

Board Meeting: March 27, 2018

Additional Correspondences received for S14E

Lopez, Maria [COB]

From: Lili Graham <lgraham@LEGAL-AID.com>
Sent: Tuesday, March 27, 2018 11:26 AM
To: COB_Response; Watson, Kayla; Van Riper, Marianne; Knapp, Laura; Atkins, Vanessa; Page, Leon
Cc: Sarah Gregory; Crystal Sims; geelan.fahimy@lw.com; andrew.gray@lw.com; Michelle Kotval
Subject: Comments for upcoming Board meetings 3_26_18
Attachments: BOS Orange County Meeting Public Comment Plts 3_26_18.pdf


Dear Chairman Do and all:

Please find public comments attached.

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O F S O U T H E A S T L O S A N G E L E S C O U N T Y

VIA EMAIL AND FIRST CLASS MAIL

March 27, 2018

Chairman Andrew Do
Vice Chairman Shawn Nelson
Supervisor Michelle Steel
Supervisor Todd Spitzer
Supervisor Lisa A. Bartlett
Orange County Board of Supervisors
333 West Santa Ana Boulevard
Santa Ana, California 92701

**RE: The County Must Address Long-Term Homelessness Solutions –
Agenda Item S14E, Orange County Board of Supervisors: Agenda Revisions
and Supplementals – “Rescind all Board actions taken at the Special Meeting
on 3/19/18” (March 27, 2018)**

Dear Orange County Board of Supervisors:

We submit this letter on behalf of our clients, plaintiffs in *Ramirez, et al. v. County of Orange*, filed in the District Court for the Central District of California on February 7, 2018.¹ The County’s failure to effectively implement long-term solutions for homelessness and its recent eviction of the homeless encampments along the Santa Ana riverbed (“Riverbed”) have caused an unnecessary humanitarian crisis in the County involving a mass displacement of over 750 homeless individuals. The County displaced this population despite having agreed to place these individuals in appropriate housing,² and despite having insufficient resources to do so. To rectify its ill-executed decision, on March 19, 2018, the County Board of Supervisors voted to develop operational plans for emergency shelters on three parcels in Irvine, Huntington Beach, and Laguna Niguel. To fully comply with state and federal law, the County must implement rezoning programs and comply with Senate Bill 2. In addition, the County must use its significant state and federal funds to develop long-term solutions to homelessness in Orange County, including building permanent supportive housing with wrap-around services.

As the U.S. District Court in *Ramirez* recognized, in response to *Ramirez* Plaintiffs’ Application for a Temporary Restraining Order, “this County remains desperately in need of additional

¹ See *Ramirez v. Cnty of Orange*, Case No. 8:18-cv-00220-DOC-KES.

² See *Catholic Workers, et al. v. Cnty of Orange*, Case No. 8:18-cv-00155-DOC-JDE, Dkt. #92 (Feb. 13, 2018).

emergency shelter resources, and the Court remains concerned about the County's ability to meet its promise to provide 'appropriate resources' to individuals at the end of their 30-day motel stay." Dkt. #71. In the past three months, "[Orange County] has acted...to place [Plaintiffs] in a highly dangerous situation that they would not otherwise face, threatening health and safety, risking serious exacerbation of their disabilities, and putting their lives at risk." *Id.* at Dkt. #52.

I. Senate Bill 2 Requirements

In an effort to curb the statewide homelessness problems in California, in 2007 the Legislature passed S.B. No. 2 ("SB2"), requiring the Housing Element of a city or county general plan to identify existing and projected housing needs, including adequate sites for emergency shelters.³ SB2 requires local governments to identify "a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit."⁴ Thus, California cities and counties have limited flexibility when determining zoning for emergency shelters, and each local government agency must identify zones that can accommodate at least one year-round emergency shelter.⁵

