

Berkeley Homeless
Services Panel of Experts

SPECIAL MEETING AGENDA

July 22, 2024 – 7:00 PM

North Berkeley Senior Center, Juniper Room
1901 Hearst Ave., Berkeley, CA 94709

Mayor Arreguin:
Carole Marasovic – **Chair**

Rashi Kesarwani:
Sadie Mae Palmatier

Terry Taplin:
Denah Bookstein

Ben Bartlett:
Paul Kealoha-Blake –
Vice Chair

Igor Tregub:
Mary Ann Meany

Sophie Hahn:
Vacant

Susan Wengraf:
Steven Segal

Cecilia Lunaparra:
Donnell Jones

Mark Humbert
Vacant

Josh Jacobs, Homeless Services Coordinator, Homeless Services Panel of Experts
Staff Secretary, jjacobs@berkeleyca.gov, 510.225.8035

All items are for discussion and possible action.

1. Roll Call.
2. Land Acknowledgement.
3. Public comment for items not on the agenda.

Updates/Action Items:

4. Approval of the Agenda. Discussion and Possible Action.
5. Approval of the June 5, 2024 Minutes. [Attachment 1]. Discussion and Possible Action.
6. Approval of the July 10, 2024 Minutes. [Attachment 2]. Discussion and Possible Action.
7. Chair update. Discussion only.
8. Transfer of \$549,785 previously allocated for acquisition of Insight Housing’s Russell House to Insight Housing’s Dwight Way shelter for rehab funds. Discussion and Possible Action.
9. United States Supreme Court Grants Pass decision. Discussion and Possible Action.
10. Letter to Council for one additional meeting to compensate for July 22, 2024 Special meeting so that HSPE can hold regular meetings in September, October, and November, 2024. Discussion and Possible Action.
11. Adjourn.

Attachments:

1. Minutes from June 5, 2024.
2. Minutes from July 10, 2024.
3. City of Grants Pass, Oregon v. Johnson ET AL. SCOTUS Decision.
4. Supreme Court Upholds Ban on Sleeping Outdoors in Homelessness Case - The New York Times.
5. Supreme Court allows punishment for homeless sleeping – National Public Radio
6. What a big new Supreme Court decision could mean for homeless Americans – Vox
7. Cities Weigh Homeless Encampments After Supreme Court Ruling - The New York Times.
8. Grants Pass Resolution & Commissioner Segal edits to Grants Pass Resolution.
9. Follow-up to Grants Pass presentation.
10. Public Facility Improvement Program Funds for Insight Housing’s (formerly Berkeley Food and Housing Project) Dwight Way Center.

Correspondence and Notice of Decision Requests:

Deadlines for Receipt:

- A) Supplemental Materials must be received by 5 PM the day before the meeting.
- B) Supplemental Communications must be received no later than noon the day of the meeting.

Procedures for Distribution:

- A) Staff will compile all Supplemental Materials and Supplemental Communications received by the deadlines above into a Supplemental Packet, and will print 15 copies of this packet for the Commission meeting.
- B) For any Supplemental Material or Communication from a Commissioner received after these deadlines, it is the Commissioner’s responsibility to ensure that 15 printed copies are available at the meeting. Commissioners will not be reimbursed for any printing or materials expenses.
- C) Staff will neither print nor distribute Supplemental Communications or Materials for subcommittee meetings.

Procedures for Consideration:

- A) The Commission must make a successful motion to accept and receive all Supplemental Materials and Communications into the record. This includes the Supplemental Packet compiled by staff.
- B) Each additional Supplemental Material or Communication received by or before the meeting that is not included in the Supplemental packet (i.e., those items received after the respective deadlines above) must be individually voted upon to be considered by the full Commission.
- C) Supplemental Materials subject to a Commission vote that are not accepted by motion of the Commission, or for which there are not at least 15 paper copies (9 for each Commission seat, one for staff records, and 5 for the public) available by the scheduled start of the meeting, may not be considered by the Commission.

****Supplemental Materials are defined as any items authored by one or more Commissioners, pertaining to an agenda item but available after the agenda and packet for the meeting has been distributed, on which the Commission is asked to take vote at the meeting. This includes any letter to Council, proposed Council***

report, or other correspondence on behalf of the Commission for which a full vote of the Commission is required.

****Supplemental Communications** are defined as written emails or letters from members of the public or from one or more Commissioners, the intended audience of which is the full Commission. Supplemental Communications cannot be acted upon by the Commission, and they may or may not pertain to agenda items.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.

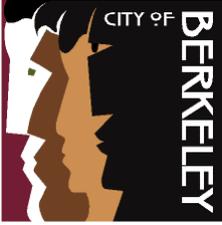
Public Comment Policy:

Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

COMMUNITY ACCESS INFORMATION

ADA Disclaimer “This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the ADA Program Coordinator at 510-981-6418 (V) or 510-981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.”

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Berkeley Homeless
Services Panel of Experts

MEETING MINUTES

June 5, 2024

1. **Roll Call:** 7:01 PM
Present: Marasovic, Kealoha-Blake, Jones, Segal, and Bookstein.
Absent: Palmatier (Leave of Absence) and Meany.
Staff: Jacobs, Buell, Klatt.
Council: None.
Public: 2.
2. Comments from the Public: 0.
3. Land acknowledgement.

Update/Action Items

4. Approval of Minutes from May 1, 2024. Discussion and Possible Action.
Action: M/S/C Jones/Bookstein move to approve the minutes as written.
Vote: *Ayes:* Marasovic, Kealoha-Blake, Jones, Segal, and Bookstein.
Noes: None. *Abstain:* None. *Absent:* Palmatier and Meany.
5. Approval of the Agenda. Discussion and Possible Action.
Action: M/S/C Jones/Bookstein move to approve the agenda as written.
Vote: *Ayes:* Marasovic, Kealoha-Blake, Jones, Segal, and Bookstein.
Noes: None. *Abstain:* None. *Absent:* Palmatier and Meany.
6. Presentation from Karen Klatt, MHSA Coordinator, and Jeff Buell, Berkeley Mental Health (BMH) Director, on impact, and roll-out, of Proposition 1 and BMH services provided to former and current unhoused persons. Discussion and Possible Action.

Discussion; no action taken.
7. Jennifer Stark, Managing Attorney at Disability Rights California and counsel on DRC v. County of Alameda, involving unnecessary psychiatric institutionalization and the lack of sufficient community-based alternatives, presenting on the history of the case and the settlement agreement entered in November, 2021. Discussion and Possible Action.

A Vibrant and Healthy Berkeley for All

*Homeless Services Panel of Experts
June 5, 2024*

Discussion; no action taken.

8. Chair Report. Discussion only.

Discussion; no action taken.

9. Adjourn.

Meeting adjourned at 9:00 PM.

Minutes Approved on: _____

Josh Jacobs, Commission Secretary: _____



Berkeley Homeless
Services Panel of Experts

MEETING MINUTES

July 10, 2024

1. **Roll Call:** 7:00 PM
Present: Marasovic, Kealoha-Blake, Jones, Segal, and Bookstein.
Absent: Palmatier (Leave of Absence) and Meany (Leave of Absence).
Staff: Jacobs.
Council: None.
Public: 9.
2. Land acknowledgement.
3. Comments from the Public: 0.

