

From: Dr. & Mrs. Leon Anaradian <grammeyo@roadrunner.com>
Sent: Wednesday, September 04, 2019 8:23 AM
To: Dept - City Council
Subject: Temporary Homeless Shelter Location

Dear members of the Newport Beach City Council,

I have been a resident and homeowner in Newport Beach for 44 years. I recently received a notice that the City Council is considering a temporary homeless shelter at 6302 W. Coast Highway. I am deeply concerned about designating that location for a homeless shelter. I am an elderly person and concerned for my safety and well-being. In addition, I am concerned for the safety and well-being of the neighborhood. There are numerous children residing in the area. In addition, there are numerous tourists who vacation in that area. Although I am concerned about the welfare of the homeless in the community, I do not think that this is an appropriate site. Please consider deeply these heartfelt concerns. Thank you for your understanding and support.

Sincerely,

Yolanda Anaradian

From: Steven Weinstein <sweinstein17@hotmail.com>
Sent: Tuesday, September 03, 2019 10:20 PM
To: Dept - City Council
Subject: Temporary Homeless Shelters

Dear Councilmembers:

I have been a resident of Newport for over 45 years and have watched as homelessness has impacted our city. I applaud the Council for their efforts to comply with government demands.

The Council has three potential sites for a temporary shelter. The only acceptable site is near John Wayne Airport. This will impact the least number of residents and satisfy judicial demands. Cost must not be a factor in this decision since there will be significant economic ripple effects if the site were placed elsewhere.

Thank you for your consideration.

Steven F Weinstein, M.D.
17 Point Loma Drive
Corona Del Mar
Sent from my iPhone

From: Ellen Weinstein <ellencweinstein@gmail.com>
Sent: Tuesday, September 03, 2019 10:40 PM
To: Dept - City Council
Subject: Homeless shelter

I have recently read about the city of Newport Beach's plan to open a homeless shelter within the city's limit. After researching the location of each of the potential sites, it appears to me that there is only one acceptable choice which will not impact local residents which would be in the area of the airport.

I implore you to take advantage of this particular option as the fewest number of Newport Beach people would be affected by opening a shelter in a non-residential area. I appreciate your time and consideration.

Ellen C. Weinstein
17 Point Loma
Corona Del Mar, CA 92625

Sent from my iPhone

From: Sarah Drislane <sarah@drislane.com>
Sent: Tuesday, September 03, 2019 11:57 PM
To: Dept - City Council
Subject: Carden Hall School is not Industrial

Members of the City Council,

The evolving homeless situation is clearly not a simple one. The city has the responsibility to manage the needs and goals of both those with residences in Newport Beach, as well as those living on the streets in the community.

As the board prepares to meet tomorrow to discuss where to build a homeless shelter for our city I would like to express my concern regarding the 825 W. 16th Street location. This site is approximately one block from Carden Hall. It is clearly not an "industrial zone" as described.

I would urge the council to carefully consider the impact of locating a shelter in such proximity to where the most vulnerable members of our community spend the majority of their time.

Sincerely,

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Sarah Drislane

From: Paddy Espley-Jones <paddy@bongate.com>
Sent: Wednesday, September 04, 2019 7:48 AM
To: Dept - City Council
Subject: Proposed Homeless Shelter

I am writing encouraging you to remove 825 West 16th Street in Newport Beach as a proposed site for a homeless shelter. This is not an industrial area but the location of three schools, Carden Hall, pre-k to 8th grade, Pacifica Christian High School and Coastline Community College. I believe young children and students of any age should not be negatively impacted by having a homeless shelter in the immediate area.

Thank you for your consideration.

Paddy Espley-Jones

Paddy Espley-Jones

Email: paddy@bongate.com

Cell: 949-322-9217

From: Gordon Wanlass <gordon.wanlass@gmail.com>
Sent: Tuesday, September 03, 2019 6:14 PM
To: Dept - City Council
Subject: Homeless Shelter Location

I would much rather have the homeless shelter near the airport than the other two locations.

Sincerely,

Gordon Wanlass
Newport Beach resident

From: outlook_6971B386E445A4EA@outlook.com
Sent: Tuesday, September 03, 2019 8:29 PM
To: Dept - City Council
Subject: No Homeless Shelter on Campus Drive

Dear Council Members:

Our company is the owner of the Land Rover/Jaguar Service Center located at 2101 Dove Street, adjacent to the 4200 Campus location under consideration as a temporary City provided homeless shelter. While we understand the homeless issue facing our City is extremely challenging, we oppose such a site at 4200 Campus as it would undoubtedly negatively impact our property and the surrounding commercial businesses in an area of the City that is currently benefitting from substantial reinvestment and redevelopment.

It is our opinion that any City sanctioned homeless shelter should only be in a City owned location with a substantial buffer from residences and commercial businesses to minimize any adverse impacts on residences, businesses and property values or in a regional/shared location with another city that meets these qualifications. Finding a way to manage this complex challenge will require patience, diligence and creativity but the solution should not be at the expense of the business owners and property owners in our great City.

Sincerely,
Mark Perlmutter,
On behalf of The Perlmutter Family Partnership, LP
(owner 2101 Dove Street, Newport Beach)

From: Peter Salveson <peter@clearsunpower.com>
Sent: Tuesday, September 03, 2019 10:10 PM
To: Peter Salveson
Cc: governor@governor.ca.gov; kmorrison@accoc.org; aeliason@ochft.org; Dixon, Diane; Avery, Brad; Duffield, Duffy; Muldoon, Kevin; Herdman, Jeff; Brenner, Joy; O'Neill, William; Dept - City Council; Peter Salveson
Subject: AB 448 & Orange County Housing Finance Trust
Attachments: Assembly Bill No.117.docx

Orange County Homelessness

Orange County homelessness a big problem... **OCHFT** doing it's job?

U.S. Court of Appeals **No.15-35845 "Martin v. City of Boise"** makes criminalization of homelessness "unconstitutional", prohibits municipalities from enforcing loitering and camping violations, and prohibits municipalities from mitigating homelessness without first building homeless shelters. **AB-448**, Daly, "Joint Powers Authorities: Orange County Housing Finance Trust" allocates authority to the OCHFT "for purposes of funding housing specifically assisting the homeless population and persons and families of extremely low, very low, and low income within the County of Orange". **AB-448** reiterates California Government Code, Title 1, Division 7, Chapter 5 - Joint Exercise of Powers, Article 1 - Joint Powers Agreements, Section **6539.5**.

Tax equity affordable housing projects listed on the **OCHFT** website are obviously not designed to accommodate homeless persons... <https://ochft.org/developments> ...Legal definition of "**homeless person**"... <https://www.law.cornell.edu/uscode/text/42/11302>

U.S. Renewable Energy LLC

U.S. Renewable Energy wants to alleviate homelessness in Orange County with a generous offer. U.S. Renewable Energy will execute a power purchase agreement with Orange County to facilitate procurement of clean affordable energy for Orange County communities. U.S. Renewable Energy is dedicated to clean affordable energy, community reinvestment, and environmental restoration. U.S. Renewable Energy wants to keep Orange County beautiful, sustainable, clean and **homeless-free**.

U.S. Renewable Energy will allocate **100%** of its renewable energy project development profits to the development of sustainable, net-zero, "community service facility" (IRC 42) housing projects for **homeless persons** (homeless shelters), to alleviate homelessness in Orange County.

U.S. Renewable Energy will also donate **50%** of project power purchase earnings (\$0.025/kWh) to the operations and management of the housing projects for homeless persons.

A power purchase agreement will provide Orange County with clean affordable energy at a rate equal to \$50 per megawatt-hour, just \$0.05 cents per kilowatt-hour. Our renewable energy projects are 100% financed at no cost to your municipality. Our minimum project size is **1,000** megawatts.

U.S. Renewable Energy coordinates with investment bankers specializing in monetizing federal tax incentives to finance renewable energy projects. Project finance is conducted through J.P. Morgan, Goldman Sachs, Bank of America, Merrill Lynch, and Farmers and Merchants Bank alternative asset portfolios. Alternative asset portfolios invest into deferred tax assets allocated to renewable energy projects, including IRC §48 Energy Credit and IRC §168 Bonus Depreciation. Full

recovery of renewable energy project cost is made possible through monetization of the IRC §48 Energy Credit and IRC §168 Bonus Depreciation federal tax incentives.

Project engineering, procurement, and construction is conducted through Lightsource BP, subsidiary of BP. Lightsource BP has over 5 gigawatts in renewable energy projects under management. Project automation is conducted through Atlas Integrated Systems, with gigawatts in renewable energy projects communications expertise. U.S. Renewable Energy projects are “smart” solar photovoltaic energy storage projects. Our renewable energy projects incorporate solar photovoltaic, battery energy storage, and “smart” supervisory-control and data-acquisition (SCADA) control systems. U.S. Renewable Energy has the entourage to coordinate, finance, engineer, construct, connect, automate, and operate a utility-scale renewable energy project for your municipality.

Community Choice Aggregation

Municipalities considering a U.S. Renewable Energy project are encouraged to explore Community Choice Aggregation (CCA). California **Assembly Bill 117** enables city or county governments to form CCAs. CCAs are local governmental entities that procure electricity on behalf of retail electricity customers. CCAs may be run directly by a city or county government. CCAs are responsible for procuring wholesale electricity on behalf of retail electricity customers. Customers of the CCA’s service area are automatically enrolled into the CCA unless they wish to opt out and continue to buy their electricity from the utility. The customers benefit from affordable rates, local control and cleaner energy.

CCA charges appear as a new section on each customer’s current utility bill. The opt-out structure requires state-level legislation that allows local governmental entities, other than utilities, to be default electricity providers. All other charges are the same, and beneficial programs continue (i.e., CARE, Medical Baseline, and other low-income programs). CCAs purchase clean affordable energy from a renewable energy supplier, and the utility delivers the energy, maintains the lines and bills the customers. Law requires investor-owned utilities to maintain energy transmission, repair distribution networks, provide customer service, and consolidate customer billing.

Community choice aggregation puts control of electricity purchasing and pricing into local hands. CCA agencies are funded through CCA customers paying their electricity bills, not by taxes. By example, a CCA may procure clean energy at a wholesale rate of \$0.05 per kilowatthour, resell the energy at a retail rate of \$0.08 per kilowatthour, and earn a net \$0.03 per kilowatthour energy sold. Local ratepayer money stays local.

Surplus revenues that would normally flow to the investor-owned utility will stay in the community to help fund community issues such as homelessness and low-income housing, waste management and sanitation, schools and public education, parks and recreation, pollution and environmental restoration. The value of redirected revenue over time is millions of dollars. Surplus revenues may also be used to stabilize or lower consumer electric rates, or incentivize residential renewable energy systems.

Attached is California **Assembly Bill 117** authorizing California municipalities to form Community Choice Aggregations (CCA) in order to procure, buy and sell clean affordable renewable energy to retail customers. Please enjoy the following educational video on Community Choice Aggregation.

What Is a CCA – Community Choice Energy Aggregation?

<https://www.youtube.com/watch?v=yfjBB8hiISI>

Peter N. Salvesson
U.S. Renewable Energy LLC

1400 Quail Street, #100
Newport Beach, CA 92660
www.USRenewableEnergy.net
Peter.Salveson@icloud.com
(949) 375 – 8016

Assembly Bill No. 117

CHAPTER 838

An act to amend Sections 218.3, 366, 394, and 394.25 of, and to add Sections 331.1, 366.2, and 381.1 to, the Public Utilities Code, relating to public utilities.

Filed with Secretary of State September 24, 2002. Approved by Governor September 24, 2002.

LEGISLATIVE COUNSEL'S DIGEST

AB 117, Migden. Electrical restructuring: aggregation.

(1) Existing law, relating to transactions between electricity suppliers and end-use customers, authorizes various entities to aggregate electrical loads, and defines an “aggregator” as one of those entities that provides power supply services, including combining the loads of multiple end-use customers and facilitating the sale and purchase of electrical energy, transmission, and other services on behalf of the end-use customers.

This bill would authorize customers to aggregate their electrical loads as members of their local community with community choice aggregators, as defined. The bill would authorize a community choice aggregator to aggregate the electrical load of interested electricity consumers within its boundaries. The bill would require a community choice aggregator to file an implementation plan with the Public Utilities Commission in order for the commission to determine a cost-recovery mechanism to be imposed on the community choice aggregator to prevent a shifting of costs to an electrical corporation’s bundled customers. The bill would require a retail end-use customer electing to purchase power from a community choice aggregator to pay specified amounts for Department of Water Resources costs and electrical corporation costs, as described. The bill would require the commission to prepare and submit to the Legislature, on or before January 1, 2006, a report on community choice aggregation. Because a violation of an order or decision of the commission is a crime, this bill would impose a state-mandated local program.

(2) Existing law requires the Public Utilities Commission to order certain electrical corporations to collect and spend certain funds for public benefit programs, including cost-effective energy efficiency and conservation programs.

The bill would require the commission, not later than July 15, 2003, to establish policies and procedures by which any party, including, but not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs. The bill would require the commission, if a community choice aggregator is not the administrator, to require the administrator of cost-effective energy efficiency and conservation programs to direct a proportional share of its approved energy efficiency program activities for which the community choice aggregator’s customers are eligible, to the community choice aggregator’s territory without regard to customer class. Under the bill, the commission would be authorized to order an adjustment to the share of energy efficiency program activities directed to a community aggregator’s territory if necessary for an equitable and cost-effective allocation of program activities.

(3) Existing law defines “electric service provider” as an entity that offers electrical service to residential and small commercial customers, but not including an electrical corporation and requires these providers to register with the commission.

This bill would instead define “electric service provider” as an entity that offers electrical service to customers within the service territory of an electrical corporation, but not including an electrical corporation or a person employing cogeneration technology or producing electricity from other than conventional power sources, for its own use or the use of its tenants or an adjacent property and not for sale or transmission to others.

This bill would provide that, if a customer of an electric service provider or community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fees imposed on that customer are to be the obligation of the electric service provider or community choice aggregator, except as specified. The bill would require the electric service provider or community choice aggregator, as a condition to its registration, to post a bond or demonstrate insurance sufficient to cover paying those reentry fees.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 218.3 of the Public Utilities Code is amended to read:

218.3.

“Electric Service Provider” means an entity that offers electrical service to customers within the service territory of an electrical corporation, as defined in Section 218, but does not include an entity that offers electrical service solely to service customer load consistent with subdivision (b) of Section 218, and does not include an electrical corporation, as defined in Section 218, or a public agency that offers electrical service to residential and small commercial customers within its jurisdiction, or within the service territory of a local publicly owned electric utility. “Electric Service Provider” includes the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218.

SEC. 2.

Section 331.1 is added to the Public Utilities Code, to read:

331.1.

For purposes of this chapter, “Community Choice Aggregator” means any of the following entities, if that entity is not within the jurisdiction of a local publicly owned electric utility that provided electrical service as of January 1, 2003:

- (a) Any city, county, or city and county whose governing board elects to combine the loads of its residents, businesses, and municipal facilities in a communitywide electricity buyers’ program.
- (b) Any group of cities, counties, or cities and counties whose governing boards have elected to combine the loads of their programs, through the formation of a joint powers agency established under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

SEC. 3.

Section 366 of the Public Utilities Code is amended to read:

366.

(a) The commission shall take actions as needed to facilitate direct transactions between electricity suppliers and end-use customers. Customers shall be entitled to aggregate their electrical loads on a voluntary basis, provided that each customer does so by a positive written declaration. If no positive declaration is made by a customer, that customer shall continue to be served by the existing electrical corporation or its successor in interest, except aggregation by community choice aggregators, accomplished pursuant to Section 366.2.

(b) Aggregation of customer electrical load shall be authorized by the commission for all customer classes, including, but not limited, to small commercial or residential customers. Aggregation may be accomplished by private market aggregators, special districts, or on any other basis made available by market opportunities and agreeable by positive written declaration by individual consumers, except aggregation by community choice aggregators, which shall be accomplished pursuant to Section 366.2.

SEC. 4.

Section 366.2 is added to the Public Utilities Code, to read:

366.2.

(a)(1) Customers shall be entitled to aggregate their electric loads as members of their local community with community choice aggregators.

(a)(2) Customers may aggregate their loads through a public process with community choice aggregators, if each customer is given an opportunity to opt out of their community's aggregation program.

(a)(3) If a customer opts out of a community choice aggregator's program, or has no community choice program available, that customer shall have the right to continue to be served by the existing electrical corporation or its successor in interest.

(b)(1) If a public agency seeks to serve as a community choice aggregator, it shall offer the opportunity to purchase electricity to all residential customers within its jurisdiction.

(c)(1) Notwithstanding Section 366, a community choice aggregator is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts. However, the community choice aggregator may not aggregate electrical load if that load is served by a local publicly owned electric utility, as defined in subdivision (d) of Section 9604. A community choice aggregator may group retail electricity customers to solicit bids, broker, and contract for electricity and energy services for those customers. The community choice aggregator may enter into agreements for services to facilitate the sale and purchase of electricity and other related services. Those service agreements may be entered into by a single city or county, a city and county, or by a group of cities, cities and counties, or counties.

(c)(2) Under community choice aggregation, customer participation may not require a positive written declaration, but all customers shall be informed of their right to opt out of the community choice aggregation program. If no negative declaration is made by a customer, that customer shall be served through the community choice aggregation program.

(c)(3) A community choice aggregator establishing electrical load aggregation pursuant to this section shall develop an implementation plan detailing the process and consequences of aggregation. The implementation plan, and any subsequent changes to it, shall be considered and adopted at a duly noticed public hearing. The implementation plan shall contain all of the following:

(A) An organizational structure of the program, its operations, and its funding.

(B) Ratesetting and other costs to participants.

(C) Provisions for disclosure and due process in setting rates and allocating costs among participants.

(D) The methods for entering and terminating agreements with other entities.

(E) The rights and responsibilities of program participants, including, but not limited to, consumer protection procedures, credit issues, and shutoff procedures.

(F) Termination of the program.

(G) A description of the third parties that will be supplying electricity under the program, including, but not limited to, information about financial, technical, and operational capabilities.

(c)(4) A community choice aggregator establishing electrical load aggregation shall prepare a statement of intent with the implementation plan. Any community choice load aggregation established pursuant to this section shall provide for the following:

(A) Universal access.

(B) Reliability.

(C) Equitable treatment of all classes of customers.

(D) Any requirements established by state law or by the commission concerning aggregated service.

(c)(5) In order to determine the cost-recovery mechanism to be imposed on the community choice aggregator pursuant to subdivisions (d), (e), and (f) that shall be paid by the customers of the community choice aggregator to prevent shifting of costs, the community choice aggregator shall file the implementation plan with the commission, and any other information requested by the commission that the commission determines is necessary to develop the cost-recovery mechanism in subdivisions (d), (e), and (f).

(c)(6) The commission shall notify any electrical corporation serving the customers proposed for aggregation that an implementation plan initiating community choice aggregation has been filed, within 10 days of the filing.

(c)(7) Within 90 days after the community choice aggregator establishing load aggregation files its implementation plan, the commission shall certify that it has received the implementation plan, including any additional information necessary to determine a cost-recovery mechanism. After certification of receipt of the implementation plan and any additional information requested, the commission shall then provide the community choice aggregator with its findings regarding any cost recovery that must be paid by customers of the community choice aggregator to prevent a shifting of costs as provided for in subdivisions (d), (e), and (f).

(c)(8) No entity proposing community choice aggregation shall act to furnish electricity to electricity consumers within its boundaries until the commission determines the cost-recovery that must be paid by the customers of that proposed community choice aggregation program, as provided for in subdivisions (d), (e), and (f). The commission shall designate the earliest possible effective date for implementation of a community choice aggregation program, taking into consideration the impact on any annual procurement plan of the electrical corporation that has been approved by the commission.

(c)(9) All electrical corporations shall cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs. Cooperation shall include providing the entities with appropriate billing and electrical load data, including, but not limited to, data detailing electricity needs and patterns of usage, as determined by the commission, and in accordance with procedures established by the commission. Electrical corporations shall continue to provide all metering, billing, collection, and customer service to retail customers that participate in community choice aggregation programs. Bills sent by the electrical corporation to retail customers shall identify the community choice aggregator as providing the electrical energy component of the bill. The commission shall determine the terms and conditions under which the electrical corporation provides services to community choice aggregators and retail customers.

(c)(10)

(A) A city, county, or city and county that elects to implement a community choice aggregation program within its jurisdiction pursuant to this chapter shall do so by ordinance.

(B) Two or more cities, counties, or cities and counties may participate as a group in a community choice aggregation pursuant to this chapter, through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts an ordinance pursuant to subparagraph (A).

(c)(11) Following adoption of aggregation through the ordinance described in paragraph (10), the program shall allow any retail customer to opt out and to continue to be served as a bundled service customer by the existing electrical corporation, or its successor in interest. Delivery services shall be provided at the same rates, terms, and conditions, as approved by the commission, for community choice aggregation customers and customers that have entered into a direct transaction where applicable, as determined by the commission. Once enrolled in the aggregated entity, any ratepayer that chooses to opt out within 60 days or two billing cycles of the date of enrollment may do so without penalty and shall be entitled to receive default service pursuant to paragraph (3) of subdivision (a). Customers that return to the electrical corporation for procurement services shall be subject to the same terms and conditions as are applicable to other returning direct access customers from the same class, as determined by the commission, as authorized by the commission pursuant to this code or any other provision of law. Any reentry fees to be imposed after the opt-out period specified in this paragraph, shall be approved by the commission and shall reflect the cost of reentry. The commission shall exclude any amounts previously determined and paid pursuant to subdivisions (d), (e), and (f) from the cost of reentry.

(c)(12) Nothing in this section shall be construed as authorizing any city or any community choice retail load aggregator to restrict the ability of retail electricity customers to obtain or receive service from any authorized electric service provider in a manner consistent with law.

(c)(13)

(A) The community choice aggregator shall fully inform participating customers at least twice within two calendar months, or 60 days, in advance of the date of commencing automatic enrollment. Notifications may occur concurrently with billing cycles. Following enrollment, the aggregated entity shall fully inform participating customers for not less than two consecutive billing cycles. Notification may include, but is not limited to, direct mailings to customers, or inserts in water, sewer, or other utility bills. Any notification shall inform customers of both of the following:

(i) That they are to be automatically enrolled and that the customer has the right to opt out of the community choice aggregator without penalty.

(ii) The terms and conditions of the services offered.

(B) The community choice aggregator may request the commission to approve and order the electrical corporation to provide the notification required in subparagraph (A). If the commission orders the electrical corporation to send one or more of the notifications required pursuant to subparagraph (A) in the electrical corporation's normally scheduled monthly billing process, the electrical corporation shall be entitled to recover from the community choice aggregator all reasonable incremental costs it incurs related to the notification or notifications. The electrical corporation shall fully cooperate with the community choice aggregator in determining the feasibility and costs associated with using the electrical corporation's normally scheduled monthly billing process to provide one or more of the notifications required pursuant to subparagraph (A).

(C) Each notification shall also include a mechanism by which a ratepayer may opt out of community choice aggregated service. The opt out may take the form of a self-addressed return postcard indicating the customer's election to remain with, or return to, electrical energy service provided by the electrical corporation, or another straightforward means by which the customer may elect to derive electrical energy service through the electrical corporation providing service in the area.

(c)(14) The community choice aggregator shall register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.

(c)(15) Once the community choice aggregator's contract is signed, the community choice aggregator shall notify the applicable electrical corporation that community choice service will commence within 30 days.

(c)(16) Once notified of a community choice aggregator program, the electrical corporation shall transfer all applicable accounts to the new supplier within a 30-day period from the date of the close of their normally scheduled monthly metering and billing process.

(c)(17) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section, including, but not limited to, all business and information system changes, except for transaction-based costs as described in this paragraph. Any costs not reasonably attributable to a community choice aggregator shall be recovered from ratepayers, as determined by the commission. All reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the commission.

(c)(18) At the request and expense of any community choice aggregator, electrical corporations shall install, maintain and calibrate metering devices at mutually agreeable locations within or adjacent to the community aggregator's political boundaries. The electrical corporation shall read the metering devices and provide the data collected to the community aggregator at the aggregator's expense. To the extent that the community aggregator requests a metering location that would require alteration or modification of a circuit, the electrical corporation shall only be required to alter or modify a circuit if such alteration or modification does not compromise the safety, reliability or operational flexibility of the electrical corporation's facilities. All costs incurred to modify circuits pursuant to this paragraph, shall be born by the community aggregator.

(d)(1) It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the Department of Water Resources' electricity purchase costs, as well as electricity purchase contract obligations incurred as of the effective date of the act adding this section, that are recoverable from electrical corporation customers in commission-approved rates. It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers.

(d)(2) The Legislature finds and declares that this subdivision is consistent with the requirements of Division 27 (commencing with Section 80000) of the Water Code and Section 360.5, and is therefore declaratory of existing law.

(e) A retail end-use customer that purchases electricity from a community choice aggregator pursuant to this section shall pay both of the following:

(e)(1) A charge equivalent to the charges that would otherwise be imposed on the customer by the commission to recover bond related costs pursuant to any agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, which charge shall be payable until any obligations of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code are fully paid or otherwise discharged.

