenant of Barrie Housing since 2009. The Applicant, Leah Dyck is also a registered charity and sole Trustee of The VanDyck Foundation with charitable status number 77364 5148 RR0001. The VanDyck Foundation serves and therefore represents a population group of disadvantaged, disabled and/or racialized women, whom are in receipt of one or more income supplements, and/or are in receipt of a housing subsidy, and all of whom are persons of enumerated or analogous grounds.

Negligence: Breach of Fiduciary Duty

5. As set out below, the Respondent's board of directors have contravened their fiduciary duties, and in fact, have acted with the intention to harm its most vulnerable tenants.
6. During the Covid 19 pandemic in 2020, there was a period of time when non-essential employees were not allowed to physically go to work. This meant that income supplement administrators such as Ontario Ministry of Children, Community and Social Services ("CCSS") and Employment and Social Development Canada ("ESDC") employees were not able to physically go to work. This resulted in all income supplement beneficiaries receiving the maximum amount of income supplements via automatic deposit, even though they weren't eligible for the maximum amounts.
7. This caused all income supplement beneficiaries to receive an overpayment in which they are incrementally paying back each month now. This is not the problem. This explanation simply describes the circumstances leading to the issue of this matter.
8. In late 2021, the Applicant became aware of an overcharge on her housing account file after she inquired about her new rental rate on four separate occasions: Sept. 28, 2021, Feb. 5, 2022, Mar. 14, 2022, and Apr. 10, 2022, and only after the Applicant threatened to expose the Respondent to national news outlets for not telling her the amount of her overcharge.
9. On April 26, 2022, the Respondent's CEO, Mary-Anne Denny-Lusk, told the Applicant during a recorded phone call, that the Applicant would be provided with a breakdown that shows how much money would be returned directly to the Applicant and how much money would be reimbursed to the CCSS, who'd been paying the Applicant's rent on her behalf for an undisclosed period of time.

10. On May 9, 2022, the Respondent issued a cheque to the Applicant in the amount of \$2,628.53. The Applicant never received a financial breakdown. At the time, the Applicant did not suspect the Respondent of being dishonest about the amount of this overcharge.
11. Since the Applicant didn't know the CCSS was paying her rent directly to the Respondent, the Applicant was also paying her rent directly to the Respondent, which meant that the Applicant's rent was being paid twice each month for an undisclosed period of time.
12. Between the first time the Applicant inquired about her overcharge and the last time she inquired about it, the Applicant wrote and submitted an application for charitable status to the Charities Directorate at the Canada Revenue Agency ("CRA") for her charity, The VanDyck Foundation.
13. The charitable purpose of The VanDyck Foundation is to relieve poverty. Consequently, The VanDyck Foundation launched a food security program in October 2021 called "Fresh Food Weekly". In July 2022, The VanDyck Foundation achieved charitable status as a private operating foundation. The Applicant is the sole Trustee of The VanDyck Foundation, which is governed by a Trust.

Deceit, Abuse of Process, and Harassment

14. In October 2022, the Respondent threatened to take legal action against the Applicant for publishing a series of 12 Facebook posts regarding The VanDyck Foundation's program beneficiaries because the Respondent alleged all 12 posts defamed the Respondent, even though only four of the posts were about the Respondents' tenants and only three of those posts mentioned the Respondent by name.

