

Ministry of Attorney General
Legal Services Branch
1301 – 865 Hornby Street
Vancouver, BC. V6Z 2G3

Via Email

May 14, 2020

Dear Mr. Weintraub,

RE: Decampment of Topaz Park and Pandora Avenue Corridor

We write further to our telephone conversation with Minister Simpson on April 25, 2020 regarding Ministerial Order No. M128 (which has since been replaced by MO No. 150). We understand that you are counsel to the provincial government and BC Housing in regard to the forcible decampments of Topaz Park and the Pandora Avenue corridor. We ask that you provide a copy of this letter to your clients immediately.

At that time of our phonecall, we raised a number of concerns regarding the government's rapid and enforcement-based decampment plan for Oppenheimer Park, Topaz Park, and the Pandora Avenue Corridor, and identified a number of harms that we expected would result. You told us that you disagreed with our concerns and that we would have to wait to see how the process unfolded.

In our letter dated May 7 to Minister Simpson, we posed a number of questions concerning the eviction of the tent city at Oppenheimer Park. We have yet to receive an answer to any of these questions, including the following:

How does complete eviction of Oppenheimer Park prevent or alleviate the spread of COVID-19 more than allowing some homeless residents to remain there, shelter in place, and engage in appropriate physical distancing?

We have the same question concerning the pending evictions of the Pandora Avenue corridor and Topaz Park. We would appreciate an answer in advance of the Order's May 20, 2020 deadline to vacate these spaces.

The evictions in question are being carried out pursuant to the *Emergency Program Act*. Powers under this *Act* may only be exercised to the extent they are necessary to "prevent, respond to or alleviate the effects" of COVID-19.¹ To date, neither your office, nor any other government entity, has explained how complete decampment and closure of these spaces achieves these ends in the midst of an ongoing housing crisis where many people will remain unsheltered outside and without access to housing. In our opinion, the total evacuation of these sites amid housing and health crises is a misuse of the emergency powers afforded under

¹ *Emergency Program Act*, RSBC 1996, c 111, <<http://canlii.ca/t/52pvn>> retrieved on 2020-05-14, s. 10(1)

the Act and actually works at cross-purposes with public health best practices and the caselaw surrounding the displacement of homeless people absent adequate sheltering alternatives.

We have received ample reports from frontline service providers in Victoria making clear that the government's rapid, enforcement-based decampment process has caused immense harm to the local homeless community in that city. Attached to this letter are 15 statements, representing more than 20 peers, advocates and health professionals who provide services and supports to people living in the tent cities at Pandora and Topaz Park. These statements were crafted with immense labour and care by those who live and work on the ground. They raise concerns that the government is failing to make good on its promises; that the public relations messages do not reflect the lived experience; and that this process is causing immense, unnecessary harm.

We also note that while some of these statement were written over a week ago, recent conversations inform us that the situation on the ground is, if anything, worse than at the time these letters were first written.

No one claims that providing emergency housing to homeless people during a pandemic is an easy task, but it appears this government is prioritizing rapid decampment over substantive considerations of health and safety; prioritizing the appearance of "project complete" over the dignity of residents and solutions that are actually workable long-term. You are pressing forward despite intense backlash from the people on the ground, the very people you claim to be centering in this work.

Contrary to their titles, the "Encampment Health and Safety" Orders issued by Minister Farnworth contain no provisions for health or safety – they are strictly evacuation and enforcement orders. **For all the reasons set out below, these Orders need to be rescinded and this government and its contractors needs to rapidly reorient their work based on the clear, collective voice of people on the ground.**

Summary of Concerns

We urge you to read these statements as carefully as we have. We draw your attention to the following concerns, which are raised repeatedly throughout:

Not Consulting People With Lived Experience and Their Advocates

Service providers describe a complete lack of consultation with themselves and their clients – leading not only to the problems set out below, but also a general air of stress, panic and misinformation.

As one outreach worker describes: "The people who I support have never been asked by government what kind of housing or services they want and how that should be set up."² A social worker states "At no point were we consulted about our clients' needs and at no point were we asked to collaborate on a service plan."³ A harm reduction worker explains: "No level of government has asked the people who I support what housing and services they need, or sought their advice on how to do things. Government hasn't even given them access to basic information about what has been decided on. Government hasn't consulted with harm reduction workers either, or made any attempts to inform us about what is happening."⁴

This lack of transparency and insufficient client-engagement is a barrier to creating an informed strategy that comprehensively addresses COVID-19 in addition to the long-term needs and constitutional rights of homeless people.

