

RUSH TO JUDGMENT

A Critical Survey of Court Injunctions Against Homeless Encampments in BC, 2000-2022



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Introduction

Homeless encampments on publicly-owned land have become an almost constant symptom of the housing crisis in British Columbia in the 21st century. They often end when the government owner of the encampment site gets a court order to evict them, dispersing many occupants to the streets, parks or new encampments.

This report provides the first comprehensive survey of how BC courts respond when government actors ask them for injunctions to remove or regulate homeless encampments on publicly-owned land.

Background

Homeless encampments are among the many manifestations of the intersecting crises of housing, homelessness, poverty, toxic drugs, mental health, racism and colonialism. They arise when unhoused people seek mutual support, safety in numbers, and the ability—taken for granted by securely housed people—to shelter themselves and their belongings 24/7 rather than having to pack up and move their homes every single day.

In recent years, a series of court decisions in BC have established that it is unconstitutional for governments to prevent unhoused people from sheltering overnight in public places if there are inadequate spaces to house everyone in need of shelter. The courts also recognize that unhoused people need daytime shelter and somewhere to store personal belongings 24/7, but they have nevertheless ruled that laws allowing overnight shelter only are constitutional. The result is that unhoused people are caught in a vicious cycle of continual displacement in which bylaw officers and police demand that they pack up and move their homes and all their belongings every day.

Encampments provide unhoused people with greater stability and security compared to the isolation and continual displacement they experience when they sleep alone on sidewalks, back alleys, parklands or in various isolated nooks and crannies of cities and towns. This increased stability and security provide crucial benefits to encampment residents (see box on this page).

For many unhoused people, homeless shelters and single room occupancy buildings (SROs) are practically

inaccessible even when space is theoretically available (see box on next page). This problem is heightened for Indigenous people, who are overrepresented in the unhoused population. For them, shelters and SROs often reproduce experiences of incarceration, exclusion and dispossession.

Some benefits of encampments compared to the streets:

- Lower risk of violence, harassment and theft;
- Less stress;
- Better physical and mental health;
- Better sleep patterns, eating habits, food security and medication schedules;
- Better access to health and social services, including help with substance use disorders;
- Better chance to maintain contact with friends and family;
- Better chance of life-saving overdose treatment and lower risk of toxic drug overdose death;
- A place to keep belongings;
- Community and mutual support, helping and looking out for one another;
- Better connection to culture and faith, especially for Indigenous residents;
- Better chance to get on track toward health and wellbeing.

Despite these problems and the relative benefits of encampments compared to the existing alternatives, government authorities often respond to encampments by going to court to seek injunctions to evict encampment residents. When they do, they invariably emphasize the perceived risks and harms of encampments and the inconvenience they pose for securely housed people.

These risks and harms typically include fire safety, crime, violence, lack of running water, inadequate sanitation, garbage, drug use, overdose, discarded sharps, noise, unsightly conditions and interference with other uses of public space. Sometimes these concerns have a factual basis, but often they are exaggerated. Moreover, it is often unclear that encampments actually cause or exacerbate these problems rather than merely making them more visible

to securely housed people whose fears and prejudices may magnify them.

Unfortunately, BC judges generally do a poor job of weighing relative the benefits and harms of encampments and their alternatives (including shelters, SROs and streets) in these cases. Although there are a few exceptions, the courts often uncritically accept government claims of safety and security risks and availability of alternative shelter while discounting evidence of the benefits of encampments for unhoused people, the practical inaccessibility of shelter and the harms of continual displacement. In

Some reasons why existing shelter alternatives are practically inaccessible to many unhoused

- Past experiences of threats, violence and theft in shelters and SROs;
- Lack of privacy and security due to dormitory setup in shelters or lack of locks on room doors in SROs;
- Widespread mould, decay, rodents and cockroaches in SROs, creating unhealthy and intolerable living conditions;
- Rules barring guests or people of the opposite sex, separating people from spouses or intimate partners;
- “No pets” policies, separating people from companion animals;
- Limits on personal belongings, forcing people to choose between sleeping indoors and protecting their belongings;
- Curfews, re-entry restrictions and abstinence rules, making spaces inaccessible to people with addiction disorders;
- Claustrophobia, anxiety, post-traumatic stress and similar conditions, making spaces intolerable for people with such conditions;
- “One strike you’re out” policies, forcing people back onto the streets after minor or isolated infractions;
- Inaccurate and hard-to-find official information about space availability on any given night, making it difficult to match people with actually available spaces.

effect, they often prioritize securely housed people’s interests in recreation, comfort, aesthetics, public order and enforcement of municipal bylaws over the health, safety and survival of people experiencing homelessness.

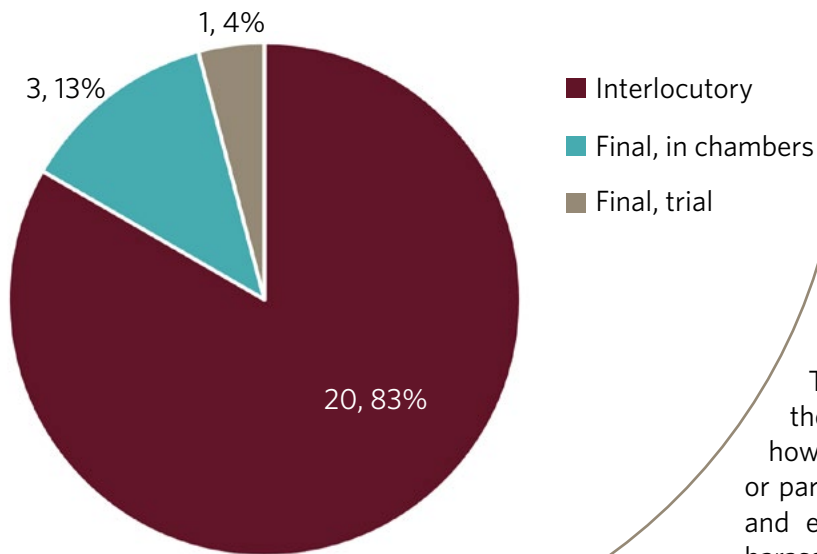
Overall, when government bodies come to them for injunctions against homeless encampments on publicly-owned land, the BC courts seem eager to oblige. But how eager, exactly, is a question that no one has studied systematically until now. That is where this report comes in.

A Survey of BC Homeless Encampment Injunction Cases

This report presents the results of the first systematic study of all reported court decisions on injunctions against homeless encampments on government-owned property in BC between 2000 and 2022. It covers two types of injunctions: **interlocutory** and **final**. Interlocutory injunctions are temporary orders issued before the government has proved its case against the encampment residents. They may be granted for a specific time period (which lawyers may instead call an “interim” injunction), or indefinitely until the case is finally decided. A **final** injunction is granted after the government has proved its case.

There were 24 decisions during this period: 20 interlocutory, 4 final. Of the four final decisions, three were heard in chambers without oral testimony or cross-examination, while one came after a full trial. As these numbers suggest, interlocutory injunction applications dominate homeless encampment litigation. Only a few homeless encampment cases have been decided finally after full consideration of the evidence and issues. Most are decided at the interlocutory stage, in a hurry, with little time to gather evidence, develop arguments or deliberate. They are decided without live testimony or cross-examination of witnesses. What is more, almost all of these interlocutory applications are for injunctions to evict encampments—only a few seek to regulate rather than dismantle them.

