IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TENT CITY ALTERNATIVE TO LSD, VIADUCTS and ANDY THAYER,	)	
Plaintiffs,	)	No. 17 CV 4518
v.	)	
CITY OF CHICAGO, et al.	)	Magistrate Judge Sidney Schenkier, Presiding
Defendants.	)	

PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs, through counsel, respectfully move this Court for entry of a preliminary injunction preserving the status quo by barring the City of Chicago from enforcing the 30-day notice to vacate it posted on August 18, 2017, until the City (1) provides permanent housing for everyone living under the bridges; (2) grants the permit at issue in this case, or otherwise allows the people living under the bridges to move to the park area in front of the vacant Stewart School; (3) provides a similar location, with similar visibility, for the people to temporarily stay; or (4) this case is resolved on the merits. In support of this motion, Plaintiffs state as follows:

INTRODUCTION

Plaintiff Tent City Alternative to LSD Viaducts is an association that represents and advocates for the rights of individuals who live in tent communities located under the viaducts of Lake Shore Drive at Lawrence and Wilson Avenues.

Plaintiff Andy Thayer is a community activist and member of Tent City Alternative to LSD Viaducts.

On August 18, 2017, officials of the City of Chicago's Department of Transportation posted a notice on the bridges of Lakeshore Drive over Wilson and Lawrence Avenues. Ex. 1. This notice states that the site will be "closed for construction" on Monday, September 18, 2017, and will remain under construction and thus off limits until March 31, 2018. *Id*. If this notice is put into effect, the people who are currently living under the viaduct will be displaced. Affiants have noted the mutual protection that living in a tent community currently offers them that is lacking when they are dispersed. They have noted that temporary shelters are not an option for them due to the physical dangers and health risks frequently associated with shelters. Affiants have also noted that no shelters in the City allow for the temporary housing of childless, different-sexed couples. Single Room Occupancy (SRO) housing is the least expensive form of permanent housing, and yet over 2200 units of Single Room Occupancy (SRO) housing on the city's North Side were lost between 2011 and 2013 alone [cite: http://chicagoreporter.com/shifting-sro-scene-when-housing-last-resort-disappears/], forcing up market demand, and hence prices, for remaining housing stock and pricing Affiants out of the market.

Just in the last few weeks, Uptown learned that the last building in the community with units affordable by someone living on social security was being vacated and converted into higher priced housing. Mark Brown, "Sale of cubicle hotel" in Uptown puts residents at risk," Chicago Sun Times, July 21, 2017

(http://chicago.suntimes.com/chicago-politics/brown-sale-of-cubicle-hotel-in-uptown-puts-residents-at-risk/, last accessed August 27, 2017). This will displace hundreds of additional people, all of whom will be competing for shelter beds and low cost housing, thus further driving up the price and reducing availability.

In April 2017, the Chicago Coalition for the Homeless has estimated that based on the 2015 U.S. census, 82,212 are homeless in the City of Chicago. The Chicago Public Schools identified that 18,117 of its registered students were homeless during the 2016-17 school year. http://www.chicagohomeless.org/faq-studies/ As Plaintiffs' second public assembly application noted, "With repairs of the Lake Shore Drive bridge viaducts scheduled…the homeless who currently reside there will need a place to stay, given that the City has proven unable or unwilling to house them."

The Plaintiffs have identified an alternative location at which they seek to establish a tent community—the publicly owned parkway in front of the now-shuttered Stewart Elementary School, 4525 N. Kenmore Avenue that beginning on September 26, 2016 has been periodically blocked by fencing erected by a private contractor—and have applied for a public assembly permit to do so under §10-8-334 of the Municipal Code of Chicago.[1] The City denied this permit, citing unspecified "safety" concerns. Plaintiffs appealed the City's denial, seeking to use the area. Two days before the appeal hearing, Attorney Kelly Gandursky, representing the City, said the erection of the fencing by the contractor was "illegal" as it was not in the area for which the contractor had a permit. Gandurski said they had forced the

[1] Hereinafter cited as "MC §."

contractor to take down the fence and asked Plaintiff to withdraw his appeal. Upon verifying that the fence had been removed, Plaintiffs withdrew their appeal. Within hours, the fence was re-erected. Plaintiffs thus reinstated their appeal. The fence was removed again on the eve of the hearing, and the City successfully moved for the appeal to be denied on the grounds of "mootness." The same day, Plaintiffs applied for another, very similar public assembly permit for the same location, this time also indicating that Plaintiffs would be erected tents for the homeless. The City denied the permit without citing any safety concerns. This time the City said that while the time and place of the 1st Amendment activity were fine, the manner in the form of erecting tents required an additional public way use permit under MC §10-28-010 and that erecting tents without such a permit was "an illegal act." Public way use permits require the passage of a special ordinance by the City Council and Mayor for each instance of such use. MC §10-28-015. The City's own expert witness admitted in his testimony that never in his experience had the City insisted on homeless individuals applying for and receiving a public way use permit in order to erect tents. Plaintiffs' public assembly permit was nonetheless denied on the grounds that they had not applied for a public way use permit in addition to the public assembly permit. It was this denial that led to the present suit.

Plaintiffs bring this motion to preliminarily preserve the status quo by enjoining the City of Chicago from enforcing the 30-day notice until such time as at least one of the following conditions is met:

a. the public assembly permit for Plaintiffs to establish a tent community at the Stewart School site is granted (even if on a temporary basis, pending final resolution of this case);
b. Plaintiffs and others affected by the Order are provided permanent housing; or
c. The parties are able to agree upon an alternative location that both provides a safe place for Plaintiffs and others affected by the removal notice to stay, and has similar visibility to the current viaduct site and/or the Stewart School site.

