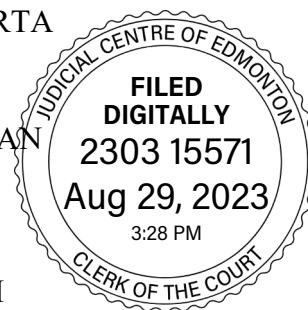


COURT FILE NUMBER 2303 15571
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF COALITION FOR JUSTICE AND HUMAN RIGHTS LTD.
DEFENDANT CITY OF EDMONTON
DOCUMENT **AMENDED STATEMENT OF CLAIM**



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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AMENDED *E. Wheaton*
on Aug 29, 2023
before the close of pleadings

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NOTICE TO DEFENDANT

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

Overview

1. From 2021 to present, the number of people who are unhoused in Edmonton increased dramatically. Over the course of two years, Edmonton's unhoused population increased 71% from 1,820 to 3,112. Safe, accessible shelter space in Edmonton, which was already insufficient prior to the increase, has become even more scarce.
2. Unable to access housing or shelter, hundreds of Edmontonians live outside and unsheltered every night. Some walk all night to stay warm. Some stay in makeshift shelters like tents,

tee-pees, or lean-tos, which are commonly called “encampments.” People who live in encampments often use propane-powered stoves and burners to stay warm and cook food.

3. Some people who stay in encampments prefer to stay together in groups, which can provide benefits including increased safety in numbers, increased visibility to service providers, shared resources, a sense of belonging, informal governance and dispute resolution practices, and other benefits of living in community.
4. There are encampments all over Edmonton, but they are concentrated in central areas like Boyle-McCauley, or in the North Saskatchewan River Valley and connected ravines. Encampments typically occupy land owned by the City of Edmonton, including:
 - a. parks;
 - b. empty lots and parking lots in the Boyle-McCauley area;
 - c. the grass that runs parallel to the bike path and the Edmonton Transit Service Light Rail Transit Line between Mary Burlie Park (10465 97 St) and 66 Street;
 - d. The “LIVINGbridge” pedestrian bridge over 97 Street near Mary Burlie Park;
 - e. sidewalks;
 - f. boulevards; and
 - g. streets.
5. Despite knowing there is inadequate housing and shelter space to meet all Edmontonians’ needs, the City of Edmonton regularly displaces encampments. When unsheltered people are displaced, they usually have no reasonable alternative accommodation, so they move their encampment to another location - usually another location in Boyle-McCauley or in the River Valley. It often does not take long before the City of Edmonton displaces them again.
6. The City of Edmonton displaces encampments from City-owned land pursuant to a regulatory regime that arises from the operation of the Parkland Bylaw 2202, Traffic Bylaw [5590](#), and the Trespass to Premises Act, *RSA 2000 c T-7*. Based on this regulatory regime, the City of Edmonton developed a policy for authorizing and conducting encampment displacements.
7. There is no consideration under the policy if there is adequate shelter space to transition encampment residents into after a displacement. In recent years, displacements have occurred without the availability of adequate alternative shelter or housing options for encampment residents. City of Edmonton encampment displacements routinely force residents to brave extreme elements without adequate shelter or other necessary protections, and as a result, many have been seriously injured or died.