15. The Applicant unequivocally states that all 12 posts are true. The Applicant further states that in all material times, everything the Applicant has ever said about the Respondent was/is true.
16. On October 17, 2022, the Respondent's lawyer invited the Applicant to meet with the Respondent's CEO, Mary-Anne Denny-Lusk to discuss the veracity of the 12 Facebook posts at issue.
17. In the Applicant's response to this invitation, the Applicant agreed to meet with Mary-Anne and agreed to change the language in the post(s) from "Barrie Housing" to "Simcoe County Housing" if appropriate.
18. The Respondent ignored the Applicant's acceptance to meet with Mary-Anne and further ceased all communications with the Applicant.
19. In September 2024, the Respondent commenced a defamation action against the Applicant in an attempt to silence her from exposing the Respondent's various acts of criminal wrongdoings, all of which are rooted in hatred of the Applicant and members of the Complainant group.
20. On December 16, 2024, the Respondent attempted to break rules of *Courts of Justice Act* ("CJA") by lying to the Applicant regarding her supposed failure to secure a motion hearing date to have her motion to dismiss under s. 137.1 of the *CJA* and proceeded to try to schedule a court conference date to have its defamation action heard before the Applicant's notice of motion to dismiss was disposed of.
21. The Applicant is not seeking to address the issue mentioned in paragraph 20. The Applicant brought the issue in paragraph 20 to this court's attention to demonstrate the Respondent's total lack of obedience to rules, regardless of whose rules they are.

Interference with Economic Relations Including Interference with Business Relationships and Unfair Competition

22. In April 2023, the Applicant was informed by the CEO of Habitat for Humanity Huronia, Rob Cikoja, that the County of Simcoe will never financially support The VanDyck Foundation because of “those posts” from 2022.

23. The Applicant is not seeking to address the issues mentioned in paragraph 22 in the proposed derivative action. The Applicant is further demonstrating a pattern of the Respondent’s dissemination of falsehoods regarding its vulnerable tenants, whom it clearly despises.

24. On June 18, 2024, the Applicant became aware of the New York City Housing Authority (“NYCHA”) overcharging its tenants’ rent through an online news article published on CityLimits.org as a result of the extra income supplements NYCHA tenants received during the COVID 19 pandemic and in which those tenants also had to pay back.

25. On July 25, 2024, the Applicant filed a Form 1 Application with the Human Rights Tribunal of Ontario (“HRTO”), which was served upon four respondents: 1. the County of Simcoe, 2. the City of Barrie, 3. the Simcoe County Housing Corporation (“SCHC”) and 4. the BMNPHC.

26. On August 14, 2024, the City of Barrie made a by-law to prevent the Respondent from releasing the number of bedrooms per RGI unit within each of its 14 housing projects.

Intentional Infliction of Mental Suffering and Emotional Distress

27. In September 2024, the Respondent launched a defamation lawsuit against the Applicant, in which they’ve denied all claims of criminality and discrimination.

28. The Respondent's defamation lawsuit is a strategic litigation against public participation ("SLAPP") and the Applicant has since brought a motion to dismiss the action under s. 137.2 of the *CJA*.

Injurious Falsehood

29. On October 29, 2024, the Respondent and the Applicant attended a virtual urgent motion hearing, in which the Respondent lied to Justice V.V. Christie, denied its criminal wrongdoings and told the Motion Judge that the Applicant was engaged in a malicious, defamatory online campaign against the Respondent.

30. The Respondent alleged the Applicant had no evidence, and insisted the audit at issue wasn't relevant.

31. Since Justice V.V. Christie believed the Respondent's lawyer, despite the evidence presented to her, she ordered the Applicant to pay to the Respondent, \$7,500.00, which were the costs of the motion.

32. The Applicant felt the only way to prevent the Respondent from stealing even more of her money was by committing suicide, in which she told Justice V.V. Christie. Justice V.V. Christie didn't care.

33. The Respondent accused the Applicant of actively enticing or otherwise soliciting the "support" of other tenants, such as Yanet Montero, into falsifying "concerns" about the Respondent, yet the Respondent provided no evidence of this.

34. To the contrary, it appears that the Respondent asked Yanet Montero to falsify concerns about the Applicant. Instead of providing the actual email at issue (the email the Applicant sent to

Yanet Montero in which Yanet claims the Applicant enticed her to falsify concerns about the Respondent), the Respondent provided a falsified “report” written by Yanet Montero, regarding her “dealings” with the Applicant instead.

35. The Applicant has provided the actual “dealings” between herself and Yanet Montero in the attachment titled, ‘Affidavit Exhibits’, to demonstrate the truth, which is the email at issue, which clearly shows that Yanet Montero’s “report” regarding her “dealings” with the Applicant is falsified.