(e)(2) Any additional costs of the Department of Water Resources, equal to the customer's proportionate share of the Department of Water Resources' estimated net unavoidable electricity purchase contract costs as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources.

(f) A retail end-use customer purchasing electricity from a community choice aggregator pursuant to this section shall reimburse the electrical corporation that previously served the customer for all of the following:

(f)(1) The electrical corporation's unrecovered past undercollections for electricity purchases, including any financing costs, attributable to that customer, that the commission lawfully determines may be recovered in rates.

(f)(2) Any additional costs of the electrical corporation recoverable in commission-approved rates, equal to the share of the electrical corporation's estimated net unavoidable electricity purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the electrical corporation.

(g)(1) Any charges imposed pursuant to subdivision (e) shall be the property of the Department of Water Resources. Any charges imposed pursuant to subdivision (f) shall be the property of the electrical corporation. The commission shall establish mechanisms, including agreements with, or orders with respect to, electrical corporations necessary to ensure that charges payable pursuant to this section shall be promptly remitted to the party entitled to payment.

(g)(2) Charges imposed pursuant to subdivisions (d), (e), and (f) shall be nonbypassable.

(h)(1) Notwithstanding Section 80110 of the Water Code, the commission shall authorize community choice aggregation only if the commission imposes a cost-recovery mechanism pursuant to subdivisions (d), (e), (f), and (g). Except as provided by this subdivision, this section shall not alter the suspension by the commission of direct purchases of electricity from alternate providers other than by community choice aggregators, pursuant to Section 80110 of the Water Code.

(i)(1) The commission shall not authorize community choice aggregation until it implements a cost-recovery mechanism, consistent with subdivisions (d), (e), and (f), that is applicable to customers that elected to purchase electricity from an alternate provider between February 1, 2001, and January 1, 2003.

(i)(2) The commission shall not authorize community choice aggregation until it submits a report certifying compliance with paragraph (1) to the Senate Energy, Utilities and Communications Committee, or its successor, and the Assembly Committee on Utilities and Commerce, or its successor.

(i)(3) The commission shall not authorize community choice aggregation until it has adopted rules for implementing community choice aggregation.

(j)(1) The commission shall prepare and submit to the Legislature, on or before January 1, 2006, a report regarding the number of community choice aggregations, the number of customers served by community choice aggregations, third party suppliers to community choice aggregations, compliance with this section, and the overall effectiveness of community choice aggregation programs.

SEC. 5.

Section 381.1 is added to the Public Utilities Code, to read:

381.1.

(a) No later than July 15, 2003, the commission shall establish policies and procedures by which any party, including, but not limited to, a local entity that establishes a community choice aggregation program, may apply to become administrators for cost-effective energy efficiency and conservation programs established pursuant to Section 381. In determining whether to approve an application to become administrators, the commission shall consider the value of program continuity and planning certainty and the value of allowing competitive opportunities for potentially new administrators. The commission shall weigh the benefits of the party's proposed program to ensure that the program meets the following objectives:

(1) Is consistent with the goals of the existing programs established pursuant to Section 381.

(2) Advances the public interest in maximizing cost-effective electricity savings and related benefits.

(3) Accommodates the need for broader statewide or regional programs.

(b) All audit and reporting requirements established by the commission pursuant to Section 381 and other statutes shall apply to the parties chosen as administrators under this section.

(c) If a community choice aggregator is not the administrator of energy efficiency and conservation programs for which its customers are eligible, the commission shall require the administrator of cost-effective energy efficiency and conservation programs to direct a proportional share of its approved energy efficiency program activities for which the community choice aggregator's customers are eligible, to the community choice aggregator's territory without regard to customer class. To the extent that energy efficiency and conservation programs are targeted to specific locations to avoid or defer transmission or distribution system upgrades, the targeted expenditures shall continue irrespective of whether the loads in those locations are served by an aggregator or by an electrical corporation. The commission shall also direct the administrator to work with the community choice aggregator, to provide advance information where appropriate about the likely impacts of energy efficiency programs and to accommodate any unique community program needs by placing more, or less, emphasis on particular approved programs to the extent that these special shifts in emphasis in no way diminish the effectiveness of broader statewide or regional programs. If the community choice aggregator proposes energy efficiency programs other than programs already approved for implementation in its territory, it shall do so under established commission policies and procedures. The commission may order an adjustment to the share of energy efficiency program activities directed to a community aggregator's territory if necessary to ensure an equitable and cost-effective allocation of energy efficiency program activities.

SEC. 6.

Section 394 of the Public Utilities Code is amended to read:

394.

(a) As used in this section, "electric service provider" means an entity that offers electrical service to customers within the service territory of an electrical corporation, but does not include an electrical corporation, as defined in Section 218, does not include an entity that offers electrical service solely to serve customer load consistent with subdivision (b) of Section 218, and does not include a public agency that offers electrical service to residential and small commercial customers within its jurisdiction, or within the service territory of a local publicly owned electric utility. "Electric service provider" includes the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218.

(b) Each electric service provider shall register with the commission. As a precondition to registration, the electric service provider shall provide, under oath, declaration, or affidavit, all of the following information to the commission:

- (1) Legal name and any other names under which the electric service provider is doing business in California.
- (2) Current telephone number.
- (3) Current address.
- (4) Agent for service of process.
- (5) State and date of incorporation, if any.
- (6) Number for a customer contact representative, or other personnel for receiving customer inquiries.
- (7) Brief description of the nature of the service being provided.
- (8) Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed within the 10 years immediately prior to registration, against the company or any owner, partner, officer, or director of the company pursuant to any state or federal consumer protection law or regulation, and of any felony convictions of any kind against the company or any owner, partner, officer, or director of the company. In addition, each electric service provider shall furnish the commission with fingerprints for those owners, partners, officers, and managers of the electric service provider specified by any commission decision applicable to all electric service providers. The commission shall submit completed fingerprint cards to the Department of Justice. Those fingerprints shall be available for use by the Department of Justice and

the Department of Justice may transmit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The commission may use information obtained from a national criminal history record check conducted pursuant to this section to determine an electric service provider's eligibility for registration.

(9) Proof of financial viability. The commission shall develop uniform standards for determining financial viability and shall publish those standards for public comment no later than March 31, 1998. In determining the financial viability of the electric service provider, the commission shall take into account the number of customers the potential registrant expects to serve, the number of kilowatthours of electricity it expects to provide, and any other appropriate criteria to ensure that residential and small commercial customers have adequate recourse in the event of fraud or nonperformance.

(10) Proof of technical and operational ability. The commission shall develop uniform standards for determining technical and operational capacity and shall publish those standards for public comment no later than March 31, 1998.

(c) Any registration filing approved by the commission prior to the effective date of this section which does not comply in all respects with the requirements of subdivision (a) of Section 394 shall nevertheless continue in force and effect so long as within 90 days of the effective date of this section the electric service provider undertakes to supplement its registration filing to the satisfaction of the commission. Any registration that is not supplemented by the required information within the time set forth in this subdivision shall be suspended by the commission and shall not be reinstated until the commission has found the registration to be in full compliance with subdivision (a) of Section 394.

(d) Any public agency offering aggregation services as provided for in Section 366 solely to retail electric customers within its jurisdiction that has registered with the commission prior to the enactment of this section may voluntarily withdraw its registration to the extent that it is exempted from registration under this chapter.

(e) Before reentering the market, electric service providers whose registration has been revoked shall file a formal application with the commission that satisfies the requirements set forth in Section 394.1 and demonstrates the fitness and ability of the electric service provider to comply with all applicable rules of the commission.

(f) Registration with the commission is an exercise of the licensing function of the commission, and does not constitute regulation of the rates or terms and conditions of service offered by electric service providers. Nothing in this part authorizes the commission to regulate the rates or terms and conditions of service offered by electric service providers.

SEC. 7.

Section 394.25 of the Public Utilities Code is amended to read:

394.25.

(a) The commission may enforce the provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against electric service providers as if those electric service providers were public utilities as defined in these code sections. Notwithstanding the above, nothing in this section grants the commission jurisdiction to regulate electric service providers other than as specifically set forth in this part. Electric service providers shall continue to be subject to the provisions of Sections 2111 and 2112. Upon a finding by the commission's executive director that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the electric service provider in writing and notice an expedited hearing on the suspension or revocation of the electric service provider's registration to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(b) An electric service provider may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:

- (1)** Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.
- (2)** Dishonesty, fraud, or deceit with the intent to substantially benefit the electric service provider or its employees, agents, or representatives, or to disadvantage retail electric customers.
- (3)** Where the commission finds that there is evidence that the electric service provider is not financially or operationally capable of providing the offered electric service.
- (4)** The misrepresentation of a material fact by an applicant in obtaining a registration pursuant to Section 394.

(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the electric service provider to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until the time when they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any electric service provider under the service agreement if the serving electric service provider's registration is suspended or revoked.

(d) The commission shall require any electric service provider whose registration is revoked pursuant to paragraph (4) of subdivision (b) to refund all of the customer credit funds that the electric service provider received from the State Energy Resources Conservation and Development Commission pursuant to paragraph (1) of subdivision (e) of Section 383.5. The repayment of these funds shall be in addition to all other penalties and fines appropriately assessed the electric service provider for committing those acts under other provisions of law. All customer credit funds refunded under this subdivision shall be deposited in the Renewable Resource Trust Fund for redistribution by the State Energy Resources Conservation and Development Commission pursuant to Section 383.5. This subdivision may not be construed to apply retroactively.

(e) If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electric corporation shall be the obligation of the electric service provider or a community choice aggregator, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers.

SEC. 8.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

From: Melany Aiken Brundage <melanybrooke@gmail.com>
Sent: Tuesday, September 03, 2019 3:34 PM
To: Dept - City Council
Subject: Proposed Homeless Shelter on 16th Street

To all members of the city council -

I am writing to ask you to stop pursuing the property located at 825 W 16th Street as a homeless shelter, which is located just a few minutes walk from multiple school campuses and hundreds of homes.

We recently bought our home in this area because we were priced out of other parts of the Newport Mesa neighborhood. We are hoping this area adds more business and community services over time and the shelter will deter this growth in our neighborhood and discourage business owners and future home development in this area.

I currently walk down the street of the proposed shelter almost daily with my special needs 12 month old son, and we will no longer feel safe enough to do this if a shelter goes in at this location. Additionally, this area is home to many low income seniors as well as multiple schools at both the K-12 and higher education levels. These residents are the ones who would feel the negative impact of this shelter first. It is absolutely inappropriate to put a shelter so close to so many vulnerable groups.

I strongly encourage you to pursue other locations that will not impact as many community members as the proposed location on 16th Street.

--
Melany Aiken Brundage
714-910-9340
1050 Hampton Drive, Costa Mesa

From: gary belt <garywbelt@gmail.com>
Sent: Tuesday, September 03, 2019 2:44 PM
To: Dept - City Council; Biddle, Jennifer
Subject: Temporary Housing for Homeless

Hi to all, my name is Gary Belt and Our family lives in Newport Shores and we have a few questions in respect to the temporary housing proposed in our area. Not sure if I will make the meeting but maybe these items noted can help in the discussion and consideration of location of proposed temporary housing. These are different concerns that we have read about and I have pulled out of articles on different WEB sites but are still noted concerns of ours:

1. Are we funded by HUD for this project?

Shelters which are funded by the United States Department of Housing and Urban Development (HUD) require residents to have identification.^[59]

2. Is this project for temporary housing or temporary residency?

Most shelters typically expect residents to exit in the morning and occupy themselves elsewhere during the day, returning for an evening meal and to sleep. During times of inclement weather, shelters may provide services outside of their normal hours.^[53] Curfews vary widely but tend to be at an earlier hour than adults typically might return to a home. There are also daytime-only homeless shelters, where the homeless can go when they cannot stay inside at their night time sleeping shelter during the day.

3. Our family and friends think this is an issue, is it (enforcement) an issue in the minds of the council members? How does the city plan to separate addicts, mentally ill from the general population?

Neighborhoods, as well as schools, argue that homeless shelters bring in bad elements to their surroundings. There are additionally far too many shelters that have become nothing but housing facilities; they fail to provide job training or education that would assist the homeless population with gaining their own housing. Housing through homeless shelters offers no lasting solutions, just temporary ones. Drugs and alcohol also tend to surround homeless shelters. Most shelters prohibit residential use of illegal drugs and alcohol, but enforcement is sporadic in many locations. Lastly, no classification system for shelters has been put into effect. There are no mechanisms or facilities to separate those who have mental illnesses from the rest of the shelter population.^[45]

4. We think this whole issue of homelessness is not about housing but mental health and addiction, what say the members of the council?

5. Are we dealing and planning for families or individuals?

After years of promises to end homelessness through 1 year, 5 year, and then 10 year plans with the Housing First approach, the most recent federal plan simply stopped using target dates to predict when homelessness would end. The Housing First approach has cost billions of dollars many homelessness providers consider it to have a negative effect in reducing homelessness.

Perhaps the biggest drawback of the Housing First approach is its impact on dependency. Once given permanent housing, people are less motivated to escape poverty. HUD calls those that live in permanent housing no longer homeless, yet the public still pays for their housing and services – and this removes important housing stock from the market. Requiring a state mandated top-down, one-size-fits all approach on homelessness, and spending billions more on housing is helping fuel the affordable housing crisis.

6. Can't we challenge the State laws in classification of homeless individuals? We could institutionalize people who are now "homeless" to "mentally ill" or "addicts" so they can get treatment.

Opinion from "Solutions for Change Organization"; California's addiction to costly and counter-productive regulations is a recipe for disaster. That's one part of why California leads the nation in the numbers of those experiencing homelessness and bears one quarter of the nation's homeless population. SB 1380 is precisely the wrong strategy for California. Instead of doubling down on failed approaches to homelessness, the state should foster and support multiple strategists that serve different sectors of those experiencing homelessness.

7. Is there discussion with Costa Mesa about the facility in Costa Mesa on Harbor, it use to be a mental health hospital I think, to use it for the homeless?

In addition to the private properties identified for discussion on Wednesday, City-owned properties and regional solutions such as sharing a facility with a neighboring city, remain on the list of possible shelter locations.

We feel that the North end of Newport is being singled out as a “step child” and being taken advantage of. We recently had Mercy House put in housing for Veterans. It seems there are plenty of open spaces for temporary housing to be built in South Newport instead of squeezing in all the housing in the north end of Newport which is wrong.

From: Michael/Elizabeth Kirchner <ekirchner@sbcglobal.net>
Sent: Tuesday, September 03, 2019 2:39 PM
To: Dept - City Council
Subject: Homeless Issues

Dear Mayor Dixon and Councilmembers,

Two days ago, we received the City Managers Special Edition of The Week in Review (Homelessness.) It was very informative and, reassuring to see the City working hard to help with this difficult issue. As such, we decided to write about certain issues that have happened here in our neighborhood. (we also then received a letter from the West Newport Association focusing on the 3 possible sites for a temporary homeless shelter.)

We would like to let you know about the particular issues here – which hopefully can be included in your discussion – and then comment on the proposed shelter sites.

We live in west Newport on the ocean side of PCH, past Orange street. While we do have occasional homeless individuals, the problem here is with people doing drugs in their vehicles, camping over night or for several days and living right in front of our homes. In the past we and the neighbors have called about that and the police have informed them that the City municipal code states no overnight camping/sleeping in cars between 9pm and 9am and that has helped.

Recently however, when we phone, the answer is – we will talk to them but we can't make them move, no shelter for them to go to, etc. To be clear – these individuals have vehicles – they are either passing through to another place, choosing to live in their vans, and/or or don't want to pay to stay in the State Park. It's amazing how many vans/cars show up at 10:10pm after the state beach is closed. The third type of people are possible drug/alcohol victims and/or have mental issues.

These people are not "homeless" – they are (thankfully) not camping on the grass or the beach (usually). They are choosing to live in the vehicles for no cost to them and to be at the beach.

Last week we had a real problem here. A woman in an older van with covers on the windows, boxes on top, etc., parked right in front of our/neighbor's home (3 feet away) and decided to spend the night. She opened the van doors, let her cat out, fed him on the patch of grass, etc.

After several hours we called the police. The officer came out and spoke with her - then called us from his patrol car. He explained he couldn't make her move – not even to Seashore or the parking lot, no City spot for her to go, and listed the rulings mentioned in the City Manager's newsletter. He said the 9-9 rule doesn't apply, and another ruling said the parking enforcement can't help or mark tires. We certainly appreciated his time discussing this and all that he and his partners do, but it seems you have tied their hands to be able to enforce simple commonsense laws.

To continue, the woman did not leave after that, but was gone when we got up in the morning. However, when we went downstairs – she had left a 3 x5 poster sized note in front of our stairs. One side of the poster said:

"By the way – Since you like to be watchers, now my friends will Keep an eye on YOU! How do you like it you heathen demon pathetic breed – worthless...To GOD!"

We have photos of both sides of the poster if you should want to see them.

This is upsetting and concerning – in addition, our neighbor's house next door is temporarily vacant due to a fire. They have 3 small children under the age of 11 who would have been there when all this happened.

Most of these people are not homeless. You do not have to provide housing or shelter. The 9-9 rule should be enforced and enforceable. Tires should be marked, parking enforced. People stay overnight at the street ends and never pay the parking fees – great view of the ocean for free - because the parking meters are never enforced. This is not a campground for people who would rather hang out and live at the beach in their cars. It is a neighborhood with normal homes and families.

Finally, we do have an opinion about the 2 shelters in West Newport. In particular, the shelter at The Pine Knot Motel seems problematic. We realize there are homeless near that area but feel it is too close to the residences in Newport Shores, people cross PCH there to go to beach, there is a hotel and also restaurants there as well. We read about the City of CM putting a large shelter out at the end of the industrial area near the bluff/Monrovia. Perhaps adding the NB shelter there would be a better solution to the Pine Knot location.

Also, there is no mention of the City owned properties that are supposedly under review as well?

We appreciate this is a difficult and multi-faceted issue. However, one part of it could be helped and hopefully remedied by using the existing City ordinances to curtail illegal overnight parking, camping (and accompanying drug use.) We wonder how you might feel if this happened right in front of your home?

We need some answers as to how you plan to deal with this.

Michael and Elizabeth Kirchner

From: elena otto <eotto54@gmail.com>
Sent: Tuesday, September 03, 2019 2:10 PM
To: Dept - City Council
Subject: homeless shelter 825 West 16th Newport Beach

To whom it may concern;

It has come to our attention, there is a proposal for a homeless shelter location at 825 West 16th Street. This is within a one block radius from my child's school (Carden Hall) as well as two other school sites - Pacifica Christian and Coastline Community College. We have safety concerns for the students and staff attending all three campuses: young children walking to and from school & college students walking to and from campus early morning and later in the evening. With the homeless occupying the shelter, they would be extremely close to Carden Hall campus, if not directly in front of the campus throughout the school day. In addition, anyone who is turned away from the shelter will most likely try to find additional shelter (resting areas, restrooms, etc.) on or around Carden Hall campus.

Sincerest Regards,
The Otto Family

From: Sharon Obrien <sharonto13@gmail.com>
Sent: Tuesday, September 03, 2019 1:38 PM
To: Dept - City Council; Leung, Grace
Subject: Oppose Pine Knot hotel as shelter option

Dear Council members and City Manager,

I am writing to express my opposition to the Pine Knot motel option as a homeless shelter location. The corner of Prospect and PCH is the major beach crossing for our neighborhood and is directly in the path that our school children take every day to Newport Elementary. This crosswalk is an integral part of our neighborhood and placing a facility there could be dangerous to the residents of the Shores and out of town hotel guests. When we criticize those who say not in my back yard, we disregard the fact that these shelters have become replacements for the mental health centers that have closed over the past 2 decades and many of the residents are seriously mentally ill or drug addicted.*

Please place this facility in an area that will not put the children (and adults) of Newport Beach at risk.

Sharon O'Brien
424 62nd St.
Newport Beach

*According to the Substance Abuse and Mental Health Services Administration, 20 to 25% of the homeless population in the United States suffers from some form of severe mental illness.

In comparison, only 6% of Americans are severely mentally ill (National Institute of Mental Health).

9/4/2019

Good day Madam Mayor and Members of the City Council.

My name is Charles Klobe. I am a resident of Newport Heights and a board member of the Newport Heights Improvement Association. Today I am speaking as an individual.

I am aware of the high level of frustration the residents feel about the growing homeless issue. I am also aware and thankful that Newport Beach is not a party to various lawsuits brought on behalf of individuals experiencing homelessness. Not many folks appreciate this fact. But some of us do!

The actions that you are considering Wednesday are the best and most appropriate direction to arrive at a humane and legal outcome. I also understand the prudence of considering multiple locations. Many factors help determine the best solution. My only caution is to have the building owner involved in the event of a sublease.

Thank you for your service.

From: gary belt <garywbelt@gmail.com>
Sent: Tuesday, September 03, 2019 1:59 PM
To: Biddle, Jennifer; Dept - City Council
Subject: Temporary Homeless Shelter

Hi to all, my name is Gary Belt and Our family lives in Newport Shores and we have a few questions in respect to the temporary housing proposed in our area. Not sure if I will make the meeting but maybe these items noted can help in the discussion and consideration of location of proposed temporary housing.

From: Alexis Kerns <alexiskerns@gmail.com>
Sent: Tuesday, September 03, 2019 11:52 AM
To: Dept - City Council
Subject: Attention: City Council Special Meeting on Homeless Shelter Location

Hello City Council,

I am writing to you in regard to the Sept. 4, 2019 Special Meeting on the Homeless Shelter Location. One of the sites you are considering as a potential location is of great concern. The site at 825 West 16th Street, Newport Beach is within one block of three schools; an elementary school (Carden Hall), a high school (Pacifica Christian), and a college campus (Coastline Community College).

To summarize the plethora of concerns that arise when considering this location as a homeless shelter, here are the main reasons why the city council should disregard this location as viable:

- The proposed site is described as being within an industrial zone, yet fails to note the THREE schools in the immediate area.
- Our civic duty is to protect the young and innocent — Allowing wandering homeless people who may or may not be under the influence or in a poor state of health and cleanliness near children whom are most vulnerable is irresponsible and dangerous.
- The homeless individuals would migrate toward the homeless site and pass by these schools. Any who are turned away, due to crowding or not meeting the soberness qualifications, would be in the area without shelter. The schools would be enticing alternatives since they would be unoccupied and would offer both space and restroom access.

For the sake of the children, our future, let's do everything we can to keep drugs, dangerous objects, and lifestyles we do not want our children to adopt as far away as possible, so they can continue to focus on education and becoming bright individuals that will change our future in the most positive way.

Much Appreciated,
Alexis

Alexis Marcek
Newport Beach Resident

From: Michelle Berner <mjberner724@gmail.com>
Sent: Tuesday, September 03, 2019 11:17 AM
To: Dept - City Council
Subject: Proposed Homeless Shelters

City Council,

Out of the 3 proposed homeless shelter locations, only ONE makes any sense, and that is the proposed 4200 Campus Drive location.

The other two are WAY too close to each other and in particular, the one at 825 16th Street West, is within a block to a private elementary/junior high schools and a Coastline Community College. My daughter is set to start kindergarten at Carden Hall this year and to put a shelter near 3 schools doesn't take into account those homeless individuals that may get turned away from the shelter, and may venture onto the campuses to use the bathroom facilities, etc., especially when school is not in session. This could pose a huge health problem for children.

The City needs to adequately and fairly distribute the shelters within the City limits and not cluster two within a very close distance from one another so that the homeless populations are concentrated in and around that area, especially when those in the immediate area are kids, students, and tourists. Why is there not one anywhere over by the Back Bay area, or by the San Joaquin Reservoir, or in the Newport Coast area, or in the Newport Heights area, or anywhere South of West Newport??

I live on the peninsula and simply walking to my Duffy last night with my 5 year old daughter 2 minutes from our house, I was concerned as a homeless man was lying in the parking lot on the corner of 32nd Street and Newport Blvd. Something does need to be done, but it cannot disproportionately be pushed over to West Newport, it needs to be dispersed throughout the City!!!!

Why were these three areas chosen and what others were considered?

Michelle

Michelle J. Berner, Esq.

From: Denise Andrews <deniseandrews09@gmail.com>
Sent: Sunday, September 01, 2019 6:09 PM
To: Dept - City Council
Subject: Homeless shelter - proposed site

To Whom it May Concern,

My name is Denise Andrews. I have two children who attend Carden Hall, on Monrovia Ave. It has come to my attention that there are some proposed sites for homeless shelters, one of which is within a block of my children's school. Frankly, I am all for local cities taking action in regards to the homeless, as it is clearly a growing issue. I know that 100%, something must be done. However, in my opinion, it is irresponsible to place these shelters in such close proximity to not just Carden Hall, but also Pacifica High School and Coastline Community College. It would be a huge detriment for our family for a homeless shelter to be built so close to our children's school. I would likely wind up having to change the school that they go to, as this would make me extremely uncomfortable and I would not be able to leave them at school each day with peace of mind that they would be safe there. The school takes all steps suggested by the local PD, but I think we know that they is only so much they can do. There is still a chance of some sort of incident when you are knowingly bringing homeless traffic to the area. I am currently out of the country and unable to attend the up coming meeting on September 4th, which is why I am instead sending this email.

