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December 6, 2020

Item EC 18.6 – Central Intake Shelter Access Data Indicators and Trends

To: Councillor Thompson, Chair & Economic and Community Development Committee

I am here today as a legal scholar and teacher of law at Osgoode Hall Law School to support the calls made by unhoused persons and their advocates. Together with over 50 of my legal scholar colleagues, I wrote to the City last week urging you to declare an immediate and unilateral moratorium on the eviction of unhoused people from encampments and to support the residents of encampments. The signatories are experts in constitutional law, municipal law, property law, administrative law, access to justice, poverty law, human rights, immigration and refugee law, Aboriginal law, and housing law. My own expertise is in property and planning law and I am the co-director of the [Osgoode Environmental Justice and Sustainability Clinic](#). You can find the detailed statement [here](#), on which my brief comments are based.

Today, I am here to request that the City do the following, in accordance with your legal and moral obligations to protect and respect the human rights of all residents equally, housed and unhoused:

1. Declare an immediate and unequivocal moratorium on forced evictions of encampment residents and seizure or destruction of their belongings and temporary shelters.
2. In light of the clear data that there are insufficient shelter spaces, and that many existing shelters spaces are inappropriate and unsafe during a pandemic, open at least 2,000 new shelter-hotel rooms
3. Ensure that existing encampments are provided with basic services and survival supplies, including access to 24-hour sanitation services, fire safety equipment, and protection from the cold.

While encampments are themselves violations of the right to adequate housing enshrined in international law, governments who continue to fail to provide housing must not compound this by violating the human rights of encampment residents. This is particularly important during a pandemic. Encampment evictions and the lack of sanitation and safety services put encampment residents and the broader public at risk of further spread of COVID-19.

The City has consistently claimed, including before the Ontario Superior Court this fall, that there has been sufficient shelter space during COVID-19. This



report now demonstrates what unhoused persons and advocates have been saying for months: there is not enough shelter space and people are turned away with no choice but to survive outside. This fundamentally changes the analysis set out in [*Black v City of Toronto*](#). While the request for an injunction against evictions was denied this fall, the decision of Justice Schabas relied on his finding that there was “*no evidence* that safe shelter spaces, including individual housing units are not available to the homeless population.” However, he also stated, “the City will have to consider how and when to enforce its By-law having regard to the continued availability of safe shelter spaces”. We now have clear evidence that the eviction of encampment residents is not only a violation of international human rights law, as set out by the United Nations Special Rapporteur on the Right to Adequate Housing in the [*National Protocol for Homeless Encampments in Canada*](#), but also the *Charter of Rights and Freedoms*, in accordance with the findings of numerous Canadian courts, including the British Columbia Court of Appeal ([*Victoria v Adams*](#) 2009; [*British Columbia v Adamson*](#) 2016; [*Abbotsford v Shantz*](#) 2015). The City must respond with a clear and unequivocal moratorium.

A moratorium is also consistent with public health advice from the US Centers for Disease Control and Prevention (CDC) and the British Columbia Public Health Officer, Dr Bonnie Henry. According to the [CDC](#), “[U]nless individual housing units are available, do not clear encampments during community spread of COVID-19. Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.” Dr. Henry, has issued [similar](#) advice.

In addition to the moratorium, I support the call for 2,000 new shelter-hotel spaces to be opened this winter. The city’s winter plan offers only 560 indoor spots for people living outside, yet over 1000 people are currently unhoused. This number will grow, as more people are being [evicted](#) from their housing every day. Moreover, existing indoor shelter options are [simply not accessible](#) to many unhoused individuals. While I acknowledge the City has made efforts to offer indoor housing, by focusing on congregate settings the City is failing to meet the needs of encampment residents and forcing them to choose between staying outside or living with dignity, and even risking infection with COVID-19. The recently opened [Better Living Centre](#) has been [likened to a “detention centre”](#) with cold showers and no privacy. Further, shelter-hotel spaces must include appropriate overdose protection and harm-reduction services with trained staff. Conditions and rules should be developed with residents as over-policing, surveillance and unilaterally imposed rules and conditions exclude many from these options. Further, at least half of the new shelter-hotels should be located in the downtown core where existing encampment residents have support networks and community. Isolation from social networks and community combined with inadequate supports has [put some residents at risk](#).

Finally, the City must ensure existing encampments are provided with basic services and survival supplies, including access to 24-hour sanitation services, fire safety equipment, and protection from the cold. Throughout the COVID-19 pandemic, the City of Toronto has failed to provide unhoused people with access to water, basic sanitation and survival gear despite

the [recommendations](#) of the 2018 Faulkner inquest and City Council's [own motion](#) passed on October 27. The City's failures violate a range of human rights, including the rights to water and sanitation and the right health. Indeed, the City has used these failures to provide basic necessities to argue that encampments are [unsafe for residents](#). The City of Toronto, as the frontline government responsible for the safety and security of all city residents, must ensure that, at a minimum, basic standards are available in encampments while adequate housing options are secured.

Encampments are a result of [failed government housing and planning policies](#), including on the City of Toronto's [part](#). Until there is enough housing there will be encampments. The City as a representative government and guardian of human rights must take bold action to preserve the health, safety, and lives of its most vulnerable residents during this pandemic.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Estair Van Wagner', with a stylized flourish at the end.

Estair Van Wagner
Associate Professor & Co-Director, Environmental Justice and Sustainability
Clinic