

Attn:

Hon. Ravi Kahlon, Minister of Housing
Government of British Columbia
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June 23, 2023

VIA EMAIL ONLY

Dear Hon. Ravi Kahlon, Minister of Housing,

Re: The Province's Ongoing Support for Forced Evictions of Encampment Residents

Thank you for your response (the "Response") to our joint submission to the Federal Advocate (the "Submission"). The BCCLA in turn responded with a request to meet with you to discuss our concerns, however, no response was provided.

As cited in your Response, we have reviewed *Belonging in BC* and the *Downtown Eastside Provincial Partnership Plan*. We are glad that you "understand the importance of ensuring people sheltering in encampments are safe, healthy and treated with dignity", however, neither these plans nor your current actions reflect this.

On May 23rd, the Province announced its support of the City of Abbotsford's decision to clear the Lonzo Park and Ride encampment.¹

We are greatly concerned by the Province's contradictory response to the recent and ongoing municipal decampments in Vancouver and Abbotsford.² Forced evictions are illegal and inhumane.³ They are a violation of international human rights law, a gross infringement on

¹ CBC News, "Controversial Abbotsford tent encampment to be cleared to make way for new shelter", 13 June 2023, online: < <https://www.cbc.ca/news/canada/british-columbia/abby-tent-encampment-to-be-cleared-1.6874792>>

² Elizabeth McSheffrey & Kamil Karamali, "'We don't think it's safe': BC to help Abbotsford clear out 'problematic' encampment" (23 May 2023), online: <<https://globalnews.ca/news/9717949/bc-clear-up-problematic-encampment-abbotsford/>>; City of Vancouver, "City of Vancouver to bring East Hastings encampment to a close", (5 Apr 2023), online: <<https://vancouver.ca/news-calendar/city-of-vancouver-to-bring-east-hastings-encampment-to-a-close.aspx>>

³ UN Special Rapporteur on the right to adequate housing "Forced Evictions", online: <<https://www.ohchr.org/en/special-procedures/sr->

encampment residents' section 7 and 12 Charter rights, and perpetuate this dire human rights crisis,

To uphold your Ministry's commitment to a human-rights centered approach to the housing crisis, the Province must both support municipalities to make decisions in accordance with constitutional and human rights and hold municipalities accountable. The Province has a responsibility to end the continued illegal evictions of encampment residents. In this spirit, we urge you to stop the City of Abbotsford from forcefully removing the residents of the Lonzo Park and Ride encampment

City of Vancouver Decampment and the Lack of Housing Alternatives

On April 5th, City of Vancouver (the "City") workers accompanied by VPD Officers began the forcible decampment of the East Hastings encampment, removing an estimated 94 structures between April 5th and 6th.⁴ They did this knowing there was not enough shelter beds or alternative housing to accommodate those who were displaced.⁵ Ongoing enforcement has continued in the months following.

The BCCLA, Pivot Legal Society ("Pivot") and housing experts agree with you that encampments are not a "safe or suitable" solution to the housing crisis, nor do they constitute "adequate" housing as defined by international human rights law and recognized under the *National Housing Strategy Act (NHS)*.⁶ However, it is well-established by recent case law and acknowledged by the Province that there are not sufficient units to house all those who are currently sheltering outdoors.⁷

In the absence of long-term, adequate, housing, encampments can be a safer alternative to sheltering in isolation or in emergency indoor shelters, which are often inaccessible for

housing/forcedevictions#:~:text=Forced%20evictions%20constitute%20gross%20violations,treatment%2C%20and%20freedom%20of%20movement.>

⁴ City of Vancouver, "City of Vancouver provides update on East Hastings" (14 Apr 2023), online: <https://vancouver.ca/news-calendar/city-of-vancouver-provides-update-on-east-hastings.aspx>; CBC News, "Controversial Abbotsford tent encampment to be cleared to make way for new shelter", 13 June 2023, online: <<https://www.cbc.ca/news/canada/british-columbia/abby-tent-encampment-to-be-cleared-1.6874792>>

⁵ Nathan Griffiths, "What internal City of Vancouver records reveal about removing the DTES camp" (4 Jun 2023), online: <<https://vancouver.sun.com/news/local-news/what-internal-vancouver-records-reveal-about-removing-downtown-eastside-camps>>