Thank you,

Denise Andrews

From: Broughton, Jack <broughto@chapman.edu>
Sent: Saturday, August 31, 2019 7:22 PM
To: Dept - City Council
Subject: NO to shelter at the pine knot

A homeless shelter at the pine knot is an absurd idea. The west entrance to Newport Beach is shabby enough already.

Jack Broughton
400 Lagonia Street

Sent from my iPhone

From: Brown, David M <david.brown@hoag.org>
Sent: Tuesday, September 03, 2019 9:47 AM
To: Dept - City Council
Subject: homeless shelter location

To whom it may concern,

I has come to my attention that a proposed location for a homeless shelter will be one block from a school, Carden Hall. My daughter attends that school and I would be concerned for her safety and the safety of her classmates if there was a homeless shelter this close to the school. In fact, there are 2 other schools nearby, Pacifica Christian and Coastline Community College. While I share a concern for the welfare of homeless people in our community, I do not believe a shelter near a school is the best choice for a location. Please take my opinion under consideration. I can tell you that many of the other parents of children who attend Carden Hall are unhappy with this proposed location.

Sincerely,

David M Brown, MD

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From: Matt Bukowiecki <mbukowiecki@slaterbuilders.com>
Sent: Tuesday, September 03, 2019 7:58 AM
To: City Clerk's Office
Subject: Temporary Shelter at 6302 W. Coast Hwy, Pine Knott Hotel

I just recently heard the unbelievable news that the City of Newport Beach is thinking of opening a homeless shelter at the corner of PCH and Prospect. My family and I live in this neighborhood and find that this would be a horrible decision. Everyday, my 9 and 13 year old ride their bikes to school or walk to the beach passing this corner. They should not be subjected to having to pass by a group of homeless people living there. I would not feel safe with a group of homeless people living there and would no longer allow my kids to pass by this corner. I also believe it would add to our already horrible crime rate in our neighborhood. We spend a lot of money so we can live near the beach and this will give these homeless people a better location and closure to the beach then my whole neighborhood. I understand the need to help these people get back on their feet but if I am homeless and you give me a place across the street from the beach, I would never want to move on. The shelter needs to be put in INDUSTRIAL AREA not at the entrance to a wonderful family neighborhood. I am still so shocked we got on this list and now have a major issue with the City Councilman and Women that would even allow this to get this far. Please let me know whom else I should reach out to as this is the worst idea ever and everyone needs to know about it. Thank You

From: Donna Clark <hs4lif@gmail.com>
Sent: Saturday, August 31, 2019 9:55 PM
To: Dept - City Council
Subject: Homeless in the Shores

I am writing because I feel that putting a homeless shelter at Pine Knot is a very poor idea, My reasons go back to the 60s when Pine knot was a motel my son was just a little boy who got taken by a homeless man into the PineKnot with a few children right off the bus. None of the parents ever found out what really happened but it had a profound effect on our children, my son was never the same. This neighborhood is very family oriented with lots of children I am sure there would be better places to places for homeless to go then to live on the beach. There are so many people looking for housing including homeless, Many of the homeless are psychotic and don't even belong on the street they need to be in a hospital so that they can be treated for their needs back then it was Fairview State.

I Recently moved back to Newport into the house I grew up in and I would hate to see this neighborhood and the children in this neighborhood to be frightened to walk down the street, is it really worth the risk to put these families in dangers way?

I feel as though I am a reasonable person and this would take me from being reasonable to being irate these children do not deserve what you are talking about doing, and neither do the parents.

I am sure that where the Pineknot is can be used for a more positive action. This is expensive property in this area and does not need to have homeless people walking around opening our gates, peeing, pooping on the sidewalks, stealing from our garages and coming into our homes un-invited and unwanted.

Please help keep our neighborhood safe and allow us to feel as secure as we can without adding more aggravation to USA during the police.

Mrs Donna Clark
949-220-9135
335 Lugonia Street
Newport Beach

Sent from my iPad

From: Diane Cordes <dianecordes2012@earthlink.net>
Sent: Monday, September 02, 2019 9:36 AM
To: Dept - City Council
Subject: September 4 Special Meeting - Homeless Temporary Shelter

Dear Mayor Dixon and Council Members:

I am a resident of Newport Beach and share your concerns about the homeless problem in our community. Providing a temporary shelter is an excellent idea, provided it is well-located, provides appropriate and necessary companion services to help “cure” the problem and not just “band-aid” it, and does not negatively impact the positive attributes of our city and community.

In my opinion, the sites at 6302 W. Coast Highway and 825 16th Street are too close to residential neighborhoods, businesses and schools. I am opposed to locating a homeless temporary shelter at either of these locations. This area already has one of the highest rates of transients and crime in Newport Beach. Further, both of these sites are extremely close to the tourism hub of Balboa Peninsula and the Newport Beach beaches, which is a huge draw for visitors and the dollars they spend in our City. Having a homeless shelter in this area would only serve to increase the transient activity there, which is already significant, and would have a negative impact on the restaurants and tourism in the area.

Of the three locations under consideration, the site at 4200 Campus is the best. It is a more industrialized area and is well away from residential neighborhoods and schools.

Thank you for your consideration.

Diane Cordes
11 Wild Goose Court
Newport Beach, CA 92663

From: D Cornell <cornell_d@cardenhall.net>
Sent: Sunday, September 01, 2019 6:47 PM
To: Dept - City Council
Subject: Homeless Shelter west 16th street

Good Evening,

I am writing you as a parent that is concerned about the proposal to open a homeless shelter on West 16th street. I am a teacher and parent at Carden Hall private school on Monrovia, about a block from your proposed site. I am very concerned that you would consider putting a shelter so close to 3 schools, Carden Hall, Pacifica Christian and Coastline Community college. I understand that there is a need to care for the homeless, but so close to educational facilities is a terrible idea. Please reconsider your plan to open this facility on 16th street.

Best Regards

Don Cornell

Carden Hall School

714-925-4459

Cornell_d@cardenhall.net

From: Darcey Cornell <darceypatten@hotmail.com>
Sent: Sunday, September 01, 2019 7:28 PM
To: Dept - City Council
Subject: Homeless shelter

Good evening,

I am writing in regards to the homeless shelter that you are considering opening on West 16 Street. I have two children starting at Carden Hall in the Fall and am very concerned that it is even an idea to place such a home next to three school! All people need a home, but it would be very poor planning and cause many negative problems to go forward with a homeless shelter next to schools. Please do your due diligence and find a more appropriate location.

Darcey Cornell

Sent from my iPhone

Mulvey, Jennifer

From: Arym Diamond <arymdiamond949@gmail.com>
Sent: Sunday, September 01, 2019 4:30 PM
To: Dept - City Council; Avery, Brad; Leung, Grace
Cc: Neal Shehab; Sean Pence; Robertson Joanna; bambino369tk@yahoo.com; Rappy; Todd Petersen; Jill Hunt; Bob Paal; William Belden Guidero; Tiana and Bob Paal; Chris Walton; Geni Walton; Barry Walshe; Jerry Jacobson; Judd Borggreve; Kelly Post; Posts; Tori Rimlinger; Rene Rimlinger; Deni Mathiesen; mitch@gerhardtgear.com; metcalfdads@yahoo.com; ??Rappette??; sami rappoport; Laila Shehab; Lexie; Matt Wiley; greg@industrialbrokers.net; Rick Cunningham; Pence Julia; Scott Springborn; Gina Lesley; Peter Nourse; Aimee Nourse; Bob Blanchard; joanne blanchard; Mike Fleischli; Eric Aust; Eric Schmidt Const.; Amy Schmidt; Jeff Boals; Brown, Leilani; Sinacori, Mike; Sinacori Kathy; Christopher Roman; Kate Roman; audreyjbryant@gmail.com; clcallander@dslextre.me.com; MOM; robertson danny; Eric Kramer; Molly, Dave & Emily Park; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com; Rene Lyons; stephanieclarkgreen@gmail.com; Laura Keane; wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com; barbaratabberet@yahoo.com; Kelly Wilson; imagebymia@yahoo.com; newportbeacons@gmail.com; Joyce@spaghettibender.com; info@burgerboss.com; info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net
Subject: Re: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!

City of NB,

Allow me to be a little more blunt...

The residents of Newport Shores are sick of being treated as the red-headed stepchildren of Newport Beach. We watched how the city egregiously wasted money on the City Hall Project, then the entire process of Banning Ranch, then the Duplex Hearing where anyone from the Shores that didn't want the property turned into a transition house was somehow "not supporting military vets."

We are now extremely focused, mobilized, and ready to act.

Rather than ask how you got this idea, speculatively complain that you sprung this topic on the agenda a day before a holiday weekend, etc..... I'll just tell you plain and simple: you've poked the bear. The bear in this case, is a large group of parents who love our family neighborhood hood, and will not watch it be destroyed.

- Arym Diamond

On Sun, Sep 1, 2019 at 1:05 PM Sean Pence <sean@auctuslaw.com> wrote:

Thank you, Neal. Well said.

Unfortunately, I will not be able to attend the City Council meeting this week. However, I completely support the comments below. It is truly unbelievable that our elected officials would even consider such a negligent proposal. There are approximately 250 children that live in this small and contained community, and any threat to their health and safety will not be tolerated. As stated below, if the City feels compelled to address the homeless issue (which we all

acknowledge is a growing concern), placing a 'temporary' shelter in a community full of small children is absolutely in appropriate and negligent. I'm sure there are other / more appropriate locations that are not in the middle of a family community.

On behalf of the entire Newport Shores Community, I urge the City to reconsider the placement of this shelter. Should this proposal continue to move forward past this stage in the process, the City should certainly expect formal legal challenges to such a move.

Best regards,

Sean M. Pence

Partner

Auctus Law Partners LLP

425 30th Street, Suite 14

Newport Beach, California 92663

Direct: 714.351.7720

Website: www.auctuslaw.com

From: Neal Shehab [mailto:nealshehab@gmail.com]

Sent: Sunday, September 1, 2019 8:47 AM

To: CityCouncil@newportbeachca.gov; gleung@newportbeachca.gov; Avery, Brad <bavery@newportbeachca.gov>

Cc: Robertson Joanna <robertson.joanna@gmail.com>; bambino369tk@yahoo.com; Rappy <mrappy@gmail.com>;

Todd Petersen <703llc@gmail.com>; Jill Hunt <jillbhunt@sbcglobal.net>; Bob Paal <bobp@bpaproducts.net>; William

Belden Guidero <guiderodesign@att.net>; Tiana and Bob Paal <tbipaal@adelphia.net>; Chris Walton

<chris@pbuilder.com>; Geni Walton <waltongen@mac.com>; Barry Walshe <bwalshe@voitco.com>; Jerry Jacobson

<captjacobson@gmail.com>; Judd Borggreve <judd.borggreve@technologent.com>; Kelly Post

<karlandkellypost@yahoo.com>; Posts <karl@karlpost.com>; arymdiamond949@gmail.com; Tori Rimlinger

<toririmlinger@gmail.com>; Rene Rimlinger <rene.m.rimlinger@mssb.com>; Deni Mathiesen

<denimathiesen@gmail.com>; mitch@gerhardtgear.com; metcalfdds@yahoo.com; ♥Rappette♥

<mishrapp@mac.com>; sami rappoport <samirappoport@gmail.com>; Laila Shehab <lailashehab@icloud.com>; Lexie

<lexieshehab@icloud.com>; Matt Wiley <mwiley@cresa.com>; greg@industrialbrokers.net; Rick Cunningham

<rick@highlandroof.com>; Sean Pence <sean@auctuslaw.com>; Pence Julia <juliapence@yahoo.com>; Scott

Springborn <sspringborn@rpm-mtg.com>; Gina Lesley <glesley@roadrunner.com>; Peter Nourse

<peter.nourse@ctt.com>; Aimee Nourse <anourse@homegroup.com>; Bob Blanchard <bobbythesea@sbcglobal.net>;

joanne blanchard <jojobythesea@sbcglobal.net>; Mike Fleischli <mfleischli11@yahoo.com>; Eric Aust

<aust.architect@gmail.com>; Eric Schmidt Const. <buildcleaner@gmail.com>; Amy Schmidt

<amylsynschmidt@hotmail.com>; Jeff Boals <bigboals@gmail.com>; Leilani & Craig Brown

<LBROWN@newportbeachca.gov>; Sinacori, Mike <msinacori@newportbeachca.gov>; Sinacori Kathy

<ksinacori@roadrunner.com>; Christopher Roman <christophergroman@yahoo.com>; Kate Roman

<kateenr@aol.com>; audreyibryant@gmail.com; clcallander@dslextreme.com; MOM <coveya@mac.com>; robertson

danny <danimalrobertson@gmail.com>; Eric Kramer <eric.kramer@structurepmg.com>; Molly, Dave & Emily Park

<mollypark@yahoo.com>; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester

<gpan31@yahoo.com>; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com;

Rene Lyons <gpanda26@yahoo.com>; stephanieclarkgreen@gmail.com; Laura Keane <laurakeane@roadrunner.com>;

wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com;

barbaratabberet@yahoo.com; Kelly Wilson <kellyryanwilson@yahoo.com>; imagebymia@yahoo.com;
newportbeacons@gmail.com; Joyce@spaghettabender.com; info@burgerboss.com;
info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net

Subject: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!

Dear Newport Beach City Council Members,

We are outraged at the thought of a temporary homeless shelter being located at the Pine Knot Motel location in Newport Shores! One of the most important parts of your jobs as our elected representatives is to keep our communities and especially children safe. This seems to be taking us in the exact opposite direction! After seeing what is occurring in San Clemente, the homeless shelter crisis that is ongoing, we cannot and will not stand by as this happens next in our beautiful and safe neighborhood.

"This is an important step toward providing a short-term solution to addressing the issue of homelessness in our community," said Mayor Pro Tem Will O'Neill, who chairs the City's Homeless Task Force. "

Although stated that this is a temporary solution to the problem, we want to make clear that the infectious diseases being spread throughout the homeless communities currently in Southern California such as Typhus, Tuberculosis, Hepatitis, Syphilis and even the Black Plague are NOT A TEMPORARY PROBLEM, they are a public health crisis!!! The only thing that will be temporary will be the jobs of any government officials who do not voice their loud opposition to this outrageous proposal!!!

Here are some of the quotes from an alarming recent news article, you can read in its entirety here

<https://www.theatlantic.com/health/archive/2019/03/typhus-tuberculosis-medieval-diseases-spreading-homeless/584380/>

Infectious diseases—some that ravaged populations in the Middle Ages—are resurging in California and around the country, and are hitting homeless populations especially hard.

"Our homeless crisis is increasingly becoming a public-health crisis," California Governor Gavin Newsom said in his State of the State speech in February, citing outbreaks of hepatitis A in San Diego County, syphilis in Sonoma County, and typhus in Los Angeles County. "Typhus," he said. "A medieval disease. In California. In 2019."

The diseases spread quickly and widely among people living outside or in shelters, helped along by sidewalks contaminated with human feces, crowded living conditions, weakened immune systems, and limited access to health care.

"The hygiene situation is just horrendous" for people living on the streets, says Glenn Lopez, a physician with St. John's Well Child & Family Center, who treats homeless patients in Los Angeles County. "It becomes just like a Third World environment, where their human feces contaminate the areas where they are eating and sleeping."

Those infectious diseases are not limited to homeless populations, Lopez warns: "Even someone who believes they are protected from these infections [is] not."

At least one Los Angeles city staffer said she contracted typhus in City Hall last fall. And San Diego County officials warned in 2017 that diners at a well-known restaurant were at risk of hepatitis A.

THIS IS JUST ONE OF THE MANY PROBLEMS THAT WILL ARISE IN OUR BACKYARD IF THE PINE KNOT BECOMES A HOMELESS SHELTER! HERE ARE SOME MORE:

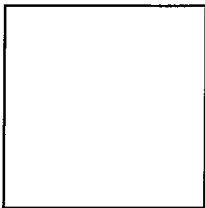
1. increase in CRIME and decrease in SAFETY
2. decrease in property values
3. our funds being diverted away from important issues we as taxpayers need like roads, schools, etc
4. lowered standard of living
5. business community will be affected, this will no longer be a desirable location

We acknowledge of course the crisis at hand and know that a temporary solution elsewhere, is important, however there are locations that are not in the middle of a family friendly community filled with children on their bikes, skating to the beach to surf, feeling safe in their own neighborhood.... there are other locations that are located in industrial neighborhoods and that just makes more sense. We implore all of you to take the Pine Knot off of the list of considered locations as a temporary homeless shelter immediately!

To all those cc'd on this list, please we ask that you forward this email to anyone residing in the city of NEWPORT BEACH, this is not just a NEWPORT SHORES issue, it is a city wide issue. Please also voice your thoughts to our representatives and attend the Newport Beach City Council Special Meeting on Wednesday, September 4, 2019 at 4pm at 100 Civic Center Dr., Newport Beach, 92660. Bring your neighbors, friends and children!!!!!!!!!! See you there!

--

Sincerely,

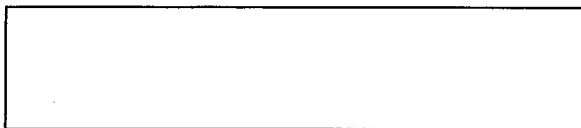


Neal Shehab

World Wide Sales Group

(949) 244-2736 Cell

nealshahab@gmail.com



<https://www.mulehide.com/> <https://www.boralroof.com/> <https://www.oxengineeredproducts.com/>

From: Natalie <nataliefanticola@yahoo.com>
Sent: Tuesday, September 03, 2019 10:26 AM
To: Dept - City Council
Subject: Potential Homeless shelter off 6302 West Coast Highway

Dear City Council,

I have just read an article that you all are meeting tomorrow on the decision of where to open up the Homeless Shelter. I completely understand why but I want you to also hear me out to where. I don't know if any of you are aware of the community located behind the address of 6302 W Coast Hwy, but it is completely a family community. It is the only community that my children can be kids and not be around the party scene and the homeless . I want all the kids in the community to be able to play outside. Walk to the community center, to the beach and even walk to Cappy's Cafe without any fear. I would like to also not be a helicopter mom and worry 24/7 about my kids . And also as a single mom, to be able live in the neighborhood that many transients will be living in and around the community that is literally a block from my home. Please do not consider this address. Also, because it borders Huntington Beach, it will draw in the Huntington Beach transients so it may overcrowd the facility with Newport and Huntington Beach transients. Please consider a location that is more centralized in Newport Beach. Thank you.

Warmly,
Natalie

From: Silvia fleischli <scfleischli@aol.com>
Sent: Sunday, September 01, 2019 8:19 AM
To: Dept - City Council
Cc: Silvia Fleischli
Subject: PINE KNOT HOTEL // NEWPORT SHORES

Good morning,

My name is Silvia Fleischli and I live on Prospect Street and have for 15 years. My husband and I have two small children, and we enjoy our amazing Newport Shores neighborhood of 250 children, our beautiful, upgraded homes, and our quick walks to the beach. We are blessed to call this neighborhood home and have been long time residents of both Corona Del Mar and Newport Beach.

We cross PCH to the beach on a daily basis for work, school, the beach, bike rides and walks and are at the Pine Knot Hotel corner numerous times throughout our day, in addition to all of the neighborhood children.

Given the number of children in our neighborhood, this stat alone should make one wonder why the Pine Knot Hotel would EVER be considered for a temporary homeless shelter. We as a community are outraged and will continue to fight together to insure this location not be considered and taken off the list of chosen sites.

Our prideful Shores community of close knit families is deeply saddened this location would make your list, and hope the correct steps will be made to make the proper decision of removing the Pine Knot Hotel from your options.

Thank you for your time,

The Fleischli Family

From: Brett Florie <bflorie@yahoo.com>
Sent: Monday, September 02, 2019 12:32 PM
To: Dept - City Council
Subject: Homeless site near our school

One of the sites that you are proposing for a homeless shelter, 825 west 16th street, is within a block of our school, Carden Hall. Please this cannot happen! I urge you to consider a different location.

Thank you!

Concerned parents,
Brett and Kenna Florie

Sent from my iPhone

From: Kenna Florie <kenna@thebeeknest.com>
Sent: Monday, September 02, 2019 11:49 AM
To: Dept - City Council
Cc: Brett Florie
Subject: No homeless shelter near our school!

One of the sites that you are proposing for a homeless shelter, 825 west 16th street, is within a block of our school, Carden Hall. Please this cannot happen! I urge you to consider a different location.

Thank you!

Concerned parents,
Brett and Kenna Florie

Mulvey, Jennifer

From: Bill Guidero <guiderodesign@att.net>
Sent: Monday, September 02, 2019 1:12 PM
To: Mike Rappoport
Cc: Rubble; Dept - City Council; Leung, Grace; Avery, Brad; Robertson Joanna; bambino369tk@yahoo.com; Todd Petersen; Jill Hunt; Bob Paal; Tiana and Bob Paal; Chris Walton; Geni Walton; Barry Walshe; Jerry Jacobson; Judd Borggreve; Kelly Post; Posts; arymdiamond949@gmail.com; Tori Rimlinger; Rene Rimlinger; Deni Mathiesen; mitch@gerhardtgear.com; metcalfdds@yahoo.com; ??Rappette??; sami rappoport; Laila Shehab; Lexie; Matt Wiley; greg@industrialbrokers.net; Rick Cunningham; Sean Pence; Pence Julia; Scott Springborn; Gina Lesley; Peter Nourse; Aimee Nourse; Bob Blanchard; joanne blanchard; Mike Fleischli; Eric Aust; Eric Schmidt Const.; Amy Schmidt; Jeff Boals; Brown, Leilani; Sinacori, Mike; Sinacori Kathy; Christopher Roman; Kate Roman; audreyjbryant@gmail.com; clcallander@dslextreme.com; MOM; robertson danny; Eric Kramer; Molly, Dave & Emily Park; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com; Rene Lyons; stephanieclarkgreen@gmail.com; Laura Keane; wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com; barbaratabberet@yahoo.com; Kelly Wilson; imagebymia@yahoo.com; newportbeacons@gmail.com; Joyce@spaghettibender.com; info@burgerboss.com; info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net
Subject: Re: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!

Dear City Counsel members,

Unfortunately, I will be unable to attend the meeting on Wednesday.

I have been a resident for almost 50 years in Newport Beach and lived in Newport Shores for 30 years.

I raised my three children in Newport Shores, they all went to Newport Elementary, Ensign Jr. High and Newport Harbor High School.

We have two gateways into the Shores, Orange Street and Prospect (Pine Knot is on the corner of PCH and Prospect.)

Approximately 50 or more children ride their bikes to school every weekday, that is the corner next to the pine knot is where they wait for the traffic light to cross PCH.

Really!!!!!!

Whoever was on the committee to come up with the three options for the location of the homeless shelter should never be allowed to be on a committee!!!

To publish this in the paper is unbelievable!

The pine Knot (which Saturday night 9-2-2019 a car went through the building at 1:00 AM)

I believe the Pine Knot is on the city low income house list. It should be removed from the list today!

No one has lived in the building since the fire about 2 years ago.

The building needs to be condemned by the city and to be off the list!

Then the owner will have an easier time selling the building and it can be torn down!

We already have the trailer park and the building behind Cappy's on the low income housing list.

I believe that's enough on our side of the city!

Maybe the committee should look on the CDM side to share the city requirement for low income housing. Spread the homes throughout our city and not concentrate only on the West side.

In conclusion, let's really think about selecting a homeless site before our whole community needs to have the extra anxiety worrying about our children and keeping it one of the best places in the city to live.

Thank you

William Guidero

Sent from my iPad

On Sep 1, 2019, at 5:00 PM, Mike Rappoport <mrappy@gmail.com> wrote:

Believe the shores of just lastly
an extreme a 3rd option (existing structure rooms), ???

the option number #1 options long term had been seriously floated in the newspaper Pilot and at city council meetings has been the airport location option where they have a large piece of land the city owns.. that they can complete multiple residences.

Obviously it is a much better
industrial--commercial location vs. residential West NPB.

I'm not sure where this PINE KNOT location-- idea came from, makes no economic sense however most city council's don't care about smart economics as we know!!

keep up the pressure on the city council Herdman & Avery*** council district 2***

Avery rarely visits his district here in West Newport and surely all the other council members never do nor would they only in passing thru on PCH--to HB.!!

Mike Rappoport

PHN:+1-(310) 502-5855 24/7Access

Email Primary: Mrappy@Gmail.com

Residential Owner West NPB--Shores

On Sun, Sep 1, 2019, 8:46 AM Neal Shehab <nealshehab@gmail.com> wrote:

Dear Newport Beach City Council Members,

We are outraged at the thought of a temporary homeless shelter being located at the Pine Knot Motel location in Newport Shores! One of the most important parts of your jobs as our elected representatives is to keep our communities and especially children safe. This seems to be taking us in the exact opposite direction! After seeing what is occurring in San Clemente, the homeless shelter crisis that is ongoing, we cannot and will not stand by as this happens next in our beautiful and safe neighborhood.

