Do the Homeless have a Constitutional Right to Camp in Edmonton?

On August 6, 2009, the Edmonton Police Service thwarted another attempt by homeless people to establish a semi-permanent "tent city" in the downtown area.[1] In 2007, the police evicted a small community of homeless people from their makeshift village in a city parking lot.[2]

Alberta's *Crown Property Regulation* provides that "unless authorized by the Minister of Infrastructure, no person shall, at any time between sunset of one day and sunrise of the next day, occupy, reside, camp, or sleep on Crown property."[3]

Parkland is also off-limits for those looking for a place to set up camp. The City of Edmonton's bylaws define unauthorized use of parkland as exercising "dominion or control over Parkland by constructing, storing, erecting, or placing anything on Parkland."[4]

However, such laws and regulations may be subject to constitutional scrutiny.

In 2008, the B.C. Supreme Court ruled that homeless people have a constitutional right to camp in the city. Under section 7 of the *Canadian Charter of Rights and Freedoms*, which guarantees security of the person, the court determined that all people have a right to access to shelter, as shelter is fundamental to a person's security.[5] The court struck down provisions of Victoria city bylaws, summarizing its decision as follows:

> *...the prohibition on taking a temporary abode contained in the Bylaws and operational policy constitutes an interference with the life, liberty and security of the person of these homeless people. I have concluded that the prohibition is both arbitrary and overbroad and hence not consistent with the principles of fundamental justice. I finally have concluded further that infringement is not justified pursuant to s. 1 of the Charter.[6]*

So far, there have been no similar *Charter* challenges in Alberta to the regulations and bylaws that prohibit camping and sleeping on public land.

[1] “Homeless Sent Packing” *Edmonton Sun* (7 August 2009).
[2] “Edmonton homeless pitch new tent city” *CBC.ca* (18 June 2007).
[3] *Crown Property Regulation*, Alta. Reg. 125/1998, section 6.
[4] City of Edmonton, By-Law No. 12308, *Unauthorized use of Parkland*.
[5] *Victoria (City) v. Adams*, 2008 BCSC 1363.
[6] *Ibid*. at para. 5.