

May 21, 2019

Mayor and Council
Squamish Municipal Hall
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VIA EMAIL kelliott@squamish.ca; eandersen@squamish.ca; jfrench@squamish.ca; drace@squamish.ca; ahurford@squamish.ca; cpettingill@squamish.ca; jstoner@squamish.ca

Dear Mayor and Council,

RE: Proposed Bylaw to Regulate Camping

I am writing on behalf of Pivot Legal Society concerning planned Bylaw 2679, 2019 to regulate camping in the District of Squamish.

I request that this correspondence be included in the official record before Council when voting on whether to pass Bylaw 2679 (“the Bylaw”). I recognize that this is a late addition to the official record, but we only recently became aware of this draft Bylaw.

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 overnight camping

The proposed Bylaw would ban free public camping in the District of Squamish outside of two “Exempt Areas”. These two locations are both inaccessible by public transit and at a significant distance from municipal services, as per Schedule A to the draft Bylaw.

It is clear from publically available data that the District lacks sufficient, affordable, accessible shelter. This is evidenced, in part, by the existence of the Emergency Weather Program and Emergency Shelter, both administered by the Squamish Helping Hands Society.¹ This means there are homeless and precariously housed members of your community, who are struggling to protect their health and safety on an ongoing basis.

As government actors, Section 7 of the Canadian *Charter of Rights and Freedoms* mandates you not take steps that actively undermine the life, liberty and security of members of your community. In the 2015 case of *Abbotsford (City) v. Shantz*, the British Columbia Supreme Court made clear that the municipal responsibility to safeguard Section 7 of the *Charter* includes ensuring there is space where homeless community members can rest and meet their other basic needs.²

While the District has some legislative flexibility in determining the location of these spaces, neither the *Charter* nor basic human dignity permit the District to push homeless communities to the literal margins of their community. As The Honourable Chief Justice Hinkson explained in *Shantz*:

“A balanced and minimally impairing approach would take into consideration the proximity of such spaces to services for the City’s homeless and whether certain areas should be designated as environmentally sensitive, while ensuring that space exists in which the City’s homeless can sleep, rest, shelter, stay warm, eat, wash and attend to personal hygiene.”³

In light of the above, the proposed Bylaw would violate Section 7 of the *Charter*. We note that the above considerations are the bare minimum required by law in order to be plausibly *Charter* compliant. They by no means address what is needed to properly safeguard the health, safety and dignity of individuals who are homeless or precariously housed in your community – this includes people living in vehicles and motorhomes.

In addition, the Bylaw is in conflict with the BC *Human Rights Code*. The bylaw clearly targets people who are homeless and therefore will have a disproportionate impact on them. We remind Council that persons who experience homelessness are disproportionately Indigenous. Homelessness amongst Indigenous people is an outcome of 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.

In addition, a significant number of persons who experience homelessness also live with physical and mental disabilities; 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.⁴

The proposed Bylaw targets groups of people who are protected from discrimination under BC’s *Human Rights Code*. Rather than attempting 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.

¹ <https://www.squamishhelpinghands.ca/programs-services/shelter-solutions/>

² *Abbotsford (City) v. Shantz*, 2015 BCSC 1909.

³ *Ibid* at para. 278.

⁴ 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.

We recognize the City has expressed concern regarding summer campers. It is worth noting that Squamish has emergency winter shelter beds which they close each winter, necessarily increasing the number of homeless campers in summer months. More importantly, this Bylaw targets everyone who relies on public space to survive, in the midst of a nation-wide housing crisis. The District of Squamish has many other, less intrusive avenues for addressing these concerns, rather than directly punishing and further criminalizing people.

The need to speak with local homeless community

The District of Squamish needs to ensure that Bylaws aimed at recreational campers are not endangering the health and safety of community members who are already suffering at the intersections of, racism, mental health challenges and socioeconomic hardship. The District must undertake a systematic stigma audit to ensure this, and future bylaws, do not further harm these members of your community. A stigma audit will identify labels, knowledge gaps, misinformation and prejudices that are driving policies which intensify disadvantage and discrimination for people who rely on public space⁶.

The District needs to take proactive steps to engage with local community members who live and survive in public space and ensure that when they are taking steps to protect public places, they are not only protecting those spaces for people of means and privilege.

Sincerely,



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⁶ Bennett, D. and Larkin, D. J. (2018). Project Inclusion: confronting anti-homeless and anti-substance user stigma in British Columbia. (Vancouver: Pivot Legal Society), online: Pivot Legal Society: http://www.pivotlegal.org/full_report_project_inclusion_b