⁶ Leilani Farha & Kaitlin Schwan, *A National Protocol for Homeless Encampments in Canada*, UN Special Rapporteur on the Right to Housing (30 April 2020), online: <<https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>>

⁷ Government of British Columbia, *Belonging in BC* (2023), p. 8; *Bamberger v. Vancouver (Board of Parks and Recreation)*, 2022 BCSC 49 at paras 98-124.

encampment residents.⁸ Decampment without adequate and accessible housing is an egregious violation of international human rights law and the right to housing as established by the *NHSA*.⁹

We are aware of the 300 new units referred to in your Response. However, these units do not fulfill your government's responsibility to provide alternative housing to evicted residents. The addition of three hundred subsidized units does not replace the housing that will be lost over the same three months. The closing of Larwill Place alone will negate the new units added in the same month.¹⁰ In other words, there is no net gain in available housing units. Your government is continuing a longstanding pattern of repeatedly announcing new units while failing to acknowledge the simultaneous loss of housing for low-income people, falsely painting a picture of progress even as the number of unhoused people rises.

The City claimed to provide shelter space to decamped residents as a “dignified and safer option compared to encampments” in the absence of long-term housing.¹¹ The Province echoed these comments, with Premier David Eby saying “We have space in shelters right now.”¹²

First, newly released internal emails reveal that City officials knew there was not enough indoor shelter space to accommodate all those the City planned to evict.¹³ The City's own report suggested less than a dozen shelter beds were available to accommodate the 100-plus residents to be evicted. Community organizers who were present at the decampment reported finding only one available bed for the night on April 5th, leaving dozens without any shelter after the City seized their tents and belongings.¹⁴

⁸ *Abbotsford (City) v Shantz*, 2015 BSCS 1909 at para 82; Flynn, A., Hermer, J., Leblanc, C., Macdonald, S-A., Schwan, K., Van Wagner, E. 2022. *Overview of Encampments Across Canada: A Right to Housing Approach*. The Office of the Federal Housing Advocate.

⁹ UN Special Rapporteur on adequate housing, *Guidelines for the Implementation of the right to adequate housing*, 2020 (A/HRC/43/4), online: <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement>>

¹⁰ Nate Crompton, “Losing More than We Gain”: An Interview with Jean Swanson, *The Mainlander* (26 May 2023), online: <<https://themainlander.com/2023/05/26/losing-more-housing-than-we-gain-an-interview-with-jean-swanson/>>

¹¹ City of Vancouver, “City of Vancouver provides update on East Hastings” (14 Apr 2023), online: <<https://vancouver.ca/news-calendar/city-of-vancouver-provides-update-on-east-hastings.aspx>>

¹² Frances Bula & Andrea Woo, “Vancouver planning to escalate removal of some encampments, documents show” (3 April 2023), *The Globe and Mail*, online: <https://www.theglobeandmail.com/canada/british-columbia/article-vancouver-planning-to-escalate-removal-of-some-encampments-documents/>

¹³ Nathan Griffiths, “What internal City of Vancouver records reveal about removing the DTES camp” (4 Jun 2023), online: <<https://vancouverun.com/news/local-news/what-internal-vancouver-records-reveal-about-removing-downtown-eastside-camps>>

¹⁴ Molly Beatrice and Hamish Ballantyne, “Commentary: The Hastings street sweep does nothing to address homelessness” (6 Apr 2023), online: <<https://www.straight.com/news/commentary-hastings-street-sweep-does-nothing-to-address-homelessness>>

Second, shelter space is not housing. For some unhoused people shelters may be the best of inadequate alternatives, for others, they do not provide the safety and stability that encampments do. Case law has repeatedly affirmed that available shelter space is often not accessible for encampment residents, either due to health and safety concerns or other barriers like the inability to shelter with a spouse or store belongings.¹⁵ According to the BC Supreme Court, the City has a responsibility to confirm both the availability *and* accessibility of shelter space before decamping people.

When asked to address the lack of temporary shelter beds, Mayor Ken Sim justified the City's decision to proceed with the eviction without adequate shelter space because "people have been turning down shelter space" for eight months.¹⁶ Refusal of shelter spaces suggests that the spaces being offered are not adequate and/or accessible and does not justify the City's actions. When unhoused residents make the choice to refuse offers of shelter and housing, the BCCLA and Pivot support that they are making a reasonable and rational decision connected to their needs and desire for safety and dignity.

