

**OSGOODE**

OSGOODE HALL LAW SCHOOL  
YORK UNIVERSITY

Professional Development  
**LLM**



Directors

**Professor Neil Brooks**, Osgoode Hall Law School

**Robert Hayhoe**, Miller Thomson LLP

## Part-time LLM Specializing in Charities and Not-for-Profit Law

### Outside Toronto?

You can complete your degree by way of short intensive courses held in Toronto. Visit [www.osgoodepd.ca](http://www.osgoodepd.ca) for more details.

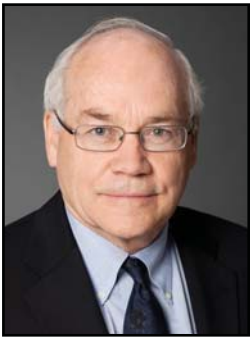
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**YORK**  
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**redefine THE POSSIBLE.**

Charities and non-profit organizations are an important part of the Canadian and world economy and society. The application of the law to these organizations and their supporters is evolving rapidly. This program, taught by leading academics and practitioners, is designed to facilitate an advanced theoretical and practical understanding of the place of charities and non-profit organizations in the legal system and the rules that apply to them.

## DIRECTORS

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**Professor Neil Brooks**  
Osgoode Hall Law School



**Robert Hayhoe**  
Miller Thomson LLP

## CURRICULUM

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All courses in this program are offered in an intensive format. Classes must be attended in person in Toronto.

### Degree Requirements

There are two options for completing this degree which must equal 36 credits.

#### Option I

- The required courses in the Charities and Not-for-Profit Law specialization [27 credits];
- 3 additional credits of coursework from outside the Charities and Not-for-Profit Law specialization\*; and
- A Major Research Paper (70 pages) in the Charities and Not-for-Profit Law specialization [6 credits].

#### Option II

- The required courses in the Charities and Not-for-Profit Law specialization [27 credits];
- 9 additional credits of coursework from outside the Charities and Not-for-Profit Law specialization\*; and
- A significant research paper (30 pages) in one of the Charities and Not-for-Profit Law courses as the means of evaluation.

*\*Credits outside the Charities and Not-for-Profit Law specialization may be taken from other Part-time LLM specializations scheduled during your period of enrollment only.*

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### Required Courses

Role and Regulation of the Voluntary Sector: Charitable Giving, Non-Profits and Public Policy [3 credits]

Trust Principles of Charity Law [3 credits]

The Legal Meaning of Charity [3 credits]

Non-Share Capital Corporations Law [3 credits]

The Special Status of Charities: Unique Issues and the Exceptional Treatment of Charities [3 credits]

Overview of US Charity and Not-for-Profit Law [3 credits]

Tax Regulation of Charities and Non-Profits [6 credits]

Tax Treatment of Charitable Gifts and Gift Planning [3 credits]

## COURSE DESCRIPTIONS

### **Role and Regulation of the Voluntary Sector: Charitable Giving, Non-Profits and Public Policy [3 credits]**

The central issue of public policy over the past 30 years in many western industrialized countries has been the respective roles of public and private institutions in providing collective goods. Although a major battle has been fought over the role of governments, as opposed to markets, an equally important issue has been the role of the voluntary sector in modern welfare states. The voluntary sector is comprised of organizations performing three quite different social functions: social engagement, the delivery of public services and the representation of community interests. No one disputes the importance of these organizations in enhancing the quality of life in all societies; however, their regulation and the extent to which, and the ways in which, the state should encourage their development has been a subject of debate over the past three decades and is on-going. In many ways, this is one of the most important debates in modern societies. This course will examine this debate and the full range of policy issues relating to the voluntary sector.

### **Trust Principles of Charity Law [3 credits]**

The trust is one of the most important and distinctive creations of the common law tradition. In its origins, it allowed gratuitous transfers of land that were otherwise difficult or impossible. It evolved into a crucial element of the legal structures by which wealthy English families held land from generation to generation. In the nineteenth century it took on another life as a business organization, and the trust began to change from a system for preserving particular property intact, to a system for managing wealth, the particular form of which changed from time to time.

From its very origins, the trust institution has been a crucial tool in charitable giving. Quite apart from trusts created intentionally, beginning in the seventeenth century the courts began to impose trusts, by operation of law, in certain cases.

The modern law of trusts reveals all of these historical strands and is a crucial part of the private law landscape in the common law tradition. In this introduction to Equity and the law of Trusts, we will see that in the modern world the trust is used to hold property and to manage wealth. It is used in gratuitous transfers and in purely commercial contexts, and trusts arising by operation of law are more important today than they have ever been.