“This is an important step toward providing a short-term solution to addressing the issue of homelessness in our community,” said Mayor Pro Tem Will O’Neill, who chairs the City’s Homeless Task Force. “

Although stated that this is a temporary solution to the problem, we want to make clear that the infectious diseases being spread throughout the homeless communities currently in Southern California such as Typhus, Tuberculosis, Hepatitis, Syphilis and even the Black Plague are NOT A TEMPORARY PROBLEM, they are a public health crisis!!! The only thing that will be temporary will be the jobs of any government officials who do not voice their loud opposition to this outrageous proposal!!!

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Infectious diseases—some that ravaged populations in the Middle Ages—are resurging in California and around the country, and are hitting homeless populations especially hard.

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1. increase in CRIME and decrease in SAFETY
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3. our funds being diverted away from important issues we as taxpayers need like roads, schools, etc
4. lowered standard of living
5. business community will be affected, this will no longer be a desirable location

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To all those cc'd on this list, please we ask that you forward this email to anyone residing in the city of NEWPORT BEACH, this is not just a NEWPORT SHORES issue, it is a city wide issue. Please also voice your thoughts to our representatives and attend the Newport Beach City Council Special Meeting on Wednesday, September 4, 2019 at 4pm at 100 Civic Center Dr., Newport Beach, 92660. Bring your neighbors, friends and children!!!!!!!!!! See you there!

--

Sincerely,



Neal Shehab
World Wide Sales Group
(949) 244-2736 Cell
nealshehab@gmail.com



<https://www.mulehide.com/>



<https://www.boralroof.com/>



<https://www.oxengineeredproducts.com/>

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From: Drew Graham <drewgraham@me.com>
Sent: Monday, September 02, 2019 1:29 PM
To: City Clerk's Office
Subject: feedback for Special Meeting Sept 4, 2019

Dear City Council,

I write you in order to express my opposition to the leasing of the homeless shelter at the location proposed at 825 W. 16th Street, Newport Beach, California 92663. As both an alumni of Carden Hall and as a parent of students at the school, we would prefer that you locate the shelter at another location.

Although staff has stated that the proposed site is within an industrial zone, they failed to note that the three schools in the immediate area—Carden Hall, Pacifica Christian, and Coastline Community College.

Homeless individuals would migrate toward the site and pass by these schools. Any who are turned away, due to crowding or not meeting the soberness qualifications, would be in the area without shelter. The schools would be enticing alternatives since they would be unoccupied and would offer both space and restroom access.

Please provide this feedback to those on the council for the meeting.

Thank you,
Drew Graham
949-375-9691 mobile

From: Sylvana Graham <graham_s@cardenhall.net>
Sent: Monday, September 02, 2019 2:47 PM
To: Dept - City Council
Subject: Homeless shelter on 16th street

Hello,

I am a teacher at Carden Hall and I **strongly oppose** the homeless shelter that you are considering on 16th Street.

It is not safe for the staff, parents and especially students at Carden Hall, nor Pacifica Christian High School, nor Coastline Community College.

Please consider the safety of our students.

Thank you,
Sylvana Graham

From: Garren Grieve <garrengrieve@yahoo.com>
Sent: Saturday, August 31, 2019 2:06 PM
To: Dept - City Council; Leung, Grace
Subject: Fwd: Pine Knot

No thank you!

Begin forwarded message:

From: Garren Grieve <garrengrieve@yahoo.com>
Date: August 31, 2019 at 1:21:14 PM PDT
To: Brad@nbdistrict2.com, woneill@newportbeachca.gov
Subject: **Pine Knot**

Gentlemen,

I own and live in my house in Newport Shores two doors down from the former Pine Knot on Prospect with my wife and two young kids, 18 months and 4 years.

Outrageous to hear the city is even considering the Pine Knot Site as a temporary homeless shelter. Many many kids and families in our neighborhood and my next door neighbors and their kids along with our family happen to be the closest.

We along with our entire neighborhood will be at the meeting to voice our opposition and will not tolerate such nonsense. We are all happy the Pine Knot is gone and hope it can be made into something family friendly.

I own and operate 33 restaurants across California and would be happy to work with you to redevelop the site at Pine Knot into a B&B, retail or other family friendly use so we can ensure the site is something everyone in Newport Shores and Newport Beach is proud of.

Thanks for your understanding with this very sensitive subject for our community.

Garren Grieve
218 Prospect Street

From: DJ Hodge <dj@ezmortgages.us>
Sent: Monday, September 02, 2019 10:55 AM
To: Dept - City Council
Subject: Proposed Homeless shelters in Newport Beach---

It has been brought to my attention that there is a proposed Homeless shelter within blocks of Carden Hall, Pacifica Christian, and Coastline Community College.

The fact that this is even on the radar as a possibility is scary.

I, 100% do not support **any homeless shelters within the proximity of any of these schools**. This is scary and even crazy to even have the *thought* that this might be an option. Homeless is a problem I understand, but there are many other solutions besides finding industrial space in the proximity of our children and their well-being. Give the kids a chance and keep them safe.

I urge you all to please figure out a different solution and location to this problem.

Regards,

DJ Hodge
Costa Mesa and Newport Beach Resident and Father

From: Hoiyin Ip <hoiyini@hotmail.com>
Sent: Tuesday, September 03, 2019 8:08 AM
To: City Clerk's Office
Subject: public comment - City Council Special Meeting on Sept. 4 - Homeless
Attachments: council meeting - homeless - comment by Hoiyin Ip.pptx

Good morning! Attached a ppt to go with my public comment. Thanks!

Hoiyin

From: City of Newport Beach News <noreply@newportbeachca.gov>
Sent: Friday, August 30, 2019 11:30 AM
To: hoiyini@hotmail.com <hoiyini@hotmail.com>
Subject: City of Newport Beach: Newport Beach City Council to Hold Special Meeting on Sept. 4 to Consider Locations for Temporary Homeless Shelter

Newport Beach City Council to Hold Special Meeting on Sept. 4 to Consider Locations for Temporary Homeless Shelter

The Newport Beach City Council will convene a Special Meeting on Wednesday, September 4, at 4 p.m., to discuss the initiation of negotiations with three property owners for a temporary homeless shelter to be located in Newport Beach.

Post Date: 08/30/2019 11:00 am

The Newport Beach City Council will convene a Special Meeting on Wednesday, September 4, at 4 p.m., to discuss the initiation of negotiations with three property owners for a temporary homeless shelter to be located in Newport Beach. The City Council will hear public comments and then recess to a Closed Session to consider three properties (see below for link to map).

"This is an important step toward providing a short-term solution to addressing the issue of homelessness in our community," said Mayor Pro Tem Will O'Neill, who chairs the City's Homeless Task Force. "As discussed at our recent Task Force meeting, immediate action is needed and providing temporary shelter beds complies with Ninth Circuit direction while we continue our work on longer-term housing solutions."

In addition to the private properties identified for discussion on Wednesday, City-owned properties and regional solutions such as sharing a facility with a neighboring city, remain on the list of possible shelter locations.

Homelessness is a nationwide crisis that has generated a significant amount of public interest and scrutiny. It came to the forefront locally in 2018 when the federal judge overseeing Orange County's homeless issues blocked cities from enforcing anti-camping laws if they do not have adequate shelter beds or other housing for homeless persons. As a result, many communities without shelter beds are now seeing homeless encampments in public parks, transit stations, beaches, and on other public properties.

Prior to going into Closed Session, the public will have an opportunity to comment on the potential negotiations as well as other issues of interest to the community. As the City continues to take actions to develop or obtain shelter beds, public input will be solicited throughout the process.

While enforcement of laws is a critical and an important part of addressing homelessness, it is one piece of the larger strategy to find long-term solutions to this complex issue. The Homeless Task Force is working to identify the specific needs of the homeless in Newport Beach, develop long-term housing options, and provide resources and tools for residents and businesses, as well as for people experiencing homelessness.

“This is a complex and challenging issue for everyone involved, but it needs to be solved and we’re committing a significant amount of City resources toward short- and long-term solutions,” said Mayor Diane Dixon.

City Council meetings are held in the Council Chambers at 100 Civic Center Drive, Newport Beach, 92660.

[Map of Locations to Be Considered](#)

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DO'S AND DON'TS OF RESPONSIBLE COMPASSION

- DO** answer requests with a firm **NO**
- DO** report illegal activity by calling (949) 770-6011 or if it is life-threatening 9-1-1
- DO** treat homeless with respect
- DO** volunteer your time with local organizations helping homeless, and the needy
- DO** make donations to organizations helping homeless
- DON'T** encourage panhandling by giving money, food, etc.
- DON'T** allow anyone to camp or loiter on your property

SUPPORT HOMELESS SERVICE PROVIDERS WORKING IN OUR COMMUNITY



City of Dana Point
(949) 248-3500

Families Assistance Ministries
www.family-assistance.org

Mercy House

mercyhouse.net

These charities are verified 501(c)(3) non-profits.

For more information please visit bit.ly/dphomeless

From: Janice Jacobs <jjofitt@aol.com>
Sent: Saturday, August 31, 2019 4:13 PM
To: Dept - City Council
Subject: Fwd: Pine Knot Motel as Homeless Shelter.

This is a letter to object the use of West Newport for a Homeless Shelter, especially the Pine Knot Motel. Newport Shores is now a family neighborhood and not safe to having children in such close proximity to the Motel. We have been residents of West Newport for over 40 years and own 2 properties here, 5301 Seashore Dr. and 215 Prospect St. We have watched Newport become a clean and great beach....to have homeless people be that close to the beach would encourage them to camp there and perhaps create more litter and chaos.

There are better locations to provide housing for the homeless, perhaps in an industrial area and away from families. I support the need for such housing but do not feel it is smart to mix the homeless with families and tourists in West Newport.

Janice Jacobs & Mark Dolansky

From: Heidi W. Jamison <heidi_jamison@mac.com>
Sent: Saturday, August 31, 2019 2:08 PM
To: Dept - City Council
Subject: No homeless shelters near schools

Dear City Council,

I just read in the LA Times that you are considering a homeless shelter on West 16th St. In case you are not aware, that is next to a community college, a high school, a pre-k through 8th grade school and near a public elementary school, with many walking to and from school, often without parents/adults. Additionally, caregivers with strollers (including me) routinely walk this area and do not want to encounter unintended consequences of a homeless shelter, including drug paraphernalia, trash, human waste, panhandling, and those in need of professional medical help. Parents and children do not want to feel unsafe. This area has improved dramatically with new housing and cafes in the last five years and is more vibrant with foot traffic then ever before. It is not "industrial." Please do not set back the progress this area has made.

Based on my understanding of the options, an airport location would be more suitable.

Thank you,

Heidi Jamison

Sent from my iPhone

From: Judy Johnson <judyjirvine@hotmail.com>
Sent: Tuesday, September 03, 2019 10:09 AM
To: Dept - City Council
Subject: Homeless Shelter location

Dear Council Members,

PLEASE do NOT consider the 6302 W Coast Hwy location for the Homeless Shelter. People spend millions of dollars to live in this area, and have worked hard all their lives to live near the beach. Please do not insult your residents by choosing this location.

Let us take a lesson from San Clemente and the problems they are having. This premier location will draw additional people/problems to the area. The City has worked long and hard to get Sunset Ridge Park completed. Being so near this location will draw people that will disrupt the families that use it.

Please choose the 4200 Campus location for the shelter.

Thank you,
Judy Johnson
Villa Balboa

From: Christine Kerekes <ckerekes@me.com>
Sent: Monday, September 02, 2019 8:25 AM
To: Dept - City Council
Subject: Concerned parent

Dear Esteemed Newport Beach City Council Member,

I have become aware of something very concerning to my family and me regarding potentially placing homeless shelter(s) alarmingly close to my children's school in Newport Beach, Carden Hall School. The proposed shelter is said to be on 16th St, just a block from their school. This is not an industrial zone whatsoever, as there are actually 3 schools in the close vicinity to the proposed shelter. My concern is that homeless individuals would stray from the site and into our school, and overflow from the shelter could be dangerous to our children. As parents we do not know if these are sober individuals and the threat to our children is just too grave to take the risk.

I hope that you will account for these very real concerns for the safety of our children and reconsider the location of this homeless shelter.

Thank you,

Christine Kerekes

From: Ruth Kobayashi <ruthkobayashi@gmail.com>
Sent: Monday, September 02, 2019 9:58 AM
To: Dept - City Council
Cc: Jacobs, Carol; Leung, Grace
Subject: Homeless Shelter Location

Thank you to our City Council, City Manager & Assistant City Manager and Homeless Task Force members for working so diligently on this challenging problem. We appreciate the outreach and request for community input.

Our family respectfully requests that a temporary shelter is secured away from residential, school, and church locations for the safety and quality of life of our community. This would also gain the most community support. Please consider the Costa Mesa model of “no walk ups”. Their model (similar to the Anaheim shelter in an industrial area) uses a shuttle to bring folks to the shelter to minimize impact on the surrounding area and avoid loitering and all the negative behaviors that go with it.

Finally, we are hoping that the preferred strategy is to partner with another city, like Costa Mesa, who is far ahead of Newport Beach in securing an appropriate location and an experienced site manager. We need the space and they need someone to share the costs of their location on Airway.

Like all of you, we look forward to the enforcement of laws that impact the health and safety of our community.

Keep up the great work!

Sincerely,

The Kobayashi Family

From: Ginger Koontz <koontzginger@gmail.com>
Sent: Saturday, August 31, 2019 3:17 PM
To: Dept - City Council
Subject: Pine Knot as proposed homeless shelter

Dear City Council,

I have been a Newport Shores resident since 1990. We are a highly people-impacted community. We have our families here and in spring and summer an even higher degree of people, our tourists. To think of putting yet even more people here, especially with the extreme challenges these people face is a travesty. Move these people to an industrial area. We already have a low cost housing and a trailer park here that helps people with lesser income maintain their homes. We have no room for more people. Why are Corona Del Mar and especially Newport Coast not being considered as places for shelters? They have much more space there. WE all need to share in this solution. Please remove the Pine Knot from your list. It is too small of a place and would hurt both the homeless as a location as well as the residents who already live in a tightly impacted area. There are no services for them in this area, no market, no medical, nothing but a liquor store and restaurants. Please place them in an industrial area and give them more space. They need more than the Pine Knot can give them!

Respectfully,
Virginia Koontz

From: Dorothy Kraus <dorothykraus@gmail.com>
Sent: Saturday, August 31, 2019 12:26 PM
To: Dept - City Council
Subject: Sept 4 Special Meeting - Homeless Temporary Shelter

Dear Mayor Dixon and Council Members,

We want to commend and thank you for tackling this growing and complex problem in Newport Beach, and for exploring opportunities to partner with our neighbor cities. We are also pleased to know that lease negotiations during closed session at the September 4th special meeting are one step in the process to find temporary shelter for our homeless population, as City Manager Leung stated in her August 30th "Special Edition of The Week in Review":

"This is the first step in evaluating the City's options as we consider private properties, City properties and regional solutions to obtain temporary shelter beds in the short term. There will be opportunities for the public to speak before the closed session. Following City Council direction, extensive community input will be solicited throughout the process and before any final decisions are made."

It concerns us that 2 of the 3 properties are under consideration. It makes no sense that the 16th Street and the West Coast Highway locations are being considered given their close proximity to residential neighborhoods, schools, small businesses, and resident and visitor serving amenities.

We realize that cost is a factor in driving any decision for temporary shelter, but impacts to the surrounding area should be right up there at the top of any selection criteria list. If these 3 properties are all that are being considered, we strongly recommend that you set up this temporary shelter at the Campus Drive location.

Thank you, and thank you for your service to our fair City! We look forward to the extensive community outreach that will take place before any decisions are made.

Sincerely,

Dorothy & Mike Kraus

From: Gina Lesley <glesley@roadrunner.com>
Sent: Saturday, August 31, 2019 12:50 PM
To: Dept - City Council; Leung, Grace
Subject: Pine Knot becoming a Homeless Shelter

I am sure you are receiving a lot of negative comments about making the Pine Knot a homeless shelter. I would like to add mine. I am appalled that you would even consider this. Prospect Street is the main entryway into a neighborhood that has almost 500 homes. The Pine Knot is across the street from a hotel that has many families staying there. It is very near many restaurants and businesses that will suffer. I know this is a case of NIMBY but this is not the area to put establish this.

I was the only person that spoke in favor of the 12 unit veterans apartments behind Cappy's. There were many, many people who spoke against the project but the council did not listen and went ahead with the project. At the first sign of problems with one of the tenants I emailed you. The matter was referred to the Mercy House who said that we can only be concerned with what happens on our property, a far cry from what they were saying to get the apartments approved. I am sure that this homeless shelter will be much worse and that complaints will be more numerous. We will be told not my problem again. PLEASE listen and consider putting this shelter in a place where there are not so many homes and businesses so near.

Gina

Gina Lesley
949-646-9169 home
949-533-7075 cell

From: Cara Marlin <caramarlin@gmail.com>
Sent: Sunday, September 01, 2019 4:37 PM
To: Dept - City Council
Subject: Homeless shelters

Dear City Council Members,

It's my understanding there is a decision being made regarding homeless shelters in NB. Please note that the site at 825 West 16th is within one block of my daughters school Carden Hall. While I feel badly for those that do it have homes, it concerns me having this close to our schools. I'm sure there will still be loitering around the area. In times like these, we need to be vigilant about keeping our schools and children safe. Please consider this when making your decision. Thank you

Sent from my iPad

From: Rhonda Meadows <cmcpaprbks@aol.com>
Sent: Saturday, August 31, 2019 3:49 PM
To: Dept - City Council
Subject: Pine knot homeless shelter

To all City Council Members;

Please take the Pine Knot Motel location out of the equation for the location of a homeless shelter. With two motels and several restaurants in the vicinity it would severely damage their business as well as impact our neighborhood in a negative manner. We have the low cost housing one block away that we deal with and I sincerely hope I don't have to avoid another section of my neighborhood. We pay the same tax rate as other Newport neighborhoods and it would be nice to be treated as such.

Thank you
Rhonda Meadows
9497649412
480 62nd St

Sent from my iPhone

From: Wendy Mitchell <uscwendy7@gmail.com>
Sent: Sunday, September 01, 2019 11:27 AM
To: Dept - City Council
Subject: Homeless Shelter

As a federal attorney on the Opioid crises cases and an advocate of homeless for which I am in Skid Row monthly volunteering my time, I was shocked to learn you are actually trying to put a homeless shelter in Newport Shores. This is prime million dollar beach front property that the city can use for more economical reasons to assist this City, but my primary concern are the dangers to our community.

Homeless people tend to have mental and drug addiction issues. Many are felons of severe crimes released without a home to go to. As to addicts and mentally ill, they cannot think rationally. Many carry disease such as HIV and AIDS. On skid row, there's currently an outbreak of viruses that have not existed in centuries and they believe there is a true danger of Black Plague. I am currently plaintiff counsel on the billion dollar Opioid crises cases on behalf of the states and counties. The information I hold as to the dangers of addicts and their behavior and the crimes they commit are terrifying. They are addicts who seek money to purchase their drug. They will potentially break into homes in this community and our City will be faced with massive lawsuits. I personally will file those against you if this occurs and you are hereby on notice that this is a string inherent danger to your citizens in this community. There are young children and families in the neighborhood and their health and safety are at issue. I have found many homeless do not even want shelter but prefer the nomadic life of living in the actual streets. Therefore they will converge in the neighborhood due to its close proximity of the shelter. The property values in Newport Beach will plunge and I myself and others will file massive lawsuits against the City if this occurs.

There are remote locations not close to young children that would better serve our homeless Americans such as the Irvine location the former Hangar.

The pine Knot has always been a concern to this neighborhood as there were a lot of drug deals going on. With its recent fire, the whole community could have been in danger.

If you seek information about the dangers of addicts and homeless I am happy to share my non -privileged information and knowledge I have gained in my many years working with these people. And I say all of this as an advocate and volunteer of homeless as I have a compassionate heart for them. But this location would be a danger to this community without a doubt.

Thank you for your consideration.

With respect, Wendy Mitchell, Esq.
Sent from my iPhone

From: Cathy Nelson <cathymnelson06@yahoo.com>
Sent: Sunday, September 01, 2019 3:14 PM
To: Dept - City Council
Subject: Proposed Homeless Shelter on 16th St.

Greetings

I am writing to express my concern about a proposed homeless shelter on 16th st. I am a parent of four girls that attend Carden Hall and am strongly opposed to approving a site at this location. There are three schools in the area Carden Hall, Pacifica, and Coastline Community College. This would be a significant safety concern to all students at these schools. The exposure to the culture that the shelter would bring would negatively impact the students, families and schools. Carden Hall has been a positive influence in this community for over 50 years. This would impact a large number of students and families. Please oppose this site out of concern for the hundreds of students and families.

Sincerely
Cathy Nelson
Newport Beach resident

Sent from my iPhone

From: Denys Oberman <dho@obermanassociates.com>
Sent: Monday, September 02, 2019 6:51 PM
To: O'Neill, William; Dept - City Council; Brown, Leilani
Cc: Denys Oberman; Ken & Carmen Rawson; Fred Levine
Subject: City Council Meeting Sept 4 re Temporary Shelter for Homeless Location- COMMENT FOR THE PUBLIC RECORD

Mayor Pro tem and Council Members:

I am writing this letter to provide comment on the Council's session to identify a good location for a Shelter.

We have compassion for those truly unable to help themselves, and acknowledge the complexity of addressing this issue.

At the same time that the City seeks a location for a shelter, it is important to also balance this with consider consideration for the safety of the public, and the integrity of our neighborhoods.

A shelter is best located in an industrial or other similar area, and NOT in proximity to residential neighborhoods, schools, parks including beaches, or nursery/day care facilities .

We request that the City move forward with the proposed Campus Drive location, or other near the Airport.

Thank you for your consideration.

Denys H. Oberman
Resident and Community Stakeholder

.....

NOTE- Please disregard the signature and confidentiality notice preprinted, below.

Mulvey, Jennifer

From: Bob Paal <bobp@bpaproducts.net>
Sent: Monday, September 02, 2019 4:33 PM
To: Dept - City Council
Cc: Neal Shehab; Leung, Grace; Avery, Brad; Robertson Joanna; bambino369tk@yahoo.com; Michael and Michelle Rappoport; Todd Petersen; Jill Hunt; Bill Guidero; Chris Walton; Geni Walton; Barry Walshe; Jerry Jacobson; Judd Borggreve; Kelly Post; Posts; arymdiamond949@gmail.com; Tori Rimlinger; Rene Rimlinger; Deni Mathiesen; mitch@gerhardtgear.com; metcalfdads@yahoo.com; ??Rappette??; sami rappoport; Laila Shehab; Lexie; Matt Wiley; greg@industrialbrokers.net; Rick Cunningham; Sean Pence; Julia Pence; Scott Springborn; Gina Lesley; Peter Nourse; Aimee Nourse; Bob Blanchard; joanne blanchard; Mike Fleischli; Eric Aust; Eric Schmidt Const.; Amy Schmidt; Jeff Boals; Brown, Leilani; Sinacori, Mike; Kathy Sinacori; Christopher Roman; Kate Roman; audreyjbryant@gmail.com; clcallander@dslextreame.com; MOM; robertson danny; Eric Kramer; Molly, Dave & Emily Park; Jack Paal; Steve Puppo; tiana.paal@gmail.com; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com; Rene Lyons; stephanieclarkgreen@gmail.com; Laura Keane; wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com; barbaratabberet@yahoo.com; Kelly Wilson; imagebymia@yahoo.com; newportbeacons@gmail.com; Joyce@spaghettabender.com; info@burgerboss.com; info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net
Subject: Re: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!

Members of the City Council,

I certainly would like to have been a fly on the wall when the committee chose the Pine Knot location as a possible site for a future “temporary” homeless shelter. I bet I could have heard comments like, “it’s West Newport, who cares”, or “it won’t be any worse for the Shores neighborhood than the Pine Knot”. As a resident of the Shores for almost 25 years, and a number of years as president of the NSCA board, I am simply appalled that this location was not immediately shut down when suggested. Yet at the same time I am not that surprised given the track record over those years of the little attention West Newport receives from the City as compared to other parts of the City.

The Newport Shores Community Association consists of more than 400 homes. Living under the roofs of these homes are over 250 children who have two ways to enter and exit the neighborhood - either on Orange Street or Prospect Street. Given the layout of the neighborhood and the direction of our schools, the majority of residents enter and exit on Prospect Street. Have you even been to the site to see the size of the lot on which the Pine Knot sits? Are you aware of the fact that the current building’s exterior wall is less than 3 feet from where our children and (in my case) grandchildren walk on the sidewalk to cross at the light on PCH?

The homeless problem certainly needs addressing by every city and state in this country. I don’t pretend to have a solution to the issue, but I know that placing a shelter at a location where hundreds of children pass every day is simply ludicrous. What were you thinking???

This past Saturday my wife and I took our dog to the “dog park” next to Newport Beach City Hall. Only 4 other dog owners in total showed up during the 1-1/2 hours we were there. As we drove away, I couldn’t help but notice the fact that there was not one person walking through the park or enjoying the bunny statues. I’ve

got a great idea. Let's put the bunnies in storage, and place the "temporary" homeless shelter next to City Hall. Once you accomplish a more permanent solution for the homeless, the bunnies can be put back.