8. The City of Edmonton's encampment displacement policy causes irreparable harm to displaced people including decreasing their abilities to provide for their basic needs; loss of contact with essential supports, like family, friends, harm reduction outreach workers, housing first workers, social workers, health care providers, or mutual aid/community outreach volunteers; loss of property; sleep deprivation, increased exposure to extreme weather; mental anguish, stress, anxiety, and trauma; worsening physical and mental health and an increased risk of death.
9. The City of Edmonton's encampment displacement policy is also an ineffective and irrational means to accomplish any legitimate policy purpose, and causes unjustifiable and disproportionate harm to displaced peoples' well-being and liberty. Given the inadequate shelter space available to accommodate the needs of all Edmontonians who are unhoused, the City of Edmonton's displacement of encampments from City of Edmonton-owned land breaches the rights of those displaced pursuant to the following sections of the *Charter of Rights and Freedoms* ("**Charter**"):
 - a. under section 2 (c) and (d), by violating their freedoms of peaceful assembly and association;
 - b. under section 7, by depriving them their rights to life, liberty, and security of their persons in a manner that is overbroad and grossly disproportionate;
 - c. under section 12, by subjecting them to cruel and unusual punishment, and,
 - d. under section 15, by depriving them their rights to equality without discrimination based on race, Indigeneity, disability, gender, sexual orientation, religion, and the intersection of those identities, and
 - e. the policies and actions cannot be justified under section 1 of the *Charter*.
10. When the City of Edmonton displaces encampments, its employees, contractors, agents, and/or delegates, without lawful authority to do so, remove and dispose of displaced peoples' belongings, including: any propane tanks or stoves; any property that displaced people are unable to pack and take with them; and any property in an encampment that someone is not present to claim, pack, and take with them. The City of Edmonton also renders peoples' tents unusable by slashing them or taking their tent poles. The unlawful interference with displaced peoples' property constitutes the torts of conversion and/or trespass to chattels and breaches of displaced peoples' section 8 *Charter* rights.
11. In the alternative, if the employees, contractors, agents and/or delegates of the City of Edmonton are authorized by any City bylaw or the provincial legislation to remove and dispose of the displaced people's belongings, the bylaw and/or legislation breaches displaced peoples' section 8 *Charter* rights and violates section 2 of the *Alberta Personal Property Bill of Rights* as there is no process in place for the determination and payment of compensation.

12. The Plaintiff seeks ~~one~~ the following declarations from the Court regarding the City of Edmonton's encampment displacements:

- a. a declaration that the Plaintiff Coalition for Justice and Human Rights Ltd. is granted public interest standing in this action;
- b. a declaration pursuant to section 24(1) of the *Charter* or the common law that all encampment displacements from City-owned land for the two years prior to present day, and the City's encampment displacement policy, breach the displaced peoples' rights under sections 2(c), 2(d), 7, 12, and 15 of the *Charter* and are not justified under section 1;
- c. a declaration pursuant to section 52 of the *Constitution Act, 1982* that that subsections 6(c) and (d) and section 11 of the City of Edmonton Parkland Bylaw, sections 56, 66 and 69 of the *Traffic Bylaw* and subsection 2(1) of the *Trespass to Premises Act* violate sections 2(c), 2(d), 7, 12, and 15 of the *Charter* and are inoperative insofar as they apply to prevent unhoused people from staying in encampments on City-owned land when the number of unhoused people exceeds the number of adequate and accessible shelter beds in the City of Edmonton;
 - i. a declaration that the Court of King's Bench may terminate this declaration upon application by the City of Edmonton and upon being satisfied that the number of unhoused people in Edmonton no longer exceeds the number of adequate and accessible shelter beds in the City of Edmonton.
- d. an interlocutory injunction pursuant to any one or more of section 24(1) of the *Charter*, section 52 of the *Constitution Act, 1982*, or the common law directing the City to stop displacing encampments from City-owned land when the number of unhoused people in Edmonton exceeds the number of adequate and accessible shelter beds in the City of Edmonton;
- e. a permanent injunction under any one or more of section 24(1) of the *Charter*, section 52 of the *Constitution Act, 1982*, or common law directing the City to stop displacing encampments from City-owned land when the number of unhoused people in Edmonton exceeds the number of adequate and accessible shelter beds in the City of Edmonton;
- f. A declaration that any taking of displaced peoples' personal property without:
 - i. displaced peoples' consent;
 - ii. lawful authority for doing so; or
 - iii. compensating displaced people for their lost property

constituted and constitutes the torts of conversion and trespass to chattels and breaches of displaced peoples' section 8 *Charter* rights against unreasonable seizure. Or, in the alternative, if the Court finds that any bylaw or provincial law authorized

the taking, then the taking still constituted a breach of displaced peoples' section 8 *Charter* rights and that bylaw or provincial law is of no force or effect under section 2 of the *Alberta Personal Property Bill of Rights*, RSA 2000 c A-31.