Update/Action Items

4. Approval of the Agenda. Discussion and Possible Action.

Action: M/S/C Jones/Bookstein move to approve the agenda as amended to move item 8 to item 5.

Vote: *Ayes:* Marasovic, Kealoha-Blake, Jones, Segal, and Bookstein.
Noes: None. *Abstain:* None. *Absent:* Palmatier and Meany.
5. Reallocation of Measure P monies in the amount of \$549,785 for acquisition of Insight Housing's Russell House to fulfill rehabilitation needs of Insight Housing's Dwight Way. Discussion and Possible Action.

Action: M/S/C Jones/Marasovic move to call for a special meeting to revisit this item once the staff report is released so that we can inform council before the July 23, 2024.

Vote: *Ayes:* Marasovic, Kealoha-Blake, Jones, Segal, and Bookstein.
Noes: None. *Abstain:* None. *Absent:* Palmatier and Meany.
6. Presentation on the ramifications of the United States Supreme Court Grants Pass decision. Discussion and Possible Action.

Discussion; no action taken.
7. Approval of Minutes from June 5, 2024. Discussion and Possible Action.

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No discussion; no action taken.

8. Chair report including on budget passed by Council. Discussion only.

Discussion; no action taken.

9. Discussion on workplan for following year. Discussion and Possible Action.

No discussion; no action taken.

10. Adjourn.

Meeting adjourned at 9:05 PM.

Minutes Approved on: _____

Josh Jacobs, Commission Secretary: _____

Attachment 3. [City of Grants Pass, Oregon v. Johnson ET AL.](#) SCOTUS Decision.

Supreme Court Upholds Ban on Sleeping Outdoors in Homelessness Case

The case is likely to have broad ramifications for how cities across the country respond to homelessness.



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By **Abbie VanSickle**

Reporting from Washington

June 28, 2024

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The Supreme Court on Friday upheld an Oregon city's ban on homeless residents sleeping outdoors, a decision likely to reverberate far beyond the West Coast as cities across the country grapple with a growing homelessness crisis.

The ruling, by a 6-to-3 vote, split along ideological lines. Justice Neil M. Gorsuch, writing for a conservative supermajority, found that the ordinances, enacted in Grants Pass, Ore., did not violate the Constitution's prohibition on cruel and unusual punishment. The measures penalize sleeping and camping in public places, including sidewalks, streets and city parks.

Those ordinances, Justice Gorsuch wrote, did not criminalize the homeless but rather the act of camping outdoors.

“It makes no difference whether the charged defendant is currently a person experiencing homelessness, a backpacker on vacation or a student who abandons his dorm room to camp out in protest on the lawn of a municipal building,” he

wrote.

In her dissent, Justice Sonia Sotomayor, joined by Justices Elena Kagan and Ketanji Brown Jackson, wrote that the decision would leave society's most vulnerable with fewer protections.

"Sleep is a biological necessity, not a crime," Justice Sotomayor wrote. "For some people, sleeping outside is their only option."

That the local laws impose fines and potential jail time for people "sleeping anywhere in public at any time, including in their cars, if they use as little as a blanket to keep warm or a rolled-up shirt as a pillow" effectively punishes people for being homeless, she wrote.

"That is unconscionable and unconstitutional," Justice Sotomayor said in reading her dissent from the bench, a rare move that signals profound disagreement.

The decision was greeted with mixed reactions among leaders in Western states, particularly in California, where increasingly visible encampments in major cities have put political pressure on governments to act.

Gov. Gavin Newsom, a Democrat, who had urged the justices to take up the case, welcomed the ruling, acknowledging the competing demands for greater enforcement of encampments with concerns about the treatment of vulnerable people.

Even as the decision "removes the legal ambiguities that have tied the hands of local officials for years," he said, the state will "continue to work with compassion to provide individuals experiencing homelessness with the resources they need to better their lives."

Mayor Karen Bass of Los Angeles, who has worked aggressively to bring the city's homeless people indoors and into treatment and housing services, expressed disappointment in the ruling but vowed to continue the city's push for housing and supportive services.

Lawmakers in Western states had pointed to a crucial appeals court ruling in 2018 that they say has tied their hands from clearing encampments.

That decision, by the U.S. Court of Appeals for the Ninth Circuit, which covers many Western states, declared it cruel and unusual punishment for cities and states to penalize someone for sleeping outdoors if no shelter beds were available.

In California alone, 171,000 people were recently estimated to be homeless, nearly one-third of the country's homeless population and 40,000 more than six years before. Tents and encampments are common in many parts of the state.

The dispute arose from Grants Pass, a town of about 40,000 in the foothills of southern Oregon. After residents complained of people sleeping in alleyways and property damage downtown, city leaders enforced a series of local ordinances that banned sleeping in public spaces. The town had no homeless shelter, aside from one run by a religious organization that required, among other rules, attendance at Christian services.

A group of homeless residents sued the city, challenging the ordinances and contending that the local laws essentially criminalized homelessness.

A federal judge temporarily sided with the homeless plaintiffs, finding the city had no shelter that met the requirement from the 2018 decision.

A divided three-judge panel of the Ninth Circuit appeals court upheld the lower court, and the city asked the Supreme Court to weigh in.

The Supreme Court's majority found that the ordinances in Grants Pass were not unusual because cities and states across the country have long imposed similar penalties. Under the laws, the city issues a limited fine for a first offense, a temporary order banning camping in the parks for repeated offenses and a maximum of 30 days in jail for violating such an order.

In his opinion, Justice Gorsuch asserted that the public camping laws applied equally to everyone and therefore did not target homeless people.

The Ninth Circuit ruling that laid the groundwork for the Grants Pass case was undoubtedly well intended, he wrote, but it established a legal test that proved unworkable for the cities and states governed by it. “Issued by federal courts removed from realities on the ground, those rules have produced confusion,” Justice Gorsuch wrote.

Justice Gorsuch, whose family roots are in Colorado and who served as a federal appeals judge in Denver, infused the decision with a viewpoint from the West.

Homelessness in the United States has reached its highest levels since the federal government began reporting data in 2007. The five states with the highest rates of homelessness — California, Oregon, Hawaii, Arizona and Nevada — are all in the West, he wrote.

Policymakers should be given a wide array of tools to tackle the problem, Justice Gorsuch wrote, adding that the 2018 appeals court ruling removed one of them.

Rather than helping “alleviate the homelessness crisis,” Justice Gorsuch wrote, the lower court ruling may have “inadvertently contributed to it,” paralyzing communities and inciting confusion as courts and cities turned to litigation.

He said decisions about how to solve homelessness were better left to state and local policymakers, not judges.

“A handful of federal judges” could not match “the collective wisdom the American people possess in deciding” how to respond to “a pressing social question like homelessness,” he said.

Although the court’s liberal justices agreed with the conservatives on the scope of the problem and the multitude of reasons people become homeless, they said the question before them was simple.

