

RED CEDAR ADVOCACY COMMUNITY NEWSLETTER

By and for our community

The Red Cedar Advocacy Centre (RCAC) is a community-based, not-for-profit legal clinic advancing individual client matters as well as strategic initiatives for human rights, equality and ecological stewardship, including Indigenous rights. The Centre and its Neighbours Helping Neighbours Program are operated by the Red Cedar Community Association, a registered non-profit society based in Lekwungen Territory (“Victoria, BC”).

We aim to reduce barriers to justice by offering legal services on a free or pay-what-you-can basis to low-income community members, Indigenous peoples, people of colour, people with disabilities, and other people from equity-seeking groups. The Centre also works to address systemic issues while building togetherness in the community and neighbourhood resilience, through community-based programs.

The Red Cedar Advocacy Community Newsletter is our e-news, made by and for our grassroots community. Each volume will include different features, based on your feedback and by what’s going on in our local and broader communities, but some regular features will include RCAC and partner news, community events, “know your rights” factsheets, organizing opportunities, and longform issues-focused writing on current events that align with Red Cedar Advocacy’s mission.

As a grassroots organization, we want to make sure that our content is serving our community as best as we can - so please reach out if you have feedback or want to contribute!

National Day of Truth and Reconciliation



September 30th is National Day of Truth and Reconciliation. At Red Cedar Advocacy, we strive to hold Indigenous justice as a pillar in the work we do, and will be taking this day to reflect on how we can best serve as allies in the work of decolonization. We encourage community members to visit the South Island Powwow hosted by Songhees Nation at Royal Athletic Park - more information at songheesnation.ca/south-island-powwow

Supporting Red Cedar Advocacy

The Red Cedar Advocacy Centre relies on the support from individuals and organizations to continue providing free and pay-what-you-can legal services and programming to the community. We are always accepting donations. Email money transfer is our preferred way of receiving one-time donations, as there are no fees taken out of the donation. Donations can be sent to: solidarity@redcedarcommunity.ca

Events in our community.

GLOBAL MOBILIZATION TO FIGHT FOSSIL FUELS

March to end fossil fuels, forest destruction and highway expansion! On September 15 to 17, millions of people around the world will take to the streets to demand a rapid, just, and equitable end to fossil fuels. Join the rally in “Victoria” at 4pm. March will depart around 4:30pm. More information at FridaysForFuture.ca and FightFossilFuels.net/#act

Friday, September 15th 4:00PM at 501 Belleville Street, BC Legislature

REGULARIZE NOW! #STATUSFORALL RALLY

Join the Worker Solidarity Network, Vancouver Island Peace Council, Bayan Canada and Sanctuary Health to rally for migrant rights! Regularize everyone: it’s time. More information at MigrantRights.ca

Sunday, September 17th 11:00AM at 501 Belleville Street, BC Legislature

UNITED FOR OLD GROWTH - BC DAY OF ACTION for VICTORIA-BEACON HILL

Communities are coming together to rise up for the last remaining Old Growth. Action outside government offices will send MLAs back to session with a strong mandate to do more for forests and all the life that they sustain. More information at sierraclub.bc.ca/september-28-distributed-day-of-action-for-old-growth/

Thursday, September 28th 3:30 - 5:30PM at Grace Lore’s constituency office, 1084 Fort Street

Meet the Red Cedar Advocacy Team

Hi everyone!! My name is Malanya and I’m a volunteer here at RCAC! I am currently a fourth year student studying sociology at UVIC who is hoping to pursue a law degree after graduation. At RCAC, I help with engagement and social media, but I hope to get more involved in the future. I am so proud and excited to be a part of this amazing organization and cause.



Get involved!

We are seeking to expand our team of volunteer caseworkers. If you have interest in serving the community and gaining client-facing legal experience, please contact us at contact@redcedarcommunity.ca

For those interested in contributing to the Red Cedar Advocacy Community Newsletter, please reach out to us by email at contact@redcedarcommunity.ca and we will put you in touch with our communications team to discuss opportunities. Full pitches and drafts for articles are not necessary. Any ideas that align with RCAC’s mission are welcome, and we always appreciate feedback.