Ongoing and Intersecting Violations and Harms

As the climate crisis continues to manifest extreme weather conditions and governments continue to fail to respond to the toxic drug supply, the threat of death faced by those who are forcibly decamped will only increase.

As a direct result of the City's actions, many have been left to shelter outdoors without protection from the elements. Over April 5th and 6th, by the City's own count, dozens of tents were destroyed and bins of personal belongings impounded.¹⁷ Destruction of tents and seizure of personal belongings has been ongoing as City officials continue enforcement of the decampment accompanied by VPD officers. For many, seizure of their shelters and possessions means they are left with nothing. There are major barriers to reclaiming seized items from the city for those without a permanent address or a phone, leaving residents unable to reclaim personal property from the state, including medical equipment and gear necessary for surviving outdoors. We are

¹⁵ Homelessness Services Association of BC, et al., *Vancouver Homeless Count 2019*. Online: < https://vancouver.ca/files/cov/vancouver-homeless-count-2019-final-report.pdf?utm_source=vancouver%20is%20awesome&utm_campaign=vancouver%20is%20awesome%3A%20outbound&utm_medium=referral>; *Abbotsford (City) v Shantz*, 2015 BSCS 1909 at para 82; *Prince George (City) v Stewart*, 2021 BCSC 2089 at para 74.

¹⁶ Mike Howell, "Vancouver mayor on ending East Hastings encampment: 'We're not letting up'" (13 Apr 2023), online: < <https://www.vancouverisawesome.com/local-news/vancouver-mayor-on-ending-east-hastings-encampment-were-not-letting-up-ken-sim-6851135>>

¹⁷ City of Vancouver, "City of Vancouver provides update on East Hastings" (14 Apr 2023), online: <<https://vancouver.ca/news-calendar/city-of-vancouver-provides-update-on-east-hastings.aspx>>

concerned by reports from community advocates that most of those evicted have not been able to retrieve their items from the City.

Forcing unhoused people to sleep outdoors without the ability to construct shelter is a violation of their section 7 rights as it constitutes a threat to their health and safety.¹⁸ The City's refusal to halt the decampment due to low temperatures and heavy rain further jeopardized the safety of decamped residents and violates the *National Protocol For Homeless Encampments in Canada*.¹⁹ For several nights following the initial decampment, a warming centre organized by community advocates was the only protection against sub-zero temperatures available as evictions continued in the absence of adequate housing. As roving enforcement continues along the Hastings corridor and temperatures become more extreme into the summer, threats to the health and safety of unhoused and inadequately housed people will increase.²⁰ City staff have acknowledged that SROs are unsafe, including lacking proper ventilation.²¹ Residents will head outside again to escape crushing indoor heat, only to have their shade structures removed by the City.

Decamped residents also face a heightened threat to their safety in the context of the overdose crisis. Decampments disrupt access to harm reduction services and using alone increases the risk of fatal overdose.²² While on April 14th, the City reported Vancouver Fire and Rescue Services (VFRS) saw a decrease in their overdose-related calls over April 3rd to 9th, Vancouver Coastal Health authority reported an overall rise in overdoses every week in April.²³

The Hastings Street encampment provided residents with access to life-saving resources like Overdose Prevention Services, supervised consumption at Insite, and harm-reduction supplies.

¹⁸ Victoria (City) v Adams, 2009 BCCA 563 at paras 36-41.

¹⁹ Leilani Farha & Kaitlin Schwan, *A National Protocol for Homeless Encampments in Canada*, UN Special Rapporteur on the Right to Housing (30 April 2020), online: <<https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>>

²⁰ British Columbia Coroners Service, "Extreme Heat and Human Mortality: A Review of Heat-Related Deaths in B.C. in Summer 2021 (7 June 2022), online: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/extreme_heat_death_review_panel_report.pdf

²¹ Council Report. "Improving Life Safety in SROs: Updates and Grant to SRO-Collaborative", 31 Jan 2023. Online: <<https://council.vancouver.ca/20230131/documents/r1.pdf>>