- g. costs, including special costs, full indemnity costs, and advanced costs, and applicable taxes on those costs; and
- h. such further and other relief deemed appropriate by this Honourable Court.

Parties

The Plaintiff

- 13. Coalition for Justice and Human Rights Ltd. (the “**Coalition**”) is a non-profit corporation registered under the laws of Alberta and advances this action as a public interest litigant.
- 14. The constitutionality of encampment displacement practices is a serious, justiciable issue that has been the subject of litigation in British Columbia and Ontario. These decisions are not binding on Alberta courts and Alberta courts have not yet been asked to evaluate the constitutionality of the laws, policies and practices implicated in the City of Edmonton’s displacement of encampments.
- 15. Individuals residing in encampments in Edmonton do not have the means or capacity to commence or maintain a lawsuit challenging the constitutionality of the City of Edmonton’s encampment displacement policy.
- 16. The Coalition is engaged with and represents the interests and rights of unhoused people in Alberta:
 - a. the Coalition supports marginalized community members in and around Edmonton with human rights advocacy. The Coalition began in 2014 as a group of activists and non-profit workers who organized to provide community-based advocacy and support in Edmonton.
 - b. the objects for which the Coalition was established are to act as:
 - i. a collaboration space for human rights advocacy, both individual and systemic, and for demanding accountability from all levels of government;
 - ii. a learning and sharing network for knowledge and experience that supports capacity-building in advocacy;
 - iii. a space to share resources and support; and
 - iv. an information gathering space and to facilitate community-based research that supports advocacy efforts.

- c. the Coalition’s Directors are all experienced advocates for the rights and interests of marginalized Albertans, including for unhoused people, people with disabilities, women and youth in the criminal justice system, and people claiming refugee status.
 - d. since its inception, the Coalition has initiated or participated in a number of human rights initiatives for unhoused people in and around Edmonton.
17. The Coalition can advance the rights of unhoused Edmontonians in this action that challenges the constitutionality of Edmonton’s encampment displacement policy, which causes daily harm and indignity to unhoused Edmontonians. This is a reasonable and effective method to advance an action of this nature, because:
- a. unhoused individuals face many barriers to pursuing litigation in their own names;
 - b. the Coalition is comprised of people with expertise on the issues facing unhoused Albertans and a track record of advocating on their behalf;
 - c. the Coalition is represented by counsel who have expertise in public interest constitutional litigation and in working with unhoused Edmontonians;
 - d. the Coalition is closely connected with unhoused Edmontonians and with mutual aid outreach organizations and will be able to produce evidence from unhoused people who have been displaced from encampments in the City of Edmonton. The Coalition already has Affidavit evidence from ten such witnesses; and
 - e. the remedy the Coalition seeks is in the public interest and will impact large numbers of vulnerable, marginalized individuals who are unsheltered.

The Defendant The City of Edmonton

18. The City of Edmonton (the “City”) is a municipality incorporated under the *Municipal Government Act*, RSA 2000, c M-26. The City’s policy and practice is to displace all encampments that people erect on City-owned land. The City does so despite there being inadequate accessible shelter to accommodate all unhoused people in Edmonton. The City is vicariously liable for all tortious and Charter-breaching conduct of its employees, contractors, agents, and delegates who direct, implement, and execute its encampment displacement policy, including City Peace Officers, City Park Rangers, City Operations staff members, and Edmonton Police Service (“EPS”) officers.

Factual Background

Houselessness

19. A person is “unhoused”, “houseless” or “homeless” if they lack housing and the ability to acquire it. An unhoused person can be: “provisionally accommodated”, meaning they have temporary, insecure housing; “emergency sheltered”, meaning they stay in an emergency shelter; or “unsheltered”, meaning that they stay outside without access to shelter intended

for human habitation. People who stay in encampments are considered “unsheltered” despite the fact that they stay in makeshift, temporary structures like tents, tee-pees or lean-tos.

