



Court File No. CV-24-00732896-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CYCLE TORONTO, EVA STANGER-ROSS, and NARADA KIONDO

Applicants

and

**ATTORNEY GENERAL OF ONTARIO and MINISTER OF
TRANSPORTATION**

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*, RRO 1990, Reg 194 and the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982 (UK)*, 1982, c 11

NOTICE OF APPLICATION

TO THE RESPONDENTS

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

THIS APPLICATION will come on for a hearing

- In writing
- In person
- By telephone conference
- By video conference

at the following location:

330 University Avenue, 8th Floor, Toronto ON M5G 1R7

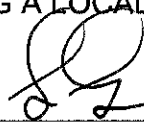
on a day to be set by the registrar.

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 Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, 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 Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, 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 December 19, 2024 Issued by  "LISA LAWSON"
Local Registrar

Address of Superior Court of Justice
court office: 330 University Avenue, 8th Floor
Toronto ON M5G 1R7

TO: **ATTORNEY GENERAL OF ONTARIO**
Crown Law Office – Civil
720 Bay St., 8th Floor
Toronto M7A 2S9

AND TO: **MINISTER OF TRANSPORTATION**
777 Bay Street, 5th floor
Toronto, Ontario M7A 1Z8

APPLICATION

THE APPLICANTS MAKE APPLICATION FOR:

1. Cycle Toronto, Eva Stanger-Ross, and Narada Kiondo (collectively the "**Applicants**") make an application for the following relief:
 - (a) a declaration that s. 195.6 of the *Highway Traffic Act*, which requires the Minister of Transportation to remove bicycle lanes and related infrastructure currently on Bloor Street, Yonge Street and University Avenue in the City of Toronto (the "**Target Bike Lane Removal Provision**"), infringes s. 7 of the *Canadian Charter of Rights and Freedoms* (the "**Charter**") and that this infringement cannot be justified under s. 1 of the *Charter*;
 - (b) a declaration pursuant to s. 52 of the *Constitution Act, 1982* that the Target Bike Lane Removal Provision is immediately of no force and effect;
 - (c) an interim, interlocutory, and/or permanent injunction prohibiting the Respondents from taking any step involved in carrying out or implementing the Target Bike Lane Removal Provision in any respect, including but not limited to by: removing, reconfiguring, or otherwise altering the bicycle lanes and related infrastructure located on Bloor Street, Yonge Street, and University Avenue in the City of Toronto, or any part or parts thereof, and prohibiting the taking of any steps toward such removal, reconfiguration, or alteration;

- (d) an Order requiring production for the use of the Applicants and the Court in this proceeding, without redaction, of:
- (i) the "Bike Lane Documents" (defined below);
 - (ii) all documents and communications (and records thereof) surrounding the Respondents' implementation of the Target Bike Lane Removal Provision, including internal reports, briefing notes, staff reports, engineering consultant reports, and memoranda pertaining to:
 - (1) traffic along the sections of Bloor Street, Yonge Street, and University Avenue where bike lanes are proposed to be removed pursuant to the Bike Lane Bill (defined below) and, specifically, the Target Bike Lane Removal Provision;
 - (2) safety along those corridors, with respect to bikes, pedestrians, and vehicle traffic;
 - (3) risk analysis and justifications for the proposed bike lane removals; and
 - (4) memoranda, emails, or minute notes to or from the Premier's Office and the Office of the Minister of Transportation in relation to the above; and

- (iii) the final report for the "**Transportation Tomorrow Survey 2022**" (TTS), including survey data and the 2022 TTS Travel Summary by Ward for the City of Toronto.
- (e) costs of this application on a substantial indemnity basis; and
- (f) such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE

Overview

2. The Ontario Government has embarked on an ill-conceived, arbitrary, and hurried legislative campaign against people who ride bikes in the City of Toronto by mandating the removal of approximately 19 kilometres of protected bike lanes in each direction on Bloor Street, Yonge Street, and University Avenue (the "**Target Bike Lanes**"). It has done so in full awareness of, or lacking all concern about, the increased number of injuries and deaths that will result.
3. This reckless legislative act infringes the rights of people who ride bikes (used interchangeably with "cyclists"), other road users, and/or pedestrians in the City of Toronto under s. 7 of the *Charter* by depriving them of life and security of the person contrary to principles of fundamental justice.
4. There is no rational connection between the purported object of the law (reducing traffic congestion and gridlock) and its effect. The seriousness of the increased risk

of death or serious injury to cyclists is entirely disproportionate to that ostensible objective.