Again, it is appalling that the Pine Knot site was even a consideration. Please use good judgement and remove it from the list immediately.

Regards,

Bob Paal
949-294-1975

Mulvey, Jennifer

From: Sean Pence <sean@auctuslaw.com>
Sent: Sunday, September 01, 2019 1:06 PM
To: Neal Shehab; Dept - City Council; Leung, Grace; Avery, Brad
Cc: Robertson Joanna; bambino369tk@yahoo.com; Rappy; Todd Petersen; Jill Hunt; Bob Paal; William Belden Guidero; Tiana and Bob Paal; Chris Walton; Geni Walton; Barry Walshe; Jerry Jacobson; Judd Borggreve; Kelly Post; Posts; arymdiamond949@gmail.com; Tori Rimlinger; Rene Rimlinger; Deni Mathiesen; mitch@gerhardtgear.com; metcalfdads@yahoo.com; ??Rappette??; sami rappoport; Laila Shehab; Lexie; Matt Wiley; greg@industrialbrokers.net; Rick Cunningham; Pence Julia; Scott Springborn; Gina Lesley; Peter Nourse; Aimee Nourse; Bob Blanchard; joanne blanchard; Mike Fleischli; Eric Aust; Eric Schmidt Const.; Amy Schmidt; Jeff Boals; Brown, Leilani; Sinacori, Mike; Sinacori Kathy; Christopher Roman; Kate Roman; audreyjbryant@gmail.com; clcallander@dslextre.me.com; MOM; robertson danny; Eric Kramer; Molly, Dave & Emily Park; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com; Rene Lyons; stephanieclarkgreen@gmail.com; Laura Keane; wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com; barbaratabberet@yahoo.com; Kelly Wilson; imagebymia@yahoo.com; newportbeacons@gmail.com; Joyce@spaghettibender.com; info@burgerboss.com; info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net; Sean Pence
Subject: RE: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!
Importance: High

Thank you, Neal. Well said.

Unfortunately, I will not be able to attend the City Council meeting this week. However, I completely support the comments below. It is truly unbelievable that our elected officials would even consider such a negligent proposal. There are approximately 250 children that live in this small and contained community, and any threat to their health and safety will not be tolerated. As stated below, if the City feels compelled to address the homeless issue (which we all acknowledge is a growing concern), placing a 'temporary' shelter in a community full of small children is absolutely inappropriate and negligent. I'm sure there are other / more appropriate locations that are not in the middle of a family community.

On behalf of the entire Newport Shores Community, I urge the City to reconsider the placement of this shelter. Should this proposal continue to move forward past this stage in the process, the City should certainly expect formal legal challenges to such a move.

Best regards,

Sean M. Pence
Partner

Auctus Law Partners I.L.P
425 30th Street, Suite 14
Newport Beach, California 92663
Direct: 714.351.7720

Website: www.auctuslaw.com

From: Neal Shehab [mailto:nealshehab@gmail.com]

Sent: Sunday, September 1, 2019 8:47 AM

To: CityCouncil@newportbeachca.gov; gleung@newportbeachca.gov; Avery, Brad

Cc: Robertson Joanna ; bambino369tk@yahoo.com; Rappy ; Todd Petersen ; Jill Hunt ; Bob Paal ; William Belden Guidero ; Tiana and Bob Paal ; Chris Walton ; Geni Walton ; Barry Walshe ; Jerry Jacobson ; Judd Borggreve ; Kelly Post ; Posts ; arymdiamond949@gmail.com; Tori Rimlinger ; Rene Rimlinger ; Deni Mathiesen ; mitch@gerhardtgear.com; metcalfdds@yahoo.com; ♥Rappette♥ ; sami rappoport ; Laila Shehab ; Lexie ; Matt Wiley ; greg@industrialbrokers.net; Rick Cunningham ; Sean Pence ; Pence Julia ; Scott Springborn ; Gina Lesley ; Peter Nourse ; Aimee Nourse ; Bob Blanchard ; joanne blanchard ; Mike Fleischli ; Eric Aust ; Eric Schmidt Const. ; Amy Schmidt ; Jeff Boals ; Leilani & Craig Brown ; Sinacori, Mike ; Sinacori Kathy ; Christopher Roman ; Kate Roman ; audreyjbryant@gmail.com; clcallander@dslextre.me.com; MOM ; robertson danny ; Eric Kramer ; Molly, Dave & Emily Park ; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester ; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com; Rene Lyons ; stephanieclarkgreen@gmail.com; Laura Keane ; wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com; barbaratabberet@yahoo.com; Kelly Wilson ; imagebymia@yahoool.com; newportbeacons@gmail.com; Joyce@spaghettibender.com; info@burgerboss.com; info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net
Subject: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!

Dear Newport Beach City Council Members,

We are outraged at the thought of a temporary homeless shelter being located at the Pine Knot Motel location in Newport Shores! One of the most important parts of your jobs as our elected representatives is to keep our communities and especially children safe. This seems to be taking us in the exact opposite direction! After seeing what is occurring in San Clemente, the homeless shelter crisis that is ongoing, we cannot and will not stand by as this happens next in our beautiful and safe neighborhood.

“This is an important step toward providing a short-term solution to addressing the issue of homelessness in our community,” said Mayor Pro Tem Will O’Neill, who chairs the City’s Homeless Task Force. “

Although stated that this is a temporary solution to the problem, we want to make clear that the infectious diseases being spread throughout the homeless communities currently in Southern California such as Typhus, Tuberculosis, Hepatitis, Syphilis and even the Black Plague are NOT A TEMPORARY PROBLEM, they are a public health crisis!!! The only thing that will be temporary will be the jobs of any government officials who do not voice their loud opposition to this outrageous proposal!!!

Here are some of the quotes from an alarming recent news article, you can read in its entirety here <https://www.theatlantic.com/health/archive/2019/03/typhus-tuberculosis-medieval-diseases-spreading-homeless/584380/>

Infectious diseases—some that ravaged populations in the Middle Ages—are resurging in California and around the country, and are hitting homeless populations especially hard.

“Our homeless crisis is increasingly becoming a public-health crisis,” California Governor Gavin Newsom said in his State of the State speech in February, citing outbreaks of hepatitis A in San Diego County, syphilis in Sonoma County, and typhus in Los Angeles County. “Typhus,” he said. “A medieval disease. In California. In 2019.”

The diseases spread quickly and widely among people living outside or in shelters, helped along by sidewalks contaminated with human feces, crowded living conditions, weakened immune systems, and limited access to health care.

“The hygiene situation is just horrendous” for people living on the streets, says Glenn Lopez, a physician with St. John’s Well Child & Family Center, who treats homeless patients in Los Angeles County. “It becomes just like a Third World environment, where their human feces contaminate the areas where they are eating and sleeping.”

Those infectious diseases are not limited to homeless populations, Lopez warns: “Even someone who believes they are protected from these infections [is] not.”

At least one Los Angeles city staffer said she contracted typhus in City Hall last fall. And San Diego County officials warned in 2017 that diners at a well-known restaurant were at risk of hepatitis A.

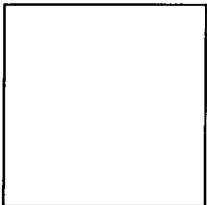
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We acknowledge of course the crisis at hand and know that a temporary solution elsewhere, is important, however there are locations that are not in the middle of a family friendly community filled with children on their bikes, skating to the beach to surf, feeling safe in their own neighborhood.... there are other locations that are located in industrial neighborhoods and that just makes more sense. We implore all of you to take the Pine Knot off of the list of considered locations as a temporary homeless shelter immediately!

To all those cc'd on this list, please we ask that you forward this email to anyone residing in the city of NEWPORT BEACH, this is not just a NEWPORT SHORES issue, it is a city wide issue. Please also voice your thoughts to our representatives and attend the Newport Beach City Council Special Meeting on Wednesday, September 4, 2019 at 4pm at 100 Civic Center Dr., Newport Beach, 92660. Bring your neighbors, friends and children!!!!!!!!!! See you there!

--
Sincerely,



Neal Shehab
World Wide Sales Group
(949) 244-2736 Cell
nealshehab@gmail.com

From: Monica Peterson <monicapeterson23@gmail.com>
Sent: Tuesday, September 03, 2019 6:53 AM
To: Dept - City Council
Subject: New proposed homeless shelter site

To all members of the city council,

I am writing as a concerned parent with three children that attend Carden Hall school. One of your proposed homeless shelter sites on 16th street is very close to our school. While the shelters are important the safety of our community's children should be paramount.

We urge you to select a location better suited for all. Your proposed location near the airport sounds like it may suffice.

Thank you for your time.

Sincerely,
Monica Peterson

From: m <gpblondie@gmail.com>
Sent: Saturday, August 31, 2019 2:22 PM
To: Dept - City Council
Cc: Leung, Grace
Subject: HOMELESS SHELTER at PINE KNOT HOTEL

City Council of Newport Beach,

We are residents and homeowners in Newport Shores with children. We strongly oppose the consideration of ANY HOMELESS SHELTER in a residential area. The magnitude of issues that could arise from this decision would be astronomical. Idea-Tear the hotel down and build a parking lot for the much needed parking crisis here by the beach. Since we can't have permit parking for residents only!!

Pierce Family
Prospect Street

From: Ashley Rader <ashleymrader@gmail.com>
Sent: Tuesday, September 03, 2019 7:50 AM
To: Dept - City Council
Subject: Proposed homeless shelter

Hello,

I am a Newport Beach resident writing to express my concern about the proposed homeless shelter at 825 W. 16th, Newport Beach.

This proposed location is less than one block from Carden Hall (grades Pre-K through 8). It is also close to Pacific Christian High School and Coastline Community College. This presents a safety concern for the young students, educators and school property.

I am hopeful the City will chose a different location.

Thank you,
Ashley Rader

Mulvey, Jennifer

From: Mike Rappoport <mrappy@gmail.com>
Sent: Sunday, September 01, 2019 5:00 PM
To: Rubble
Cc: Dept - City Council; Leung, Grace; Avery, Brad; Robertson Joanna; bambino369tk@yahoo.com; Todd Petersen; Jill Hunt; Bob Paal; William Belden Guidero; Tiana and Bob Paal; Chris Walton; Geni Walton; Barry Walshe; Jerry Jacobson; Judd Borggreve; Kelly Post; Posts; arymdiamond949@gmail.com; Tori Rimlinger; Rene Rimlinger; Deni Mathiesen; mitch@gerhardtgear.com; metcalfdds@yahoo.com; ?? Rappette??; sami rappoport; Laila Shehab; Lexie; Matt Wiley; greg@industrialbrokers.net; Rick Cunningham; Sean Pence; Pence Julia; Scott Springborn; Gina Lesley; Peter Nourse; Aimee Nourse; Bob Blanchard; joanne blanchard; Mike Fleischli; Eric Aust; Eric Schmidt Const.; Amy Schmidt; Jeff Boals; Brown, Leilani; Sinacori, Mike; Sinacori Kathy; Christopher Roman; Kate Roman; audreyjbryant@gmail.com; clcallander@dslextreame.com; MOM; robertson danny; Eric Kramer; Molly, Dave & Emily Park; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com; Rene Lyons; stephanieclarkgreen@gmail.com; Laura Keane; wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com; barbaratabberet@yahoo.com; Kelly Wilson; imagebymia@yahoo.com; newportbeacons@gmail.com; Joyce@spaghettibender.com; info@burgerboss.com; info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net
Subject: Re: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!
Attachments: IMG_20190830_123450.jpg

Believe the shores of just lastly
an extreme a 3rd option (existing structure rooms), ???

the option number #1 options long term had been seriously floated in the newspaper Pilot and at city council meetings has been the
airport location option where they have a large piece of land the city owns.. that they can complete multiple residences.

Obivously it is a much better
industrial--commercial location vs. residential West NPB.

I'm not sure where this PINE KNOT location-- idea came from, makes no economic sense however most city council's don't care about smart economics as we know!!

keep up the pressure on the city council Herdman & Avery*** council district 2***

Avery rarely visits his district here in West Newport and surely all the other council members never do nor would they only in passing thru on PCH--to HB.!!

Mike Rappoport

PHN:+1-(310) 502-5855 24/7Access
Email Primary: Mrappy@Gmail.com
Residential Owner West NPB--Shores

On Sun, Sep 1, 2019, 8:46 AM Neal Shehab <nealshehab@gmail.com> wrote:
Dear Newport Beach City Council Members,

We are outraged at the thought of a temporary homeless shelter being located at the Pine Knot Motel location in Newport Shores! One of the most important parts of your jobs as our elected representatives is to keep our communities and especially children safe. This seems to be taking us in the exact opposite direction! After seeing what is occurring in San Clemente, the homeless shelter crisis that is ongoing, we cannot and will not stand by as this happens next in our beautiful and safe neighborhood.

“This is an important step toward providing a short-term solution to addressing the issue of homelessness in our community,” said Mayor Pro Tem Will O’Neill, who chairs the City’s Homeless Task Force. “

Although stated that this is a temporary solution to the problem, we want to make clear that the infectious diseases being spread throughout the homeless communities currently in Southern California such as Typhus, Tuberculosis, Hepatitis, Syphilis and even the Black Plague are NOT A TEMPORARY PROBLEM, they are a public health crisis!!! The only thing that will be temporary will be the jobs of any government officials who do not voice their loud opposition to this outrageous proposal!!!

Here are some of the quotes from an alarming recent news article, you can read in its entirety here
<https://www.theatlantic.com/health/archive/2019/03/typhus-tuberculosis-medieval-diseases-spreading-homeless/584380/>

Infectious diseases—some that ravaged populations in the Middle Ages—are resurging in California and around the country, and are hitting homeless populations especially hard.

“Our homeless crisis is increasingly becoming a public-health crisis,” California Governor Gavin Newsom said in his State of the State speech in February, citing outbreaks of hepatitis A in San Diego County, syphilis in Sonoma County, and typhus in Los Angeles County. “Typhus,” he said. “A medieval disease. In California. In 2019.”

The diseases spread quickly and widely among people living outside or in shelters, helped along by sidewalks contaminated with human feces, crowded living conditions, weakened immune systems, and limited access to health care.

“The hygiene situation is just horrendous” for people living on the streets, says Glenn Lopez, a physician with St. John’s Well Child & Family Center, who treats homeless patients in Los Angeles County. “It becomes just like a Third World environment, where their human feces contaminate the areas where they are eating and sleeping.”

Those infectious diseases are not limited to homeless populations, Lopez warns: “Even someone who believes they are protected from these infections [is] not.”

At least one Los Angeles city staffer said she contracted typhus in City Hall last fall. And San Diego County officials warned in 2017 that diners at a well-known restaurant were at risk of hepatitis A.

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We acknowledge of course the crisis at hand and know that a temporary solution elsewhere, is important, however there are locations that are not in the middle of a family friendly community filled with children on their bikes, skating to the beach to surf, feeling safe in their own neighborhood.... there are other locations that are located in industrial neighborhoods and that just makes more sense. We implore all of you to take the Pine Knot off of the list of considered locations as a temporary homeless shelter immediately!

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--

Sincerely,



Neal Shehab
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<https://www.mulehide.com/>



<https://www.boralroof.com/>



<https://www.oxengineeredproducts.com/>

Locations to be considered for
a Temporary Homeless Shelter



● Location to be Considered

From: Howard Rich <howardrich@roadrunner.com>
Sent: Saturday, August 31, 2019 3:08 PM
To: Dept - City Council
Subject: FW: Pine Knot Hotel

From: Howard Rich [mailto:howardrich@roadrunner.com]
Sent: Saturday, August 31, 2019 2:05 PM
To: 'Council@newportbeachca.gov'
Subject: Pine Knot Hotel

A couple of years ago the City Council, with very short notice to the Newport Shores Community, approved the conversion of a regular 8 unit apartment building located behind Cappy's restaurant into a shelter for homeless veterans. While I realize that the homeless issue is a serious problem that communities need to address I also feel that the burden should be shared throughout the city and not concentrated in any one community. The West Newport community has done its share of addressing the problem with the veterans shelter so now another section of our city should do their part.

I'm shocked that the Pine Knot Hotel location is even being considered.....(and again with very little notice to the community)..... Please locate the next shelter elsewhere.

Best Regards
Howard Rich
Newport Shores Resident

From: Joanna Robertson <robertson.joanna@gmail.com>
Sent: Sunday, September 01, 2019 1:03 PM
To: Dept - City Council; Leung, Grace; Avery, Brad
Subject: NO Homeless Shelter in Newport Shores

Newport Beach City Council Members,

This is outrageous!

Creating a homeless shelter at the Pine Knot, where there's a large community of families and businesses is certainly not the best solution! Not to mention the location is across the street from our beautiful beach and on PCH!

We have hundreds of children in our neighborhood who will no longer feel safe. Our children cross the street right at that exact corner on Prospect every morning to ride their bikes to school at Newport Elementary.

OTHER PROBLEMS WILL ARISE IN OUR BACKYARD IF THE PINE KNOT BECOMES A HOMELESS SHELTER!

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3. our funds being diverted away from important issues we as taxpayers need like roads, schools, etc
4. lowered standard of living
5. business community will be affected, this will no longer be a desirable location

Look forward to seeing you at the meeting on Tuesday!

Best,
Joanna Robertson
C: 949-395-9950

Please excuse any typos and abbreviated message, as this is sent from my iPhone.

From: Brooke Sanita <sanita.brooke@gmail.com>
Sent: Saturday, August 31, 2019 7:34 PM
To: Dept - City Council
Subject: NO Homeless Shelter On PCH near neighborhoods and a SCHOOL

Dear council members:

I have been a resident of Newport Beach for 39 years. I was born and raised in the Port Streets, lived with my husband and our children in Dover Shores for 8 years and now reside with our young kids on Lido Isle. After reviewing the proposed homeless shelters I adamantly oppose the location in the former Pine Motel. This location is not a viable location for many reasons. First of all, many families live right behind that location in Newport Shores. This is unsafe and will ruin their community, a community that has been making a revival recently. Second, this location is way too close Newport Elementary, where my children and other children attend school on an unenclosed playground. Lastly, this will negatively impact our property values. We spend almost \$30,000 a year on property taxes, we should have more of a say on the location of this shelter. I don't see any shelter over on the other side of the bay by the Port Streets, Fashion Island, Irvine Terrace, Spyglass, Newport Coast, etc., etc. I know that Will O'Neil lives in Newport Coast, why not put one up there at the community center?

This location has to be moved to a more industrial location farther away from families and residents, end of story.

Brooke Sanita
Sent from my iPhone

Mulvey, Jennifer

From: Neal Shehab <nealshehab@gmail.com>
Sent: Sunday, September 01, 2019 8:47 AM
To: Dept - City Council; Leung, Grace; Avery, Brad
Cc: Robertson Joanna; bambino369tk@yahoo.com; Rappy; Todd Petersen; Jill Hunt; Bob Paal; William Belden Guidero; Tiana and Bob Paal; Chris Walton; Geni Walton; Barry Walshe; Jerry Jacobson; Judd Borggreve; Kelly Post; Posts; arymdiamond949@gmail.com; Tori Rimlinger; Rene Rimlinger; Deni Mathiesen; mitch@gerhardtgear.com; metcalfdads@yahoo.com; ??Rappette??; sami rappoport; Laila Shehab; Lexie; Matt Wiley; greg@industrialbrokers.net; Rick Cunningham; Sean Pence; Pence Julia; Scott Springborn; Gina Lesley; Peter Nourse; Aimee Nourse; Bob Blanchard; joanne blanchard; Mike Fleischli; Eric Aust; Eric Schmidt Const.; Amy Schmidt; Jeff Boals; Brown, Leilani; Sinacori, Mike; Sinacori Kathy; Christopher Roman; Kate Roman; audreyjbryant@gmail.com; clcallander@dslextreame.com; MOM; robertson danny; Eric Kramer; Molly, Dave & Emily Park; denabbaron@yahoo.com; arussel7@ix.netcom.com; Geraldine Kester; meggan.eves@skyworksinc.com; helen.rotherham@roadrunner.com; barbiecoder@mac.com; Rene Lyons; stephanieclarkgreen@gmail.com; Laura Keane; wmaddocks@roadrunner.com; wendy@nicolaglazer.com; jchris44@msn.com; steve.sealers@gmail.com; barbaratabberet@yahoo.com; Kelly Wilson; imagebymia@yahoo.com; newportbeacons@gmail.com; Joyce@spaghettibender.com; info@burgerboss.com; info@cucinaalessarestaurants.com; shellywalshe@gmail.com; ssiciliano@earthlink.net
Subject: NO HOMELESS SHELTER IN NEWPORT BEACH - NEWPORT SHORES!!!

Dear Newport Beach City Council Members,

We are outraged at the thought of a temporary homeless shelter being located at the Pine Knot Motel location in Newport Shores! One of the most important parts of your jobs as our elected representatives is to keep our communities and especially children safe. This seems to be taking us in the exact opposite direction! After seeing what is occurring in San Clemente, the homeless shelter crisis that is ongoing, we cannot and will not stand by as this happens next in our beautiful and safe neighborhood.

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County, syphilis in Sonoma County, and typhus in Los Angeles County. "Typhus," he said. "A medieval disease. In California. In 2019."

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--

Sincerely,



Neal Shehab
World Wide Sales Group
(949) 244-2736 Cell
nealshehab@gmail.com

From: Scott Siciliano <ssiciliano@earthlink.net>
Sent: Saturday, August 31, 2019 1:00 PM
To: Dept - City Council; Leung, Grace
Subject: Pine Knot Hotel Homeless Shelter

To whom it may concern.

I am writing this to plead with you to remove the Pine Knot location on the corner of Prospect Street and PCH as an option for the Newport Beach Homeless shelter!

I realize, and certainly see in my immediate surroundings, that the homeless issue in Newport Beach has reached record and crisis levels. I too want to get them off the street.

As I hope you are aware, the Pine Knot is at one of the entrances to our community of homes and families, consisting of hundreds of children. Many of whom cross that street in the mornings to ride their bikes to school, walk to beach, etc.

Not the best place for numerous homeless individuals to be gathering on a daily basis, especially knowing that many of them are pedophiles, drug (and child) abusers, alcoholics etc.

It seems the location(s) inland in a more industrial area makes more sense. And which are closer to soup kitchens, parks, places to look for work, etc.

I hope you will hear the plea from all who live here and remove this location from consideration.

Thank you!

Sincerely,

Scott Siciliano

234 Orange St.
Newport Beach

From: Alan Smith <allaboardletsgo@yahoo.com>
Sent: Monday, September 02, 2019 2:51 PM
To: Leung, Grace; Dept - City Council
Subject: Pine Knot - Homeless Shelter

To the Newport City Manager Grace Leung and City Council Members:

As a 30-year Newport resident, I was extremely livid when I was told this weekend that you are about to turn the Pine Knot into a homeless shelter. This is the most irresponsible and negligent proposal I have ever heard! Every morning on Prospect and Coast Highway, I see a traffic jam of school kids on bikes. Furthermore, your 16th St. location is equally as irresponsible because it is located very near schools and residences.

Who came up with this insane idea? As a former CEO of a large corporation, I would have fired anyone on the spot who proposed such a hazardous idea which is a lawsuit waiting to happen.

I understand the need to deal with the homeless problem, but shifting it from the bus depot to West Newport residential neighborhoods is not a viable solution. Kicking the can down the road by "warehousing" the problem is not going to solve it. You need to be communicating with our representatives in Sacramento need to find a permanent solution which they have obviously not done. We don't want to become another downtown Los Angeles.

Alan Smith

allaboardletsgo@yahoo.com

949-254-0909

From: Joan Steen <jsteen100@yahoo.com>
Sent: Monday, September 02, 2019 2:02 PM
To: Leung, Grace; Dept - City Council
Subject: Pine Knot Motel Red-tagged Today

For anyone who hasn't yet heard about this auto accident, I walked past the Pine Knot today after the City red-tagged it at 9:30 am. A car apparently crashed through the entire building into the courtyard on the other side. If nothing else, this should take the Pine Knot out of consideration. I urge you to now consider rezoning this parcel so it can be sold and something viable can be built on it or at least used as a parking lot which is desperately needed in this area.

<https://www.ocregister.com/2019/09/02/suspected-stolen-bmw-crashes-into-newport-beach-building/>

Regards,

Joan Steen

From: Joan Steen [mailto:jsteen100@yahoo.com]
Sent: Sunday, September 01, 2019 12:16 PM
To: 'gleung@newportbeachca.gov'; 'citycouncil@newportbeachca.gov'
Subject: Homeless Shelter - Pine Knot Motel

City Manager Grace Leung and all City Council Members:

As a 31-year Newport Shores homeowner and resident, I was extremely shocked and angry when I heard last Friday that you are seriously considering turning the Pine Knot Motel into a homeless shelter. I understand the need to find a solution to the homeless problem given the California state laws, but in all good conscience, how can you possibly consider this in any neighborhood full of small children??? Everyone I have spoken to in Newport Shores in the last two days is extremely outraged about this. Children walk and ride their bikes past the intersection of Prospect and Coast Highway daily. What are you thinking?? Or are you thinking at all??

