Shelters, Supportive Housing & Warming Centres

Jason Hunt, Region of Durham
Nick Robichaud, City of Moncton
Jenna Morley, Loopstra Nixon LLP



A Tale of Two Shelters

Jason Hunt,

Regional Solicitor

Regional Municipality of Durham

Overview

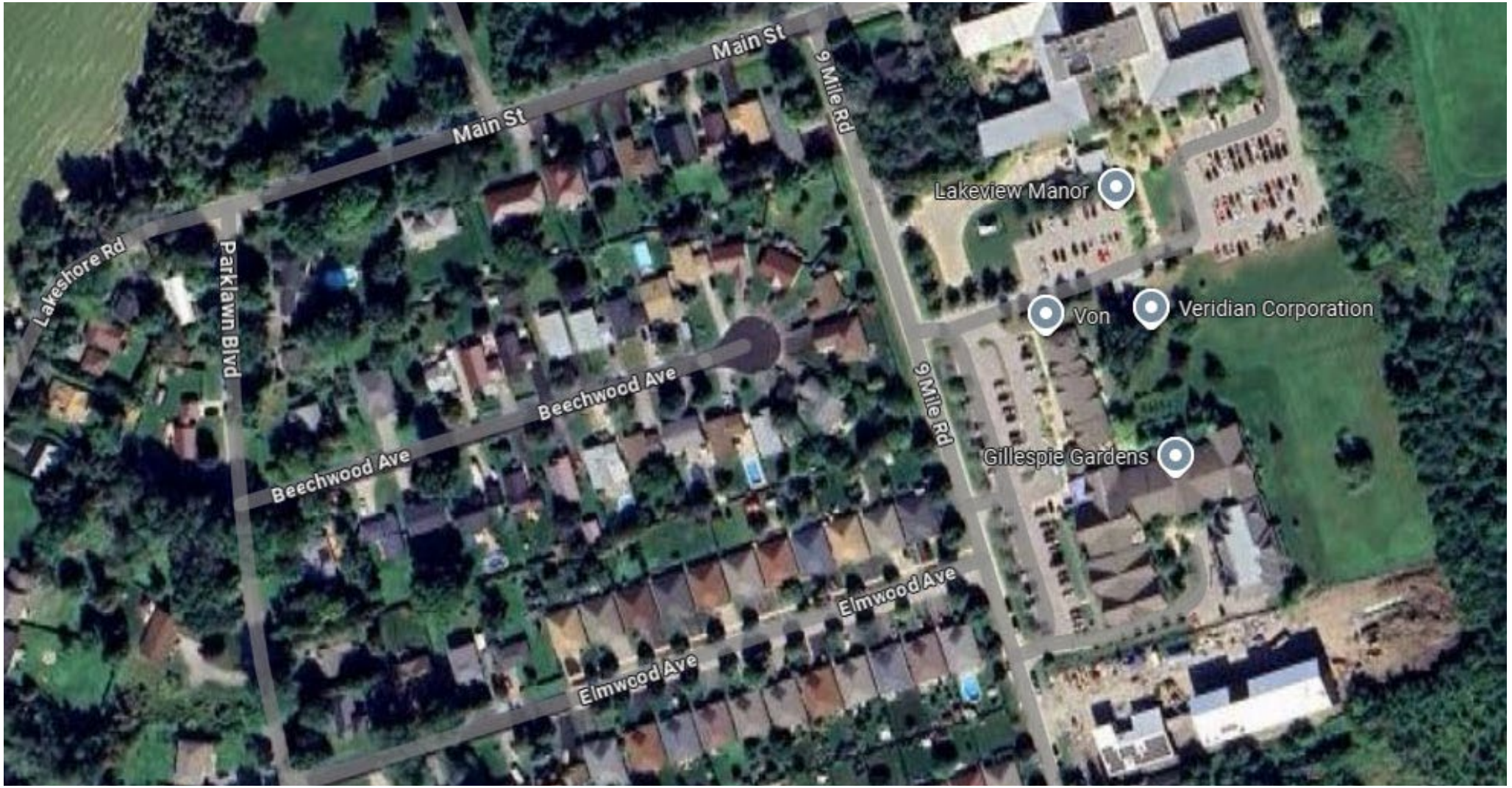
- Beaverton Supportive Housing
- Project
- Brock Interim Control Bylaw
- LPAT, HRTO, Superior Court
- Resolution
- Whitby Shelter
- Project
- Political Response
- Proposal & Shelter Siting Policy



