

January 18, 2022

Dear Denman Island Local Trust Committee and Islands Trust Executive,

I respectfully acknowledge that the land I live, work, play and love on is part of the unceded traditional territory of the K'ómoks First Nation, the traditional keepers of this land. I am grateful to see the Islands Trust engage in its minimum core obligation to recognize, to respect, to protect, and to fulfill the requirements of UNDRIP. That way forward centres human rights and reconciliation. May we continue the work that must be done.

As you may be aware UNDRAH (United Nations Declaration of the Right to Adequate Housing)¹ was adopted by the Canadian government on June 21, 2019, in the form of the National Housing Strategy Act². As a result, all levels of government are obligated to implement Canada's commitment to the right to housing under international law³

“The right to housing under international human rights law is understood as the right to a safe and secure home in which to live in security, peace and dignity, meeting standards of adequacy, including standards relating to legal security of tenure, affordability, habitability, availability of services, accessibility, location and culture.”⁴

“Under international human rights law, everyone has the right to adequate housing as an element of the right to an adequate standard of living. This requires States to ensure that housing is accessible, affordable, habitable, in a suitable location, culturally adequate, offers security of tenure, and is proximate to essential services such as health care and education. The right to adequate housing includes the right to be protected from: arbitrary or unlawful interference with an individual's privacy, family, and home; any forced eviction (regardless of legal title or tenure status); and from discrimination of any kind.”⁵

The Province of British Columbia has subsequently required all municipalities in British Columbia to assess and respond to rising housing need through municipal Housing Strategies that centre the human right to adequate housing.

All municipalities in British Columbia require landowners to pay the Provincial Speculation and Vacancy Tax, except for the Islands Trust. All municipalities in British Columbia are required to have a housing strategy, except for the Islands Trust.

On Islands Trust islands, many homes sit vacant, and untaxed for that luxury. While residents of the islands search desperately (and often unsuccessfully) to find an affordable home to rent. Islands Trust's own Northern Housing Needs Assessment (NHNA) of 2018⁶ identified a need for 76 additional homes to meet Denman Island's adequate-housing need, at that time. Over the years Denman's housing crisis has become an emergency. Many residents live in chronic housing insecurity, or hidden homelessness, with traumatic effects.

I am speaking to you today representing a group of people who feel they must stay silent and hide in the shadows, so that their human rights to a home are not once again violated. We know, through

1 Fact Sheet No.21, The Human Right to Adequate Housing

2 National Housing Strategy Act <https://laws.justice.gc.ca/eng/acts/N-11.2/page-1.html#docCont>

3 http://housingrights.ca/wp-content/uploads/National-Right-to-Housing-Network-Backgrounder_Fact-Sheet_FINAL.pdf

4 P.12 http://housingrights.ca/wp-content/uploads/National-Right-to-Housing-Network-Backgrounder_Fact-Sheet_FINAL.pdf

5 A National Protocol for Homeless Encampments in Canada

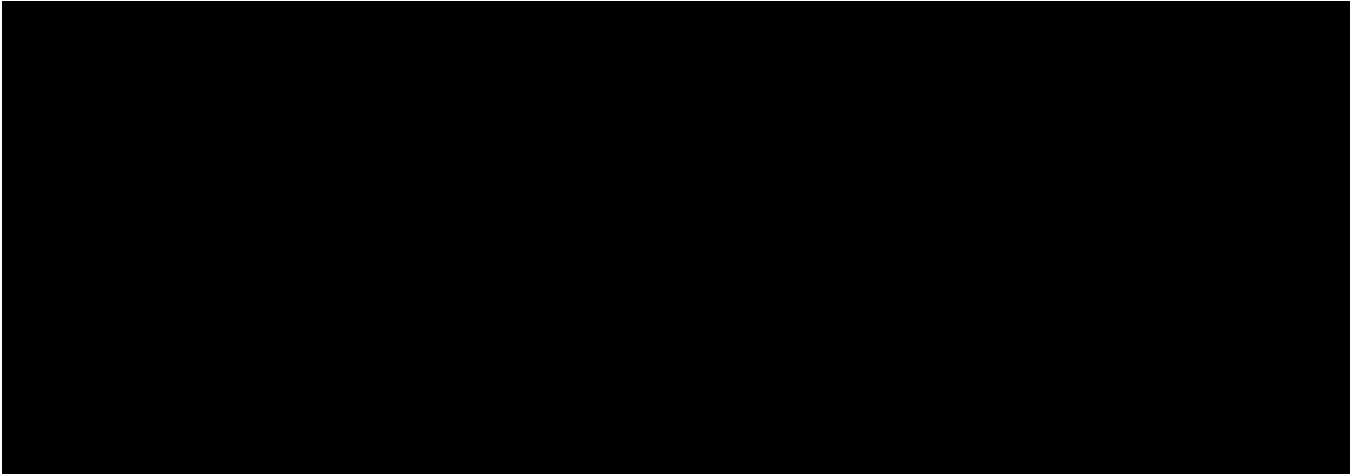
6 <https://islandstrust.bc.ca/document/housing-needs-assessment-northern-region/>

the NHNA, there are at least 75 of them.