“The only question here is whether the Constitution permits criminalizing sleeping outside when there is nowhere else to go,” Justice Sotomayor wrote, adding that the issue had become “increasingly relevant because many local governments have made criminalization a frontline response to homelessness.”

To criminalize homelessness, she wrote, causes “a destabilizing cascade of harm.” When homeless people are fined or incarcerated, she wrote, they can lose their jobs, health benefits and housing options.

That is precisely what is unfolding in Grants Pass, she wrote, forcing someone with no available shelter to leave the city.

As the decision came down, many people living in tents in Grants Pass parks were beginning to stir.

Laura Gutowski, 56, who became homeless about two and a half years ago, said she felt conflicted over the ruling.

Even as she said she understood the frustration some residents had about the homeless population, she said there seemed to be no solution that acknowledged those who were homeless.

“We should give the parks back to our children,” Ms. Gutowski said. “But they can’t just give them back and not give us anything at all. There has to be somewhere else that we’re still allowed to go.”

Darren Starnes, 55, who became homeless about a year and a half ago after living in Grants Pass for more than 30 years, expressed concern that the ruling would remove momentum to find help for homeless people in the city.

“With no backup plan to deal with the problem, they’re going to make it worse,” he said. “Basically, they’re trying to push everyone to leave Grants Pass.”

Shawn Hubler contributed reporting.

Abbie VanSickle covers the United States Supreme Court for The Times. She is a lawyer and has an extensive background in investigative reporting. [More about Abbie VanSickle](#)

A version of this article appears in print on , Section A, Page 18 of the New York edition with the headline: Justices Uphold a Ban on Homeless People Sleeping Outdoors

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NATIONAL

The Supreme Court says cities can punish people for sleeping in public places

UPDATED JUNE 28, 2024 · 11:15 AM ET

HEARD ON MORNING EDITION



Jennifer Ludden

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A homeless person walks near an elementary school in Grants Pass, Ore., on March 23. The rural city became the unlikely face of the nation's homelessness crisis when it asked the U.S. Supreme Court to uphold its anti-camping laws.

Jenny Kane/AP

In its biggest decision on homelessness in decades, the U.S. Supreme Court today ruled that cities can ban people from sleeping and camping in public places. The justices, in a 6-3 decision along ideological lines, overturned lower court rulings that deemed it cruel and unusual under the Eighth Amendment to punish people for sleeping outside if they had nowhere else to go.

Writing for the majority, Justice Gorsuch said, “Homelessness is complex. Its causes are many.” But he said federal judges do not have any “special competence” to decide how cities should deal with this.

Sponsor Message



“The Constitution’s Eighth Amendment serves many important functions, but it does not authorize federal judges to wrest those rights and responsibilities from the American people and in their place dictate this Nation’s homelessness policy,” he wrote.

In a dissent, Justice Sotomayor said the decision focused only on the needs of cities but not the most vulnerable. She said sleep is a biological necessity, but this decision leaves a homeless person with “an impossible choice — either stay awake or be arrested.”

The court's decision is a win not only for the small Oregon city of Grants Pass, which brought the case, but also for dozens of Western localities that had urged the high court to grant them more enforcement powers as they grapple with record high rates of homelessness. They said the lower court rulings had tied their hands in trying to keep public spaces open and safe for everyone.

**LAW****Supreme Court appears to side with an Oregon city's crackdown on homelessness**

But advocates for the unhoused say the decision won't solve the bigger problem, and could make life much harder for the quarter of a million people living on streets, in parks and in their cars. "Where do people experiencing homelessness go if every community decides to punish them for their homelessness?" says Diane Yentel, president of the National Low Income Housing Coalition.

Today's ruling only changes current law in the 9th Circuit Court of Appeals, which includes California and eight other Western states where the bulk of America's unhoused population lives. But it will also determine whether similar policies elsewhere are permissible; and it will almost certainly influence homelessness policy in cities around the country.

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Cities complained they were hamstrung in managing a public safety crisis

Grants Pass and other cities argued that lower court rulings fueled the spread of homeless encampments, endangering public health and safety. Those decisions did allow cities to restrict when and where people could sleep and even to shut down encampments – but they said cities first had to offer people adequate shelter.

That's a challenge in many places that don't have nearly enough shelter beds. In briefs filed by local officials, cities and town also expressed frustration that many unhoused people reject shelter when it is available; they may not want to go if a facility bans pets, for example, or prohibits drugs and alcohol.

Critics also said lower court rulings were ambiguous, making them unworkable in practice. Localities have faced dozens of lawsuits over the details of what's allowed. And they argued that homelessness is a complex problem that requires balancing competing interests, something local officials are better equipped to do than the courts.

"We are trying to show there's respect for the public areas that we all need to have," Seattle City Attorney Ann Davison told NPR earlier this year. She wrote a legal brief on behalf of more than a dozen other cities. "We care for people, and we're engaging and being involved in the long-term solution for them."

The decision will not solve the larger problem of rising homelessness

Attorneys for homeless people in Grants Pass argued that the city's regulations were so sweeping, they effectively made it illegal for someone without a home to exist. To discourage sleeping in public spaces, the city banned the use of stoves and sleeping bags, pillows or other bedding. But Grants Pass has no public shelter, only a Christian mission that imposes various restrictions and requires people to attend religious service.

Sponsor Message

"It's sort of the bare minimum in what a just society should expect, is that you're not going to punish someone for something they have no ability to control," said Ed Johnson of the Oregon Law Center, which represents those who sued the city.

He also said saddling people with fines and a criminal record makes it even harder for them to eventually get into housing.

Johnson and other advocates say today's decision won't change the core problem behind rising homelessness: a severe housing shortage, and rents that have become unaffordable for a record half of all tenants. The only real solution, they say, is to create lots more housing people can afford – and that will take years.

homelessness supreme court



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POLITICS / HOUSING / HOMELESSNESS

What a big new Supreme Court decision could mean for homeless Americans

The Grants Pass v. Johnson decision does not spell the end to fights over tent encampments in America.

by **Rachel M. Cohen**

Jun 28, 2024, 9:50 AM PDT



Homelessness advocates protest outside the Supreme Court on April 22, 2024, ahead of the *Grants Pass v. Johnson* hearing. Rachel M. Cohen



The Supreme Court has issued its long-awaited ruling in *Grants Pass v. Johnson*, the most significant legal challenge to the rights of homeless people in decades.

In a 6-3 decision written by Justice Neil Gorsuch, the Supreme Court ruled that cities enforcing anti-camping bans, even if homeless people have no other place to go, does not violate the Eighth Amendment's prohibition on cruel and unusual punishment. Gorsuch was joined by the rest of the court's conservatives, including Chief Justice John Roberts.

“The Constitution's Eighth Amendment serves many important functions, but it does not authorize federal judges to wrest those rights and responsibilities from the American people and in their place dictate this Nation's homelessness policy,” the opinion read.

Friday's ruling has huge implications for cities and people experiencing homelessness nationwide. It strikes a fatal blow to two Ninth Circuit decisions — the *Grants Pass v. Johnson* case and its 2018 predecessor *Martin v. Boise* — that have shaped cities' responses to homeless encampments.