The Applicants

5. The Applicant Cycle Toronto is a member-supported, not-for-profit cycling advocacy organization and registered charity based in Toronto, Ontario, with offices at 401 Richmond Street West. Cycle Toronto is operated by full-time management staff and governed by a volunteer board of directors elected from its membership.
6. Cycle Toronto was founded in 2008 and initially incorporated as the Toronto Cyclists Union. Cycle Toronto currently has approximately 1,300 dues-paying members and 1,400 donors. On September 20, 2024, Cycle Toronto launched a petition against the provincial removal of bike lanes that had 25,193 signatures as of December 9, 2024.
7. Among other things, Cycle Toronto advocates for safe street infrastructure and laws, hosts public education and safety workshops, organizes cycling events, and publishes the Toronto Cycling Handbook.
8. Cycle Toronto's corporate mission is to advocate for a safe, healthy, and vibrant cycling city for all. Its corporate vision statement is to see Toronto develop into an outstanding cycling city that: (i) embraces cycling as an essential mode of transportation; (ii) believes that streets are for people; and (iii) recognizes that no traffic fatalities are "acceptable."

9. The Applicant Eva Stanger-Ross is an individual who resides in the City of Toronto. Ms. Stanger-Ross is a student at the University of Toronto ("U of T") who attends classes at U of T's St. George Campus. Ms. Stanger-Ross regularly cycles in the Target Bike Lanes, especially the separated bicycle lanes on Bloor Street West, on her way to attend classes.
10. The Applicant Narada Kiondo is an individual who resides in the City of Toronto. Mr. Kiondo is 35 years old and has worked in the city as a bike delivery person since 2016. Since 2019, Mr. Kiondo has worked as a full-time bike messenger for a local company and as a bike delivery person for various food delivery services. Mr. Kiondo uses the Target Bike Lanes daily for the purposes of doing his work.

The Bike Lane Bill

11. On October 21, 2024, the Government of Ontario (the "**Government**") introduced Bill 212, the *Reducing Gridlock, Saving You Time Act, 2024* ("**Bill 212**") into the provincial Legislature. Schedule 4 of Bill 212 (the "**Bike Lane Bill**") proposed a new Part XII.1 of the *Highway Traffic Act* that would require municipalities to seek approval from the Minister of Transportation (the "**Minister**") before constructing new bicycle lanes in certain circumstances.
12. On October 31, 2024, the Government announced via a post to the Environmental Registry of Ontario that it intended to pass a regulation under the Bike Lane Bill that would require the removal of three existing protected bike lanes (meaning bike lanes that are separated from motor vehicle traffic with a physical barrier) on each

of Bloor Street, Yonge Street, and University Avenue in Toronto (the Target Bike Lanes, defined above).

13. As originally drafted, the Bike Lane Bill did not contemplate or empower the Minister to remove the Target Bike Lanes or any other existing bike lanes.
14. On November 18, 2024, the Standing Committee on Heritage, Infrastructure and Cultural Policy held public consideration of Bill 212. None of the presenters, who included representatives from the Association of Municipalities of Ontario (AMO), Good Roads, and Ontario Traffic Council, spoke in favour of the Bike Lane Bill.
15. On November 21, 2024, the day after the Environmental Registry of Ontario comment period closed and three days after public consideration at the Standing Committee on Heritage, Infrastructure and Cultural Policy, the Government introduced an 11-page amended version of Bill 212 which included a largely rewritten Bike Lane Bill. Among the proposed changes to the Bike Lane Bill were:
 - (a) the introduction of the Target Bike Lane Removal Provision (s. 195.6, defined above) which specifically requires the Minister to remove the Target Bike Lanes; and
 - (b) the introduction of ss. 195.10-195.14, which bar any and all claims against the Government of Ontario, its municipalities, or contractors that are in any way connected to the consequences of the proposed amendments, including any and all claims for damages arising from the collisions, injuries,

and deaths that will occur as a result of removing the Target Bike Lanes or any other bicycle lanes (the **"Injured Cyclist Claims Bar"**).