I am speaking to you today representing myself. I am a disabled person who requires supports for independent living. I am a member of the LGBTQIA2S+ community. I am a single mother who has raised 2 children while living on Denman Island for the past 25 years. I have participated in various Islands Trust sponsored studies, committees, meetings and information gathering sessions. All of them with a focus on housing.

Despite many attempts at “consultation” about rewrites of Islands Trust policy and Land Use Bylaws (LUB), the housing situation in my home community has grown worse, during my tenure. This has been due, in part, to the fact that the Islands Trust appears to believe that their mandate is not to preserve and protect the human and community aspect of Islands Trust communities. While UNDRAH, and Islands Trust's own legal counsel⁷, say otherwise.

In the past 2 decades, my human rights have been systematically violated by Islands Trust policies, Staff and procedures. My home has been deemed “unlawful” by regressive housing policies and thus subject to bylaw enforcement visits. The most recent enforcement visit was on July 31, 2020, during the COVID pandemic (only 3 months after my own father's death to COVID).



I believe that violations of my human rights have been unintentional, however systemic and repeated. These “unintentional” violations are inevitable because the Islands Trust has yet to bring a human-rights approach to meeting housing need on the Gulf Islands. The Islands Trust has yet to formally acknowledge or recognize that “housing is essential in the inherent dignity and well-being of the individual and to building sustainable and inclusive communities”⁸.

Trustees have a moral and legal obligation to meet human rights obligations. Trustees must ensure that Islands Trust policy and procedures are not putting Trustees, and Staff in positions where they unintentionally or intentionally violate human rights. However, current policies put many Staff in untenable and potentially dangerous (to them, or to rights-holders) positions. (see Appendix B)

I have a human right to be left alone, to live safely in my adequate home. This letter is my formal request that Islands Trust and the Denman Island Local Committee engage with me, as a rights holder, in a manner that centres my human rights and dignity. UNDRAH, Federal legislation, and

7 "Overall, we consider that a Trust Council interpretation of the term "unique amenities" in s. 3 as including a supply of affordable housing would likely pass the reasonableness test" Bill Buholzer of Young Anderson RE: Policy Statement Amendment Project, October 27, 2020

8 4(b) <https://laws-lois.justice.gc.ca/eng/acts/n-11.2/FullText.html>

Provincial mandates require the Islands Trust to meet its minimum core obligation to recognize, to respect, to protect, and to fulfill the Human Right to Adequate Housing⁹.

“Meaningful consultation and meaningful engagement are often used interchangeably, but meaningful engagement can be distinguished from consultation in two ways. First, meaningful engagement requires actual partnership in decision-making while consultation may occur prior to decisions being made by others. And second, consultation does not require any particular result while meaningful engagement must achieve compliance with the right to housing.”¹⁰

A recent announcement, that the Islands Trust is seeking to set up a Housing Authority, is encouraging news. However, it is imperative that this Housing Authority, or any other action taken by the Islands Trust or the Denman Island Local Trust Committee, centres the Human Right to Adequate Housing.

As we wait to see the outcome of attempts to set up an Islands Trust Housing Authority, it is likely that homelessness on the Islands will increase, and become more visible. As is happening in so many jurisdictions in Canada. Until major policy changes are made, the numbers of people facing chronic housing insecurity will rise and more people will become visibly unhoused.

Continued enforcement activity against “unlawful” housing is likely to directly increase numbers of homeless people on the islands, possibly resulting in homeless encampments. “Government action with respect to homeless encampments must be guided by a commitment to upholding the human rights and human dignity of their residents. This means a shift away from criminalizing, penalizing, or obstructing homeless encampments, to an approach rooted in rights-based participation and accountability. Ensuring a human rights-based response to homeless encampments should be a key concern for every Canadian city, and all governments should employ a human rights-based framework to guide their engagement with encampment residents.”¹¹

“Now, more than ever, people living in vulnerable circumstances must be at the forefront of government efforts to address housing need. In particular, marginalized groups, including Indigenous people, members of Black and racialized communities, persons with disabilities, those dealing with mental health and addiction issues, women and children experiencing domestic violence, those facing economic hardship, individuals identifying as LGBTQ2S+, and youth are disproportionately represented among those facing homelessness.”¹²

In light of all of the above, I formally request the Denman Island Local Trust Committee and The Islands Trust Executive and Council engage with me as a rights-holder, as defined by UNDRAH and Federal Law. By adopting the following measures your organizations will begin the process of bringing Islands Trust into alignment with Human Rights. Enacting these viable measures will show your good intentions to protect and engage with “unlawfully”-housed rights-holders on the islands, and show your commitment to upholding human rights:

1) Require that all Trustees of the Islands Trust, all Local Trust Committees, and all planning and enforcement Staff read thoroughly, and familiarize themselves with each of the following texts, and

⁹ <https://laws.justice.gc.ca/eng/acts/N-11.2/page-1.html#docCont>

¹⁰ Implementing the Right to Adequate Housing Under the NHSA: The International Human Rights Framework - Prepared for the Office of the Federal Housing Advocate by Bruce Porter
<https://housingrights.ca/wp-content/uploads/Porter-NRHN-OFHA-Paper-2021-FINAL.pdf>

