

City-owned Lands – Jensen Avenue West

In response to allegations in recent media articles, at no time did the City of Parksville advise Manna Ministries they could not provide services to the homeless or vulnerable people. As stated by Manna, the City has not “closed the door to health provision” for the homeless nor is the City preventing Manna or any organization from helping the homeless. The City believes the services provided by Manna would be better suited to properties aligned with churches or social service agencies.

On November 15, the City sent a cease and desist letter to Manna advising the “Saturday Stationary Distribution” could no longer be held on City property. The lots on Jensen Avenue West are zoned RS-1 residential and the use by Manna of this property constitutes an unauthorized and unlawful use of City property.

For some time, the City turned a blind eye to Manna’s use of the property; however, with the volume of complaints received from residents, both before and after the recent election, the City advised Manna they could no longer operate from this property. The concerns and multiple complaints received relate to the abandonment of clothing, equipment, bicycles and other personal effects left on the site at the end of their distribution activity. These materials become refuse and it then becomes the City’s responsibility to clean it up.

For some time, City bylaw officers have tried to ensure the site was kept clean; however, officers were unsuccessful in obtaining cooperation. Now with overnight camping by homeless on this site, the City must undertake scheduled clean-up to remove abandoned items, at significant cost to the City. Council is tasked with the difficult responsibility to balance the needs of all citizens; while homeless individuals are permitted to take up accommodation on this property, the City must do its best to ensure the property is kept as clean as possible to minimize the impact on neighbouring residents.

Overnight camping on the Jensen property is allowed; the BC Supreme Court provided direction to municipalities on how to regulate overnight camping in public spaces by people who are homeless. Local governments cannot enact an outright prohibition on overnight accommodation on public lands by people who are homeless. The Canadian Charter of Rights and Freedoms grants a constitutional right to someone who finds themselves homeless allowing them to erect a temporary shelter on public lands in order to sleep during the night.

Bylaws must be reasonable in terms of restrictiveness and their impact on homeless. Section 7 of the Canadian Charter of Rights and Freedoms states, *“Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”*

Local governments do have the authority to regulate the use and balance this with other uses in the community and can balance competing interests and prohibit overnight accommodation in “key sensitive areas”. For the City, sensitive lands where the City could be justified in prohibiting overnight camping would be the Community Park, Springwood Park and the municipal well fields as well as City-owned lands along the oceanfront. In 2016, Council amended the Parks and Open Spaces Bylaw to allow for a 40 metre setback from the playground in Foster Park and in 2018 the bylaw was amended to add the Parksville Wetlands which were acquired in 2017.

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