20. Many different factors can directly or indirectly cause a person to be unhoused, including the effects of economic poverty, colonialism, racism, trauma, intergenerational trauma, including intergenerational trauma from Residential Schools, inadequate housing on First Nations reserves and in other Indigenous communities, inadequate affordable housing options in Edmonton, lengthy waitlists for housing programs, family conflict, mental illness, physical illness, cognitive impairments, the cost of living, residential tenancy evictions, substance use disorder, loss of employment, loss of business, intimate partner violence, financial problems, gambling problems, and anti-LGTBQ2S+ prejudice.

Houselessness in Edmonton

21. At all material times, approximately 1,820 to 3,112 Edmontonians were unhoused. From 2021 to 2022, the number of unhoused Edmontonians rose 39% from 1,820 to 2,537. From 2022 to 2023, that number rose 23% to 3,112. These figures may be undercounts, given the difficulty of counting all unhoused Edmontonians.
22. The City is aware that approximately 1,100 to 1,320 people in Edmonton are unhoused and not provisionally accommodated every night. The City has determined that, on average, on any given night in Edmonton:
 - a. approximately 400 - 627 individuals are emergency sheltered;
 - b. approximately 600 - 726 individuals are unsheltered; and
 - c. approximately 100 people’s location of overnight stay is unknown to the City.

The City is aware that these numbers are undercounts, given the difficulty of counting all unhoused Edmontonians.

23. Most unsheltered Edmontonians:
 - a. are Indigenous (approximately 55-60%) and many have personally experienced, or have a family member who personally experienced, a residential school, an “Indian day school”, or the “Sixties Scoop”;
 - b. have one or more physical, mental, or cognitive illnesses (approximately 57-70%);
 - c. use drugs and/or live with substance use disorder (approximately 74%); and
 - d. experience trauma (approximately 76%).
24. Unhoused Edmontonians often rely on a few vital pieces of personal property, including:
 - a. tents, for privacy and for sheltering from weather;
 - b. propane tanks or stoves, for staying warm or cooking food;

- c. bikes, for transportation;
- d. blankets and sleeping bags, for warmth;
- e. cell phones, for connecting with friends, family and support workers;
- f. personal identification, for applying for income supports and other services;
- g. items of sentimental value;
- h. shopping carts or wagons, for storing and transporting their personal belongings; and
- i. pets, for companionship and for treating the symptoms of trauma and mental illnesses like anxiety, depression, and post-traumatic stress disorder.

Emergency Shelters in Edmonton

- 25. Edmonton has between 622 and 1,202 overnight emergency shelter beds operated by the following service providers:
 - a. Hope Mission (525 - 1,055 permanent and temporary beds);
 - b. Mustard Seed (45 - 90 permanent and temporary beds);
 - c. Al Rashid Mosque (50-75 temporary beds);
 - d. e4c (57 permanent beds for women); and
 - e. YESS (16 permanent beds for youth).
- 26. Christian charities operate over 90% of the shelter beds in Edmonton. Hope Mission, which operates over 80% of Edmonton's shelter beds, "has a vision that men, women, youth and children who [they] serve would come to know Jesus Christ as their personal Lord and Savior."
- 27. No overnight emergency shelters in Edmonton:
 - a. adequately and consistently accommodates couples or families;
 - b. adequately and consistently offers storage for unhoused peoples' personal property;
or
 - c. accommodates pets
- 28. There are only 70 beds in Edmonton designated for people who are under the influence of substances, including alcohol. The remaining beds require sobriety to access.
- 29. The number of unhoused Edmontonians exceeds the amount of available emergency shelter space in Edmonton. Every night, emergency shelter capacity in Edmonton is either mostly full or full.

30. Much of the emergency shelter space that is available in Edmonton is not low-barrier accommodations or is not otherwise accessible to unhoused Edmontonians, because they:
 - a. are overcrowded;
 - b. do not consistently provide adequate space to store the personal items of people using at the shelter overnight;
 - c. do not consistently accommodate couples and families;
 - d. do not accommodate pets;
 - e. enforce sobriety on everyone seeking shelter;
 - f. ban specific people;
 - g. fail to maintain habitable conditions in the shelter free from pests like bed bugs and cockroaches; and
 - h. fail to accommodate and respect the diverse religious and spiritual beliefs of all unhoused Edmontonians.

