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Governing Homelessness Through Land-use: A Sociolegal Study of the Toronto Shelter Zoning By-law

Prashan Ranasinghe
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Abstract: In this paper, we focus on one particular effort undertaken by the city of Toronto, in the late-1990s, to address the problem of homelessness, namely, the attempt to build more homeless shelters and equitably spread them across the city. We argue that any attempts made by municipal governments to address issues of homelessness — and more broadly, matters of social justice — are bound to run into serious roadblocks, so much so that even the most compassionate and well-intended efforts to provide a temporary roof over the heads of those who find themselves without shelter, are likely to be thwarted, significantly delayed or deviate drastically from their original intentions on the one hand, or at the other extreme, fail miserably. When municipalities attempt to address issues such as homelessness, and matters of social justice more generally, these issues are often funnelled into the awkward machinery of zoning law, one of the few legal fields within municipal jurisdiction. Zoning law governs uses and spaces, not persons. This basic legal fact is shown to have an important effect on the outcome of political conflicts, and this problem is exacerbated when a hot-button issue such as where to locate shelters is opened up for public input and consultation. This case study thus suggests the importance of closely studying the specifics of the legal architecture within which municipal politics are waged.

Résumé: Dans cet article, nous nous concentrons sur l'un des efforts entrepris par la ville de Toronto à la fin des années 90 afin de faire face au problème de l'itinérance, soit la tentative de construire davantage de refuges et de les distribuer équitablement à travers la ville. Nous avançons que toutes les tentatives des gouvernements municipaux de résoudre le problème des sans-abris — ou, plus généralement, toute question de justice sociale — se heurtent nécessairement à des obstacles. Même les efforts les plus compatissants visant à fournir un toit provisoire au-dessus de la tête des sans-abris courent le risque de s'enrayer, d'être retardés, ou sensiblement déviés de leurs objectifs originels,

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voire d'échouer lamentablement. Lorsque les municipalités abordent le problèmes de l'itinérance, ou toutes autres questions liées à la justice sociale, elles doivent souvent faire face à l'encombrante machinerie que sont les règlements de zonage, l'une des rares prérogatives juridiques municipales. La loi de zonage gère les usages et les espaces, mais non les personnes. Ce détail fondamental a un effet considérable sur les résultats des conflits politiques, un problème qui s'aggrave encore davantage lors qu'il y a consultations publiques concernant des sujets chauds, par exemple l'emplacement exact des refuges. Cette étude de cas suggère ainsi l'importance d'étudier étroitement les détails de l'architecture légale, au milieu desquels se joue la politique municipale.

Introduction

If you are allowed to put a shelter anywhere you want in the city, it takes away a fundamental right of the public to have meaningful input into what occurs in their city... [Public input] is fundamental to local democracy. Paul Sutherland, Toronto City Councillor, April 2002 (quoted in Lakey, 2002b: B5).

The 1990s witnessed a dramatic rise in the number of homeless people in many North American cities, including Toronto. Whether one locates the drastic rise in the number of homeless people with the deinstitutionalization movement of the 1970s which saw a large number of mentally ill persons removed from institutions such as hospitals and prisons and "cared" for in the community (see for example, Dear and Wolch, 1987), or to the various government cutbacks related to housing which led to a shortage of affordable housing units (see for example, Layton, 2000), the undisputable fact is that by the 1990s, the number of visibly indigent people, especially those who were homeless, had risen dramatically. This dramatic rise in the number of homeless people also meant that their presence and visibility was so pronounced that it garnered attention among the public, which in turn provoked strong, and rather divergent, responses from both sides of the political spectrum.

One type of response to the problem of homelessness was the right-wing, law-and-order, ban them from "our" city type approach. Ontario Premier Mike Harris' *Safe Streets Act*, 1999, which banned aggressive panhandling and squeegeeing as a whole, was one notorious example along these lines (see for example, Hermer and Mosher 2002; Graser 2000). On the opposite end of the political spectrum, responses were equally strong. In Toronto, the death of three homeless men in January 1996 prompted much concern and outrage surrounding not only these deaths but also the cuts in welfare and housing subsidies, which it was said (indirectly) led to these tragedies. A good example of this latter, and compassionate, response was the then-Toronto city councillor Jack Layton's book, *Homelessness: The Making and Unmaking of a Crisis*, published in 2000, but with its roots in that 1996 scandal regarding the deaths of the three homeless men. The formation of the Toronto Disaster Relief Committee led by noted anti-poverty activists Cathy Crowe and Michael

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Shapcott, with a strong emphasis on housing policy and homelessness, was another response along similar lines.

Clearly then, the problem of homelessness has been addressed through rather divergent means, running the gamut from punitive to compassionate (or welfarist) approaches. In this paper, we focus on one particular effort undertaken by the city of Toronto, in the late-1990s, to address the problem of homelessness, namely, the attempt to build more homeless shelters and equitably spread them across the city. We argue that any attempts made by municipal governments to address issues of homelessness — and more broadly, matters of social justice — are bound to run into serious roadblocks, so much so that even the most compassionate and well-intended efforts to provide a temporary roof over the heads of those who find themselves without shelter, are likely to be thwarted, significantly delayed or deviate drastically from their original intentions on the one hand, or at the other extreme, fail miserably. When municipalities are left to their own devices to wage battle over the problem of homelessness, the end result, our case study shows, fails to provide meaningful solutions in a timely and systematic way.

The reason that municipalities are ill equipped to address problems of homelessness stems from two interrelated factors. The first concerns the structure, or architecture, of municipal governments themselves; that is to say, the powers delegated to municipalities and in particular, the tools they can rely on to address the issues they are faced with. Cities are fundamentally limited in the means they are afforded to go about attending to the problems they are required to resolve. Given the subordinate status of municipalities in Canadian law and politics, cities have very few legal tools to attend to local matters — and this is still the case despite the highly touted "new deal for cities" in Canada (see for example, Valverde and Levi, 2005). Municipalities often must rely heavily on zoning, one of the few legal tools they are afforded. This means that matters that might be better suited to other types of legal solutions, if brought before municipalities, end up funnelled into zoning and planning mechanisms.