¹¹ A National Protocol for Homeless Encampments in Canada

¹² Implementing the Right to Adequate Housing Under the NHSA: The International Human Rights Framework - Prepared for the Office of the Federal Housing Advocate by Bruce Porter

their obligations under these texts (all included attachments):

1. *UNDRAH*¹³;
2. *the National Housing Strategy Act*¹⁴;
3. *Implementing the Right to Adequate Housing Under the NHS Act: The International Human Rights Framework*¹⁵;
4. and *Implementing the Right to Housing in Canada: Expanding the National Housing Strategy*¹⁶;

2) Ensure that all further work of the Islands Trust is done in a manner that fulfills UNDRAH by centering the Human Right to Adequate Housing and through meaningful engagement with rights-holders. This would include, but is not limited to, OCP reviews; LUB reviews; Policy Statements; bylaw enforcement policy; Housing Authority; and any other relevant policies, procedures and/or legislation;

3) Implement an immediate moratorium (on Denman Island and Trust-wide) on all bylaw enforcement action against “unlawful” housing, until housing need can be “lawfully” met, to the satisfaction of rights-holders;

4) In recognition of the growing homelessness emergency across all Islands Trust islands, all levels of Islands Trust (and most especially all bylaw enforcement) must familiarize themselves with *The National Protocol for Homeless Encampments in Canada*¹⁷;

5) Require all Bylaw Enforcement Staff (or anyone who may be making site visits) to undergo TIP (Trauma Informed Practice) training, to respectfully interact with vulnerable and marginalized people as human rights holders; (as per Appendix B)

6) Require all Bylaw Enforcement Officers and staff to make advance arrangements with property owner before visiting people's homes (or suspected homes) on private property; (see Appendix B)

7) Reverse the Islands Trust official stance on the Provincial Speculation and Vacancy Tax, and lobby the Provincial Government to apply this tax on all vacant homes and properties on Islands Trust islands (as per footnote 7, in Appendix A);

8) Specifically add “community”, to “unique amenities” and the “environment”, to the Islands Trust mandate to preserve and protect, in any and all Policy Statements and other documents;

9) Align Denman Island's LUB's with Provincial Regulations *Housing Flexibility on ALR Land*¹⁸ without requirement of Temporary Use Permit (the TUP is a regressive measure, a temporary home is not adequate in meeting rights-holder's ongoing housing need);

10) In order to meet Islands Trust objectives and mandates to preserve and protect, focus Land Use Bylaws on effects of housing, rather than type of housing. Effects including, but not limited to, square footage; lot coverage; water usage and disposal; water storage; sanitation; set backs; driveways; etc

13 https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf

14 <https://laws.justice.gc.ca/eng/acts/N-11.2/page-1.html#docCont>

15 <https://housingrights.ca/wp-content/uploads/Porter-NRHN-OFHA-Paper-2021-FINAL.pdf>

16 [NRHN - The right to housing in action: Transforming housing law and policy in Canada](#)

17 <https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>

18 <https://news.gov.bc.ca/releases/2021AFF0043-001352>

11) Remove requirement for LEED certified standards for new buildings. This is unnecessarily restrictive, costly and removes housing options that have historically provided Island appropriate housing. DIY options, affordable methods/materials and/or other creative reuses meet housing need through building with Cob; renovating an old barn or goat shed; re-purposing a bus into a home; and other non-LEED certified, but island appropriate, approaches to building adequate housing;

12) Have Staff craft a “Tiny Home Park” zoning template, as a short-cut, and an incentive to creative land-sharing of housing options;

13) Establish an ongoing process of engagement that welcomes the meaningful participation of renters and rights-holders in identifying systemic issues and appropriate remedies to the ongoing housing crisis, and to meet housing needs of rights-holders on these Islands in the Salish Sea.

I have come to you today, in good faith, to share with you the knowledge that the Denman Island Local Trust Committee and the Islands Trust, as governing bodies, are required to centre human rights. I hope that with this knowledge that you will henceforth “meet a minimum core obligation to recognize, to respect, to protect, and to fulfill” my human right to my adequate home¹⁹.

I welcome any questions or discussion you may wish to have today. And I look forward to future invitations to engage with your organization as we journey forward in this matter of fundamental and undeniable human rights to adequate housing.

In order to clarify my position (and the position of other residents of the islands) as a rights-holder, and to increase knowledge of human rights obligations and ongoing human-rights violations, I will be making this letter, appendices and source materials public on my own website. I will also be sending out press releases to local papers for distribution of information across island communities.

I remain available for any future correspondence and/or meetings. I look forward to your meaningful engagement.

Sincerely,

Riane da Silva
Right-holder of the Human Right to Adequate Housing

CC:

Honorable Josie Osbourne, Minister of Municipal Affairs MAH.Minister@gov.bc.ca

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K’ómoks First Nation Reception@komoks.ca

Federal Housing Advocate Info.Com@chrc-ccdp.gc.ca.

