
From:
Sent: Friday, 17 March 2017 3:17 PM
To: CoM Meetings
Subject: Proposed Activities (Public Amenity and Security) Local Law 2017
Attachments: City_of_Port_Phillip_Submission_Proposed_Activities_Public_Amenity_and_Security_Local_Law_2017.pdf

For the attention of:

Manager Governance and Legal
City of Melbourne

Dear ,

Please find attached the City of Port Phillip submission to the City of Melbourne Proposed Activities (Public Amenity and Security) Local Law 2017

Best regards,

| Community Health and Service Planning
W: www.portphillip.vic.gov.au

Private Bag 3, St Kilda, VIC 3182



ENGAGED HEALTHY RESILIENT VIBRANT



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File Ref: 44/03/33

16 March 2017

Manager Governance And Legal
Melbourne City Council
GPO BOX 1603
MELBOURNE VIC 3001

Dear ,

PROPOSED ACTIVITIES (PUBLIC AMENITY AND SECURITY) LOCAL LAW 2017

We welcome the opportunity to write in response to the proposed amendments to the Melbourne City Council's Activities Local Law 2009 as tabled at the Future Melbourne Committee 7 February 2017.

On behalf of the City of Port Phillip, I offer the attached submission which highlights our concerns regarding the proposed amendments including broadening the definition of camping to confer interpretation of sitting or sleeping in a public place as an infringeable offence.

Whilst the City of Port Phillip recognise the operational challenges and costs that increased numbers of people experiencing this form of absolute homelessness present to the City of Melbourne, we believe that the proposed changes conflict with the recognition that homelessness is not illegal and will detrimentally impact already highly vulnerable people.

The City of Melbourne and City of Port Phillip, along with Cities of Yarra, Stonnington and Maribyrnong, have long established and valued partnerships that have developed and implemented consistent, best practice responses to addressing homelessness, including rough sleeping, across the Inner Melbourne regions. The City of Port Phillip recommend that proposed amendments to Activities Local Law 2009 are rejected and that responses to rough sleeping continue to be coordinated with local health and homelessness outreach programs and Victoria Police and that this approach be continued and strengthened through existing inner metropolitan networks such as the Inner Melbourne Action Plan (IMAP).

Yours sincerely

R

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We welcome the opportunity to write in response to the Report tabled 7 February 2017 to the Future Melbourne Committee, the purpose of which was to "update strategies to address homelessness in the City of Melbourne" through proposed amendments to the Melbourne City Council's Activities Local Law 2009.

The City of Port Phillip ("Council") welcome the recommended appointment of Mr Bernie Geary to support City of Melbourne in relation to homelessness initiatives and the increased funds assigned in 2016-17 including direct investment in the creation of a night safe space with integrated services, and an integrated street response team that will connect rough sleepers with outreach services and support.

However, City of Port Phillip do not support the proposed amendments relating to broadening the definition of camping to the point where we interpret it will in essence make sitting or sleeping in public an infringeable offence. It is our opinion this would conflict with the recognition that homelessness is not illegal and will detrimentally impact already highly vulnerable people. Council also do not support the widening of powers to Authorised Officers which would give them moving on powers which is a role that currently sits within the powers of Victoria Police.

Council fully recognises the greatly increased numbers of people experiencing this form of absolute homelessness across the CBD of Melbourne and the increased daily operational challenges and costs incurred by the City of Melbourne. Port Phillip has faced similarly increasing challenges and costs and feel that this is indicative of a much wider, rapid increase of rough sleeping and housing insecurity over the past two to three years being experienced in every municipality and shire in Victoria and across Australia.

We draw from our own more recent evidence of increased numbers since 2015, as well as feedback emerging from the Census Homelessness enumeration networking from August 2016 onwards. International research also supports that these challenges will not be addressed by the current proposed amendments and recommendations by City of Melbourne. Research has shown that heightened enforcement leads to the reverse and has a detrimental impact in seeking to address homelessness along with improved public amenity and safety.

City of Melbourne and City of Port Phillip (along with Cities of Yarra, Stonnington & Maribyrnong) have long established and valued partnerships that have developed and implemented consistent, best

practice responses to addressing homelessness, including rough sleeping, across the Inner Melbourne regions over the past 10-12 years for example the *Victorian Protocol for people who are homeless in public places in 2006* which is currently under review. In the past we have shared these models with regards to other Australian capital cities and inner urban areas.

We continue to seek to work closely with City of Melbourne and all partners and stakeholders including people with a lived experience of homelessness and our broader communities.

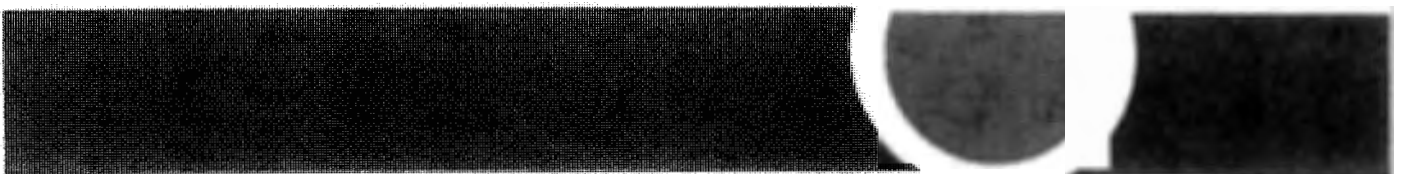
Background

Port Phillip City Council, at its meeting on March 1 2017, Item 9.1, resolved that Council:

1. Reaffirms the City of Port Phillip's proud history of and commitment to providing help and support to people experiencing homelessness.
2. Notes City of Melbourne's proposed local law changes will impact people experiencing homelessness.
3. Recognises that the City of Melbourne's proposed local law changes have created fear and misunderstanding within an already marginalised group of people.
4. Observes that rather than addressing and responding to the causes of homelessness, City of Melbourne's proposed local law changes punish individuals and forces them to leave familiar environments, displacing them to adjoining local government areas.
5. While recognising the limitations of our already stretched services, commits to supporting those affected by the City of Melbourne's proposed local law changes that will impact people experiencing homelessness, as far as practicable.
6. As outlined in *City of Port Phillip's Homelessness Action Strategy 2015-2020* and *Social Justice Charter 2011*, affirms the City of Port Phillip's support the assertions of every legal centre, homelessness service provider, homelessness peak body and other organisations that have written to the City of Melbourne opposing the proposed local law changes.
7. Requests that officers prepare a report examining baseline information about people experiencing homelessness in the City of Port Phillip and considering the impacts of the City of Melbourne's proposed local law changes could have on the City of Port Phillip.
8. Requests that officers prepare and lodge a submission on behalf of the City of Port Phillip to the consultation currently being conducted by the City of Melbourne into its proposed local law changes, outlining the points above and any other relevant matters.



- Whilst welcoming renewed and expanded Federal and State government funding initiatives in 2016/2017 boosting housing and support options in Victoria, Council links the chronic shortfall of safe, secure and affordable housing, including crisis accommodation, as well as changing labour market forces and a range of support and health budget shortfalls, directly to the increased number of people of all ages in marginalised forms of housing. This includes people staying in short-term accommodation (two - seven nights), couch surfing (staying at friends or family), and people sleeping in improvised dwellings, squatting or sleeping rough.
- The *City of Port Phillip In Our Backyard- Growing Affordable Housing in Port Phillip Strategy 2016-2026* articulates Council's renewed commitment to maintaining a diverse, inclusive and equitable city, especially for those who are disadvantaged and marginalised-
 - Building on previous decades of housing strategies and the successful partnership with Port Phillip Housing Association as Trustee of the Port Phillip Housing Trust, the strategy outlines Council's aims to continue facilitating new community housing projects through property and cash contributions to a range of local housing providers.
 - Council will also continue to advocate for an affordable housing planning mechanism that will incentivise private sector delivery of new affordable housing.
 - We remain committed whilst informed of the perilous context of approximately 90% of people on Victorian social housing waiting lists are unable to be assisted annually.
- The *City of Port Phillip Homelessness Action Strategy 2015-2020* sets out Council's objective to prevent homelessness and reduce the time spent in homelessness:
 - Council works in partnership with local health and community agencies, specialist homelessness services and housing providers to ensure support and information to help people experiencing homelessness to obtain suitable housing and sustain their tenancies is available locally.
 - We acknowledge that this is a huge challenge when approximately 80% of people presenting to specialist homelessness service entry points daily are unable to access crisis accommodation. The numbers of people seeking urgent assistance through one local Homelessness entry point in St Kilda amounted to over 7000 people in 2015-2016, this included over 800 people who were under the age of 15, a further 1000 people were under 25.
 - We realise many people can lose hope and stop seeking assistance or trust that they can be helped out of homelessness.
- Housing and Homelessness is one of nine key priorities of the *City of Port Phillip Municipal Public Health and Wellbeing Plan 2013-2017*



- Council currently recognises the special circumstances of homelessness and associated complexities in its definition of camping as follows in the *City of Port Phillip Community Amenity Local Law (Community Amenity No.1) 2013*

Clause 53: Camping on Council Land

(1) A person must not camp on any Council land or public place in a vehicle, tent, caravan or any other type of temporary or provisional form of accommodation.

Penalty: 2 penalty units

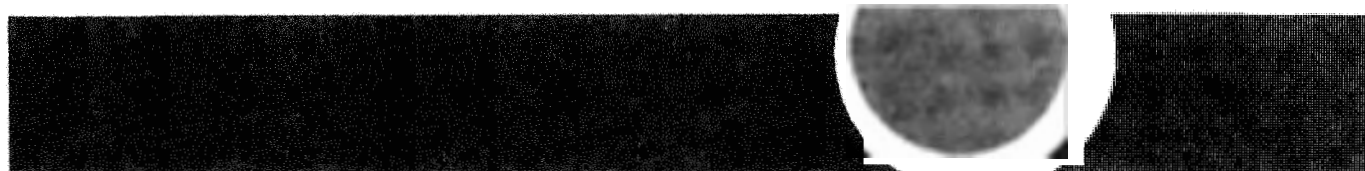
- A person is not guilty of an offence under sub-clause (1) where that person establishes that he or she:
 - (a) is homeless or is in need of secure accommodation; or
 - (b) has complex needs or is in need of additional assistance because of a mental or physical disability or illness.
- Instances of people camping that are reported to Council's authorised officers are referred directly on to relevant Council housing & homelessness officers to implement the *Protocol to Assist People Sleeping Rough in Public Places*. Council coordinates with local health and homelessness outreach programs to ensure that people experiencing primary homelessness are treated appropriately and are offered relevant support services, whilst safety and amenity issues are assessed and managed. Whilst Council currently reviews this Local Law in 2017, it is not proposing to drop the exemption from infringement if the person is homeless.

Demographic information

- The 2011 ABS census indicated that in City of Port Phillip there were 1564 people categorised as 'homeless' including:
 - 892 people sleeping in rooming houses
 - 450 people sleeping in crisis accommodation
 - 152 sleeping rough

As these figures were slightly higher than those registered in City of Melbourne in 2011, we expect the release of the Census count early next year to also show a marked increase in Port Phillip numbers. This was apparent locally during our networking and support of the Australian Bureau of Statistics (ABS) homeless enumeration efforts in August 2016.