36. The Applicant is not looking to resolve the issue of Yanet’s falsified “concerns” in the proposed derivative action. The Applicant understands that Yanet was coerced into writing the email to Soula White after she already called Soula and spoke to her on the phone about it. The Applicant is simply bringing this up to further demonstrate how the Respondent uses falsehoods to pervert the justice system and to thereby control its vulnerable tenants into compliance of its will.

37. The Respondent blatantly discriminates against, controls and coerces its most vulnerable tenants. The Applicant believes the Respondent is unaware of its discriminatory actions against the Applicant and members of the Complainant group, which explains why it behaves this way so openly for all to see.

Fraud

38. On October 30, 2024, the Applicant received her Ontario Disability Support Program (“ODSP”) ledger from the CCSS, which indicated the number of payments made to the Respondent on behalf of the Applicant, including the date of each payment and the dollar amount of each payment. This is when the Applicant discovered that the CCSS had been

paying the Applicant's rent directly, on-and-off for seven years without the Applicant knowing; between 2015 and 2022.

39. The Applicant discovered that the Respondent had been dishonest in the amount of the overcharge from 2022. The amount of the overcharge from 2022 is not the \$2,628.53 the Respondent continues to claim. The true amount may be closer to \$4,000.00, but the Applicant doesn't know how to properly calculate her RGI rental rates, as neither the Respondent nor the County of Simcoe will tell her how her rental rates are calculated.

40. On November 1, 2024, the Applicant's ODSP case worker, Ashley Walker, informed the Applicant that ODSP had not received any reimbursement from the Respondent at any point in time.

Negligence: Breach of Contract

41. The Applicant requested the production of the audit / review document(s) that the Respondent have pertaining to the audit / review it conducted on her housing account file in 2022 on too many occasions to count and none of the Applicant's requests resulted in the production of these documents. This is a breach of section 9.04, 9.05, 9.08, 9.11 and 9.13 of the Service Manager Delegation Agreement.

42. The Respondent does not give households notices of rental charge increases all the time (it does give notices of rental charge changes sometimes—just not in regards to payments made by the CCSS).

43. The Respondent makes errors in rental charge calculations and requires RGI households to pay the difference regardless of those errors, including costs of inappropriately given eviction

notices and the corresponding filing fee charges to which no notices of rental changes were given in the first place.

44. Furthermore, instead of letting RGI tenants know it made a mistake regarding rental calculations, it delivers eviction L1 Forms to tenants' doors, and charges them an additional \$175 filing eviction fee.

45. The Respondent has been asked to provide documentation pertaining to evictions and vacancy reasons given for evictions for the years of 2020-2024 but no documentation for the year of 2020 was produced and four months of documentation between 2021 and 2024 was also not produced because the Respondent "lost" this documentation.

46. The Respondents' Service Manager Delegation Agreement with the County of Simcoe requires that the Respondent must produce personal information accounting records and hold these documents for seven years.

47. The Respondent claims it no longer has the audit documents from the audit / review it conducted on the Applicant's housing account file in April 2022.

48. The Respondent claims it provided the Applicant with the financial breakdown explaining the money that was returned to her and the money that was returned to ODSP, even though it did not. The Respondent claims the Applicant's tenant ledger is the financial breakdown document requested, even though it does not breakdown anything.

49. The tenant ledger provided by the Respondent may be missing payments that appear on the Applicant's ODSP ledger. Since no financial breakdown was provided, the Applicant is unable to verify whether ODSP payments are missing or not.

50. When the Applicant asked her ODSP case worker, Ashley Walker, to explain particulars regarding the ODSP ledger, Ashley Walker eventually did explain them, which is a lot more than what can be said about the Respondent.

51. The Respondent does not keep proper books of account and records of the financial management of any of its housing projects in accordance with generally accepted business and account principles.