Further, according to SB2, a local government may not reject or make infeasible a housing development project for low-income households "without a thorough analysis of the economic, social, and environmental effects of the action."⁶ Before disapproving an emergency shelter, a local agency must make written findings, based upon substantial evidence in the record, as to one of the following: (1) the jurisdiction has already met or exceeded the emergency shelter needs identified in the jurisdiction's housing element; (2) the emergency shelter as proposed would have a specific, adverse impact on public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development of the shelter financially infeasible; (3) the denial of the project is required to comply with specific state or federal law; (4) the emergency shelter is proposed on land zoned for agriculture or resource preservation; or (5) the shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as it existed on the date the application was deemed complete.⁷

Any person eligible for residency in an emergency shelter may bring an action to enforce this section of SB2.⁸ In any court action, the burden of proof is on the local agency to show that its Housing Element satisfies SB2's requirements. If a court finds that the local government disapproved a shelter without making appropriate findings, the court must issue an order or judgment compelling compliance within 60 days.⁹

II. The Current Lack of Adequate Shelters in Orange County

³ Chapter 633 S.B. No. 2, amending CA Govt. Code §§ 65582, 65583, and 65589.5. Section 65589.5 is commonly cited as the Housing Accountability Act.

⁴ *Id.*, amending CA Govt. Code §§ 65583 (4)(A).

⁵ *Id.*

⁶ *Id.*, amending CA Govt. Code § 65589.5(b).

⁷ *Id.*, amending CA Govt. Code § 65589.5(d)(1)-(5).

⁸ *Id.*, amending CA Govt. Code § 65589.5(e)(5)(k).

⁹ *Id.*

The County must identify and address the need for more emergency shelters throughout the County, as homelessness cannot be addressed with just one year-round shelter at Kraemer Place, which only services 13 northern County cities. Homelessness affects the entire County, as made clear by the latest 2017 HUD Point-in-Time Count, showing homeless individuals living throughout the County.¹⁰ Moreover, the County's identification of the locations for additional shelters resulted from an ill-conceived plan that set an arbitrary deadline for evicting the County's largest homeless encampments at the Riverbed, even though it had systematically excluded chronically homeless individuals, many with disabilities, to access its services and programs.

The County's failure to adequately implement long-term solutions in the face of political pressure has created a humanitarian crisis. Over the last thirty days, homeless individuals evicted from the Riverbed were hastily placed in motels, given cursory and inadequate health assessments, and then oftentimes placed at the Courtyard or Bridges at Kraemer Place. These two shelters are currently over the County's planned capacity. The County is now resorting to moving additional cots into already overcrowded spaces in attempt to meet one legal standard while violating many others. *See also Ramirez*, at ¶ 137-238 (Plaintiffs' First Amended Complaint detailing the County's violation of fourteen state and federal laws, including violation of the ADA, violations of the FHA, and breach of fiduciary duty).

Bridges at Kraemer Place shelter was initially designed to include 200 beds or cots. The first half of the planned beds and cots had been opened over the last year. As of today, the other half of the shelter is still undergoing massive renovations for the remaining planned 100 beds. However, because of the mass eviction by the County of homeless individuals from the Riverbed, the County has since squeezed approximately 80 additional beds in an area originally designed for 100 beds, thereby almost doubling the number of beds in this limited space. This incredibly cramped and crowded environment has caused many homeless individuals, including those who have mental illnesses, to leave the shelter and go back to the street.

The Courtyard fares no better. The Courtyard now contains 450 cots lined up side by side. The conditions are noisy, crowded and oftentimes dangerous for individuals, especially for individuals who suffer from post-traumatic stress disorder, bipolar, anxiety, depression or schizophrenia. The Court cited Plaintiffs First Amended Complaint in finding that "the Courtyard, with its already crowded conditions, may not be an appropriate placement for many women and persons exiting motels who, as a result of previous trauma and/or mental disabilities, are unable to cope with being in a room with over 400 other men and women." *Ramirez*, Dkt. #71.

The County's lack of appropriate shelters highlights the County's failure to use its vast funding reserves to accommodate the needs of chronically homeless individuals. The County knows that the majority of chronically homeless individuals suffer from disabilities. The County must accommodate these needs through planning for appropriate housing and adequately implementing its programs.

¹⁰ <https://www.211oc.org/images/OC-PIT-Results-Presentation-revised-071217.pdf>, accessed on March 27, 2018.