- The number of reports to Council of people sleeping rough in public places has dramatically increased:



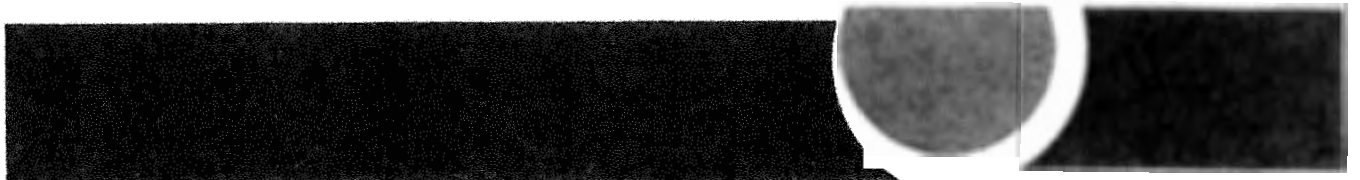
- October 2015 to March 2016 (77 requests) increased by 104% from the previous October 2014 to March 2015 (39 requests)
- April 2016 to September 2016 (82 requests) increased from April 2015-September 2015 (39 requests)
- From October 2016 to February 2017 there have already been 88 requests; a 14% increase on the same six-month period last year (October 2015 – February 2016).

Recommendations

- **Council recommends an approach that recognises homelessness is an experience without borders.** People sleeping rough, either alone or with trusted companions are often 'on the move' across the inner metropolitan region in their attempts to seek support and accommodation and have a sense of community and safety. A number of federally and state funded outreach and support programs cover a range of local government areas and best practice recognises the importance of having flexible cross-area communication and planning.
- **Council recommends expanding the Rough Sleepers Taskforce** with IMAP Inner Melbourne Action Plan municipalities (Melbourne, Port Phillip, Stonnington, Maribyrnong and Yarra) to determine shared responses including future street counts of rough sleeping from 2018 and explore research partnerships that can identify why people have shifted to more prominent locations in all of these municipalities including the CBD in recent years.
- **Council recommends City of Melbourne continue to facilitate current coordinated practice by support agencies, authorised officers and Victoria Police** – Council does not support the proposed expansion of the Activities (Public Amenity and Security) Local Law 2017 which essentially assign authorised officers with very broad moving on powers. Council do not support this amendment as being required within the powers of a local government authorised officer. The Victorian government in February 2015 outlined its understanding clearly regarding this power in *The Summary Offences Amendment (Move-On Laws) Bill 2015* when it stated Victoria Police already have this power if it is required. Such a direction to move on or leave a public place can be given if a police officer suspects on reasonable grounds that a person is:
 - Breaching, or likely to breach, the peace;
 - Endangering or likely to endanger the safety of another person or damage to property; or
 - The behaviour of the person is likely to cause injury to a person or damage to property, or is otherwise a risk to public safety.



This Bill also reaffirmed Victoria Police have the ability to enforce a number of offences – such as trespass, besetting and obstruction of roads and footpaths.



From:
Sent: Friday, 17 March 2017 3:25 PM
To: CoM Meetings
Subject: Liberty Victoria Submission: Proposed Activities (Public Amenity and Security) Local Law 2017
Attachments: Lib Vic sub Prop Amend Local Law MCC Homeless 17032017 final.pdf

Please find attached our submission to the Proposed Activities (Public Amenity and Security) Local Law 2017.

Regards

Liberty Victoria

Stay in touch, subscribe to our events updates

Email: info@libertyvictoria.org.au

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PATRON

17 March 2017

Manager Governance and Legal

Proposed Activities (Public Amenity and Security) Local Law 2017

Melbourne City Council

Melbourne VIC 3000

By email: com.meetings@melbourne.vic.gov.au

Submission to Proposed Activities (Public Amenity and Security) Local Law 2017

1. Thank you for the opportunity to provide a submission to the Proposed Activities (Public Amenity and Security) Local Law 2017 ("Amending Laws").
2. Liberty Victoria is one of Australia's leading human rights and civil liberties organisations. It is concerned with the protection and promotion of civil liberties throughout Australia. As such, Liberty Victoria is actively involved in the development and revision of Australia's laws and systems of government.
3. In our view the City of Melbourne's proposed Amending Laws are draconian in their nature and target some of the most vulnerable persons in our community.
4. Liberty Victoria has had the opportunity to read and consider the submissions of the Infringements Work Group ("IWG"). We fully endorse those submissions which are consistent with the preservation of the human rights and civil liberties of persons in our community who suffer the misfortune of homelessness.

From:
Sent: Friday, 17 March 2017 3:48 PM
To: CoM Meetings
Cc:
Subject: Submission: Homelessness Inner Melbourne Community Legal (IMCL)
Attachments: Final Submission 2017.03.17.pdf

Dear City of Melbourne

Please find the submission from Inner Melbourne Community Legal (IMCL) on Activities (Public Amenities and security) Local Law 2017 attached.

Please call or email me if there are any questions or concerns about this.

Thank you



**INNER MELBOURNE
COMMUNITY LEGAL**

: | Chief Executive Officer

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Manager, Governance and Legal
Melbourne City Council
GPO Box 1603
MELBOURNE VIC 3001

By email: com.meetings@melbourne.vic.gov.au

17 March 2017

Dear Lord Mayor and Councillors

Inner Melbourne Community Legal: Submission on the Activities (Public Amenity and Security) Local Law 2017

We refer to the Report to the Future Melbourne (Finance and Governance) Committee, item 6.2: homelessness and public amenity, including the proposed amendments to the Activities Local Law 2009 (**Local Law**) in the Activities (Public Amenity and Security) Local Law 2017 (**Amending Law**).

Inner Melbourne Community Legal

Inner Melbourne Community Legal (**IMCL**) is a not-for-profit community organisation that provides free legal assistance to individuals experiencing disadvantage and marginalisation in our local community. This encompasses the City of Melbourne area. We have been delivering legal services for almost forty years.

In addition to conducting in-house legal clinics, IMCL targets the most vulnerable community members through our legal outreach services at a number of community locations. One of our key partner organisations is Ozanam Community Centre, a drop in-centre providing supports for people experiencing homelessness or at risk of homelessness, and/or who are socially excluded. IMCL has been providing weekly legal advice outreach services at Ozanam Community Centre for over 15 years.

In 2015-2016, IMCL provided 736 vulnerable community members with direct legal assistance. Of these, 36 per cent indicated that they were experiencing or at risk of or experiencing homelessness. A significant proportion of the work that we do for people experiencing homelessness concerns special circumstances applications in infringement matters, giving us a specialised understanding of the infringements system. In 2015-16, infringements accounted for 16 per cent of the legal problems experienced by our clients, the second highest area of law. From January to December 2016, we saw 126 clients and provided 152 advices in relation to infringements.

We also participate in a number of working groups to collectively address systemic legal issues affecting vulnerable people in our community, including homelessness. This includes the CBD Homeless Network; the City of Melbourne Homelessness Advisory Committee; the Justice Access Advisory Group and the Infringements Working Group. IMCL therefore has a unique understanding of the legal problems common to people experiencing homelessness and the flow-on effects of unresolved legal problems on their health, wellbeing and capacity to exit entrenched disadvantage. We are well placed to comment on what we believe will be the unintended and negative impact of the amending law on the most vulnerable members of our community.

This submission outlines our opposition to the amending law on the basis that:

- Criminalising homelessness will further entrench disadvantage;
- Fining people for offences associated with homelessness is against the intention of the Act;
- These fines will result in processes that are resource intensive for all involved, be the subject of long delays and unlikely to see fines paid;
- Some of the laws contravene the Victorian Charter of Rights and Responsibilities; and
- These laws contradict recent City of Melbourne and state government measures that will significantly contribute to reducing homelessness in the longer-term.

Broadening the ban on camping will criminalise homelessness

As council noted in its Report to the Future Melbourne (Finance and Governance) Committee (2 Feb 2017) it is not illegal to be homeless. However, the amending law will make it an offence for a person to 'camp' in any public place. Given that the term camp is undefined and is open to broad interpretation, this effectively includes – whether intended or not - homeless people sleeping rough. Giving Authorised Officers the power to fine or charge and prosecute people for sleeping rough will effectively criminalise the social problem of homelessness.

Whilst paying an infringement does not result in a finding of guilt noted on a person's criminal record, the risks of criminalisation are particularly acute for people who are either charged and prosecuted or who apply for internal review of infringement notices or applications for revocation to the Infringements Court on the basis of special circumstances. This process is described in detail in **Table 1 at Appendix A**. As detailed in that table, matters are frequently referred to open court following internal review applications and applications for revocation. The infringement then becomes a charge and summons and is dealt with as a summary criminal offence, exposing people to findings of guilt and criminal records. A criminal record provides a significant barrier to employment which can further entrench economic and social disadvantage.

Issuing fines is at odds with the purpose of the *Infringements Act 2016 (Vic)*

IMCL understands that the proposed fines to be issued under the amending law will be dealt with as infringement notices under the *Infringements Act 2006 (Vic)* (**the Act**). It is our position that this scheme will conflict with the intent of the Act because the proposed fines are likely to embed a cycle of disadvantage amongst vulnerable people. In outlining the core objectives of infringements reform, the former Victorian Attorney-General, Rob Hulls in his second reading speech detailed that the system endeavours "...to filter people out of the system who cannot understand or control their offending behaviour..."¹

This intention is reflected in the scheme set up in the Act enabling people to challenge their fines and have them waived on the basis of prescribed categories of hardship, defined as special circumstances. Section 3 of the Act defines special circumstances to include homelessness.

The then Attorney- General noted that:

¹ Victoria, *Parliamentary Debates*, Legislative Assembly, 16 November 2005, p. 2186 (Rob Hulls, Attorney General).

"homelessness was specifically contemplated under the Act to provide for those people who are sleeping on the streets or living in crisis accommodation. Often these people have no choice but to be in public places where they are more likely to be infringed".²

As such, Melbourne City Council's proposed amending law directly conflicts with a primary rationale underpinning the enactment of the Act designed to "better protect the vulnerable who are inappropriately caught up in the system".³ The Minister expressly stated that the legislative framework ought to recognise that "[p]eople with special circumstances are disproportionately, and often irrevocably, caught up in the system. In a just society, the response to people with special circumstances should not be to issue them with an infringement notice".⁴

In light of the Minister's second-reading speech, the Act is clearly intended to discourage enforcement agencies from issuing infringement notices in the first instance to people experiencing homelessness.

Fining people sleeping rough will create an 'infringements roundabout'

In addition to being contrary to the intention of the Act, fining people in connection with sleeping rough will also be counterproductive. The special circumstances process will create a complex and inherently costly 'infringement roundabout'. People experiencing homelessness will inevitably be entrenched within the infringements system at significant community cost. This is because:

- **First**, it places homeless people under further financial and psychological strain, undermining their ability to deal with issues underlying their homelessness.
- **Second**, given the 74 per cent increase in Melbourne's rough sleeping population since 2014 (with 247 people sleeping rough in 2016)⁵ IMCL anticipates that the amending law will lead to a significant increase in the number of infringements issued. The special circumstances process requires intensive City of Melbourne resourcing, and it follows that an increase in infringements issued will place an additional strain on City of Melbourne and on already over-stretched community legal centres, Victoria Legal Aid and courts.
- **Third**, the infringement roundabout means fines will unlikely be paid and costs will not be recouped by enforcement agencies: when fines are dealt in open court following a special circumstances internal review or application for revocation this does **not** result in funds being paid back to the enforcement agency. Further, enforcement agencies typically bear the cost of prosecuting these matters.

The administrative and financial burden on enforcement agencies like the City of Melbourne is worth noting: in the first two stages of the infringement lifecycle, the enforcement agency bears the primary responsibility of dealing with the fine, any internal review procedures and court prosecution. Additionally, the enforcement agency may also be re-engaged during stage three, following applications for revocation based on special circumstances.