52. On November 25, 2024, the CCSS told the Applicant that the complaint may be more appropriately made against the Barrie Municipal Non-Profit Housing Corporation and the SCHC. The CCSS further stated that *“The Ministry is not responsible for the actions of those corporations, their employees or their administration.”*

53. The Respondent has breached the following parts of its Service Manager Delegation Agreement between itself and the Corporation of the County of Simcoe: 7.07, 7.08, 8.03, 9.01, 9.02, 9.03, 9.04, 9.05, 9.09, 9.11, and 11.06.

54. The Respondent has demonstrated a series of tactics of domination that function as a part of an overarching pattern of coercion and control over the Complainant group members, including the Applicant.

Fraud Scheme

55. The Applicant has asked many other Rent-Geared-to-Income (“RGI”) tenants if they were reimbursed any overcharged rent monies and the Applicant has not found any tenants who were informed of being overcharged, let alone reimbursed for being overcharged.

56. The Respondent continues to deny it still owes the Applicant money.

57. As of August 2024, the Respondent houses around 3,000 tenants. The number of tenants they've potentially overcharged since 2016 is unknown, and will only become known through an investigation.
58. If the Respondent has overcharged 3,000 tenants in the amount of \$4,000.00 each, the Respondent currently has an outstanding debt obligation of \$12 million, in which they must payback to the Complainant group immediately, with interest.
59. The true amount of the Respondent's outstanding debt obligation to the Complainant group is unknown and will only become known through an investigation.
60. When the Respondent pays back this outstanding debt obligation, the Respondent will become bankrupt.
61. The Respondent has already spent nearly \$14,000.00 on legal fees to prevent the amount of this debt obligation from being discovered.
62. It is clear that the Respondent has no intention of returning the overcharged rent monies to its subsidized tenants, and therefore, the Respondent has no intention of paying back this debt obligation.
63. The Respondent's fiduciary duty is not owed to its members, but rather, it's owed to its tenants.
64. **The definition of overcharge is:** charge (someone) too high a price for goods or a service.
65. **The definition of stealing is:** the action or offence of taking another person's property without permission or legal right and without intending to return it; theft.

66. As a general matter, fiduciary duties are imposed by the law to protect those who are vulnerable from those who have power over them. The duty of loyalty requires that a director act honestly and in good faith in the best interests of the corporation.

67. The Applicant recently received further communications from her ODSP Case Worker, Ashley Walker, which are included in the 'Affidavit Exhibits' attachment. The Applicant believes the CCSS has made efforts to answer her questions pertaining to this matter, and does not believe the CCSS is aiding the Respondent in the alleged fraud scheme.

Notice of Intent

68. On November 30, 2024, the Applicant delivered by email to the Respondent's lawyer, Riley C. Brooks, a letter of notice of intent to prosecute the Respondent if it did not launch a derivative action against itself. The Applicant will attach hereto as **Schedule "A"** (the "Letter of Notice of Intent to Prosecute").

Application of Laws

69. The permitting process with which the Respondent has failed to comply would, among other things, ensure that:

(a) the duties of the directors' standard of care in exercising their powers and discharging their duties to the corporation to act honestly and in good faith with a view to the best interests of the corporation are severely compromised; 2010, c. 15, s. 43 (1)

(b) the duties of the directors to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, will not occur; 2010, c. 15, s. 43 (1)

(c) the directors' duty to the Ontario Not-for-Profit Corporations Act and the regulations, as well as the corporation's articles and by-laws are breached; 2010, c. 15, s. 43 (2)

(d) the defence of reasonable diligence cannot be applied to any director of the corporation, regardless of any financial statements, financial report, advice from another officer, employee or retained lawyer because the evidence of the fraud scheme was provided to the Respondent's lawyer directly by the Applicant. 2010, c. 15, s. 44.

Proper Person to Bring a Derivative Action Requirement

70. Pursuant to section **182** of the *Not-for-Profit Corporations Act of Ontario*, the following persons may bring an action under section 183 or make an application under section 191 in respect of a corporation and if they do so, are referred to in this Part as a "complainant":

3. Any other person who, in the discretion of the court, is a proper person to make an application under this Part. 2010, c. 15, s. 182.