31. Hundreds of unhoused Edmontonians avoid staying at shelters for many reasons, including because:
 - a. they feel unsafe in shelters;
 - b. they have been banned from shelters for behavioral reasons, substance use, or lack of sobriety;
 - c. shelters are overcrowded;
 - d. shelters lack privacy;
 - e. they find congregate living facilities triggering because of their mental illnesses or past experiences of trauma;
 - f. they are concerned with unsanitary conditions, pests, or other health concerns at shelters;
 - g. they dislike participating in religious programming at shelters; and
 - h. their partners, children, and/or pets are disallowed at the shelter.

32. The City knows or ought to be aware that the emergency shelter beds available in Edmonton are inadequate to meet the needs of all unhoused Edmontonians.

Encampment Displacements, In Policy

33. The City's Parkland Bylaw (Bylaw 2202, the "**Parkland Bylaw**") governs conduct on "Parkland", which subsection 2(k) of the Parkland Bylaw defines as:

any property whether developed or not, owned, controlled or maintained by the City that is:

- i. intended to be used by members of the public for recreation and general enjoyment;
 - ii. preserved as a natural area;
 - iii. used as a cemetery;
 - iv. zoned AP (Public Parks, A (Metropolitan Recreation), AN (River Valley Activity Node) or US (Urban Services);
 - v. contained in the North Saskatchewan River Valley and Ravine System Protection Overlay as described in the City bylaw governing land use;
 - vi. designated as municipal reserve, environmental reserve or a public utility lot pursuant to the *Municipal Government Act*; or
 - vii. that portion of any Boulevard contiguous with, partially within, or fully within any property described above.
34. Subsections 6(b) and (c) of the Parkland Bylaw says “no person shall... (b) build a structure, whether permanent or temporary; or (c) set up any form of temporary abode except in an area designated by the City for this activity.”
35. Section 11 of the Parkland Bylaw says “[n]o person shall enter or be on Parkland: (a) between the hours of 11 p.m. and 5 a.m.; or (b) at any time when an area of Parkland is closed.”
36. The City’s Traffic Bylaw (Bylaw 5590, the “**Traffic Bylaw**”) governs conduct on “Highways”, which subsection 2(k) of the Traffic Bylaw defines as “any thoroughfare, street, road, trail, avenue, parkway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage of parking of vehicles, and includes: (i) a sidewalk, including a boulevard adjacent to the sidewalk...”
37. Section 56 of the Traffic Bylaw says “(1) A person shall not cause or permit to be placed a fence or any other structure on a boulevard. (2) A person shall not cause or permit a fence or any other structure to remain on any boulevard adjacent to property they own or occupy.”
38. Section 66 of the Traffic Bylaw says “A person shall not place, cause or permit to be placed an obstruction of any kind on a highway unless a permit authorizing placement of the obstruction has been issued by the City.”
39. Section 69 of the Traffic Bylaw says “A person shall not occupy or otherwise use, or cause or permit the occupation or use of any portion of a road right of way, whether developed or not, unless a permit authorizing the occupancy or use has been issued by the City.”