Table 1 clearly demonstrates the circularity of the process given the inherent nexus that exists between homelessness and the proposed offences. In most cases a person sleeping rough fined under the

² Ibid pp. 2187-2188.

³ Ibid p. 2186.

⁴ Ibid p. 2187.

⁵ City of Melbourne, *StreetCount highlights number of people sleeping rough* (9 June 2016)

<<http://www.melbourne.vic.gov.au/news-and-media/Pages/streetcount-highlights-number-of-people-sleeping-rough.aspx>>.

amending law will be able to successfully establish special circumstances. Furthermore, the likelihood of success of these applications is strengthened by the fact that more than one category of special circumstances will be relied upon given common comorbidities amongst this population.

The infringement roundabout ought to become a disincentive for enforcement agencies like the City of Melbourne to issue the fines to homeless people in the first place, thereby making the scheme redundant.

We therefore submit that the effect of tying-up people sleeping rough into the infringements roundabout will not lead to behaviour change in people experiencing homeless so as to reduce the number of people sleeping rough. We submit that this can only be achieved by resources being directed towards affordable housing options for Victorians. To illustrate this, IMCL discussed the amending law with a current client, Steve.

Client story

Steve was referred to IMCL from his caseworker at Ozanam House. Steve had been in crisis accommodation for a number of weeks. He received a number of parking fines from a City of Melbourne authorised officer during his time accessing the crisis accommodation.

When asked of the impact these fines had when he was homeless and accessing crisis accommodation, Steve replied

"It made me feel worse. I was trying to find a place to live and then you know getting these fines was another thing on my mind, another stress in my life, another thing over my head"

When asked whether he thought that the proposed amending laws would reduce the number of people sleeping rough, he said

"If you're sleeping rough, you have no money, so how are you going to pay the fines? A lot of these people have got a mental illness or substance or alcohol issues; so fines are just going to be on top of having no money and having no home!"

Steve is fortunate to now have secured permanent accommodation with the assistance of a housing support worker at Ozanam. He believes that the focus should be on providing social workers and housing workers for people experiencing homelessness, rather than on 'policing' or issuing fines.

The provisions regarding unattended items interfere with *Charter* rights

The City of Melbourne, as a public authority, is required under the *Charter of Human Rights and Responsibilities 2006* (Vic) (**the Charter**) to act consistently with human rights in the Charter. These rights were introduced because the Victorian Government recognises that human beings have basic rights, and anticipated that the Charter would "help us become a more tolerant society, on which respects diversity and the basic dignity of all."⁶

There are 20 fundamental human rights set out in the Charter, including that a "person must not be deprived of his or her property other than in accordance with law."⁷ The proposal in the amending law to "confiscate and impound" personal property of a person is clearly interfering with the Charter right that a person not to be deprived of his or her property.

⁶ Victoria, *Parliamentary Debates*, Legislative Assembly, 4 May 2006, p. 1290 (Rob Hulls, Attorney-General)

⁷ *Charter of Human Rights and Responsibilities 2006* (Vic) s 20.

While IMCL recognises that Charter rights can be limited in certain circumstances, it must be reasonable and there must be clear reasons for the decision. In this regard, and in light of the factors set out in section 7(2) of the Charter, IMCL submits that the Council's amending law does not reasonably limit Charter rights. The factors are given below.

In the Council's published Notice of Proposal to Make a Local Law, it appears that the purpose of the restriction on this Charter right it is to provide for the peace, order and good government of the municipality. This purpose is relevant when considering whether the proposed limitation is reasonable.⁸

IMCL submits that the interference with property in the proposed amendment regarding unattended belongings is an unreasonable interference the legal interests of a person in their personal belongings is neither necessary nor reasonable, and undermines the basic dignity of a person who, due a range of circumstances, most of which are out of their control, has nowhere permanent to live or store their personal belongings. There are also, in our submissions, less restrictive ways that City of Melbourne can achieve peace and order without the proposed amendment to the Local Law.

It is also relevant that no other public authority or company carrying out public activities has the power to fine a person for leaving property unclaimed. Indeed legislation in respect of these bodies is drafted to ensure that reasonable attempts are made to locate the person and appropriate safeguards and timeframes are in place to avoid a person's unclaimed or lost property being unnecessarily sold or destroyed.

For example, if goods or lost property are left on a public transport company's property (i.e. V/Line, Yarra Trams or Metro), the company has to make a reasonable attempt to contact the owner of the goods,⁹ and (with the exception of perishable goods) can only sell or dispose of goods or lost property after 60 days from when the lost property was found or the goods were not claimed.¹⁰ Storage charges can only be recovered from the sale of goods after that period has expired¹¹ and the balance of monies upon sale must be dealt with as unclaimed money in accordance with the *Unclaimed Money Act 2008* (Vic).¹²

Similarly, Victoria Police are unable to fine a person for leaving property unclaimed, and there are appropriate safeguards legislated regarding the disposal of unclaimed property that comes in to their possession in the scope of their employment. If property is perishable, it can be disposed of if it is not claimed after reasonable inquiries as to ownership have been made,¹³ if it was left by a person who was imprisoned or detained in a gaol it must be retained for 12 months,¹⁴ and in any other case, the property may be disposed of if it is not claimed within 3 months after coming into the possession of¹⁵ the member of Victoria Police personnel.¹⁶ If property is sold by Victoria Police, proceeds from the sale are paid to the consolidated fund.

In both of these circumstances, appropriate safeguards have been put into place to ensure that the company or organisation takes steps to locate the person who owns the belongings and at least 60 days is provided before any action can be taken in respect of the property. Unlike the proposed Local Law, a

⁸ Ibid s 7(2).

⁹ *Transport (Compliance and Miscellaneous) Act 1983* (Vic) s 251A(2)(b).

¹⁰ Ibid s 251A(3).

¹¹ Ibid s 251A(4).

¹² Ibid s 251A(5).

¹³ *Victoria Police Act 2013* (Vic) s 57(2)(a).

¹⁴ Ibid s 57(2)(b).

¹⁵ Ibid s 57(5).

¹⁶ Ibid s 57(2)(c).

person is not fined for leaving belongings at a train station or with Victoria Police and the person does not have to pay to retrieve their belongings.

The proposed new Local Law regarding unattended items is, in our submission, a punitive law which unnecessarily limits a person's human right to not be deprived of their property, and a law which says the council can destroy personal belongings within 14 days if payment is not made is a limitation of that right to a greater extent than is allowed under the Charter.

Recent Measures Welcome

We welcome the work that the City of Melbourne and, more recently, the Victorian State Government have done to reduce homelessness and curtail the larger problem of housing unaffordability. These measures are necessary to reduce homelessness. Some of the measures are overdue and will take time to show results.

Recently, the City of Melbourne has implemented or agreed on a number of strategies that will all work to reduce homelessness in the medium to long-term. These include:

- The appointment of a Senior Housing Advisor as part of the Urban Strategy section to advise on and promote affordable housing as part of current and emerging new developments, such as Arden-McCauley, Fishman's Bend and Victoria Markets (which will support the implementation of the council's own policy target of 15 per cent social housing for new developments).
- The City's Daily support team providing outreach and the imminent provision of a night safe space and Project Connect Respect delivered in partnership with the Council for Homeless Persons.
- Support for Home Ground to expand their housing stock by bringing private landlords onboard.
- The City of Melbourne Council meeting of 20 December 2016 endorsing recommendations to develop some sites for affordable housing, such as 602 Little Bourke Street and 506 Elizabeth Street.

Recent assistance that the Victorian Government has provided will also increase access to affordable housing for vulnerable people. This includes:

- the Social Housing Growth Fund which will ultimately be worth \$1 billion and estimated to provide around \$70 million per year for new social housing; and
- around \$1 Billion in loan guarantees over six years for social housing providers.

We encourage the Council to allow these initiatives to bear fruit and to refrain from implementing reforms which will undermine these positive steps.

Conclusion

We disagree with the proposed changes to by-laws because:

- Criminalising homelessness will further entrench disadvantage;
- Fining people for offences associated with homelessness is against the intention of the Act;
- These fines will result in processes that are resource intensive for all involved, be the subject of long delays and unlikely to see fines paid;
- Some of the laws contravene the Victorian Charter of Rights and Responsibilities; and
- These laws contradict recent City of Melbourne and state government measures that will significantly contribute to reducing homelessness in the longer-term.

Please do not hesitate to contact IMCL Chief Executive Officer, _____, on _____ or at _____ if you have any questions at all regarding this submission.

Appendix A

Table 1: Options available to people experiencing homelessness under the Infringements system

Stage 1: Internal review by the enforcement agency based on special circumstances

Section 22 of the Act provides that a request for an internal review of the decision to issue an infringement notice by an enforcement agency can be made on the ground that special circumstances apply to the person who was fined.

This application is made in writing directly to the enforcement agency which must consider it.

The application must demonstrate a link between the special circumstance and the offending behaviour and must be accompanied by supporting documentation. IMCL has assisted many clients to make applications for internal review against public order fines issued against people experiencing homelessness by the City of Melbourne. This involves obtaining supporting documentation from a prescribed category of health professionals and support workers.

Outcome of the internal review conducted by the enforcement agency

If an application is made on the basis of special circumstances, the enforcement agency has three options under section 25(2) of the Act to either:

- i. Withdraw the fine* if it accepts that special circumstances apply to a person to whom a fine was issued;
- ii. Withdraw the fine and issue an official warning in its place,*¹⁷
- iii. Decline to withdraw the fine and refer the matter to open court* to be dealt with in open court.¹⁸

In IMCL's submission, the internal review process is a resource intensive exercise for community legal centres, Victoria Legal Aid and allied professionals. It is particularly resource intensive for enforcement agencies such as the City of Melbourne. This first stage can take up to 146 days, approximately five months. The enforcement agency must review the decision to serve an infringement notice within a prescribed period of 90 days (with a further period of up to 35 days if additional information has been requested) and notify the applicant in writing of the decision within 21 days.

Furthermore, the enforcement agency is required to prosecute the charge, at additional cost. These costs are unlikely to be recouped by the issuing agency in circumstances where special circumstances ultimately apply.

Stage 2: If no action is taken following an infringement notice, reminder notice is issued by enforcement agency

If no action is taken by the person issued with an infringement notice within 28, the enforcement

¹⁷ *Infringements Act 2006* (Vic) s 25(2).

¹⁸ *Ibid* s 25(3).

agency is required to issue a penalty reminder notice.

Whilst this adds additional costs to the original penalty, these costs are once again unlikely to be recouped by the issuing agency in circumstances where special circumstances ultimately apply.

Stage 3: Unpaid infringement notice – lodgment with the Infringements Court

If an infringement is not paid and an internal review has not been submitted, enforcement agencies may lodge the infringement penalty with an infringements registrar at the Infringements Court.¹⁹

It is IMCLs experience that the City of Melbourne routinely takes this step.

The infringements registrar may then make an enforcement order that the person pay to the Court the outstanding amount of the infringement and the prescribed costs in respect of a lodgeable infringement offence.²⁰

Application for revocation based on special circumstances

At the Infringements Court stage, a person experiencing homelessness has a further opportunity to make an application based on special circumstances. At this stage, the application is for 'revocation' of the enforcement order.²¹

Outcome of revocation application

- ***Fine referred back to enforcement agency***
If a registrar of the Infringements Court is satisfied that there are sufficient grounds for revocation they must revoke the enforcement order, meaning it ceases to have effect.²² The enforcement order is then referred back to the original enforcement agency for further consideration.²³

Outcome of enforcement agency reconsideration

- ***Fine withdrawn***
The enforcement agency can then request non prosecution (final withdrawal) of the matter.²⁴ In this instance none of the costs of enforcement will be recovered.
- ***Fine not withdrawn – referral to Special Circumstances list***
Unless the enforcement agency requests non prosecution of the matter, the fine is then automatically referred to the Magistrates' Court where the case proceeds as a criminal sentencing hearing in the Special Circumstances list.²⁵

The enforcement agency is required to prosecute the charge, at additional cost.