71. The VanDyck Foundation serves and therefore represents the Complainant group. In the proposed derivative action, the Complainant group are the Respondent's RGI tenants in whom have been overcharged rent monies and to whom those overcharged rent monies have not been returned.

72. The Complainant group is essentially a debt obligation holder because it has the legal right to be repaid the overcharged monies with interest.

73. Additionally, the Complainant group is owed a fiduciary duty to, by the Respondent, for which the Respondent has not fulfilled.

74. The Applicant is uniquely positioned to not only observe, through qualified access, the impacts and affects of the Respondent's contraventions against the Complainant group, but the Applicant has also experienced and continues to experience these impacts and affects herself, as she is an RGI tenant of the Respondent, with Special Priority Status.
75. Through the qualified and privileged access to the Respondents' tenants' living conditions and circumstances as a result of being an RGI tenant herself, the Applicant observed the need to establish a registered food charity, The VanDyck Foundation, for the sole purpose of returning "some level" of liberty to life to the Respondents' tenants, and other exploited residents of the City of Barrie.
76. The Applicant, through her registered charity, has been acting on behalf of the Respondent since 2022, in her role as sole Trustee of The VanDyck Foundation.
77. In a matter of figurative speech, the Applicant knows exactly where "the bodies" are, and is well-suited to direct the proposed derivative action.
78. Pursuant to section **183 (1)** of the *Not-for-Profit Corporations Act of Ontario*, on the application of a complainant, the court may make an order granting the complainant leave to bring an action in the name of and on behalf of a corporation or any of its subsidiaries, or intervene in an action to which any such body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on its behalf. 2010, c. 15, s. 183 (1).
79. Pursuant to section **183 (2)**, the court may not make an order under subsection (1) unless the court is satisfied that,
- (a) the complainant has given notice to the directors of the corporation or its subsidiary, as the case may be, of the complainant's intention to apply to the court under subsection (1)

within 14 days before bringing the application, or as otherwise ordered by the court, if the directors of the corporation or its subsidiary do not bring the action, prosecute or defend it diligently or discontinue it;

(b) the complainant is acting in good faith; and

(c) it appears to be in the interests of the corporation or its subsidiary, as the case may be, that the action be brought, prosecuted, defended or discontinued. 2010, c. 15, s. 183 (2).

80. Pursuant to section **184**, in connection with an action brought or intervened in as a result of an application under subsection 183 (1), the court may at any time make any order that it thinks fit, including an order,

(a) authorizing the complainant or any other person to control the conduct of the action;

(b) giving directions for the conduct of the action;

(c) directing that any amount adjudged payable by a defendant in the action shall be paid, in whole or in part, directly to former or present members and debt obligation holders of the corporation or its subsidiary instead of to the corporation or its subsidiary; and

(d) requiring the corporation or its subsidiary to pay reasonable legal costs incurred by the complainant in connection with the action. 2010, c. 15, s. 184.

81. Pursuant to section **186 (1)**, if the name of a person is alleged to be or to have been wrongly entered or retained in, or wrongly deleted or omitted from, the registers or other records of a

corporation, the corporation, a debt obligation holder, director, officer or member of the corporation or any aggrieved person may apply to the court for an order that the registers or records be rectified. 2010, c. 15, s. 186 (1).

82. Pursuant to section **186 (2)**, on an application under this section, the court may make any order that it thinks fit, including an order,

(a) requiring the registers or other records of the corporation to be rectified;

(d) compensating a party who has incurred a loss. 2010, c. 15, s. 186 (2).

83. Pursuant to section **46 (1)**, a corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation or an individual who acts or acted at the corporation's request as a director or officer, or in a similar capacity, of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other action or proceeding in which the individual is involved because of that association with the corporation or other entity. 2010, c. 15, s. 46 (1).

