

Could Ford remove the Kitchener encampment using the notwithstanding clause?

Premier Doug Ford is so angry he made a threat against a Superior Court justice with whose opinion he disagreed. He will use all legal means at his disposal to undermine the decision, Luisa D'Amato writes.

By Luisa D'Amato Reporter

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Premier Doug Ford has made it clear.

He has deep contempt for Superior Court Justice Michael Gibson, who forbade the Region of Waterloo to clear a tent encampment at Victoria and Weber streets in Kitchener, unless the region provides somewhere else for those unhoused people to go.

Gibson ruled last week, it violates the Charter rights of those people to provide no place to legally shelter from the elements.

Ford criticized the ruling in a letter to supporters and said, "This encampment is undermining public safety and holding up critical infrastructure that will benefit millions of people."

He also made physical threats against Gibson. "I wish I could get that guy's address," he said Friday at a news conference in Sault Ste. Marie. "I'd send 50 encampments in his backyard and see how he likes it."

It was shocking to watch the premier of Canada's largest province stoop so low. A smirking Mélanie Joly, federal minister of industry, stood beside him.

Ford's [comments](#) indicate clearly he won't hesitate to use the notwithstanding clause if he has to.

This tool, which is part of the Charter of Rights and Freedoms, allows him to disregard the judge's decision and declare it legal for the Region of Waterloo to clear the encampment after all.

The region hasn't yet said whether it will appeal Gibson's ruling.

"The region continues to review the Ontario Superior Court's decision related to 100 Victoria St., and no decisions have been made at this time regarding next steps," the region said in a statement Tuesday afternoon.

"Council will receive legal advice and is expected to consider its options in a closed session in the coming weeks before determining how to proceed. Any decisions arising from those discussions would then be brought forward for consideration in open session, as appropriate."

The region owns the gravel lot at Victoria and Weber streets, which is two blocks from the site of the future Kitchener Central Transit Hub at King and Victoria streets.

The region said it needs to clear the encampment so the lot can be used for construction vehicles and supplies when building begins.

Ford is making his comments for a reason. He rightly senses many people living in the region have hit their limit. They pay higher and higher taxes and yet affordable housing is still out of reach.

"I'm thankful he is worked up about this," said regional Coun. Michael Harris, who chairs the region's finance committee and was formerly a Progressive Conservative MPP for the Kitchener-Conestoga riding.

Local residents have seen their taxes rise steeply in spending on homelessness services. And yet the problem grows faster than the solutions.

"We've made massive investments," Harris told me Tuesday.

The overall annual budget for housing and homelessness services has grown steeply during the last few years and is now more than \$65 million a year.

Some projects that help people who have deep-seated problems are very costly. For example, it costs the region \$2.6 million a year just to cover the operating costs of the Erbs Road tiny homes community, which shelters 50 people in Wilmot Township, he said.

For every \$5 million the region spends, that's another one per cent increase on each person's property tax bill, he said.

And the region is spending \$800,000 a year just to maintain services at the encampment at Weber and Victoria streets, he said.

"Every individual is important. But we're talking about 30 people and that amounts to \$800,000. We're at a crossroads where, pretty much, this is a last resort. We have to have him on board," Harris said.

"We have to have provincial tools at the table to put an end to this."

Meanwhile, numerous legal experts have written to Attorney General Doug Downey to express their "grave concern" about Ford's remarks.

"If accurately reported, these comments represent a serious attack on the constitutional principle of judicial independence," the letter said.

Yes, they do, but this is the deep flaw in Canada's democracy. One person, the premier of Ontario, decides who the attorney general is. He decides how the regional chair is chosen. He decides if the courts should be overruled or not.

And so we wait for his decision.