### **The Legal Meaning of Charity [3 credits]**

Two questions recur in charity law: (1) How does the law define charity? (2) What is the legal significance of charity? This course will explore each of these questions.

With respect to the legal definition of charity, the course

will explore the jurisprudence dealing with the four “heads” of charity: the relief of poverty, the advancement of religion, the advancement of education and other purposes of public benefit. Attention will be paid to the various doctrines that have developed to restrict legal charity, e.g. the doctrine of political purposes, which precludes institutions with political purposes from qualifying as charitable. The rationales employed by courts for granting or denying charitable status will be critically examined with a view to developing a theory of “charity”.

With respect to the legal significance of charity, the course will cast the legal privileges of charitable status as a defining attribute of legal charity. Were it not for the property, trust and tax law privileges associated with charitable status, the law would not distinguish between charitable and non-charitable purposes. The course will explore the synergy between the defining and the privileging of charity in law. The various ways in which these privileges have influenced the legal meaning of charity will be given particular attention.

### **Non-Share Capital Corporations Law [3 credits]**

This course provides a theoretical and practical introduction to the law of non-profit organization. It covers the unincorporated association and the non-share capital corporation form and provides detail on all of the relevant Canadian corporate statutes.

### **The Special Status of Charities: Unique Issues and the Exceptional Treatment of Charities [3 credits]**

This course deals with a range of circumstances in which charities have special status and examines the rationale behind the unique treatment of charities. Topics include: the special treatment of real property belonging to charities; the legal status of clergy as distinct from conventional employees; the treatment of religious charities in administrative law; the privilege afforded to priest-penitent and other forms of religious communication; the treatment of charities under the *Trade-marks Act*; and, unique human rights issues facing charities.

### **Overview of US Charity and Not-for-Profit Law [3 credits]**

Charities and not-for-profit organizations operating in the United States are governed by a complex web of federal and state laws that impose legal duties on directors, trustees, and officers, restrict the activities of such organizations, and provide valuable tax and other benefits. The purpose of this course is to provide an overview of these legal frameworks as well as to describe how these rules impact Canadian not-for-profit organizations that seek to be active or fundraise in the United States. It will cover the following topics: the possible legal forms for not-for-profit

organizations; the duties of directors and trustees; the restrictions on the activities of not-for-profit organizations, related tax and other benefits enjoyed by such organizations; and the rules governing Canadian charities that seek to operate in the United States, including the relevant provisions of the Canada-US Tax Treaty.

### **Tax Regulation of Charities and Non-Profits [6 credits]**

This course will provide students with a policy-based understanding of the tax regulatory issues applicable to Canadian registered charities and non-profit organizations.

### **Tax Treatment of Charitable Gifts and Gift Planning [3 credits]**

This course will provide students with an understanding of how the *Income Tax Act* treats charitable gifts as well as the common tax planning structures utilized in the charitable context. We will examine the concepts underlying the structure of the donation tax benefits and the restrictions

thereon in the *Income Tax Act*. The course will focus on the various types of gifts that are eligible for beneficial tax treatment and the tax planning issues related to each type. Students' knowledge will be developed through the use of case studies which will become increasingly complex as their knowledge of the subject matter increases.

### **Major Research Paper [6 credits]**

A Major Research Paper (MRP) of approximately 70 pages may be completed on an approved topic in Charities and Not-for-Profit Law, provided appropriate supervision is available.

The MRP should go beyond merely describing legal developments to include independent critical analysis of its subject matter. It should be work of publishable quality. You will be required, at a minimum, to submit to your supervisor an outline and bibliography for approval before writing your paper. The final paper is marked on a pass/fail basis.

**Note: Curriculum and course descriptions are subject to change.**

## **TUITION AND FEES**

Tuition and fees for the Part-time LLM are currently \$20,153, payable in six installments throughout the program. In addition, a \$15 administrative charge is levied by the Faculty of Graduate Studies each term. Fees include required course materials. Light meals are provided for students attending classes in person in Toronto.

Tuition fees are set by the York University Board of Governors and are subject to change at any time. Students who take longer than six terms to complete their program may be subject to additional tuition charges.

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## **FOR MORE INFORMATION CONTACT**

**Sophie Seventikidis**, Admissions and Client Services Assistant  
☎ 416.673.4670 or toll free within Canada at 1.888.923.3394  
✉ admissions-opd@osgoode.yorku.ca

**APPLY NOW FOR WINTER 2011! ENROLLMENT IS LIMITED.**