In addition, the small area of Newport Shores already has two low-income housing locations: the trailer park and the apartment complex for veterans. The association between the homeless population and drugs and crime is well documented. **Don't** turn our residential neighborhoods into San Francisco or downtown Los Angeles. The City seems to have enough funds to spend our taxpayer dollars on things like statues in the Civic Center park which very few people care about. Why aren't you using such funds instead to solve a problem like this that everyone cares about?

I ask each of you and anyone else on the City staff who will be involved in this decision to answer two questions if you decide to place a homeless shelter in a residential neighborhood full of children:

1. **Will you personally take responsibility for any harm – including rape or worse – done to any child as a result of this?**
2. **What you personally say to the parents if any child is harmed?**

I plead with you to think long and hard about this before making this decision.

If you proceed to put a homeless shelter in a residential neighborhood full of children, I can pretty much guarantee that residents will respond accordingly at the next election.

Regards,

Joan Steen
Newport Shores resident

Rieff, Kim

From: Tang, Linh
Sent: Tuesday, September 03, 2019 8:43 AM
To: Rieff, Kim
Cc: Brown, Leilani
Subject: FW: Community Comment in regards to City Council Special Meeting

Hello Kim,
As discussed, please add this public comment to the batch you received over the weekend.
Thanks Kim.

--Linh

From: Franceschini, Melanie
Sent: Friday, August 30, 2019 4:50 PM
To: Brown, Leilani <LBrown@newportbeachca.gov>; Mulvey, Jennifer <JMulvey@newportbeachca.gov>; Tang, Linh <ltang@newportbeachca.gov>
Subject: Community Comment in regards to City Council Special Meeting

Per Carol, please include in the material received from the public.

Mulvey, Jennifer

From: Harp, Aaron
Sent: Tuesday, September 03, 2019 6:51 AM
To: Brown, Leilani
Subject: FW: Temporary Homeless Shelters

From: dave@earsi.com <dave@earsi.com>
Sent: Saturday, August 31, 2019 1:09 PM
To: Dixon, Diane <ddixon@newportbeachca.gov>
Cc: Harp, Aaron <aharp@newportbeachca.gov>
Subject: Temporary Homeless Shelters

Mayor Dixon,

Many of my neighbors have expressed concerns to me over the potential siting of a temporary homeless shelter in Newport Shores. It is clear to me the general population is unaware of vital information needed to make optimal comments to the City Council.

Providing life sustaining options for the homeless through the provision of one or more temporary homeless shelters will allow the City greater control over the problems caused to the public by the homeless. The question is how best can the City use its authority to optimize its control given the 9th Circuit and other court rulings.

I request that prior to accepting public comment at the Special City Council meeting on September 4th, the City Council provide a comprehensive overview of the situation; explaining the ramifications of the 9th Circuit and other court rulings; their effect on City Ordinances and enforcement activities; what the City's strategy is moving forward, including the benefits to the City by providing one or more temporary homeless shelters. Finally, it would be helpful, as well as transparent to lay out the City Council's site selection criteria and its process moving forward, prior to entering into closed session deliberations.

Thank you,

Dave Tanner
223 62nd Street
Newport Beach, CA 92663

From: Barbara Thibault <bvthibault@aol.com>
Sent: Saturday, August 31, 2019 7:56 PM
To: Dept - City Council
Subject: Homeless possibilities

I would like to suggest that you do not choose the Pine Knot as the new homeless shelter. Besides the fact that this site is too small and has no parking, we are all ready doing our part for the homeless with the addition of the apartments behind Cappy's.

We also have the Santa Ana River trailer park and the module houses close by the trailer park. All of these additions have been allowed by the City in an attempt to fulfill federal stipulations without impacting other neighborhoods in Newport Beach.

It is time for other neighborhoods to share in these social obligations. Thank you.

From: Wei C. Tsao <weichuntsao@gmail.com>
Sent: Tuesday, September 03, 2019 8:22 AM
To: Dept - City Council
Subject: 9/4/19 CC Special Meeting

Dear Newport Beach City Council,

My name is Wei, and I live at 6235 Residencia, Newport Beach, CA 92660. I am writing to urge you to **ELIMINATE** one of the potential sites for the homeless shelter.

825 W. 16th Street, Newport Beach, CA 92663 is within merely "one block" from my daughter's school, Carden Hall. While this potential site is described as industrial, there are also two other schools (Pacifica Christian and Coastline Community College) nearby. Having a shelter here immediately posts a safety threat to the children and students because no one can guarantee that all those who wish to stay at the shelter can get their spots. Private schools are also part of the NB community that should be taken into consideration during planning.

I took a quick look at the other two potential sites. 6302 W Coast Highway is also close to crowded areas where children and families would go visit public parks and the beach. In comparison, 4200 Campus is truly in a commercial area where there are mostly rental cars businesses with no children nearby. 4200 Campus appears to be the best choice out of the three potential sites.

I understand that it is City Council's job to address homelessness in our community and thank you for your hard work, but please do put children and public safety in your consideration.

Thank you very much,
Wei Tsao
cell 415-706-2874

Mulvey, Jennifer

From: Harp, Aaron
Sent: Tuesday, September 03, 2019 6:50 AM
To: Brown, Leilani
Subject: FW: Martin v. City of Boise; Status with US Supreme Court
Attachments: 2019.08.22 - (1) Martin-Boise Petition TO FILE.pdf

From: Paul Watkins <paul@lawfriend.com>
Sent: Saturday, August 31, 2019 1:36 PM
To: Dixon, Diane <ddixon@newportbeachca.gov>; Herdman, Jeff <jherdman@newportbeachca.gov>; Brenner, Joy <JBrenner@newportbeachca.gov>; Avery, Brad <bavery@newportbeachca.gov>; O'Neill, William <woneill@newportbeachca.gov>; Duffield, Duffy <dduffield@newportbeachca.gov>; Muldoon, Kevin <kmuldoon@newportbeachca.gov>
Cc: Harp, Aaron <aharp@newportbeachca.gov>; Leung, Grace <gleung@newportbeachca.gov>; Basmaciyan, Natalie <nbasmaciyan@newportbeachca.gov>; Jacobs, Carol <cjacobs@newportbeachca.gov>
Subject: FW: Martin v. City of Boise; Status with US Supreme Court

Dear Honorable Mayor Dixon and Honorable Councilmembers:

May I please suggest that you defer action to begin negotiation on the acquisition of real property to be used for a Homeless Shelter. In my view and in light to the Certiorari Petition now pending before the US Supreme Court with respect to the Ninth Circuit *Martin v. City of Boise* case, Newport Beach should not proceed with negotiation of a Homeless Shelter property; such action would be premature and may result in the unwise potential commitment of millions of taxpayer dollars and untold hours of staff and leadership time before Newport Beach is legally (or indeed morally) obligated to proceed with a Homeless Shelter.

In *Martin v. City of Boise* (920 F.3d 584 Pet. App 1a-68a) and as you know, the oft-criticized United States Court of Appeals for the Ninth Circuit concluded that the City of Boise, Idaho's anti-camping laws, where there is no shelter space available, is a violation of the Eighth Amendment to the United States Constitution which prohibits cruel and unusual punishment.

In its request for a Writ of Certiorari (whereby the US Supreme Court would consider reviewing the Ninth Circuit's decision), the City of Boise has retained the Washington D.C. and Los Angeles offices of Gibson, Dunn & Crutcher, LLP and the following lawyers: Theodore B. Olson (former US Solicitor General under President George W. Bush), Theane D. Evangelis, Bradley J. Hamburger, Joseph Tartakovsky, Samuel Eckman, and William F. Cole.

In response to my inquiry on Friday, August 30 concerning the status of the Writ of Certiorari with the US Supreme Court, attorney William F. Cole kindly replied as outlined below. In short, Mr. Cole concludes that the US Supreme Court will consider the *Martin* case at its November 1 conference, and a decision on the Writ is not expected until closer to the end of 2019, and in November, 2019 at the earliest.

To get a flavor for the *Martin* decision at the Ninth Circuit, may I please invite you to review Gibson Dunn's Petition, a copy of which Mr. Cole kindly provided and which is attached to this email.

Please note the well-written "Conclusion" appearing at page 35 of the Petition: "The Ninth Circuit's decision misapplies and radically expands this Court's precedent, creates conflicts with five other circuit or state supreme courts, and stretches the Eighth Amendment beyond recognition. In doing so, it eliminates the ability of state and local governments to protect the health and safety of their residents. And it is already having devastating consequences. This

Court should grant review, reverse the Ninth Circuit's decision, and restore the traditional police powers of cities and States to regulate these critical local issues."

Given the makeup of the US Supreme Court, the importance of this case, and Gibson Dunn's (Mr. Theodore B. Olson's) well-drafted Petition, I am optimistic that the Writ of Certiorari will be granted. For Newport Beach to prematurely proceed to commit precious resources to the acquisition of Homeless Shelter property would, in my view, be unwise and perhaps be unfavorably received by our residents.

In the meantime, however, can our City please continue its laudable support efforts with Officer Yim, with newly appointed Homeless Taskforce Manager Natalie Basmacıyan, with the Newport Beach Public Library, with City Net, with our Homeless Task Force, and otherwise to assist our limited Homeless population of 64 folks? In my view, such efforts help satisfy our moral obligation to sensitively and appropriately work with Newport's Homeless population without unwisely dissipating City assets.

Thank you for considering my point of view.

Sincerely,
Paul

Paul K. Watkins for
Paul K. Watkins, APC
6408 West Ocean Front
Newport Beach, CA 92663-1929 and
485 East 17th Street, Suite 600
Costa Mesa, CA 92627-4705
Of Counsel: Self & Bhamre
Cell: (714) 403-6408
E-Mail: paul@lawfriend.com

From: Cole, William F. [<mailto:BCole@gibsondunn.com>]
Sent: Friday, August 30, 2019 4:31 PM
To: Paul Watkins
Cc: Evangelis, Theane
Subject: RE: Martin v. City of Boise; Status with US Supreme Court

Hi Paul:

Thanks very much for your inquiry. The Supreme Court has not yet acted on the City of Boise's certiorari petition. The petition was only filed last Thursday, August 22, and it was docketed at the Court this past Monday, August 26. The Plaintiffs in the case have until Wednesday September 25 to file a Brief in Opposition, and absent any extensions on the Plaintiffs' brief, we expect that the Supreme Court will consider the case at its November 1 conference. In short, then, we don't expect to have a decision from the Court until later this year, and in November at earliest.

For your convenience, I attach the certiorari petition.

Thanks!

All the best,

Billy

William Cole

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
333 South Grand Avenue, Los Angeles, CA 90071-3197
Tel +1 213.229.7554 • Fax +1 213.229.6554
BCole@gibsondunn.com • www.gibsondunn.com

No. _____

IN THE
Supreme Court of the United States

CITY OF BOISE,

Petitioner,

v.

ROBERT MARTIN, LAWRENCE LEE SMITH, ROBERT
ANDERSON, JANET F. BELL, PAMELA S. HAWKES, AND
BASIL E. HUMPHREY,

Respondents.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500
tolson@gibsondunn.com

THEANE D. EVANGELIS
Counsel of Record
BRADLEY J. HAMBURGER
JOSEPH TARTAKOVSKY
SAMUEL ECKMAN
WILLIAM F. COLE
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
(213) 229-7000
tevangelis@gibsondunn.com

Counsel for Petitioner

QUESTION PRESENTED

Like many cities and towns across the country, the City of Boise, Idaho regulates camping and sleeping in public spaces to ensure that these areas remain safe, accessible, and sanitary for the continued use of residents, visitors, and wildlife. In this case, the Ninth Circuit held that Boise's enforcement of such laws constitutes "cruel and unusual punishment" prohibited by the Eighth Amendment of the Constitution when "there is a greater number of homeless individuals in [the jurisdiction] than the number of available beds [in shelters]." In the Ninth Circuit's view, under this Court's decisions in *Robinson v. California*, 370 U.S. 660 (1962), and *Powell v. Texas*, 392 U.S. 514 (1968), a "state may not 'criminalize conduct that is an unavoidable consequence of being homeless.'"

The Ninth Circuit's decision elicited multiple dissents from the denial of rehearing en banc, including a six-judge dissent emphasizing that other courts, including the Fourth, Seventh, and Eleventh Circuits, as well as the California Supreme Court, "have routinely upheld state laws regulating acts that were allegedly compelled or involuntary," and warning that the decision will "prevent local governments from enforcing a host of other public health and safety laws, such as those prohibiting public defecation and urination."

The question presented is:

Does the enforcement of generally applicable laws regulating public camping and sleeping constitute "cruel and unusual punishment" prohibited by the Eighth Amendment of the Constitution?

**PARTIES TO THE PROCEEDING AND
RULE 29.6 STATEMENT**

The caption contains the names of all the parties to the proceedings below.

Pursuant to this Court's Rule 29.6, undersigned counsel state that the City of Boise, Idaho is a municipal corporation. It has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

RULE 14.1(b)(iii) STATEMENT

- *Martin v. City of Boise*, No. 15-35845 (9th Cir.) (amended opinion issued, judgment entered, and petition for rehearing en banc denied Apr. 1, 2019; mandate issued Apr. 9, 2019).
- *Martin v. City of Boise*, No. 1:09-cv-00540-REB (memorandum of decision issued and final judgment entered Sept. 25, 2015).
- *Bell v. City of Boise*, No. 11-35674 (opinion issued and judgment entered Mar. 7, 2013; mandate issued Apr. 1, 2013).

There are no additional proceedings in any court that are directly related to this case.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner City of Boise, Idaho respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The amended opinion of the Ninth Circuit and its order denying the City of Boise's petition for rehearing or rehearing en banc are published at 920 F.3d 584. Pet. App. 1a–68a. The district court's orders are available at 993 F. Supp. 2d 1237 (D. Idaho 2014), and 2015 WL 5708586 (D. Idaho Sept. 28, 2015). *Id.* at 69a–122a.

JURISDICTION

The Ninth Circuit issued its opinion on September 4, 2018, and issued an amended opinion and order denying rehearing or rehearing en banc on April 1, 2019. On June 4, 2019, Justice Kagan extended the time to file a petition for a writ of certiorari to and including August 29, 2019. *See* No. 18A1264. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Eighth Amendment to the Constitution provides that “[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. amend. VIII.

Relevant statutory provisions are reproduced in the appendix to the petition. Pet. App. 123a–25a.

STATEMENT

The “primary purpose” of the Eighth Amendment’s Cruel and Unusual Punishment Clause “has always been considered, and properly so, to be directed at the method or kind of punishment imposed for the violation of criminal statutes.” *Powell v. Texas*, 392 U.S. 514, 531–32 (1968) (plurality op.). Although the Clause “imposes substantive limits on what can be made criminal and punished as such,” these limits are “to be applied sparingly.” *Ingraham v. Wright*, 430 U.S. 651, 667 (1977). In fact, this Court has only ever found a single statute to violate this aspect of the Cruel and Unusual Punishment Clause. That statute was notable in that it “ma[de] the ‘status’ of narcotic addiction a criminal offense.” *Robinson v. California*, 370 U.S. 660, 666 (1962) (emphasis added).

The Ninth Circuit’s decision in this case vastly expands the “sparingly applied” limits imposed by the Cruel and Unusual Punishment Clause on “what can be made criminal” through its holding “that the Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one’s status or being.” Pet. App. 61a. The Ninth Circuit then applied this principle—distilled from the four-Justice dissent in *Powell* and a single-Justice opinion concurring in the result—to Boise’s ordinances prohibiting camping and sleeping in public spaces, concluding that enforcement of these commonplace ordinances constitutes cruel and unusual punishment if “there is a greater number of homeless individuals in [a jurisdiction] than the number of available beds [in shelters].” *Id.* at 62a (alterations in original).

This Court has never before declared a law unenforceable on the ground that the Eighth

Amendment exempts from regulation purportedly “involuntary” acts. On the contrary, it declined to do so more than half a century ago. Writing for a plurality of the Court, Justice Marshall explained that “[t]raditional common-law concepts of personal accountability and essential considerations of federalism” preclude such an interpretation of the Eighth Amendment. *Powell*, 392 U.S. at 535 (plurality op.). Otherwise, there would be no “limiting principle that would serve to prevent this Court from becoming, under the aegis of the Cruel and Unusual Punishment Clause, the ultimate arbiter of the standards of criminal responsibility, in diverse areas of the criminal law, throughout the country.” *Id.* at 533.

In addition to contradicting this Court’s precedent, the decision below also creates a conflict among the lower courts. Every other federal appellate court or state supreme court to consider whether public-camping ordinances violate the Cruel and Unusual Punishment Clause has answered in the negative. See *Joel v. City of Orlando*, 232 F.3d 1353 (11th Cir. 2000); *Tobe v. City of Santa Ana*, 892 P.2d 1145 (Cal. 1995). Meanwhile, at least three other circuit courts—including the First, Fourth, and Seventh Circuits—have rejected the principle, embodied in the Ninth Circuit’s ruling, that the Eighth Amendment exempts “involuntary” conduct from generally applicable criminal laws.

The consequences of the Ninth Circuit’s erroneous decision have already been—and will continue to be—far-reaching and catastrophic. The creation of a de facto constitutional right to live on sidewalks and in parks will cripple the ability of more than 1,600 municipalities in the Ninth Circuit to maintain the

health and safety of their communities. Public encampments, now protected by the Constitution under the Ninth Circuit's decision, have spawned crime and violence, incubated disease, and created environmental hazards that threaten the lives and well-being both of those living on the streets and the public at large. The expansive rationale adopted by the Ninth Circuit also imperils a whole host of other laws regulating public health and safety, including laws prohibiting public defecation and urination. Pet. App. 19a–20a.

The constitutional rule adopted by the Ninth Circuit is both nonsensical in theory and unworkable in practice. As a result, in the wake of the decision below, many municipalities have abandoned efforts to contain the threats to public health and safety posed by encampments rather than face litigation and potential civil liability.

Stripped by the Ninth Circuit of their traditional police powers, state and local governments now struggle to connect those living anonymously and transiently in sprawling encampments with resources available to help them. These resources are substantial: Boise has raised millions of dollars to construct new shelters for homeless individuals, and Los Angeles voters recently approved more than \$1.5 billion to construct supportive housing and expand services for communities in need. Meanwhile, encampments provide a captive and concentrated market for drug dealers and gangs who prey on the vulnerable. It is thus no surprise that nearly 1,000 homeless people died on the streets last year in Los Angeles County alone.

This Court should grant review and reverse the Ninth Circuit's decision in order to bring uniformity

to Eighth Amendment jurisprudence and to confirm that it is the prerogative of state and local governments—not federal courts—to regulate conduct affecting public health and safety.

1. Like many cities and towns across the country, the City of Boise, Idaho regulates the public's ability to camp or sleep overnight in its outdoor spaces, including parks, trails, and sidewalks. Pet. App. 123a–25a. Such regulations are critical tools that allow Boise to maintain its public spaces and to ensure that these areas remain safe, accessible, and sanitary for the continued use of residents, visitors, and wildlife. *Id.* at 129a. Restrictions on public camping and sleeping in these spaces are necessary because many of Boise's parks and open spaces, which are adjacent to rivers, streams, and mountains, lack the services and facilities—such as toilets and trash collection systems—that are essential to support secure and hygienic overnight lodging. *Id.*

The restrictions on public camping and sleeping are also essential components of Boise's effort to address, and preempt, the proliferation of dangerous encampments. Pet. App. 144a. These encampments, which are often breeding grounds for crime, violence, and disease, pose grave threats to public health and safety. *Id.* For example, in 2014 a large encampment took root in a City-owned skate park frequented by Boise's youth. *Id.* The encampment produced trash, rotting food, and human waste. *Id.* at 147a–48a. It also yielded a surge in citations for drug and alcohol offenses, as well as a number of physical assaults among campers. *Id.* at 144a. This violence culminated in a murder perpetrated by one camper who stomped, kicked, and punched another to death. *Id.*

Boise has adopted two ordinances related to public camping to fulfill its public health and safety duties. First, the “Camping Ordinance” makes it a misdemeanor “for any person to use any of the streets, sidewalks, parks or public places as a camping place at any time.” Boise, Idaho, City Code § 7-3A-2(A) (renumbering Boise, Idaho, City Code § 9-10-02); Pet. App. 124a–25a. “Camping” is defined to include “the use of public property as a temporary or permanent place of dwelling, lodging or residence, or as a living accommodation at any time between sunset and sunrise, or as a sojourn.” Pet. App. 124a. Second, the “Disorderly Conduct Ordinance” prohibits “[a]ny person” from “[o]ccupying, lodging or sleeping in any building, structure or place, whether public or private ... without the permission of the owner or person entitled to possession or in control thereof.” Boise, Idaho, City Code § 5-2-3(A)(1) (renumbering Boise, Idaho, City Code § 6-01-05); Pet. App. 123a–24a.

Recognizing the homelessness crisis afflicting the City, Boise has, for nearly a decade, maintained a policy of not issuing a citation under these ordinances to any individual who is camping or sleeping in a public space when there is no available overnight shelter for that individual. Pet. App. 132a, 137a. To implement this policy, the Boise Police Department has worked with the City’s three principal emergency shelters to develop a system whereby a shelter will notify the Police Department if it has become full by 11 p.m. on any night. *Id.* at 132a–34a. This “Shelter Protocol” was formalized in 2014, when the City Council amended the Camping and Disorderly Conduct Ordinances to include provisions declaring that “[l]aw enforcement officers shall not enforce this [ordinance] when the individual is on public property

and there is no available overnight shelter.” Boise, Idaho, City Code §§ 5-2-3(B)(1), 7-3A-2(B); Pet. App. 123a–24a, 124a–25a.

2. Plaintiffs are six individuals who were cited and/or convicted under the Camping and Disorderly Conduct Ordinances between 2007 and 2009. As a result, they were fined between \$25 and \$75 and sentenced to between 1 and 90 days in jail, although all of the Plaintiffs, with one exception, were given credit for time served.

On October 22, 2009, Plaintiffs filed a Complaint against the City alleging that the Camping and Disorderly Conduct Ordinances violated the Eighth Amendment’s Cruel and Unusual Punishment Clause. All six Plaintiffs sought retrospective money damages, and two Plaintiffs also sought prospective declaratory and injunctive relief.

After an initial round of litigation in both the district court and at the Ninth Circuit, Boise moved for summary judgment, arguing that the “favorable-termination” rule of *Heck v. Humphrey*, 512 U.S. 477 (1994)—which forbids a plaintiff from collaterally attacking a conviction or sentence through a § 1983 action, *id.* at 487—barred Plaintiffs’ claims. The district court agreed in part, holding that Plaintiffs’ claims for money damages and injunctive relief were barred under *Heck*, but that their claims for prospective declaratory and injunctive relief could proceed because those claims arose not under § 1983, but the Declaratory Judgment Act. Pet. App. 101a–03a.

Plaintiffs filed an amended complaint on July 31, 2014, elaborating on their claims for prospective declaratory and injunctive relief. The district court granted Boise’s motion for summary judgment,

holding that Plaintiffs lacked standing to pursue their claims for prospective relief because (1) Boise had amended the ordinances to provide that it would not cite any individual for public camping if no shelter bed was available, *and* (2) no Plaintiff had “shown that he cannot or will not stay in one or more of the available shelters if there is space available, or that he has a disability that prevents him from accessing shelter space.” Pet. App. 71a. Accordingly, the court held that Plaintiffs did not demonstrate an “actual or imminent threat” that they would be cited under either ordinance. *Id.* at 71a–72a.

3. The Ninth Circuit reversed the district court’s orders in substantial part and remanded for further proceedings.

First, the panel held that Plaintiffs had standing to bring their claims for prospective relief. Although the ordinances provided that they would not be enforced when shelters are full, the court concluded that some shelters may be “practically [un]available” even if they have open beds. Pet. App. 65a. For example, two of Boise’s shelters limit the duration of an individual’s stay, such that Plaintiffs may be unable to secure a bed even if the shelter is not full. *Id.* at 47a. Similarly, those shelters may turn away individuals even when they have open beds if those individuals arrive outside of scheduled check-in times or leave voluntarily and attempt to immediately return. *Id.* at 47a–48a. Further, those shelters have a “religious atmosphere” that includes “Christian messaging on the shelter’s intake form” and “Christian iconography on the shelter walls,” such that, in the panel’s view, an individual cannot be expected to accept a bed there in order to avoid citation. *Id.* at 47a. As a result, the panel found “a

genuine issue of material fact as to whether homeless individuals in Boise run a credible risk of being issued a citation on a night when [the third shelter] is full and they have been denied entry to [the other two] facilit[ies] for reasons other than shelter capacity.” *Id.* at 49a.

Second, the Ninth Circuit agreed with the district court that most Plaintiffs’ claims for retrospective relief were barred under *Heck*. But the court then held, over the dissent of Judge Owens, that “*Heck* has no application to plaintiffs’ requests for prospective injunctive relief.” Pet. App. 58a.