This problem is exacerbated when municipalities are forced to address matters of social justice, and in particular, homelessness. As the literature shows, land-use law (of which zoning is the most important component) has never been about substantive democracy, equality or social justice (see for example, Gerecke, 1976; Gunton, 1979; Fischler, 1998; Frug, 1999; Blomley, 2004). Rather, land-use law, since its inception, has worked primarily to protect property values, relegate certain "undesirable" uses of land, and generally, to constitute an urban space that is highly differentiated not only by class, but also along other lines as well (for example, single versus multi-family dwellings). In other words, land-use law, and in particular, zoning,

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allows the segregation and compartmentalization of spaces according to uses. This means that *land-use law governs spaces and uses and not persons*; this, by extension, also means that *land-uses*, in-and-of-themselves, *have no rights*. Land-uses which provide some solace to the very poor- for example, halfway homes, shelters or supportive housing — have no rights; uses in general, have no rights. The fact that land-uses have no rights is crucial to the municipal shelter by-law story, and other efforts to provide housing for the homeless in general. Given that homeless people have no (immobile) property to call their own, they are peremptorily excluded from relying strictly on a rights-based approach (for example, the right to shelter), because rights, in land-use law, are tied to uses and not directly attached to persons. Thus, land-use law in particular, and municipal politics by extension, can do very little to provide meaningful solutions for many homeless people.

The problem of municipal government architecture described above, is tied to, and related to, a second issue, which further makes it difficult to implement meaningful solutions to the problem of homelessness. This is the issue of public participation in local policy formation — that is, one important aspect of democratic principles — which is crucial in cases of land-use and (re)zoning matters. Here, a problem arises because *land-use law resists democratization*. In saying this, we do not mean that municipal politics does not facilitate a forum for interested parties to voice their opinions and concerns; nor do we mean that particular groups are peremptorily excluded from participation in local policy formation — indeed, as we shall see, both those who opposed the spreading of shelters and those who favoured it, relied on their right to participate in the debates surrounding the by-law so as to influence and shape its content.

What we mean rather, is that given that rights in land-uses are tied to property, it is usually the case that those groups who end up influencing particular land-uses are those who have legal occupancy in relation to a particular property (that is, residents, ratepayers, and tenants, for example). John Sewell, the former mayor of Toronto, in his brilliant book *The Shape of the City* (1993), demonstrates that prior to the 1960s all planning issues were undertaken and put into practice by experts, without any public input (Sewell, 1993: 44–133). All this changed however, in the 1960s, when citizens, namely resident groups, began opposing the vision of planners, often because they were deeply dissatisfied with the vision that planners had for *their* neighbourhoods and communities (Ibid: 139–171; 178–181; 191–196; for more recent trends on this, see for example, Hume, 2005b; for similar trends in the U.S., see for example, Arustien, 2003). And while, in many cases, resident or neighbourhood groups failed in their attempts to halt proposed developments, the point to underscore here is that in all these cases, it is that group known as residents or ratepayers — in other words, the propertied and those who have

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legal occupancy, that is, tenants) — who were heavily embroiled in fights about development projects. While public input is, theoretically, open to all concerned citizens, it is often the case that the category of citizen here refers to the propertied, who wish to have their say about development proposals.

That it is the propertied who have their ideas heard is of course not necessarily problematic. What is problematic however, is that, with respect to an issue such as homeless shelters, advocates for the homeless are unable to construct an argument based solely on rights — and as we shall shortly see, in the case of the municipal shelter by-law, reference to rights based on the constitution was of little value. It is in this sense that we argue that land-use law resists democratization. That is, while the process of public input is open to all concerned parties, the nature of municipal politics renders those without property, in this case, the homeless and those advocating on their behalf, unable to rely on the notion of rights to make a claim to shelters. Thus, even though the by-law eventually passed, it did so after considerable delay and haggles over its content, primarily because the input into its content came via property owners, and by extension, those who did not want shelters in their "backyards."

The comment of councillor Paul Sutherland is used as the epigram for this paper because it is highly representative of a fundamental issue regarding the municipal shelter by-law. While Sutherland lauds the idea of public input over local policy formation, this very premise of public consultation presupposes that all concerned parties have equal status to voice their opinions. While it is certainly the case that the process of public participation does not exclude those who are interested in having their say, the very architecture of municipal politics peremptorily excludes those without property from voicing their concerns based on the right to housing or shelter. Hence, the homeless, who (ironically) are seeking a temporary roof over their heads, are without the requisite means (in this case, property) to launch an attack based on the right to shelter; in other words, one has no claim, in municipal politics at least, to a roof over one's head if one does not have a (permanent) place to call home. This coupling of the legal architecture of municipal politics and the right to public input, which is quite biased in the end, led to the protracted and heated debate over the shelter by-law. Our case study thus highlights the importance of studying the legal architecture of municipal politics within which social and political battles are waged.

In narrating the fallout over Toronto's municipal shelter by-law we draw on various documents related to the by-law: these include, Toronto City Council Minutes, 1999–2004; various reports from sub-committees presented to council between 1999–2004; and the report prepared for the Mayor's Homelessness Action Task Force. In the next section, we outline how the by-law was initially conceived by documenting the recommendations made by the Mayor's Task

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Force. Next we explain how the city of Toronto sought to implement the recommendation pertaining to homeless shelters. Finally, we conclude with a discussion of how zoning law, which is a crucial tool of urban governance, relates to, and works both for and against, democratic principles.

Responding to the Problem of Homelessness: The Mayor's Homelessness Action Task Force

The problem of homelessness, in Canada, became acute in the 1990s when the Federal government downloaded responsibility for social housing to the provinces, who in turn, devolved this responsibility to the municipalities, which in turn created a severe shortage in the available number of affordable housing units (*Taking Responsibility*, 1999: 22). This meant that the municipalities had to stretch an already tight budget to tackle this problem, which also meant that providing meaningful solutions to the problem of homelessness became far from practical. The problem of homelessness was so acute that in November 1998, when the mayors of Canada's major cities convened at the "Big City Mayor's Meetings" in Winnipeg, Manitoba, homelessness was labeled as a "national disaster" which was deemed to require immediate political attention (Layton, 2000: xx; 54; 103–105).