Canadian Human Rights Commission communications@chrc-ccdp.gc.ca

19 National Housing Strategy Act <https://laws-lois.justice.gc.ca/eng/acts/n-11.2/FullText.html>

Appendix A

The Human Right to Adequate Housing in British Columbia, Canada and Internationally

On June 21, 2019, Parliament passed the *National Housing Strategy Act* which affirmed for the first time in federal legislation that housing is a fundamental human right in Canada.

Furthermore, the right to adequate housing is an important precondition for exercising other human rights, including the rights to life, good physical and mental health, education, and political participation.

The human rights-based approach to housing adopted in the Act and the National Housing Strategy underlines that housing must provide more than four walls and a roof. It should be equitable and accessible to all without discrimination based on gender, race, Indigenous identity, disability, faith, place of birth, age, family status, sexual orientation, gender identity or other factors.¹

Canada's first National Housing Strategy is to eliminate homelessness and realize the right to adequate housing for all in the shortest possible time, using all appropriate means and the maximum of available resources. Among other goals to: Ensure that vulnerable groups and those affected by homelessness and inadequate housing are able to participate in developing housing policy to realize their right to housing.²

Now, more than ever, people living in vulnerable circumstances must be at the forefront of government efforts to address housing need. In particular, marginalized groups, including Indigenous people, members of Black and racialized communities, persons with disabilities, those dealing with mental health and addiction issues, women and children experiencing domestic violence, those facing economic hardship, individuals identifying as LGBTQ2S+, and youth are disproportionately represented among those facing homelessness.³

While local governments cannot address these challenges on their own, they are on the front lines of the housing crisis, and they play a critical role in addressing it. In addition to implementing many federal and state programs, they have tools at their disposal that other levels of government do not, including land use regulations, building and housing codes, and permitting processes. They also have a deep understanding of local needs and market conditions. Local governments are thus uniquely positioned to weave together different funding sources and regulations into a comprehensive local housing strategy – a necessary step in meaningfully tackling the affordability challenges that so many localities confront.⁴⁵

In assessing whether governments have met their obligation to progressively realize the human right to housing, the UN has applied a standard of “reasonableness.” The reasonableness standard encourages us to ask questions like:

- Have government departments engaged with people affected to develop solutions to systemic housing issues?

1 National Housing Strategy Act <https://laws.justice.gc.ca/eng/acts/N-11.2/page-1.html#docCont>

2 <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

3 <https://www.chrc-ccdp.gc.ca/en/resources/statement-canada-must-uphold-the-rights-persons-experiencing-homelessness>

4

<https://static1.squarespace.com/static/5e3aed3ea511ae64f3150214/t/61855e1bc6bf8578767ae16b/1636130341860/Claiming+the+R2H+in+BC+-+workshop+report.pdf>

5 <https://localhousingsolutions.org/plan/what-is-a-local-housing-strategy-and-why-is-it-important/>

- Has a horizontal, cross-department approach been adopted?
- Has the federal government exercised leadership to ensure that all levels of government are cooperating to implement their shared human rights obligations with respect to the right to adequate housing?
- Are programs and policies consistent with a commitment to realize the right to housing for all, in the shortest possible time?

The question of what constitutes reasonable policy from a human rights standpoint starts by considering the dignity and rights of those who need housing, and from there, considering whether the government's response to their circumstances is reasonable and proportional. It is a similar process as has been applied under human rights legislation with respect to the accommodation of disabilities.

First, we must hear from rights-holders about what they need from the government to ensure dignity and rights, and then we must consider how to address those needs as human rights priorities, within available resources. This new human rights approach can cast a very different light on our assessment of whether housing policies and programs are “reasonable”—and it also leads to innovative and creative solutions which often result in longer term cost-savings.⁶

When rights-holders are asked about claiming their right to housing, they invariably refer to the fact that they are not seen as human beings or treated with dignity. It is in those moments that the importance of recognizing the right to housing as a human right rather than as a mere commitment to solve a social problem for government to solve on its own is clearest.

Housing policies and programs must prioritize the needs of marginalized and vulnerable groups and engage directly with the needs and rights of those who have been left behind. General indicators of over-all progress in achieving housing outcomes are helpful, particularly if they include disaggregated data to capture the circumstances of particular groups, but statistics do not capture the experience of social exclusion or stigmatization or the root causes of systemic inequality.

Experiences of recent decades have shown, however, that governments are only well placed to respond to competing needs and rights if they are committed to the broader human rights project and if there are processes in place to ensure that the human rights of those whose needs and interests are likely to be ignored are being adequately considered.

One of the lessons for Canada from the challenges faced in South African is how difficult it is to reverse embedded inequality and how important it is to prevent socioeconomic inequality and segregation from becoming entrenched in Canada. As Canadian advocates have learned in Geneva, it is also important to be able to feel shame for one's country when it fails to live up to its commitment to human rights.

The court wrote that “those seeking eviction should be encouraged not to rely on concepts of faceless and anonymous squatters automatically to be expelled as obnoxious social nuisances. Such a stereotypical approach has no place in the society envisaged by the Constitution; justice and equity require that everyone is to be treated as an individual bearer of rights entitled to respect for his or her dignity.”

Meaningful consultation and meaningful engagement are often used interchangeably, but meaningful engagement can be distinguished from consultation in two ways. First, meaningful engagement requires actual partnership in decision-making while consultation may occur prior to

decisions being made by others. And second, consultation does not require any particular result while meaningful engagement must achieve compliance with the right to housing.

