

**SUBMISSIONS OF PIVOT LEGAL SOCIETY
TO THE UN OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS
FOR THE UNIVERSAL PERIODIC REVIEW OF CANADA
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Overview

1. Although the impacts of hallmark events like the Olympics have been well-documented, the federal, provincial and municipal governments of Canada are not upholding basic human rights standards associated with the right to adequate housing in Vancouver, British Columbia leading up to the 2010 Olympic and Paralympic Winter Games.
2. Overall street homelessness has increased in the area by at least 39% from 2005, low-income rental housing stock continues to close and deteriorate, inadequate protections against displacement by gentrification threaten long-time low-income resident populations, and criminalization of homelessness through policing and private security initiatives that originate from state and business interests in the area threaten the health and safety of homeless populations.

Homelessness

3. In 2008 the homeless count in Greater Vancouver, Canada reached a total of 2,592 individuals. This number, considered to be a gross undercount by census organizers,ⁱ represents a 39% increase from 2005.ⁱⁱ There are 1,028 funded emergency shelter beds in the Greater Vancouver area.
4. B.C. Housing has compiled statistics that document 40,000 incidents where individuals were turned away from 36 shelters in Greater Vancouver over a nine month period.ⁱⁱⁱ This statistic means a person tried to obtain emergency accommodation but was denied because the shelter was full (35,881), or the person didn't match the client demographic or shelter rules (4,714). Given these statistics, it becomes evident that homelessness in Vancouver is not a choice; there are no housing or shelter options for many of the people who are living on the streets of Vancouver.

Displacement through gentrification, rental scarcity and eviction

5. The basic welfare allowance in British Columbia is \$375 for housing,^{iv} yet the average rent in Vancouver for a bachelor apartment in the Fall of 2007 was \$735.00/month. With a vacancy rate of only 0.7%^v the price of rent in Vancouver has been steadily increasing.
6. A rental supplement program has been introduced at the Provincial level for families unable to rent on the private market who earn less than \$35,000 per year.^{vi} Unfortunately, this supplement is not available to families earning less than \$20,000 per year, or those on social assistance, leaving the lowest-income individuals without supplementary provisions for higher housing costs.
7. The Single Resident Occupancy hotel rooms (SROs)¹ in Vancouver represent the last privately owned housing stock accessible to individuals who receive basic welfare. In 2005, 85% of SROs were charging rents greater than \$375, with most charging between \$475 and \$650.^{vii, viii}
8. Since Vancouver was awarded the 2010 Olympic Games in July 2003 there have been more than 1300 closures and conversions of SRO hotel rooms, with closures in 2007 alone exceeding any of the three previous two year periods before it. These conversions have dramatically impacted street homelessness and have contributed significantly to the increase in the number of street homeless since 2005.^{ix}

Failing to ensure minimum standards of health and safety

9. The government sponsored Vancouver Agreement Report^x and the Pivot Legal Society *Cracks in the Foundation*^{xi} report combine to paint a grim picture of life in the SRO buildings. Non-functioning plumbing, bedbugs, cockroaches, abuses of landlord authority, illegal evictions, theft, and countless other complaints are enumerated in both documents.
10. The City of Vancouver, through the *Standards of Maintenance By-law*^{xiii}, has the authority to order repairs to buildings to ensure health and safety. In 1999, they made 106 of these orders in the inner city; in 2006, they made only 6.^{xiii} The Province of B.C. has

¹ The term "SRO" refers to lodging houses, rooming houses, residential hotels, and other privately owned housing available to individuals who receive basic welfare in British Columbia, Canada.

the ability to order that health hazards, such as vermin infestations, be addressed by property owners through the *Health Act*^{xiv}; however, they have declined to address the infestations that plague the Downtown Eastside.

Failing to enforce laws to prevent displacement and eviction

11. The City of Vancouver has enacted a by-law intended to regulate the conversion of the SRO housing stock to other uses. The *Single Room Accommodation By-law*^{xv} is helpful, and has prevented a wholesale flipping of the inner city given Vancouver's real estate market, but it has loopholes that have been exploited by unscrupulous speculators.
12. Unfortunately, the By-law does not address rent issues, and many buildings have simply increased rents beyond what people on social assistance can afford.^{xvi} Rent control is within provincial jurisdiction, and under the *Residential Tenancy Act*^{xvii}, rent control applies to the tenant, not the unit, meaning a landlord can charge a new tenant any rental rate. This incentive to change over tenant populations has led to mass evictions at buildings like the Phoenix Hotel, the Backpacker's Inn, the Burns Block hotel, and the American Hotel.^{xviii, xix}
13. Further, the City has failed to enforce the By-law preventing the conversion of SROs into tourist accommodations. A number of "protected" SRO buildings are listed on tourist accommodation web pages, and many appear to be operating outside of the requirements of the By-law. These include the Shamrock Hostel, C&N Central Station Hostel (Ivanhoe), the Grand Trunk Hostel, the Columbia Hotel, and the St. Clair Hotel.^{xx}