Beaverton Supportive Housing Project Highlights

- Provincial Mandate/Project & Funding
- Supportive Housing & Treatment
- 47 Beds
- Treatment services & facilities
- Modular Construction
- Beaverton – Community Housing & LTC

Beaverton Site Map



Local Opposition & Legal Dispute

Interim Control Bylaw

LPAT Appeal ICBL

HRTO Complaint

Superior Court Application

MZO



Interim Control Bylaw & Appeal

Bylaw

- S. 38(1) Planning Act
- Review & study otherwise permitted development
- Modular Construction
- Supportive Housing
- 1 year (with extension)
- Unappeable for 1 year

LPAT Appeal

- Municipal Use
- Community Housing & LTC
- Section 2 Planning Analysis
- “Character of Neighbourhood”
- People Zoning

HRTO Complaint & Response

Inquiry s. 31

Application s. 35

Are zoning bylaws subject to the Code

Patrica DeGuire, Chief Commissioner to Mayor John Grant:

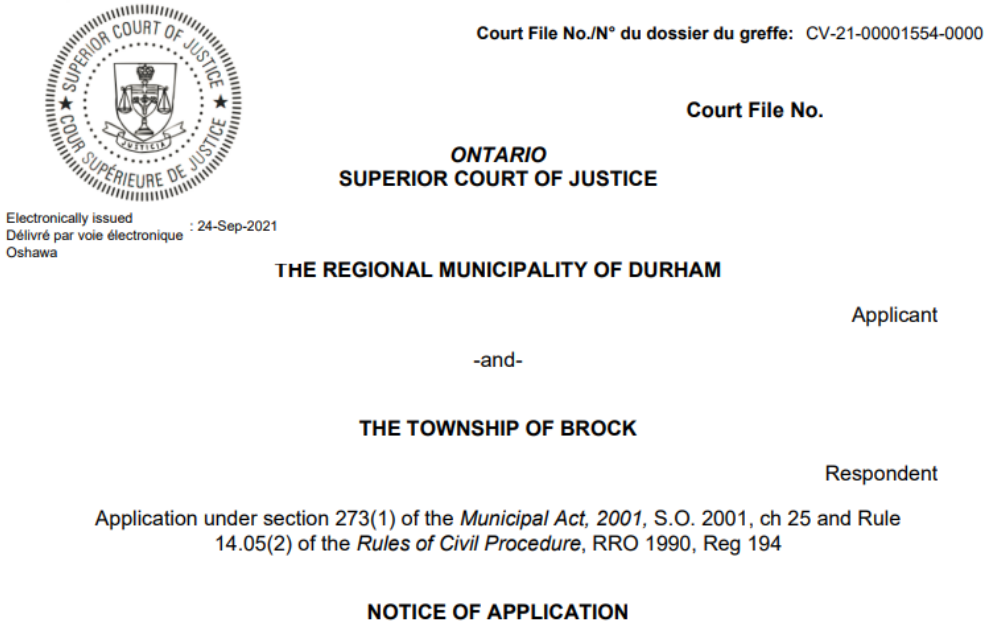
"the OHRC calls on Council to remove any barriers that have a discriminatory effect as soon as possible, and to allow such supportive housing projects to proceed"

"People zoning" or the attempt to regulate based on who will live in the housing often results from opposition to housing projects based on stereotypes or prejudice. This can be a violation of people's rights to be free from discrimination in housing – which means it can be against the law.

Superior Court Application

Notice of Application

- Declaration quashing ICBL
- Injunction against ICBL
- Bad faith required
- Delay start and kill funding
- Contrary to OHRC
- Municipal Use



Court File No./N° du dossier du greffe: CV-21-00001554-0000

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

Electronically issued
Délivré par voie électronique : 24-Sep-2021
Oshawa

THE REGIONAL MUNICIPALITY OF DURHAM

Applicant

-and-

THE TOWNSHIP OF BROCK

Respondent

Application under section 273(1) of the *Municipal Act, 2001*, S.O. 2001, ch 25 and Rule 14.05(2) of the *Rules of Civil Procedure*, RRO 1990, Reg 194

NOTICE OF APPLICATION

Superior Court Application – Urgent Hearing

Request for Urgent Scheduling

"The subject matter is a Supportive Housing project.