Legal observers' project aims to uphold rights of the unhoused under by-law enforcement

In March, 2023, a media conference was held outside Victoria City Hall by local outreach workers and advocates of the rights of the unhoused who disclosed how personal property and humanitarian aid dispensed through the Backpack Project to unhoused community members self-sheltering in City parks and public spaces, including essential camping gear is being routinely impounded and often not returned by Victoria By-law Services.

This is part of a punitive system of by-law enforcement that subjects some of the most marginalized members of the community to further displacement, loss and trauma, in the on-going policing of the poor in the name of enforcing by-laws around sheltering in City parks.

Based on section 7 of the Canadian Charter of Rights and Freedoms which guarantees the right to life, liberty and the security of person, including the right to sleep, a 2008 BC Supreme Court ruling affirmed the right of people unable to access the housing market or shelter system to self-shelter in parks and other public spaces. The City of Victoria quickly introduced by-laws to restrict camping to permitted hours and more recently to permitted parks and locations within parks.

Then Attorney General David Eby and Victoria City council signed a 2021 Memorandum of Understanding to end encampments. Unhoused people displaced by the loss of basic services and shelter spaces during the pandemic were banned from camping in Beacon Hill Park. A majority of people unable to access jobs, housing and adequate support services survive with often multiple disabilities and their challenges of homelessness are only compounded by by-law enforcement.

Street sweeps carried out by convoys of by-law officers, VicPD and city workers providing essential sanitation services will routinely impound peoples

belongings as punishment for not complying with the by-law requirement to take down tents each day after 7 am. Often by-law does not exercise care or discernment around the return of items with personal value such as family photos, loved ones' ashes, arts and crafts supplies and medications-which are all too often taken in haste, stored in garbage bags, disposed of and never seen again. People who are not present in their tents when by-law arrive can have their tents and all their belongings impounded and though items can be retrieved within thirty days, items are often reported as missing. Sprinkler systems have been turned on people tenting. Tents, sleeping bags and cookstoves have been confiscated and destroyed. By-law enforcement can sometimes lead to full decampment of unhoused people sheltering in non-permitted areas.

The need for a solid roster and rotation of legal observers (LOs) to monitor and report daily interaction between the unhoused and by-law has led to a small self-managed group of observers establishing a watchful and unobtrusive presence in the parks with the goal of helping the unhoused retrieve impounded belongings and to build a credible body of evidence that could be used to invoke Canadian charter and international human rights law to override unjust by-laws that trample the fundamental right to housing, dignity and security of person.

By-law enforcement policy in the City of Victoria directs enforcement officers to follow an individualized case by case approach which gives enforcement discretionary powers that sometimes can look like compassion and at other times individuals being targeted for discrimination and harassment. It is widely observed amongst the unhoused and supporters that the presence of neutral third party observers is a form of harm reduction that reduces the risk of traumatic interactions with law enforcement.

By-Law Watch, a legal observers project in the City of Victoria is actively recruiting new volunteers who are prepared to make a solid commitment to a minimum of one or two -four hour early morning shifts, beginning at 7 am, per week in local parks.

Legal observers take detailed notes and photographs/ video documenting seizure, impoundment, destruction on people's property, the issuing of tickets for by-law infractions, arrests and warnings.

To join the local By-Law Watch Legal observer(LO) program, please contact: lobylawwatch@gmail.com with "Volunteers" in the subject field.

Pushback reveals tensions in BC's fight against the toxic drug crisis

On January 26, 2022, the municipality of Campbell River adopted a new by-law prohibiting the consumption of controlled substances in public places. This came five days before BC's exemption under the Controlled Drugs and Substances Act—allowing adults in BC to possess up to 2.5 grams of certain narcotics—was set to kick in.

In response, Pivot Legal Society launched a petition requesting BC Supreme Court quash the by-laws. Pivot relied on Campbell River's failure to consult the responsible Minister and obtain ministerial approval—a requirement for by-laws relating to public health. The city repealed the by-laws on February 23.