84. Pursuant to section **46 (4)**, a corporation may, with the approval of the court, indemnify an individual referred to in subsection (1), or advance money under subsection (2), in respect of an action by or on behalf of the corporation or other entity to obtain a judgment in its favour to which the individual is made a party because of the individual's association with the corporation or other entity as described in subsection (1), against all costs, charges and expenses reasonably incurred by the individual in connection with such action, if the individual fulfils the conditions set out in subsection (3). 2010, c. 15, s. 46 (4).

85. Pursuant to section **46 (5)**, despite subsection (1), an individual referred to in that subsection is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the individual in connection with the defence of any civil, criminal, administrative, investigative or other action or proceeding to which the individual is subject because of the individual's association with the corporation or other entity as described in subsection (1), if the individual,

(a) was not judged by any court or other competent authority to have committed any fault or omitted to do anything that the individual ought to have done; and

(b) fulfils the conditions set out in subsection (3). 2010, c. 15, s. 46 (5).

86. Pursuant to section **81 (3)**, when the auditor, former auditor **or other person** informs the directors of an error or misstatement in a financial statement, the directors shall prepare and issue revised financial statements or otherwise inform the members. 2010, c. 15, s. 81 (3).

The Good Faith Requirement

87. The Applicant is acting in good faith;

88. The Applicant has reasonable grounds for believing the evidence and facts disclosed, which indicates violations by the Respondent of the *Ontario Human Rights Code*, the *Criminal Code of Canada*, the *Housing Services Act*, the *Not-for-Profit Corporations Act*, the *Consumer Protection Act*, the *Competition Act*, the *Canadian Charter of Rights and Freedoms*, the *Crimes Against Humanity and War Crimes Act*, and the *International Covenant on Economic, Social and Cultural Rights*.

89. The Applicant shall exercise her power and discharge her duties honestly and in good faith with a view to the best interests of the Corporation, which include the persons in whom the Corporation has been entrusted to protect, and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Best Interests of the Corporation Requirement

90. It appears to be in the best interests of the BARRIE MUNICIPAL NON-PROFIT HOUSING CORPORATION that the proposed derivative action be brought and prosecuted;

91. As seen by the Respondent's recent SLAPP action against the Applicant, the Respondent is eager to take extreme lengths and illegal measures to ensure it does not repay its debt obligations. It is a particularly grievous offence to defraud persons in whom the Respondent has been entrusted with a fiduciary duty to.

92. A reasonable person would be correct to assume the probability of the Respondent having additional debt obligations not known to the Applicant and not known to this Honourable Court.

93. The evidence and facts wherein this application already demonstrate misuse of administered public funds.

94. The Respondent's ability to receive future public funds from any level of government is compromised. A reasonable person would be correct to conclude that this is the reason why the City of Barrie and the County of Simcoe haven't commenced any actions against the Respondent to stop the Respondent from continuing to commit criminal wrongdoing.

95. Pursuant to rule 14.05 (2) of the *Rules of Civil Procedure*; and

96. Such further and other grounds as the self-represented Applicant and this Honourable Court may permit.

97. THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the application:

98. The Affidavit sworn and to be sworn in support of the Application; and

99. Such further and other evidence as the self-represented Applicant may see fit and this Honourable Court may permit.

Dated: January 13, 2025

Leah Dyck

Self-represented Applicant

507-380 Duckworth St.

Barrie, ON L4M 6J8

Tel: (705) 718-0062

Email: Leah.dyck@icloud.com

RCP-E 14E (September 1, 2020)