16. On November 25, 2024, Bill 212 went before the Legislature for its third reading and was passed into law. Later that day, Bill 212 – which included the Bike Lane Bill – received Royal Assent.

The Target Bike Lanes and Their Users

17. The Target Bike Lanes now collectively add up to approximately 19 centreline kilometres of protected bike lanes and have been a part of Toronto's traffic infrastructure since at least 2016, with the new installations continuing over time.
 - (a) The earliest portion of the Bloor Street Bike Lane was a 2.4 kilometre stretch from Avenue Road to Shaw Street that was installed in 2016 as part of the Bloor Street Bike Lane Pilot and made permanent the following year. That bike lane was extended further west to Runnymede Avenue and east to the Bloor Viaduct in 2020. In 2023 and 2024, the Bloor Street Bike Lane was expanded further westward into Etobicoke. The Bloor Street Bike Lane now extends approximately 13.9 centreline kilometres from the Bloor Viaduct in the east (where it connects with the bicycle lanes that run on Danforth Avenue all the way to Victoria Park Avenue) to Resurrection Road (between Islington and Kipling Avenues, with concrete bicycle lane dividers having been poured that extend to Kipling Avenue) in Etobicoke in the west.

- (b) The University Avenue Bike Lane was initially proposed in 2010 and installed in 2020. It extends approximately 1.6 kilometres from College Street South to Wellington Street West. In 2024, the portion of the lane that runs along the west side of University Avenue between College Street and Dundas Street was upgraded to raised cycle tracks using poured cement dividers as part of a larger road reconstruction project.
 - (c) The Yonge Street Bike Lane was installed in 2021 as a pilot project and made permanent in 2023. It extends approximately 3.2 centreline kilometres from Bloor Street to Davisville Avenue. There is also a short painted bicycle lane on the south portion of Yonge Street between Front Street West and Queens Quay East.
- 18. Following a 2012 Ontario Coroner's Review of Cycling Deaths, and a culmination of research, analysis, and public consultation, the City of Toronto updated its 2001 Toronto Bike Plan to a Ten-Year Cycling Network Plan in 2016, to be updated every three years. The plan has three main components: the Long-Term Cycling Network Vision; Major City-Wide Cycling Routes; and a rolling three-year Near-Term Implementation Program. The City identified the Target Bike Lanes as part of the Major City-Wide Cycling Routes plan, and as being consistent with other City strategies, including its Vision Zero Road Safety Plan and its TransformTO Net Zero Strategy, which includes a goal of achieving 75% of commutes under 5 kilometres by walking, transit, or biking by 2030 in order to reduce transportation-related greenhouse gas emissions.

19. The City of Toronto and others have extensively studied the impacts of the Target Bike Lanes on road use. The Target Bike Lanes have increased road safety and reduced the risk of accidents for all road users and improved the accessibility of the roads to persons with disabilities. The introduction of the Target Bike Lanes has had little to no material adverse impact on vehicular traffic congestion or average travel times.
20. Toronto residents have become increasingly reliant on the Target Bike Lanes in the eight years since the first portion of the first lane was introduced. Today, many residents rely on cycling to complete their daily activities, including for their commutes to school and work, for the purposes of carrying out their work, studies, and shopping, and/or for personal recreation and exercise, among other things.
21. People who ride bicycles in Toronto rely on the Target Bike Lanes as central thoroughfares. This is, in part, as a result of Toronto's street grid design, which requires people to use large, arterial roads including Bloor Street, University Avenue, and Yonge Street to get out of specific neighbourhoods and move efficiently around the City. Put another way, there are no parallel "secondary roads" that run alongside these major arterial roads because Toronto designed its streets to divert traffic out of neighborhoods and onto major roads.
22. The Target Bike Lanes also connect people riding bikes to key destinations. Research consistently shows that bike lanes have a neutral or positive economic impact on local business.