In Toronto, the rising visibility of homeless people on the streets had already sparked concern even prior to the "Big City Mayor's Meeting." The then-mayor of the city of Toronto, Mel Lastman, who "loudly" spoke out at the meeting for immediate reform, including the Federal government's failure to tackle this growing problem (Layton, 2000: 188–189), had already spearheaded a campaign to address the problem of homelessness in Toronto. In January 1998, he formed the Mayor's Homelessness Action Task Force in an effort to provide a systematic study of, and solutions to, the problem of homelessness. That it was Lastman who campaigned for homelessness is itself an interesting story. On the one hand, there seems to be little doubt that he was keen on providing meaningful solutions to the problem of homelessness. For example, in 1997, he was quoted as saying: "[w]hen you drive around and you see homeless people lying on the street, sleeping in bus shelters, it just turns your stomach that this is happening in this rich city. *We need to find solutions*" (*Taking Responsibility*, 1999: 13; emphasis added). Yet, on the other hand, there is evidence that he was quite unsympathetic to the plight of marginalized people as well. For example, in 1999, when the Ontario government was planning to ban squeegeeing and aggressive panhandling (and during the same time when Lastman had convened the Task Force), Lastman, who fully supported the crackdown on panhandling and squeegeeing, had this to say about this group of people:

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[t]hey're not kids ... they're squeegee trouble makers, they're squeegee pests... They're people who if you don't give them money will swear at you, they'll intimidate you, they'll damage your car, they'll throw dirty water on your car. Not only do [they] sleep in parks, they use them as toilets. *Who the hell are they to take over our parks and use them as toilets* (Verma, 1999: B5; emphasis added)?[1]

It is difficult to make sense of Lastman's rather contradictory and vacillating views here; however, these two opposing statements nicely capture the very fact that often, in response to the same problem, rather divergent efforts are put in place in order to placate various public needs and concerns. That this is the case is also clearly evident in the Toronto municipal shelter by-law, which as we will illustrate, attempts to placate various interests by resorting to compromises which look rather peculiar at first glance.

The Task Force was made up of four members and chaired by Dr. Anne Golden, who, at that time, was President of the United Way of Greater Toronto, a non-profit organization promoting the "health" of the city and citizens (for biographical sketches see, *Taking Responsibility*, 1999, Appendix B: 214–215). In July 1998 the Task Force released its interim report *Breaking the Cycle of Homelessness* and in January 1999, the final report, *Taking Responsibility: An Action Plan for Toronto*, was released.

Taking Responsibility began by stating what was by then, well known to most people in Toronto: "homelessness has reached unprecedented levels in Toronto, as well as in other cities across the country. In Toronto, there are far too many homeless people and their numbers are increasing" (*Taking Responsibility*, 1999: iii). The Task Force labeled the state of homelessness in Toronto (and the rest of the country) as both a "crisis" and "national disaster" that warranted immediate political intervention; in that light, the Task Forced hoped that *Taking Responsibility* would "provide the basis for constructive action to deal with the problem [of homelessness]" (Ibid: iii). The report outlined 105 recommendations which were to be implemented.[2] Two key

1. This statement not only illustrates Lastman's disdain towards this group, but also highlights his failure to come to grips with the fact that homeless people simply do not have any other space, save for public spaces, to live and do the things that every person needs to do in order to survive. This point, with respect to the needs of homeless people, has been insightfully made by Jeremy Waldron (1991; see also 2000), who argues that anti-homeless(ness) laws are inherently antithetical to freedom because they eviscerate any possibility of homeless people doing the things they need to do (for example, sleeping, eating, urinating and defecating) in order to survive. Thus, he cautions lawmakers who are quick to rely on punitive legislation as a way to address the problem of homelessness, that they ought to understand the significant impacts that these types of legislation will have on the everyday lives of homeless people.
2. These recommendations were wide ranging and dealt with matters such as mental health issues, Aboriginal homelessness, homeless families and children; as well, the report focused not only on those who are homeless but also those at "risk" of becoming homeless. Lack of space

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themes can be gleaned from these recommendations: first, that prevention and long-term approaches ought to replace reactive and emergency-type responses to homelessness, and secondly, that all three levels of government must take *ownership* of the problem and responsibility for solving it (Ibid: iii). With respect to long-term solutions, the Task Force recommended a "housing first policy:" that is, the undertaking of long-term rather than short-term solutions which seek to *house* rather than merely *shelter* homeless people. *Taking Responsibility* clearly, and repeatedly, noted that homelessness was a problem of housing, or to be more precise, a lack of affordable housing (that this is the case is clearly evinced by the fact that the first four chapters of the report, in some way or another, address the issue of affordable housing). As the Task Force stated, the "[t]he dwindling supply of low-cost rental units and rooming houses, along with the withdrawal of support by both the federal and provincial governments for new social housing programs, have made affordable housing much harder to find" and this has been the key reason that homelessness has spiraled out of control (*Taking Responsibility*, 1999: v).

With respect to housing, the Task Force recommended three distinct initiatives: these were affordable housing programmes, supportive housing programmes (that is, housing plus support services) and lastly, shelters. The first two were meant to be long-term solutions while the third was merely a short-term solution till the first two were implemented. With respect to shelters, the Task Force recommended that more shelters be built and that they be spread equitably across the city. The reason for spreading shelters across the city was to ensure that homeless people would be able to easily access services and in so doing, would maintain their ties with the community (this holds true especially for homeless children, who would otherwise have to be removed from their schools) (Ibid: 51; see also, *Multi-Year Shelter Strategy for the City of Toronto*, 2002: 10).[3]

Spreading homeless shelters across the city was much more difficult than originally anticipated. Under extant zoning provisions at the time, shelters were only allowed in the municipalities of Toronto and North York (By-Law 438–86, the City of Toronto); in addition to this, the municipality of Scarbor-

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disallows a full review of these matters; our focus is only to highlight the key issues in the report related to housing in general, and shelters in particular.

3. The Task Force however, was explicit in noting that the shelter system was only to be relied on as a short-term solution while long-term housing solutions (affordable and supportive housing programmes) were implemented. Hence, the Task Force even went as far as calling for a reduction in the number of shelter spaces by 10 percent each year until the overall number was reduced to half its base size; this however, was only to take place as long as, and only as long as, the number of affordable and supportive housing units was concomitantly increased (*Taking Responsibility*, 1999: 41).

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ough had facilitated the housing of homeless families in motel-strips on Kingston Road to help families find a temporary roof over their heads. What this meant then, was that homeless people "residing" in Etobicoke, East York or York, would essentially not have access to shelters unless they were to travel to one of these aforementioned municipalities where shelters were located. As well, where shelters were permitted, they were regulated by spatial constraints. Zoning provisions prohibited the location of two "crisis care facilities" within the space of 250 metres of each other; because a homeless shelter was defined as a crisis care facility, this meant that a shelter could only be located outside of this 250 metre mark from another crisis care facility.

