

Court rules homeless have right to camp on public land



JASON PAYNE/PNG

D.J. Larkin of Pivot Legal Society, centre, seen with homeless camp residents Harvey Clause, left, and Doug Smith, says a court ruling Wednesday on the rights of homeless campers made it clear 'people need a consistent place to be.'

Abbotsford's use of manure to break up tent city was 'disgraceful'

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VANCOUVER SUN

Metro Vancouver municipalities will find it harder to dismantle camps or run the homeless out of town after a B.C. court ruling Wednesday supported the right of homeless campers in Abbotsford to create tent cities on public land.

The move puts pressure on all

cities across Metro to find other ways to deal with the growing homeless population, which totalled 2,777 in last year's one-day homeless count. About 1,800 of those were in the city of Vancouver.

"The chief justice was very clear people need a consistent place to be," said D.J. Larkin of Pivot Legal Society. "Municipalities all over this country need to take a good long look

at their bylaws because they are not constitutional."

Past attempts by cities to handle the homeless problem have varied widely, from bylaw officers shunting people from one spot to another to Abbotsford using chicken manure and pepper spray to break up tent cities.

In his ruling, Chief Justice Christopher Hinkson ruled Abbotsford's policies violated

the Charter of Rights and Freedoms, calling the use of chicken manure "disgraceful."

While he noted there is a legitimate need for people to have shelter and rest during the day, he stopped short of ordering Abbotsford to designate land for a permanent encampment, suggesting that should be left up to municipalities.

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ARLEN REDEKOP/PNG FILES

A B.C. court ruling supports the right of homeless campers in Abbotsford to live on public land, even as it ruled the encampment on Gladys Street was unsafe for residents and citizens.

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Instead, he suggested following a Court of Appeal decision in Victoria to allow the city's homeless to set up shelters in public spaces between 7 p.m. and 9 a.m.

Margot Young, a professor with the Allard School of Law at the University of B.C., said the ruling is a duplication of a case in Victoria, which has created problems for homeless people there, who take down their tents every morning or face police raids. This will make it easier for the homeless population to set up a tent in a park when it rains or snows or is cold outside, she said.

"But it's a victory on very narrow terms," she added.

Members of the Abbotsford homeless population, who call themselves the Drug Wars Survivors, said the ruling is better than nothing, but reiterated calls to Abbotsford to give them a designated piece of land for a permanent tent city, with garbage cans and washrooms.

"I'm sick and tired of being told, 'You've got to move,'" said Doug Smith, who has been homeless off and on for the past five years. "It's kind of hard to keep moving. You need to have a chance to sit down and relax and get some sleep."

While cities argue the homeless camps are unsafe, those who live in them say the camps offer them safety and a sense of community.

"Being alone is the worst thing in the world," said Harvey Clause, who had lived in the Gladys camp, which was created in 2013. "Sometimes that's why it's important to have a tent city — to be a community again."

Mukhtar Latif, Vancouver's chief housing officer, said he doesn't expect the latest ruling will have much effect in Vancouver, which successfully got a court injunction to remove tents

from Oppenheimer Park in the city's poverty-stricken Downtown Eastside.

Latif said Vancouver is committed to ending homelessness and finding permanent housing for those people in need, and is in a different situation than Abbotsford. Vancouver is continuing to negotiate with the province on where and how many temporary shelter beds it needs to accommodate its homeless population this winter.

Abbotsford Mayor Henry Braun said the city needs time to discuss the judgment with city and legal officials and won't take down the Gladys Street encampment right away. He noted the city will likely dismantle the camp, as the judge had ruled it "was unsafe for the people who are living there, for the people who attend there to provide services to the city's homeless ... and for the citizens of the city generally."

"If it's unsafe, there's an obligation for the city to do something," Braun said.

However, he said the city has come a long way in the past 18 months, and has hired a co-ordinator to work with the individuals in the camp to assess their situation and help them find housing.

The city is also considering setting up its first Homeless Emergency Action Team shelter, which would offer homeless people a place to warm up, shower and have a bite to eat, without requiring them to be sober, which is a rule at some other shelters.

The measures are similar to those in Maple Ridge, where city officials successfully lobbied B.C. Housing for rent subsidies and a temporary shelter, while working with outreach agencies to find housing for dozens of people in a tented camp on Cliff

Avenue. The last tent was voluntarily taken down this week, Mayor Nicole Read said.

"A lot of people were angry. ... A lot of people in the community didn't understand why the RCMP didn't just throw them off the street," Read said.

Read said the district went through a "tumultuous time" in dealing with the tent city. Officials had previously shunted the homeless camps around, but the people in them called the media and set up a blockade.

About 50 of the 84 people cited in Maple Ridge's homeless count last year have since been housed or given rent supplements, Read said.

Surrey, which brought in bylaw officials last February to dismantle a tent city in Whalley, said it works with social outreach workers to monitor homeless people, of which there were 403 in last year's count. The city will have its first winter shelter since 2013 this year, with hopes of building a permanent shelter at a new site near Surrey Memorial Hospital.

"Our position is we want to find them housing wherever we can. If not, we move them along," said Jas Rehal, the city's manager of bylaw enforcement.

However, Langley city Coun. Gayle Martin argues the solution to the homelessness problem requires more than just shelters or housing, but should tie in social services.

The city had 92 homeless people at last year's count, and Martin said the recent judgment is concerning.

"Even if you find them housing," she said, "my take on this is finding them a place to stay, putting them in there and shutting the door is not going to work. The provincial government in my opinion has to step up more."

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