23. The Target Bike Lanes are used extensively by bike delivery service workers because they are the most direct routes between the neighbourhoods connected by arterial roads and businesses to and from which they deliver are heavily concentrated along those routes. Even if alternative routes existed, bike delivery service workers will continue to ride along Bloor Street, University Avenue, and Yonge Street, regardless of whether these streets have bicycle lanes. The nature of their work requires it.
24. There are no alternative routes or bicycle lanes that are capable of connecting cyclists to those portions of the City that are serviced by the Target Bike Lanes. If the Target Bike Lanes are removed, many thousands of Toronto cyclists will be forced to cycle in lanes shared with motor vehicle traffic.

Purpose and Known Effects of the Bike Lane Bill and the Target Bike Lane Removal Provision

25. Bill 212's sole statement of its purpose is contained in its Preamble:

Preamble

The Government of Ontario:

Recognizes the need to build priority highways faster as our province grows in order to get people and goods out of gridlock and save drivers and businesses time and money.

Recognizes that accidents and lane closures can worsen traffic congestion and impact the quality of life of Ontarians.

Is speeding up the delivery of broadband projects that will connect people in all parts of Ontario, including rural areas, with reliable internet access.

Is building Highway 413, recognizing the importance of this highway to millions of drivers from across Ontario.

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

26. Section 195.6 of the Bike Lane Bill does not serve any of these stated purposes.
27. The Government has publicly suggested that the removal of Target Bike Lanes will reduce congestion and gridlock in the City of Toronto. This assertion is false and contrary to the available evidence. Specifically:
 - (a) the introduction of the Target Bike Lanes did not cause a material increase in traffic or congestion on the associated roads;
 - (b) the construction of bike lanes promotes the reduction of congestion in the long-term; and
 - (c) the removal of bike lanes and replacement with lanes available for motor vehicle traffic will, in the long term, lead to an increase in the number of motor vehicles using the route and potentially increase congestion and gridlock. This is due to the transportation planning concept of "induced traffic" or "induced demand", whereby increasing the number of lanes of motor vehicle traffic leads to an increase in the number of motor vehicles using the route.
28. As described above, the available evidence also supports that the Target Bike Lanes have improved road safety for drivers, cyclists, and pedestrians alike and reduced the frequency of accidents.
29. The Government has not provided any evidence to support its claim that removing the Target Bike Lanes will improve traffic conditions. Rather, news reports of

internal Government of Ontario documents (the “**Bike Lane Documents**”) affirm, among other things, that:

- (a) prohibiting and/or removing bicycle lanes does not materially reduce traffic congestion in the long term and often has the opposite result;
- (b) introducing bicycle lanes can encourage biking and alleviate congestion; and
- (c) prohibiting new bike lanes or removing existing ones undermines other provincial initiatives, including those intended to reduce congestion.

30. Consistent with the Bike Lane Documents, the original draft of the Bike Lane Bill recognized that the Government did not have sufficient evidence to justify the removal of existing Bike Lanes. It did not empower the Minister to do so. Rather, it provided the Minister with: a) supervisory powers in relation to the installation of new bike lanes and b) a mechanism for collecting information about existing bike lanes.

31. On or about October 22, 2024, the Minister affirmed that the Bike Lane Bill was intended to establish an information gathering process that would allow the Government to study and consider the traffic impacts of existing bike lanes in Ontario. Specifically, the Minister affirmed that:

- (a) decisions about which bike lanes would be removed would be made through a process to be established through regulations;

- (b) the Government would “work with [its] municipal partners” and would provide “an opportunity for many of them to submit their concerns or submit what they think could be a good process”; and
 - (c) the regulations would be “completed over the coming months” and they would include an outline of “data and submission requirements, timelines, approval criteria, and information sharing details” relating to the consideration of existing Bike Lanes.
32. Components of the amended Bike Lane Bill maintain the approach that the Minister announced on October 22, 2024. Section 195.5 in particular contemplates consultation between the Minister and Lieutenant Governor and the relevant municipality regarding the impact of the bicycle lane in question on traffic prior to ordering the removal of any bike lane in the province. The Bike Lane Bill does not set out criteria or metrics as to how these bike lanes will be reviewed, or the process through which it will happen. Traffic information is the only criteria mentioned for evaluation within the Bike Lane Bill, with no consideration to any other factors, including road safety.
33. The Ministry of Transportation already provides municipalities with guidelines and best practices for the design of bike lanes through Ontario Traffic Manual (OTM) Book 18: Cycling Facilities (last updated June 2021). Key sections that informed the planning and design of the Target Bike Lanes include Network Planning (“contains overarching active transportation planning concepts that should be incorporated into a municipal transportation or cycling master plan”), Linear Bicycle