Leaders from dozens of cities and states — both liberal and conservative — have been hoping the US Supreme Court would overturn the *Martin* and *Grants Pass* decisions, which they claimed were incorrectly decided and left governments hamstrung and incapable of safely managing their communities.

Many groups representing the rights of unhoused people, in turn, argued there was no reason for the US Supreme Court to reconsider the rulings, and warned that doing so will make it both easier to criminalize people experiencing homelessness and much harder to land them permanent housing later on.

The Supreme Court declined to hear a challenge to *Martin* in 2019, but pressure mounted on the high court as the nation's homelessness crisis grew worse, especially in the Western states under the Ninth Circuit's jurisdiction.



00:00

11:43

How trailers work, explained by someone who makes them.

Over 650,000 people in America experience homelessness on any given night, and roughly 40 percent of those individuals are sleeping outside on the streets, in cars, parks, train stations, and other places not designed primarily for people. Federal data published in late 2023 showed a rise in homelessness in most states.

Homelessness advocates immediately denounced the ruling, warning that it will make things worse and further marginalize vulnerable Americans.

The *Grants Pass* decision undoubtedly marks a significant setback to the constitutional rights of homeless people, and local governments will feel more confident passing punitive policies with the Supreme Court's blessing.

But it will not end the political battles over tent encampments. It only concerns what cities *can* do, and not what they should do.

Those who want cities to be more aggressive in clearing homeless tent encampments are celebrating.

Theane Evangelis, the lead counsel for the city of Grants Pass, Oregon, praised the Court for “restor[ing] the ability of cities on the frontlines of this crisis to develop lasting solutions that meet the needs of the most vulnerable members of their communities, while also keeping our public spaces safe and clean.” She said she hopes that years from now this moment is recognized as “the turning point in America’s homelessness crisis.”

But even though overturning *Martin* and *Grants Pass* would make it easier for cities to clear out tent encampments, local governments still hold considerable discretion over whether they *should* do so.

And especially in liberal cities, where leaders may be more inclined to leave people experiencing homelessness alone (or come under more pressure from advocates to do so), some conservatives have long felt additional legislative and legal action would be needed to actually force cities to act.



“Many cities have used *Martin* as an excuse, you know, they throw up their hands and say, ‘Our hands are tied,’” said Ilan Wurman, a law professor at the University of



Grants Pass would take that argument away [from cities]. But it still doesn't require them to do anything at that point."

Instead, Wurman and others have been promoting public nuisance lawsuits as a way to force cities to disband tent encampments. These types of lawsuits can be based on things like loud noise or air pollution, but also things like unsanitary conditions or other health hazards. Importantly, private citizens have the right of action to bring public nuisance claims.

The first successful example of this strategy was in 2022 against the city of Phoenix, Arizona, when Wurman and colleagues sued for a declaration that a downtown homeless encampment on city property constituted a public nuisance. More than 1,000 people had moved to this encampment — known as “the Zone” — and the plaintiffs pointed to the crime, defecation, drug use, theft, and other safety hazards there that threatened public health. Arizona state law defines “[a]ny place, condition or building that is controlled or operated by any governmental agency and that is not maintained in a sanitary condition” as a “public nuisance ... dangerous to the public health.”

A judge ruled in favor of the plaintiffs last year, declaring “the Zone” a public nuisance, and ordered Phoenix to address the situation. The encampment is now cleared, but the city is appealing the decision.

Wurman has had less success in his two other lawsuits pursuing the public nuisance strategy.

Last September, two Tucson homeowners and one Tucson business owner sued the city for failing to clear an encampment, citing things like trash, fire set by residents that burned uncontrollably, and car and residential theft.

Like in Phoenix, the plaintiffs asked the courts to declare the campsite a public nuisance and order Tucson to clear it out. The city in turn argued the plaintiffs lacked



In May, a judge ruled in favor of the city and concluded the plaintiffs failed to show Tucson is “the legal cause of their alleged injuries.” The judge also drew contrasts between Tucson’s situation and the encampment in Phoenix, where Phoenix police actually helped transport unhoused people to be there.

The residents are now appealing the case, and Wurman told me he believes they’ll win.

“The judge in the Tucson case agreed with us that the city consented to the encampments but then he said the city didn’t consent to the feces or the drugs, and that’s what we lost on,” Wurman said. “We think that is quite frankly insane, right? Because everyone understands that encampments universally come with feces and drugs. Their own city witnesses testified that they’re always feces and urine and needles.”

Wurman saw another setback recently in his third public nuisance case, in Salt Lake City, Utah. The lawsuit, originally filed last September, was dismissed in March, with the judge defending the city’s right to use its discretion.

"Any given member of the public might complain about how a city allocates its resources, and many such complaints could be articulated under the broad umbrella of



Wurman told me they're appealing this case too, with a brief to the court due next month.

Homelessness advocates think the nuisance legal strategy will ultimately fail because governments typically enjoy a lot of latitude in deciding where to put their resources and what laws to enforce. When the district attorney of Sacramento filed a public nuisance lawsuit last year alleging the city had let its encampments get out of control, a district judge ruled that most of the DA's allegations were legally insufficient.

"The Phoenix lawsuit is an outlier," Will Knight, the decriminalization director at the National Homelessness Law Center, told me. "I think they're going to lose on appeal in Tucson and Salt Lake City, and they're going to keep losing similar nuisance lawsuits."

Erwin Chemerinsky, dean of UC Berkeley's law school, also told me he thinks there's a "huge difference" between reversing a Ninth Circuit decision and courts requiring that cities must clear tent encampments or arrest homeless people.

Still, advocates are intent on trying different strategies, including some legislative ones. The Cicero Institute, an Austin-based conservative think tank, has been pushing bills across the country to ban outdoor homeless camping, and to make cities liable if they fail to enforce those bans.

A Cicero-backed bill in Missouri that was signed into law in 2022 allows the state's attorney general to sue local governments that don't enforce their encampment bans. Earlier this year in Florida Republicans passed a new anti-camping law that allows not just the state attorney general but also local residents and businesses to sue local governments if they fail to enforce their bans. It takes effect this fall.



Another strategy advocates hope to ultimately take nationwide is at the ballot box. This fall, in Arizona, voters will vote on a first-of-its-kind ballot measure that could allow property owners to sue for tax refunds if they can prove financial damages from homeless tent encampments. The right-leaning Goldwater Institute, a Phoenix-based think tank, drafted the measure and hopes other cities will follow suit.

“Today’s decision is the first step toward a sensible approach to the many problems of homelessness,” said Goldwater Institute vice president for legal affairs Timothy Sandefur on Friday in a statement. “By overturning that decision, the Supreme Court today enables local communities to find actual solutions for the people who are suffering—and who deserve better than to be forced by the Ninth Circuit's fiat to live indefinitely in public parks and on sidewalks.”

Homelessness advocates hope to galvanize the public around housing solutions

Homelessness advocates, taking a page from abortion rights groups after the overturn of *Roe v. Wade*, have been in discussions with lawmakers to move forward both state and federal legislation that would codify the *Martin v. Boise* decision.

