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Marilyn Toft

Secretariat, City Council, City of Toronto

Via email: [councilmeeting@toronto.ca](mailto:councilmeeting@toronto.ca)

Re: Judicial Inquiry into Encampment Clearings

Dear Mayor Tory and members of Council,

On behalf of Osgoode Hall Law School's Environmental Justice and Sustainability Clinic we are writing to provide comments in support of City Council motion MM36.25.<sup>1</sup> Our aim is to contribute to the creation of law and policy that enacts principles of justice and sustainability (including housing provision) for everyone in Toronto, and Ontario. We understand City Council will consider a motion to request a judge of the Superior Court of Ontario to hold a public inquiry into the City's role in the encampment clearings during the summer of 2021. We strongly support this motion for the reasons below.

1. ! One of the most troubling aspects of the encampment evictions this summer was the violence enacted by police against the residents of downtown encampments and their supporters. These actions targeted the City's most vulnerable and have the potential to compound existing trauma and systemic discrimination. The criminalization of encampment residents and housing advocates continues with police targeting supporters at public events and demanding inappropriate bail conditions for their release. **An approach to encampments based on policing and criminalization is incompatible with Toronto's purported human-rights based approach to housing, as enumerated in the Toronto Housing Charter, and with the City's human rights obligations under domestic and international law.** A judicial inquiry can inform the meaningful implementation of a human rights-based approach to encampments to ensure this violence does not reoccur.
2. ! The City spent almost two million dollars in public money to evict approximately 60 encampment residents at Trinity Bellwoods, Alexandra Park, and Lamport Stadium. A significant portion of the cost was police services. Despite this extraordinary cost the encampment evictions resulted neither permanent housing for

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<sup>1</sup> Estair Van Wagner is an Associate Professor at Osgoode Hall Law and co-director of the Environmental Justice and Sustainability Clinic. Several Osgoode students have contributed to research and advocacy in relation to encampments through their clinical work.

residents nor improved shelter conditions. In some cases fencing and ongoing security measures continued to restrict public access for weeks. **The public deserves accountability about the use of limited public resources for policing in the midst of a global pandemic and a housing crisis.**

3. ! The administrative inquiry to city staff through motion IA36.1 will not now proceed to Executive Committee for questions and deputations, limiting its potential to provide transparency and accountability. Further, while we welcome the announcement of the Ombudsman's investigation these inquiries will not address the actions of the Toronto Police Service.

A thorough and independent examination of the role played by the Toronto Police Service in the City's response to encampments, particularly this summer's evictions and the ongoing charges against residents and advocates, is a crucial component of meaningfully accounting for the City's actions and restoring public trust. Moving forward with the development and implementation of a human rights-based approach to encampments requires both Council and the public to be equipped with all the relevant information.

### **The Role of the Police in the City's Approach to Encampment is Inconsistent with a Human Rights Approach to Housing and Encampments**

Footage of the encampment evictions at Trinity Bellwoods, Alexandra Park, and Lamport Stadium captured by the media and members of the public show Toronto Police Services using excessive force in their interactions with and arrests of encampment residents and advocates. Reports of physical injuries and the destruction of homes and personal belongings followed the evictions. In all three cases, the multiple arrests and charges laid, issuance of trespass fines, and use of force was grossly disproportionate to the alleged harm caused by encampments of approximately 20 residents in small portions of public parks. Indeed, none of these actions served to house and support encampment residents. We note that encampment residents and advocates continue to be targeted by the police, who have repeatedly attempted to enforce legally inappropriate bail conditions for their release. Therefore, there is a clear and pressing ongoing need for accountability.

The Toronto Police Service motto is "To Serve and Protect". Their Mission Statement elaborates on this by committing to "treating all people with empathy, respect, equity and dignity". The images of police pepper-spraying, forcefully dragging, and beating protestors with batons, as well as the alarming presence of mounted officers, unmarked security vans, and dozens of private security officers raise serious questions about this commitment and particularly about the role of police in the City's response to encampments. Incidents of police violence were compounded by reports that medics, journalists, and legal observers were told to leave parks during the protests and were threatened with arrest and trespass charges if they refused.

The actions of the police are not only contrary to their own motto and core values and the City's stated commitments, they raise serious constitutional and human rights issues. The City has an obligation to ensure the lawful and equitable administration of its police services. Given the limitations of an administrative inquiry and the Ombudsman's jurisdiction, a judicial inquiry is an appropriate tool to ensure the police are held accountable for any extraneous or arbitrary actions. Further, such an inquiry would crucially inform the ongoing process of policy development at the City to implement a human rights approach to encampments and the right to housing. As the UN Special Rapporteur on the right to

adequate housing set out in the [\*National Protocol for Homeless Encampments in Canada\*](#), police involvement with encampments should be minimized. Meaningful engagement requires freedom from coercion, intimidation, and harassment.

The City of Toronto reports that it spent almost \$2,000,000 in public money to evict 60 residents from its encampments – \$840,127 of this funding was spent on police officers. The total sum paid is equal to \$33,000 per person evicted, which is enough to pay for the average Toronto rent for roughly 16 months. Few encampment residents from Trinity Bellwoods, Alexandra Park, and Lamport Stadium, ended up housing by the City. In fact, 60% of these residents simply relocated elsewhere outdoors. This means the city spent \$33,000 to, in effect, move residents from one park to another without addressing the underlying issues that resulted in the formation of encampments to begin with.

In the context of the City's revenue crisis, as exacerbated by COVID-19, the public deserves transparency about how and why police were engaged in the City's approach to encampments, particularly the evictions and the ongoing targeting of encampment residents and supporters.

### **Conclusion**

For the above reasons, we support motion MM36.25. In conjunction with other inquiries and investigations, an independent judicial inquiry will provide essential information about the role of Toronto Police Services in encampment clearings. This is crucial restoring the public trust in the City and to ensuring a human rights approach to encampments is fully and meaningfully adopted.

Sincerely,

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

Estair Van Wagner  
Associate Professor,  
Osgoode Hall Law School