

[Back to previous page](#)



document 1 of 1

Tearing down Occupy shelter was wrong - mayor

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Abstract (summary)

In an interview with The Daily Gleaner earlier in the week, Julian Renaud, one of the plaintiffs in the case, said although he was pleased with the settlement, calling it a victory for the rule of law, he was concerned the city used taxpayer funds to pay the settlement. The bylaw states that the city will pay costs against an official that arise out of the performance of official duties, unless an official has been grossly negligent, acted contrary to the terms and conditions of employment, acted contrary to an order given by a person in a position of authority or has brought about or contributed to the claim by reason of fraud or dishonesty.

Full Text

Mayor Brad Woodside says the decision to settle with three Occupy Fredericton protesters suing the city for dismantling their encampment in Phoenix Square almost two years ago will save taxpayers money by not fighting a lawsuit he knew he would lose.

He said the decision to resume settlement talks was made as the city was preparing for the trial, which had been set from Dec. 3 to 5.

"I decided to ask to have everyone brought together to see if we couldn't settle this rather than going to court for three days and calling witnesses, which, in my humble view, would have cost a lot of money," he said.

"It didn't make sense to pursue it only on a matter of principle. The fact of the matter is legal advice to me was I didn't have the authority to do what I did. Obviously that would have been determined in a court of law, except it would have taken three days of arguments to reach that conclusion.

"I thought that was a terrible waste of court time and a terrible waste of money."

The lawsuit against the city, Woodside and city engineering and public works director Murray Jamer was filed on April 24, 2012.

The Occupy Fredericton sit-in began Oct. 15, 2011. City officials arrived Jan. 3 at 5 a.m. to remove the shelter after Woodside served protesters with a written notice on Dec. 31, 2011. They were given three days to remove the shelter.

The notice said they were in violation of Section 5, Bylaw T-4, A Bylaw Respecting Streets and Sidewalks.

In the lawsuit, plaintiffs Julian Renaud, Dana Hartt and Alex Davenport said Woodside and Jamer used

bylaw provisions that didn't exist to tear down their shelter; stole, damaged and destroyed property; and put protesters at risk by tearing down the shelter with people inside. They also said the shelter was torn down before the three-day deadline passed.

None of the allegations were proven in court. The trio was seeking a public declaration the city's action was unlawful, compensation for their belongings and compensation totalling \$15,000 for violating their rights.

Woodside said when the decision was made to tear down the Occupy Fredericton encampment, he was unaware the location was not included as part of the bylaw.

"The property in question, although city property in front of city hall, known as Phoenix Square, wasn't included in anything that we had on the books. Who would have ever expected anybody to put up an encampment in Phoenix Square, in front of city hall?" he said.

He said as a result of the situation, the city has worked to tighten its bylaws.

"We're ready to take any action against anybody who decides they're going to camp for one to three months somewhere in front of city property," he said.

In an interview with The Daily Gleaner earlier in the week, Julian Renaud, one of the plaintiffs in the case, said although he was pleased with the settlement, calling it a victory for the rule of law, he was concerned the city used taxpayer funds to pay the settlement.

In the lawsuit, Renaud said the trio specified any financial award should come from Woodside and Jamer, not the City of Fredericton, but the settlement cheques he received on Monday were issued by the city - a move he said violates Bylaw A3 section 3.04.

Bylaw A Section 3 deals with the covering of legal costs arising from third-party claims against an official.

The bylaw states that the city will pay costs against an official that arise out of the performance of official duties, unless an official has been grossly negligent, acted contrary to the terms and conditions of employment, acted contrary to an order given by a person in a position of authority or has brought about or contributed to the claim by reason of fraud or dishonesty.

Woodside said that bylaw doesn't apply to him in this case.

"I certainly wasn't acting inappropriately. I waited until my last meeting on Dec. 31, New Year's Eve, and I brought this to a head when one individual said he now lives there and has no desire to move. To me, that was the end of the road," he said.

"It's no longer an Occupy movement, it's a person who has changed his address and decided he's going to live there forever. That really brought the discussions to an end.

"I don't think I acted in a fraudulent way. I don't think I acted in a bad way. There was nobody above me who could tell me not to and the public had had enough. Council had had enough. It had to be dealt with. I waited long enough; I gave it my best shot. I dealt with it and that's what happened."

Details of the terms and conditions of the settlement are sealed until Jan. 6. On that day, Woodside will be issuing a public statement on the matter.

"On Jan. 6, the editorial board will see that what I did was for all the right reasons," he said.

"When you're wrong, you're wrong. When you're dealing with the court, you have to respect the law. It made no sense to carry on any further.

"I certainly don't mind stepping back, saying I made a mistake, I apologize, and let's get this thing over with."

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