In other words, they hope to push legislation to counteract what the Supreme Court just ruled and ensure that homeless people can’t be punished for sleeping outside on public property if there are no adequate alternatives available.

officials who prefer pointless and expensive arrests and imprisonment, rather than real solutions,” said Ann Oliva, CEO of the National Alliance to End Homelessness. “This ruling allows leaders to shift the burden to law enforcement. This tactic has consistently failed to reduce homelessness in the past, and it will assuredly fail to reduce homelessness in the future.”

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Ultimately, liberal homelessness activists hope to use the *Grants Pass* attention to focus the national conversation on policy solutions they say will actually solve homelessness, including universal rental assistance, repairs to public housing, and funds for eviction prevention. Advocates plan to call for \$365 billion in the next year to fund these initiatives.

Following the ruling advocates sent out an email blast inviting people to email their elected officials for more funding for housing and to join the “[Housing Not Handcuffs](#)” advocacy campaign.

“We knew from Day 1 that the Supreme Court case wouldn’t end homelessness,” said Jesse Rabinowitz, the communications director for the National Homelessness Law Center. “Now, we must use this moment in time to ensure that Congress and the White House do their job by funding the housing needed to ensure that nobody experiences homelessness in the richest country in the world.”



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Swati Sharma
Vox Editor-in-Chief

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More in Homelessness

HOUSING

A new strategy to house homeless people



After Homelessness Ruling, Cities Weigh Whether to Clear Encampments

The Supreme Court decided last month that cities could cite homeless campers. Some say ‘clear them all.’ Others are ramping up outreach.



Listen to this article · 10:09 min [Learn more](#)



By Shawn Hubler and Mike Baker

Shawn Hubler reported from Folsom, Calif., and Mike Baker from Burien, Wash.

July 13, 2024

K.C. Alvey treads carefully when she and her dog, Stuart, walk the dappled trail behind their apartment in Folsom, Calif. Since the pandemic, her neighbors have included homeless campers along a brook known as Humbug Creek.

There’s the man who periodically emerges from the brush, yelling in fear and tearing at tree limbs. There’s the hoarder who fled last week with his dog as a cleanup crew again cleared his massive campsite — shopping carts, three beds, throw pillows, art, books, mirrors on trees, rugs, torch fuel. Rogue campfires have been frequent.

Until recently, federal appellate courts limited how far cities could go to clear encampments. But late last month, the Supreme Court ruled that they could remove homeless residents sleeping outdoors, a decision that has already begun to reshape how they deal with homelessness.

Three days after the decision, the Folsom police announced they would start citing recalcitrant illegal campers, though they also would team up with nonprofits to provide more homeless outreach.



K.C. Alvey and her dog, Stuart, sit on the back patio of her apartment in Folsom, Calif., on Thursday.
Andri Tambunan for The New York Times

Ms. Alvey, 57, a marketing manager, is waiting to see what happens. There have been times when the homeless campers “really creep me out,” she said. But she also wants “to be sure they have somewhere they can go where they feel safe.”

In the two weeks since the Supreme Court decided that the city of Grants Pass, Ore., could penalize sleeping and camping in public places, city leaders across the country have responded by revising local ordinances and preparing to take a

harder line on homeless encampments. Nowhere has the homelessness crisis been more severe than in Western states, where tent communities have proliferated since the pandemic.

Some cities are particularly eager to get moving.

“I’m warming up the bulldozer,” said Mayor R. Rex Parris, a Republican, of Lancaster, Calif., an exurb 62 miles north of Los Angeles. “I want the tents away from the residential areas and the shopping centers and the freeways.”

Shelter populations increased last year in the Antelope Valley, which includes Lancaster, but unsheltered homelessness rose more, according to the area’s latest point-in-time count, with more than 5,500 people sleeping unhoused in a stretch of high desert prone to extreme cold and heat.

“I get that some of these people have fallen on hard times,” the mayor said, “and we have a state-of-the-art shelter with beds available. But the population we’re talking about doesn’t want a bed.”



Angelo Ocon fills a trash bin with remnants of a large encampment on Thursday that was near homes in Folsom, Calif. Andri Tambunan for The New York Times

That sentiment is not limited to Republican leaders. In San Francisco, where Mayor London Breed has faced a tough fight for re-election, businesses have waged a furious campaign to eliminate homeless encampments even as civil liberties groups have sued the city over enforcement.

“My hope is that we can clear them all,” the staunch Democrat said at a news conference after the ruling. She has said that homeless people who refuse services are partly to blame for the city’s economic struggles downtown.

In the Seattle suburb of Burien, Wash., city leaders are battling with the county sheriff, who runs the police force, over the enforcement of public camping bans. Citing concerns about constitutionality, the sheriff’s department has declined to take action, even after the Supreme Court ruling.

On a recent afternoon, homeless residents were milling around tents and tarps and pallets that comprised about two dozen makeshift structures on a patch of land across the street from the county courthouse. Some said they hoped the city would let them be until they could find more permanent housing.

Mayor Kevin Schilling wanted more immediate action. He said he believes that enforcement, combined with outreach, would nudge those in need of drug treatment, mental health services or temporary shelter to choose those options. “If you don’t have that nudge, at the end of that day, people are not going to choose to do that on their own,” he said.

Some communities, like Grants Pass itself, have hit legal snags as city leaders formulate their next steps. Homeless people in Grants Pass continue to seek refuge in dozens of tents spread across a variety of the city’s parks. A court injunction remains in place there for the time being, although officials in the community of 40,000 people expect it to lift soon.



Homeless rights activists hold a rally outside of the U.S. Supreme Court in Washington in April. Kevin Dietsch/Getty Images

Recently, city leaders called a meeting to seek feedback from the community on how to enforce and manage homeless camping, but for some residents, that was insufficient. On Wednesday night, many lined up at a microphone to express outrage that officials were not immediately clearing parks of homeless people.

“Get them out!” one man shouted. “Give us our town back,” a woman told officials.

“I am hoping and praying that we can make the city of Grants Pass a homeless-free zone,” Kim Hector, a resident, said. “You know they have gun-free zones. Well, the citizens of Grants Pass deserve a homeless-free zone.”

The Supreme Court ruling left many civil protections intact, including prohibitions on excessive fines and violations of due process. Local governments can still be sued, civil liberties groups note, and still must grapple with vast numbers of vulnerable, poor and unsheltered people.

In a recent webinar on the ruling, legal advisers in California recommended that municipalities provide ample notice of enforcement, set fines at an affordable level and frame anti-camping laws as a tool to persuade homeless people to accept services.

Eve Garrow, a senior policy analyst and advocate with the A.C.L.U. of Southern California, dismissed the “carrot and stick approach” as “deeply disingenuous” in a state with yearslong waiting lists for subsidized housing.



The police in Folsom, Calif., have begun to warn homeless campers that they could be cited under a new Supreme Court ruling. But they also have intensified homeless outreach. Andri Tambunan for The New York Times

“A playbook is developing,” she said. “But the clear aim is a race to the bottom where each local government tries to drive unhoused people out.”

