

June 30, 2023

Michelle Baird
Director of Housing Services
City of Hamilton
71 Main St West
Hamilton, ON
L8P 4Y5
[via email]

Dear Ms. Baird:

RE: Open Letter to the City of Hamilton on the Proposed Encampment Protocol

Please accept this letter as the Social Planning and Research Council of Hamilton's (SPRC) submission to the City of Hamilton's public engagement on sanctioned encampment sites and the proposed encampment protocol.

Housing is a fundamental right now enshrined in both international and domestic law. The realization of this right is the responsibility of all levels of government and we appreciate the ongoing work by the City to develop long-term housing solutions that meet a spectrum of housing needs for Hamilton residents. However, in the context of the growing unaffordability crisis and drastic erosion of affordable housing stock in our city – a net loss of 4,950 rental units affordable to households with annual incomes \$30,000 or less between 2016 and 2021 alone¹ – there are few immediate 'fixes' that will adequately meet community need.

As you are aware, emergency shelters in Hamilton have been facing a mounting capacity crisis, facing chronic staffing shortages as community need continues to far outpace the availability of beds. From April 2022 to April 2023, there was an average of 433 shelter spaces available per night, yet 1,615 people were considered actively homeless in April 2023², up from an average of 1,202 in 2021 and 1,024 in 2020³. This is likely a significant underrepresentation of the number of individuals experiencing homelessness in our community given the high rates of hidden homelessness, particularly amongst equity deserving groups. For every individual known to the system to be experiencing homelessness, it is estimated that there are three individuals who are experiencing hidden homelessness.⁴

While the present capacity of the shelter system simply cannot accommodate the number of people experiencing homelessness in Hamilton, shelter spaces are also not appropriate or accessible to all people deprived of housing for many reasons, including restrictions related to pets, inability to accommodate different-sex couples, feelings of insecurity in dorm-style settings,

¹ Pomeroy, S. (2023, March). Designing for Impact: Options to optimize deployment of Hamilton Community Foundation Affordable Housing Impact Fund (AHIF). Available at <https://pub-hamilton.escrimetings.com/filestream.ashx?DocumentId=360332>

² City of Hamilton. Housing and Homelessness Dashboard. Accessed on May 19, 2023. Available at [Housing and Homelessness Dashboard \(arcgis.com\)](https://arcgis.com)

³ City of Hamilton (2023, March 23). Information Report – Ending Chronic Homelessness (HSC23021). Available at <https://pub-hamilton.escrimetings.com/filestream.ashx?DocumentId=354806>

⁴ homeless hub (2021). Hidden Homelessness. Available at <https://www.homelesshub.ca/about-homelessness/population-specific/hidden-homelessness>

and restrictions related to substance use⁵. This was a notable factor in Ontario Superior Court Justice Valente’s ruling which dismissed the Region of Waterloo’s injunction application against an encampment in Kitchener. The ruling determined that when assessing shelter spaces consideration must be given to peoples’ unique needs, such as family make-up and substance use practices, in order to be considered “truly available”⁶.

Encampments are not a housing solution in and of themselves, but can provide stability and often life-saving supports for residents. Homelessness has devastating consequences on physical and mental health. Toronto Public Health reported that the 2022 median age of death for people experiencing homelessness in Toronto was 55 for males and 42 for females, compared to the general population which was 79 years for males and 84 for females⁷. Mounting evidence from both academia as well as expert testimony in legal proceedings point to the significant, and potentially life-threatening harms caused by constant displacement, particularly in the context of the drug poisoning crisis. On the other hand, the congregate nature and reduced transience of encampments have been found to encourage connection with healthcare and other community services, decrease isolation, increase mental health stability, decrease risk of fatality due to drug poisoning, and foster a sense of community among residents⁸.

In the absence of safe, adequate, and appropriate housing available to all Hamilton residents, and sufficient, accessible alternatives, SPRC strongly supports establishing a range of outdoor sheltering options for people deprived of housing, including sanctioned encampments, that:

- (1) Are developed through direct and meaningful consultation with encampment residents and unhoused members of our community (meaningful engagement is defined in SPRC submission to the Federal Housing Advocate Review on Homeless Encampment attached as Appendix A).
- (2) Respect individual autonomy and support the diverse needs and experiences of unhoused residents by allowing people to choose the sheltering option(s) that best suit their current circumstances and needs.
- (3) Are rooted in a deep understanding of how structural inequities and ongoing colonialism have led to the overrepresentation of certain populations, including Indigenous people, among residents who are unhoused, and embed an equity-based approach in the development, implementation, and evaluation of outdoor sheltering options.
- (4) For sanctioned encampments, consult encampment residents to determine the provision of adequate sanitation/hygiene facilities and drinking water as outlined in Proposed Encampment Protocol Report (HSC20038(f)/PED21188(c)) as well as waste removal services (including for drug equipment disposal) and fire safety equipment.

