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## **COMMUNITY DIALOGUE ON HUMAN RIGHTS RELATING TO FREEDOM OF RELIGION**

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*By Barry W. Kwasniewski\**

### **A. INTRODUCTION**

In the past few years, high profile human rights decisions, such as *Heintz v Christian Horizons*,<sup>1</sup> have brought to the fore tensions between individuals and institutions with respect to the exercise of religious rights. These issues have caught the attention of the Ontario Human Rights Commission (OHRC).

Established in 1961, the OHRC is an independent statutory body, charged with the promotion, protection and advancement of human rights in Ontario. Headed by Chief Commissioner, and former Toronto Mayor, Barbara Hall, one of the mandates of the OHRC is to develop public policy on human rights in Ontario. On September 22, 2011, the OHRC announced an important initiative of interest to religious organizations in this province. This *Bulletin* summarizes the purpose of this community dialogue and how interested persons or organizations may take part.

### **B. COMMUNITY DIALOGUE**

In furtherance of its mandate, the OHRC will host a community dialogue on human rights relating to religious belief and practice in January, 2012. The dialogue will consist of the presentation and discussion of short papers with an invited audience of community members, academics and human rights lawyers and

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<sup>1</sup> *Heintz v. Christian Horizons* (2008), 65 C.C.E.L. (3d) 218 (Ont. Human Rights Trib.), aff'd 2010 ONSC 2105 (Div Ct). For a discussion and analysis of this decision, see Jennifer M. Leddy and Terrance S. Carter, "Divisional Court Decision Provides Mixed Results in Christian Horizons Appeal," *Church Law Bulletin* No. 29, May 26, 2010.

practitioners. The OHRC is currently accepting proposals for papers for this community dialogue, which should address at least one of seven themes:

1. Human Rights and the protection of religious belief and practice in a secular society.
2. Experiences and concerns of religious-identified individuals, groups and organizations in Ontario society as they relate to discrimination on the basis of creed/religion.
3. Definitions and interpretations around the terminologies “creed” and “freedom of religion”.
4. Inclusive design and the accommodation of religious belief and practice in diverse organizational contexts.
5. The impact and use of creed-based human rights on and by non-religious-identified groups and/or minorities within religious groups.
6. Intersections of creed and other human rights protected grounds.
7. How the “special interest organization exemptions” in the Ontario Human Rights Code from the prohibition of discrimination on the basis of creed have been exercised and concerns that might arise from this exemption.

The special interest organization exemptions, which have been subject to a substantial amount of tribunal and judicial interpretation in recent years, are set out in sections 18 and 24(1)(a) of the Code:

### **Special interest organizations**

18. The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, are not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified.

### **Special employment**

24. (1) The right under section 5 to equal treatment with respect to employment is not infringed where,

(a) a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by their race, ancestry, place of origin, colour, ethnic origin, creed, sex, age, marital status or disability employs only, or gives preference in employment to, persons similarly identified if the qualification is a reasonable and bona fide qualification because of the nature of the employment

## C. HOW TO PARTICIPATE

The deadline for submission of proposals is October 14, 2011, the selection of proposals will be confirmed by November 1, 2011 and the deadline for submission of full papers will be December 7, 2011. Selected papers may also be published on the OHRC website and in journal format.

Individuals or organizations who have an interest with respect to how religious rights in Ontario may develop in the future should consider participating in this dialogue. Those interested in making submissions should consult [http://www.religionanddiversity.ca/media/uploads/ohrc\\_creed.pdf](http://www.religionanddiversity.ca/media/uploads/ohrc_creed.pdf) for more information about acceptable themes of submissions and the selection process for submissions.