After disposing of these issues, the Ninth Circuit turned to the merits of Plaintiffs’ Eighth Amendment claim. The Ninth Circuit explained that the Cruel and Unusual Punishment Clause “places substantive limits on what the government may criminalize” and cited this Court’s decision in *Robinson*, 370 U.S. at 660, which struck down a statute outlawing the “status” of being a narcotics addict. Pet. App. 59a–60a. But because *Robinson* “did not explain at length the principles underpinning its holding,” the court turned to *Powell*, 392 U.S. at 514, which considered whether a statute proscribing public drunkenness violated the Eighth Amendment. Pet. App. 60a. The Ninth Circuit acknowledged that Justice Marshall, writing for a four-Justice plurality, held that it did not because the statute “made criminal not alcoholism but *conduct*”—even though that conduct may in some sense be “involuntary” for chronic alcoholics. *Id.* at 60a–61a.

Nevertheless, the Ninth Circuit held that *Powell* compelled a finding for Plaintiffs. In doing so, it looked to Justice White’s concurrence, which states that, with respect to at least some people, “a showing

could be made that resisting drunkenness is impossible and that avoiding public places when intoxicated is also impossible,” in which case “th[e] statute is in effect a law which bans a single act for which they may not be convicted under the Eighth Amendment.” Pet. App. 61a. Because “[t]he four dissenting Justices adopted a position consistent with that taken by Justice White,” the Ninth Circuit concluded that “five Justices gleaned ... the principle that ‘the Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one’s status or being.’” *Id.*

Concluding that the amalgamated views of the dissenting Justices and Justice White constituted the true holding of *Powell*, the Ninth Circuit held that “so long as there is a greater number of homeless individuals in [a jurisdiction] than the number of available beds [in shelters],’ the jurisdiction cannot prosecute homeless individuals for ‘involuntarily sitting, lying, and sleeping in public.’” Pet. App. 62a (alterations in original).

The Ninth Circuit claimed that its decision was “narrow” because it does not “dictate to the City that it must provide sufficient shelter for the homeless.” Pet. App. 62a. The court also claimed that its holding would not extend to “individuals who *do* have access to adequate temporary shelter ... but who choose not to use it,” or to “an ordinance barring the obstruction of public rights of way or the erection of certain structures,” but it offered no guidance on how these provisos may be operationalized in day-to-day law enforcement. *Id.* at 62a–63a & n.8 (emphasis added). For example, the court suggested that a shelter with “Christian messaging on [its] intake form” or “Christian iconography on [its] walls” would not be

“adequate” for a nonbeliever, *id.* at 47a, but did not explain how police officers in practice could make those fact-intensive determinations about shelters’ religious messaging and homeless persons’ religious beliefs.

4. The Ninth Circuit denied rehearing en banc over two separate dissents. The first dissent, authored by Judge Milan Smith and joined by five other judges, explained that the panel’s attempt to “metamorphosize[] the *Powell* dissent into the majority opinion ... defies logic” as well as this Court’s decision in *Marks v. United States*, 430 U.S. 188 (1977). Pet. App. 9a. It then explained that the “panel’s opinion also conflicts with the reasoning underlying the decisions of other appellate courts” that have rejected Eighth Amendment challenges to laws banning similar purportedly involuntary conduct. *Id.* at 12a.

Judge Smith’s dissent emphasized the disastrous consequences of the court’s decision, which “leaves cities with a Hobson’s choice: They must either undertake an overwhelming financial responsibility to provide housing for or count the number of homeless individuals within their jurisdiction every night, or abandon enforcement of a host of laws regulating public health and safety.” Pet. App. 15a–16a. Judge Smith said that this choice is illusory. “Given the daily fluctuations in the homeless population, the panel’s opinion would require this labor-intensive task be done every single day.” *Id.* at 16a. But performing a daily count would be “impossible”: even with thousands of volunteers devoting countless hours, it still takes *three days* to perform an annual count in Los Angeles—and even then “not everybody really gets counted.” *Id.*

Nor are the effects of the panel's sweeping decision limited to ordinances regulating public camping and sleeping. As Judge Smith emphasized, by categorically "holding that the Eighth Amendment proscribes the criminalization of involuntary conduct, the panel's decision will inevitably result in the striking down of laws that prohibit public defecation and urination." Pet. App. 19a.

A second dissent from the denial of rehearing en banc, authored by Judge Bennett and joined by four other judges, argued that "except in extraordinary circumstances not present in this case, and based on its text, tradition, and original public meaning, the Cruel and Unusual Punishments Clause of the Eighth Amendment does not impose substantive limits on what conduct a state may criminalize." Pet. App. 26a. Drawing from the sources cited in Justice Scalia's concurring opinion in *Harmelin v. Michigan*, 501 U.S. 957 (1991), Judge Bennett concluded that "[a]t common law and at the founding," the Cruel and Unusual Punishment Clause was only "a limit on the types of punishments that government could inflict following a criminal conviction." Pet. App. 34a. The panel's extension of that Clause "to encompass pre-conviction challenges to substantive criminal law stretches the Eighth Amendment past its breaking point." *Id.* at 33a.

REASONS FOR GRANTING THE PETITION

The Ninth Circuit's decision is irreconcilable with this Court's precedent, which has never held that the Eighth Amendment categorically exempts from regulation purportedly "involuntary" conduct. It also creates a conflict among the lower courts. The California Supreme Court and the Eleventh Circuit

have upheld similar public-camping ordinances against Eighth Amendment challenges, and the First, Fourth, and Seventh Circuits have rejected arguments that the Eighth Amendment exempts purportedly involuntary conduct from generally applicable criminal laws.

I. THE NINTH CIRCUIT’S DECISION CONFLICTS WITH THIS COURT’S PRECEDENT.

The Ninth Circuit held that laws barring public camping and sleeping are unconstitutional insofar as they apply to “any ‘conduct [that] is involuntary and inseparable from status.’” Pet. App. 62a. But this Court has never held that the Constitution exempts from generally applicable criminal laws any conduct that is purportedly involuntary—and it has certainly never struck down a law on that basis. On the contrary, this Court’s caselaw confirms that the authority of state and local governments to enforce laws promoting public health, safety, and welfare is not contingent upon inquiries into the voluntariness of the regulated conduct.

In *Robinson v. California*, 370 U.S. 660 (1962), the Court considered the constitutionality of a California law providing that “[n]o person shall ... be addicted to the use of narcotics.” *Id.* at 660 n.1. The Court emphasized that the statute “[wa]s not one which punishes a person for the use of narcotics, for their purchase, sale or possession, or for antisocial or disorderly behavior resulting from their administration,” but rather “ma[de] the ‘status’ of narcotic addiction a criminal offense, for which the offender may be prosecuted ‘at any time before he reforms.’” *Id.* at 666. Analogizing narcotics addiction to “an illness which may be contracted innocently or

involuntarily,” the Court “h[e]ld that a state law which imprisons a person thus afflicted as a criminal, even though he has never touched any narcotic drug within the State or been guilty of any irregular behavior there, inflicts a cruel and unusual punishment in violation of the Fourteenth Amendment.” *Id.* at 667.

Six years later, the Court considered whether to extend *Robinson* to cases involving purportedly involuntary conduct, but declined to do so. In *Powell v. Texas*, 392 U.S. 514 (1968), the defendant had been convicted for violating a state law proscribing public drunkenness. *Id.* at 517. The trial court found the defendant was a chronic alcoholic who was unable “to resist the constant, excessive consumption of alcohol” and was drunk in public not “by his own volition but under a compulsion symptomatic of the disease of chronic alcoholism.” *Id.* at 521. Likening his case to *Robinson*, the defendant argued that because his conduct was not volitional and flowed from his disease, “to punish him criminally for that conduct would be cruel and unusual.” *Id.* at 517.

The Court disagreed and affirmed the defendant’s conviction, but no opinion garnered a majority. Writing for a four-Justice plurality, Justice Marshall described *Robinson*’s holding as turning on a distinction between status and conduct:

The entire thrust of *Robinson*’s interpretation of the Cruel and Unusual Punishment Clause is that criminal penalties may be inflicted only if the accused has committed some act, has engaged in some behavior which society has an interest in preventing, or perhaps in historical common law terms, has committed some *actus reus*. It thus does not deal with the question of

whether certain conduct cannot constitutionally be punished because it is, in some sense, “involuntary” or “occasioned by a compulsion.”

392 U.S. at 533 (plurality op.). Because the statute in *Powell* “ha[d] not sought to punish a mere status,” but rather “imposed upon [the defendant] a criminal sanction for public behavior which may create substantial health and safety hazards, both for [the defendant] and for members of the general public, and which offends the moral and esthetic sensibilities of a large segment of the community,” *id.* at 532, the statute did not contravene *Robinson*.

In reaching this conclusion, Justice Marshall warned of the practical implications that would attend a broader reading of *Robinson*, emphasizing that “the most troubling aspects of this case, were *Robinson* to be extended to meet it, would be the scope and content of what could only be a constitutional doctrine of criminal responsibility.” *Id.* at 534. For example, “[i]f [the defendant] cannot be convicted of public intoxication, it is difficult to see how a State can convict an individual for murder, if that individual, while exhibiting normal behavior in all other respects, suffers from a ‘compulsion’ to kill.” *Id.* Even if it were possible to distinguish among particular categories of behavior, the courts are ill-suited to the task. As Justice Marshall explained, “unless *Robinson* is so viewed it is difficult to see any limiting principle that would serve to prevent this Court from becoming, under the aegis of the Cruel and Unusual Punishment Clause, the ultimate arbiter of standards of criminal responsibility, in diverse areas of the criminal law, throughout the country.” *Id.* at 533. Such a result would be irreconcilable with “[t]raditional common-

law concepts of personal accountability and essential considerations of federalism.” *Id.* at 535.

Justice Black wrote a concurring opinion in which Justice Harlan joined. He agreed with the plurality that *Robinson* was “explicitly limited ... to the situation where no conduct of any kind is involved.” *Id.* at 542 (Black, J., concurring). According to Justice Black, the “revolutionary doctrine of constitutional law” advocated by the defendant would “significantly limit the States in their efforts to deal with a widespread and important social problem” and would take the Court “far beyond the realm of problems for which we are in a position to know what we are talking about.” *Id.* at 537–38. Justice Black thus declined to “depart[] from ... the premise that experience in making local laws by local people themselves is by far the safest guide for a nation like ours to follow.” *Id.* at 548.

The Ninth Circuit’s decision cannot be reconciled with *Robinson* or the plurality or concurring opinions in *Powell*. Boise’s ordinances are generally applicable laws that regulate conduct, not status. Such laws undoubtedly serve compelling public interests, including the maintenance of public health and safety—not just for the public at large, but for those living on the streets, as well. And the decision below presents precisely the practical difficulties Justice Marshall feared, thrusting federal courts into a new role as “the ultimate arbiter of standards of criminal responsibility,” while upending long-established concepts of “personal accountability and essential considerations of federalism.” *Powell*, 392 U.S. at 533, 535 (plurality op.).

The Ninth Circuit, however, refused to follow the plurality opinion in *Powell*, and instead located its

novel constitutional rule in Justice White's opinion concurring in the result in *Powell*, which provided the fifth vote to uphold the defendant's conviction. In that opinion, Justice White appeared to agree with the view of *Robinson* articulated in Justice Fortas's four-Justice dissent, reasoning that "[i]f it cannot be a crime to have an irresistible compulsion to use narcotics, I do not see how it can constitutionally be a crime to yield to such a compulsion." *Id.* at 548 (White, J., concurring in the result) (citation omitted); *see also id.* at 567 (Fortas, J., dissenting). According to the Ninth Circuit, these "five Justices gleaned from *Robinson* the principle that 'the Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one's status or being.'" Pet. App. 61a. It was this principle, the Ninth Circuit concluded, that provided the governing rule under the Eighth Amendment. *Id.* at 62a.

Even if the Ninth Circuit was correct to derive a sweeping rule of constitutional law from a position adopted by a *dissent*, the court still erred because Justice White's purported support for the dissent's view of *Robinson* was irrelevant to his disposition of the case. As Justice White explained, "[w]hether or not [the defendant] established that he could not have resisted becoming drunk ..., nothing in the record indicates that he could not have done his drinking *in private*." *Powell*, 392 U.S. at 552–53 (White, J., concurring in the result) (emphasis added). Thus, irrespective of Justice White's discussion of the broader implications of *Robinson*, "[f]or purposes of" *Powell* itself, it was "necessary to say only that [the defendant] showed nothing more than that he was to some degree compelled to drink and that he was drunk at the time of his arrest. He made no showing

that he was unable to stay off the streets on the night in question.” *Id.* at 554–55.

This Court has never suggested that Justice White’s single-Justice concurring opinion in *Powell* provides a rule of constitutional dimension under the Cruel and Unusual Punishment Clause. On the contrary, “*Powell* turned out to be the end of the Court’s flirtation with the possibility of a constitutional criminal law doctrine.” Sanford H. Kadish, *Fifty Years of Criminal Law: An Opinionated Review*, 87 Cal. L. Rev. 943, 966 (1999). That flirtation ended where it began—with the power to regulate conduct, including purportedly involuntary conduct, reposed in state and local authorities. Thus, “*Robinson*, though of great theoretical interest, has no practical importance today” because “[n]othing has come of it, and th[is] Court has not gone on to find a ‘voluntary act’ principle in the Constitution.” Peter W. Low, *Criminal Law* 361 (1990). As Professor Kadish has explained, although “[t]he *Robinson* decision could plausibly have been seen as a vital opening toward establishing lack of self-control as a constitutional bar to punishment,” “[j]ust a half dozen years later the Court closed the door ... reject[ing] the broader reading of *Robinson* that one could not be punished for what is beyond one’s power of control.” Kadish, *Fifty Years of Criminal Law*, 87 Cal. L. Rev. at 965–66.

The Ninth Circuit’s decision in this case reopens the door this Court closed more than half a century ago. That decision is not only inconsistent with this Court’s precedent, but presents the intolerable practical consequences foreseen by Justice Marshall.

II. THE NINTH CIRCUIT'S DECISION CREATES A CONFLICT AMONG THE LOWER COURTS.

The Ninth Circuit's decision also creates a conflict among the lower courts. Every other federal appellate court or state supreme court to consider the constitutionality of public-camping laws against Eighth Amendment challenges has upheld the laws. Moreover, the Ninth Circuit's interpretation of *Robinson* and *Powell* creates a three-way split on the broader question whether involuntary conduct can ever be punished consistent with the Cruel and Unusual Punishment Clause.

A. The California Supreme Court and the Eleventh Circuit have upheld laws virtually identical to Boise's ordinances against virtually identical attacks under the Cruel and Unusual Punishment Clause. If this case were before either of those courts, the outcome would have been different.

In *Tobe v. City of Santa Ana*, 892 P.2d 1145 (Cal. 1995), the California Supreme Court upheld an ordinance making it "unlawful for any person to camp, occupy camp facilities or use camp paraphernalia in ... any street [or] any public parking lot or public area." *Id.* at 1150. As the court explained, "[t]he ordinance permits punishment for proscribed conduct, not punishment for status," *id.* at 1166, and thus does not contravene the Eighth Amendment. Although the California Court of Appeal had held that the ordinance "imposed punishment for the 'involuntary status of being homeless,'" *id.*, the California Supreme Court emphasized that "[n]o authority [wa]s cited for the proposition that an ordinance which prohibits camping on public property punishes the involuntary status of being homeless or ... is punishment for poverty," and recognized that

this “Court has not held that the Eighth Amendment prohibits punishment of acts derivative of a person’s status,” *id.* And although *Tobe* involved a facial challenge, subsequent decisions have applied it to as-applied challenges, as well. See *Allen v. City of Sacramento*, 183 Cal. Rptr. 3d 654, 670–71 (Cal. Ct. App. 2015) (“Sacramento’s ordinance punishes the act of camping, occupying camp facilities, and using camp paraphernalia, not homelessness. ... Because the Eighth Amendment does not prohibit the punishment of acts, plaintiffs’ challenge based on cruel and unusual punishment lacks merit” (citations omitted)).

The Eleventh Circuit reached a similar result in *Joel v. City of Orlando*, 232 F.3d 1353 (11th Cir. 2000), where it considered the constitutionality of a city ordinance providing that “[c]amping is prohibited on all public property, except as may be specifically authorized by the appropriate governmental authority.” *Id.* at 1356. As the court explained, “[a] distinction exists between applying criminal laws to punish conduct, which is constitutionally permissible, and applying them to punish status, which is not.” *Id.* at 1361. Under this framework, the court “h[e]ld that [the ordinance] does not violate the Eighth Amendment.” *Id.* at 1362.

The Ninth Circuit acknowledged the holding in *Joel*, but attempted to distinguish that case on the ground that, there, “the defendants presented unrefuted evidence that the homeless shelters in the City of Orlando had never reached capacity and that the plaintiffs had always enjoyed access to shelter space.” Pet. App. 63a–64a n.9. But this was not the basis for the Eleventh Circuit’s holding. Rather, the Eleventh Circuit relied on the fact that the ordinance “target[ed] conduct, and d[id] not provide criminal

punishment based on a person's status"—expressly citing Justice Marshall's plurality opinion in *Powell*. *Joel*, 232 F.3d at 1362. The court raised the availability of shelter only in explaining why the position adopted by certain district courts, which had held that involuntary conduct could not be punished under the Eighth Amendment, would not help the challenger under the facts presented: “[E]ven if we followed the reasoning of the district courts in *Pottinger* and *Johnson* this case is clearly distinguishable” because “[t]he ordinance in question here does not criminalize involuntary behavior” insofar as “the availability of shelter space means that Joel had an opportunity to comply with the ordinance.” *Id.* (emphasis added).

In short, every other appellate court to consider challenges to public-camping laws under the Cruel and Unusual Punishment Clause has upheld the laws. The Ninth Circuit is the only court to reach a contrary conclusion. This, standing alone, warrants the Court's review.

B. The Ninth Circuit's unprecedented interpretation of the Eighth Amendment also conflicts with decisions from the First, Fourth, and Seventh Circuits, which together with the Ninth Circuit have now adopted three different conclusions regarding whether involuntariness can ever serve as a basis for an exemption from generally applicable laws.

1. At least two circuits have rejected the argument that purportedly “involuntary” conduct is exempt from generally applicable criminal laws.

The First Circuit in *United States v. Sirois*, 898 F.3d 134 (1st Cir. 2018), considered whether the Eighth Amendment “precludes incarceration for [the defendant's] use of illegal drugs because that use is

compelled by his addiction, which is a disease.” *Id.* at 137. Although the defendant relied on Justice White’s concurrence in *Powell*, the First Circuit reasoned that “Justice White’s *Powell* concurrence is both good news and bad news for [the defendant].” *Id.* at 138. While that opinion “express[es] skepticism that the compulsive use of narcotics can even be a crime,” “it is only a concurring opinion” and, “[e]ven worse, it is one that has yet to gain any apparent relevant traction, as [the defendant] is unable to point us to any federal court of appeals case in the fifty years since the Court decided *Powell* and *Robinson* that has either interpreted those cases to hold that the Eighth Amendment proscribes criminal punishment for conduct that results from narcotic addiction, or has extended their reasoning to this effect.” *Id.* Ultimately, the First Circuit concluded that “[w]hatever *Powell* holds, it does not clearly establish a prohibition on punishing an individual, even an addict, for possessing or using narcotics.” *Id.*

The Seventh Circuit has reached a similar conclusion. In *United States v. Black*, 116 F.3d 198 (7th Cir. 1997), that court rejected the defendant’s argument that his child-pornography conviction violated the Cruel and Unusual Punishment Clause “because as a pedophile or ephebophile he [w]as compelled to collect, receive and distribute child pornography” as “a pathological symptom of [his] pedophilia and/or ephebophilia.” *Id.* at 201 (alteration in original). Although the “[d]efendant’s principal reliance [w]as on the concurring opinion of Justice White in *Powell*,” the court explained that “since no other Justice joined in that opinion, it need not be discussed further.” *Id.* at 201 n.2. It then upheld the conviction, reasoning that “*Robinson* is simply inapposite on its face because the statutes

involved here do not criminalize the statuses of pedophile or ephebophile” but rather the “conduct of receiving, possessing and distributing child pornography.” *Id.* at 201; *see also United States v. Stenson*, 475 F. App’x 630, 631 (7th Cir. 2012) (“As in *Powell*, Stenson was not punished for his status as an alcoholic but for his conduct. Therefore, his claim for cruel and unusual punishment fails.”).

2. The en banc Fourth Circuit, on the other hand, recently held that involuntary conduct may be exempt from punishment under the Cruel and Unusual Punishment Clause, but only when the law at issue is *not* a generally applicable law, but rather one that targets individuals for whom the proscribed conduct is involuntary.

In *Manning v. Caldwell*, 930 F.3d 264 (4th Cir. 2019) (en banc), the Fourth Circuit considered a Virginia law that permitted state courts to issue “civil interdiction order[s] ‘prohibiting the sale of alcoholic beverages ... until further ordered’ to a person who ‘has been convicted of driving ... while intoxicated or has shown himself to be an habitual drunkard.’” *Id.* at 268 (omissions in original). “Once declared an ‘habitual drunkard,’ an interdicted person is subject to incarceration for the mere possession of or attempt to possess alcohol, or for being drunk in public.” *Id.* at 269.

After concluding that the term “habitual drunkard” was unconstitutionally vague, *id.* at 277–78, the Fourth Circuit held in the alternative that the law violated the Eighth Amendment. As the court emphasized, however, “[w]hat matters under the Eighth Amendment is that Plaintiffs allege that the Commonwealth has singled them out for special punishment for otherwise lawful conduct that is

compelled by their illness.” *Id.* at 281 n.14. The court conceded that “[a] state undoubtedly has the power to prosecute individuals, even those suffering from illnesses, for breaking laws that apply to the general population ... because such laws—even when enforced against sick people—reflect a state’s considered judgment that some actions are *so dangerous* or contrary to the public welfare that they should lead to criminal liability *for everyone* who commits them.” *Id.* at 284–85 (emphases in original). But it held that “[w]hat the Eighth Amendment cannot tolerate is the targeted criminalization of *otherwise legal* behavior that is an involuntary manifestation of an illness.” *Id.* at 285 (emphasis in original).¹

Even this narrower interpretation of Justice White’s concurrence in *Powell* sparked an impassioned, six-judge dissent authored by Judge Wilkinson, who excoriated the majority for “[f]inding—in the Eighth Amendment’s prohibition on ‘cruel and unusual’ punishments, of all places—constitutional protection for any act that is alleged to be ‘non-volitional.’” *Id.* at 286–87 (Wilkinson, J., dissenting). The dissent characterized the decision as “an assault upon the constitutional, democratic, and common law foundations of American civil and criminal law, and most importantly, to the judge’s place within it.” *Id.* at 287. And in adopting this view, the court “discarded any pretense of a workable limiting principle, expanded the Eighth Amendment

¹ Virginia has announced that it will not petition for certiorari from the Fourth Circuit’s decision. See *Virginia Won’t Appeal Ruling Tossing ‘Habitual Drunkard’ Law* (Wash. Post. Aug. 2, 2019), https://www.washingtonpost.com/national/virginia-wont-appeal-ruling-tossing-habitual-drunkard-law/2019/08/02/b932e504-b552-11e9-acc8-1d847bacca73_story.html.

beyond any discernible limits, and overturned sixty years of controlling Supreme Court precedent.” *Id.* This “new theory of the Eighth Amendment,” Judge Wilkinson warned, “will foreclose a state’s ability to take reasonable steps to protect its citizens from serious and long recognized harms.” *Id.*

But the disagreements between the majority and the dissent are immaterial for present purposes because Boise’s ordinances survive even under the majority’s rule. Unlike the civil-interdiction regime at issue in *Manning*, the ordinances here are generally applicable criminal laws that do not target a specific subset of the population based on their involuntary conduct: it is illegal for *anyone* to camp on the City’s sidewalks and in its parks. And because the Fourth Circuit made clear that its “holding neither creates nor supports the notion of a nonvolitional defense against generally applicable crimes,” *id.* at 285 (majority op.), the ordinances here would have been upheld by that court.

3. The Ninth Circuit stands alone in holding “that the Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one’s status or being.” Pet. App. 61a. Unlike the First and Seventh Circuits, the Ninth Circuit has abandoned the act-status distinction adopted in *Robinson* and by the *Powell* plurality in favor of a broader voluntariness principle attributed to Justice White’s concurrence in *Powell*. And unlike the Fourth Circuit, the Ninth Circuit has held that it is irrelevant whether the law at issue is one of general application or rather one that targets a specific subset of the population.

* * *

If this case were decided in any of the jurisdictions discussed above, Boise's ordinances would have been upheld. But because the Ninth Circuit has adopted an unprecedented approach to the Cruel and Unusual Punishment Clause that departs from other courts with respect to public-camping laws specifically, and involuntary conduct generally, Boise—and all other municipal governments in the nine States and two territories in the Ninth Circuit—now finds itself powerless to enforce laws that fall within the core of its police power. This Court should grant certiorari to restore uniformity to Eighth Amendment jurisprudence. And, as explained below, it should especially do so given the calamitous consequences that will follow if the decision below is allowed to stand.