² Statement 4

³ Statement 3

⁴ Statement 9

Not Anti-Oppressive or Trauma-Informed

Many of statements speak to the reality that the Province’s approach to decampment is traumatizing and oppressive. Service providers describe how ever-shrinking fences and the constant threat of enforcement is replicating historical trauma for many people living in the camps, including those who have experienced police violence and confinement in carceral and other institutional settings. The fences make people feel “trapped, caged in, and dehumanized and treated like zoo animals.”⁵

Harm Reduction workers have made clear to BC Housing how this process is “specifically traumatic for Indigenous people who have been through many rounds of forced government relocation enforced by police and are often heavily criminalized and overrepresented in the prison system... BC Housing is well aware of this issue already as it was raised when the tent city on the courthouse lawn was displaced following a similar decampment process, yet chose to enact this harmful model a second time and have continued to ramp up fencing despite being repeatedly told by multiple service providers how harmful and traumatizing this is.”⁶ As one harm reduction counselor explains, “Cultural safety isn’t part of the service model or planning”.⁷

The decampment process replicates previous enforcement actions at both tent cities and at individual encampments where police and bylaw officers have forcefully evicted people to nowhere, generally resulting in the loss of stability, community and possessions. Residents are understandably stressed and distrustful as a result.

Service providers say the approach has resulted in a “siege” mentality where people are scared to leave, for fear all their possessions will be gone when they return. This means people are failing to get their basic needs met in order to protect their belongings.

According to communications we received last Saturday, this fear proved true when police and contractors removed a number of tents they deemed occupied by “new residents”, contrary to the knowledge and statements of outreach workers.

Undermining Service Provision and Community Relationships

This traumatizing and enforcement-based eviction process has resulted in a large exodus of camp residents fleeing to unknown alternate locations. As one harm reduction organization explains: “due to this stress and anxiety, some people have fled the camps to find calmer and more isolated places to shelter, and support organizations are struggling to remain in contact with them. Many will not be included in this government initiative to temporarily house people and they will still require the same supports that those who are indoors do. We cannot afford to lose contact with people who are not moving to the hotels.”⁸

Many service providers can no longer find their clients, and express fear over people’s needs being met. For instance, one physician details how nurses can no longer find patients requiring prescription medications.⁹

Even for residents that were able to access the temporary accommodations, the fast-paced nature of the process and the lack of communication with service providers and community has resulted in a similar severance of ties and relationships. As one physician states: people seem to be being housed “under conditions

⁵ Statement 9

⁶ Statement 9

⁷ Statement 6

⁸ Statement 11

⁹ Statement 8

geared to cause maximum chaos, disrupting both personal and therapeutic relationships, as well as medical care.”¹⁰

Increased Risk of Overdoses

Nearly every statement details extreme concern with the heightened risk of overdoses created by the decampment and housing processes, which exist in the context of a parallel-running public health emergency due to opioid-related deaths, declared in April 2016.

Health providers and harm reduction workers clearly state that the accommodations being offered do not provide adequate safe supply and harm reduction services, and that rapidly moving people into buildings without these supports while simultaneously blocking their guests is a near-guarantee of increased deaths. Public health officials also direct people not to use drugs alone.

It is well-established that people who use drugs need continuity of care in both professional and community relationships in order to stay safe; these relationships cannot simply be swapped out. Numerous service providers describe how a lack of trust in BC Housing has resulted in people not self-identifying as substance users on intake forms – leading to people being housed inappropriately. The fact that people are avoiding self-identifying highlights the importance of communication with existing service providers and community members who already have relationships with residents.

In the interim, the government must recognize that in the current situation tent cities can be safer for some substance users as they provide access to community and support workers they trust as well as overdose prevention services that have not yet been set up indoors. As one statement demonstrates, displacement from these sites can thus have the unintended effect of “generat[ing] more harms than our current situation”... “amidst the dual crises of overdose and COVID19”.¹¹ Both Oppenheimer and Topaz Park provided important access to critical harm reduction resources and services. It is critical that the Province not override existing public health responses to the opioid crisis in a bid to address social distancing concerns amid COVID19.

Inadequate Care of Personal Possessions

Residents are only being permitted to bring two totes of possessions to the temporary accommodation. Storage was promised but is inconsistently available. This is contrary to s. 10(1)(h) of B.C.’s *Emergency Program Act*, which states that in evacuating a property under the *EPA*, the Minister must provide “adequate care and protection” of “personal property”. As one Harm Reduction worker explains:

People are only allowed to bring two tote bins inside, totally insufficient to address survival needs. Many people are very concerned about having to give up their possessions in order to move inside, especially as hotel rooms are not a permanent solution and they fear not being able to afford a new tent, sleeping bag, and camping gear if they need them again. People have been promised safe storage for their belongings but that hasn’t materialized yet and it’s not clear whether tents and other sheltering supplies will be considered people’s belongings and stored along with the rest of their things, or whether those will be considered government property and (needlessly and wastefully) destroyed.¹²

¹⁰ Statement 8

¹¹ Statement 2

¹² Statement 9

A number of service providers report that residents are being forced to abandon sheltering supplies such as tents. This is unethical given that people are moving into buildings where they have no rights under the Residential Tenancy Act and no contractual guarantee they will be housed post COVID-1. Though there have been multiple statements by your clients regarding long-term housing for those entering these temporary accommodations there are already numerous reports of people being evicted back into homelessness.