Engagement with communities might be better defined as a process through which they are able to advocate for their right to housing and negotiate solutions to systemic issues. In some cases, they may rely on the Federal Housing Advocate or a Review Panel to make findings and recommend measures but in others, rights-based solutions may emerge from the process of meaningful engagement itself.

Using the analogy of reasonable accommodation of disabilities, the application of the reasonableness standard based on a firm normative framework recognizes that what the right means in each case will be different, to be determined through a process of engagement and negotiation, but the rights themselves are not negotiable and the approach has to be coherent and consistent so that there is a clear sense of what constitutes human rights compliance.

The assessment of reasonableness may, through meaningful engagement, generate a collaborative, open and inclusive exploration, facilitated in some cases by the Federal Housing Advocate but driven as much as possible by rights-holders, on how to implement the right to housing in concrete terms.

There is often a tendency to think of State obligations with respect to the right to housing as they relate to direct government involvement through programs to create housing supply or to provide assistance with rent. However, systemic issues frequently relate to failures of governments to regulate private investment or development, and the requirement to realize the right to housing “by all appropriate means” includes the requirement to regulate private actors.

As noted by the former Special Rapporteur on the right to housing in her report on the financialization of housing: The tripartite obligations of States in relation to the management of financial markets and the regulation of private actors are often interpreted too narrowly. Under international human rights law States’ obligations in relation to private investment in housing and the governance of financial markets extend well beyond a traditional understanding of the duty to simply prevent private actors from actively violating rights. The assumption, bolstered by neo-liberalism, that States should simply allow markets to work according to their own rules, subject only to the requirement that private actors “do no harm” and do not violate the rights of others, is simply not in accordance with the important obligation to fulfill the right to adequate housing by all appropriate means, including legislative measures.

The State must regulate, direct and engage with private market and financial actors, not simply to ensure that they do not explicitly violate rights, but also to ensure that the rules under which they operate and their actions are consistent with the realization of the right to adequate housing.⁷

The Committee described the reasonableness standard as requiring the State to make “all possible effort, using all available resources, to realize, as a matter of urgency, the right to housing of persons who, like the authors, are in a situation of dire need.” This requires measures to address systemic issues and structural causes of evictions as well as the individual circumstances of the authors. “The lack of housing is often the result of structural problems, such as high unemployment or systemic patterns of social exclusion, which it is the responsibility of the authorities to resolve through an appropriate, timely and coordinated response, to the maximum of their available resources.”

⁷ The Provincial Speculation and Vacancy Tax is one example of the mechanisms outlined in this and the 2 previous paragraphs

Many of the concepts that have been developed to understand systemic discrimination experienced by persons with disabilities, such as the “social construction of disability”, can enrich the understanding of systemic issues under the NHSA. Similarly, approaches that have been developed under the ICESCR to understand positive obligations and progressive realization can help to assist the disability rights movement better address issues such as disproportionate homelessness among persons with disabilities.

A particularly important provision in the CRPD that must be directly incorporated into the understanding of the right to housing in the NHSA is Article 19 of the CRPD, guaranteeing the right to live independently and be included in the community. Article 19 requires that persons with disabilities have the opportunity to choose where and with whom they live and access to a range of community support services to facilitate inclusion in the community and prevent isolation or segregation. The standard to be applied in assessing the implementation of this right is similar in wording to the “all appropriate means” standard in article 2(1) of the ICESCR. In Article 19, however, this is an immediate obligation, not subject to progressive implementation over time. States must adopt “effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right.”

In its most recent review of Canada’s compliance with article 19, the Committee on the Rights of Persons with Disabilities recommended that Canada adopt a national guideline on the right to live independently in the community; adopt a human-rights based approach to disability in all housing plans; ensure that provinces and territories establish a timeframe for closing institutions and create a comprehensive system of support for community living; ensure that accessibility legislation facilitates inclusion in the community; and implement appropriate service provision within First Nation communities.

The Convention on the Elimination of All forms of Racism (CERD) is unique among international human rights treaties in that it affirms the right not only to non-discrimination in access to housing but also the substantive right to the equal enjoyment of the right to housing and other ESC rights.

The Convention on the Rights of the Child (CRC) is also a relevant source for the interpretation of the right to housing under the NHSA, particularly as the Supreme Court of Canada has recognized that the “best interests of the child” principle in the CRC should be considered when exercising discretion based on a reasonableness standard. This would apply to evictions cases in which children are forced from their homes and often, as a result, from their schools and friends. The CRC has expressed concern about the extent of homelessness among families with children and about the circumstances of “street children” in Canada, noting that many are Indigenous.

The NHSA is federal legislation and must be interpreted and applied as such. It could not, for example, have required provincial and territorial ministers of housing to respond to findings and recommended measures in the way that this is required of the federal minister. But beyond these obvious restrictions, the legislation should be interpreted broadly, in light of its purposes and content, and recognizing that **all orders of government are committed to the right to housing affirmed in international human rights law, even if they have not declared this in legislation.**

Violations of human rights can be either individually based or system based. The two types of violation require different remedial approaches. An individual violation affects one person or a small number of persons and is often perpetrated by one or a small number of individuals. Economic, social and cultural rights are generally more often the subject of systemic violations. Systemic violations have broad causes and effects, often arising from the ways in which society is organized politically, socially and economically. It is often difficult to identify individual perpetrators who bear individual responsibility for systemic violations. The State as a whole will be

responsible.