III. THE NINTH CIRCUIT'S DECISION UNDERMINES THE ABILITY OF STATE AND LOCAL GOVERNMENTS TO PROTECT PUBLIC HEALTH AND SAFETY AND IS UNWORKABLE IN PRACTICE.

Although the Ninth Circuit's decision purports to be "narrow," Pet. App. 62a, its far-reaching consequences are already being felt across the country. As Judge Smith correctly predicted, the panel's opinion "has begun wreaking havoc on local governments, residents, and businesses" and, if not reversed, "will soon prevent local governments from enforcing a host of ... public health and safety laws." *Id.* at 6a.

A. The Decision Below Paralyzes State And Local Governments' Ability To Protect Public Health And Safety.

Under the Ninth Circuit's decision, state and local governments may not enforce public-camping laws against *any* individual unless and until they provide adequate shelter space to house *all* individuals. Yet in virtually every city of considerable size—such as Los Angeles, San Francisco, Portland, and Seattle—this will prove an impossible task because the number of homeless individuals vastly surpasses the current supply of housing and emergency shelter. In Los Angeles County, for example, there are nearly 22,000 shelter beds available, but the homeless population approaches 60,000.² The practical effect of the Ninth Circuit's decision, then, is to create a *de facto* constitutional right to live on public sidewalks and in public parks.

The Ninth Circuit's decision is understandably causing alarm in communities across the West. Its all-or-nothing rule undercuts local governments' ability to safeguard public health and safety and ensures that homeless encampments will proliferate throughout our cities and towns. These encampments pose grave threats not only to the health and safety of the general public, but also to the safety and physical, mental, and emotional well-being of the vulnerable populations who reside—and are often trapped—in them.

The homeless living on city streets are a frequent target of violent crime. An encampment in Boise

² 2019 Greater L.A. Homelessness Count Presentation, L.A. Homeless Servs. Auth. 6–7 (2019).

created an increase in crime and violence, including drug and alcohol offenses, physical assaults, and even a homicide. Pet. App. 143a–44a, 147a–48a. Boise is not alone. Crimes against the homeless in Los Angeles spiked between 2017 and 2018: robbery increased by 89%, larceny by 86%, and rape by 71%.³ This is to say nothing of the agonies suffered by often helpless homeless individuals who suffer from untreated physical, mental, and emotional conditions.⁴ Such individuals are dying in record numbers—in 2018 alone, 918 homeless individuals in Los Angeles County, 210 in Orange County, and 194 in King County (which includes Seattle) died on the streets.⁵

Criminals not only prey on these homeless populations, but also hide among them. In Seattle, police recently confiscated “over \$20,000 in cash, nearly a pound of crack cocaine, heroin, methamphetamine, marijuana, pills,” as well as

³ Commander Dominic H. Choi, L.A. Police Dep’t, *The Los Angeles Police Department’s 2018 4th Quarter Report on Homelessness* 2 (2019).

⁴ Eric Johnson, *Komo News Special: Seattle is Dying* (KOMO News Mar. 14, 2019), <https://komonews.com/news/local/komo-news-special-seattle-is-dying>.

⁵ King Cnty. Med. Examiner, *2018 Annual Summary of Deaths Among Individuals Presumed to be Homeless and Investigated by the King County Medical Examiner’s Office* 1 (2019); Orange Cnty. Sheriff’s Dept., *Coroner Division Homeless Mortality Report 2014–2018* 7 (2019); Anna Gorman & Harriet Blair Rowan, *The Homeless Are Dying in Record Numbers on the Streets of Los Angeles* (U.S. News & World Report Apr. 23, 2019), <https://www.usnews.com/news/healthiest-communities/articles/2019-04-23/homeless-dying-in-record-numbers-on-the-streets-of-los-angeles>.

firearms, other weapons, and stolen goods from a drug ring run in part out of tents in encampments.⁶ In Los Angeles, gangs engage in sex trafficking and “hid[e] in plain sight” in tents on “Skid Row”—a locale where “more than a quarter” of women have reported being sexually assaulted—in order to “prey on many who live [t]here looking for services and help.”⁷

The encampments now protected by the Ninth Circuit’s decision have also contributed to a growing public health crisis by serving as incubators for diseases such as typhus, typhoid fever, and tuberculosis.⁸ In Los Angeles, mountains of trash, rotting food, and human waste around encampments have contributed to a rodent infestation that, in turn, has precipitated a sharp rise in flea-borne typhus—up from 18 cases in 2009 to 174 in 2018.⁹ In Seattle,

⁶ *Seattle police bust drug rings in homeless camps* (KOMO News May 15, 2019), <https://komonews.com/news/local/seattle-police-bust-drug-rings-in-homeless-camps>.

⁷ Lolita Lopez & Phil Dreschler, *Gangs of LA on Skid Row* (NBC Los Angeles Feb. 19, 2018), <https://www.nbclosangeles.com/news/local/Gangs-of-LA-on-Skid-Row-474531353.html>; Gale Holland, *Attacked, abused and often forgotten: Women now make up 1 in 3 homeless people in L.A. County* (L.A. Times Oct. 28, 2016), <https://www.latimes.com/projects/la-me-homeless-women/>.

⁸ Anna Gorman & Kaiser Health News, *Medieval Diseases Are Infecting California’s Homeless* (The Atlantic Mar. 8, 2019), <https://www.theatlantic.com/health/archive/2019/03/typhus-tuberculosis-medieval-diseases-spreading-homeless/584380/>.

⁹ Cal. Dep’t of Pub., Health, *Human Flea-Borne Typhus Cases in Cal.* 1 (2019); Dakota Smith & David Zahniser, *Filth from homeless camps is luring rats to L.A. City Hall, report says* (L.A. Times June 3, 2019), <https://www.latimes.com/local/lanow/la->

“crowded conditions with poor hygiene and sanitation” have contributed to “outbreaks of Group A Streptococcus, shigella, and a rare group of infections transmitted by body lice.”¹⁰ And Portland has seen an uptick in HIV among the homeless, which has been attributed to “the rise of cheap accessible methamphetamine and heroin, and an increase in people who use the drugs to manage life on the streets.”¹¹ An outbreak of hepatitis A that infected more than 500 Californians originated in an encampment in San Diego, where it killed 19 people, most of whom were homeless.¹²

Encampments also pose significant environmental hazards. The devastating Skirball fire that ripped through parts of Los Angeles in December 2017, burning roughly 400 acres, started as a cooking fire at

me-ln-rats-homelessness-city-hall-fleas-report-20190603-story.html.

¹⁰ Vianna Davila & Jonathan Martin, *Rare infectious diseases are rising at an ‘alarming’ rate in Seattle’s homeless population, concerning health officials* (Seattle Times Mar. 15, 2018), <https://www.seattletimes.com/seattle-news/homeless/infectious-disease-outrbreaks-in-seattle-homeless-people-concern-health-officials/>.

¹¹ Molly Harbarger, *Spike in Multnomah County HIV cases tied to drug use* (Oregonian June 20, 2019), <https://www.oregonlive.com/health/2019/06/spike-in-multnomah-county-hiv-cases-tied-to-drug-use.html>.

¹² Scott Wilson, *Hepatitis A outbreak among homeless a byproduct of California’s housing crunch* (Wash. Post Oct. 25, 2017), https://www.washingtonpost.com/national/hepatitis-a-outbreak-among-homeless-a-byproduct-of-californias-housing-crunch/2017/10/25/e9038a62-acf9-11e7-be94-fabb0f1e9ffb_story.html?utm_term=.26e72d4fdd04.

an encampment near the Bel-Air neighborhood.¹³ In Orange County, a February 2018 clean-up of a two-mile-long encampment that had hosted more than 700 people uncovered “404 tons of debris, 13,950 needles, and 5,279 pounds of waste,” including human waste, propane, and pesticides.¹⁴ The clean-up site was “part of a flood control channel” where debris could have easily contaminated the water supply. And in San Francisco, hundreds of thousands of used needles litter the city’s streets—“164,264 needles [were recovered] in August [2018] alone.”¹⁵ Along with these syringes, so much human waste has accumulated on the streets that the city has established a “proactive human waste” unit to clean it up daily, appropriating over \$830,977 to tackle the city’s “feces problem.”¹⁶

Cities and towns across the Ninth Circuit have been sensitive to the problems afflicting their growing

¹³ Jennifer Medina, *Los Angeles Fires Started in Homeless Encampment, Officials Say* (N.Y. Times Dec. 12, 2017), <https://www.nytimes.com/2017/12/12/us/california-fire-homeless.html>.

¹⁴ Anh Do, *‘Eye-popping’ number of hypodermic needles, pounds of waste cleared from Orange County riverbed homeless encampment* (L.A. Times Mar. 10, 2018), <https://www.latimes.com/local/lanow/la-me-ln-riverbed-debris-20180310-story.html>.

¹⁵ Thomas Fuller, *Life on the Dirtiest Block in San Francisco* (N.Y. Times Oct. 8, 2018), <https://www.nytimes.com/2018/10/08/us/san-francisco-dirtiest-street-london-breed.html>.

¹⁶ *Id.*; Aria Bendix, *San Francisco has a ‘Poop Patrol’ to deal with its feces problem, and workers make more than \$184,000 a year in salary and benefits* (Bus. Insider Aug. 24, 2018), <https://www.businessinsider.com/san-francisco-poop-patrol-employees-make-184000-a-year-2018-8>.

homeless populations and have acted in publicly minded ways to address these issues, including by dedicating vast sums to build shelters and working with service organizations to ensure homeless individuals have access to the care they need.¹⁷ Yet the Ninth Circuit's decision ensures that these conditions will persist—and worsen—in each of the Ninth Circuit's more than 1,600 municipalities unless and until those cities can provide enough beds to shelter every person within their boundaries. But nothing in the Constitution or this Court's precedent requires cities to surrender their streets, sidewalks, parks, riverbeds, and other public areas to vast encampments and thereby abdicate their duty to provide clean, safe, and accessible public spaces to *all* residents. On the contrary, this Court has long recognized that the heartland of local governments' police power includes "such reasonable regulations ... as will protect the public health and the public safety." *Jacobson v. Mass.*, 197 U.S. 11, 25 (1905). And there is simply nothing to "justify a court in interfering with so salutary a power and one so necessary to the public health." *Hutchinson v. City of Valdosta*, 227 U.S. 303, 308 (1913).

B. The Ninth Circuit's Decision Is Unworkable And Nonsensical.

Through its sweeping interpretation of the Eighth Amendment, the Ninth Circuit has arrogated to federal courts the power to oversee the use of city streets, parks, and other public areas. Even if that

¹⁷ *Tracking HHH*, L.A. Office of the Mayor, <https://www.lamayor.org/HomelessnessTrackingHHH> (describing Los Angeles' \$1.2 billion bond measure aimed at building 10,000 units of housing); *About*, New Path Community Housing, <http://www.newpathboise.org/>.

were proper (it is not), the rule imposed by the Ninth Circuit for carrying out the traditional functions of city councils and town halls is ill-defined and unworkable in practice, raising more questions than it answers. Indeed, in the wake of the decision below, cities such as Portland, Oregon and Thousand Oaks, California have given up even trying to enforce their public-camping laws in light of the unworkable administrative morass created by the Ninth Circuit.¹⁸

To take one example, the Ninth Circuit's decision bars the enforcement of laws against public camping or sleeping unless shelter is "practically available." Pet. App. 65a. But the court gives virtually no guidance as to what that term means. The decision assumes that the only relevant form of shelter is a formal service provider with beds that are deemed acceptable by the individual. But what about other forms of shelter, such as the home of a friend or relative? The court also held that some shelters, despite having beds available, may not be "practically available" because the shelter has certain rules or features by which individuals may be unwilling to abide, such as check-in times, limitations on the duration of one's stay, restrictions on ingress and egress, or religious "messaging on the shelter's intake form" and "iconography on the shelter walls." *Id.* at 47a. If so, what other attributes may render a

¹⁸ *Code change is just first step to help homeless* (Thousand Oaks Acorn July 18, 2019), <https://www.toacorn.com/articles/code-change-is-just-first-step-to-help-homeless/>; Maggie Vespa, *Portland police will not cite homeless for sleeping on streets, citing court ruling* (KGW 8 Sept. 7, 2018), <https://www.kgw.com/article/news/local/homeless/portland-police-will-not-cite-homeless-for-sleeping-on-streets-citing-court-ruling/283-591977968>.

shelter unfit? The Ninth Circuit does not say, leaving the details of its novel scheme to be resolved through endless litigation in federal courts instead of through local democratic deliberation. The court's silence leaves cities and counties paralyzed, unable or unwilling to act out of fear of substantial liability.

Similarly, the Ninth Circuit's decision provides no guidance on the methods a jurisdiction should use to ascertain the number of beds available for homeless individuals on a given night. For instance, how often must such counts be performed—nightly, monthly, annually, or at some other interval? And who should count as “hav[ing] access to adequate temporary shelter”? Pet. App. 62a n.8. Here, for example, one Plaintiff conceded that he had a job and money, and camped only because he “do[es]n’t like to pay rent” and “shelters suck.” *Id.* at 140a. Another Plaintiff was cited while visiting his family in Boise. *Id.* at 40a–41a. Should these individuals be included in calculating the number of shelter beds a city must provide before enforcing laws regulating public camping and sleeping? The court is again silent, exposing cities who do attempt to comply with the court's newfound framework subject to lawsuits seeking substantial monetary and other relief. *Id.* at 17a.

More fundamentally, the Ninth Circuit's holding simply does not make sense. Under the all-or-nothing rule adopted below, a city may not enforce laws regulating public camping or sleeping against *anybody* unless shelter is “practically available” to *everybody*. But why should the inability of a large city such as Los Angeles to provide shelter for each of the more than 60,000 homeless individuals within its

borders prevent it from requiring *any* individual to accept available shelter?

While the Ninth Circuit claims that its decision is a “narrow” one, limited to laws regulating public camping or sleeping, it will not remain so for long. As Judge Smith accurately observed, the “logic of the panel’s opinion reaches even further in scope,” imperiling “laws that prohibit public defecation and urination” and rendering cities “powerless to assist residents lodging valid complaints about the health and safety of their neighborhoods.” Pet. App. 19a. One district court has already applied the Ninth Circuit’s logic to invalidate a statutory scheme requiring sex offenders to secure a “qualifying host site” before serving a term of supervised release. *Murphy v. Raoul*, 380 F. Supp. 3d 731, 763–65 (N.D. Ill. 2019). Similar decisions are sure to follow without this Court’s intervention.

CONCLUSION

The Ninth Circuit’s decision misapplies and radically expands this Court’s precedent, creates conflicts with five other circuit or state supreme courts, and stretches the Eighth Amendment beyond recognition. In doing so, it eliminates the ability of state and local governments to protect the health and safety of their residents. And it is already having devastating consequences. This Court should grant review, reverse the Ninth Circuit’s decision, and restore the traditional police powers of cities and States to regulate these critical local issues.

Respectfully submitted.

THEODORE B. OLSON
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500
tolson@gibsondunn.com

THEANE D. EVANGELIS
Counsel of Record
BRADLEY J. HAMBURGER
JOSEPH TARTAKOVSKY
SAMUEL ECKMAN
WILLIAM F. COLE
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
(213) 229-7000
tevangelis@gibsondunn.com

Counsel for Petitioner

August 22, 2019

From: Elena Vasilescu <esemenescu@yahoo.com>
Sent: Monday, September 02, 2019 10:33 PM
To: Dept - City Council
Subject: Homeless shelter threat

Dear Mr. Mayor and Councilors,

My children attend school at Carden Hall which is located in an industrial zone where the Newport Beach City Council is planning several sites for homeless shelters. One of the sites, at 825 West 16th Street in Newport Beach, is within one block of Carden Hall's school campus.

Homeless individuals who are turned away from this possible shelter, due to crowding or not meeting the soberness qualifications, would be in the immediate area without shelter. Our school would be an enticing alternative since it would be unoccupied at times and would offer both space and restroom access. This situation would pose a major security threat to my children as well as other people in the neighborhood.

I am asking for your help to protect thousands of children that attend school in this area and vote against this shelter opening near our school.

Thank you kindly,
Elena Vasilescu

From: JVOLLEN@roadrunner.com
Sent: Saturday, August 31, 2019 2:48 PM
To: Dept - City Council
Subject: Newport Shores Location For Homeless Shelter

Dear Council Members:

I'm asking that you not choose the "Pine Knot Motel" for a "Homeless Shelter".

Newport Shores is a lovely bedroom community with a large population of children.

Please do not expose them to this situation.

Yours truly.

From: Geoff West <gtwest@earthlink.net>
Sent: Monday, September 02, 2019 8:10 PM
To: Dept - City Council
Cc: Costa Mesa City Council
Subject: Newport Beach Homelessness Study Session

Dear Mayor Dixon and Newport Beach City Council members. My name is Geoff West. I'm a 46-year resident of Costa Mesa. Our home is on the Eastside - "Almost Newport Beach", as I tell friends.

A NEW IDEA TO CONSIDER

I write to you today, not as a representative of my city, but as a private citizen with an idea about your plans to address homelessness I think you might wish to consider before you spend too much more time on this issue. While I would like to take credit for it, his idea has been bounced around by several Costa Mesa residents ever since your study session Wednesday on this subject was announced.

WE'VE BEEN OUT FRONT ON THIS ISSUE

Costa Mesa has been on the cutting edge of the homeless issue for several years. In 2011 my city created an organization - The Network for Homeless Solutions - composed of city representatives, volunteers, churches and non-profit organizations skilled in dealing with homelessness issues. When Judge Carter lowered the boom on Orange County cities, basically ordering them to "do something" about homelessness "or else", we were already well on the way toward a solution.

COSTA MESA HAS BEEN THERE...

We have gone through the same travails you will be going through as you address homelessness in Newport Beach. After much searching and negotiation we have purchased a commercial building in Costa Mesa on the east side of John Wayne Airport at 3175 Airway, which will be our permanent temporary housing solution. We have made an interim arrangement with a local church to be a temporary bridge housing venue on Anaheim Avenue, near our Lions Park. Based on the then-most recent Point-In-Time count Judge Carter decided we needed to house 62 homeless people. We arranged with College Hospital for a dozen beds for folks in need of mental health treatment. The other 50 will be domiciled at the church and, later, at the Airway location.

MANAGEMENT STRUCTURE AND FACILITIES

Using our Network for Homeless Solutions as a skeleton, we created a management infrastructure and hired Mercy House - perhaps the most experienced organization in Orange County - to operate our facilities. The facility on Anaheim Avenue is currently successfully operating and the Airway location will be operational by this time next year - maybe sooner.

THERE MAY BE SPACE AVAILABLE

We purchased that site, which has more than double the square footage necessary to accomplish our mission, with the presumption that the surplus space could be leased to a commercial organization of some sort. However, surplus space could mean greater capacity.

COSTA MESA HAS DONE THE WORK

Our City Council and excellent staff have done the heavy lifting on this issue. By the time the Airway facility is fully operational I am told the City of Costa Mesa will have spent nearly \$10 million on homelessness.

WE HAVE COLLABORATED IN THE PAST

We share traffic, a school district, a border and, at one time, operated the A.B.L.E. helicopter program as a Joint Venture with great success, until a couple of misguided Costa Mesa politicians decided to shut that organization down.

A MISSED OPPORTUNITY...

Costa Mesa has the experience, expertise, management structure and the space available to address this issue. It seems to me it could be a win/win situation for both cities if there were a way to collaborate on a solution. It is my sense that Costa Mesa officials are open for a conversation on this subject, so it certainly would be a missed opportunity if some kind of preliminary conversations didn't take place before you got too far down the road with your plans.

I SUGGEST A DISCUSSION

While some Costa Mesans may balk at having Newport Beach homeless folks "dumped" on our city, this really is a regional issue that likely can be best addressed by neighboring cities collaborating. I respectfully suggest members of your City Council and senior staff meet with their peers in Costa Mesa to discuss the possible creation of some kind of joint venture or other arrangement to manage the homelessness issue in our two cities.

Geoff West

From: Justin West <justinwestmd@gmail.com>
Sent: Tuesday, September 03, 2019 8:33 AM
To: Dept - City Council
Subject: Homeless shelters

Members of the City Council,

The evolving homeless situation is clearly not a simple one. The city has the responsibility to manage the needs and goals of both those with residences in Newport Beach, as well as those living on the streets in the community.

As the board prepares to meet tomorrow to discuss where to build a homeless shelter for our city I would like to express my concern regarding the 825 W. 16th Street location. This site is approximately one block from Carden Hall which my child and several of the children in our neighborhood attend. It is clearly not an "industrial zone" as described.

I would urge the council to carefully consider the impact of locating a shelter in such proximity to where the most vulnerable members of our community spend the majority of their time.

Sincerely,

Justin West, MD

From: Westberg, Rick <WestbergR@richmancapital.com>
Sent: Sunday, September 01, 2019 12:08 PM
To: Dept - City Council
Cc: Leung, Grace
Subject: Homeless Housing Decision

Esteemed Council Members,

Regarding the prospective homeless housing on PCH in Newport Shores, the western entry to our City:

Please do not repeat your previous decision to invest in low income housing. To review:

1. Newport Shores is home to a trailer park, manufactured housing and now "The Cove" low income housing for homeless vets - all of which qualify for low income housing for your Regional Housing Needs Assessment. Further concentration of low income housing in this location will cause unintended adverse impacts to our community.
2. Council Members approved of the purchase of the property for The Cove - a property that was listed on the market for 5 years without selling because it was simply over priced and yet received 4 full price offers from affordable housing developers in less than 24 hours after Newport Beach announced money available for affordable housing. Was that a good use of city funds?
3. Council Members elected to kick out the existing tenants benefitting from rents in the 100% - 120% area median income - a targeted affordable range that all California cities covet and strive to create - and instead you invested millions to covert to subsidized housing, essentially trading existing naturally affordable housing for government subsidized housing, a puzzling policy decision and complete waste of money.
4. The community development and planning departments actively encouraged the developer to limit community outreach and avoid a public discussion. Unbelievable that staff and council would support this. I know this to be true because the developer told me directly. Now we are seeing a rushed and hurried decision making process again, without a defined strategy. Why not work on the strategy and goals for implementation first, instead of reacting to a few property listings?
5. Council Members were advised that a quick decision was required in order for the developer of the Cove to seek govt financing options (tax credit application). In reality, the developers tax credit submittal was promptly denied because it didn't even meet threshold and the developer was forced to come back to the city and request even more subsidy! How utterly embarrassing for a Council Member. What falsified timeline is driving this new decision?
6. The Cove and this next prospective site in Newport Shores are small and don't adequately allow for on-site space to provide the social services necessary for future residents. It is baffling that a City would invest in supportive housing units like The Cove and not have onsite space for services for tenants.

Now you have another decision to make. Do you think this decision is any more informed than your last decision? Do you think the process and plan for implementation is adequately involving your constituents or experts in development and operation of affordable housing? Have you RFP'd a housing expert to opine or just relying on a real estate broker?

I happen to work in the affordable housing industry. It wasn't my place to obstruct The Cove project, but the City could have used their money to create double the amount of housing. So unfortunate and a joke in industry circles. Complete failure by staff and failure of City Council to provide guidance.

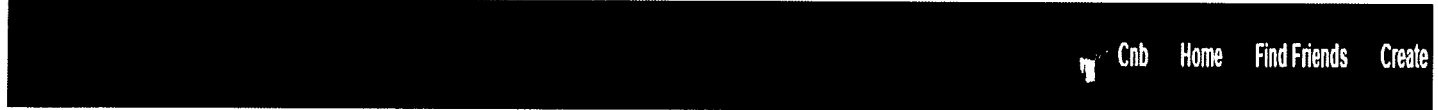
Rick Westberg
304 Colton Street
619-708-8797
Resident and Business Owner in Newport Beach

Sent from my iPhone

Mulvey, Jennifer

Subject: FW: Community Comment in regards to City Council Special Meeting

Per Carol, please include in the material received from the public.



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Linda Young

Assigned to City of Newport Beach - Council ▾



✓ Mark as done

11/1/19

I am contacting you to oppose putting a homeless shelter at The Pine Knott. WE are a small neighborhood filled with children. This is unconscionable and dangerous to expose children families and elderly to transient population with mental health and substance abuse issues. Please pick an industrial area.



Thank you

11/1/19

Thank you for your input. We will forward your comment to the City Council for consideration.



Carol McFadden ▾

From: Gail Zook <gzook1@sbcglobal.net>
Sent: Saturday, August 31, 2019 3:19 PM
To: Dept - City Council; Leung, Grace
Subject: Homeless Shelter

City Council Members,

As a 45 year resident and taxpayer in Newport Shores I am very concerned that you are considering the Pine Knot Motel as a location for a new homeless shelter. Newport Shores is a family community and already has a veteran homeless facility located within our area. The thought of having a Homeless Shelter within an residential area and directly located where beach goers cross to play at the ocean is entirely inappropriate.

Your other suggested locations are within industrial areas and won't be as problematic as a residential area. The thought of our children riding their bikes to school past the homeless shelter daily makes no sense and certainly has a great chance of being dangerous.

Please remove the Pine Knot Motel from your consideration.

Gail Zook
255 Cedar Street
Newport Beach, CA 92663