In the vast bulk of cases special circumstances are made out and non-pecuniary sentences are imposed and the lowest end of the sentencing range. In most instances matters are simply proven and dismissed with no further penalty.

¹⁹ Ibid s 54.

²⁰ Ibid s 59.

²¹ Ibid s 65.

²² Ibid s 66.

²³ Ibid s 67(5).

²⁴ Ibid s 69.

²⁵ Ibid s 71.

Stage 4: Infringement warrant issued

If an infringement warrant is executed, the matter can be brought before the Magistrates' court for determination and a person can at this stage rely on their special circumstances.²⁶ In this instance none of the costs of enforcement will be recovered by enforcement agencies such as city of Melbourne.

²⁶ Ibid s 160.

From:
Sent: Friday, 17 March 2017 4:10 PM
To: CoM Meetings
Subject: Proposed Activities (Public Amenity and Security) Local Law 2017
Attachments: MCCIA CoM By Laws Submission.docx

To: Manager: Legal and Governance
City of Melbourne

Please find attached Submission on behalf of the Melbourne City Churches in Action in relation to Proposed changes to the By Laws regarding Public Amenity and Security.

We also ask for the opportunity to speak to the Submission when the Committee meets on March 30th.

Thank you

on behalf of , MCCIA

Urban Seed

W: www.urbanseed.org

...because everyone needs a place to belong.

"Do not be daunted by the enormity of the world's grief. Do justly now. Love mercy now. Walk humbly now.

You are not obligated to complete the work. But neither are you free to abandon it (from The Talmud)"

'Proposed Activities (Public Amenity and Security) Local Law 2017'

Manager Governance and Legal,
Melbourne City Council

Submission
Melbourne City Churches in Action

The following submission is in relation to the proposed changes to the Local Law Public Amenity Act, and specifically addresses our deep concern over

1. The changes to the definition of camping in a public space that will enable rough sleeping to be defined as camping and for people experiencing homelessness to be moved on; and
2. The possibility that belongings of people experiencing homelessness be confiscated and destroyed unless there is an amount of money paid. Our concern is that even if the owner of the confiscated belongings had such funds, they would cover quite a few nights accommodation.

These two provisions create an impossible situation for the homeless and for those seeking to work with them.

We are pleased to see other aspects of the motion that we believe are positive and believe that these could be stepping-stones to addressing the deep complexities of homelessness. But these positive aspects will be hindered by the creation of an environment of fear, distrust, and dehumanization flowing from the two changes identified above.

Melbourne's past reputation in relation to homelessness and the use of public space has been good. The Homelessness Protocol, developed by the City, was written up as a great move forward for a major city getting serious about inclusiveness. Melbourne truly was a 'Place for People', for all people, no matter who they were. This was correctly seen as a human rights issue. But Melbourne will lose that reputation if these changes go ahead and people experiencing homelessness are moved on.

Moving people on may help to make our streets a little more tidy but it will do nothing to solve the debilitating problems associated with homelessness. In fact, these new powers are already creating an environment of fear, distrust and dehumanization, and are adding to the traumas that our City's most vulnerable are experiencing. This works against developing long term, sustainable pathways out of homelessness.

We also respectfully suggest that the current By-Laws adequately address most of the issues related to public amenity that will reportedly be addressed by these changes, for example prohibitions on open alcohol in the CBD, and public urination, as well as access for people experiencing disabilities and mobility issues, littering, and public nuisance. Consequently, the proposed changes are not necessary.

There are some who suggest that the proposed new by-laws will never be used to move people on but the deeper problem of creating a law that can be enforced if an Officer so chooses is a disempowering act to those who already feel powerless. The mere possibility of losing all rights as far as use of public space is concerned is a human rights issue.

In the light of these concerns we call for:

- A stay on this change coming into effect for 12 months
- A meeting of Stakeholders to:
 - Discuss the deeper issues that need to be addressed in the area of homelessness in general and in particular rough sleeping in the City
 - Discuss measures that will be taken during that 12 months that will address issues in a non-threatening environment.
 - This will include but not be limited to such ideas that have already been suggested like lockers and drop in centers in the City

The MCCIA commits itself to actively and thoughtfully being involved in this process.

Signed, for and on behalf of, Melbourne City Churches in Action

Melbourne City Churches in Action
March 17, 2017

From:
Sent: Friday, 17 March 2017 4:12 PM
To: CoM Meetings
Subject: Proposed Activities (Public Amenity and Security) Local Law 2017
Attachments: Submission_ActivitiesLocalLaw2009_FINAL(1)_StudentsofMLS.pdf

Attention: Manager Governance and Legal, Melbourne City Council

Dear Sir/Madam,

Please find attached submission on the proposed Activities (public Amenity and Security) Local Law 2017.

Kind regards,

Proposed Activities (Public Amenity and Security) Local Law 2017

Who we are

The authors of this submission represent a portion of Melbourne Law School (MLS) students at The University of Melbourne. A list of MLS students who support this submission are included in Appendix II.

MLS is located close to Melbourne's CBD. The authors and supporters of this submission are invested in the local government laws that govern our city. We offer this submission because we have a stake in a fair, compassionate and equal Melbourne, and actively value community consultation and evidence-based policy making.

Intention and purpose of this submission

The authors thank the council for the opportunity to voice their concerns around the amendment to the *Activities Local Law 2009* and wish to provide feedback not as persons directly affected by the by-laws but as members of the Melbourne community and future members of the legal community.

We lend our voices to submissions made by other individuals and organisations who have personal and professional understanding of the issues facing homeless people.

Focuses of this submission

We acknowledge the breadth and quality of expertise of the service sector that supports the homeless community. Therefore, we do not wish to repeat what has already been submitted or produce anything outside our level of understanding and experience. That said, we briefly reiterate the well-known mitigating factors to the homelessness problem that have no doubt been adequately addressed by others in the consultation process:

- Homelessness is on the rise with 22,773 homeless people in Victoria at the time of writing.¹
- Housing is increasingly unaffordable,² which contributes to homelessness.³
- Social and public housing is scarce, with 33,940 social housing applicants on the Victorian Housing Register Victoria as at December 2016.

¹ Homelessness Australia January 2014. Available at: http://www.homelessnessaustralia.org.au/images/publications/Infographics/Victoria_-_updated_Jan_2014.pdf.

² Australians for Affordable Housing, 2011b Australia's Broken Housing System. Available at http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness_and_Povertyv2.pdf.

³ Homelessness Australia Media Release 2015. Available at: http://www.homelessnessaustralia.org.au/images/publications/Media_Releases/Media_release_AIHW_2014-15_annual_report.pdf.

- Melbourne is currently experiencing increased income inequality,⁴ which contributes to homelessness.
- Homeless people usually experience other causal and correlating issues including family violence,⁵ mental illness and disability⁶, drug and alcohol dependency, for which services need to be improved.
- Research suggests that housing people is more cost effective than allowing chronic homelessness to continue.⁷
- Services for homeless people are inadequate, with 120,000 people turned away from services.⁸

With these structural factors in mind, we urge Melbourne City Council to appreciate the added pressure these by-laws would place on an already vulnerable population. The factors listed above provide context to our stance on the proposed amendments addressed in the following section.

Our responses to the proposed amendments

1. The combined effect of clauses 2.8, 2.12.1 – 2.12.15 and Schedule 1 is the criminalisation of homelessness

Clauses addressed in this section	
2.8	Unless in accordance with a <i>permit</i> , a <i>person</i> must not camp in or on any <i>public place</i> in a vehicle, tent, caravan or any type of temporary or provisional form of accommodation.
2.12.1	Unless in accordance with a permit, a person must not leave any item unattended in a public place.

⁴ Australian Council of Social Services (ACOSS) *Inequality in Australia* January 2014, 20. Available at <http://www.acoss.org.au/wp-content/uploads/2015/06/Inequality_in_Australia_FINAL.pdf>.

⁵ Homelessness Australia January 2014. Available at: <http://www.homelessnessaustralia.org.au/images/publications/Infographics/Victoria_-_updated_Jan_2014.pdf>.

⁶ Australian Bureau of Statistics (ABS) *Disability Australia 2009, 2011* and Australian Institute of Health and Welfare (AIHW) *Homeless SAAP Clients with a Disability*, 2015. Cited at Homelessness Australia *Homelessness and Disability Fact Sheet*, 1. Available at <http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness%20and%20Disability.pdf>.

⁷ See local studies at <<http://www.abc.net.au/news/2017-03-16/cheaper-to-provide-homes-for-homeless-rather-sleep-rough/8354284>>. See also UK research by Cameron Parsell, Research Fellow at The University of Queensland. See <<https://theconversation.com/supportive-housing-is-cheaper-than-chronic-homelessness-67539>>.

⁸ Homelessness Australia Media Release 2015. Available at <http://www.homelessnessaustralia.org.au/images/publications/Media_Releases/Media_release_AIH_W_2014-15_annual_report.pdf>.

2.12.2	If any item is left unattended in contravention of this Local Law, an authorised officer may confiscate and impound the item in accordance with this clause.
2.12.3	Any item confiscated and impounded under clause 2.12.2 will be returned to its owner on payment of any fee or charge prescribed by the Council for its release.
2.12.4	If the owner of the item has not paid any fee or charge required for its release, the Council may sell, destroy or give away the item.
2.12.5	Before exercising the power conferred by clause 2.12.4, the Council must take reasonable steps to notify the owner of the item that the item has been impounded and may be sold, destroyed or given away unless the specified fee or charge is paid within 14 days.

Schedule 1		
Penalties Fixed for Infringements		
Clause	Offence	Penalty
2.8	Camping in <i>public places</i> ⁹	2.5
2.12	Item unattended in a <i>public place</i>	2.5

The combined effect of the proposed changes to clauses 2.8, 2.12.1 – 2.12.5 and schedule 1 of the Activities Local Law 2009 are very concerning.

The removal of the definition “camping” in cl 2.8 makes its operation too broad. The inclusion of cl 2.8 in schedule 1 penalties fixed for infringement effectively makes being homeless an offence.

Likewise, clauses 2.12.1- 2.12.5 will further accentuate the punitive effect of cl 2.8 by allowing authorised officers to punish individuals by confiscating their personal belongings and issuing a fee. Being in a situation of homelessness, particularly long-term homelessness where an individual often has no secure place to store their possessions necessarily involves having to carry those belongings wherever they go. Therefore, Melbourne Council is *in effect* criminalising an inadvertent consequence of homelessness and addressing this behaviour through punitive penalties.

II. The objectives and aims set out in cl 1.2 and Part 2 do not accommodate homeless persons

Clauses addressed in this section	
1.2	The objectives of this Local Law are to:

⁹ Although cl 2.8 is already listed in Schedule 1, it is listed as an amendment because of the proposed new meaning of “camping”.

