

November 3, 2015

Reply to: DJ Larkin  
Direct Line: (604) 229-9631  
E-mail: [dj@pivotlegal.org](mailto:dj@pivotlegal.org)

Mayor and Council, City of Victoria  
1 Centennial Square  
Victoria, BC, V8W 1P6

Dear Mayor and Council,

**Re: Governance & Priorities Committee Motion - "Consistency of Parks Regulation Bylaw and *Canadian Charter of Rights and Freedoms*"**

---

We write in support of the motion brought by Councillors Isitt and Loveday seeking to ensure that Victoria's *Parks Regulation Bylaw* is brought into conformity with the most recent jurisprudence of the Supreme Court of British Columbia in relation to the rights of homeless people to protect their health and security of the person (the "Motion").

The findings of the Chief Justice in *Abbotsford (City) v. Shantz*, 2015 BCSC 1909, as outlined in the background to the Motion, detail the harms caused by bylaws prohibiting the homeless from sleeping and sheltering in public places. *Shantz* builds upon the precedent set by the Court of Appeal in 2009 in *Victoria (City) v. Adams* and, in our opinion, constitutes the current state of the law in British Columbia regarding municipal bylaws that limit the ability of the homeless to sleep and erect shelter.

Further to *Adams*, *Shantz* highlights the need to shelter during the day, extends sheltering hours to between 7pm and 9am, and identifies the harmful physical and psychological impacts of lost sleep and continual displacements. The Chief Justice also found that the difficulty faced by service providers in locating clients who are repeatedly displaced causes both physical and psychological harm to an already vulnerable population.

As we understand the Motion, it calls on the City to investigate your current *Parks Regulation Bylaw* with view to ensuring that necessary amendments are made in keeping with the *Shantz* decision. It is our opinion that amendments to Victoria's current overnight sheltering allowance to ensure that the homeless may erect survival structures between 7pm and 9am the following day in public spaces are necessary to ensure compliance with the *Charter*.

Amending Victoria's existing bylaw(s) is an important commitment to the constitutional rights of some of your most vulnerable citizens. Protecting the health and safety of the homeless, as well as increasing their access to services and outreach is not only good public policy, it is governance in accordance with Canada's constitution.

We believe that, while significant concerns remain relating to the health and safety of citizens who find themselves in the streets with no safe or accessible indoor options, this Motion is a step forward in protecting the health and safety of this vulnerable population of people.

We recognize that the City of Victoria finds itself ahead of other municipalities in relation to such bylaws and wish to emphasize that an extension of the time homeless people are permitted to set up survival shelters in public spaces from 7pm to 9am provides not only much needed sleep and protection from the elements; it also increases the ability of service providers to connect those individuals with the services and housing they need.

We thank the City of Victoria for your swift action in reviewing your bylaw(s) to ensure compliance with the *Charter* and encourage the City to also continue pursuing other creative options to improve the health and safety of the homeless in Victoria while working towards longer-term housing solutions.

We hope that Council will pass this important Motion and subsequently, will bring your bylaw(s) into compliance with the requirements of the *Charter*.

Yours truly,

**PIVOT LEGAL SOCIETY**

A handwritten signature in black ink, appearing to be 'DJ Larkin', with a stylized, sweeping flourish extending to the right.

per:

DJ Larkin  
*Barrister & Solicitor*