The commitment to the right to housing under international human rights law requires co-ordination of various spheres of government.

The social housing deficit that was created by the federal withdrawal from social housing programs after 1995 was reinforced by a social rights deficit created at the same time. These are the historical antecedents to the present crisis.

As a fundamental right inextricably linked to the right to a dignified life and core human rights values affirming equality in dignity and rights, the right to housing is a right whose meaning must be clarified by engaging meaningfully with rights-holders.

There are still many in government and elsewhere who are mystified as to what a right to housing means in practice. They understand the value of a rights based approach if it means consulting with vulnerable and marginalized groups in order to allow governments to better design programs and achieve better housing outcomes for constituents. But they are less clear on what it means to recognize the right to housing as a right that can be claimed, adjudicated and made subject to effective remedies. Even in the dialogic and participatory procedures under the NHSA, the idea of claiming a right to housing still seems to create fears of irresponsible and unmanageable demands that the government provide housing for everyone. Will the federal government and other orders of government relinquish their past resistance to recognizing housing as a fundamental right and their insistence that housing policy should be left to governments?

We ultimately rely on faith that governments either believe in human rights, or they believe that it would be politically damaging to turn their backs on them. The challenge with the NHSA is to turn the legislative affirmation of the right to housing under international human rights law into what the Supreme Court refers to as “a moral imperative and a legal necessity.”

The lessons learned by civil society engaging with international human rights mechanism suggest that the best way to make the right to housing meaningful is to utilize procedures that provide an adjudicative space in which it can be claimed. Modern commitments to the right to housing have emerged from new human rights practice that recognizes a previously excluded category or rights claimants as entitled to claim their right to dignity in rights and to recognize that the right to housing requires meaningful accountability, access to justice and effective remedies.

Affected communities must be provided with the resources necessary to organize, with the support of civil society and human rights advocacy organization, and they must be treated with respect and dignity, recognized as absolutely necessary to any assessment of compliance with international human rights norms. Governments, on the other hand, must be convinced to recognize the value of affirming a new human rights framework for policies and decision making, both as a recommitment to core values of Canada’s constitutional democracy and as the most effective means to address the housing crisis and realize the commitment to ensure access to housing for all by 2030 and beyond.⁸

Furthur reading materials found at this webpage <https://housingrights.ca/resources/>

Appendix C
TRAUMA INFORMED practice
How law (and bylaw) enforcement can and must support human rights and dignity

Traumatic stress can be devastating and long-lasting. To develop an understanding about how to build trauma-sensitive services, we need to first clearly understand that the impact of traumatic stress can be devastating and long-lasting, interfering with a person's sense of self, and sense of safety, leading to feelings of helplessness, terror, and disempowerment. Traumatic exposure may lead to responses including Post Traumatic Stress Disorder (PTSD) and Complex Trauma.¹

“Realize the widespread impact of Trauma on citizens and first responders alike. Recognize the signs and symptoms of trauma in citizens, self and colleagues. Respond by fully integrating knowledge of trauma into policies, procedures and practices. Resist Re-traumatization actively through trauma informed and compassionate responses.

The most basic thing to keep in mind is when a person with a background of trauma or toxic stress comes in contact with any member of Law Enforcement (including bylaw enforcement), they may already feel unsafe. The authority figure alone may remind them of past experiences where they felt unsafe, and they may have the physiologic reaction that they had in the past. When this happens the Survival/Emotional part of the brain is dominant and they have less access to their Rational/Neocortex brain. They may not hear and process instructions, and they may not be able to take in new information.”²

According to Islands Trust policy, the purpose of bylaw enforcement it is to ensure compliance with bylaws. Many believe that surprise visits are necessary to catch people in the act (of being non-compliant). The fear is that, if the bylaw enforcement officer made an appointment to visit 24 hours or more in advance, an "infraction" could be hidden or made compliant, before the enforcement officer can see it.

If the purpose of enforcement is compliance, how does it harm that goal to give residents 24 hours notice of a site visit? Getting into compliance before a site visit meets the stated goal of “compliance”.

The current approach of "catch them in the act" violates human rights, flies in the face of our social right of “innocent until proven guilty”, and in many cases (ex. "unlawful" housing) can be traumatic to those who are subject to the surprise visit.

Giving 24 hours notice will not significantly affect or diminish the ability of the Bylaw Enforcement Officer to do their job. However, not having notice can significantly and negatively affect the residents (many who are neurodiverse, trauma survivors, and/or otherwise marginalized people who have historically been victimized by "authority" figures). Residents have a right to enjoy their homes, their dignity and to be treated with the respect of not being assumed to be a criminal.

If/when the only reason to support a policy of surprise visits is to 'catch residents in the act' of breaking by-laws (rather than truly seeking compliance) then the Islands Trust is clearly allowing, supporting and engaging in violations of human-rights at people's own homes.

