

August 22, 2018

Mayor and Council  
Vernon City Hall  
3400 – 30th Street  
Vernon, BC V1T 5E6

**VIA EMAIL** [mayor@vernon.ca](mailto:mayor@vernon.ca); [sanderson@vernon.ca](mailto:sanderson@vernon.ca); [jcunningham@vernon.ca](mailto:jcunningham@vernon.ca)  
[clord@vernon.ca](mailto:clord@vernon.ca) ; [dnaah@vernon.ca](mailto:dnaah@vernon.ca); [bquiring@vernon.ca](mailto:bquiring@vernon.ca)

Dear Mayor and Council,

**RE: Proposed Bylaw to regulate shopping carts**

I am writing on behalf of Pivot Legal Society concerning a planned Bylaw to regulate shopping carts, and more broadly concerning the recommendations of the Activate Safety Task Force.

I request that this correspondence be included in the official record before Council when voting on whether or not to pass a bylaw banning shopping carts from public spaces.

Pivot Legal Society is a non-profit legal advocacy organization that works to undo the social stigma faced by marginalized people. Pivot's mandate is to take a strategic approach to social change, using the law to address root causes of issues that undermine the quality of life of those most on the margins. Pivot takes a responsive approach to community need through direct consultation with people most affected by laws and state actions that entrench poverty and stigma. Our work in relation to homelessness focuses on fighting to end the criminalization of homeless people, challenging discriminatory laws and law enforcement practices that violate human rights, asserting the rights of all to healthy secure housing, and empowering people experiencing homelessness to take steps to improve their lives. We have begun a focused project on the human rights responsibilities of municipalities and how that is reflected in municipal governance. To this end we have a particular interest in any bylaws that that are addressed at or impact on people experiencing homelessness.

**Proposed ban on shopping carts**

The proposed bylaw would ban shopping carts from public spaces in Vernon. Our view is that this violates British Columbia's *Human Rights Code*, the *Charter of Rights and Freedoms*, and basic human decency.

The bylaw is clearly targeted at people who are homeless and will have a disproportionate impact on them. The mandate of the Activate Safety Task Force makes this clear. We remind Council that persons who experience homelessness are disproportionately Indigenous or live with physical and mental disabilities—groups of people who are protected from discrimination under BC's *Human Rights Code*. In fact, Vernon's most recent homeless count shows that 42% of people interviewed identified as aboriginal or having aboriginal ancestry.<sup>1</sup> Homelessness amongst Indigenous people is an outcome of

---

<sup>1</sup> John Howard Society North Okanagan/Kootenay. 2017. Our Homeless Count: Survey Results for Vernon BC

histories of land dispossession, trauma from residential schools, and systemic exclusion from mainstream society. Bylaws and policies that negatively impact them serve to exacerbate those ongoing harms of colonization.

Further, British Columbia's 2011 Health of the Homeless Survey Report found that a majority of homeless persons suffered from emotional and physical abuse, brain injuries, and substance use disorders.<sup>2</sup> These are disabilities that can severely impact on earning capacity. However, rather than attempt to alleviate historical disadvantage or ameliorate the circumstances of people living with disabilities, the proposed bylaw seeks to punish persons for doing what they can to survive under extreme hardship.

We also note that the proposed bylaw would run afoul of fundamental protections of personal security guaranteed under the *Charter of Rights and Freedoms*. Personal possessions are an essential component of how people maintain themselves. Persons with housing use that housing to store possessions that are necessary to living a secure and dignified life--such as clothes, medicine, notebooks, and tools. Persons who experience homelessness often have no choice but to carry their bare essentials with them. Any policy or bylaw that presumptively treats the possessions of homeless people as garbage or prohibits their ability to transport and safeguard their possessions violates standards of basic human dignity and further puts their security of the person in peril.

Vernon's homeless do not live in public spaces by choice but as a result of Vernon's high housing costs and insufficient social supports. The Fall 2017 homeless count found that the numbers of homeless persons far outstripped available shelter beds, and of 153 persons counted, 44 were found living in homeless camps.<sup>3</sup> We recognize that local business have expressed concern about the free movement of pedestrians or an aesthetically pleasing downtown core. These goals, however, are insufficient to justify infringing on basic *Charter* rights. The City has many other, less intrusive avenues for addressing these concerns which could offer a helping hand, rather than directly punishing and further criminalizing people.

### **Activate Safety Task Force**

The proposed bylaw is only one of a series of ideas presented by the Activate Safety Task Force. We are concerned about the mandate, goals, composition of, and recommendations of that project. The name of the Task Force alone presumes that people experiencing homelessness are a risk to the safety of housed people and businesses.

The Task Force was singly focused on the concerns of business owners, who, in turn, blamed Vernon's street populations for problems with their businesses. There appears to have been no investigation into the causes of homelessness or systemic solutions, nor evaluation of whether business owners' claims were in fact justified. The Task Force membership was highly skewed towards business owners, with no representation from health and social service providers, or persons with experience of homelessness.

While not only biased in composition, there appears to have been no provision for persons experiencing homelessness (or their supporters) to be heard concerning proposals that would affect them. Nor does the Task Force appear to have heard from health professionals, harm reduction advocates, homelessness experts, and others with knowledge of what has and has not worked across North

---

<sup>2</sup> Krausz, R. and Schuetz, C. 2011. British Columbia Health of the Homeless Survey Report. Centre for Health Evaluation and Outcome Sciences, and Institute of Mental Health - University of British Columbia: Vancouver.

<sup>3</sup> John Howard Society North Okanagan/Kootenay. 2017. Our Homeless Count: Survey Results for Vernon BC

America and Europe and who might have helped devise more humane solutions. The tone of the Recommendations is highly authoritarian and treats persons who experience homelessness entirely in the negative—as objects to be regulated rather than persons with needs and goals.

The Task Force’s initiatives are fundamentally reliant upon the “Broken Windows” theory, a failed and oppressive theory of public space governance which has been widely discredited as criminalizing the poor and blaming the victim while doing little to address serious crime. Resorting to police power and ignoring underlying problems will simply create more harm.

Yours,



Noah Quastel  
Staff Lawyer & Policy Researcher  
Pivot Legal Society  
Direct: 604-255-9700 ext.121  
noah@pivotlegal.org