. . .

acute need to get homeless people into a new form of housing.

. . .

vulnerable population which has had serious health impacts to the point of crisis related to the pandemic – direct like low rates of vaccination, high rates of COVID and poor outcomes from COVID, and indirect like increase drug, alcohol and mental health issues."

Court Response

Further to my email below, RSJ Edwards has directed me to schedule this as an urgent matter.

Can you please advise if you and opposing counsel will be available either Tues/Wed/Fri of next week?

Resolution

Best Practices

- Intake with proper services
- Site Security
- Manager, staffing, etc
- Community Liaison
- Regular updates to Council
- Fencing, Lighting & Site Features

Commitments

- Intake priority for north
- EMS & Police support
- Community Access to services
- Family Physician recruiting
- Public Transit
- Wayfinding signage

Whitby Shelter

Former Sunnycrest private LTC home

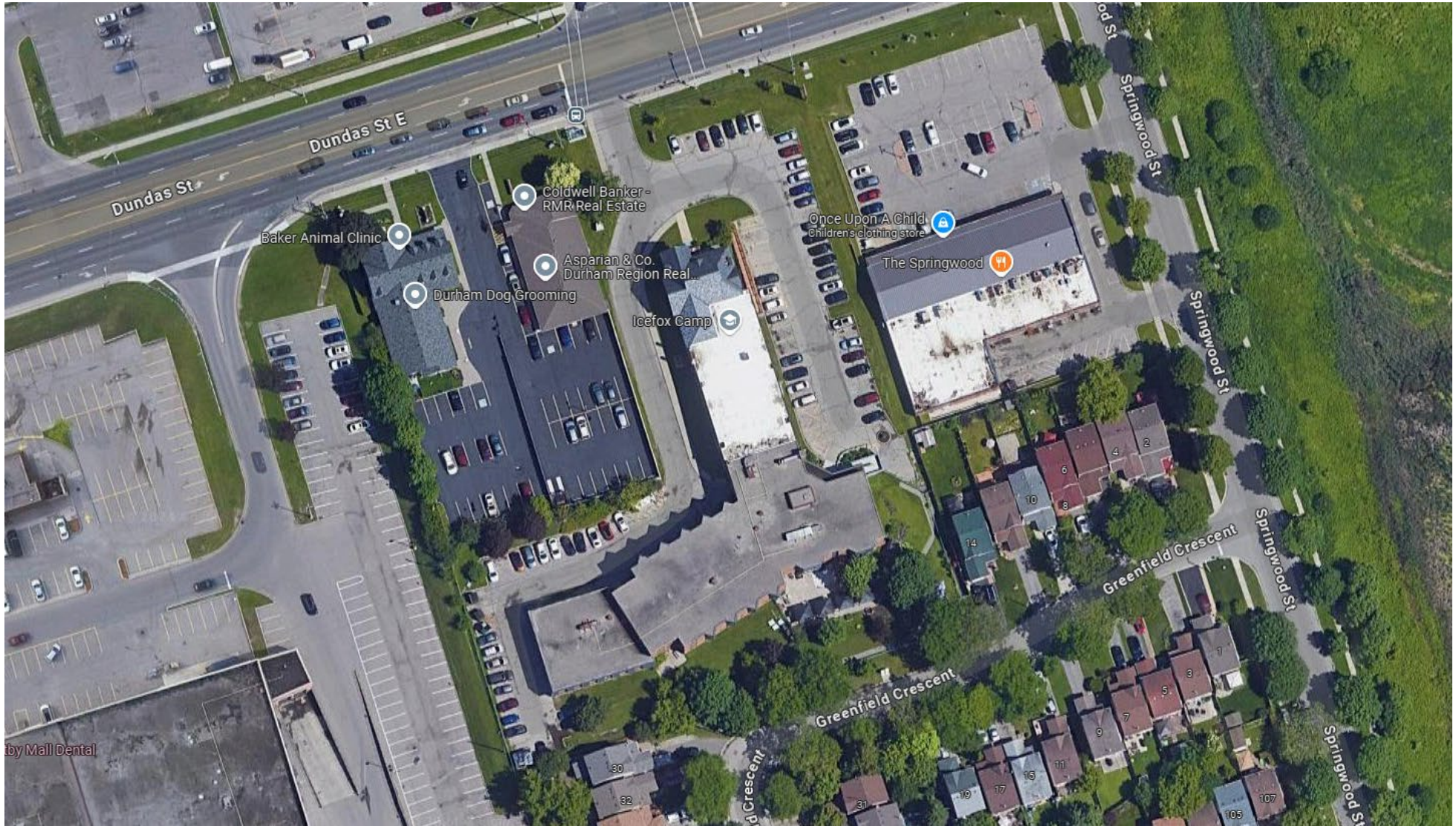
45 Beds

No Zoning/Building Permit

Partial Retrofit



Whitby Shelter Site Map



Local Opposition & Legal Dispute

Strong Opposition

Divided Local Council

Ghost of Beaverton ICBL



Resident & Councillor Opposition

- Process Complaints
  - Consultation
  - Siting Process
  - Consultant
- Substantive Complaints