⁵ van Wagner, E. (2022). Case Study: Hamilton—A human rights analysis of encampments in Canada. The Office of the Federal Housing Advocate. Available at

https://www.homelesshub.ca/sites/default/files/attachments/Hamilton_encampments_case_study-EN_1.pdf

⁶ The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained, 2023 ONSC 670 (CanLII), <https://canlii.ca/t/jv6dc>

⁷ City of Toronto (2023, March 17). Toronto Public Health releases 2022 data for deaths of people experiencing homelessness. Available at <https://www.toronto.ca/news/toronto-public-health-releases-2022-data-for-deaths-of-people-experiencing-homelessness/#:~:text=The%20median%20age%20of%20death,years%20of%20age%20for%20females.>

⁸ The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained, 2023 ONSC 670

The Encampment Protocol:

SPRC acknowledges the extensive work undertaken by City staff in drafting the proposed encampment protocol and expresses appreciation of the shared principles, including a rights-based approach, which are central to the document.

After reviewing the protocol and appendices, we raise the following as additional considerations or points of clarity:

- (1) SPRC looks forward to additional information being made available on how a peer-based model and Indigenous supports may be embedded into the City's encampment response, as outlined in recommendation (e) of the Proposed Encampment Protocol Report, as this is fundamental to a rights-based approach.

SPRC strongly supports the recommendation from the development sessions with community stakeholders to embed peer supports into the City's coordination and outreach response and site clean-up processes, and to fairly remunerate peer workers.

- (2) Many community members have sought clarity on when and how police will be called on by the City to respond to an encampment within the framework of the protocol.

In line with a rights-based approach, SPRC strongly supports connecting encampment residents with appropriate health, cultural, and community-based supports and services wherever possible and does not condone the use of police enforcement tactics unless necessary as a last resort.

- (3) Given the overrepresentation of equity deserving groups among people who are unhoused, additional clarity is sought on how an equity-lens was applied in the development of the proposed protocol, as well as how it will be reflected in the protocol's implementation.

- (4) Additional clarity is also needed on the City's data collection related to encampment residents (at sanctioned sites and whose sheltering would fall under the protocol), including how information will be collected and used, and how data collected from encampment residents will inform program/service delivery and/or evaluation of the City's encampment response. Additional details are also sought on outcomes or potential consequences if encampment residents choose not to provide requested information.

- (5) Considering the complexity of these issues, there is need for additional clarity on how the City will promote positive relationships, improved understanding, and the inclusion of encampment residents in Hamilton neighbourhoods.

The Community Engagement Process:

Solutions are only solutions if they work for the people for whom they are intended. For an effective strategy to support and respond to encampments in Hamilton, the City must prioritize continued ongoing meaningful engagement with encampment residents and people deprived of housing, including those not currently accessing services through the homeless serving sector.

SPRC is deeply committed to the principles of anti-hate and anti-discrimination and holds firmly to the belief that a person's humanity or rights should not be up for debate. We also believe that community engagement, when carried out effectively, is a meaningful tool for change, and can

encourage informed decision making, help facilitate understanding between convergent views, and support constructive dialogue. Community engagement can also offer an opportunity for education and can help combat misinformation. Weaving these fundamental principles together in community engagements is challenging, yet crucial, given the increasing polarization in communities.

Following the initial consultation meeting, we recognize that additional mechanisms to help provide psychological safety, and additional information concerning the City's encampment response and the complex nature of this issue, was provided and helped set the stage for community dialogue. And as the City moves forward with its commitment to increase meaningful engagement on critical issues, we encourage the City to:

- Consult with the broader community from the onset of the proposal and design it in such a way as to emphasize education to proactively challenge misinformation concerning encampment residents
- Participate in front-end consultations with community that are accessible and safe to all who may want to participate
- Provide and communicate a transparent process for ongoing consultation and reporting back mechanisms through a variety of channels. This includes how information collected will be used to inform decision making

How our community can better support commonality and bridge building among participants is worthy of our collective reflection. This is of particular importance given how contentious the issue of encampment response has become in our community, and we are hopeful this will be further integrated into the ongoing conversations related to encampments and housing in our community.

Conclusion:

The solution to homelessness is housing. There is need for significant investment in a continuum of housing options, including deeply affordable and supportive housing, to support a diversity of housing needs in our community. However, until there are sufficient, appropriate, safe, and adequate housing options for everyone in Hamilton, sheltering outdoors will continue as a necessity. SPRC strongly supports a response wherein a range of sheltering options are available and adequately resourced, including sanctioned and non-sanctioned encampments, emergency shelters, and intermediary sheltering options such as being developed by the Hamilton Alliance for Tiny Shelters (HATS).

