

AUGUST 9, 2022

The Honourable Murray Rankin, M.L.A.
Attorney General and Minister Responsible for Housing
PO Box 9044 Stn Prov Govt
Victoria, BC V8W 9E2

Kennedy Stewart
Mayor, City of Vancouver
3rd Floor, City Hall, 453 West 12th Ave
Vancouver, BC V5Y 1V4

Via Email: AG.minister@gov.bc.ca; kennedy.stewart@vancouver.ca

RE: Encampment response on Hastings Street in Vancouver

Dear Minister Rankin and Mayor Stewart:

I am writing to express my concerns about plans for the hasty removal of the encampment on Hastings Street and the eviction of the residents there.

I understand from both City and Ministry staff that about half of the 400 Hastings Encampment residents may have shelter or housing available to them. I also understand that there is no housing or shelter available for the other evicted people and that plans to expand housing options are in development but have long and uncertain timelines. Therefore, your governments are aware that the execution of the eviction order will occur before adequate housing options – or even shelter – are available to all residents.

In my view, the eviction of people and dismantling of their homes without adequate consultation and collaboration with those being evicted and without providing suitable alternatives is contrary to human rights law.

The right to housing

The right to housing is a human right deriving from the inherent dignity of the person. In 1976 Canada ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), which affirms the right of all human beings “to an adequate standard of living ... including adequate ... housing, and to the continuous improvement of living conditions.”

Ratification of ICESCR was agreed to by the provinces and territories and commits all levels of government to the progressive realization of housing as a human right such that everyone has access to

adequate housing as soon as this can be achieved within available resources. The federal government recently affirmed its commitment to further the progressive realization of the right to housing with the passing of the *National Housing Strategy Act*, and instituted mechanisms for public reporting and independent monitoring. British Columbia – and the local governments therein – also have a legal responsibility to take action to ensure the progressive realization of the right to adequate housing through improving laws, regulations, policy approaches and investments.

The UN Special Rapporteur on the Right to Housing's [National Protocol for Homeless Encampments in Canada](#) spells out the application of the right to housing in the context of forced eviction of encampment residents:

International human rights law does not permit governments to destroy peoples' homes, even if those homes are made of improvised materials and established without legal authority. Governments may not remove residents from encampments without meaningfully engaging with them and identifying alternative places to live that are acceptable to them. Any such removal from their homes or from the land which they occupy, without the provision of appropriate forms of legal protection, is defined as a 'forced eviction' and is considered a gross violation of human rights. The removal of residents' private property without their knowledge and consent is also strictly prohibited (page 3).

Safety considerations

All levels of government have an obligation to work together to ensure that human rights are fulfilled by exploring all available options. I want to acknowledge the efforts that have been made to provide food, water, sanitation and secure and accessible storage options, and to promote fire safety in the Hasting Encampment.

I understand that important concerns remain including issues of fire safety, access to services, and reports of violence. These must be addressed for the wellbeing of all in the community. However, the proposed approach undermines the human dignity and autonomy of those who have made their homes in the Hastings Encampment by forcing their eviction without consultation and will exacerbate other health and safety concerns (especially during a heat wave and in the context of two ongoing public health emergencies).¹ It is reasonable to assume the residents of the encampment have formed a community partly out of a belief that it provides for their safety. These various safety concerns must be appropriately weighed.

¹ See for example the July 29 letter you received from Pivot Legal Society

Procedural fairness

A human rights-based approach centres the rights, needs and perspectives of the most marginalized through meaningful participation, inclusion and empowerment. As affirmed in [Bamburg v. Vancouver](#) regarding the rights of those sheltered in Vancouver's CRAB Park, local governments have a duty of procedural fairness, and "[residents] have a right to notice and a right to be heard, as their rights, privileges, or interests are uniquely affected" (para 69).

Some in the Hastings Encampment community have expressed feeling blindsided by the eviction order.² While efforts have been made to provide information and to consult many residents about their individual needs, I am unaware of a process for engagement with the community to discuss concerns and understand perspectives before policy decisions were made.

I urge you to fulfill your obligations of procedural fairness as far as the urgency of the fire order allows. At minimum, meaningful collaboration and consultation with the residents of the Hastings Encampment about how to ensure the satisfaction and preservation of their needs and rights is essential to fulfilling your governments' human rights obligations. This may reveal new, collaborative approaches to ensuring the safety of residents until such time as adequate housing is available.

While the health and safety concerns currently facing residents in the Hastings corridor have now become urgent, this urgency cannot be used to justify overriding human rights without exploring all reasonable alternatives, especially when such concerns were fully foreseeable. Indeed, we can already foresee them arising in future encampments and action to prevent them must be taken now to prevent a replay of the same situation.

Response requested

I look forward to hearing back from you in as timely a way as the situation calls for. I also request a response to my May 25, 2022 letter to the Ministry of the Attorney General regarding gaps in the provincial government's Encampment Guidelines.

Unfortunately, this is not the first or last encampment of unhoused people in Vancouver or across British Columbia. Innovative housing solutions such as the purchase of hotels has made a difference in recent years, but the housing pipeline in Vancouver has once more run dry. It is long past time for an upstream approach that transforms our social support systems such that they truly prevent homelessness and uphold human rights.

To that end, I also look forward to receiving a response to my April 25, 2022 letter to the Attorney General regarding the provincial government's forthcoming Homelessness Strategy.

² Kulkarni, Akshay. "As Vancouver's Downtown Eastside tent eviction drags on, community workers say they feel blindsided." CBC News. August 5, 2022. <https://www.cbc.ca/news/canada/british-columbia/dtes-tent-eviction-peer-workers-1.6543246>

To support my commitment to public accountability and responsibility to serve the people of British Columbia, this letter is being made public.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kasari Govender', with a stylized flourish extending to the right.

Kasari Govender

Human Rights Commissioner

CC: Karen Fry, Fire Chief, City of Vancouver (karen.fry@vancouver.ca)