Facility Design (“provides practitioners with the information necessary to design physically-separated bikeways, bicycle lanes and shared cycling facilities”), Facility Selection Process (“provides a framework for practitioners to determine a suitable facility type for a specific roadway”). The Bike Lane Bill makes no mention of OTM Book 18. Its objectives are at odds with the guidelines within it.

34. Inconsistent with the approach mandated by the balance of the Bike Lane Bill, the Target Bike Lane Removal Provision (s. 195.6) directs the Minister to remove the Target Bike Lanes without conducting any investigation or consultation at all, let alone as to whether doing so will have a meaningful benefit for local traffic.
35. The rapid introduction of the Target Bike Lane Removal Provision was accompanied with the introduction of the Injured Cyclist Claims Bar (ss. 195.10-195.14), which prohibits cyclists who are injured or killed by a collision with a motor vehicle in what used to be one of the Target Bike Lanes from suing the Province of Ontario. The Injured Cyclist Claims Bar serves as a legislated acknowledgement by the Province of Ontario that removing the Target Bike Lanes will increase the risk of injury and death to cyclists.
36. The Bike Lane Bill is also inconsistent with other provincial legislation and policy, including:
 - (a) the Ministry of Transportation’s Statement of Environmental Values, which recognizes that improving active transportation networks will help to manage congestion, reduce gridlock, and reduce transportation-related air emissions;

- (b) Ontario's Climate Change Strategy, which acknowledges that, at 35%, transportation-related emissions are the single-largest source of emissions in the province, and that in order to reduce transportation emissions Ontario must transition as many existing drivers as possible to transit, cycling, and walking; and
- (c) The *City of Toronto Act, 2006*, SO 2006, c 11, Sched A.

The Target Bike Lane Removal Provision is Arbitrary

37. On or about October 22, 2024, Premier Ford made it clear that, despite the initial language of the Bike Lane Bill, the Government intended that the Target Bike Lanes would be removed:
- (a) the Premier stated: "Three that stand out is Bloor Street, Yonge Street and hospital row (University Avenue). We're going to work with the city and hopefully they can put them on secondary roads"; and
 - (b) when asked whether the government wanted certain criteria to be met before the removal of those lanes, the Premier said: "No" and "They're coming out."
38. On or about October 24, 2024, Premier Ford said that "1.2% of people who commute by bike shouldn't be clogging primary roads for the over 70% of people who drive". However, in 2019, 70% of Torontonians rode bikes, including 44% who identified as "utilitarian" cyclists biking to work, shop, and attend social events. The province's own still-unreleased Transportation Tomorrow Survey 2022 study

indicates 3.1% of City of Toronto residents regularly commute to work by bicycle, nearly triple the figure incorrectly cited by the Premier. That 3.1% figure is for the entire City of Toronto - the number is far higher for people who reside in the more densely populated parts of the City, including those areas in proximity to the Target Bike Lanes.

39. On or about November 1, 2024, the Minister repeated Premier Ford's messaging around urgency, suggesting that the Government was moving so quickly to remove the Target Bike Lanes "[b]ecause these are the ones we know are the problem", citing conversations he allegedly had with unnamed and unspecified business owners. The Minister also repeated the Premier's claims about the number of people riding bikes: "We know that these bike lanes which only 1.2% of people use to commute to get to work are taking away almost 50% of the infrastructure on those streets."
40. The Minister and the Premier have cited no studies or other evidence to support their characterization as to the impact of the Target Bike Lanes.
41. Contrary to the suggestion that emergency vehicles are hindered by bicycle lanes, senior hospital leadership officials representing hospitals along the University Avenue corridor welcomed the addition of the University Avenue bicycle lanes, and doctors working there decry their removal.
42. On November 21, 2024, the Government introduced the amended version of Bill 212 (which required the removal of the Target Bike Lanes and contained the

Injured Cyclists Claims Bar) to the Standing Committee on Heritage, Infrastructure and Cultural Policy where the Minister stated that:

- (a) rather than cycling on the Bloor Street, University Avenue and Yonge Street after removal of the Target Bike Lanes, "the safer thing for a cyclist to do would be to make a decision to go on streets that are safer"; and
- (b) "that's what we believe is the right way to do it, is on our secondary streets where there is much less traffic volume and ultimately safer for cyclists and everyone else."