1 Shelter from the Storm: Trauma-Informed Care in Homelessness Services Settings
<https://www.homelesshub.ca/sites/default/files/cenfdthy.pdf>

2 <https://www.traumainformedmd.com/law-enforcement-101.html#/>

“The Vancouver Police Department (VPD) acknowledges that social issues, including mental health, homelessness, substance use and sex work, intersect with public safety issues. The VPD takes efforts to ensure inappropriate, ineffective, and unnecessary criminalization does not occur, but rather focuses on community-based, harm reduction strategies in collaboration with community service providers.

By working together we can alleviate the stigmas and societal impacts surrounding untreated mental health conditions, lack of stable and affordable housing, inability to access appropriate addictions treatment and safety concerns for marginalized sex workers.

The VPD takes a compassionate approach to homelessness in Vancouver, recognizing that homelessness is a social condition reflective of society’s failure to adequately support those most vulnerable and marginalized.

Individuals experiencing homelessness are often encumbered with a multitude of challenges on a daily basis, from an overwhelming lack of stability, shelter, and resources, to the complications that may arise from poor nutrition and health, often further compounded by substance use issues and mental health conditions.

In July 2020, as the President of the Canadian Association of Chiefs of Police (CACP), Chief Palmer recommended that that all police agencies in Canada recognize substance abuse and addiction as a public health issue to help reduce drug overdoses.

The Chief Coroner of BC announced that June 2020 was the deadliest month on record for drug overdoses (breaking the record set just one month earlier) and in the past decade alone, 7,934 British Columbians have died from illicit drug overdoses.

It is important to the VPD that the considerable steps taken in the past decade continue towards appropriate continuums of care. The VPD recognizes that, while strides have been made, the significance of these societal issues necessitates that ongoing efforts be maintained. As such, the VPD remains dedicated to the pursuit of improved conditions, services, and programs in the areas of mental health, homelessness, substance use issues and sex work, in close collaboration with community partners and service providers.”³

“Adaptive approaches are especially important for policing vulnerable populations, including people who are elderly, homeless, disabled, undocumented, addicted, and physically or mentally ill.”⁴ Other human rights-holding vulnerable populations include those who are racially profiled, members of the LGBT2SQIA community, neurodiverse individuals, disabled individuals, survivors of trauma, survivors of interpersonal abuse, and other survivors of systemic discrimination and abuses. Communities should “support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all—especially the most vulnerable.”⁵

“Homelessness constitutes a prima facie violation of the right to housing. It is a profound assault on a person’s dignity, security, and social inclusion. Homelessness violates not only the right to housing, but often, depending on circumstances, violates a number of other human rights, including: non-

3 <https://vpd.ca/wp-content/uploads/2021/06/our-community-in-need.pdf>

4 https://www.theiacp.org/sites/default/files/2018-11/IACP_PMP_VulnerablePops.pdf

5 https://www.theiacp.org/sites/default/files/2018-11/IACP_PMP_VulnerablePops.pdf

discrimination; health; water and sanitation; freedom from cruel, degrading, and inhuman treatment; and the rights to life, liberty, and security of the person.

Regardless of the reasons why a person resides in a homeless encampment, homeless encampments do not constitute adequate housing, and do not discharge governments of their positive obligation to ensure the realization of the right to adequate housing for all people. Under international human rights law, “States have an obligation to take steps to the maximum of their available resources with a view to achieving progressively the full realization of the right to adequate housing, by all appropriate means, including particularly the adoption of legislative measures.” As part of these obligations, States must prioritize marginalized individuals or groups living in precarious housing conditions - including residents of homeless encampments.

The fact that encampments violate the right to housing does not in any way absolve governments of their obligations to uphold the basic human rights and dignity of encampment residents while they wait for adequate, affordable housing solutions that meet their needs. The Principles outlined in this Protocol seek to support governments and other stakeholders to ensure that their engagements with encampments are rights-based and recognize residents as rights holders, with a view to realizing the right to adequate housing for these groups while respecting their dignity, autonomy, individual circumstances, and personal choices.”⁶

As so many levels of government and law enforcement adjust to realizing their Human Rights obligations to the populations that they serve, trauma informed practices are emerging far and wide.

Any employer who wishes to support their enforcement staff must give them access to the appropriate tools to keep them from causing trauma, and/or from experiencing vicarious trauma themselves. Becoming a trauma-informed organization is, therefore, a sound business practice.

“Vicarious trauma is an occupational challenge for people working and volunteering in the fields of victim services, law enforcement, emergency medical services, fire services, and other allied professions, due to their continuous exposure to victims of trauma and violence. Exposure to the trauma of others has been shown to change the world-view of these responders and can put people and organizations at risk for a range of negative consequences.

Vicarious trauma-informed organizations proactively address the existence and impact of vicarious trauma on their staff through policies, procedures, practices, and programs that mitigate the risk of negative consequences for employees, the organization as a whole, and the quality of services delivered.