<p>(a) promote a physical and social environment free from hazards to health, in which the residents of and visitors to the <i>municipality</i> can enjoy a quality of life that meets the general expectations of the community;</p> <p>...</p> <p>(c) protect the amenity and use of <i>public places</i> and control activities in or near them;</p> <p>(d) support the Council's disability action plan prepared under section 38 of the <i>Disability Act 2006</i>;</p>
<p>Part 2 Behaviour</p> <p>Introduction: This Part contains provisions which aim to protect the amenity and use of and provide for safety in public places for all citizens by controlling behaviour in public places by providing for security measures to be taken in public places and by prohibiting persons from causing damage to public places or acting in a socially unacceptable manner.</p>

First, cl 1.2(a) fails to expressly acknowledge or include homeless people. It refers only to "residents" and "visitors". This is problematic because it effectively negates the presence of around 250 homeless people who are effectively *residing* in Melbourne CBD.¹⁰ Alternatively, if this clause intends to include people who do not have stable accommodation in the definition of 'resident' or 'visitor', then the proposed amendments in the *Activities (Public Amenity and Security) Local Law 2017* fail to promote the quality of life and freedom from hazards for those people. Punishing homeless persons will have an adverse effect on their health and quality of life and, in a wider sense, affect the peace, order and good government of the municipality.

Secondly, the inclusion of cl 1.2(d) in the objectives of the *Activities Local Law 2009* is incompatible with the overall suite of proposed amendments in the *Activities (Public Amenity and Security) Local Law 2017* due to the effect these amendments will have on disabled members of the homeless community. People with disabilities make up around 18 per cent of the general population and 25 per cent of specialist homelessness services.¹¹ As such, these changes will disproportionately affect people experiencing disability and homelessness. Specifically, the proposed amendment will directly contravene s 38(1)(c) and s38(1)(d) of the Disability Action Plan.

Thirdly, the words "use" in conjunction with "amenity" and "safety" in part 2, cl 2.1(c) and throughout are problematic in the context of the negative social effects of the proposed amendments in the *Activities (Public Amenity and Security) Local Law 2017*. All citizens should be considered when protecting the use and enjoyment of Melbourne's public spaces,

¹⁰ This was the estimated figure in 2016 according to UN Special Rapporteur Ms Leilani Farha.

¹¹ Australian Bureau of Statistics (ABS) *Disability Australia 2009*, 2011 and Australian Institute of Health and Welfare (AIHW) *Homeless SAAP Clients with a Disability*, 2015. Cited at Homelessness Australia *Homelessness and Disability Fact Sheet*, 1. Available at <http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness%20and%20disability.pdf>.

including those who do not have the privilege of a secure home to live in. Even more vitally, the safety of all individuals should also be protected by the *Activities Local Law 2009*, particularly for people sleeping rough who are unfortunately often the most vulnerable to threats to personal safety in public places. The proposed by-laws will inhibit the physical act of sleeping on the street in Melbourne thus forcing people to hide away in less public areas as well as push them out to other council localities. This will likely reduce the ability of authorised officers to effectively engage with the homeless and reduce homeless people's ability to access services. These prescribed amendments will make the CBD *less* safe and *less* usable for homeless people; ironically, it is homeless people who rely on the maintenance of safe public spaces the most because it is they who often have nowhere else to go.

III. Criminalising homeless persons constitutes an abuse of human rights

The proposed amendments have attracted negative attention from the United Nations because they violate international human rights.¹² All people have a basic right to freedom from discrimination.¹³ Although, not strictly binding, considering the existence of the *Victorian Charter on Human Rights and Responsibilities Act (2006)* and local council's classification as a 'public authority' within the Act,¹⁴ it is deeply concerning that such a plainly discriminatory by-law should even be considered by local council.

Conclusion

We implore City of Melbourne not to go ahead with these amendments to the *Activities Local Law 2009*. We feel that the Council is in a position to partner with State and Federal governments to address the systemic problem of homelessness. In order for this to happen, the causative and structural factors that lead to homelessness need to be addressed. Punitive responses as set out in the *Activities (Public Amenity and Security) Local Law 2017* will not aid in the struggle to end homelessness. Rather, they will compound on the problem by forcing rough sleepers deeper into isolation and poverty.

¹² UN Special Rapporteur Ms Leilani Farha, *Proposed "Homeless Ban" in Australia cause for concern – UN Expert*, UN Human Rights Office of the High Commissioner (13 March 2017). Available at <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21357&LangID=E>>.

¹³ See Service Agreement Information Kit for Funded Organisations at <<http://www.dhs.vic.gov.au/facs/bdb/fmu/service-agreement/4.departmental-policies-procedures-and-initiatives/4.9-victorian-charter-of-human-rights-and-responsibilities>>.

¹⁴ Victorian Charter of Human Rights and Responsibilities Act 2006, sub-s 4(e).

Appendix I

Authors: (

Appendix II

MLS students who support this submission by signing a Change.org petition¹⁵:

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¹⁵ Petition available at <https://www.change.org/p/robert-doyle-mls-students-against-melbourne-s-homeless-ban-1fd2ccf0-7e48-43ed-bd0e-b4952ef42fa5?recruiter=50126357&utm_source=share_petition&utm_medium=copylink>.

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From: >
Sent: Friday, 17 March 2017 4:33 PM
To: CoM Meetings
Cc:
Subject: Victoria Legal Aid - Submission on Proposed Activities (Public Amenity and Security) Local Law 2017
Attachments: Melbourne City Council - Local Laws Reform.pdf

Dear Manager, Governance and Legal,

Please find attached Victoria Legal Aid's submission on the proposed *Activities (Public Amenity and Security) Local Law 2017*.

Please do not hesitate to contact me if you would like to discuss our submission further.

Kind regards,
Hollie

Victoria Legal Aid, Civil Justice Program

t: (03) f: (03) | e:
DX 210646 MELBOURNE


Victoria Legal Aid acknowledges the traditional Aboriginal owners of country, recognises their continuing connection to land, water and community and pays respect to Elders past and present.

www.legalaid.vic.gov.au

Connect with us on:



Victoria Legal Aid's website makes it easier for all Victorians to find services and information to help with their legal problem. Visit www.legalaid.vic.gov.au. This e-mail and any attachments are confidential and may contain legally privileged information. They are intended solely for the use of the individual or entity to whom it is addressed and must not be copied, forwarded or disclosed to anyone without the sender's consent. If you are not the intended recipient, any use, dissemination, forwarding or copying of this e-mail and/or any attachments is strictly prohibited. If you receive this e-mail in error, please notify the sender. Please destroy the original transmission and its contents.

 telephone:
email:



17 March 2017

Manager Governance and Legal
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Dear Melbourne City Council

Proposed Activities (Public Amenity and Security) Local Law 2017

Thank you for the opportunity to provide a submission to the proposed *Activities (Public Amenity and Security) Local Law 2017 (Proposed Local Law)*.

Victoria Legal Aid (VLA) is a major provider of legal advocacy, advice and assistance to socially and economically disadvantaged Victorians. VLA is the largest provider of legal help to people with infringements. We prioritise clients who are homeless, living with disability (including mental illness), or who are otherwise socially and economically disadvantaged, including as a result of family violence.

We provide duty lawyer services weekly in the Special Circumstances List at the Melbourne Magistrates' Court and casework services for eligible individuals who have incurred infringements in the context of 'special circumstances'.¹ In the 2015/16 financial year, concerns about infringements were the third most common reason that people contacted our phone information and advice line, and accounted for 14,000 of our advice and duty law services.

Summary of submission

In our submission, the Proposed Local Law is not an efficient, effective or coherent legal response to the challenge of responding to increasing homelessness in the City of Melbourne. We consider that the current proposal must be reconsidered because it:

- Is directly at odds with the existing legal framework in the *Infringements Act 2006* (Vic) (**the Act**) which provides that infringements issued for conduct caused by homelessness may be revoked entirely or effectively neutralised by imposing no or very little penalty for the conduct.

¹ People experiencing homelessness, mental illness, intellectual disability or substance addiction: see, s 3 of the *Infringements Act 2006* (Vic).



- Will, if enacted, impose an unnecessary and ineffectual burden on (a) people experiencing homelessness, (b) legal services assisting clients to navigate the revocation and special circumstances processes under the Act, and (c) the Courts who will be tasked with determining increased numbers of largely well-founded applications for revocation of or special circumstances consideration of infringements issued under the Proposed Local Law.

Interaction of the Proposed Local Law with the Infringements System

The Proposed Local Law, particularly the introduction of a new infringement offence for leaving belongings unattended and an expanded infringement offence for camping, will most likely result in increasing numbers of people experiencing homelessness being caught up in the infringements system.

By contrast, the infringements system established by the Act recognises that people experiencing homelessness are particularly susceptible to incurring infringements. In part, the Act also reflects an acknowledgement that infringements themselves can lead to a “downward spiral that may contribute to cyclical or long-term homelessness”.² In response, the Act provides mechanisms for a person to apply for internal review or revocation of the infringement if their homelessness resulted in them being unable to control conduct which constitutes an offence.³

At present, VLA commits significant resources to assisting clients, through casework and Court appearances, who have experienced homelessness and thereby incurred infringements. Typically, our clients incur infringements which are general in nature but accrued acutely in the context of homelessness, for example, by way of parking fines issued while living out of their car, public transport fines or other public space offences. If the infringements are not automatically revoked, we undertake casework and appear on behalf of these clients in the Special Circumstances List of the Magistrates’ Court. Other public resources are also dedicated to this task, including those of Court staff, prosecutors, and homelessness support services who are required to provide supporting evidence.

The effect of these provisions of the Act and the existing use of public resources is that people who cannot control their offending behaviour due to homelessness are filtered *out* of the infringements system. The outcome for the overwhelming majority of these clients is they do not have to pay any fines, with the matters either proven and dismissed unconditionally by the Court, or by way of an adjourned undertaking to be of good behaviour.⁴

The Proposed Local Law would not be practical or effective

In our view, the Proposed Local Law will introduce a discretion to issue specific infringements in circumstances which key provisions of the Act were specifically introduced to avoid.⁵ Introducing a new infringement offence which is directly targeted at those who are homeless is at odds with a regime which otherwise works to ensure people experiencing homelessness are not unfairly drawn into the system in the first place. Further, given the operation of the Act, the penalty for

² Saunders, Eriksson, Lansdell and Brown, *An Examination of the Impact of Unpaid Infringement Notices on Disadvantaged Groups and the Criminal Justice System – Towards a Best Practice Model* (2013) at 17.

³ Sections 3 (definition of “special circumstances”), 22(1)(b) and 65(1)(c) of the *Infringements Act 2006* (Vic).

⁴ Pursuant to ss 75 or 76 of the *Sentencing Act 1991* (Vic).

⁵ Mr Halls (Attorney-General), Second Reading, Infringements (Consequential and Other Amendments) Bill, *Hansard* (Assembly), 4 May 2006 at 1295.

much of the conduct which the Proposed Local Law seeks to criminalise, will not ever, ultimately, be imposed by the Courts.

There does not appear to us to be any benefit in having public resources dedicated to issuing an infringement to a person for an offence that is entirely attributable to their homelessness, and then dedicating further public resources to having that infringement dismissed by the Court on that very same basis. As a result, the Proposed Local Law would, without having any ultimate legal effect,⁶ impose further resource demand pressures on the Courts considering these matters, legal services, including VLA, who would be required to assist clients to navigate the infringements systems, as well as prosecutors and non-legal services compiling evidence.

The Proposed Local Law will also impose further hardship on disadvantaged people attempting to engage with the legal system. These people will be required to navigate an already complex infringements system. Despite the ultimately high likelihood that the legal penalty for the Infringement will not be imposed on a person, unpaid infringements issued under the Proposed Local Law would have other consequences which are likely to harm that person's attempts to transition out of homelessness. For example, until revocation of an infringement is sought by a person, that person is vulnerable to the issue of an Infringement Warrant under the Act and then, among other things, the clamping, removal or sale of their car or suspension of any car registration they hold.⁷ For a person who has successfully navigated their way out of sleeping on the street and is reliant on a car for work or accommodation, this action would increase the risk of a further period of homelessness and appears antithetical the ultimate aim of the Proposed Local Law to respond to increased homelessness in the City of Melbourne.