In 2018, the Court of Appeals for the Ninth Circuit ruled that it was unconstitutional to punish people for sleeping outside when they had no other legal option. That decision and subsequent rulings limited the ability of cities throughout the circuit’s nine Western states to address homelessness with arrests and citations. Politicians blamed the courts for an onslaught of highly visible encampments. But governments, forced to confront the crisis with less enforcement, also approved a torrent of spending on homeless services and affordable housing.

Conservative policymakers say that has not worked. Model legislation drawn up by the Cicero Institute, a Texas think tank, has underpinned new laws in Florida, Georgia, Oklahoma and other Republican-led states that cracked down on encampments and reversed a mostly government-funded approach that prioritizes housing individuals.

In Democratic-led areas, however, strategies such as rousting or arresting are viewed as less effective than determining why individuals are homeless and then offering appropriate remedies such as housing, jobs, substance abuse treatment or mental health care.



In Los Angeles, where many homeless campers live on Skid Row, Mayor Karen Bass criticized the Supreme Court decision and said her approach of moving people into hotels is working. Mario Tama/Getty Images

Los Angeles has struggled to reduce homelessness for years, its Skid Row an often-cited illustration of the problem in California. But under Mayor Karen Bass, the city has made progress in moving people off the streets and into motels and shelters, and the city had its first decline in years in unsheltered individuals. Ms. Bass, a Democrat, swiftly criticized the Supreme Court decision.

“This ruling must not be used as an excuse for cities across the country to attempt to arrest their way out of this problem or hide the homelessness crisis in neighboring cities or in jail,” Ms. Bass said. “The only way to address this crisis is to bring people indoors with housing and supportive services.”

Not everyone in Los Angeles agrees. Traci Park, a City Council member from the affluent Westside, coauthored a motion within hours of the ruling that demanded an examination of the existing anti-camping restrictions, along with a comparison of regulations in Los Angeles County’s 87 other cities.

The balance between enforcement and providing services remains a challenge. In Folsom, a community of about 80,000 known for its hiking trails and its nearby prison, the ruling has revived a debate over compassion and order. The city’s homeless census has leaped from fewer than 20 before the pandemic to more than 130 this year.



Folsom, Calif., is known for its trails, prison and recreational spots such as Lake Natoma. Andri Tambunan for The New York Times

Folsom has long had restrictions on camping in public spaces and fire zones, punishable by citations. But since the Ninth Circuit ruling in 2018, the community has largely relied on other ordinances to control encampments, such as public nuisance laws.

A special task force to address tent camps in neighborhoods like Ms. Alvey's began work this month, just after the Supreme Court decision was released. "We're here to help," said Lt. Chris Emery of the Folsom Police Department, who was overseeing the removal of a sprawling camp from a ravine full of tinder-dry foliage on Thursday. "We're not the hammer of justice and not everyone is a nail."

As waste removal crews arrived, his team tried to persuade the homeless camp proprietor to speak to an outreach worker. They were unsuccessful, but Jeanne Shuman, founder of Jake's Journey Home, a local nonprofit, said Folsom's

homeless people have begun to understand that the ruling has narrowed their options.

At the public library during a searing heat wave, Paul Hebbe, 58, said that officers with flashlights awakened him at 3 a.m. on July 4 as he slept in his usual spot just outside the reading room window. Three other homeless men separately offered similar accounts; the police said they had no record of the encounter.



Paul Hebbe, whose belongings are seen, said he was roused from a homeless encampment in Folsom, Calif., on July 4. “They said, ‘You can’t be here, there’s a new law,’” he recalled. Andri Tambunan for The New York Times

“They said, ‘You can’t be here, there’s a new law,’” Mr. Hebbe said, recounting how he had refused to move to a shelter and instead trundled into the dark with his sheet, sleeping bags and assorted backpacks. He was not cited, he said, but “it’s not right — I’ve had probably 10 hours of sleep in the last four days.”

Rick Hillman, the police chief in Folsom, said the Grants Pass decision gives his department an additional tool, restoring teeth to the city's camping restrictions. But "the last few years have been a big education," and only the most egregious repeat offenders will be cited, the chief said. No citations have yet been issued, he added.

"I don't want to bog down our justice system with tickets for people experiencing homelessness," he said. "To me, that just puts them in a worse situation. We're trying to get them to take advantage of services."

Shawn Hubler is based in Sacramento and covers California news, policy trends and personalities. She has been a journalist for more than four decades. [More about Shawn Hubler](#)

Mike Baker is a national reporter for The Times, based in Seattle. [More about Mike Baker](#)

A version of this article appears in print on , Section A, Page 11 of the New York edition with the headline: In the West, Cities Cautiously Exercise Homeless Enforcement

RESOLUTION NO. ##,###-N.S.

REAFFIRMING RIGHTS AGAINST THE CRIMINALIZATION OF UNHOUSED STATUS

WHEREAS, the U.S. Supreme Court’s 2024 decision in *Grants Pass v. Johnson* to reverse *Martin v. Boise* threatens to make sleeping outside while being unhoused a crime¹; and

WHEREAS, previously the U.S. Court of Appeals for the Ninth Circuit found in *Martin* that the Constitution prohibits local governments from criminalizing outdoor sleeping when there is no alternative²; and

WHEREAS, the Ninth Circuit relied on the Eighth Amendment’s Cruel and Unusual Punishments Clause, which prohibits the government from criminalizing people based on their status; and

WHEREAS, *Martin* established a requirement across the entire Ninth Circuit that prohibited governments from criminalizing unhoused residents for sleeping outside if they lacked “access to alternative shelter” as defined as “a greater number of homeless individuals in a jurisdiction than the number of available beds in shelters”; and

WHEREAS, while implementing the *Martin* policy within the City of Berkeley since 2018 has been challenging at times, during that same period the City made some of its most significant progress in humanely addressing the unhoused shelter crisis including through the passage of the Measure P transfer tax, unprecedented investments in shelter and services, and a 45% decrease in the number of unsheltered population between 2022 to 2024; and

WHEREAS, while the Supreme Court majority in *Grants Pass* reverses *Martin*, the dissent by Justice Sotomayor stated “[t]he Court wrongly concludes that the Eighth Amendment permits Ordinances that effectively criminalize being homeless”; and

WHEREAS, fortunately the majority in *Grants Pass* notes “nothing in today’s decision prevents States, cities, and counties from going a step further and declining to criminalize public camping altogether” meaning that cities like Berkeley have discretion to follow the *Martin* precedent regardless of the decision; and

WHEREAS, the City Council seeks to reassure members of the public who may be concerned that the Grants Pass decision will result in a sudden change in City policies regarding the treatment of unhoused residents of Berkeley.