  - Concentration of People Homeless
  - Stereotypes – drug us, safety, etc
  - Security Concerns
  - Clean Up Concerns

Resident & Councillor Opposition

Region

- Presentation to Council
- Three Town Halls
- Engagement with Local Mayor, CAO, Solicitor
- Senior Staff Discussions
- Negotiated Agreement
- Council Approval

Opponents

- Heated at Town Halls
- Social Media targeting staff
- Hyperbole
- People Zoning
- ‘Low Barrier’ focus
- Asks – home security, neighbourhood security, clean up, housing prices.

Resolution

Best Practices

- Intake with proper services
- Site Security
- Manager, staffing, etc
- Community Liaison
- Regular updates to Council
- Fencing, Lighting & Site Features

Commitments

- Intake priority for Whitby
- Police Tracking Stats
- Additional Landscaping
- Incremental Cleaning Fund
- Town of Whitby Commitments (to their residents)
- MHOP, PCOP Space
- Community Security walkaround
- Persons homeless protocol

What Was Different

Brock

- Council opposition
- Lack of Common Understanding
- Zoning & Building Permit
- Provincial Funding & Time Constraints
- Community Constraints
- Respectful Opposition

Whitby

- Supportive Council
- Common Understanding of people zoning
- No site plan or bldg permit
- More time
- More Community resources
- Heated Opposition