40. Subsection 2(1) of the *Trespass to Premises Act*, RSA 2000, c T-7 reads: “[n]o person shall trespass on premises with respect to which that person has had notice not to trespass.”
41. The City displaces encampments from City-owned land under the above provisions of the Parkland Bylaw, Traffic Bylaw, and the *Trespass to Premises Act* (collectively referred to herein as the “**Regulatory Regime**”).
42. In 2020, the City implemented a “flow chart” policy for displacing encampments from City-owned land (the “**Encampment Displacement Policy**”) that follows the following steps:
 - a. the City receives complaints about encampments via a phone call to 311 or in writing through the 311 smartphone application;
 - b. employees or agents of the City attend the site to investigate and determine the level of “risk” that the encampment poses. Depending on the risk level, the City determines a timeline for displacing the encampment and disposing of displaced peoples’ property.
 - c. the next steps in the encampment displacement process depend on whether the encampment is classified as “inactive”, “low risk”, “high risk”, or “extreme risk”:
 - i. if the encampment is classified as “inactive”, the City disposes of any property as soon as possible.
 - ii. if the encampment is classified as “low risk”, the City sets a date for displacing the encampment within a few weeks, notifies nearby community agencies to attend and provide services to the people staying in the encampment, and gives the people notice of the upcoming displacement. On the scheduled displacement date, the City’s employees or agents attend to ensure that the displaced people move away from the location. The City removes displaced peoples’ property.
 - iii. if the City determines the encampment is “high risk” or “extreme risk”, it accelerates the displacement process so that it is complete within three days of their initial investigation.
43. When deciding an encampment’s risk level, the City considers, among other factors, the number of encamped persons and structures present (the more people, the higher the risk). If an encampment has six or more people, it is generally classified as high or extreme risk.
44. During periods of extreme weather, including when temperatures are forecasted to drop to -20°C or colder with the windchill for three consecutive nights, the City activates its “Extreme Weather Response”. When the Extreme Weather Response is active, the City only displaces encampments they consider to be high or extreme risk.

Encampment Displacements, In Practice

45. Between October 1, 2021 and March 31, 2023, the City displaced at least 1,127 active encampments.
46. The City usually classifies encampments as high or extreme risk. As a result, most encampments are displaced with less than 24 hours' notice. Some encampments are displaced with an hour notice or less.
47. Because encampments are usually classified as high or extreme risk, and the City displaces high or extreme risk encampments when the Extreme Weather Response is active, many encampments are subject to displacement even during periods of extreme weather. For example, the City displaced encampments during the following periods of extreme weather:
 - a. from November 29 to December 26, 2022: 14 encampments displaced;
 - b. from February 19 to 24, 2023: 1 encampment displaced; and
 - c. from March 4 to 12, 2023: 10 encampments displaced.
48. Those people whose encampments the City cleared during periods of extreme weather were subjected to particularly high risks of frostbite, hypothermia, pneumonia, and death.
49. On the day of a scheduled encampment displacement, employees or agents of the City attend the encampment to inform people to leave around 7:30 or 8:00 AM. The City then removes and disposes of any property which the displaced people are unable to pack and take with them.
50. During encampment displacements, employees or agents of the City will confiscate, remove, and dispose of any propane tanks or other flammables that displaced people have in their possession without any lawful authority for doing so.
51. The City has removed and disposed of several encampments that belonged to unsheltered people without first giving any notice or opportunity to pack and remove their belongings or asking permission. This has resulted in loss of property, including tents, bikes, propane tanks, blankets, cell phones, personal identification, sentimental property, and other essentials. The City does not compensate displaced people for their lost property.
52. Occasionally, employees and agents of the City, and acting under its authority, will use violence when displacing encampments, including:
 - a. slashing displaced peoples' tents using a knife; and
 - b. forcefully removing people from encampments.

The Effects of Encampment Displacements

53. Encampment displacements have detrimental impacts on displaced people, including:
 - a. increased risk of death;

- b. worsening physical and mental health;
 - c. mental anguish, stress, anxiety, and trauma;
 - d. increased exposure to extreme weather and related physical ailments including frostbite and hypothermia;
 - e. sleep deprivation;
 - f. loss of property;
 - g. decreased visibility to service providers, as some unsheltered residents will relocate to remote areas in an effort to avoid further displacements;
 - h. decreased ability to provide for their basic needs; and
 - i. loss of contact with essential supports, like family, friends, harm reduction outreach workers, housing first workers, social workers, health care providers, or mutual aid/community outreach volunteers.
54. Every night in Edmonton, there are unhoused people who have no place where they are legally permitted to stay because:
- a. unhoused people have no private property in which to stay and are generally prohibited from staying in all other private property;
 - b. there is insufficient shelter space to meet all unhoused Edmontonians' needs;
 - c. Edmonton Transit Service vehicles and facilities are closed between approximately 1:45 – 5:00 A.M. nightly. Additionally, with the exception of the time period between July 5, 2021 and June 8, 2022, the City's Bylaw 8353 has effectively prohibited unhoused people from loitering on Edmonton Transit Service vehicles and facilities when they open; and
 - d. the City considers any encampment on City-owned land illegal and displaces people staying in such encampments.
55. The policy objectives that the City tries to accomplish by displacing encampments include:
- a. decreasing biohazardous waste, such as used needles and human waste;
 - b. decreasing fire hazards;
 - c. decreasing crime and social disorder; and
 - d. decreasing negative impacts on local residents and businesses.
56. Encampment displacements are an ineffective and irrational means of accomplishing those objectives, because displacements do not decrease those problems, they merely relocate them. The displacement practices sometimes aggravate the risks posed by encampments, such as when City staff or EPS Officers remove propane tanks from unsheltered