Vicarious traumatization is a negative reaction to trauma exposure and includes a range of psychosocial symptoms that providers and responders may experience through their intervention with those who are experiencing or have experienced trauma. It can include disruptions in thinking and changes in beliefs about one's sense of self, one's safety in the world, and the goodness and trustworthiness of others; as well as shifts in spiritual beliefs. Individuals may also exhibit symptoms that can have detrimental effects, both professionally and personally.”⁷

6 <https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>

7 https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/imp_making_the_business_case-508.pdf

“It is reasonable to assume that individuals and families who are homeless have been exposed to trauma. Research has shown that individuals who are homeless are likely to have experienced some form of previous trauma; homelessness itself can be viewed as a traumatic experience; and being homeless increases the risk of further victimization and retraumatization. Historically, homeless service settings have provided care to traumatized people without directly acknowledging or addressing the impact of trauma.

In addition to the experience of being homeless, an overwhelming percentage of homeless individuals, families, and children have been exposed to additional forms of trauma, including: neglect, psychological abuse, physical abuse, and sexual abuse during childhood; community violence; combat-related trauma; domestic violence; accidents; and disasters. Trauma is widespread and affects people of every gender, age, race, sexual orientation, and background within homeless service settings.

Early developmental trauma—including child abuse, neglect, and disrupted attachment—provides a subtext for the narrative of many people’s pathways to homelessness. Violence continues into adulthood for many people, with abuse such as domestic violence often precipitating homelessness, and with homelessness leaving people vulnerable to further victimization. The impact of traumatic stress often makes it difficult for people experiencing homelessness to cope with the innumerable obstacles they face in the process of exiting homelessness, and the victimization associated with repeated episodes of homelessness. Research has found that people who experienced repeated homelessness were more likely than people with a single episode of homelessness to have been abused, often during childhood

Researchers have documented that the rates of traumatic stress are extremely high, and may even be normative, among those experiencing homelessness. Individuals who are homeless may have been exposed to neglect, psychological abuse, physical abuse, or sexual abuse during childhood; community violence; sexual assault; combat-related traumas; domestic violence; and accidents or disasters. A literature review found consistent and well-documented evidence of high levels of multiple forms of traumatic stress within individuals and families who are homeless. It is clear that trauma affects people of every gender, age, race, sexual orientation, and background within homeless service settings. No one is immune.

Women/Mothers

- Although many people think of men when they consider the issue of homelessness, families—typically single mothers with young children—now comprise up to 40% of the overall homeless population.
- Trauma is extremely prevalent among homeless women: over 90% of homeless mothers report having experienced severe physical or sexual assault during their lifetimes.
- The majority of homeless mothers were abused during childhood, with nearly 2/3 reporting severe physical abuse and 42% reporting sexual abuse; 60% were abused before the age of twelve.
- More than 70% of homeless mothers have at least one childhood risk factor, including: severe physical abuse, unwanted sexual contact, having a parent who was mentally ill or who abused substances, running away for a week or more, or being in foster care.
- Homeless mothers are also frequently the victims of abuse during adulthood, with 61% reporting a history of domestic violence and 32% acknowledging recent domestic violence.
- Homelessness puts women at risk for assault; being homeless was associated with more than three times the risk of sexual assault for women.
- Homelessness and victimization are associated with adverse mental health outcomes: more than 50% of homeless mothers reported depression, and more than 40% reported posttraumatic stress disorder

(PTSD)⁸

Professional development courses that assist in understanding and mitigating trauma:

<https://www.cpkn.ca/en/course/using-a-trauma-informed-approach/>

The Using a Trauma-Informed Approach course will introduce the concept of trauma, the different range of reactions to trauma, and conducting investigations using a trauma-informed approach. We will examine trauma, its impacts, and the potential challenges you may face when interacting with victims of trauma.

The objectives of this Using a Trauma-Informed Approach online course are to ensure that upon completion, you will be able to:

Recognize the biological impacts of trauma on the brain

Identify the different types of trauma

Recognize the range of reactions that can occur as a result of a traumatic event

Recognize the importance of your role and the potential impact you can have when interacting with a victim of trauma

Recognize the individual impacts trauma can have on diverse populations

Trauma informed practice training through the Justice Institute of BC

<https://www.jibc.ca/course/trauma-informed-practice-justice-public-safety-anti-violence>

will support learners in recognizing and understanding trauma and its effects on victims/survivors and witnesses and having a clear understanding of how violence and abuse may shape victims/survivors responses; assessing their own practices and processes with a trauma-informed lens; and incorporating trauma-informed learnings to reduce potential re-traumatization experienced by victims/survivors and witnesses participating in the justice system.

<https://www.jibc.ca/course/building-trauma-informed-organization>

Building a trauma informed organization involves shifts in our approaches to interactions with service users, worker wellness, organizational culture and practices, and interagency and community engagement. This one day, virtual course will focus on the components of becoming a trauma informed organization and provide examples of social service, health and other organizations that have put these changes into place.

8 Shelter from the Storm: Trauma-Informed Care in Homelessness Services Settings

<https://www.homelesshub.ca/sites/default/files/cenfdthy.pdf>

Additonal reading

<https://www.msn.com/en-ca/news/other/policing-and-evicting-people-living-in-encampments-will-not-solve-homelessness-in-canada/ar-AAKkV58>

<https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>