For the reasons set out above, we urge Melbourne City Council to consider more broadly the impact and efficacy of the Proposed Local Law and to seek practical alternatives to the current proposed reforms.

We would welcome the opportunity to meet with you to discuss any of these issues further.

Yours faithfully

Victoria Legal Aid

⁶ Given that the infringements will very likely be revoked or their effects otherwise obfuscated.

⁷ See, Parts 6, 7 and 8 of the Act.

From:
Sent: Friday, 17 March 2017 5:04 PM
To: CoM Meetings
Subject: APS submission re Proposed Activities (Public Amenity and Security) Local Law 2017
Attachments: APS Submission re City of Melbourne Proposed Amendments to Activities Local Law 2009.pdf

Please find attached a submission from the Australian Psychological Society regarding the Council's Proposed Activities (Public Amenity and Security) Local Law 2017.

Kind regards

I
The Australian Psychological Society Limited
Level 11, 257 Collins Street Melbourne VIC 3000
PO Box 38, Flinders Lane VIC 8009
(except Wednesdays)

Email:
www.psychology.org.au

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17 March 2017

Manager Governance and Legal
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Dear Sir/Madam,

Proposed Activities (Public Amenity and Security) Local Law 2017

The Australian Psychological Society (APS) welcomes the opportunity to make a submission regarding the Proposed Activities (Public Amenity and Security) Local Law 2017.

The APS believes that access to adequate, safe, affordable housing is a fundamental right that forms the basis for achieving individual and community wellbeing, which are central tenets of psychology.

Australian psychologists are concerned about the growing number of people who on any given night are homeless, and the increasing number of people who lack stable accommodation. In 2009 the APS convened a Homelessness Roundtable to inform the Society's response to what the then Prime Minister, Kevin Rudd, identified as a nationwide crisis. The outcomes of the Roundtable were subsequently published in a special issue of *InPsych* (October 2009).

Homelessness: a psychological perspective

Key pathways to homelessness include poverty, experiencing homelessness as a child, social exclusion (e.g., racial discrimination), individual factors like substance use, transitions (e.g., from jail, from inpatient psychiatric services, birth of first child, relationship breakdown, redundancy/retirement), climate change, colonisation and structural issues (e.g., insufficient housing stock).

As well as being a fundamental human right, adequate, safe and secure housing provides a foundation for individuals and families to develop a sense of identity and belonging, and is broadly recognised as essential to individual and community wellbeing.

By contrast, homelessness involves not having a stable 'base' from which to anchor one's life, one's sense of self of identity, and sense of community.

Homelessness denies people the right to shelter and safety, disrupts the connections they have with their family and communities, and is also associated with a sense of not 'belonging', not being valued and being excluded from social and community life (Shinn, 2009).

The sense of marginalisation and alienation from mainstream society that inevitably arises from homelessness also has profound effects upon the physical and mental health of those experiencing such homelessness (Frankish et al., 2005). The psychological effects of homelessness over prolonged periods of time are extremely detrimental to a person's mental health, sense of worth, ability to form and maintain healthy relationships, and ability to deal effectively with stress and utilise helpful coping strategies that might otherwise help them to break the cycle of homelessness.

There are particularly detrimental outcomes for marginalised individuals and groups who are likely to experience homelessness and who have complex support and housing needs, such as those living with a mental illness, single-parent families facing homelessness, Indigenous people and young people. In addition, individuals facing important transitions are at specific risk of homelessness, and therefore require support if secure housing is to be achieved.

Responding to the proposed amendment

The APS is concerned that the Proposed Activities (Public Amenity and Security) Local Law 2017 will negatively impact on those experiencing homelessness, making an already vulnerable group less safe and more at risk.

Broadening the ban on camping and providing for confiscation and disposal of unattended items, along with fines for leaving items unattended and increased powers to 'move people on' if they fail to comply, mean that people experiencing homelessness in the CBD will be forced to relocate to less safe (more hidden) areas within the city, or to the outskirts of, or outside the city. This may result in a higher risk of them being physically and psychologically unsafe, feeling more isolated and less connected to their community, and less able to access services and supports that are essential for their survival and necessary for them to exit homelessness. For example, the Council's own survey 'StreetCount 2016' found that 72% of those surveyed intended to seek assistance or a meal at a homelessness service later that day. Most such services nominated were located within the City of Melbourne.

The APS recognises the important and challenging dual role that the Council has in protecting safety and public amenity, while working to support those who are homeless, and we acknowledge the City of Melbourne's role in positively working with homelessness services and police in the past. However, the APS strongly believes that tackling the drivers of homelessness, along with increased access to services and secure housing, will be more effective in addressing the problem in the longer term than these proposed measures. For example, research undertaken by community psychologist Professor Shinn, who has more than 30 years' experience as a researcher of homelessness prevention, policy and services, has found that 'housing first' approaches, which focus on housing people in long-term housing with support, and providing housing subsidies (which could include help to find housing and an ongoing subsidy to make rent

30 per cent of the household's income), delivered the best results when it came to stabilising families and ending homelessness.

While the proposed amendment is cited as further support for the Council's disability action plan, it is important to note that a significant proportion of homeless people also have a physical disability or mental health condition. For example, people with disabilities make up about 18% of the general population but about 25% of the clients of specialist homeless services. These amendments will disproportionately impact on these extremely vulnerable groups, and therefore are not in keeping with the aims of the Council's disability plan. Should full support and inclusion of people with a disability be a priority, other actions arguably are more likely to achieve these aims.

Finally, Local Government can play a strong role in providing community leadership and in shaping and changing community perceptions and attitudes around housing, homelessness and poverty. The proposed amendments have victim-blaming undertones and send a message that homeless people have less right than others to be on our streets, and that they have other choices (to move elsewhere, to be safe etc.). Such negative attitudes inevitably lead to hardened views and treatment of people who are homeless and less support for them in the wider community.

The APS does not support this proposed amendment, and urges Council instead to work collaboratively with the city's homeless campers and their peak advocacy groups to lobby other levels of government that may be best placed to address the causes of homelessness and provide access to adequate, safe and affordable housing. Working alongside homelessness services and people who have experienced homelessness to provide the most sustainable solutions and supports that are within the Council's purview should be prioritised in this process.

For further information about our submission please contact me on

Yours sincerely,

Australian Psychological Society

About the APS

The Australian Psychological Society (APS) is the national professional organisation for psychologists with over 22,000 members across Australia. Psychologists are experts in human behaviour and bring experience in understanding crucial components necessary to support people to optimise their function in the community.

A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct which promotes equity and the protection of people's human rights, legal rights, and moral rights (APS, 2007). Underpinning this contribution is the strong evidence linking human rights, material circumstances and psychological health.

APS activities addressing homelessness

The APS has been active in addressing homelessness from a psychological perspective, identifying specific vulnerable groups with complex needs who are particularly affected by homelessness. Since the Australian Government prioritised homelessness in 2008, we have hosted a roundtable on homelessness for 30 psychologists and other professionals working with people experiencing or at risk of homelessness in 2009 and prepared a number of submissions to the Australian Government's papers and inquiries into homelessness, as well as submitting to some state-based inquiries.

While the role of psychologists in the homelessness field is not as visible as that of some other professions, psychology does have much to offer, both around the provision of psychological services for people experiencing or at risk of homelessness, and also in program design and evaluation, research, and influencing attitudes towards homelessness in general. Our consultations have identified a need for researchers and practitioners to form cross-disciplinary partnerships, to be informed by and build on past research, and to identify and contribute to those areas that are yet to be investigated.

The APS commitment to addressing homelessness includes educating our own members on the ways in which mental health, family violence, poverty and life transition crises can amplify the risk of homelessness and exacerbate its effects.

Further information

For more information on psychological perspectives on homelessness, including research and references cited above, please visit -
<http://www.psychology.org.au/publications/inpsych/highlights2009/#s2>

MANAGER GOVERNANCE + LEGAL GROUP

GPO BOX 1603

MELBOURNE VIC 3001

21ST FEB 2017

3237

Document Barcode



201500982

DEAR SRS/MADAMS,

I AGREE THAT THE HOMELESSNESS SITUATION
HAS GOT OUT OF HAND, BUT DON'T THINK THEY
SHOULD BE FINE, BECAUSE SOME DAYS
THEY DON'T GET ENOUGH MONEY TO SLEEP IN A
HOSTEL ETC, SO WOULDN'T BE ABLE TO PAY
A FINE, AND COULD END UP IN JAIL LIKE
A CRIMINAL, FOR NOT PAYING IT.

THEY HAVE ENOUGH SUFFERING WITHOUT
GOING TO JAIL.

GOOD ON THE COUNCIL WORKING WITH
SALVATION ARMY, VINCENT CARE ETC.

I WISH YOU ALL THE SUCCESS IN
HELPING THE HOMELESS TO GET ACCOMMODATION.

YOURS SINCERELY

24 FEB 2017

Warragul.

Vic.

3820

Submission to MCC Feb 24 2017

I understand that the MCC recently passed a proposal to ban homeless people from sleeping on the streets of the CBD.

When you have no permanent address, Centrelink don't want to know you, so you have no income.

If you beg for money in an attempt to get money for medication, or a room for the night, you can be arrested and charged for begging, and if you have no money to pay the fine, are liable to be imprisoned.

Homeless people are subject to assault, and robbery of the little they have, on a constant basis, give or take a bit of luck.

So now homeless people are to be subject to arrest, fined (and imprisoned if they can't pay) for the "crime" of sleeping on the street.

So ... just where are they supposed to go, where they will be free from arrest???

Lord mayor Doyle constantly says it is not an offence/illegal to be homeless.

In view of the above, I would suggest that regardless of what Mr Doyle says, yes, it is de facto illegal to be homeless.

The obvious solution to homelessness is public housing. While the state government has recently made a small effort in this direction, the money ultimately rests with the federal LNP government, whose main objective appears to be cutting welfare, education, Indigenous and other budgets designed to redress the situation of those doing it hard in the "land of the fair go".

Yes, that's right, the land of the fair go !!!

If lord mayor Doyle genuinely wishes to address the homeless situation,

rather than merely sweeping it under the carpet, he might care to have a word with his colleagues in Canberra with a view to redressing the paucity of public housing in this state.

And every other state.

There can be little doubt that the proposal recently passed by the MCC will only exacerbate the plight of the homeless, whose numbers are expected to grow sharply going forward over the next few years.

But then I'm sure all the councillors are aware of all the above.

The thing is some just don't care.

It seems to be totally in sync with the treatment handed out to Aboriginal Australians over more than 200 years, and more recently, asylum seekers fleeing death and persecution in their own countries.

Is this perhaps the Australian way? Or a perversion of the Australian way?

I would like to commend and thank those four councillors who voted against this proposal. It is somewhat reassuring that a few people have an understanding of the homeless situation and are prepared to represent the interests of those unfortunate enough to find themselves living on the street. Sadly not enough to make the difference.

As for those who voted in favour of this despicable and contemptible proposal, I have nothing whatsoever to say to them.

In conclusion, I can only hope that the MCC can see it's way clear to reverse this short-sighted and mean-spirited proposal, and make an attempt to explore solutions aimed at **addressing** the **reality** of homelessness.

If indeed, that's not too much to ask.

/

. 24 Feb. 2017



201500816

16 MAR 2017

Lord Mayor
Robert Doyle
City of Melbourne.