Edmontonians, leaving them with few options for staying warm other than starting open fires. Further, they increase displaced peoples' poverty and desperation, and make it more difficult for them to maintain contact with services and supports that are essential to them staying alive and obtaining permanent shelter.

57. There are alternative policies and practices available to the City to address the risks posed by encampments that do not create similar serious harm for unsheltered Edmontonians.

The Law

Sections 2(c) and (d) of the *Charter of Rights and Freedoms*

58. Subsections 2(c) and (d) of the *Charter* codify everyone's fundamental freedoms of peaceful assembly and association.
59. By displacing encampments from City-owned land, the City breached the displaced people's fundamental freedoms to peacefully assemble and associate with fellow unsheltered people in encampments, which unhoused people exercise to promote their safety and well-being.
60. By assessing and treating encampments with more occupants as higher risk — and by extension displacing them more frequently, with less notice, and even during extreme weather periods — the City's Encampment Displacement Policy breaches displaced people's fundamental freedoms to peacefully assemble and associate with fellow unsheltered people in encampments.

Section 7 of the *Charter of Rights and Freedoms*

61. Section 7 of the *Charter* codifies everyone's "right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."
62. The City's Encampment Displacement Policy infringes the right to life, liberty, and security of persons of unhoused individuals residing in encampments by:
 - a. increasing risk and rates of mortality and morbidity among displaced Edmontonians,
 - b. preventing unsheltered Edmontonians from existing lawfully anywhere in the City without threat of displacement and bylaw enforcement,
 - c. inhibiting their ability to care for themselves,
 - d. taking essential pieces of property from displaced people, and
 - e. denying their right to procedural fairness by giving inadequate notice to displaced Edmontonians and nearby community service agencies before displacements.

63. The City’s Encampment Displacement Policy and practice violate the principles of fundamental justice. They are arbitrary, overbroad, grossly disproportionate, and shock the conscience of Canadians.

Section 12 of the *Charter of Rights and Freedoms*

64. Section 12 of the Charter codifies everyone’s legal right “not to be subjected to any cruel and unusual treatment or punishment.”
65. The City’s Encampment Displacement Policy subjects unsheltered people in Edmonton to cruel and unusual treatment by preventing them from having any place they are legally permitted to stay when there is insufficient accessible shelter space.

Section 15 of the *Charter of Rights and Freedoms*

66. Section 15 of the *Charter* codifies every individual’s right to be “equal before and under the law” and “the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”
67. The City’s Encampment Displacement Policy breaches unsheltered Edmontonians’ right to equal treatment before and under the law without discrimination based on:
- a. race and Indigeneity, because of the discriminatory effect that encampment displacements have on Indigenous people, who constitute a majority of displaced people in Edmonton;
 - b. mental and physical disability, because of the discriminatory effect that encampment displacements have on people with mental and physical disabilities, who constitute a majority of displaced people in Edmonton;
 - c. gender, because displacing encampments, especially groups of encampments where six or more come together for safety, exposes women and non-binary people to disproportionate risk of gendered violence;
 - d. religion, sexual orientation, and Indigeneity, because of the discriminatory impact that encampment displacements have on unhoused LGTBQ2+ people, unhoused non-Christian people, and unhoused Indigenous people who have been traumatized by Christian institutions, all of whom are more likely to experience discrimination, alienation, and re-traumatization at emergency shelters in Edmonton; and
 - e. how individuals experience those grounds in intersecting manners.