III. Applicability of SB 2 in Irvine

The City of Irvine is threatening to sue the County to prevent the building of an emergency shelter on County owned land within Irvine's municipal jurisdiction. Per SB2, the City of Irvine may not disapprove an emergency shelter unless it can produce sufficient evidence indicating Irvine has already met its transitional housing requirements, that the shelter would have a significant adverse health and safety impact, or that one of the other requirements of SB2 is met. Here, Irvine's objections to this emergency shelter violate its own housing element, and therefore violates SB2. Thus, a private plaintiff eligible for housing in this emergency shelter would likely have standing to sue Irvine under Government Code section 65598.5(c)(5)(k).

On Tuesday, March 31, 2018 the Irvine City Council voted to direct the City Attorney to explore legal options to prevent the development of emergency homeless shelters along Marine Way in the Great Park.¹¹ If the parcel is zoned for Institutional Use, the location of the proposed shelter is permitted by right.¹² Under state law, and as acknowledged by the Irvine Housing Element, the term permitted by right "means that no discretionary permits are required in order to operate an emergency shelter in these districts."¹³ However, emergency shelters must still comply with the general development standards for each zoning districts and must obtain all relevant building permits.¹⁴

The Irvine Zoning Ordinance does not explicitly forbid individuals from sleeping in tents. However, Zoning Ordinance Section 6-3-585 makes it

[U]nlawful for any person to camp or sleep overnight in a vehicle or otherwise, or to park a camper truck, camper trailer, tent trailer or other vehicle overnight upon any lands or easements owned by the City, except upon such portions thereof as may have been specifically designated and set aside by the City Council or the City Manager for such purposes.¹⁵

Thus, Section 6-3-585 only applies to vehicle camping because the statutory language only references motorized camping vehicles.

Ultimately, Irvine may not obstruct the development of emergency shelters in Institutional Use zoning districts without explicitly meeting the requirements of SB 2. Further, Irvine is unlikely to satisfy this burden since the proposed shelter is consistent with the Irvine Housing Element

¹¹ <https://www.ocregister.com/2018/03/21/three-cities-identified-by-county-as-possible-relocation-sites-for-homeless-now-exploring-legal-options-to-fight-plan/>

¹² SB 2 requires each jurisdiction to "provide at least one zoning category in which emergency shelters can be located without discretionary approval from local government. Emergency shelters are permitted by right in the IBC Multi-Use, General Industrial, Medical and Science, Business Park, and Institutional districts. City of Irvine, Housing Element 2013-2021, C-18, <http://www.cityofirvine.org/community-development/housing-element> (hereafter "Irvine Housing Element").

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Irvine Zoning Ordinance Section 6-3-585

and other zoning requirements. Additionally, it is unlikely that the development of an emergency shelter is inconsistent with applicable state or federal regulations.

Therefore, Irvine could only deny the project under two circumstances. First, Irvine could deny the emergency shelter if the city provides substantive evidence that their Housing Element is in compliance with state law and that they have met or exceeded the emergency shelter needs identified in the housing element. The Irvine Housing Element asserts that Irvine's share of the "regional unsheltered homeless population is estimated to be 68 individuals"¹⁶ And, we are not aware of any emergency homeless shelters within Irvine's municipal boundaries. As such, it is unlikely that Irvine can establish that it provides sufficient shelter space.

Second, it is unlikely that Irvine could establish that an emergency shelter would have a specific adverse impact on public health or safety that could not be mitigated. In sum, Irvine is unlikely to be able to lawfully block the development of the emergency shelter under SB2. Although it is unclear what, if any, permits are required, Irvine may be sued for failing to perform a mandatory duty if the City attempts to block the emergency shelter's development.

