

2025 08 18 letter to Council re Charter Challenge Decision Implications for Brampton

The purpose of this correspondence is to highlight the recent Charter Challenge decision by the Ontario Superior Court Justice regarding Ontario's Bill 212. Justice Schabas made a landmark ruling on July 30, siding with cycling and safety advocates, finding the government's actions violated Canadians' Charter Rights under Section 7. Although this ruling was specific to Toronto bike lanes on Bloor, Avenue and Yonge, there are important legal implications for City of Brampton as Council considers adjustments to current cycling infrastructure and to the City's Transportation plans. The following quotations taken from the 41-page judgment highlight four areas: **safety, congestion, equity and health**. We need to consider these areas as our City continues its rapid growth and the need to use limited road space as efficiently as possible. (Bolding has been added by me.)

1. "Government decisions that increase risk to people, particularly vulnerable road users like cyclists, are unconstitutional when not made in accordance with the principles of fundamental justice." [Cycle Toronto – EcoJustice Press Release, July 30, 2025](#)
2. **"Cyclists are not the cause of traffic**, they are among the most vulnerable road users, too often put at risk by infrastructure and policies that prioritize vehicle speed over human safety." Ibid.
3. **"Charter litigation is not a popularity contest** based on attitudes or impressions or unattributed hearsay. Cases should be decided on **well-grounded evidence**, not on anecdotal opinions." [104] [Cycle Toronto et al. v. Attorney General of Ontario et al, 2025 ONSC 4397, \(Justice Schabas – Reasons of Judgment\), July 30, 2025](#)
4. **Dr. Shoshanna Saxe**, Canada Research Chair in Sustainable Infrastructure and Associate Professor at the University of Toronto, provided expert evidence: **"investing in cycling infrastructure is one of the most powerful tools available to reduce congestion."** "When there are safe cycle routes that connect to **a network of other safe cycle routes** people take up biking in large numbers. In other words, **when it's safe, people bike.**" [82,83] Ibid.
5. **Dr. Linda Rothman**, Associate Professor at School of Occupational and Public Health, Toronto Metropolitan University provided expert evidence: "literature reviews consistently show that **cycle tracks are related to a reduction in the incidence and the risk of cycling collisions.**" [76] Ibid.
6. "An August 29, 2024 briefing note to the Ministry of Transportation advised that the **Canadian Automobile Association** recommended the **use of cycling infrastructure as a congestion management measure**, noting that bike lanes **increase active transportation mode share**, reduce demand on vehicle lanes, can **move 10 times more people than a car lane**, and that **adding a protected bike lane reduces collisions and injuries by 30 to 50%.**" [67] Ibid.
7. "An engineering firm retained by the government to move forward with the removal of the target bike lanes and restoration of lanes for motor vehicles, **CIMA**, provided a report on January 10, 2025, in which it stated: ... While removing the bike lanes and replacing them with traffic lanes may increase the vehicle capacity along the immediate length of the roadway, the **actual alleviation of congestion may be negligible or short-lived** due to other confounding factors or induced demand." [70] Ibid.
8. "In contrast, the **evidence presented by the Respondent** [government] **consists of weak anecdotal evidence and expert opinion which is unsupported, unpersuasive and**

contrary to the consensus view of experts, including the expert evidence, data and studies presented by the Applicants. The government's expert evidence does not address the key issue of whether restoring a lane of motor vehicle traffic will in fact alleviate congestion." [16] Ibid.

9. **Canadian Public Health Association**: "There are **serious equity implications** to Ontario's decision [Bill 212]: the perverse impacts will disproportionately fall on low-income and disabled individuals, increasing health inequities already experienced by these groups." [206] Ibid.
10. Justice Schabas concluded: "***The evidence is clear that restoring a lane of motor vehicle traffic, where it will involve the removal of the protected, or separated, nature of the target bike lanes, will create greater risk to cyclists and to other users of the roads. The inclusion of 195.10-195.14 of the HTA anticipates this effect as it immunizes the government from lawsuits for injuries people may suffer as a result of the removal of the target bike lanes.***" [12] Ibid.

It is the opinion of BikeBrampton that consideration must be given to these elements: **safety, congestion, equity and health**, for the City to avoid potential future Charter Challenges.

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