SCHEDULE “A”
NOTICE OF INTENT TO PROSECUTE

Via email

November 30, 2024

Attention: BOARD OF DIRECTORS OF THE BARRIE MUNICIPAL NON-PROFIT
HOUSING CORPORATION

Dear Mr. Brooks,

**Re: Notice of Intent to Prosecute to *Ontario Not-for-Profit Corporations Act*
The VanDyck Foundation**

1. I am social justice advocate Leah Dyck, in the City of Barrie.
2. I’ve become aware of the following breaches of contract undertaken by your client, the Barrie Municipal Non-Profit Housing Corporation (BMNPHC);
 - (e) A mass-scale fraud scheme involving direct payments from social assistance administrators, and rental calculations for rent-g geared-to-income (RGI) households;
 - (f) Your client’s inability to keep hold of and maintain accounting records regarding audit documents pertaining to its RGI tenants;
 - (g) Your client’s inability to keep hold of and maintain vacancy records of tenants for the entire year of 2020, and for the months of January 2021 to April 2021, June 2021, October 2022, November 2023 and June 2024;
 - (h) Your client’s inability to keep hold of and maintain financial records regarding arrears for the entire year of 2020;
 - (i) Your client’s segregation of its most vulnerable tenants into specific housing projects only, which is discrimination;

- (j) Your client's execution of operational procedures which amount to gross negligence regarding its duty of care. Your client holds pejorative attitudes based on strongly held views about the appropriate capacities or limits of its below market-rate tenants. Your client's discrimination is motivated by an intentional desire to obstruct its tenants' potential, which perpetuates disadvantage among them. Your clients actions have perpetuated and promoted the view that its tenants are less capable, or less worthy of recognition or value as human beings or as members of Canadian society;
 - (k) Your client's harassment of tenants protected by enumerated or analogous grounds, which you yourself promote and encourage;
 - (l) Your client's discriminatory actions, whether intentional or not, which are based on grounds relating to personal characteristics of its RGI tenants, having the effect of imposing burdens, obligations, or disadvantages on them which are not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society.
3. Considering the historical disadvantage faced by women, victims of abuse or trafficking and disabled persons, your client has failed to execute preferential treatment which is required in order to ameliorate the actual situation of its tenants (the claimant group).
 4. This letter shall serve as notice to your client pursuant to sections 182 and 183 (1)(2), of the Ontario Not-for-Profit Corporations Act.
 5. After 14 days of receiving this letter, if your client has not brought a derivative action to prosecute itself diligently, I will make an application as a complainant to the court, as a proper person in the discretion of the court, under part 182 and 183 of the Ontario Not-for-Profit Corporations Act, on behalf of your client.
 6. If the Ontario Superior Court of Justice denies my application for leave to make this application, I will seek leave to appeal its decision with the Divisional Court. If the Divisional Court denies my leave to appeal, I will seek leave to the Supreme Court of Canada.

7. As has been communicated to your client previously, the basis to your client's conduct is discrimination and fraud. I, as well as the community your client operates in, are deeply concerned by your client's denial of its harmful and prejudicial actions against its most vulnerable tenants. Your client's refusal to disengage its discriminatory business operations has exacerbated homelessness and human trafficking to unprecedented levels within the City of Barrie, of the Province of Ontario.
8. I strongly encourage your client to produce or make to be produced the "lost" records at issue, including all audit documents your client claims to no longer be in existence, and to immediately return all overcharged monies of your RGI tenants, and to pay these monies back to its tenants to whom have been defrauded.
9. I further encourage you and your client to not underestimate the legal actions I am permitted to take by a court of law against your client to rectify your client's illegal and criminal actions against persons of enumerated or analogous grounds.

Sincerely,

The VanDyck Foundation

Leah Dyck

Social Justice Advocate

Tel: (705) 718-0062

Email: leah.dyck@icloud.com

Courts of Justice Act

BACKSHEET

LEAH DYCK

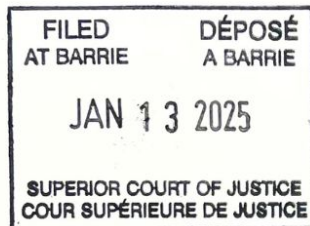
-and-

*BARRIE MUNICIPAL NOT-PROFIT
HOUSING CORPORATION*

Applicant

Respondent

Court File No. CV-24-00003257-0000



ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
BARRIE

Notice of Application for Leave

LEAH DYCK
January 13, 2025

Leah Dyck
507-380 Duckworth St.
Barrie, ON L4M 6J8
Tel: (705) 718-0062
Email: leah.dyck@icloud.com

Self-represented Applicant

RCP-E 4C (September 1, 2020)