The Task Force, well aware of these restrictions, came up with an ingenious way to circumvent these problems. The Task Force recommended that a process of *inclusionary zoning* be adopted, where the city would be permitted, *as-of-right*, to locate homeless shelters where it pleased, as long as the shelter met extant zoning criteria regarding height and density requirements. This however, was not simply for shelters: it would also include rooming houses, affordable housing units and supportive housing units (*Taking Responsibility*, 1999: 160; 175; 179). The end result of circumventing the extant zoning regulations would yield "mixed land-use" where homeless shelters would be located within industrial and residential sites. However, the Task Force clearly noted that this process must be opened up to the public for their input: "[t]here needs to be an appropriate public hearing and appeal process for neighbours who object. The onus should be on the owner to come forward with an application for relief from the zoning by-law" (Ibid: 175). The Toronto City Council accepted the recommendations of inclusionary zoning in order to locate shelters, as-of-right, in any part of the city. However, before discussing how this process became a protracted and heated debate, it might be beneficial to say just enough about the history of zoning in order to give context to, and locate the idea of, inclusionary zoning, which the Task Force relied on so heavily.[4]

By the early 20th century, urbanization and industrialization had caused havoc on urban centres in Britain, U.S.A and Canada. In particular urbanization and industrialization led to congestion and over-crowding, disease and other safety issues, and as well, (supposedly) moral decay (see for example, Sewell, 1993: 10–12; 16–42; Gunton, 1979: 177; 1983: 27; Hodge, 1985: 8; 12–13). It soon became evident that the existing governing mechanisms were

4. Again to make the point, what follows is only a cursory discussion of the history of zoning. Our main concern is to explain how zoning was historically conceived of as a way of excluding particular land-uses, and how the Task Force attempted to circumvent this tradition by calling for a process of inclusionary zoning.

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incapable of managing these problems, and the need to create new forms of governance led to the birth of city planning. City planning was "perceived as a rational application of scientific principles to the management of urban society" (Gunton, 1983: 28; see also 1979: 181; Smith, 1979: 202–204). Zoning was merely a sub-sect of planning which sought to demarcate land-uses into acceptable and unacceptable categories given a particular geographical area; in other words, zoning operated under the principle of excluding "inappropriate" land-uses given a particular space. Part of the appeal of exclusionary zoning was that it boosted property values (see for example, Van Nus, 1979: 234–240; Hall, 1989: 278; Gunton, 1983: 29; 1979: 182), so much so that planning mandates were shaped to a large extent by property and business owners who sought ways to increase the value of their properties (see for example, Van Nus, 1979: 234–240; Perks and Jamieson, 1991: 488). But while exclusionary zoning increased property values, it also had a negative consequence; exclusionary land-use simply translated into the practice of excluding certain *people* from particular places:

> [w]hat was good for business was the right kind of people: the right customers downtown, the right neighbors in the new street car suburbs... [F]ar from being a device to spread the transition of the immigrant poor from the tenements to the street car suburbs, zoning in practice became a way of keeping them where they were (Hall, 1989: 278).

The history of zoning then, is a story of exclusion; that is, the exclusion of particular types of land-uses (and with it, particular types of people) given particular geographical spaces; and because zoning was promoted under the cover of scientific rationality it was bestowed with an aura of legitimacy. In calling for a process of inclusionary zoning then, the Task Force was certainly privy to the effects of exclusionary zoning, and was attempting to maneuver around both legal and traditional grounds in order to facilitate the spreading of shelters. We now turn to narrate the events that transpired after council adopted the recommendation of inclusionary zoning.

Drafting and Enacting By-Law 138-2003

Immediately following the release of *Taking Responsibility* in January 1999, the Toronto city council got to work on implementing the recommendations made by the Task Force. One of the first moves the council made was to devolve authority to various sub-committees who would be in charge of advising the council on matters relating to the implementation of the Task Force's recommendations. On February 17, 1999, the Chief Administrative Officer's Office released its report titled *Response to the Mayor's Homelessness Action Task Force Final Report*; this report was commissioned by the city to provide initial feedback regarding the feasibility of implementing the

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recommendations made by the Task Force. Based on the conclusions of this report, city council, on March 2, 1999, endorsed, in principle, the 105 recommendations made by the Task Force. In particular, the report suggested that the city move ahead with the recommendations made by the Task Force to locate homeless shelters in various parts of Toronto. To this end, the report noted:

> [t]he City of Toronto is charged [with] taking the lead with planning and managing local homeless programs. In addition, the City is called upon to use the existing urban planning tools at its disposal and to seek additional powers to provide a framework for the development and preservation of affordable housing... (*Response to the Mayor's Homelessness Action Task Force Final Report*, 1999).

The "urban planning tools" referred to in the report concerned the extant zoning provisions. As recommended by the Task Force, the city moved to implement inclusionary zoning, which would allow homeless shelters to be located anywhere in the city. A report prepared by the Commissioner of Urban Planning and Development Services, April 15, 1999, defined inclusionary zoning in this way:

> [i]nclusionary zoning for affordable housing is a land development control measure, enacted by way of municipal by-law, which generally requires a certain portion of the units within any new residential development to be set aside for low and/or moderate income households at below market prices or rents (*The Mayor's Homelessness Action Task Force Final Report: Recommendations and Policy Directions Related to Housing Policies of the Official Plan*, 1999).

While this dealt with affordable housing units, a similar principle was to govern the spreading of homeless shelters: in other words, homeless shelters were to be included in, rather than excluded from, residential and industrial sites.

To this end, council moved quickly to draft a by-law which would allow homeless shelters to be located in any part of the city, as-of-right. On May 7, 1999 a report released by the Commissioner of Urban Planning and Development Services, suggested the city of Toronto study both its and the city of North York's zoning regulations because they "provide more or less blanket permissions for uses ..." such as shelters (*Process for By-law Amendments to Permit Affordable Housing, Emergency Shelters and Rooming Houses Across the City*, 1999). Based on this report, On May 11, 1999, councillors Joe Pantalone and Chris Korwin-Kuczynski moved that council "adopt policies necessary to override existing zoning by-laws ... across the amalgamated city ... to ensure that new emergency shelter[s] can be opened as needed" (City Council Minutes, May 11, 1999). Hence, it appeared that the stage was set for the spreading of homeless shelters across the city.

This however, was not to be the case; at least it would not be the case for another five years. From the time that council moved to adopt the recommen-

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dations of the Task Force, it took another four years for the municipal shelter by-law (By-Law 138–2003) to come into effect. To make matters worse, an additional year passed by before the by-law was upheld after it was appealed to the Ontario Municipal Board (OMB). Between this time and the actual passing of the by-law, several efforts to open shelters in various parts of the city served to bring more (negative) attention to the council's efforts; this attention gained momentum and turned into a powerful force which would delay the passing of the by-law. Two such efforts warrant detailed discussion because they not only illustrate why the proposed by-law took so long to pass, but also the particular concerns and issues that had to be dealt with.