NOW THEREFORE BE IT RESOLVED by the City Council that it affirms the rights of

¹ [Supreme Court of the United States *Grants Pass v. Johnson* \(2024\) Decision](#)

² [Ninth Circuit *Martin v. City of Boise* \(2018\) Decision](#)

people within the City of Berkeley against criminalization for their unhoused status, and will support these rights by:

1. Directing the City Manager to ensure that there will be no additional restrictions enacted that effectively prohibit sleeping—a biological necessity—by an unhoused individual if there is no shelter space available in the jurisdiction for the unhoused individual to sleep.
2. Reaffirming that the Constitution does not allow the government to punish people for the status of being unhoused, and that the City will not effectively punish the status of being unhoused by imposing criminal penalties for sleeping in public spaces without first making an offer of shelter.
3. Committing to constructing, repurposing, and offering, whenever possible, non-congregate shelter options, which have doubled Berkeley's shelter acceptance rate to 79%³, and permanent supportive housing.

BE IT FURTHER RESOLVED that the Council shall instruct the City Clerk to transmit copies of this resolution including any future amendments thereto that shall be made, to every department, agency and commission and employee of the City of Berkeley.

³ [Daily Cal: Berkeley sees decrease in homelessness, unsheltered population nearly halved](#)

RESOLUTION NO. ##,###-N.S.

REAFFIRMING BERKELEY'S COMMITMENT TO ASSISTING INDIVIDUALS OF UNHOUSED STATUS

WHEREAS, the U.S. Supreme Court's 2024 decision in *Grants Pass v. Johnson* to reverse *Martin v. Boise* threatens to make sleeping outside while being unhoused a crime¹; and

WHEREAS, *Martin* established a requirement across the entire Ninth Circuit that prohibited governments from criminalizing unhoused residents for sleeping outside if they lacked "access to alternative shelter" as defined as "a greater number of homeless individuals in a jurisdiction than the number of available beds in shelters"; and

WHEREAS, while implementing the *Martin* policy within the City of Berkeley since 2018 has been challenging at times, during that same period the City made some of its most significant progress in humanely addressing the unhoused shelter crisis including through the passage of the Measure P transfer tax, unprecedented investments in shelter and services, and a 45% decrease in the number of unsheltered population between 2022 to 2024; and

WHEREAS, fortunately the majority in *Grants Pass* notes "nothing in today's decision prevents States, cities, and counties from going a step further and declining to criminalize public camping altogether" meaning that cities like Berkeley have discretion to follow the *Martin* precedent regardless of the decision; and

WHEREAS, the City Council seeks to reassure members of the public who may be concerned that the Grants Pass decision will result in a sudden change in City policies regarding the treatment of unhoused residents of Berkeley.
NOW THEREFORE BE IT RESOLVED by the City Council that the city will make all efforts to continue its current policy in support of individuals with unhoused status including the committing to constructing, repurposing, and offering, whenever possible, non-congregate shelter options, which have doubled Berkeley's shelter acceptance rate to 79%³, and permanent supportive housing.

BE IT FURTHER RESOLVED that the Council shall instruct the City Clerk to transmit copies of this resolution including any future amendments thereto that shall be made, to every department, agency and commission and employee of the City of Berkeley.

¹ [Supreme Court of the United States *Grants Pass v. Johnson* \(2024\) Decision](#)

³ [Daily Cal: Berkeley sees decrease in homelessness, unsheltered population nearly halved](#)

RE: Grants Pass Reso

Steven P Segal <spsegal@berkeley.edu>

Wed 7/10/2024 17:05

To: Jacobs, Joshua <JJacobs@berkeleyca.gov>; Homeless Services Panel of Experts <hspe@berkeleyca.gov>

 1 attachments (25 KB)

GrantsPass-Resolution edited.docx;

For several reasons I can discuss at our meeting this evening, I would suggest the appended edit of this resolution.

Steven P. Segal
Distinguished Professor of the Graduate Division and Director
Mental Health and Social Welfare Research Group
School of Social Welfare
University for California
Berkeley, CA 94720-7400
spsegal@berkeley.edu
Telephone: +510-642-3949
Fax: +510-526-7964

For every complex problem there is an answer that is clear, simple, and wrong. (Mencken, 1921).

From: Jacobs, Joshua <JJacobs@berkeleyca.gov>
Sent: Monday, July 8, 2024 7:38 PM
To: Homeless Services Panel of Experts <hspe@berkeleyca.gov>
Subject: Fwd: Grants Pass Reso

Please see below message from the chair.

Josh Jacobs
Homeless Services Coordinator
Neighborhood Services | City of Berkeley
Pronouns: He, Him, His
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
510.225.8035
jjacobs@berkeleyca.gov

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From: carole marasovic <daphnesflight@yahoo.com>
Sent: Monday, July 8, 2024 5:24:05 PM
To: Jacobs, Joshua <JJacobs@berkeleyca.gov>
Subject: Fwd: Grants Pass Reso

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Josh,

Please send the following e-mail, with attachments, to HSPE commissioners.

Carole

Dear Commissioners:

Mayor Arreguin stated at the Council Agenda Committee meeting today (Monday) that the City's policy would remain the same post-Grants' Pass and that the City Attorney's office was merely reviewing the SCOTUS decision.

Please also find below the time -critical item, regarding Grants Pass, being brought to Council tomorrow by Councilmember Lunaparra.

Carole

Sent from my iPhone

Begin forwarded message:

From: "Lunaparra, Cecilia" <CLunaparra@berkeleyca.gov>
Date: July 8, 2024 at 4:34:55 PM PDT
To: carole marasovic <daphnesflight@yahoo.com>
Subject: Grants Pass Reso

Attached is our submitted Grants Pass Resolution.

All the best,
Cecilia

Cecilia Lunaparra (she/they)
Berkeley City Councilmember, District 7
clunaparra@berkeleyca.gov • 510-981-7170
On unceded xučyun (Huichin) land of the Ohlone people

RE: Follow-up to Grants Pass presentation

William Knight <wknight@homelesslaw.org>

Thu 7/11/2024 15:49

To: Jacobs, Joshua <jjacobs@berkeleyca.gov>

Cc: carole marasovic <daphnesflight@yahoo.com>; Eric Tars <ETars@homelesslaw.org>

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Josh,

Thank you so much for facilitating my discussion last night with the Berkeley Homeless Services Panel of Experts.

The Law Center's recommended template legislation in the wake of *Grants Pass* can be found here: [Gloria Johnson Template Legislation - Housing Not Handcuffs](#). Please bear in mind that this is only a *template*, a starting point for implementing helpful policy, because, as you know, effective remediation of homelessness must be informed by the specific local and individual needs of your community and its residents. To that end, I also connecting you with my colleague Eric Tars, our Senior Policy Director, as Carole requested.

Last, some of your experts requested more information about the Cicero Institute's harmful, pro-criminalization lobbying efforts. That information is available through the watchdog efforts of our Housing Not Handcuffs campaign, here: <https://housingnohandcuffs.org/emergent-threats-homelessness-criminalization/>. We will keep this information updated as legislative session calendars pick back up in the fall and next year.