BC homeless encampment injunctions, 2000-2022: Type of proceeding



As a practical matter, an interlocutory injunction usually brings the case to an end. Governments' main goal in bringing these cases is usually to evict the encampments. Once they achieve this, they have little reason to continue the case. Moreover, eviction is usually a fatal blow to encampment residents due to the difficulty lawyers have maintaining contact with dispersed clients after eviction. Thus, the decision to grant an interlocutory injunction is effectively the final decision in most cases.

The stakes are high for encampment residents in these cases: they face eviction from their homes, however provisional they may be, to alleys, streets or parks where they will face continual displacement and elevated risks of isolation, sickness, violence, harassment and death.

Disturbing Results

The **results are alarming**. This study reveals that:

- 1. Applications for interlocutory injunctions against homeless encampments in BC have an 85% success rate** even though injunctions are supposed to be an extraordinary and drastic remedy granted in exceptional cases.
- 2. Applications for final injunctions have a much lower success rate** of 25% in this same period, suggesting that courts are more likely to rule in favour of homeless encampment residents when the issues and evidence are developed and explored carefully.
- 3. Some interlocutory decisions apply a relaxed legal test** that minimizes or ignores the issues of irreparable harm and balance of convenience.
- 4. No interlocutory decision applies the more demanding "strong prima facie case" standard** that the Supreme Court of Canada has ruled must apply to mandatory injunctions and injunctions that effectively put an end to the proceedings, both of which are true of most homeless encampment injunctions.

Typical injunction terms

Whether interlocutory or final, injunctions against residents of homeless encampments typically require the defendants to do some or all of the following:

- Vacate the site and remove all tents, structures, shelters, personal belongings, fences or obstructions;
- Verify their identity with picture ID;
- Declare their intentions regarding transition into housing;
- Surrender prohibited weapons and drugs to the police;
- Cease erecting tents, structures and shelters, setting fires or depositing waste at the site;
- Not re-enter, trespass on, occupy or otherwise use or interfere with the use of the site;
- Not hinder, obstruct or prevent the plaintiff from entering the site and carrying out the terms of the order.

5. These interlocutory decisions routinely resolve complex, contested factual and legal issues regarding the benefits and harms of encampments and the constitutional rights of encampment residents at a preliminary stage, before the issues and evidence can be developed properly and without oral testimony or cross-examination.

On a more hopeful note, the most recent decisions suggest that the tide may be shifting toward an approach that comes closer to doing justice to the vital interests at stake in these cases.

1. Interlocutory injunctions are the norm, not the exception

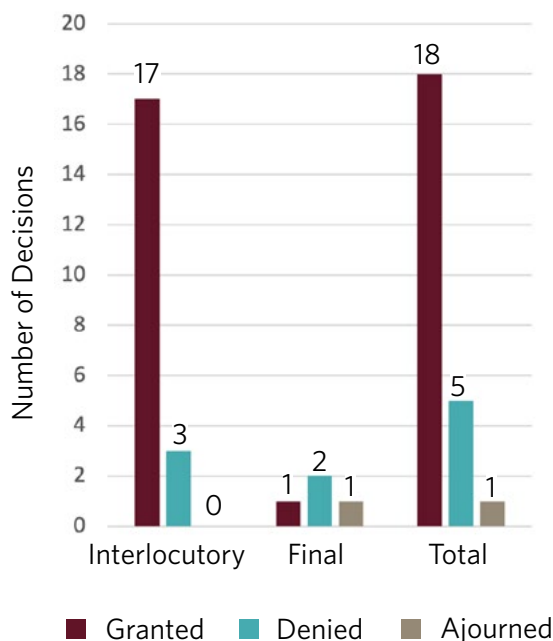
An interlocutory injunction is widely recognized as a drastic and extraordinary remedy since it restrains the enjoined party's liberty of action before the merits of the other party's claim have been proven in court. "Given that an interlocutory injunction is an exceptional remedy," [wrote](#) Justice Gascon of the Federal Court in 2019, "compelling circumstances are required to justify the intervention of the courts and the exercise of their discretion to grant the relief." **But this report reveals that in homeless encampment cases, interlocutory injunctions are the norm, not**

Poverty is no defence

"Poverty and the consequences of poverty are serious social and political issues with which this, and other large cities in particular, must struggle. They are not, however, legal issues in the sense that they could constitute justification for the unlawful conduct of large numbers of people. The laws of this province and this city are to be obeyed by all. The personal hardship that may be suffered by those affected by the injunction being sought is, on the authorities that govern the exercise of this court's narrow discretion, outweighed by the public's interest in having the law enforced. There are no circumstances here that are sufficiently exceptional to justify the court's refusal to grant an injunction in favour of permitting the unlawful conduct of as many as 200 people, and perhaps more to come, to continue unabated." *Vancouver v Maurice*, 2002

the exception. In fact, applications for **interlocutory injunctions against homeless encampments have a whopping 85% success rate**: 17 of 20 applications for interlocutory injunctions were granted.

BC Homeless encampment injunction outcomes, 2000-2022



The decisions granting interlocutory injunctions reveal some common themes. One is that once the government shows that defendants are trespassing or violating municipal bylaws, courts refuse interlocutory injunctions only in exceptional circumstances. Poverty and lack of housing seldom count ("Poverty is no defence," box on this page). Instead, courts often characterize encampment residents as [deliberately flouting the law](#) rather than stuck in a vicious cycle that anyone would find hard to escape.

Courts often accept governments' assertions that [alternative shelter is available even when defendants swear it is not](#), and that defendants are choosing to occupy public land in spite of this fact. Even when courts accept that there are not adequate shelter spaces, or even that encampments provide their residents community, safety, stability, privacy and harm reduction, they often find that health, safety, violence, criminal activity and fire risks

[nevertheless justify eviction](#). They seldom weigh the dangers of encampments against the dangers of dismantling encampments and dispersing the occupants. Some courts find that having to police and clean up encampments causes irreparable harm to government. The same has been held to be true where encampments interfere with other people's recreation, and even with neighbours' "[natural greenbelt views](#)."

Only three requests for interlocutory injunctions (15%) were denied between 2000 and 2022, and one of these was [granted upon reapplication](#) a few months later when the government convinced the court that conditions in the encampment had deteriorated. As a result, only two cases during the study period effectively denied interlocutory injunctions. In 2017, a judge [refused](#) an interlocutory injunction to clear an encampment from a city-owned vacant lot in Vancouver that was slated for redevelopment as social housing. The court refused the injunction because there were no health and safety concerns, there was no evidence that the encampment was interfering with the use of public space by other members of the public, and the evidence that the encampment was preventing a vital social housing project was speculative hearsay. Crucially, the court accepted the defendants' evidence that they had nowhere else to go and would be subject to a risk of violence if forced to live on the streets. The judge also accepted their evidence that the encampment provided them with safety, stability and a supportive community, and that an encampment resident's life was saved "because he was in a community surrounded by people familiar with and trained to both recognize and treat an overdose."

The second case arose in 2022, when a court [denied](#) an interlocutory injunction to evict an encampment from a publicly-owned green space in Prince George. The decision was very narrow. The court refused the injunction because the city had not fulfilled the conditions for clearing the encampment that another judge had specified in an earlier decision. Both of these Prince George decisions are discussed later in this report.

For the sake of completeness, it is worth noting that there was one case where the court's initial decision to grant an interlocutory injunction was [reversed on appeal](#), but this happened three years after the encampment had been cleared and had no practical effect. The defendants were long gone.