²² Papamihali, K., Yoon, M., Graham, B. *et al.* Convenience and comfort: reasons reported for using drugs alone among clients of harm reduction sites in British Columbia, Canada. *Harm Reduct J* 17, 90 (2020). <https://doi.org/10.1186/s12954-020-00436-6>

²³ City of Vancouver, "City of Vancouver provides update on East Hastings" (14 Apr 2023), online: <https://vancouver.ca/news-calendar/city-of-vancouver-provides-update-on-east-hastings.aspx>; Vancouver Coastal Health, "VCH Overdose Surveillance Updates" Week 14, 15, and 16, online: <<https://www.vch.ca/sites/default/files/2023-04/VCH-overdose-surveillance-updates-Week-14-2023.pdf>>; <<https://www.vch.ca/sites/default/files/2023-04/VCH-Overdose-surveillance-updates-Week-15-2023.pdf>>; <https://www.vch.ca/sites/default/files/2023-04/VCH-Overdose-surveillance-updates-Week-16-2023.pdf>.

Unhoused people must now choose between sheltering near these services and facing continued harassment by City workers and VPD officers, or sheltering in less enforced and more isolated areas, increasing the risk of overdose to an already at-risk population in the midst of a public health emergency that has already caused over 11,000 preventable deaths.²⁴

Stop Impending Decampment in Abbotsford

The City of Abbotsford, supported by yourself and the Province, has given residents at the Lonzo Park and Ride encampment until June 26th, 2023 to vacate.²⁵ Residents of the encampment state that they have not been offered housing and feel they have nowhere to go.²⁶ According to BC211's Shelter list, over June 22nd and 23rd, there were zero shelter beds available in Abbotsford. Neither your government nor the City of Abbotsford has released documents to the contrary. We are greatly concerned that the Province is again complicit in a decampment with the knowledge that there is no adequate housing, or even shelter space, available to accommodate all those who will be displaced, and in the absence of meaningful consultation with encampment residents.

Supporting forced evictions criminalizes the most impacted victims of the housing crisis for creating safer shelter in the absence of affordable and adequate housing. To reiterate from our Submission, this has been found to constitute cruel and unusual punishment by a Court of Appeal in the United States, and we argue violates section 12 of the *Charter* and is prohibited by Article 7 of the *International Covenant on Civil and Political Rights*, which is binding on Canada.²⁷

In light of the ongoing and dire repercussions of the East Hastings decampment, we are confused and disturbed by your role in supporting the City of Abbotsford in this regard.

²⁴ ²⁴ BC Ministry of Public Safety and Solicitor General "Toxic-drug supply claims nearly 2,300 lives in 2022: BC Coroners Service" (31 Jan 2023), online: <<https://news.gov.bc.ca/28155/>>

²⁵ CBC News, "Controversial Abbotsford tent encampment to be cleared to make way for new shelter", 13 June 2023, online: <<https://www.cbc.ca/news/canada/british-columbia/abby-tent-encampment-to-be-cleared-1.6874792>>

²⁶ Michele Brunoro, "Dangerous Abbotsford encampment being shut down, new shelter promised to residents" (13 June 2023), online: <<https://bc.ctvnews.ca/dangerous-abbotsford-encampment-being-shut-down-new-shelter-promised-to-residents-1.6439315#:~:text=Notorious%20homeless%20camp%20will%20be%20dismantled&text=After%20years%2C%20Abbotsford%27s%20most%20dangerous,fire%20services%20and%20the%20community.>>>

²⁷ ROBERT MARTIN V. CITY OF BOISE, No. 15-35845 (9th Cir. 2019).

The Province Must Uphold the Rights of Encampment Residents

As outlined above, the forced eviction of encampment residents is a dire human rights emergency. The actions of the municipal governments continues to jeopardize the lives and well-being of the most marginalized people in our society. Bold action is necessary if your Ministry intends to uphold the rights of unhoused people.

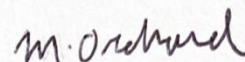
We urge the Province and your Ministry to responsibly use your authority over municipalities in BC by issuing a moratorium on forced evictions. Until accessible and adequate housing is provided, we insist that you use your authority without delay to hold municipalities accountable for their unfettered actions in perpetuating this ongoing crisis.



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