Prologue

Private security patrols

Siting & Municipal Use

Use of MZOs

Community Shelter Policy or Agreements



Cobourg Licensing Bylaw

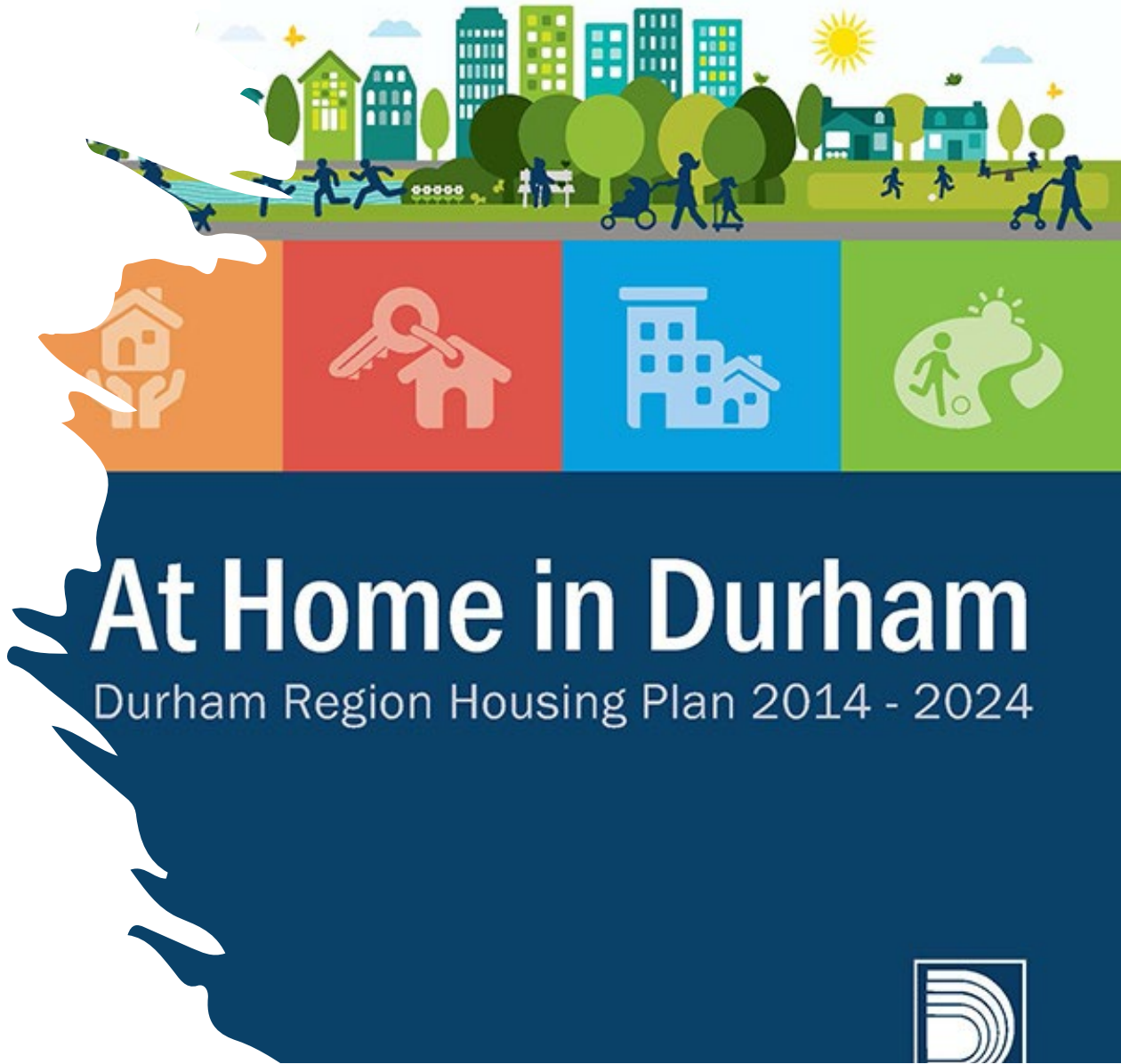
Bylaw Provision

- Regulate Emergency Care Establishments
- License requirements
- Consent with 500m
- Maintenance & Security 500m
- $2M Insurance
- Town can deny operator
- Costs & Fines prohibitive
- Personal Liability for Officers & Directors