2. But contested applications for final injunctions have a zero success rate

In contrast to interlocutory injunctions, **final injunctions were granted in only 25%** of the four cases that were finally decided in this period. Two of the final decisions (50%) denied governments' requests for injunctions against homeless encampments, while a third was adjourned. The [sole decision](#) to grant a final injunction against a homeless encampment was unopposed, and its legal basis was thus untested. The encampment, in Saanich on Vancouver Island, had already been evicted pursuant to an interlocutory injunction, and the defendants and their lawyers did not contest the final injunction. It is fair to say, then, that **contested applications for final, permanent injunctions against homeless encampments in BC have a zero success rate** this century.

It is important to acknowledge that there were very few final decisions (four, to be exact), but even so, their low success rate suggests that when the vital interests and rights at stake in homeless encampment cases are given fuller attention, courts tend to favour encampment residents. This should prompt serious reflection about whether courts are too hasty to issue interlocutory injunctions against encampments.

Overall, interlocutory and final injunctions were granted against homeless encampments in 75% of the reported cases decided by BC courts from 2000 to 2022, which still represents an overwhelming majority.

3. Some cases short-circuit the usual test for interlocutory injunctions

The BC courts' predominant tendency to grant interlocutory injunctions against homeless encampments is amplified by the fact that a significant number of cases deviate from the usual legal test for such injunctions. In a case called [RJR-MacDonald](#), the Supreme Court of Canada ruled that an applicant for an interlocutory injunction must show that there is a serious question to be tried, the applicant will suffer irreparable harm without the injunction, and the balance of convenience favours the applicant. The

Land Back: A troubling comparison

In 2019, a report by the Yellowhead Institute provoked widespread media attention and public outcry when it revealed that requests for injunctions against First Nations in disputes over resource extraction on Indigenous territories had an astounding 76% success rate. At 85%, the success rate for interlocutory injunctions against homeless encampments in BC is substantially higher. Even when final decisions are included, the overall success rate of 75% is on par with that reported by the Yellowhead Institute. Disproportionate injunction success rates are certainly a cause for concern when aimed at Indigenous land defenders. They should also raise alarm bells when they target people experiencing homelessness.

second and third prongs of this test require courts to consider the risks and benefits of granting or refusing the injunction. **This is where the courts should look at the relative benefits and harms of evicting encampments or allowing them to remain.**

Most BC courts have applied this three-pronged test in homeless encampment cases. Indeed, BC courts generally agree that this is the proper test for an interlocutory injunction whenever constitutional rights are at issue—which they almost always are in homeless encampment litigation. Defendants in these cases almost always contend that government actors are violating their *Charter* right to life, liberty and security of the person, or in some cases their rights to equality, freedom of expression or freedom of assembly. BC courts also generally agree that *RJR-MacDonald* applies even if the constitutional issues are not clearly presented due to lack of time or legal expertise.

Yet in a handful of cases (20% of the total interlocutory decisions), BC courts applied a more lenient test as an independent basis to grant an injunction.

Lowering the bar: the “statutory injunction” test

The first of these alternative tests is the “statutory injunction” test. According to this test, if a public authority shows a breach of an enactment, the court will issue an injunction to restrain the breach unless there are truly exceptional circumstances, such as where the defendant has a right that pre-existed the enactment, has committed to discontinue the unlawful conduct, is not flouting the law, or is not causing the sort of harm the enactment was intended to preclude.

The case law gets a bit complicated here. Some BC courts have, in effect, applied this test under the guise of the three-pronged *RJR-MacDonald* test. One judge who evicted an encampment from Vancouver’s CRAB Park in 2003, for example, acknowledged that *RJR-MacDonald* was the right test but [said that](#) “the public interest in enforcement of laws existing and enacted for the public good generally outweighs the interest of individuals who challenge the law on the basis of the constitution or other bases.” But these courts at least purported to consider irreparable harms and the balance of convenience.

In three cases, the courts treated statutory breaches as an independent basis for the injunction without considering irreparable harm or the balance of convenience. In the first of these, the court granted the City of Vancouver an interlocutory injunction to clear an encampment from the public sidewalk outside the derelict Woodward’s building. The judge ruled that the encampment was clearly violating a bylaw prohibiting obstruction of sidewalks and that the “statutory injunction” test applied even if the respondents’ *Charter* rights were engaged. He [wrote that](#) “[a]ny discretion the court may have to permit unlawful conduct involving large numbers of people must be very narrow indeed and arise only in circumstances that are truly exceptional.”

In the second case, the court applied the statutory injunction test to [hold](#) that the defendants’ breach of federal regulations entitled the Vancouver Fraser Port Authority to an injunction clearing an encampment from a vacant, unused parking lot beside CRAB Park (this decision is discussed again later in this report). In the third case, the court [held](#) that violation of a parks bylaw entitled the City of Victoria to an interlocutory injunction to remove tents from environmentally and culturally sensitive areas of a city park.

Laying the bar on the ground: the “trespass” test

The second alternative test is the “trespass exception,” which states that a landowner whose title is not at issue is entitled to an injunction to restrain trespass on its land regardless of whether the trespass harms it, unless the defendants show that they have a right to do what would otherwise be considered trespass. This test has been applied in just two BC homeless encampment cases, both decided by the same judge. In those two cases, Chief Justice Hinkson of the BC Supreme Court applied the trespass test to grant interlocutory injunctions against homeless encampments on government-owned land: in [one case](#), the grounds of a boarded-up hospital in Abbotsford; in the [other](#), a parking lot in Vancouver’s portlands.

In both cases, Chief Justice Hinkson held that the encampment site, though government-owned, was private property, the defendants were trespassing and they had no arguable case that their occupation of the site was as of right. He concluded that the applicants were entitled to an interlocutory injunction without any consideration of irreparable harm or balance of convenience.

The characterization of these two sites as private property was highly problematic. One was an empty, unfenced and at the time (the middle of the COVID-19 pandemic) unused parking lot owned by a federal port authority, right next to a public park, with an uncontradicted history of public access and no real efforts to exclude the public. The other was a small, unfenced strip of land at the edge of the unused site of a boarded-up former public hospital owned by a regional health authority. The encampment was outside the part of the property that had been fenced and posted with “no trespassing” signs. In neither case did the encampment interfere with the owner’s intended use of the land.

These two cases are alone in applying the trespass exception to homeless encampments. Another judge refused to apply the trespass exception to a homeless encampment on a City-owned vacant lot in Vancouver that had an even more “private” character in that it was enclosed by a locked fence that the defendants broke to gain access. Yet another judge took the same approach to an encampment on land owned by the City of Nanaimo, leased to a private charitable

organization, sublet to a private railway company and—much like the Vancouver portlands site—zoned for transportation uses such as ferries, buses, rail yards and transportation storage. This site, too, was securely enclosed by a locked chain link fence that the defendants broke deliberately to establish the camp. Neither of these judges characterized those sites as private property, and both applied the full three-pronged test for interlocutory injunctions.

Applying the trespass test to the exclusion of irreparable harm and balance of convenience also goes against the general case law. BC courts have applied the full *RJR-MacDonald* test in other cases where defendants were inarguably trespassing, from purely commercial disputes to the Wet’suwet’en Solidarity protests of 2020. **If irreparable harm and balance of convenience must be considered when Indigenous land rights, environmental protection or even purely commercial interests are at stake, surely they must be considered when respondents’ health, safety and survival are at issue.**

Treating statutory breaches and trespass as exceptions to the normal three-pronged test effectively removes the bar for granting interlocutory injunctions against homeless encampments. Government landowners can almost always show that encampments are technically trespassing or violating some applicable statute or regulation. **They simply have to step over the bar that the courts have conveniently lowered to the ground.** It is then up to the defendants to prove that an injunction should not be issued. This reverses the principle that injunctions are an exceptional remedy by dictating the issuance of an interlocutory injunction unless the *defendants* can show exceptional circumstances.