We appreciate the opportunity to participate in this ongoing dialogue, which centres around how we can ensure all members of our community have access to safe housing.

Sincerely,

Kim Martin,
Executive Director

Cc:
Mayor Andrea Horwath

Councillor Maureen Wilson
Councillor Cameron Kroetsch
Councillor Nrinder Nann
Councillor Tammy Hwang
Councillor Matt Francis
Councillor Tom Jackson
Councillor Esther Pauls
Councillor John-Paul Danko
Councillor Brad Clark
Councillor Jeff Beattie
Councillor Mark Tadeson
Councillor Craig Cassar
Councillor Alex Wilson
Councillor Mike Spadafora
Councillor Ted McMeekin

APPENDIX A:

May 25, 2023

Office of the Federal Housing Advocate
344 Slater Street, 8th Floor
Ottawa, ON
K1A 1E1
[via online submission]

**RE: SPRC Submission to the Federal
Housing Advocate Review on
Homeless Encampments**

The Social Planning and Research Council of Hamilton (SPRC) was established in 1966 in response to the need for a coordinated approach to social change. Through research, policy analysis, community partnerships and program delivery, SPRC promotes equity, informs policy and planning decisions, and works to increase community engagement to improve the quality of life for Hamilton residents, with a focus on social, health and economic issues.

SPRC responses to the questions posed by the Federal Housing Advocate as part of the review on homelessness encampments are

founded in SPRC's close partnerships with the homeless serving sector in Hamilton and reflect our commitment to centering the experiences of people with living and lived experience (PWLLE) throughout our work.

- 1. The Advocate wants to better understand the human rights issues facing people living in encampments. What would you like the Advocate to know about the experience of people living in encampments? If you have lived experience with encampments, please feel free to share your personal story.**

Nowhere Else to Go:

- The need for shelter space far outweighs the current operating capacity of shelters in Hamilton. Between the beginning of April 2022 and the end of April 2023 there was an average of 433 nightly emergency shelter spaces available. According to the [City of Hamilton's Housing and Homelessness Dashboard](#), there were 1,615 people known to be actively homeless in April 2023. This is up from an

average of 1202 in 2021 and 1024 in 2020⁹.

Available Shelter Spaces May Not be Appropriate or Accessible:

- In addition to lack of capacity, emergency shelter beds are inappropriate or inaccessible for many unhoused people for a variety of reasons. In [Case Study: Hamilton – A human rights analysis of encampments in Canada](#), reasons cited for not seeking temporary shelter include inability to bring pets or support animals to indoor shelters, feelings of insecurity in dorm-settings and restrictions related to substance use¹⁰. The inability of shelters to accommodate different-sex couples also precludes people from accessing temporary shelter¹¹.
- In [The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained, 2023 ONSC 670](#), Justice Valente also determined that the number of available shelter beds alone is insufficient to determine available shelter spaces, and that shelter spaces must be “truly accessible” to the individuals they’re intended to serve, with consideration of peoples’ unique needs such as family make-up or substance use practices, to be considered available.

Displacement vs. Community:

- The harmful (and potentially deadly) impact of constant displacement on health and wellbeing, as well as the support and community found in encampment settings, is well documented in both literature and legal proceedings across Canada¹². Expert testimony accepted in decisions out of BC Supreme and Ontario Superior courts outline the psychological harm and physical health risks resulting from constant displacement, including disruption to medical treatment and services, acute conditions like frostbite and heatstroke, exacerbation of mental health diagnoses, and increase in fatal overdoses¹³. Constant displacement and relocation also increase the risk of sexual violence perpetrated against unhoused women¹⁴.
- Conversely, the reduced transience and congregate nature of encampments have been found to encourage connection with healthcare and community service to meet basic needs, decrease isolation and risk of fatality (particularly in the context of the drug toxicity crisis), increase mental health stability, and foster a sense of

⁹ City of Hamilton (2023, March 23). Information Report – Ending Chronic Homelessness (HSC23021). <https://pub-hamilton.escribemeetings.com/filestream.ashx?DocumentId=354806>

¹⁰ van Wagner, E. (2022). Case Study: Hamilton—A human rights analysis of encampments in Canada. The Office of the Federal Housing Advocate.

¹¹ Moro, T. (2020, August 22). For those living on Hamilton’s margins, tents instead of shelter beds. *The Hamilton Spectator*.

<https://www.thespec.com/news/hamilton-region/2020/08/22/for-those-living-on-hamiltons-margins-tents-are-better-than-shelter-beds.html>

¹² van Wagner, E.

¹³ Abbotsford (City) v. Shantz, 2015 BCSC 1909 (CanLII), <https://canlii.ca/t/gjps4>; The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained, 2023 ONSC 670 (CanLII), <https://canlii.ca/t/jv6dc>

¹⁴ van Wagner, E.

community among residents¹⁵.