The first example nicely illustrates how public fear over the location of a particular shelter not only led to delays in the opening of the shelter, but also the compromises that had to be worked out. Some time during the late-summer in 1999, there was a proposal to build a senior men's hostel, that is, an emergency shelter site, at 1673 Kingston Road in Scarborough. When the proposal to build a senior men's hostel was put forward, councillors Gerry Altobello and Brian Ashton raised the concerns of their constituents and asked that council not authorize the proposal for the following reasons:

> [the] use of an emergency shelter or an hostel is not permitted use under the Zoning by-law for this property; and our office has been inundated with calls from local residents against this proposal; and the community and the Principal from the Birch Cliff Public School located across the street are concerned about the impact on the safety of the children ... (City Council Minutes, September 28, 1999).

Even though the motion failed, both councillors gave notice that they would request permission to consider this matter in subsequent council meetings; this, in part, was based on the fact that a public meeting scheduled for October 6, 1999 concerning the proposed shelter would, according to the councillors, give sufficient grounds to halt the proposal, and this would be something that council ought to take heed of. During the city council debates on October 26, 1999, councillors Altobello and Ashton were "armed" with several pieces of evidence which they introduced against the proposed shelter. In particular, they introduced petitions signed by some 1350 concerned residents and other personal letters and/or petitions that were provided to the councillors (City Council Minutes, October 26, 1999). While councillors Altobello and Ashton were unsuccessful in halting the building of the proposed shelter, they were quite successful in implementing several restrictions. These included: that the number of beds be capped at sixty, rather than the proposed seventy spaces; that potential clients be "screened" and that occupants be well known to staff prior to taking up occupancy; that the Commissioner of Community Services report, prior to the end of 1999, on what effects the hostel is having on the community; and that a Community Reference Board be formed of 12–15

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persons, which will be made up of local residents, local business persons, local schools, the Toronto Police Services, and community organizations, who would "review profiles of individuals as they come to the building" (City Council Minutes, October 26, 1999). While the project actually passed, it did so after some delay, and perhaps more importantly, after several stringent addendums were implemented. These add-ons were no doubt an effort to appease the concerned residents of the Scarborough community and it appears that these restrictions did just that. A staff report released on May 30, 2000 gives a preliminary status of the hostel, which was named Birchmount Residence, by noting that "the community has become actively engaged in the day to day life of the residence" and that "[t]o date, there have been no complaints" (The City of Toronto Staff Report, 2000: 3).

While the foregoing example illustrates how community fear and concern were mobilized into a powerful effort which shaped the way the shelter would be organized, there were certainly other concerns that the shelter proposal brought about as well. In particular, the very idea that the shelter by-law ought to be publicly debated became a key issue during the drafting of the by-law. In July 2001, the Thunder Night Club located on Danforth Avenue and Dawes Road in Toronto was slated to be demolished and turned into a homeless shelter. At this time, concerned citizens of the area took to the streets in protest saying that the shelter was "sprung on them unannounced and [that] the community should have been involved in the decision making process" (Royce-Roll, 2001: A4). The citizens feared that they would find no solution to the violent and raucous behaviour that often "spilled" into the streets after the nightclub closed for the night, and believed they would find little reprieve once the homeless shelter opened; in particular, they felt that the early (7am) discharge protocols of homeless shelters would result in many homeless people lying around the streets near their residences. Part of the problem as well, was that the scheduled shelter was to be located within 250 metres of an already existing shelter and this would be in violation of extant zoning provisions. However, in response to this, the then-Director of the Toronto Hostel Services, John Jagt, argued that because the new facility would not be zoned as a hostel, it would not be considered as a crisis care facility and therefore, could lawfully operate under extant zoning law. This plan was foiled in the courts however, when the Ontario Superior Court, in March 2002, ruled that the Danforth Night Club project could not proceed because the proposed shelter did fit the description of a crisis care facility and therefore, did violate existing zoning regulations (Lakey, 2002a: B5).

Clearly the fact that many citizens thought that the shelter proposal was "sprung" on them without notice was of concern to them, and they were quite active in attempting to have their voices heard. And this was the case with the proposed by-law as well, where many residents felt that their voices were being

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excluded during the drafting of the by-law. The right to voice one's concerns and thereby shape public policy was relied on by both those who wished to see the by-law pass, and those who vehemently opposed it, though in different ways. On the one hand, particular politicians, namely Paul Sutherland, were bent on using the right of the public to participate in policy formation to ensure that concerned citizens had their voices heard, to the point where this right was used as a ploy to forestall the enactment of the shelter by-law. The statement made by Sutherland, quoted in the introduction, nicely captures this point. Sutherland invokes principles of democracy, not so much as an effort to halt the shelter by-law, but more so as a tool to delay its passage, primarily in an effort to incite his constituents against the by-law; in so doing, he both relies on the concerns that his constituents raise, as well as the fact that they have (supposedly) been barred from voicing these concerns, to create a powerful discourse against the homeless shelter by-law. Perhaps this is why other politicians, who seemed to be quite privy to this ploy, and who were keen on seeing the by-law pass, also circumvented the right to participate in policy formation to ensure that homeless people were provided with some sort of reprieve. For example, councillor Jack Layton, who seems to have realized that community concerns would simply translate into free-for-all NIMBYism, was bent on ensuring that the by-law passed with little problems. To this end he was quoted as saying, "[z]oning, by definition, is an exclusionary process ... we can't be exclusionary when it comes to services of the homeless, in my view" (Lakey, 2002b: B5). In other words, Layton seems to be saying that the needs of homeless people far outweigh the concerns of well-to-do citizens, and as such, these views must be selectively listened to. To some extent, his efforts are understandable. He and his wife, councillor Olivia Chow, had repeatedly, during the three years between May 1999 and April 2002, raised concern in council that the number of emergency shelter beds were dangerously low and did not fully meet the required number to "house" homeless people. Therefore for Layton, it was imperative that council quickly resolve this matter so that more shelter beds could be opened and spread across the city. For Layton, public consultation, which simply provided a "space" for NIMBY-type attitudes to come to the forefront, only served to skirt the issue at hand. Similar sentiments were proclaimed by councillor Joe Pantalone, who said:

> [r]egretfully, a lot of people disguise their feelings that somehow the homeless people have only themselves to blame by bringing in extraneous arguments or simply succumb to constituents who are afraid. The problem is, we have to do what's right and not play to the fears of our constituents (Ibid).