Even though the cases applying these exceptions are a minority, they exert a downward pull that needs to be resisted. But simply insisting on the usual *RJR-MacDonald* test is not enough either.

Tilting the balance against unhoused people’s health and survival

While the majority of BC cases accept the three-pronged *RJR-MacDonald* test, most apply it in a lopsided way that prioritizes interests in law enforcement, recreation, comfort and aesthetics over the health, safety and survival of people experiencing

homelessness. **It is hard to imagine defendants who stand to be harmed more substantially by transferring possession of disputed land to a plaintiff before trial than residents of a homeless encampment.**

Governments are charged with upholding the public interest, which must include, above all, the lives and welfare of community members. And yet, by seeking to evict homeless encampments, they consciously jeopardize the lives and health of some of society's most marginalized and vulnerable members. This differentiates these cases from other situations in which interlocutory injunctions are sought to enjoin protest, trespass or statutory breaches. It demands a careful assessment and balancing of the relative harms and inconveniences to the parties and the public.

Currently, BC courts assume that there is an opposition between the public interest in law enforcement and the "private" hardship an injunction will cause unhoused defendants. This is misleading. The public interest includes not just law enforcement but also shelter, safety, survival and respect for everyone's constitutional rights. The hardship suffered by homeless encampment residents as a result of an injunction is harm to the public interest and must be weighed against the competing public interest in "[having the law obeyed.](#)"

What is more, it is increasingly obvious that these injunctions are ineffective at solving the problems at which they are aimed. Dismantling encampments does not prevent further statutory violations or trespasses on government-owned land. It just transfers the problems to other locations. Encampments emerge elsewhere. Unhoused people cannot satisfy their basic human needs for shelter, survival and subsistence without violating one or more of the many laws that restrict their activity in publicly-owned places. In short, injunctions are ineffective.

Even if these cases do not fall within the narrow range of "exceptional circumstances" the BC courts have recognized as grounds to refuse an injunction to restrain violation of a statute or bylaw, **judges always have the discretion to refuse an injunction if it would be ineffective or cause injustice. They need to find the courage to exercise this discretion.**

4. But none apply the higher threshold that actually applies to these cases

But that is not all. In fact, the BC courts need to go even farther to correct their distorted weighing of the interests at stake in homeless encampment cases. In 2018, the Supreme Court of Canada [clarified](#) that interlocutory injunctions in cases like this require even stronger justification than the usual *RJR-MacDonald* test, but word of this decision does not seem to have reached the West Coast yet.

Under the *RJR-MacDonald* test, the party seeking an interlocutory injunction only needs to show that there is a "fair" or "serious" question to be tried in the case. This is not a demanding standard. It basically entails showing that the plaintiff's case is not frivolous or vexatious. Potential defences, including alleged violation of the defendant's constitutional rights, are irrelevant to this inquiry.

The law has been settled for a long time that a higher standard applies where an interlocutory injunction would effectively bring the case to an end. **If the injunction would amount to a final determination of the case, the standard for assessing the strength of the applicant's case is not whether there is a serious issue to be tried, but whether the applicant has shown a "strong *prima facie* case."** This requires a more extensive review of the merits of the plaintiff's case, including a preliminary assessment of the strength of the defendant's defences.

As noted earlier in this report, the grant of an interlocutory injunction to dismantle a homeless encampment is effectively a final decision. BC judges realize this. As one [wrote](#), "typically, the injunction becomes the final remedy" in homeless encampment cases. The law is clear: the higher threshold of a strong *prima facie* case must be met if the injunction would amount to a final determination. Yet not a single homeless encampment case in BC from 2000 to 2022 applied this higher standard.

This is especially problematic since the Supreme Court of Canada has made it clear that this higher

standard also applies to mandatory injunctions. An injunction is mandatory when its overall effect would be to require the defendant to *do* something rather than to *refrain from doing* something. The distinction is sometimes hard to draw in practice, but injunctions against homeless encampments almost invariably require the defendants “to undertake a positive course of action, such as taking steps to restore the *status quo*,” which the Supreme Court of Canada [has said](#) makes an injunction mandatory. While they often contain some prohibitive language, the thrust of these injunctions is to require the defendants to take positive steps to dismantle the encampment, vacate the site and restore the pre-encampment *status quo*. BC courts often [recognize](#) that these injunctions are mandatory, but not one has applied the “strong *prima facie* case” standard that the Supreme Court says is required.

This matters because it is likely to affect the outcome. First, it is a higher threshold: it [imposes](#) “a burden on the applicant to show a case of such merit that it is very likely to succeed at trial. Meaning, upon a preliminary review of the case, the application judge must be satisfied that there is a *strong likelihood* on the law and the evidence presented that, at trial, the applicant will be ultimately successful in proving” its case. Second, it changes the scope of inquiry: the “strong *prima facie* case” standard requires the court to consider the strength of the defences raised by the defendant, including *Charter* claims.

Not only does this mean that the court must weigh the encampment residents’ rights into the balance when deciding whether the applicant has a strong enough case to warrant an injunction, it also raises the question of whether courts should attempt to resolve complex, contested constitutional and evidentiary issues at the interlocutory stage.

5. Judges routinely prejudge complex legal and evidentiary issues

Applications for interlocutory injunctions raise a very real danger that judges will decide complex, contested question of fact and law prematurely. At this stage, the parties—especially the defendants—usually have not prepared their cases fully or engaged in discovery (the process by which parties to a civil

case exchange evidence in preparation for trial). The factual and legal issues are often only roughly defined. The court must decide the application on affidavits alone, without the benefit of cross-examination and with few other means to assess credibility when evidence conflicts. And it must do so in haste, with little time for deliberation.

These problems are accentuated in cases that involve constitutional issues or the strong *prima facie* case standard, both of which often demand consideration of contested questions with strong factual components that should be decided at trial after full evidence has been presented for both sides. Homeless encampment cases raise numerous complex and contested issues, including not just *Charter* violations but also fire risks, health, safety, crime, housing availability and accessibility, interference with other uses of the site, and defendants’ attitudes and behaviour towards public authorities. In a rare BC encampment case refusing an interlocutory injunction, Chief Justice Hinkson [acknowledged](#) that he was “unable to resolve many of these factual disagreements on affidavit evidence alone.”

Unfortunately, this has not stopped courts from resolving complex, contested factual and legal issues against unhoused defendants at an interlocutory stage in the vast majority of cases in this study.

There is a solution to this problem. **If an interlocutory injunction application depends on complex, contested issues of fact and law that cannot be resolved on the basis of affidavit evidence alone, judges should err on the side of caution and dismiss the application so that these issues can be addressed fully at trial.** This logic also applies to some proceedings for final orders against homeless encampments. In BC, requests for final statutory injunctions must proceed by way of a petition, which is a summary proceeding heard in chambers on the basis of affidavit evidence, without discovery or oral testimony. Courts have the authority to order a full trial of a petition or interlocutory application where there are genuine disputes of fact or law, yet they seldom do so in homeless encampment cases.