Emergency Housing is Not Ready/Not Being Allocated as Promised

Service providers describe how the temporary accommodations provided are at variance with the housing described in government announcements regarding the Order.

Contrary to public assurances, people are generally not being housed with their loved ones or community supports.

Upon arrival, residents find that many of the promised services are not available. Many buildings continue to lack regular access to: food, clothing, laundry, housing workers, and/or healthcare.

Residents lack the promised supports, but report living under strict “one warning” systems – where they can be evicted for breaking a single rule, such as having a guest. With inadequate supports and no tenancy protections, it is foreseeable that people will be housed and then rapidly evicted. Many statement-providers describe instances of this already happening.

Violence Against Women

Many service providers describe how, contrary to public statements, violence against women has overwhelmingly not been addressed through this decampment process. Yes, some women are now able to be inside with a closed door, which is incredibly important. But a number of women have been housed with their abusers. In one statement, a harm reduction counsellor attests that it was impossible to have the situation addressed by either the service provider or BC Housing and the individual ended up “returning to their abusive partner feeling there was no alternative.”¹³

As one social worker explains: the emphasis has been “top-down rules and enforcement, not resourcing community for peer-led spaces and self-governance that would include women giving direction on what they need to be safe.”¹⁴ In the absence of long-term housing solutions *now*, numerous service providers stress the importance of having large, women-only spaces outside. Many women remain homeless, others will become homeless again upon being evicted, and still others will not find the desired safety in the temporary accommodations being offered, whether because of proximity to their abuser or otherwise.

Tent Cities Must Remain For Those Who Need Them

Many service providers say that the government needs to recognize and respect that a subset of people will remain outside because they will not be able to access the temporary accommodation. “They should be respecting the idea of “home” for people, and respecting their belongings.”¹⁵

Shelters and supportive housing are not for everyone, both for quantitative and qualitative reasons. There remains a dire lack of outdoor spaces in Vancouver and Victoria where people can camp with access to

¹³ Statement 6

¹⁴ Statement 3

¹⁵ Statement 3

bathrooms and proximity to food, showers and other services. The locations that are being closed are among these few spaces.

As a harm reduction worker explains: “People at Topaz and Pandora haven’t been treated well and heavy police presence has made life difficult, but at least are located close to some survival services like the overdose prevention site and showers at Topaz, or for people on Pandora food and showers at Our Place, and SOLID’s harm reduction workers. People at other locations have even less, they don’t even have 24/7 bathroom access or access to drinking water and food let alone access to services. They have had to travel to Topaz or Pandora to get these things and I don’t know what they will do once these areas are cleared and the only services are on-site at motels/hotels.”¹⁶

Prioritizing decampment over a system-wide response is leading to the illogical closure of spaces that remain vital to the homeless community. As one social worker explains: “Displacing tent cities is completely pointless, and harmful... People will have to set up all over again with even less access to basic needs and life-saving harm reduction resources.”¹⁷

This approach is also forcing unsheltered people to compete with each other over scarce resources by making tent cities and decampment the only path to emergency housing. Other people who live outside but not at any of the three locations have expressed understandable frustration that they have for years been unable to even get on a waitlist.

As Pivot has long identified, there is a desperate need for a workable alternative for people who will remain outside for the foreseeable future. It is cruel and non-sensical to forcibly evict existing camps in the meantime. We call on the Province to resource these sites rather than obliterate them; many of the health and safety concerns expressed by authorities are in fact owing to the total lack of financial and material support from any level of government.

Harms to Service Providers

While careful not to centre themselves, many service providers expressed that this process is also damaging for themselves. They are experiencing intense stress as a result of bearing witness to a process that causes great harm to their clients, with nominal communication from government actors and a lack of clarity regarding their role going forward. This process is burning out an extremely important and already overtaxed support system.

As one harm reduction organization explains, frontline workers are not simply replaceable and their loss results in a concrete loss in safety for the people they serve: “Effective and culturally safe outreach and overdose prevention services for people who use drugs are those that are offered by staff who have lived experience, local knowledge, and adequate and ongoing supports to do the work.”¹⁸

Several service providers expressed feeling ethically torn between their desire to continue supporting their clients, while feeling they should not be engaged in a fundamentally flawed and harmful process.¹⁹

¹⁶ Statement 9

¹⁷ Statement 3

¹⁸ Statement 11

¹⁹ Statements 2 and 3

A number of health providers decided to submit their statements anonymously for fear over being fired or taken away from their work if they spoke openly.

The fact so many frontline service providers feel they are unable to openly provide these critiques, and conflicted in engaging in this process, is a stark reflection of the failures of this government and BC Housing to actually engage in a community-led response.

While housing people during a pandemic is undoubtedly a challenge, it is clear that your government has not sufficiently attended to the needs and concerns of unhoused people and their service providers. We trust the enclosed information will inform your response. As one peer-based organization requests: “lead this process with care and compassion rather than the specter of force.”²⁰

We look forward to your response,

Pivot Legal Society

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Encl.
Statements 1 – 15

²⁰ Statement 13