DM#:

SR#:

private to
Lord Mayor

Re: Your comments - Homelessness
Dear Lord Mayor Doyle

as a person who has accommodated
homeless persons in my own home I
can attest to the difficulties they face:

- gambling addiction
- personality & anger problems
- ice usage
- victims & perpetrators of domestic violence
- mental health diagnoses
- legal convictions

The homeless person needs a lot of help.
I also know this professionally as a social
worker.

The comments:

Empty buildings be given rent free to
charities while waiting for development
permits

Rent assistance payments be paid directly
by the tax office to landlords rather than
Centrelink.

Homeless people - job seekers, DSP be given
a higher rate of rent assistance when they
find work so they can find accommodation
where they can sleep and eat properly

Pensioners offering accommodation
not have their payments reduced if
they offer accommodation to the homeless.

Scientific — Homelessness
New Scientist

You are a mind reader who doesn't know your own mind. A maths genius who doesn't understand risk. Biased and prejudiced, yet a member of the most supremely cooperative species on the planet. As a human being, you are a mass of contradictions –

and all the more amazing for it.

Read on to find out how to harness the best and avoid the worst of what you are

YOU ARE... AN ASSHOLE

YOU ARE... AN ASSHOLE

we are wired to be prejudiced and a bit racist – but our instinct for collaboration can trump our worst instincts

FROM Brexit to President Trump, recent political events have let some nasty cats out of the bag.

Racists and xenophobes are on the march. But perhaps that shouldn't be so surprising: after all, that is what we are.

Here's the unpalatable truth: we are biased, prejudiced and quite possibly a little bit racist. Psychologists have long known that we put people into little mental boxes marked "us" and "them". We implicitly like, respect and trust people who are the most similar to us, and feel uncomfortable around everybody else. And before you deny it, this tendency towards in-group favouritism is so ingrained we often don't realise we are doing it. It is an evolutionary hangover affecting how the human brain responds to people it perceives as different.

In one study from 2000, just showing participants brief flashes of faces of people of a different race was enough to activate the amygdala, part of the brain's fear circuitry, even though the participants felt no conscious fear. According to more recent research, however, the amygdala doesn't just control fear; it responds to many things, calling on other brain areas to pay attention. So although we're not automatically scared of people different from us, we are hardwired to flag them. Evolutionarily, that makes sense: it paid to notice when someone from another tribe dropped by.

We're also prone to dehumanisation. When Susan Fiske at Princeton University scanned volunteers' brains as they looked at pictures of homeless people, she found that the medial prefrontal cortex, which is activated when we think about other people, stayed

quiet. Volunteers seemed to be processing the homeless people as subhuman.

"The bad news is how fast this automated 'us' and 'them' response is, and how wired in it is," says Fiske. "The good news is that it can be overcome depending on context." In both the homeless study and a rerun of the amygdala study, Fiske found that fear or indifference quickly disappeared when participants were asked questions about what kind of food the other person might enjoy. "As soon as you have a basis for dealing with a person as an individual, the effect is not there," says Fiske.

What's more, what we put in the "them" and "us" boxes is remarkably flexible. When Jay Van Bavel at New York University created in-groups including people from various races, volunteers still preferred people in their own group, regardless of race. All you have to do to head off prejudice, it seems, is to convince people they are on the same team.

We are also instinctively cooperative, at least when we don't have time to think about it. Yale University psychologist David Rand asked volunteers to play gambling games in which they could choose to be selfish, or cooperate with other players for a slightly lower, but shared, payoff. When pressed to make a snap decision, people were much more likely to cooperate than when given time to mull it over.

So perhaps you're not an asshole after all – if you know when to stop to think about it and when to go with your gut. Maybe, just maybe, there is hope for the world. *Caroline Williams*



Hon Lord Mayor
Robert Doyle

5/2/2017

Dear Lord Mayor

Re: Homelessness + City of Melbourne.

As a professional person who has worked with homeless persons for 35+ years in mental health (CAT), Alcohol & Drug, Accommodation Planning + funding roles I am heartened that the Housing Minister has found some "pathway" for the homeless people around Hindlers St. Station.

Finding a solution to social problems is not simple. In fact there is a profound lack of resources. This is obvious when one sits at a Salvation Army corps and waits with a person on Centrelink payments for emergency aid. The \$20 gift voucher won't stretch far.

In Melbourne (Greater Melbourne) we definitely have a growing underclass. Attached is an article from New Scientist. If Melbourne's population is going to reach 8 million then social planners need to be providing services for 500,000 people on a regular basis.

Historically there was an economic link between business/industry and the Ministry of Housing. This was a world wide phenomena. Where motor manufacturers established factories they had arrangements with the Ministry of Housing to build housing estates.

We need to reflect on this historical strategy.

The word "Bogon" is used degradingly to name what military Pto

PE
Clinton would have called "The Deplorables" during the 2016 US. election.

Even seven years ago people in the shops would say to me "You can't afford to buy a house in Bentleigh - unless you are Chinese".

While in a multicultural society I do not agree that any community language group should be singled out, by keeping one's "ears open" one can learn a lot.

Why is it that in a communist country people have been afforded the reality and opportunity of migration to Australia and purchasing homes "Bogons" can't afford?

Why is a communist system looking after people better than we are? Ask these questions after having assisted both W.W.II and Vietnam Veterans who lost their mates in overseas conflicts - defending Australia in support of the arguments of Dr B.A. Santamaria and his "Domino Theory".
Prime Minister after Prime Minister vows on election night to "Govern for All Australians" yet the practicalities are never supported for the poor.

So what can the city of Melbourne do?

There are many practical things:

- provide strategically placed drinking fountains so homeless people can take psychiatric medications
- provide access to Flinders Street Travellers Aid - currently a Myki Card with credit on it is needed to access travellers aid
- Partner with Centriclink for it to establish a CBD office.
- Provide special computer terminals at the Flinders Lane library so homeless

people can access free information and free printing.

- Provide "Safety Zones" in the city at night where homeless people can sit under cover with CCTV + police protection - just like the safety zones on stations
- Audit Melb. City Council buildings for long term homeless planning
 - overnight shelters
 - free meal + food kiosks
 - short term accommodation
 - Partnering with TAKE for student accommodation for unemployed.

What else has happened to create our homelessness situation?

Dr John Nieuwenhuis was hailed as the person who brought "New Cafe life" style to Melbourne's streets. The liquor laws were reviewed and also the street tables appeared on Melbourne's footpaths giving a "European" flavour.

But he also recommended the link between hotels being given a liquor licence and hotels providing accommodation be broken. Hotels converted upstairs accommodation into function rooms and thousands of people were put out on the street.

Rooming house associations couldn't keep up with the demand - Especially as private rooming houses and older style Special Residential Services were converted or demolished for the new "Gentrified" apartments,

There needs to be a new view of Dr Nieuwenhans's recommendations — in terms of impact on the homeless, especially as they are now 30 years old.

Centrelink needs to discontinue the MALEP test for over 50's

Also Centrelink needs to review its restrictions and disincentives on partnering.

Both the income support levels for singles and couples are far too low. When two people become a couple their payments are immediately subject to a guillotine whether or not they can afford to find new 'permanent' accommodation together.

For people over 70 years who co-habit their 'single' allowance should not be reduced.

There are many other things I could recommend if I had the time. Ms

Margaret Court and Ms Heidi Baker (from Mozambique) recently challenged a "packed auditorium" of Melbourneans to take the poor into their homes.

I have provided accommodation in my home for many people — including:

- a 30 yo. f. and her dtr fleeing domestic violence
- 2 x 20 yo. f. on ice
- a 45 yo. female who was homeless following her husband's death (she had also witnessed both her parents being shot.)

and problem gamblers
 - people with schizophrenia.
 etc. etc.

Noise of the above was easy.

So to conclude:

Could you please look at the website

- Australian Unemployed Workers Union.
- Could you please change the backpackers hostel laws — one needs an international passport (not Australian) to stay there.
- Could you liaise with Centrehink — the Rent Assistance needs to be paid directly to landlords (and not via Centrepay).
- Can there please be a levy on liquor outlets that compensates for the loss of hotel accommodation.
- Finally Do NOT MAKE SLEEPING ON SIDEWALKS illegal.

Thank you.



17 March 2017

The Right Honourable The Lord Mayor
Cr Robert Doyle
City of Melbourne
GPO Box 1603
Melbourne VIC 3001

Dear Lord Mayor,

Response to proposed amendments to Activities Local Law 2009

1. About AHA (Vic) and TAA (Vic)

The Australian Hotels Association (AHA) is an organisation of employers in the hotel and hospitality industry registered under the Fair Work (Registered Organisations) Act 2009. AHA is represented in Victoria by AHA (Vic). Tourism Accommodation Australia (Vic) is a division of the AHA (Vic) and represents the needs and interests of the major licensed accommodation hotels in Victoria's tourism and accommodation sector. Together, TAA (Vic) and AHA (Vic) have a diverse membership of more than 400 accommodation properties, including pub-style hotels, apartments, boutique hotels, backpacker accommodation and three, four and five star international accommodation hotels located across metropolitan and regional Victoria.

AHA (Vic) and TAA (Vic) welcome the opportunity to contribute to the discussion, and are supportive of, the City of Melbourne's proposed amendments to Activities Local Law 2009, focused on protecting public amenity and disabled access while increasing the Council's ability to remove items that are left unattended in public places.

2. Tourism and the economy

The importance of tourism as a significant driver of economic activity, employment and profile for Melbourne and Victoria is well documented. Victoria has out-performed key competitor states and national averages in attracting international visitors to the State¹. Spending by international visitors to Victoria is also at record levels at \$6.7 billion (year ending March 2016), with 93 per cent of that spend occurring in Melbourne². In 2014-15 approximately 210,400 Victorians (7.2 per cent of total Victorian employment) were employed in the tourism sector, that generated 6 per cent of the State's Gross State Product³

¹ Tourism Victoria Annual Report 2015-16

² Tourism Victoria Tourism Industry Resources

³ Tourism Victoria – value of Victoria's tourism industry

Melbourne also continues to build its profile on the international stage, having received the accolade of the world's most liveable city in August 2016 for the sixth consecutive year.

Victoria's hotel infrastructure plays a pivotal role in ensuring the attraction and retention of major events, festivals, international and domestic tourism to the State. Accordingly, it is important that law and order is upheld to enable all citizens to feel safe and secure when experiencing all that Melbourne has to offer, including being able to access their hotel accommodation without impediment. The ability for people with a disability to freely navigate their way around the city, without experiencing unnecessary obstruction is also critical and is consistent with the City of Melbourne's intent, as articulated in the *Melbourne for All People Strategy - 2014-17*.

3. Melbourne's homelessness challenge

AHA (Vic) and TAA (Vic) acknowledge that providing timely support for people in need of assistance due to homelessness is a challenging issue for the City of Melbourne and relevant service agencies. We support the City of Melbourne's position advocated in the *Pathways Homelessness Strategy* to develop a 'whole of community approach' to the issue and 'create sustainable pathways out of homelessness.' Melbourne's hotel network is very supportive of these agencies and their endeavours to deliver services effectively. The provision of assistance to them includes items of food, blankets, mattresses, soap, volunteers and financial support for key events and activities.

4. Maintaining Victoria and Melbourne's tourism status

Melbourne's position as a tourism destination of choice has been hard-earned and must be protected. Threatening or aggressive behaviour, including aggressive begging, 'professional' protesting and the obstruction of access to accommodation properties is likely to have a detrimental effect on tourist numbers, their spending patterns and adversely impact our reputation among domestic and international visitors alike.

AHA (Vic) and TAA (Vic) welcomes the opportunity to share our views to the proposed amendments to the Local Law 2009 and are available to provide further input, if required.