Denying interlocutory injunctions and requiring these cases to go to trial on the merits would increase the pressure on governments to negotiate with precariously housed people and their advocates towards solutions

to encampments and the homelessness crisis. It would also give courts the chance to resolve pressing legal issues on the basis of fully developed evidentiary records and legal arguments, including the unsettled issue of when and where there might be a right to shelter 24/7 on public property.

The danger of deciding contested issues prematurely on the basis of hurriedly assembled affidavits and arguments is borne out by the results of this study. As noted earlier, homeless encampment defendants have lost in 85% of interlocutory proceedings but only 25% of final proceedings, and this 25% represents a single uncontested decision. This suggests that the constitutional and evidentiary issues raised by defendants in these cases will often turn out to be valid if given the chance to be developed and explored fully, and that disposing of them prematurely at the interlocutory stage does not do them justice.

Signs of a shift?

Despite the alarming results revealed by this report, there are reasons for cautious optimism. After granting every injunction requested against a homeless encampment in the first 14 years of this century, courts have begun to refuse them in recent years. Injunctions were refused in all three decisions in 2021 and 2022. This contrasts with

2018-2020, when all six decisions granted injunctions against encampments.

More important than these raw numbers, the three decisions from 2021 and 2022 suggest that BC judges may be shifting toward a more sensitive, balanced approach to homeless encampments. Two dealt with encampments in the City of Prince George in BC's northern interior. The third dealt with an encampment in a park near Vancouver's Downtown East Side.

Prince George's "Moccasin Flats"

Two encampments emerged on city-owned property in Prince George in the spring of 2021, during the COVID-19 pandemic. One was on a small vacant lot on George Street, across from the courthouse. The other was on a long, narrow, dirt- and grass-covered strip of land wedged between an industrial area and a steep, wooded ridge that rose to a residential neighbourhood above. Officially called Lower Patricia Boulevard, the site was dubbed "Moccasin Flats" by occupants. There were around 80 occupants between the two encampments, the large majority Indigenous.

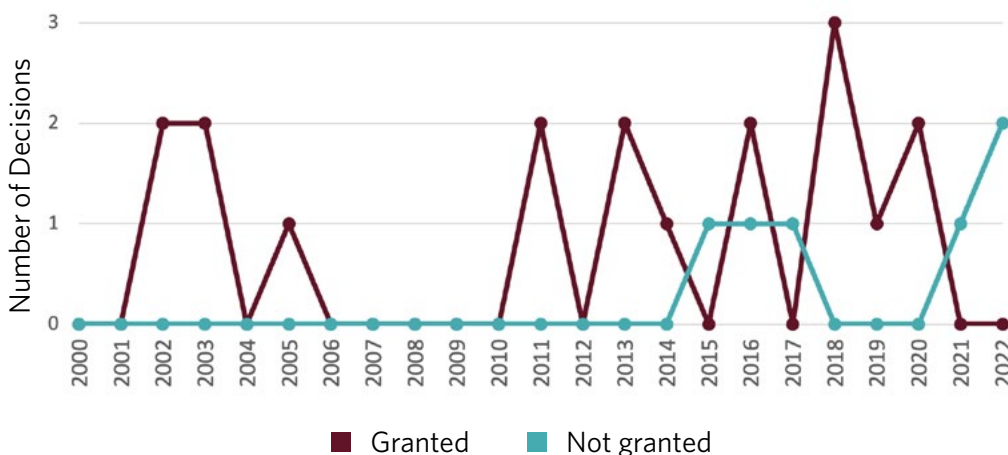
These encampments arose while Indigenous communities across the country were reeling from news of the discovery of 215 unmarked graves of children who had died at the former Kamloops Indian Residential School. Indigenous residents of Prince George were barely beginning to process this traumatic discovery by their Secwépemc neighbours to the south when the City announced its intention to seek injunctions to clear any illegal encampments and served

Notices to Vacate on occupants of the George Street encampment.

Under pressure from the City, many people moved from the George Street site to Moccasin Flats over the course of the summer. By the time of the first court hearing, few people were left at George Street.

The City delayed applying for an injunction in what

BC homeless encampment injunction decisions, interlocutory and final, 2000-2022



it called a “[compassionate step](#)” while trying to secure shelter for encampment residents. But it simultaneously took steps that were anything but compassionate. City Council rejected a proposal to amend its parks bylaw to allow homeless people to erect temporary overnight shelters in designated places when city shelters were full. This would merely have brought the bylaw into minimal compliance with the *Charter of Rights*. The same day, it gave preliminary approval to a new “Safe Streets” bylaw that would effectively criminalize poverty and homelessness. The bylaw’s champions made no mystery of the fact that it was aimed at the City’s homeless population and these two encampments in particular. City Council adopted the bylaw at the end of August, 2021.



The vicinity of the encampments in Prince George. Imagery date: 20 April 2021. Image © 2022 Maxar Technologies. Used in accordance with Google Geo Guidelines.

Five days earlier, the City launched a lawsuit against the two encampments. Called [Prince George v Stewart](#), it alleged that the encampment occupants were refusing to leave the sites even though shelter was currently available in the City. It asked for a permanent injunction requiring the defendants to dismantle the encampments, remove everything, vacate the sites and not re-enter them or anywhere else in the City without the City’s permission.

Chief Justice Hinkson dismissed the case in October, 2021. In contrast to most of the decisions in this study, he accepted defendants’ evidence of the benefits of the encampments and the harms of continual displacement, and was skeptical toward government assertions of the harms of encampments and the availability of alternative shelter.

He recited at length the defendants’ evidence of the benefits of the encampments, including safety, security, community, improved mental health and sleep, and access to social, health care and harm reduction services. He noted encampment residents’ collective efforts to enforce conduct guidelines and keep the sites safe and clean. He recognized that these advantages are highly desirable, though he held

that they cannot on their own justify occupying public property. He also recognized the residents’ negative experiences on the streets and in shelters and their lack of anywhere to go should they be evicted.

He concluded that the City’s claim that adequate housing was available to all encampment residents failed to consider practical barriers to access. He accepted the defendants’ evidence that many encampment residents had tried but failed to secure shelter because there was no space or they did not meet eligibility criteria. He also accepted their evidence that very few shelter spaces were low barrier and that many unhoused people with the greatest needs had been banned from shelters because of substance use or mental health issues. He agreed with them that substance use disorders, lack of identification, inability to meet application requirements and other barriers had prevented some unhoused individuals from securing shelter. He also accepted their evidence that the COVID-19 pandemic had reduced shelter capacity and that [as a result](#), “scores of people have nowhere to shelter themselves except outdoors in either the daytime or the nighttime.”

Chief Justice Hinkson rejected as hearsay much of the City's evidence of crime, gunshots, stolen goods, fire hazards, needles, overdoses, human waste, emergency calls, and vandalism and theft affecting local businesses and residents. He [concluded](#) that there was "no admissible evidence that crime has increased because of the encampments, or that homeless individuals sheltering together cause an increase in crime, or that displacing the residents of the encampments will lower incidences of crime." As for fire risks, he [accepted](#) that "people with nowhere warm to stay must find ways of keeping warm to stay alive" and "if the occupants of the encampments are enjoined from using those encampments, they will present the same risk of fires, wherever they move to, unless they move to alternate shelters."

Importantly, he recognized the intersections between the homelessness crisis and colonialism to a degree not seen in earlier decisions. He accepted defence evidence that a disproportionate number of homeless people in Prince George were Indigenous and that discrimination, racism, direct and intergenerational trauma from residential schools have serious impacts on the health and wellbeing of Indigenous peoples. Not only that, he held that encampment residents do not need to prove these harms. Rather, courts must take judicial notice of them.

