



## VENICE COMMUNITY HOUSING

**June 19, 2014**

### **LA ordinance prohibiting homeless to live in their vehicles declared unconstitutional**

The U.S. 9<sup>th</sup> Circuit Court of Appeals announced today in Desertrain vs. City of Los Angeles that LAMC 85.02 which prohibits the use of a vehicle “as living quarters either overnight, day-by-day, or otherwise” provides “inadequate notice of the unlawful conduct it proscribes” and “opens the door to discriminatory enforcement against the homeless and the poor.” Accordingly, the court held that the ordinance violates the Due Process Clause of the 14<sup>th</sup> Amendment and is unconstitutionally vague.

At a meeting of the Venice Neighborhood Council in 2010, Los Angeles City officials announced that an additional 21 officers had been added to Pacific Division of the LAPD and that the City would vigorously enforce violations of law committed by homeless people. In particular, the police department and the Bureau of Sanitation committed to target homeless people who slept in their vehicles. At that time, it was estimated that over 200 vehicles located west of Lincoln Blvd. were being used as sleeping quarters for unhoused Venice residents. A coordinated campaign of harassment, ticketing, towing and arresting ensued that ultimately resulted in a dramatic reduction in R.V.s and campers due to vehicle confiscation by police and/or their relocation to other neighborhoods.

Four disabled and four other homeless people cited for violation of Section 85.02 brought suit against the City claiming that the law was unconstitutional and a violation of their rights. The City won a motion for summary judgment and the plaintiffs appealed to the 9<sup>th</sup> Circuit Court of Appeals. At the appeal hearing, the City admitted that they had mistakenly ticketed the disabled people and promised never to do that again. However, as to the other four plaintiffs the City argued that the law was not vague and that the officers could determine by the “totality of the circumstances” whether or not a violation had occurred.

In rejecting that argument the court noted that the law does not define “living quarters” or specify how long or when is “otherwise.” Based on the actual facts of the case, sleeping in a vehicle was not necessary to constitute a violation, neither was having a lot of belongings in the vehicle. In the case of one plaintiff, the vehicle was not even parked when the citation was issued. “All in all,” the court stated “this...statute criminalized innocent behavior making it impossible for citizens to know how to keep their conduct within the pale.”

The court also pointed out that a vague law also encourages arbitrary and discriminatory enforcement, and that was exactly what had occurred in this case.

The court concluded:

“For many homeless persons, their automobile may be their last major possession-the means by which they can look for work and seek social services. The City of Los Angeles has many options at its disposal to alleviate the plight and suffering of its homeless citizens. Selectively preventing the homeless and the poor from using their vehicles for activities many other citizens also conduct in their cars should not be one of those options.”

Venice Community Housing agrees. And we would go further and state that no law that punishes people for living in their cars when there is not sufficient affordable housing to provide shelter for them should be enforceable until that housing is available. Government, and particularly the City of Los Angeles, has a duty to provide for the health and welfare of all of its citizens and that especially includes its most vulnerable members.

We want to thank and honor Carol Sobel, the attorney that represented the plaintiffs in this case. The City has filed an appeal to the U.S Supreme Court so it is too soon to celebrate this victory, but we anticipate that the Court’s decision will ultimately be affirmed. We will keep you posted.

For the entire text of the Court of Appeals Decision, click on this link.