 <p>NATIONAL HOMELESSNESS LAW CENTER</p>	<p>Will Knight (he/him) Decriminalization Director a: 1400 16th Street NW, Suite 425, Washington, DC 20036 e: wknight@homelesslaw.org w: homelesslaw.org p: 202-638-2535 Ext. 102</p> <p>f t in i</p>	
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-----Original Message-----

From: carole marasovic <daphnesflight@yahoo.com>

Sent: Thursday, July 11, 2024 2:50 PM

To: William Knight <wknight@homelesslaw.org>

Cc: Joshua Jacobs <jjacobs@berkeleyca.gov>

Subject: Follow-up to Grants Pass presentation

Hello Will,

Thank you so much for the knowledgeable, thorough presentation yesterday. We have so much work ahead of us.

Your guidance in our recommendations to the Berkeley City Council is critical.

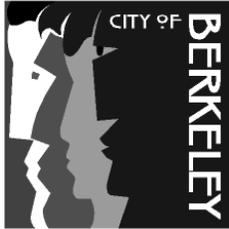
Can you please send the template of which you spoke and pending proposed legislation across the country which Eric Tars, your policy director, has to Josh, our HSPE staff secretary, so that we can distribute it to the Commissioners?

Josh's e-mail is jjacobs@berkeleyca.gov. Please cc: me at daphnesflight@yahoo.com.

Thanks so much for your information and assistance. We look forward to working with you further.

Carole

Sent from my iPhone



Office of the City Manager

CONSENT CALENDAR
July 23, 2024

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Scott Gilman, Interim Director, Health, Housing, and Community Services
 Subject: Public Facility Improvement Program Funds for Insight Housing's (formerly Berkeley Food and Housing Project) Dwight Way Center

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to:

1. Reallocate \$549,785 of FY24 Measure P funds from Insight Housing's (IH) Russel Street Residence rehabilitation project to their Dwight Way Center (DWC) rehabilitation project; and
2. Execute all resultant agreements and amendments with IH for the above-mentioned funds.

FISCAL IMPACTS OF RECOMMENDATION

On June 13, 2023 City Council authorized \$4,500,000 to support the costs of purchasing and rehabilitating 1741, 1743, and 1747 Russell Street. Insight Housing purchased these Russell Street properties for \$3,950,214.14 leaving \$549,785 for rehabilitation, which is currently unspent. The remaining funding is in the Fiscal Year 2024 (FY24) Measure P budget (Fund# 011). The unspent FY 24 funds will be carried forward into FY25 as part of the year-end close and encumbrance rollover process.

CURRENT SITUATION AND ITS EFFECTS

Insight Housing is in the process of rehabilitating its Dwight Way Center (DWC) at 2140 Dwight Way, a three-story building that will provide permanent and interim housing once completed. Since the initial budget was developed, IH has experienced several unforeseen conditions requiring additional funding, including needing additional structural reinforcement to meet current code seismic reinforcement requirements, replacing the sewer line, and additional regulatory compliance requirements. In addition, the scope of the project was expanded to replace some of the bunk beds at the Women's Shelter with single beds in order to increase accessibility for people with limited mobility. This bed reconfiguration required a redesign of the 1st floor, including relocating the industrial kitchen. The additional requirements and expanded scope have resulted in a significant increase in construction costs. While IH's development team

engaged in value engineering to mitigate the increased cost, these changes also increased costs associated with architect and engineering services. Since the initial budget, the total project budget has increased to \$3.2 million leaving a funding gap of more than \$1.7 million.

While IH's Russell Street buildings need repairs and system upgrades due to their age and condition, IH reports that they have non-City funding to address the most urgent repairs that are needed now. The remaining rehabilitation will be initiated once funding becomes available. Due to the urgency and substantial funding gap for the DWC renovations, IH requested the City consider reallocating the remaining rehabilitation funds for their Russel Street buildings to the DWC project. Insight Housing intends to apply for Prop 1 funding to support Russel Street Residences when applications are released in early July 2024.

The City has an existing contract with IH in the amount of \$680,196.50 to cover a portion of the costs associated with the rehabilitation of the 2nd floor at DWC. To decrease the funding gap, IH is requesting \$1,387,086 in additional funds. The City has \$450,000 available in Community Development Block Grants (CDBG), which is included in the CDBG specific recommendation for Council to consider at its July 23, 2024 meeting. The addition of the \$549,785 in Measure P funds will bring the total contribution to Dwight Way Center to \$1,679,981.50.

BACKGROUND

On June 13, 2023, City Council authorized \$4.5M to IH to purchase and rehabilitate two adjacent parcels (located at 1741, 1743, and 1747 Russell Street). Insight Housing has since purchased these Russell Street properties.

Insight Housing's DWC has been closed to staff and participants since November 2022 due to a fire and subsequent rehabilitation/construction needs. Insight Housing's Women's Shelter was relocated to a temporary shelter in Emeryville. The City previously allocated \$680,000 of CDBG public facility funds to this project on June 27, 2023 (Resolution #70,904 – N.S.) to address the major repairs needed, accessibility barriers, and safety issues throughout the building.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The IH DWC renovation project will increase energy efficiency by updating the electrical system, installing new windows, exhaust fans upgrade, and upgrading the light fixtures. It will also help preserve an existing historic building.

RATIONALE FOR RECOMMENDATION

The DWC is an important resource in Berkeley that has been unoccupied since November 2022 due to fire damage. Once completed, it will provide 73 beds for interim and permanent housing, including 15 Board and Care beds for adults with a severe

mental health diagnosis, 26 beds for Military Veterans, and 32 beds for unsheltered women, as well as an industrial kitchen to provide daily hot meals to all residents.

ALTERNATIVE ACTIONS CONSIDERED

Without additional funding the building rehabilitation will be further delayed, resulting in 73 less interim and permanent housing beds in Berkeley's system. Given the importance of completing this project as soon as possible, staff has not considered an alternative.

CONTACT PERSON

Jennifer Vasquez, Program Manager, HHCS, 510-981-5431

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

APPROVAL OF CONTRACT WITH INSIGHT HOUSING FOR DWIGHT WAY CENTER
REHABILITATION

WHEREAS, on July 13, 2021, City Council endorsed All Home's Regional Action Plan on Homelessness that includes a goal to reduce unsheltered homelessness by 75% by 2024; and

WHEREAS, on January, 16 2024, City Council extended Berkeley's Declaration of Homeless Shelter Crisis through January 17, 2029; and

WHEREAS, Insight Housing's Dwight Way Center is a significant permanent and interim housing resource in Berkeley and the completion of rehabilitation project will be significantly delayed without additional funding; and

WHEREAS, On June 13, 2023 City Council authorized \$4,500,000 to support the costs of purchasing and rehabilitating 1741, 1743, and 1747 Russell Street; and

Whereas Insight Housing purchased the Russell Street properties for \$3,950,214.14 leaving \$549,785.86. The remaining funding is in the FY 2024 Measure P budget (Fund# 011); and

WHEREAS, Insight Housing will apply for Prop. 1 construction funding in July 2024 to complete repairs needed at Russell Street properties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley and the City Manager or her designee is authorized to reallocate \$549,785 of FY2024 Measure P funds from Insight Housing's (IH) Russel Street Residence rehabilitation project to their Dwight Way Center rehabilitation project; and

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements and any amendments will be kept on file in Office of the City Clerk.