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HOMELESS ENCAMPMENTS IN HAMILTON (ON) & RISK OF EVICTIONS

The Shift is concerned as protections for residents of homeless encampments are rolled back in the City of Hamilton, threatening the human rights of encampment residents. The City has announced its intent to revoke its Bylaw Enforcement Protocol¹ relating to homeless encampments as of 30th August 2021, leaving hundreds of people at immediate risk of eviction from their homes within encampments. This Protocol – arrived at in an agreement between the City and encampment residents, advocates, and community partners – provided protections against such an eviction, particularly for those with high acuity needs. Such a revocation, in absence of ensuring access to adequate housing for encampment residents, is inconsistent with human rights, and will likely result in deepening marginalization, trauma, health inequities, and safety risks for these community members.

The decision to now end the Protocol has seemingly been made without meaningful consultation with encampment residents and community advocates and fails to recognise the continuing housing and shelter crisis in Hamilton. Access to adequate, affordable housing continues to be out of reach for many people in Hamilton, including those residing in encampments. Shelters and hotels have confirmed that there is not enough space available to accommodate the minimum 135 people who may, from 30th August 2021, be evicted from homeless encampments across the city. Furthermore, many shelters remain inaccessible or unsafe for some people experiencing homelessness, particularly in the midst of the global pandemic.

Should the City revoke the Protocol, evict encampments, and fail to ensure access to adequate housing for encampment residents, the City of Hamilton will be in breach of their human rights obligations as outlined by the UN Special Rapporteur on the Right to Adequate Housing in [A National Protocol on Homeless Encampments in Canada – A Human Rights Approach \(2020\)](#).

Homelessness is itself a prima facie violation of the human right to housing, which has been codified in federal legislation through the National Housing Strategy Act of 21 June 2019. Under human rights law, evicting residents from encampments without their consent and without providing adequate alternative housing constitutes a forced eviction and is a gross violation of the right to housing. Such an eviction is never permissible under any circumstances.

¹ The Bylaw Enforcement Protocol arose from an agreement, in the Fall of 2020, between the City and encampment residents, advocates, and community partners. Taking into account the lack of adequate housing options in Hamilton, the Protocol required the City to assess the individual needs of all people living in homeless encampments and draw up personalised housing plans for them, seeking to enact a people-centred approach. Under the Protocol, those who were regarded as having high acuity needs would only be required to leave their encampment shelter if there was no suitable alternative accommodation available for them to move into. Those with lower acuity could remain in their encampments for 14 days, before being forced to leave.

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The City of Hamilton – like all governments in Canada – has an obligation to urgently address encampments in a human rights compliant manner and to ensure that all those living in encampments are recognized as rights holders, on a path towards secure, permanent housing. In order to be consistent with international human rights law and federal government housing policy under the National Housing Strategy Act, the City of Hamilton must:

- Abstain from evicting encampments in the absence of consent from encampment residents and without providing adequate,² alternative housing, with necessary supports, to encampment residents.
- Ensure any plans, policies, decisions, and actions made by the City in relation to encampments are only made following meaningful consultation with encampment residents, ensuring these residents opportunities to meaningfully influence the policies that affect them.
- Recognize that relying on temporary accommodation such as shelters and hotels to accommodate people evicted from encampments is wholly inconsistent with the human right to adequate housing. Shelters and hotels do not provide the long-term, secure housing that people who have experienced homelessness have a right to.
- Urgently take continual steps toward providing adequate, affordable, and secure housing for those living in homelessness, using all means and resources available.
- Adopt a policy approach to encampments that aligns with the obligations outlined in [A National Protocol on Homeless Encampments in Canada – A Human Rights Approach](#).

The lives and rights of human beings are at stake. It is imperative that the City of Hamilton take immediate action to recognise its obligations under international human rights law and take concerted measures to ensure its compliance with these. If it remains on its current trajectory, the City will breach the right to adequate housing of hundreds of people and exacerbate an already acute housing crisis.

²Adequate housing is defined as housing which provides residents with dignity, safety, and security. To be regarded as adequate housing must be affordable, habitable, be located near to infrastructure and employment and education opportunities, be sensitive to cultural needs, contain necessary services such as water, sanitation and heating, be accessible, and provide its inhabitants with security of tenure.

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