Finally, Chief Justice Hinkson affirmed that an injunction "is an extraordinary remedy and should only be granted when there are no other alternatives." He said that the relaxed "statutory injunction" test for issuance of an injunction was not well suited to cases involving "homeless individuals without optional spaces to shelter," especially in a place like Prince George, where cold weather is a more severe threat to their lives than it is in southern BC.

The result was that Chief Justice Hinkson ruled that the Moccasin Flats encampment could not be evicted without proof of adequate alternative housing that was actually accessible to the occupants. The City appealed that ruling. On the other hand, he found that the George Street encampment was not needed and gave its inhabitants seven days to vacate the site. The City cleared and fenced that site shortly afterward.

On November 17, 2021, amidst freezing temperatures and snow, the residents of Moccasin Flats faced the same fate despite the court's order. City crews moved

in and bulldozed almost the entire encampment, claiming that all but two occupants had accepted housing offers and that outreach staff had confirmed with each resident who wanted to move that they no longer wished to live there and that anything left behind would be removed by the City. The City [insisted](#) that it was "not closing the encampment but rather removing abandoned structures, refuse, and debris from civic property to reduce risks such as fire hazards."

Many encampment residents, however, claimed that they had not abandoned anything and that the City had destroyed their tents, structures and personal belongings including precious possessions like ID, family photos, address books and deceased loved ones' ashes. Some residents claimed they had neither been offered housing nor agreed to leave. Advocates called the City's actions brutal and traumatizing.

A few holdouts stayed at Moccasin Flats as fall turned to winter. In late November, 2021 the City went back to court for an interlocutory injunction evicting them. This case, called [Prince George v Johnny](#), claimed that the people remaining at Moccasin Flats had refused to leave despite the availability of adequate alternative housing. Justice Simon Coval denied the application in February, 2022. He ruled that the City had breached Chief Justice Hinkson's order by dismantling much of the encampment in the absence of available and accessible housing and daytime facilities. He [confirmed](#) that this breach "inflicted serious harm on vulnerable people." He rejected the City's contention that there were adequate, accessible housing alternatives. On the contrary, he accepted the defendants' evidence that numerous residents "left the camp only because their shelters and belongings were dismantled and destroyed in their absence and they were not offered housing," while others who moved into housing "lost their personal belongings in the dismantling without reasonable opportunity to collect all that was essential and important to them."

The Moccasin Flats encampment thus survived multiple attempts by the City to destroy it by legal and extralegal means. In March, 2022, the City dropped its appeal of Chief Justice Hinkson's earlier decision and [issued a public apology](#) to everyone who experienced trauma as a result of its actions. It announced that it accepted Justice Coval's decision while insisting that it had always acted in good faith.

But the defendants' troubles continued. In July 2022, City Council expanded the Safe Streets bylaw to allow enforcement officers to remove and destroy any items they consider to be abandoned, and once again defeated a motion to establish sanctioned overnight sheltering locations in the City. In May, 2023, after almost another full year of conflict and controversy, City Council finally amended the parks bylaw to allow overnight shelter. But it designated Moccasin Flats as the only place in the City where overnight shelter was permitted. It also announced its intention to clear the roadway through Moccasin Flats, dismantle a new encampment that had emerged in the meantime, hire more police officers and install "hostile architecture" around the City.

Encampment residents and allies criticized the City's plan to "[kettle](#)" all outdoor shelters into one place, [saying](#) there were good reasons to keep them separate so people who do not get along or are a danger to each other are not forced together. Nevertheless, in September, 2023, the City carried out its threat to close the new encampment, prompting the provincial government to admonish it for doing what it had tried to do with the earlier encampments: unilaterally evict their inhabitants in the absence of adequate housing and supports.

Vancouver's CRAB Park

The third case was [Bamberger v Vancouver Park Board](#). It involved an encampment that began in the spring of 2021 in CRAB Park, a small waterfront park serving Vancouver's green space-deficient Downtown East Side (DTES). CRAB Park is a green oasis surrounded by rail yards, a shipping container terminal, a SeaBus ferry terminal and industry. The encampment began when the Park Board closed down an earlier encampment in nearby Strathcona Park. Park rangers patrolled the new camp daily, informing residents that the Parks bylaw allowed only temporary overnight camping and required all tents to be removed by 8 am. They also conducted "wellness checks" that many residents experienced as intrusive and intimidating.

In July 2021, the Park Board issued an order banning all temporary overnight shelters and structures in CRAB Park, but the encampment continued to grow. In September, 2021 the Board issued a further order closing to all public use the portion of the park

that contained the new encampment, to permit remediation. Both orders were issued without prior notice to or consultation with encampment residents. By the time of the second order, more than 50 people were sheltering in CRAB Park. Rangers continued to patrol the park daily, telling residents about the bylaws and orders, instructing them to pack up and move out, and often removing tents and items they considered unattended. The Board also erected metal construction fencing around the encampment.

Some residents stayed in defiance of the orders. One who stayed, Kerry Bamberger, and one who left, Jason Hebert, brought a lawsuit challenging the Park Board's orders. At the same time, the Park Board sued for an injunction to enforce the order closing the encampment area to all public use, and another to enforce the bylaw prohibition on daytime shelter.

This was the fourth unauthorized encampment in CRAB Park or its immediate vicinity in recent memory. The first led to the park's creation. In the early 1980s there was a grassroots campaign to "Create a Real Alternative Beach" ("CRAB") for the DTES, which unlike other Vancouver neighbourhoods had no waterfront green space. In the summer of 1984, park advocates set up a 60-tent, 200-person protest camp on the proposed park site after organizers of the Expo 86 World's Fair proposed to develop it as a multimodal transportation hub. The protesters left in September, 1984 after securing commitments from politicians to support the park. CRAB Park eventually opened in 1987.

The second encampment in CRAB Park arose after an encampment in and around the disused Woodward's department store was cleared pursuant to court injunctions in 2002. In 2003, a court [found](#) that this CRAB Park encampment was "a relatively orderly, relatively clean encampment" with "a sense of community" that included "a certain level of respect for other park users." The court noted:

People have testified to the relative safety of this subcommunity as compared to life on the streets at large. They have testified to the need for a living space for those that are thoroughly disadvantaged and the arguable advantages to the whole community of designating some publicly-managed park space as available for this type of use.

The court nevertheless immediately went on to hold that the balance of convenience very much favoured the Park Board, which could not “discharge its mandate for the benefit of the entire community if the defendants and others are permitted to live there.” He granted an injunction to clear the encampment.

That 2003 decision was followed by a string of cases in which BC courts granted interlocutory injunctions to evict homeless encampments despite substantial evidence of their benefits compared to the alternatives. That string led almost unbroken to an encampment that was established in 2020 on an empty, unfenced and unused parking lot right next door to CRAB Park, owned by the Vancouver Fraser Port Authority (“VFPA”).

The VFPA encampment arose one day before the last people were evicted from a highly controversial encampment that had occupied nearby Oppenheimer Park for the previous two years. The Oppenheimer Park encampment was closed in the early days of the COVID-19 pandemic pursuant to a provincial COVID-19 emergency order. Although government agencies made efforts to secure housing for all 300 or more Oppenheimer Park occupants, around 10% of them fell through the cracks. Some of them moved to the VFPA parking lot next to CRAB Park, along with numerous other unhoused individuals.