Failing to provide police protection to tenants who are illegally evicted

14. Police in Vancouver have a formal policy to refuse to become involved in disputes between tenants and landlords.^{xxi} This includes disputes where locks are changed on a tenant's room, where a tenant's possessions are thrown away or put on the sidewalk, where essential services such as heat or light are turned off, and where a tenant's possessions are removed from a room and the tenant evicted illegally.
15. Despite this policy, police are frequently involved in assisting landlords with evictions, by standing by to ensure that landlords are "safe" from disturbances during the eviction process. Further, section 441 of the *Criminal Code of Canada*^{xxii} expressly prohibits

tenants from “demolishing” or removing all or any part of a fixture in a building that tenant is occupying. This offence is punishable by up to 5 years in prison. No parallel offence exists that explicitly prohibits landlords from interfering with the possessions of a tenant.

16. In April of 2007, Pivot Legal Society filed a complaint with the Police Board and Police Complaint Commissioner about this police non-interference policy, alleging that it compromised tenant and landlord safety.^{xxiii} The complaint was dismissed in January of 2008 by the Vancouver Police Board as it was found that there was “no absence of policy that requires addressing.”

Failing to provide an adequate remedy for tenants illegally evicted

17. Canada has failed to provide a meaningful remedy for tenants illegally evicted. A maze of procedural requirements, and a “tenancy court” unable to enforce its own judgments, renders the process inaccessible and ultimately meaningless.^{xxiv} There is no ability to request an “emergency hearing” in the event of an eviction, resulting in an illegally evicted tenant living homeless for up to three weeks while waiting for a hearing. Enforcement of any order received is virtually impossible for a homeless individual to pursue through the court system. The futility of such a system is reflected in the conditions of the SRO buildings, and the relentless illegal evictions.

Using security guards and police officers to intimidate the homeless

18. Under an initiative called ‘Project Civil City’, Vancouver has established the Downtown Ambassador program to patrol public areas, targeting “problem populations” such as drug users, panhandlers, and individuals who are apparently homeless.^{xxv} This targeting is done for the purpose of “modifying the behaviour of these identifiable populations to ensure their behaviour conforms more closely to the behaviour desired by businesses in the area.”^{xxvi}
19. The Downtown Ambassador program is co-managed by the Downtown Vancouver Business Improvement Association (DVBIA) and Genesis Security, a private security firm. The budget for 2007-08 is \$961,140 or 59% of the DVBIA’s programming budget of \$1,620,198. In December 2007, Vancouver City Council also approved in principle the

expansion of the Ambassador program into other BIA areas up to a maximum cost of \$500,000 for each area.

20. According to the 2008 Vancouver Police Department (VPD) Business Plan, the VPD will focus on increasing patrols and ticketing to support the “Project Civil City” initiatives as they relate to street disorder.^{xxvii} One of the primary goals of the business plan is to increase by 20% the number of charges made under the *Safe Streets Act* and the *Trespass Act*.
21. Over the summer of 2008, dozens of individuals were ticketed for sleeping outside contrary to City by-laws. People have also frequently been issued tickets for selling scavenged items on the sidewalk. These tickets distributed for by-law infractions can lead to incarceration for homeless and low-income individuals who are not able to pay the fines levied against them.
22. This effective criminalization of necessary behaviours perpetuates homelessness. If homeless persons wish to avoid displacement, persecution, and its legal consequences, they have no other choice than to avoid commercial/public spaces and, as a result, are forced into dangerous areas and often life-threatening situations. This segregation increases social and spatial exclusion from society, diminishes personal health and quality of life, and undermines full participation in the democratic life of the community.
23. The increase in patrols and enforcement of by-laws has resulted in systemic discrimination against the homeless population. Since street homeless individuals are more likely to be aboriginal and disabled than the non-homeless population, policies targeting the street homeless disproportionately affect these groups.