However, this unsuccessful attempt has not deterred other municipalities from pushing back against the exemption. Penticton, Kamloops, Kelowna, and Sicamous, amongst others, have taken steps ranging from banning all public drug use, to banning use in city parks. Learning from Campbell River's initial attempt, these cities have presented their by-laws as a nuisance issue, rather than a public health matter.

Whether these by-laws can withstand a legal challenge may depend on how a court determines the pith and substance—the purpose and effects—of the by-laws. In a letter to Campbell River's mayor and council, Dr. Charmaine Enns, the North Island Medical Health Officer, wrote that such by-laws risk "driving people to use drugs alone, resulting in high risk of drug toxicity deaths." As Pivot's staff lawyer puts it, it is irrelevant whether council claims the by-laws relate to nuisance. Because these by-laws have the effect of driving drug use underground and further endangering those who use drugs, the by-laws are outside of these cities' jurisdictions.

This process has also shed an unflattering light on the way municipalities are approaching the toxic drug crisis. Their stated motives range from public health and safety to maintaining peace and order, but the way councillors and politicians have spoken about the proposed by-laws reflects a tendency to exclude the unhoused population from discussions around public health and safety.

For instance, in their initial proposal for enacting two new by-laws, Campbell River council wrote that "the public may have a greater sense of perceived safety" as a result of the by-laws. This assertion directly contradicts the evidence of Dr. Enns, suggesting that the city is not accounting for the unhoused population in discussions of public safety.

BC is still within the early stages of the decriminalization pilot project, but we are already seeing strong pushback from municipalities across the province. The evidence of Dr. Enns suggests the health and safety of BC citizens is in greater danger if these bylaws succeed. In this light, the courts may prove a useful space to reveal the issues with how these municipalities discuss their unhoused population, and perhaps offer remedies through legal avenues related to jurisdiction and the pith and substance of the by-laws. In the meantime, the pushback threatens the livelihood and safety of an already vulnerable population.

Charges dropped, protests continue at Fairy Creek

August 2023 was a big month in the legal battle to protect remnant old-growth rainforests, as the Crown's prosecution against approximately 170 Fairy Creek land defenders collapsed while protests continued on the front lines in Pacheedaht and Ditidaht territory on southern Vancouver Island.

On August 10, the Supreme Court of Canada refused to hear an appeal by the BC Prosecution Service against the acquittal of Fairy Creek land defender Ryan Henderson. Earlier this year, Henderson was found to be not guilty of criminal contempt of court by Justice Douglas Thompson, for an arrest in 2021, after the RCMP C-IRG unit botched enforcement by reading an inadequate summary of the Injunction order granted to logging company Teal Cedar Products Ltd.

The SCC's refusal to hear the Crown's appeal in the Henderson case resulted in a cascade where most remaining charges against Fairy Creek land defenders from 2021 were dropped.

In total, approximately 1200 people were arrested in the vicinity of Fairy Creek in 2021, with the Crown proceeding with prosecutions against approximately 400. Of those, nearly 200 pleaded guilty prior to the Henderson decision, receiving sentences of between 15 hours Community Work Service and 10 days jail. Another dozen went to trial, with about half acquitted and half convicted. The remaining charges were put on hold pending the SCC's decision in Henderson and the vast majority of those cases have now been abandoned by the Crown.

Since 2021, protests have continued at Fairy Creek on a more modest scale. In 2022, five land defenders were arrested at the "Sassin Camp" in the vicinity of the Carmanah Valley, with their charges ultimately dropped, while three land defenders were arrested on August 16, 2023 at the "Savage Patch" camp on the banks of the Gordon River during an RCMP raid. The RCMP transported the Indigenous and non-Indigenous

arrestees to Lake Cowichan before releasing them without charges.



Uncle Rico continues to sing and drum as RCMP CIRG officers arrest them at Savage Patch, a camp blockading old growth logging, in Pacheedaht territory near "Port Renfrew" on "Vancouver Island" on Aug. 15, 2023. Photo by Amber Bracken as sourced in originally reported feature by Brandi Morin for Indigenews here: indigenews.com/features/were-not-going-anywhere-inside-the-latest-rcmp-raid-at-fairy-creek

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