The parking lot normally served the cruise ship industry and special events, but in 2020 it was unused due to the indefinite suspension of the cruise season and public gatherings during the COVID-19 pandemic. It was undeveloped except for a dispatcher’s shack, and well separated from nearby residential and commercial uses.

The VFPA immediately informed encampment residents and volunteers that they were on private property and asked them to leave. Within a week, it sued for an injunction to remove the encampment and restrain the defendants from entering or occupying the site. It claimed that the defendants were trespassing, violating several federal port regulations, circumventing the provincial health order that had closed Oppenheimer Park, and failing to observe COVID-19 precautions.

Chief Justice Hinkson [agreed and granted an interlocutory injunction](#) to clear the encampment on

June 10, 2020. By this time the encampment comprised around 80 tents and structures and more than 100 occupants, a substantial number of whom were Indigenous. He dismissed the defendants’ extensive evidence of the benefits of the encampment, the practical inaccessibility of housing and the harms of living in shelters, SROs and on the streets. He accepted the VFPA’s evidence of the risks and harmful impacts of the encampment, much of it inadmissible hearsay. He accepted uncritically the VFPA’s assertion that housing was available to all encampment residents even though a substantial fraction of the occupants of the earlier Oppenheimer Park encampment had fallen through the cracks and many of the new encampment’s residents had not come from that encampment and had not been offered emergency housing.

Rather than recognizing that the COVID-19 pandemic had made unhoused people’s lives harder by reducing support services and shelter spaces, he accepted the VFPA’s claim the defendants were deliberately circumventing the COVID-19 order that had closed Oppenheimer Park and were not following public health guidelines at the new encampment. This despite evidence that encampment residents were striving to observe physical distancing guidelines, while police and VFPA personnel frequently failed to do so.

Chief Justice Hinkson also accepted the VFPA’s evidence that encampment residents were aggressive and confrontational while ignoring evidence of their efforts at conciliation and dialogue and the aggressive conduct of the VFPA’s own security officers and contractors. He also ignored the Indigenous context of the encampment, including the maintenance of a sacred fire which he mentioned only as a regulatory infraction and source of smoke complaints.

As noted earlier, although the site was government-owned, unfenced, currently unused by the VFPA and routinely accessed by the public, Chief Justice Hinkson held that it was private property unavailable for general public use. He concluded that the encampment residents were trespassing and violating federal regulations by causing a fire, placing structures and depositing waste on VFPA land without authorization. He held that this entitled the VFPA to an injunction without any consideration of irreparable harm or balance of convenience, even though a year later, in *Prince George v Stewart*, he would say that the relaxed statutory injunction test was unsuited to homeless

encampment cases.

Chief Justice Hinkson gave the defendants three days to vacate the site and remove all belongings. When they did not comply, the police moved in and arrested 46 people. Soon afterward, the VFPA enclosed the site with a chain link fence topped with barbed wire and secured with padlocks.

Many of the people displaced from this site relocated to Strathcona Park, a highly developed and heavily used public park located in a densely populated neighbourhood. The Strathcona Park encampment immediately whipped up a furious storm of controversy, but the Park Board did not move immediately to evict the campers. It worked with government authorities, community agencies and emergency services to manage health and safety, connect camp residents with supports and housing options, and provide facilities such as hygiene stations and a warming tent.

In September, 2020 the Park Board amended its bylaws to allow people experiencing homelessness to erect temporary overnight shelters in certain areas of parks, provided that such shelters are removed by 8 am every morning and not left unattended. This change merely brought the bylaws into line with the constitutional minimum. The same amendment also went farther, giving the Board's General Manager the authority to designate areas for daytime shelter.

The Park Board did not designate any areas for daytime shelter. Nor did it force the Strathcona Park residents to pack up and move out every day. After several months and amidst growing concerns about fire safety, crime and toxic drug overdose, the Park Board, city and province signed a Memorandum of Understanding (MOU) in March, 2021 to work together to end the encampment by April 30 and prevent future encampments in the city.

The MOU recognized that homelessness is a growing humanitarian crisis in the region and that unhoused individuals have a legal right to erect temporary overnight shelters in public spaces when adequate shelter or housing options are unavailable. They parties committed to work together to eliminate outdoor sheltering in Vancouver's parks and public spaces by providing affordable and dignified housing as well as health, mental health and social supports. In the meantime they committed "to act immediately

in a positive and compassionate way ... to support unsheltered residents and those living in temporary structures in parks and public spaces." For its part, the Park Board committed to enforce the Parks bylaw when suitable indoor spaces are available, and to work with other partners to provide amenities and facilitate outreach and services to unsheltered people when suitable indoor spaces are not available.

Pursuant to the MOU, the Park Board ordered all tents and unauthorized structures to be removed from Strathcona Park by April 30, 2021. When that deadline arrived, it unilaterally erected construction fences around the encampment to control entry and pressured the remaining campers to leave voluntarily. Housing rights advocates complained that the deadline was arbitrary, the housing options inadequate and the decampment process traumatic. One of the campers who accepted housing [predicted](#): "This won't end. It'll move from this spot, to the next spot, to the next spot."

He was right. A new encampment soon popped up in CRAB Park itself, right next to the now securely fenced VFPA parking lot that had been cleared almost a year earlier. Twenty-five to thirty of this new camp's residents had been living in Strathcona Park until it was cleared.

This brings us back to the *Bamberger* case. In January, 2022, Justice Matthew Kirchner granted the CRAB Park encampment residents' petition to set aside the Park Board's orders banning overnight camping and closing the park to all public use. He ruled that the orders were unjustified in light of the available evidence and were unfair insofar as the Park Board did not give the residents notice or a right to be heard. He ordered the Park Board to reconsider them. At the same time, he denied the Park Board's request for an injunction enforcing its second order, since he had ordered the Park Board to reconsider it. He adjourned the request for an injunction enforcing the ban on daytime shelter pending such reconsideration.

Justice Kirchner's decision demonstrated an unusual sensitivity to the realities of the housing crisis. It stands in sharp contrast with most earlier decisions, including the one evicting the encampment from the VFPA parking lot next door. In refusing to grant the injunction, Justice Kirchner highlighted several key factors: the futility of homeless encampment eviction injunctions, the relative merits of this encampment



The vicinity of the CRAB Park encampments. Imagery date: 29 June 2019. Imagery © 2022 CNES / Airbus, Maxar Technologies, Map data © 2022. Used in accordance with Google Geo Guidelines.

Second, he found that CRAB Park was a better encampment site than other nearby public spaces partly because it was both relatively isolated from residential and commercial uses and relatively close to social and other services, compared to other parks in and around the DTES. Moreover, the Park Board had closed those other parks to overnight sheltering. He concluded: “It is difficult to see how the public interest is served by risking the relocation of the camp to an area that will more directly impact surrounding residents.”

Third, he found that for some defendants at least, “daytime sheltering is a necessity or, at least decamping every morning and carrying their possessions throughout the day is a substantial hardship.” He noted that the Parks bylaw authorized the Board to designate areas for daytime shelter, but it had not done so. He urged the Board to consider this option as a way to break the chain of non-compliance with the bylaw. He concluded that “[a]n injunction compelling everyone to decamp each morning would truly be a ‘blunt instrument’ that will capture those for whom a more nuanced approach might be called for.”

site compared to alternative sites, the need for daytime shelter, the lack of evidence of harm to the public, and the defendants’ inability to comply with the law. He elaborated on each of these points in a way that provides a solid precedent for other courts to follow.