References

- ⁱ TAB 1: Pablo, Carlito. *Metro Vancouver Homeless Count Hides Many*. Georgia Straight, Straight Issues. April 10, 2008. <http://www.straight.com/article-140217/homeless-count-hides-many>
- ⁱⁱ TAB 2: Social Planning and Research Council of BC. *On Our Streets and in Our Shelters... Results of the 2005 Greater Vancouver Homeless Count*. City of Vancouver, Community Services. September 2005. <http://vancouver.ca/commsvcs/housing/pdf/homelesscount05.pdf>
- ⁱⁱⁱ TAB 3: *Greater Vancouver Shelter Strategy – Emergency Shelter Turnaway Statistics*. May 2008. <http://pivotlegal.org/pdfs/ShelterTurnaways-numbers-May2008.PDF>
- ^{iv} TAB 4: Ministry of Housing and Social Development. *Ministry of Housing and Social Development BC Employment and Assistance Rate Tables*. April 1, 2007. <http://www.eia.gov.bc.ca/mhr/ia.htm>
- ^v TAB 5: Canada Mortgage and Housing Corporation. *Rental Market Report: British Columbia Highlights*. Fall 2007. <http://dsp-psd.pwgsc.gc.ca/Collection/CMHC/RMH/NH12-209E/NH12-209-2006E.pdf>
- ^{vi} TAB 6: BC Housing. *Rental Assistance Program*. British Columbia. 2007. <http://www.bchousing.org/programs/RAP>
- ^{vii} TAB 7: Carnegie Community Action Project. *Single Room Occupancy Survey Results – Analysis*. 2008.
- ^{viii} TAB 8: Vancouver Agreement. *Vancouver Agreement Hotel Analysis Project: Summary of Findings*. March 2007. <http://www.vancouveragreement.ca/Pdfs/Hotel%20Analysis%20Project%20Summary%20of%20Findings%20March%202007.pdf>
- ^{ix} TAB 9: Greater Vancouver Regional Steering Committee on Homelessness. *Metro Vancouver Homeless Count Figures 2008, Preliminary Numbers*. http://www.stophomelessness.ca/pdf/2008_Count_facts.pdf
- ^x TAB 10: Vancouver Agreement. *Vancouver Agreement Hotel Analysis Project: Summary of Findings*. March 2007. <http://www.vancouveragreement.ca/Pdfs/Hotel%20Analysis%20Project%20Summary%20of%20Findings%20March%202007.pdf>
- ^{xi} TAB 11: Pivot Legal Society. *Cracks in the Foundation: Solving the Housing Crisis in Canada's Poorest Neighbourhood*. September 2006. <http://www.pivotlegal.org/pdfs/CracksinFoundation.pdf>
- ^{xii} TAB 12: City of Vancouver. *Standards of Maintenance By-law No. 5462*. July 21, 1981. http://vancouver.ca/by-law_wa/
- ^{xiii} TAB 13: Pivot Legal Society. *Cracks in the Foundation: Solving the Housing Crisis in Canada's Poorest Neighbourhood*. September 2006, at page vi. <http://www.pivotlegal.org/pdfs/CracksinFoundation.pdf>
- ^{xiv} TAB 14: *British Columbia Health Act*. (RSBC 1996) Chapter 179. http://www.qp.gov.bc.ca/statreg/stat/H/96179_01.htm
- ^{xv} TAB 15: City of Vancouver. *Single Room Accommodation By-law No. 8733*. May 15, 2007. <http://vancouver.ca/blStorage/8733.PDF>
- ^{xvi} TAB 16: Carnegie Community Action Project. *Single Room Occupancy Survey Results – Analysis*. 2008.
- ^{xvii} TAB 17: Residential Tenancy Act, Statutes of British Columbia 2002, chapter 78. http://www.qp.gov.bc.ca/statreg/stat/R/02078_01.htm
- ^{xviii} TAB 18: Pivot Legal Society. *Cracks in the Foundation: Solving the Housing Crisis in Canada's Poorest Neighbourhood*. September 2006. <http://www.pivotlegal.org/pdfs/CracksinFoundation.pdf>
- ^{xix} TAB 19: Carnegie Community Actio Project. *Single Room Occupancy Survey Results – Analysis*. 2008.
- ^{xx} TAB 20: Hostels.com. *Vancouver Hostel Listings*. August 2008. <http://www.hostels.com/en/ca.bc.va.html>

^{xxi} TAB 21: Pivot Legal Society. *Correspondence between Pivot Legal Society and Vancouver Police Board and Attorney General of B.C. concerning complaint about police policy related to rental accommodation*. April 9, 2007 to January 21, 2008.

^{xxii} TAB 22: Criminal Code (R.S., 1985, c. C-46). s. 441. <http://laws.justice.gc.ca/en/C-46/>

^{xxiii} TAB 23: Pivot Legal Society. *Correspondence between Pivot Legal Society and Vancouver Police Board and Attorney General of B.C. concerning complaint about police policy related to rental accommodation*. April 9, 2007 to January 21, 2008.

^{xxiv} TAB 24: *Residential Tenancy Act*. Statutes of British Columbia 2002, chapter 78. http://www.qp.gov.bc.ca/statreg/stat/R/02078_01.htm

^{xxv} TAB 25: Security Services. *Downtown Ambassador Program*. June 2, 2008. <http://www.genesissecurity.com/content.php?section=23>

^{xxvi} TAB 26: City of Vancouver. Administrative Report. Standing Committee of Council on City Services and Budgets. December 11, 2007. <http://cityofvan-as1.insinc.com/ibc/mp/md/open/c/317/1201/200712130900wv150en.001>

^{xxvii} TAB 27: Vancouver Police Department. *2008 Annual Business Plan*. 2008. <http://vancouver.ca/police/StratPlan/BusinessPlan2008.pdf>