Potential Legal Issues

- Bad Faith
- Ultra Vires – is this a business or is it housing
- HRTO

Questions





Thank You

Jason Hunt

Regional Solicitor

Jason.Hunt@Durham.ca

durham.ca

@RegionofDurham

Moncton's Bridge to Home Hub

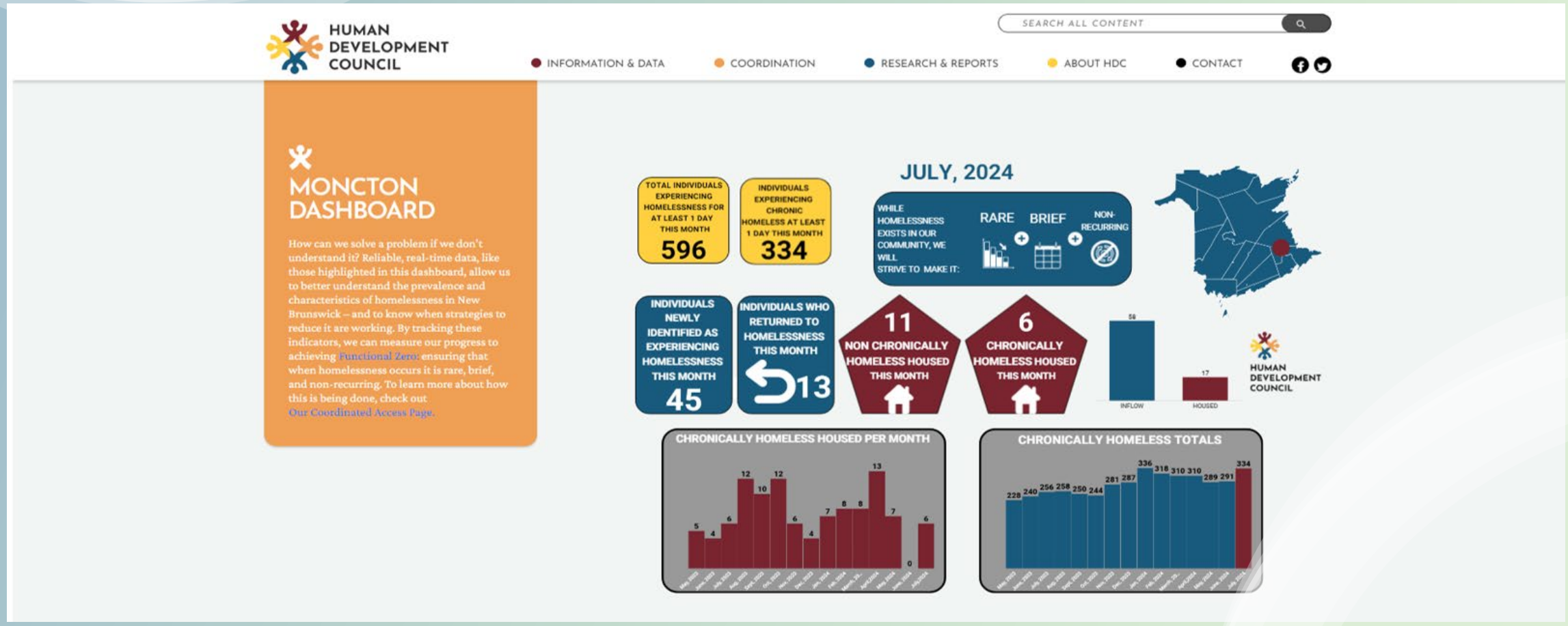
Nick Robichaud
Deputy Chief Administrative Officer and General Manager, Legal Services, City of Moncton

MONCTON

Moncton: A City in Transition

- **Population**: 85,000 +
- **2016-2021**: +7,700 (10% increase)
- **2022**: Fastest growing CMA in Canada at 5.4%
- **2023**: 2,777 new housing units; 6,521 demand; 1.2% vacancy rate
- Housing crisis and affordability crisis

Homelessness



Jurisdictional/Legislative Challenges

- Provincial jurisdiction (housing, justice and public safety, mental health and addictions, etc.)
- Lack of provincial coordination and ownership
- Limited application of *Trespass Act*
- Municipal enforcement officers have limited authority under the *Police Act*
- RCMP contract policing

Bridge to Home Hub Project

- Provincial initiative – extreme weather shelter and community outreach support services
- No safe injection site
- City leased building to Province (former community centre turned emergency shelter)
- Province hired third party NFP operator
- Province responsible for security in and around the premises, keeping the premises in a clean and sanitary condition

MONCTON

Bridge to Home - Challenges

- Neighbourhood concerns
- Lack of security outside the building/around the property
- Accumulation of garbage, personal belongings on- and off-site
- Capacity limited inside due to staff safety concerns
- Broken promise to keep beds open as demand increased
- Council Notice of Motion September 16 – early termination of lease

MONCTON

Success Stories

- Working directly with housing NFPs
  - Rising Tide – combination of city/provincial/federal funding, created 153 units since January 1, 2022, housed 169 tenants, approximately half from By-Name List
- Increased Community Safety Officer numbers (but not authority)
- Partnerships with on-the-ground community outreach services
- Partnership with downtown merchants association for additional downtown clean-up

The City of Kingston's Integrated Care Hub

Jenna Morley
Partner, Loopstra Nixon LLP
(former City Solicitor & Director of Legal Services, City of Kingston)