The manoeuvring around democratic participation nicely captures the complexities involved in the passage of a rather contentious piece of legislation, which the municipal shelter by-law certainly was. It captures as

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well the pressing problems that more progressive councillors were up against: they feared that public consultation, and indeed public fear, would simply translate into a halting of the proposed by-law. For them, social justice and civic inclusion far outweighed the concerns of particular NIMBY-type constituents. On the one hand, politicians had to, and indeed wanted to, find meaningful ways to tackle the problem of homelessness. On the other hand, they also had a duty to listen to what the public had to say about this. Perhaps the need to balance this "tightrope" act was nicely put by Mel Lastman, who clearly seems to have fallen under pressure from having to tackle this rather sensitive issue:

> [l]ook, I want this [the problems over the by-law] like I want a second head. I know people don't want it in their backyard, but you can't just have them in downtown Toronto ... I would rather have voted and ended it, one way or another. But I felt it was going to create a major problem. I like the idea of building a consensus across the city because I know what we're in for, in the future. I know the people are going to come yelling and screaming that we know nothing about this and you're putting a homeless shelter in my backyard (Lakey, 2002c: B3).

Clearly this statement not only illustrates the complexities involved, but also the attempts made by Lastman to appease everyone concerned.

All these political complications delayed the passing of the by-law for some three years. It was not until April 17, 2002 that council finally began debates concerning the by-law. The very next day, council voted 27–16 to refer the by-law to Mayor Lastman's office for further study and public consultation, and following this, to proceed to the Department of Planning and Transportation Committee for further debate. On this day, April 18, 2002, council set a date for October 2002 for all reviews, consultations and studies to be completed, so that council could go ahead and vote by this time. The very fact that the by-law was now being closely scrutinized seems to have given councillor Paul Sutherland some relief, if not joy, when he said: "this vote is really about respect for the *resident's* across the City of Toronto" (Lakey, 2002c: B3; emphasis added). In September 2002, the six municipalities that make up the "megacity" of Toronto held public consultation meetings regarding the by-law (Gillespie et al., 2002: B1). These concerns were then studied by the Planning and Transportation Committee between September and December 2002. On January 28, 2003, the matter came back to council for final debates.

Between October 2001 and February 2003 (but especially beginning in April 2002), the proposed by-law was the subject of much debate and amendment. Particular councillors made concerted efforts to voice the opinions of their constituents, and impose several restrictions on the by-law. For example, councillor David Skonacki moved that council develop appropriate ways to select shelters. That is, council ought to consider community safety especially where public schools are concerned; he also wanted a system of

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notification for community members who would be kept abreast of what was taking place with respect to locating shelters (City Council Minutes, October 2, 2001). In particular however, three issues came to dominate the last efforts to impose some restrictions on the by-law. First, it was proposed that a minimum distance of 250 metres separate one crisis care facility from another (City Council Minutes, October 2, 2001; April 16, 2002). This requirement of course, was not new; extant zoning provisions already mandated such a minimum distance separation between shelters. However, even this distance did not satisfy all councillors; councillor Paul Sutherland, for example, argued that a minimum distance of 1000 metres in lieu of 250 metres be imposed (City Council Minutes, February 4, 2003). The second issue concerned where to locate these shelters. Some councillors called for locating them only on arterial roads, rather than on residential streets. Finally, there were proposals to limit the number of shelter beds per facility, with figures ranging anywhere from seventy to fifty beds per shelter (Council Minutes, April 16, 2002; February 4, 2003).

Finally, on February 11, 2003 the municipal shelter by-law 138–2003 passed. However, it did so with several modifications, which it seemed, were the result of the last minute efforts on the part of councillors to impose some restrictions. The by-law allowed the city, as-of-right, to locate homeless shelters anywhere in the city, as long as it complied with applicable zoning provisions of the zone or district (that is, height and density requirements). However, the by-law required that shelters only be located on major or minor arterial roads (the "arterial road requirement");[5] that a minimum distance of 250 metres separate one shelter from another (the "separation distance requirement");[6] and that council approve each and every location of a homeless shelter.[7] What began as a rather simple (perhaps even naïve thinking on the part of councillors) effort to implement shelters as-of-right in any part of the city resulted in a by-law fraught with restrictions making it difficult and expensive to create shelters even on existing city properties.

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5. Prior to modification by the Ontario Municipal Board, section 2(ii) read that municipal shelters shall be a permitted use in all zones or districts of the City of Toronto provided: "the lot on which the municipal shelter is located is on a major arterial road or minor arterial road as described on the Road Classification System, as amended for the City of Toronto."
6. Section 2(iii) reads that municipal shelters shall be a permitted use in all zones or districts of the City of Toronto provided: "the lot on which the municipal shelter is located is at least 250 metres from any other lot with a municipal shelter or emergency shelter, hostel, or crisis care facility." This section was not modified by the Ontario Municipal Board.
7. Prior to repeal by the Ontario Municipal Board, section 2(iv) read that municipal shelters shall be a permitted use in all zones or districts of the City of Toronto provided: "the municipal shelter, including its location, has been approved by City Council."

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The Last Hurdle: The Ruling of the OMB

This however, did not bring an end to the otherwise dramatic proceedings. The by-law was subsequently appealed to the Ontario Municipal Board (OMB).[8] Initially, the appeals regarding the by-law concerned certain site specific exemptions; that is, the appeals were geared towards ensuring that particular locations could operate "outside" the requirements of the by-law. With respect to these site specific exemptions, there were fifteen appeals in all. Fourteen of these related to a specific site at 101 Ontario Street, home to Sojourn House, an emergency shelter (OMB, Decision Number 0923, July 9, 2003: 1). The other appeal was brought by a concerned resident whose property abutted the land site in question, a seniors' residence, at 717 Broadview Avenue; this site, which the city had purchased, was slated to be turned into an emergency shelter in the near future. Hence, the concerned resident was appealing to ensure that the particular property in question be subjected to, and hence, not exempted from, the requirements of the by-law (OMB Decision Number 0923, July 9, 2003: 1; OMB Decision Number 0569, March 15, 2004: 3; 29).[9]

