

TO:

Honourable John Horgan
Premier of British Columbia
PO Box 9041 Stn Prov Govt
Victoria BC V8W9E1

Honourable Shane Simpson
Minister of Social Development & Poverty Reduction
PO Box 9058 Stn Prov Govt
Victoria, BC V8W 9E2

Honourable Selina Robinson
Minister of Municipal Affairs & Housing
PO Box 9056 Stn Prov Govt
Victoria, BC V8W 9E2

Honourable Mike Farnworth
Minister of Public Safety and Solicitor General
PO Box 9010 Stn Prov Govt
Victoria BC V8W9E2

CC:

Dr. Bonnie Henry
Provincial Health Officer
PO Box 9648 Stn Prov Govt
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Dr. Patricia Daly
Chief Medical Health Officer
Vancouver Coastal Health
800 – 601 West Broadway
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**Mayor Kennedy Stewart,
City Manager Sadhu Johnston**
City of Vancouver
3rd Floor, City Hall
453 West 12th Ave
Vancouver, BC V5Y 1V4

April 24, 2020

Dear Premier Horgan, Minister Simpson, Minister Robinson and Minister Farnworth,

RE: Order respecting unsheltered people during COVID-19

Pivot Legal Society has recently received reliable reports that the Province of B.C. may be considering an order of enforcement against unsheltered people who do not access temporary accommodations made available to them during COVID-19.

We encourage the Province to open vacant hotels and other housing options for unhoused and precariously-housed individuals. Rapid access to permanent housing is a vital public health intervention in the context of dual public health crises. Current efforts, however, will presumably fall short of accommodating the Province's over 7,600 unhoused individuals. We write to express concern that in an attempt to secure housing options for unsheltered and precariously-housed individuals, the Province plans to rely on enforcement as part of its implementation strategy.

While the information we received has not been confirmed, the potential for enforcement has already spread amongst unsheltered people, adding to the existing climate of fear and uncertainty. Given the rapid pace of decision-making at this time, we write to provide urgent context about the harms of an enforcement-based approach to public health and housing during COVID-19.

The number of units on offer will not accommodate the total number of unhoused people in B.C.

There are well over 7,600 people living unhoused in B.C.¹, and in Vancouver alone there are well over 2,100.² Even the most concerted provincial emergency response will exclude some people—not only because of a numerical deficiency, but also as the accommodations on offer will surely be inaccessible to some populations. The temporary nature of emergency accommodations further complicates matters: with virtually no notice, unhoused people may be asked to sacrifice the “homes” they have created for themselves in order to transport their entire lives to a hotel room *when no certainty of long-term solutions is being afforded*.

Systemic barriers to accessing shelters

As B.C. Courts have recognized, assessments of “available” shelter must be both quantitative and qualitative. The mere existence of a housing unit does not necessarily make it available to all, as many people are unable to access shelters and housing for a variety of personal and social reasons.³ Public health initiatives, including housing, cannot be weaponized against individuals who are unable to access them. This is particularly true as barriers will disproportionately impact already discriminated-against populations: Indigenous people who have no meaningful access to culturally safe housing, trans people who cannot safely access the shelter system, sex workers whose livelihoods and safety are adversely impacted by guest restrictions, people who use drugs and people who rely on street-based economies to generate income.

Harms of enforcement and displacement

Provincial actors must recognize that any reticence to accept emergency housing on offer is grounded in people’s lived experience and deep awareness of their own needs and safety, not to mention a profoundly justified mistrust of emergency government “supports.” Those who cannot access the Province’s proposed accommodations, must be resourced so that they may continue to “shelter in place and be protected from further displacement efforts.

A growing number of public health organizations and advocates are calling on government actors to cease displacement of unhoused people for the duration of the epidemic.⁴ The right of unhoused people to occupy public space in order to take care of their health and safety needs has been recognized in the courts – the only reason this right has not advanced further is because government actors have consistently fought the advancement of the right to housing in Canada. Emergency powers, if they are truly intended to protect public health, should not be cynically deployed to clear encampments by force.

¹ 2018 Report on Homeless Counts in B.C, online: <https://hsa-bc.ca/2018-homeless-count.html>

² Vancouver Homeless Count 2018, online: <https://vancouver.ca/files/cov/vancouver-homeless-count-2018-final-report.pdf>

³ *Abbotsford (City) v Shantz*, 2015 BCSC 1909 at paras 81-82; *British Columbia v Adamson*, 2016 BCSC 584 at para 184.

⁴ “People Experiencing Homelessness and COVID-19”, Centers for Disease Control and Prevention, retrieved online (April 24, 2020): <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>;

“Housing is the Next Step to Mitigating Coronavirus”, National Law Centre on Homelessness and Poverty, March 11, 2020, retrieved online (April 24, 2020): <https://nlchp.org/housing-is-the-next-step-to-mitigating-coronavirus/>;

“Prioritize a COVID-19 Protection Plan for the Homeless”, Petition (signed by 25, 768 people as of April 24, 2020), retrieved online (April 24, 2020): <https://www.change.org/p/department-of-health-canada-and-city-of-vancouver-prioritize-a-covid-19-protection-plan-for-the-homeless>

BC Poverty Reduction Coalition, “BCPRC COVID-19 Emergency Response for Justice”, March 20, 2020, retrieved online (April 24, 2020): <http://bcpovertyreduction.ca/2020/03/emergency-response-for-justice/>

To reiterate, we support the use of vacant hotels to accommodate people who have been denied the ability to physically-distance and self-isolate during COVID-19. We strongly oppose the use of enforcement to achieve these ends. At a time when police-public interactions and B.C. jails and correctional facilities pose an exceptional risk of COVID-19 transmission, law enforcement and public health are more than ever working at distinct cross-purposes. In addition, if enforcement reflects the systemic issues that the Supreme Court of Canada and even police themselves acknowledge,⁵ it will be disproportionately waged against poor people as well as Black, Indigenous and other racialized peoples.

Invest in Peer Support and evidence-based public health responses

We continue to call upon the Province to adopt an evidence-based, public health-focussed response to unsheltered people. This approach must involve layered solutions that reflect the intersectional needs of unsheltered and precariously-housed individuals. Rather than considering enforcement to achieve public health goals, the Province should invest in the guidance and direction of peers and their allies to ensure the efficacy and appropriateness of its response.

We urge you to reconsider any heavy-handed approaches to “public health” at this time and welcome a discussion on the matters at hand.

Sincerely,

Pivot Legal Society

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⁵ Footnote 4: R v Le, 2019 SCC 34 at para 97