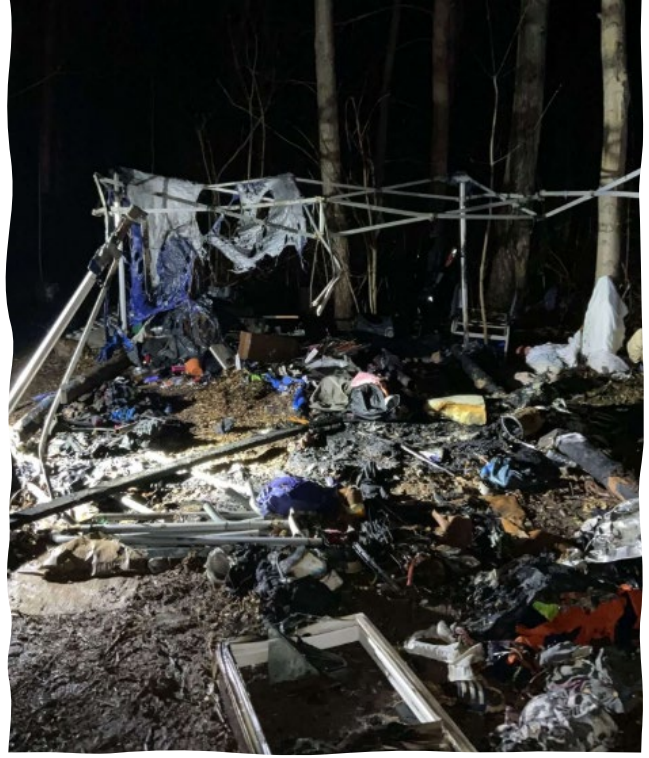
LOOPSTRA NIXON LLP
BARRISTERS AND SOLICITORS

The History of the Hub

- **March 2020:** City temporarily waives several by-laws, including Parks By-Law, to accommodate the needs of individuals disproportionately affected by the pandemic
- **July 2020:** Integrated Care Hub (ICH) opens at municipal community centre
    - ICH provides 24/7 low-barrier and wrap-around services. The ICH co-locates shelter, harm reduction and consumption and treatment services (i.e., safe injection site)
- **November 2020:** ICH relocates to a privately owned property at 661 Montreal Street, adjacent to a City park
- **November 2020:** Large encampment forms in City park adjacent to ICH
- **April 2021:** City Council endorses Encampment Protocol, which provides a proactive and supportive approach to help individuals camping in public spaces relocate to alternative shelter options
- **June 2023:** City brings Court application seeking an injunction to clear the encampment
- **September 12, 2024:** Double homicide occurs in area of ICH and encampment

The Challenges

- Significant property damage in area of ICH (~$1.5M)
- Erection of permanent structures adjacent to ICH
- 700% increase in Kingston Fire & Rescue responses to the area of the ICH since 2018 due to uncontrolled fires
- Concentration of criminal behaviour in the area, including presence of firearms, sexual assaults, opioid trafficking, forcible confinement
    - Culminated in a double homicide adjacent to the ICH on September 12, 2024









Legal/Jurisdictional Issues

- ICH is operated by the Province on privately owned property. However, its adjacency to a city park has created widespread municipal issues
- Municipalities have obligations under the *Occupiers Liability Act*
- Municipalities may be liable for nuisance claims from surrounding neighbours
- ICH and surrounding area has become a lawless society
  - No regular police presence
  - No enforcement of *Trespass to Property Act*
  - Frequent opioid trafficking
- Fire concerns have led to exercise of “immediate threat to life” powers under the FPPA

Recent Changes Introduced in Ontario for Consumption Treatment Sites (CTS)

- No CTS is permitted within 200 metres of a school or child-care centre – 10 existing sites will be required to close
- **Serious Events Reporting:** Every CTS is required to complete and submit serious event reports to the Ministry if and when a "serious event" occurs at or around the CTS
- **Discouraging Loitering Policy**: Provides guidance to assist CTS operators in developing measures to discourage loitering. All individuals on the premises of the CTS location are expected to comply with the anti-loitering provisions in the policy, including a prohibition on occupying, residing, camping or sleeping in or around the CTS
- **CTS Complaints Policy**: Assists CTS operators in developing complaint and resolution processes. Policy also establishes a procedure for receiving, reviewing, recording and responding to complaints related to the CTS
- **De-escalation Policy**: Provides guidance to CTS operators in developing procedures to address aggressive, threatening or violent behaviour from service users or visitors. CTS sites are required to adopt a zero tolerance approach towards violence and aggressive behaviour
- **Service Restriction Policy**: Outlines service restriction categories and an appeal process

Questions/Comments?