43. The Premier echoed these remarks on November 22, 2024 in the face of a public backlash regarding the amendments to the Bike Lane Bill, claiming that he "want[ed] to save everyone's life" and that "bike riders are important" but could just "go on the secondary road that run parallel, a few feet away from the existing roads." As a further alternative, Premier Ford suggested that the City of Toronto could create bicycle lanes by removing a portion of "the 70-foot sidewalk" on streets like University Avenue.

44. These statements by Premier Ford and the Minister, the latter of whom is responsible for implementing the removal of the Target Bike Lanes and any others in the future, are a concession by the Government that implementing s. 195.6 will make cycling on Toronto's main thoroughfares more dangerous.

45. The suggestion by Premier Ford and the Minister that people should, would, or could safely cycle on secondary streets in place of bicycle lanes on these main arterial roads is unfounded and false:

- (a) there are no viable cycling routes on secondary streets to replace the Target Bike Lanes;
- (b) cycling on secondary streets (with or without bicycle lanes) rather than on the Target Bike Lanes which are on arterial roads invariably means cycling a zigzag indirect route which can add kilometres to any trip. People do not, cannot, and will not travel in these indirect ways. The City of Toronto built the Target Bike Lanes for precisely this reason: there was demand for safe bike lane infrastructure on arterial roads; and
- (c) cycling mixed with motorized vehicular traffic on secondary streets is not safe:
 - (i) cyclists using the secondary streets have to turn more often, increasing their risk of being involved in a traffic incident; and
 - (ii) as these streets flank and connect to Toronto's central thoroughfares, they also see high amounts of traffic, particularly during peak commutes. The traffic these streets see will increase during the periods when portions of University Avenue, Bloor Street, and Yonge Street are closed to tear out the existing bike lane infrastructure.

46. Similarly, there is no prospect that additional cycling infrastructure will be installed on secondary streets anytime in the foreseeable future:
- (a) Bill 212 requires the Minister's consent to install bike lanes on those streets and, given the process required by Bill 212, it will be years before a replacement bicycle lane can be installed;
 - (b) the Government has demonstrated an unjustified hostility to cycling infrastructure and has no intention of facilitating or allowing the City of Toronto to construct alternative routes; and
 - (c) there are no "70-foot sidewalks on University Avenue," or anywhere else in the City of Toronto, nor is it reasonable or feasible to suggest the City could tear up the pedestrian footpaths that line the medical hub of Toronto.
47. On November 25, 2024, the day Bill 212 passed, the Premier repeated again in defence of Bill 212 that: "One per cent of the population cannot take up 50 per cent of the roads". The Premier's statement again grossly understates the number of Torontonians overall who cycle, and the number of Torontonians who cycle using the three Target Bike Lanes or other streets with bicycle lanes. It also grossly overstates the amount of space bicycle lanes take up on roads where they exist.
48. Following the passage of Bill 212, the Government stated that it would begin removing the Target Bike Lanes before the end of 2024, initially targeting 500 metres at the westernmost section of the Bloor Street bike lane, and 400 metres of the Yonge Street bike lane.