During the pre-hearings (that is, hearings held to determine if sufficient evidence existed for a formal hearing) held on July 8 and 9, 2003, the Advocacy Centre for Tenants Ontario (ACTO) and the Confederation of Residents and Ratepayers Association (CRRA) sought party status in the proceedings to voice particular concerns outside these specific issues related to site exemption. The ACTO (and Sojourn House as well) argued that the requirements proposed in the by-law, namely, sections 2(ii) (iii) and (iv), "had no legitimate planning basis," and, specifically where section 2(iv) was concerned, was "an inappropriate and illegal provision for a zoning by-law;" in addition to this, the ACTO argued that the requirements of the by-law violated section 15 of the *Charter of Rights and Freedoms*, and hence, ought to be ruled as unconstitutional (OMB Decision Number 0569, March 15, 2004:

8. The Ontario Municipal Board (OMB) is an independent adjudicative tribunal that hears appeals and applications from concerned parties with respect to land-use disputes. Some issues that the OMB deals with include: official plans, subdivision plans, zoning by-laws, development charges and minor variances from local by-laws, for example. For a good overview of the history and workings of the OMB see, Chipman (2002). More recently however, in December 2005, there have been proposals by city council to scale back the power of the OMB, so that while the OMB would still review land-use matters, city council will be vested with the final authority over these matters (on these, as yet, early developments, see for example, Hume, 2005a; Lu, 2005).
9. The Board ruled against the concerned citizen in this matter arguing that because the city had already invested substantial money and time into the project, including this location as an exempted site makes much sense, because it ensures that if another shelter was to be located within 250 meters of the property in question prior to the property in question being turned into a shelter, the city will not lose the time and money it had already invested (OMB decision Number 0569, March 15, 2004: 29–30).

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6; see also Gillespie, 2003: B1).[10] The CRRA on the other hand, was concerned that more stringent requirements were necessary and sought relief to argue for a minimum separation distance of 1000 metres between shelters; as well, the CRRA sought to have the size of these shelters capped at fifty beds (Gillespie, 2003: B1). Both the ACTO and the CRRA were granted party status by the OMB (OMB Decision Number 0923, July 9, 2003: 4).[11]

The hearings, which began on September 29, 2003, occupied twenty-one days spread out over a two-and-one-half month period; this was considerably more time required than the fifteen days that were originally set aside (OMB Decision Number 0569, March 15, 2004: 3). The Board began by noting that the municipal shelter by-law "represents a compromise of various community and business positions" (OMB Decision Number 0923, July 9, 2003: 2) and that it is an "interesting aspect to this matter that all parties wish ... to see the by-law approved, albeit in different forms" (OMB Decision Number 0569, March 15, 2004: 5).

In reaching its decision, the Board acted more as a mediator than an arbitrator effectively seeking to appease all parties concerned. The Board began by acknowledging the fact that the intention of the by-law was to ensure that an adequate supply of homeless shelters in various parts of the city would become a reality, so that homeless people in various parts of the city would not be denied a temporary roof over their heads (OMB Decision Number 0569, March 15, 2004: 17–19). The Board first tackled the "separation distance requirement" (that a minimum distance of 250 metres separate one crisis care facility from another) and the "arterial road requirement" (that shelters only be located on major or minor arterial roads). The Board ruled that the "separation distance requirement" was based on sound planning principles because it would ensure that shelters were not concentrated in one particular area, allowing the spread of these shelters in various pockets of the city, thereby facilitating easy access to them. Hence, the Board upheld this requirement of the by-law (Ibid: 22–23). The Board also ruled that the "arterial road requirement" was based on sound planning principles as well. In so doing, the

10. In an interesting twist, the Board (correctly) noted that it had no jurisdiction to rule on whether a particular by-law meets the test of constitutionality; however, the Board then went on to spend considerable time arguing that the requirements of the by-law did not violate the provisions of section 15 of the *Charter* (OMB decision Number 0569, March 15, 2004: 34–52).
11. In yet another interesting twist, the CRRA, at the very outset of the hearings, had given notice of its withdrawal from the proceedings because it could not muster sufficient resources to allow for full attendance and/or participation in the hearings (OMB decision Number 0569, March 15: 2004: 3). This essentially meant that the two major parties in the proceedings were the ACTO and Sojourn House on the one hand, and the city of Toronto, which vigorously defended the requirements of the by-law, on the other hand.

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Board dismissed the view that the purpose of the "arterial road requirement" was to ensure that shelters would not be located in residential neighbourhoods. In so stating however, the Board rather disingenuously noted that both major and minor arterial roads abut and even cut across residential neighbourhoods, so that this requirement was not geared towards keeping shelters away from residential neighbourhoods, but was an attempt to locate them within particular communities, with the specific purpose of ensuring that homeless persons do not lose ties with their communities (Ibid: 22; 20). This creative interpretation allowed the Board to replace the "arterial road requirement" with the "arterial road corridor requirement." This new requirement allowed a shelter to be located either on an arterial road, or within an eighty meter distance of a flanking street which abutted the arterial road: "[t]he Board finds that the arterial road corridor location should include any lot, the whole or part of which, is located on a flanking street to an arterial road to a distance of 80–metres from the corner of the arterial road and flanking street" (Ibid: 25–26). This modified approach, the Board concluded, "makes ... shelter[s] more accessible for the users ... improves accessibility to the required services by the users, and ... encourages the distribution of the shelters on a wider basis across the City" (Ibid: 21). It is not entirely clear what led to the modification of the "arterial road requirement." However, it seems quite plausible that this was a concerted effort on the part of the Board to appease both sides concerned; and this modified approach seems to have done just that. That this is the case can also be speculated from the way the Board ruled on section 2(iv). In tackling this issue, the Board removed the requirement that council approve each and every location site because the section "compromises the integrity of the by-law as a zoning mechanism, is redundant, and without any land use purpose, creates uncertainty, and should not be included in the by-law" (OMB decision Number 0569, March 15, 2004: 29). The Board concluded thus that:

> [b]y-law 138–2003, as modified by this Board, conforms to the principles of good planning, and all applicable planning policy documents, and is supported by sound planning rationale ... [T]he by-law will facilitate the achievement of the City's program and service delivery objectives with respect to homelessness. The by-law will increase the number of sites across the City available for use as an emergency shelter, and properly directs the emergency shelter use to locations, which will meet the needs of the users, while minimizing the possible impacts of the use on neighbourhoods (Ibid: 8).

This approach served both to preserve, to a small degree, the council's original intentions of making shelters more accessible and at the same time, appease concerned parties to the appeal. With these modifications, Toronto's municipal shelter by-law finally saw "life" five years after being initially conceptualized.