2. The Advocate also wants to hear from you about how to address the challenges for people living in encampments. What solutions would you like to see put in place? What changes would you like to see in the way governments (municipal, provincial or federal) treat people living in encampments?

All Governments:

- Must meaningfully engage people deprived of housing and living in encampments in all stages of solution development. This includes a real stake in decision making, including

direction and priority setting, and in planning, researching, implementing, and evaluating any legislative, policy and programmatic solutions as outlined in best practice¹⁶. Meaningful participation is fundamental to both the success of any solutions developed and to respecting the dignity and autonomy of people who are housing deprived¹⁷.

- People deprived of housing and/or living in encampments should be hired as consultants and permanent employees and should be brought into leadership roles. They should also be provided

with the tools and resources they need to be successful in these roles¹⁸.

- People deprived of housing and/or living in encampment engaged throughout the solution development process need to be adequately compensated in cash for their knowledge and expertise, with consideration of how compensation may impact ongoing eligibility for any provincial income/housing supports they may receive¹⁹.

- Solutions from all levels of government must be rooted in the understanding of housing as a human right, and adhere to the obligations outlined in international, federal, and provincial human rights law, including the International Covenant on Economic, Social and Cultural Rights and United Nations Declaration on the Rights of Indigenous Peoples.
- Peoples' experiences of living in encampments cannot be separated from the realities of the financialized housing market and the current housing unaffordability crisis country-wide. This momentous and dire crisis requires a whole-of-government approach and for all levels of government to step-up to the plate. Negating responsibility and pointing fingers at other levels of government only exacerbates the

¹⁵ The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained, 2023 ONSC 670

¹⁶ Canadian Centre on Substance Use and Addiction. (2021). Guidelines for Partnering with People with Lived and Living Experience of Substance Use and Their Families and Friends.

<https://www.ccsa.ca/sites/default/files/2021-04/CCSA-Partnering-with-People-Lived-Living-Experience-Substance-Use-Guide-en.pdf>

¹⁷ van Wagner, E.

¹⁸ Canadian Centre on Substance Use and Addiction.

¹⁹ Ibid.

crisis and causes further harm to those impacted most.

- All levels of government need to be accountable for tracking housing displacement and its connection to housing insecurity and deprivation within their jurisdiction and to use the tools available to collect, make available, and regularly report on data related to displacement and homelessness. Examples at the municipal and provincial levels include amending building permit applications to require information about whether the building is occupied by a tenant in addition to the type of renovation required along with copies of tenancy notices provided to the tenant and collecting and reporting on tenancy hearings related to displacement.

Municipal:

- As articulated by the UN Special Rapporteur on the right to adequate housing in [A National Protocol for Homeless Encampments in Canada](#), the forced eviction (defined as either temporary or permanent removal of residents against their will without access to

appropriate legal or other protections) of encampments “constitute[s] a gross violation of human rights” (p.19). All governments, including municipal governments, must refrain from enacting new laws and repeal existing laws that allow for forced evictions, including “anti-camping laws, move-along laws, laws

prohibiting tents being erected overnight, laws prohibiting personal belongings on the street, and other laws that penalize and punish people experiencing homelessness and residing in encampments”²⁰. Instead, municipal government should work with encampment residents to adopt bylaws and policies to ensure the safety and security of encampment residents and their belongings.

- Considering that the number of people experiencing homelessness far outweigh the number of shelter spaces, and not all shelter spaces available are appropriate or accessible to the people who need them, municipalities must make land available for encampments, and meaningfully engage people deprived of housing to determine encampment locations and specifications that best meet their needs.
 - Municipalities also need to provide for the basic necessities of encampment residents, including drinking water, hygiene and sanitation facilities, resources related to fire safety, and waste management²¹

Provincial:

- To discourage renovictions and bad faith evictions that displace tenants to increase the amount of monthly rent received for the unit and ultimately lead to homelessness in the context of unaffordability crisis,

²⁰ Farha, L & Schwan, K. (2020). A National Protocol for Homeless Encampments in Canada, p. 19. <https://www.make-the-shift.org/wp->

<content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>

²¹ Ibid.

provinces must amend provincial legislation that govern residential tenancies to extend maximum allowable rent increases to both existing and new tenancies.

- Given the power differential that often exist between tenants and landlords, provincial governments need to amend residential tenancy legislation and related processes to shift the burden from tenants to landlord in tenancy disputes and evictions. For example, landlords should be required to file eviction notices along with any required documentation (e.g. building permits) with the provincial tenancy authority prior to issuing the notice,

as opposed to requiring tenants to file for dispute should a notice be given improperly. This would also allow for better data collection and reporting related to tenant displacement and homelessness across the country.

Federal:

- As the government with the largest tax base, the federal government must take bold and immediate action to substantially increase federal spending to maintain and develop deeply affordable, non-market housing stock.