Section 1 of the *Charter of Rights and Freedoms*

68. Section 1 of the *Charter* guarantees the rights and freedoms set out in the *Charter* “subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”
69. The City bears the burden of establishing that its Encampment Displacement Policy represent a reasonable limit prescribed by law that can be demonstrably justified in a free and democratic society.
70. The Encampment Displacement Policy is an ineffective and irrational means of accomplishing any legitimate policy objectives, because displacements do not decrease problems, they merely relocate them. Further, they cause disproportionate harm to displaced people.

Seizing of Personal Property

71. By seizing and disposing of displaced peoples’ property without displaced peoples’ express permission and without lawful authority for doing so, the City’s Encampment Displacement Policy and its actions constitute the torts of conversion and/or trespass to chattels and breach their section 8 *Charter* right against unreasonable seizure.
72. In the alternative, if the taking of displaced peoples’ property was authorized by law, it still constitutes a breach of displaced peoples’ section 8 *Charter* right against unreasonable seizure, and any bylaw or legislation that authorizes such takings is of no force and effect under:
 - a. section 2 of the *Alberta Personal Property Bill of Rights* because there is no process in place for the determination and payment of compensation; and
 - b. under section 52(1) of the *Constitution Act, 1982*.

Remedy sought

73. The Plaintiff seeks the following declarations from the Court regarding the City of Edmonton’s encampment displacements:
 - a. a declaration that the Plaintiff Coalition for Justice and Human Rights Ltd. is granted public interest standing in this action;
 - b. a declaration pursuant to section 24(1) of the *Charter* or the common law that all encampment displacements from City-owned land for the two years prior to present day, and the City’s Encampment Displacement Policy, breach the displaced peoples’ rights under sections 2(c), 2(d), 7, 12, and 15 of the *Charter* and are not justified section 1;
 - c. a declaration pursuant to section 52 of the *Constitution Act, 1982* that that subsections 6(c) and (d) and section 11 of the City of Edmonton Parkland Bylaw, sections 56, 66

and 69 of the *Traffic Bylaw* and subsection 2(1) of the *Trespass to Premises Act* violate sections 2(c), 2(d), 7, 12, and 15 of the *Charter* and are inoperative insofar as they apply to prevent unhoused people from staying in encampments on City-owned land when the number of unhoused people exceeds the number of adequate and accessible shelter beds in the City of Edmonton;

- i. a declaration that the Court of King's Bench may terminate this declaration upon application by the City of Edmonton and upon being satisfied that the number of unhoused people in Edmonton no longer exceeds the number of adequate and accessible shelter beds in the City of Edmonton.
- d. an interlocutory injunction pursuant to any one or more of section 24(1) of the *Charter*, section 52 of the *Constitution Act, 1982*, or the common law directing the City to stop displacing encampments from City-owned land when the number of unhoused people in Edmonton exceeds the number of adequate and accessible shelter beds in the City of Edmonton;
- e. a permanent injunction under any one or more of section 24(1) of the *Charter*, section 52 of the *Constitution Act, 1982*, or common law directing the City to stop displacing encampments from City-owned land when the number of unhoused people in Edmonton exceeds the number of adequate and accessible shelter beds in the City of Edmonton;
- f. A declaration that any taking of displaced peoples' personal property without:
 - i. displaced peoples' consent;
 - ii. lawful authority for doing so; or
 - iii. compensating displaced people for their lost propertyconstituted and constitutes the torts of conversion and trespass to chattels and breaches of displaced peoples' section 8 *Charter* rights against unreasonable seizure. Or, in the alternative, if the Court finds that any bylaw or provincial law authorized the taking, then the taking still constituted a breach of displaced peoples' section 8 *Charter* rights and that bylaw or provincial law is of no force or effect under section 2 of the *Alberta Personal Property Bill of Rights*, RSA 2000 c A-31.
- g. costs, including special costs, full indemnity costs, and advanced costs, and applicable taxes on those costs; and
- h. such further and other relief deemed appropriate by this Honourable Court.

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of King's Bench at Edmonton, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the lawsuit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.