First, he found that the recent history of encampments demonstrates “a certain futility in making orders in these circumstances.” Government orders and court injunctions may be effective at clearing specific camps from specific sites but are ineffective at preventing them from reappearing elsewhere and at fixing the problem of unhoused people’s persistent non-compliance, or inability to comply, with restrictions on daytime shelter. He noted that “there is a substantial risk that granting an injunction now will simply move the encampment to another neighbourhood in the city, which would not be in the public interest.”

Fourth, he pointed to the lack of evidence of serious health or safety risks. There was no admissible evidence of significant public complaints about the encampment (he excluded much of the Park Board’s evidence on this issue as inadmissible hearsay). There were no substantial concerns about serious risks to the lives or safety of persons in or around the encampment. On the contrary, he noted that an arts festival was held in the park during the encampment, attended by families with children. An organizer reported that there were no negative interactions with or complaints about the encampment and that some encampment residents joined in the festivities. Justice Kirchner also noted that encampment residents felt

safer in the company of others who would help them in the event of overdose. And he accepted their evidence that they were making efforts to clean up garbage and debris.

Finally, Justice Kirchner rejected the view taken by judges in numerous earlier decisions that homeless encampment residents are flouting the law: “These deponents do not show disdain, contempt, or mockery of the Bylaw. Their evidence is of real hardship in complying with it. This may well explain why these campsites persist and are quickly re-established in one location after they are closed in another.”

Justice Kirchner characterized these factors as exceptional, but frankly they are typical and could form the basis for a new, more pragmatic and constructive approach to homeless encampment injunctions.

Conclusion

Unless and until Canadian society and governments genuinely commit to effective implementation of a right to housing, a robust social safety net and genuine reconciliation with Indigenous peoples, encampments will persist and multiply. Granted, courts play a small part in the crisis of homelessness compared to other branches of government including municipal, provincial and federal governments. But their decisions have immediate and profound impacts on the lives and wellbeing of unhoused and precariously housed members of society. This study shows that so far, in the 21st century, this influence has been negative as they have routinely granted interlocutory injunctions against homeless encampments when requested by government landowners. Their most recent decisions, however, point to the possibility of a more balanced approach that comes closer to doing justice to the fundamental interests at stake in these cases.

More information

Some of the information and analysis in this report are also reported in two academic articles that go into more detail on many of these issues. Both are available free online.

Wood, Stepan. 2023. When Should Public Land be Considered Private Property in Homeless Encampment Litigation? A Critique of Recent Developments in BC. Special Issue on Housing Precarity and Human Rights. *Journal of Law & Social Policy*, volume 36, pp 64-96, available at <https://doi.org/10.60082/0829-3929.1452>.

Wood, Stepan. 2023. Reconsidering the Test for Interlocutory Injunctions Affecting Homeless Encampments: A critical assessment of BC case law. *Osgoode Hall Law Journal*, volume 61(1) (in press), available soon at www.ohlj.ca. Peer reviewed pre-publication version available at <http://ssrn.com/abstract=4297377> (subject to editorial revision before publication)

BC homeless encampment injunction decisions, 2000-2022

Case	Year	Decision type	Case type	Encampment site	Result
<i>Provincial Rental Housing Corp v Doe</i>	2002	Interlocutory	Civil action	Boarded up building owned by provincial agency (Woodward's building, Vancouver)	Injunction granted (later reversed on appeal)
<i>Vancouver (City) v Maurice</i>	2002	Interlocutory	Civil action	Public sidewalk (outside Woodward's building, Vancouver)	Injunction granted (later upheld on appeal)
<i>Vancouver Board of Parks and Recreation v. Mickelson</i>	2003	Interlocutory	Civil action	City park (Thornton Park, Vancouver)	Injunction granted
<i>Vancouver Board of Parks and Recreation v Sterritt</i>	2003	Interlocutory	Civil action	City park (CRAB Park, Vancouver)	Injunction granted
<i>Provincial Capital Commission v Johnston</i>	2005	Interlocutory	Civil action	Enclosed grounds of national historic site (St Ann's Academy, Victoria)	Injunction granted
<i>Victoria (City) v Thompson</i>	2011	Interlocutory	Petition	City park (Centennial Square, Occupy Victoria)	Injunction granted
<i>Vancouver (City) v O'Flynn-Magee</i>	2011	Interlocutory	Civil action	Public art gallery plaza (Occupy Vancouver)	Injunction granted
<i>Abbotsford (City) v Shantz (Shantz #1)</i>	2013	Interlocutory	Civil action	City-owned parking lot beside public park (Abbotsford)	Injunction granted
<i>Abbotsford (City) v Shantz (Shantz #2)</i>	2013	Interlocutory	Civil action	City park (Jubilee Park, Abbotsford)	Injunction granted
<i>Vancouver Board of Parks and Recreation v Williams</i>	2014	Interlocutory	Civil action	City park (Oppenheimer Park, Vancouver)	Injunction granted
<i>Abbotsford (City) v Shantz (Shantz #3)</i>	2015	Final, after trial	Civil action	City parks and streets (Abbotsford)	Injunction denied
<i>British Columbia v Adamson (Adamson #1)</i>	2016	Interlocutory	Civil action	Courthouse grounds (Victoria)	Injunction denied
<i>British Columbia v Adamson (Adamson #2)</i>	2016	Interlocutory	Civil action	Courthouse grounds (Victoria)	Injunction granted
<i>Fraser Health Authority v Evans</i>	2016	Interlocutory	Civil action	Unfenced portion of fenced and boarded up former public hospital (Abbotsford)	Injunction granted

Case	Year	Decision type	Case type	Encampment site	Result
<i>Vancouver (City) v Wallstam</i>	2017	Interlocutory	Civil action	Enclosed, locked vacant city-owned lot (Vancouver)	Injunction denied
<i>Saanich (District) v Brett (Saanich v Brett #1)</i>	2018	Interlocutory	Civil action	City park and provincial highway verge (Saanich)	Injunction granted
<i>Nanaimo (City) v Courtoreille</i>	2018	Interlocutory	Petition	Enclosed, locked vacant city-owned lot (Nanaimo)	Injunction granted
<i>Saanich (District) v Brett (Saanich v Brett #2)</i>	2018	Final, in chambers	Civil action	City park and provincial highway verge (Saanich)	Injunction granted
<i>Maple Ridge (City) v Scott</i>	2019	Interlocutory	Civil action	Undeveloped lots owned by city & provincial crown corporation; unopened road allowance (“Anita Place,” Maple Ridge)	Injunction granted
<i>Vancouver Fraser Port Authority v Brett</i>	2020	Interlocutory	Civil action	Unfenced federally-owned parking lot & green space (Vancouver)	Injunction granted
<i>Victoria (City) v Smith</i>	2020	Interlocutory	Petition	City park (Beacon Hill, Victoria)	Injunction granted
<i>Prince George (City) v Stewart</i>	2021	Final, in chambers	Petition	City-owned vacant lot and green space (Prince George)	Injunction denied (substantially)
<i>Bamberger v Vancouver Park Board</i>	2022	Final, in chambers	Petition	City park (CRAB Park, Vancouver)	Matter adjourned
<i>Prince George (City) v Johnny</i>	2022	Interlocutory	Petition	City-owned green space (same as in <i>Stewart</i>)	Injunction denied

Rush to Judgment: A Critical Survey of Court Injunctions Against Homeless Encampments in BC, 2000-2022
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