Clearly then, passing a by-law such as this was fraught with problems relating to the structure of municipal politics on the one hand, and public participation and consultation on the other. In that light, the ruling of the OMB

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must be understood as a concerted attempt to balance these intricate issues; it was an attempt which sought to see the by-law upheld, while at the same time, placate concerned residents who were wary of having shelters in their "back-yards." And while it is important to note that the by-law finally came to "life," thereby — theoretically at least — providing a significant victory for homeless people and those who advocate on their behalf, this victory came with a large price tag, which included not only several modifications to the proposed by-law, but more importantly, the considerable amount of time — five years in all — that was required to resolve this matter.

It is interesting, at this point, to place the vision of city council and the OMB in a broader context, specifically with respect to the idea of constitutional rights and zoning provisions. Canadian law does not have the strong protection against segregation and discrimination from zoning practices as afforded in the *American Fair Housing Act* (which has been successfully used by public housing and supportive housing providers, as well as by victims of racial segregation). However, it is nevertheless a principle of Canadian municipal law that zoning powers cannot be used to discriminate against disadvantaged groups; hence, what is commonly referred to as "people zoning," while not completely forbidden, is legally suspect and subject to constitutional challenge given that municipalities are supposed to govern uses and not persons.

In Canadian law, the protection afforded to residents of group homes and other non-standard households from discriminatory zoning is weak. The leading case on this issue is *Re. Alcoholism Foundation of Manitoba et al. and City of Winnipeg* (1990) which saw the Manitoba Court of Appeal strike down a Winnipeg by-law which named disabled and substance-dependent individuals in its zoning provisions for group and rehabilitation homes. Yet, the ruling simply encouraged the city to fiddle with the wording of the by-law, rather than actually change its policy: "by adequate redrafting of zoning and other by-laws, the city can perhaps avoid the pitfalls of describing a class or category of individuals as it did" (Ibid: 711). In fact, Monin C.J.M (the then-Chief Justice of the Manitoba Court of Appeal) even went as far as stating that, as far as he was concerned, the exclusionary logic of zoning was by no means problematic, as long as particular disadvantaged groups, such as the "disabled," were not explicitly named. In other words, for a by-law to meet constitutional muster, it ought not name specific groups; the exclusionary logic of zoning however, for Monin, was not constitutionally problematic. This effect, that exclusionary zoning is not only a perfectly viable land-use option, but also that it is constitutionally sound, is clearly evident in Monin's opinion:

> [r]atepayers building $150, 000 or 200, 000 single-family homes are entitled to expect that only similar homes will be built in their vicinity, and that the integrity of that particular zoned area in the community will not be interfered with ... That was and should still be an entirely legitimate concern of the city councilors. Likewise, they should be free to protect those of lesser means from infiltration

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in their areas by businesses, manufactures, or other commercial ventures not in conformity with their legitimate aspirations for a modest residential area (Ibid: 709).

Hence, the efforts of the Task Force and city council to rely on inclusionary zoning as a way to circumvent the problems associated with exclusionary zoning, and thereby create a "space" from which to launch a campaign for shelters, were not only commendable but also rather ingenious given that the Task Force was perhaps privy to the limited legal tools available to municipalities to address matters of homelessness. And in that light, the ruling of the OMB was merely an extension of this vision; certainly the OMB was placed in the rather difficult and awkward position of having to balance competing interests, interests which it had to resolve first by dispensing with approaches which sought to make rights-based claims, and then relying on an approach which accorded with principles of sound planning.

Conclusion

The story of the municipal shelter by-law aptly illustrates that attempts to implement more compassionate programmes to deal with homelessness are certainly more cumbersome and daunting in practice than would appear to be so at first glance. When such compassionate approaches are promoted as the solution to a complex problem such as homelessness, these programmes run into particular roadblocks which either significantly delay the implementation of these programmes or lead to their demise. This is so for two reasons: the first concerns the structure or architecture of municipal politics and the second, and related issue, concerns public participation in policy formation. As we have demonstrated in this paper, these two factors combine to make it extremely difficult to implement meaningful solutions to the problem of homelessness, at the municipal level, that is.

To underscore this point, it is useful to examine what has transpired since the by-law was upheld by the OMB; since this time, only *one* emergency shelter has opened despite the fact that homelessness was considered to be in a state of crisis. On December 22, 2004, a temporary emergency shelter was opened at 110 Edward Street, in downtown Toronto; the shelter includes both a 80–bed co-ed and couples shelter and an Assessment and Referral Centre which operates between 8 in the night and 8 in the morning (Community Services Committee, 2005: 3). This is an interesting point to note not only because only one new shelter has been opened to date, but also because the status of this shelter is still not fully resolved. The shelter originally operated on private property that was leased to the government and was only scheduled to operate (that is, funding was only guaranteed) till May 31, 2005, when the original lease was scheduled to expire (Ibid: 2); thereafter however, the government negotiated a month-by-month leasing option with the owner of the

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property so that the shelter would remain open, at least, till the end of the 2005 calendar year (Ibid: 2–3). More recently however, council approved a proposal to purchase the land in question, in October 2005, so as to allow the shelter at 110 Edward street continued operation (Toronto Staff Report, 2005: 1). Yet, even after the purchase of the land in question, the shelter is only scheduled to be in operation until April 30, 2006 (Ibid); whether it will continue to operate after this date is still uncertain.

Thus even after a protracted and heated debate regarding the location of (more) homeless shelters, very little has actually materialized, and even where a new shelter has been opened, how long it will continue to be in operation is not at all clear. As well, it is important to point out here that this new shelter is located in downtown Toronto amongst other shelters in the area, and therefore, does little to spread shelters across the city as originally intended, first by the Mayor's Task Force, and then by city council.

Our case study then, leads to two important conclusions. In the first place, it appears that homelessness — and other matters of social justice more generally — cannot be meaningfully addressed and resolved by municipalities alone; it certainly requires the cooperation and active involvement of all three levels of government. In the second place, it seems that homeless persons bear the brunt of rather punitive sanctions from both the right and left of the political spectrum — though with respect to the latter, these effects are unintended to say the least. On one hand, they are subjected to punitive restrictions through various laws regulating their movements (for example, anti-panhandling or anti-squeegeeing laws). On the other hand, and even under more compassionate approaches, they still seem to bear the brunt of many oppressive sanctions. The many structural constraints that are evident in both municipal politics and even conventional electoral politics, renders the effectiveness of the left — in trying to address homelessness in a compassionate way — somewhat limited, so much so that these policies are often diluted that they cease to be able to provide an effective alternative to conservative politics. Thus, the end result, though in a different way, is the "annihilation of spaces" of homeless people (Mitchell, 1997).

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