The Target Bike Lane Removal Provision infringes s. 7 of the *Charter*

49. Section 7 of the *Charter* guarantees every individual the right to life, liberty, and security of the person and the right to not be deprived of these rights except in accordance with the principles of fundamental justice.
50. The Target Bike Lane Removal Provision infringes the s. 7 rights of cyclists, road users, and pedestrians. Specifically, the Target Bike Lane Removal Provision deprives individuals of life and security of the person.
51. By requiring the removal of the Target Bike Lanes without providing a reasonable alternative, the law will, in its effects, force many thousands of Toronto residents, commuters, and delivery workers (all of whom depend on the Target Bike Lanes to carry out their daily activities) to cycle more often in mixed traffic with motorized vehicles.
52. Delivery service workers, in particular, will continue to cycle on Bloor Street, University Avenue, and Yonge Street extensively, regardless of whether those streets have bicycle lanes, because the nature of their work requires it. There are no safe alternative routes for them.
53. This rapid reintegration of cyclists with Toronto traffic will decrease the safety for all road users and pedestrians traveling in areas of Toronto proximate to the Target Bike Lanes, increasing the risk of death or serious injury and threatening the life and security of the person of people riding bikes, pedestrians, and people in cars alike.

54. These deprivations of the rights to life and security of the person are not in accordance with the principles of fundamental justice as they are arbitrary, overbroad, and/or grossly disproportionate. There is no rational connection between the purported object of the law – reducing traffic congestion and gridlock – and its effect. The seriousness of the increased risk of death or serious injury to cyclists is totally out of sync with that ostensible objective.
55. The Injured Cyclist Claims Bar, which recognizes the enhanced physical risk to cyclists and reduces access to justice in connection with that enhanced risk, exacerbates the infringement of the Target Bike Lane Removal Provision.

The Target Bike Lane Removal Provision is not justified under s. 1 of the *Charter*

56. The above infringement of s. 7 cannot be demonstrably justified in a free and democratic society within the meaning of s. 1 of the *Charter*, the burden of which lies on the Respondents.

Injunction

57. The Applicants seek an interim, interlocutory, and/or permanent injunction prohibiting the Respondents from taking any step involved in carrying out or implementing the Target Bike Lane Removal Provision in any respect, including but not limited to by: removing, reconfiguring, or otherwise altering the Target Bike Lanes and any related infrastructure, or any part or parts thereof, and prohibiting the taking of any steps toward such removal, reconfiguration, or alteration.

58. There is a serious issue to be tried as to whether the Bike Lane Bill infringes the *Charter* and the removal of the Target Bike Lanes should be stopped.
59. Once the Target Bike Lanes are gone, they are gone. That is irreparable harm which, by its very nature, cannot be compensated for in costs.
60. If the Target Bike Lanes are removed, the irreparable harm to the individual Applicants, Cycle Toronto and its members, and to all users of the Target Bike Lanes is heightened risk of injury and death. These cyclists will have no choice but to cycle in mixed vehicular traffic on busy arterial roads.
61. The irreparable nature of this harm is underscored by the Injured Cyclist Claims Bar, which prevents any person from being able to claim against the Crown for financial compensation for the damages that flow from the implementation of s. 195.6.
62. By contrast, the Respondents will suffer no harm or prejudice if the Target Bike Lanes are not removed while this application proceeds in the normal course; there is no evidence that their removal will serve the purported purpose of reducing traffic or congestion or have any other beneficial effect.
63. The balance of convenience therefore weighs heavily in favour of granting the injunction sought by the Applicants.

STATUTORY INSTRUMENTS RELIED ON

64. *Highway Traffic Act*, RSO 1990, c H.8, Part XII.1;

65. *An Act to enact two Acts and amend various Acts with respect to highways, broadband-related expropriation and other transportation-related matters*, SO 2024, c 25, including Sch 4, s 4;
66. *Charter*, including ss 1 and 7;
67. *Constitution Act, 1982*, s. 52;
68. *City of Toronto Act, 2006*, SO 2006, c 11, Sch A;
69. *Crown Liability and Proceedings Act, 2019*, SO 2019, c 7, Sch 17;
70. *Rules of Civil Procedure*, including rr 14.05(3)(g) and 14.05(3)(g.1); and
71. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

72. The following documentary evidence will be used at the hearing of the application:
 - (g) the affidavit of Michael Longfield, Executive Director of Cycle Toronto, to be sworn or affirmed;
 - (h) the affidavit of Eva Stanger Ross, to be sworn or affirmed;
 - (i) the affidavit of Narada Kiondo, to be sworn or affirmed;
 - (j) additional affidavit evidence to be sworn or affirmed; and

- (k) such further and other evidence as the lawyers may advise and this Honourable Court may permit.

December 10, 2024

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