Australian Hotels Association (Victoria)

Tourism Accommodation Australia (Victoria)

complaint

3 - Details of issue

I was riding my bike to work and was stopped at the corner of Swanston and Collins street. Under the tree on the Sth/East side of the intersection there was a woman who looked homeless. She was saying to a police officer "Those are my clothes, leave my bag alone" and was sitting in handcuffs while a police officer was taking everything out of a bag and laying it out on the step. It was deeply disturbing to think that this is what's going to happen to homeless people who are legally not allowed to sleep in the streets. I thought that certainly the idea of making it illegal to be homeless would involve a procedure based more on compassion. I had imagined that if someone is found sleeping on the streets, rather than being cuffed and searched, the person would be taken to a safe place where they could sleep. It's one thing to want to keep the streets cleaner, but to not include facilitating people finding a place where they can be, and to make them feel like criminals by handcuffing them is disrespectful to people who are in need of a helping hand. I absolutely do not support this kind of treatment of people who don't have a place to be.

10-Feb-2017 16:09:02 - - CLOSURE
Resolution/Outcome is: spoke to customer who requested this be
considered as a formal submission.

Customer contacted: 10/02/2017

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3 - Details of issue

I believe that we need to provide long term housing and support services for Melbourne's homeless. Short term doesn't work. They need the support to be able to get on their feet permanently, access to mental health care and counseling. Unless we address the root causes such as lack of affordable housing, trauma, substance issues, domestic violence, nothing will change. These people deserve to be treated with kindness, respect and real, concrete solutions. The move on orders and seizing the tiny amount of things they do have is disgusting. Its cruel and violent. If people can't walk around them, maybe the council can give them somewhere proper to stay instead of moving vulnerable people to even more vulnerable situations. I'm usually proud of Melbourne but in this I am ashamed. I was so pleased when the mayor originally stood up and said people wouldn't be moved one. Then disgusted and ashamed at his back flips because a paper told him to. No one chooses homelessness. I don't want my city to be a bully-we have an opportunity to do something really wonderful and great. We should take it.

Options
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**Victorian
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17 March 2017

Manager Governance and Legal
Melbourne City Council
GPO Box 1603
Melbourne VIC 3001
com.meetings@melbourne.vic.gov.au

Dear

Proposed Activities (Public Amenity and Security) Local Law 2017

The Victorian Chamber of Commerce and Industry welcomes the opportunity to make a submission on the Melbourne City Council's proposed Activities (Public Amenity and Security) Local Law 2017.

The large street camps, aggressive begging and public drug use recently experienced in Melbourne risks tarnishing Melbourne's reputation as the world's most liveable city. As the state's leading business organisation, the Victorian Chamber represents many Melbourne businesses that are adversely impacted by these activities.

The Victorian Chamber fully acknowledges the difficulty and complexity of tackling homelessness and the multifaceted policy and service responses that are required.

The Victorian Chamber supports the proposed amendments as they will provide Victoria Police and Melbourne City Council with an additional tool to address the public amenity issues associated with large public camps.

However, it is essential that Police and Council take a sensible approach to enforcing the law and that discretion is applied when dealing with disadvantaged and vulnerable people experiencing homelessness.

It is also important to ensure that those experiencing homelessness have access to the support and services they need.

For further information regarding this submission, please contact
Victorian Chamber of Commerce and Industry on

Yours sincerely

17 MAR 2017

16th March 2017,

Melbourne, 3000.

Submission to Melbourne City Council by Marcus Findlay.

Re: Councils proposed changes to Activities Law 2009 and possible impact on stake holders.

This is a submission to Melbourne City Council regarding proposed changes to the Activities Law 2009. First, I'd like to thank the Traditional Owners and Elders. I'd also like to thank Mayor Robert Doyle, the Councilors, my fellow Homeless Advisory Committee members and the public for this opportunity to express my views on the changes suggested.

I came to Melbourne over forty-five years ago as a babe in arms on one of the last International passenger commercial jets to land at Essendon Airport before Tullamarine Airport, so much has changed since those early days, most of the changes were the natural evolution of a great city. Some changes however are totally unexpected and have left me confused, especially when I see such a generous population letting their leaders make such poor decisions with very little transparency or the necessary social contract. I can't express my views strongly enough regarding proposed fines for the homeless who are found to be camping or having abandoned their belongings. This is not what I know Melbourne to want, the people of Melbourne have a heart much bigger than that, so I believed, I ask the Council should I stop believing that? Should I stop believing Melbourne is one of the most generous cities in the world? I honestly believe this is the greatest city in the world, America may claim to be the greatest country in the world. But I would put Melbourne, Australia up against any American city for the "Pepsi Challenge", this however is totally dependent on how well we treat those individuals and families that are doing it the hardest, the homeless.

I've travelled to other parts of the world and I may be biased calling Melbourne home and having grown up here, always feeling welcome, but this is a special place and we need to make sure it stays that way by responding to this homelessness crisis in the most humane way possible. All I ask is the council take a little more time to find a more suitable solution that isn't going to have such a dramatic affect on the homeless community and related services. The proposed changes will only lead to much grief for those who can least afford it including the

homeless, council officials, welfare and housing workers . The homeless will not be able to pay fines which will lead to several outcomes, some homeless will enter the justice system, some will be pushed out to surrounding suburbs, some homeless will have important belongings confiscated requiring a fee to be paid for return which the homeless persons will often not afford. This in turn has be foreseen as a major issue as quite often council workers will confiscate all of a person's belongings, if not attended, including important documents needed for appointments with services that may be helping them improve their situation, forcing the services to pay brokerage to retrieve belongings. This will result in financial resources being wasted where there are few resources to begin with which leaves services unable to help as many people as they could. Surely the Melbourne City Council does not need to raise revenue off the backs of the homeless .

I'm a member of the Homelessness Advisory Committee for Melbourne City Council , myself and other members of this committee were left quite confused when we first heard about the Councils planned changes to the Activities Law 2009, the first we heard about it was from the media, not from Council . Sometimes the media has fueled the flames of prejudice against the homeless, other times the media has shown the empathy necessary to highlight the injustices the homeless face. Without the media playing a responsible role the homeless will face an ongoing tragedy where homelessness becomes the new norm, this is not the greatest legacy to pass to the next generation. The media has an important role to play and if utilized to its potential it can help the Government at all levels address this issue of homelessness with the compassion and empathy it deserves rather than demonizing a minority that can't defend themselves. It has also been suggested that the media has contributed to culture of "otherness" and homeless people being vilified on the street leaving them feeling more vulnerable and sleeping in larger groups to maintain safety, looking out for one another.

I hope council can show some patience and leadership by allowing some time to pass so as to give the housing services an opportunity to deliver an equitable solution. Everybody has a right to use public space and with better communication thoroughfares can be kept clear for disabled public to move freely through the city. Homeless people have a right to public space just like anyone else and should be free to use it without fear of being moved on or worse in the future, fined. Many people would be disappointed to hear that council is resorting to such draconian measures which will only serve to isolate the homeless further adding to horrible situation the homeless find themselves in, with the fear that their own community has turned their backs on them.

I know the community around me agrees that these fines are going to cause division and fear amongst the homeless. Does the council really want to make life harder for a group of people, the homeless, who are at their wits end. Most of people who have found themselves homeless have lost hope, occasionally I'll meet someone homeless who is still positive and saying, "Tomorrow will be a better day.", or something alike. Most however have very little faith in the community that's meant to have educated them to a point where they can look after themselves and provide a worthy contribution back to that community, enabling their

independence through productive activity such as wage earning work that gives the individual their dignity. Unfortunately there is not enough work available to people who lack skills or require further education to get them to a skill level that they can be employed. It has been shown through the "Housing First Model" that great outcomes are possible through changes in housing and welfare services giving priority to getting permanent housing solutions to people who are homeless before addressing other issues of concern like mental health, addiction, outstanding fines, reconnection with family, etc. Finding positive housing solutions first leads to many follow on outcomes which are made possible by housing people with long term solutions. The long term solutions allow people to make life changing decisions like furthering their education and creating opportunity for more inspiring work than stacking shelves in a supermarket. Long term housing solutions for long term homeless people give those people something most of them have never experienced, ever, which is the security of long term tenancy and stability when some social services are added to the equation. I have enjoyed a stable and long term tenancy at Launch's, Commonground on Elizabeth Street in the city, close to Victoria Market. Before moving into Elizabeth Street I had experienced many years of poor mental health which in turn lead to poor job security and short housing tenancies. Now I've had my studio apartment for three years, I've been back at school learning part-time for two years and my mental health has been stable enough to cease medication. This and much more has been made possible by the great work Launch and other services have done helping me, I can't thank them enough and I hope to repay some of the good fortune I've had by sharing my experience through advocacy and helping others in similar circumstances where I can contribute in a meaningful way. Currently I'm not doing any paid work preferring to do some voluntary contribution attending several homelessness advocacy groups including Council for Homeless People, Melbourne City Council Homelessness Advisory Group, Launch's Lived Experience Advocacy Group and other engagements where I can highlight the awful experience of being homeless and how we help solving these issues.

The last point I'd like to address is my understanding of democracy and how it's supposed to work, the only thing I'm doing here is showing my ignorance in a vain hope that the powers that be may see some sense through what might be considered naïve eyes. I was brought up believing the people elected our political leaders to make the laws we live by through transparent consultation with said people and other stake holders such as police, lawyers and social workers. The recent lack of consultation with the public and suggested law changes from Victoria Police regarding homelessness looks like what a fellow Advisory Committee Member suggested, that of a "Tail wagging a dog". I ask the council to please consider the pain you will cause the most disadvantaged part of our community, poverty is not a crime unless you are looking at the governments and elite of the community failing to dig deep and lead the community to an equitable outcome that provides the hope and fertile ground to enable people to rebuild their lives through stable housing and a caring community like that which I have found. My hope is that Council will pause to consider their actions and how they will be perceived, recently both State and Federal governments have announced significant financial commitment to both housing affordability and homelessness solutions, these

are welcome announcements and a pause from Council would allow people time to do the work that money will allow them to do, hopefully relieving the homeless issue to a degree so as to give Council the opportunity to reconsider fining those who can least afford it.

Last but not least I'll ask the reader or listener to imagine yourself being homeless, if that's not possible, imagine someone you love being homeless, now ask yourself, How would you like to be treated? Or, How would you like your loved one to be treated? Please know that the housing organizations are doing the best they can with very limited resources, workers are pushed to their limits everyday by a system in desperate need of more resources and much needed reform which has been happening but too slowly again due to a lack of resourcing. One example comes to mind where a housing service had a full time position funded but because of various issues not being communicated the work that needed addressing was not fully funded as government failed to acknowledge that outreach work is more time consuming requiring more time to be set aside for each client, a small oversight leading to workers worrying about single mums with their children being unnecessarily traumatized when services can be streamlined with outreach services and phone interviews. Over the last three or so years I've seen so much change for the better regarding homelessness and I hope that these fines are not one of the changes I see in the future, these fines would not be for the common good and would only serve to bring more financial hardship to the homeless. When the Powerful, The Council, fine the poorest people, The Homeless, for hundreds of dollars they cannot afford, for something not their fault or of their making, for being homeless, some might call this the tyranny of evil men and women. The start of some "populist movement" and "otherness", sounds like a bygone era we never want to see again, the Nazi movement, fascism. Be aware of the lowest common denominator you are considering through the demonization of the homeless, Melbourne is much more sophisticated I would have thought, surely Council is wise enough to find a more amicable solution rather than adding to the woes of homeless people and the people who look after them. Thank you for this opportunity and thank you for taking the time to read my submission.