IV. SB 2 Enforcement

Under SB2, both cities and counties bear the burden of proving their housing elements satisfy the legal requirements of SB2, namely that a zone or zones have been identified for emergency shelters as permitted uses without conditional use permits. Since the development of a countywide Ten Year Plan to End Homelessness, the County assumed a leadership role for local municipalities, joining 860 cities and counties across the country in working to end homelessness.¹⁷

Orange County has received well over \$153 million dollars in federal Homeless Assistance funding; in addition to around \$700 million it has received as available resources through state and federal funding to address homelessness.¹⁸ Additionally, the County receives federal funds, such as Emergency Shelter Grants, Community Block Development Grant, HOME Investment, Public Housing Authority money, and other federal funds that creates a legally binding affirmative duty to meet its obligations to fulfill the community needs for additional appropriate shelter space. Instead of bowing to political pressure from cities in its jurisdiction, the County should proceed with building out appropriate housing on all viable sites within the County, enforcing SB2 compliance where necessary.

V. Shelters Must Comply with the American with Disabilities Act and Related Laws

Over the last thirty days, many homeless individuals displaced from the Riverbed were placed with inappropriate resources. As a result, many chronically homeless individuals were forced to

¹⁶ Irvine Housing Element at C-82.

¹⁷ Orange County 10 Year Plan to End Homelessness at 7, <http://www.occommunityservices.org/civicax/filebank/blobdload.aspx?BlobID=15449>.

¹⁸ *Id.*; *An Assessment of Homeless Services in Orange County*, County Executive Office, County of Orange, at 42.

return to the streets—only this time without necessary items like tents, blankets and other essential items that they previously used on the Riverbed.

The County must take into account the importance of addressing the mental impairment and physical disabilities of chronically homeless individuals. It must alleviate its state and federal law violations, including but not limited to violations of the ADA and Fair Housing Act, as alleged in the *Ramirez* Plaintiffs' First Amended Complaint. These include violations arising from the overcrowded shelters and its failure to accommodate homeless individuals with disabilities by providing a shelter that will not "trigger [their] mental health symptoms."¹⁹

In light of the significant harm the County's actions are causing our clients and other similarly situated homeless individuals throughout the County, we request an immediate resolution by the County that implements rezoning, development and implementation of emergency shelters and permanent housing solutions (to follow the County's Housing First model as identified in its federal grant plans) that meet both the needs of chronically homeless individuals and the requirements under the ADA, as to not further harm those individuals.

Sincerely,



Lili Graham
Sarah Gregory
Michelle Kim Kotval
Legal Aid Society of Orange County

¹⁹ *Ramirez*, Declaration of Ramirez (18-220, Dkt. 39) at ¶ 10.

**Candice Chung**

4 hours ago ago

Dear God,

Please give wisdom to our community leaders to bring peace to Orange County.

Please give the homeless WILL to stand on their feet and gain. Help the homeless want to receive the help they need to abolish depression, substance abuse, alcoholism etc.

Give them the confidence to open up and seek after their lost families, help them go back to where they belong. Help our communities open up to help them find jobs, hospitals, clinics to heal the hurting.

We do not want to hurt the homeless further by making them feel unwanted anywhere. We are all just afraid. Afraid for our children and afraid that our lives that we worked so hard for will be destroyed overnight. God please give us the courage and your heart to see the homeless with your eyes. Have pity on them and help us help one another.

We are all just humble being that can not even predict what will happen to us one minute from now. Please help us do the right thing. In Jesus Name, Amen.



Lopez, Maria [COB]

From: Robert Atchison <crea8ive@icloud.com>
Sent: Tuesday, March 27, 2018 5:55 PM
To: COB_Response
Subject: Comments for upcoming Board meetings

Greetings,

I am a US Citizen and resident of Orange County.

My co-worker tells me he protested the Irvine homeless shelter. Mainly because he owns rental property nearby and also has another house near the Great Park. Also, the Chinese community with his wife bused in many Chinese to protest on 3/27.

Well, he's on a work Visa and I think my opinion matters more than his because I am a citizen with a right to vote and have permanent legal residence.

I say this is all of our problem and let's allocate as we see fit with setting up Irvine as a shelter.

Unlike my co-worker on a work visa from China, I may not afford much in Irvine, but at least I can vote when election time comes around for my representatives.

Real Americans need our help and they are these homeless. So let's respect our veterans and those who are unable to work with some needed support. Even those with mental health and drug problems need us.

It seems this guy was more concerned about his real estate investment property value against any unsightly homeless American Citizens.

Sent from my iPhone