As set forth below, Plaintiffs meet the criteria for obtaining preliminary injunctive relief to bar the City from enforcing its 30-day notice. First, Plaintiffs show that they have a substantial likelihood of success on the merits of their claims that: (1) the City's plan to reconstruct the Wilson and Lawrence bridges without providing alternative housing for the Plaintiffs and/or approving their application for a public assembly permit to establish a tent community at the Stewart School site violates the Eighth Amendment by criminalizing the status of homelessness; (2) the City's planned removal of Plaintiffs from their current location, coupled with their denial of Plaintiffs' public assembly permit application and failure to provide a similarly visible alternative location in the manner applied for violates Plaintiffs' rights under the First Amendment of the U.S. Constitution and Article 1, Section 5 of the Illinois Constitution; and (3) the City's planned removal of Plaintiffs from their current location violates their rights under the Illinois Bill of Rights for the Homeless Act. Second, Plaintiffs show that they lack an adequate remedy at law and will suffer irreparable harm in the absence of injunctive relief. Third, Plaintiffs show that the balance of harms tips in favor of granting the injunctive relief requested.

ARGUMENT

I. Preliminary Injunction Standard

In the Seventh Circuit, a party seeking a preliminary injunction must establish four elements: (1) some likelihood of success on the merits; (2) the lack of an adequate remedy at law; (3) a likelihood that they will suffer irreparable harm if the injunction is not granted; and (4) that the balance of hardships tips in the moving party's favor. *Ty, Inc. v. Jones Group, Inc*., 237 F.3d 891, 895 (7th Cir. 2001). In the analysis below, Plaintiffs shows, first, that there is a substantial likelihood that they will succeed on the merits of their claims. Next, Plaintiffs show that they satisfy the three criteria for obtaining injunctive relief.

II. Plaintiffs Have a Likelihood of Success on the Merits of Their Claims

A. The City's Removal Notice, Along with the Denial of the Public Use Permit, Violates the Eighth Amendment

The "Cruel and Unusual Punishments" Clause of the Eighth Amendment "imposes substantive limits on what can be made criminal and punished as such." *Ingraham v. Wright*, 430 U.S. 651, 667-68 (1977). The Supreme Court has explained that laws that criminalize an individual's *status*, rather than his *conduct*, violate the Eighth Amendment's prohibition of cruel and unusual punishment. *Robinson v. California*, 370 U.S. 660 (1962). In *Robinson,* the Court found unconstitutional a state law that made it a criminal offense to be addicted to illegal narcotics. The Court noted that the statute made an addicted person "continuously guilty of this offense, whether or not he had ever used or possessed any narcotics within the State"—and further that addiction is a status "which may be contracted innocently

or involuntarily," given that "a person may even be a narcotics addict from the moment of his birth." The Court found that the statute impermissibly criminalized the status of addiction and, therefore, constituted cruel and unusual punishment. *Id.* at 666-67 & n.9.

In *Powell v. Texas*, 392 U.S. 514 (1968), the Court applied the principles of *Robinson* to the question of whether conduct that is an unavoidable consequence of one's status can be criminalized consistent with the Eighth Amendment. In *Powell*, the Court considered the constitutionality of a law that made "public intoxication" a crime. A four-member plurality interpreted *Robinson* narrowly as prohibiting only criminalization of status and noted that the public intoxication statute criminalized conduct—being intoxicated in public—rather than the status of being addicted to alcohol. *Id.* at 534 (plurality opinion). The dissenting justices interpreted *Robinson* more broadly, concluding that the Eighth Amendment protects against criminalization not solely of one's status, but also of conduct that a person is "powerless to avoid" due to his status. *Id.* at 567 (dissenting opinion). Noting that due to his alcohol addiction, Mr. Powell was powerless to avoid public drunkenness, the dissenting justices would have reversed Mr. Powell's conviction on Eighth Amendment grounds. *Id.* at 569-70.

Justice White, who concurred in the result, wrote a separate opinion in which he set forth a different interpretation of *Robinson*. Justice White concluded that the operative question should be the "voluntariness" of the conduct in question. *Id.* at 548-51 (White, J., concurring). Under this analysis, if sufficient evidence is

presented showing that the prohibited conduct was involuntary due to one's status, criminalization of that conduct would be impermissible under the Eighth Amendment. *Id*. at 551. In reaching this decision, Justice White specifically contemplated the application of criminal laws to homeless individuals who have no choice but to engage in activities of life in public places. He explained that, "[f]or all practical purposes the public streets may be home for these unfortunates, not because their disease compels them to be there, but because, drunk or sober, they have no place else to go and no place else to be when they are drinking." *Id*. Justice White believed some alcoholics who are homeless could show that "resisting drunkenness is impossible and that avoiding public places when intoxicated is also impossible." *Id*. For these individuals, the statute "is in effect a law which bans a single act for which they may not be convicted under the Eighth Amendment—the act of getting drunk." *Id*.

The Ninth Circuit adopted Justice White's framework in *Jones v. City of Los Angeles*, 444 F.3d 1118 (9th Cir. 2006). In *Jones* the court found an ordinance that criminalized "sitting, lying, or sleeping on public streets and sidewalks at all times and in all places within Los Angeles's city limits" was unconstitutional as applied to homeless individuals who are "sitting, lying, or sleeping in Los Angeles's Skid Row because they cannot obtain shelter." *Id*. at 1136. See also *Johnson v. City of Dallas*, 860 F. Supp. 344, 350 (N.D. Tex. 1994), rev'd on other grounds, 61 F.3d 442 (5th Cir. 1995) (finding anti-camping ordinance violated Eighth Amendment because it criminalized sleeping in public when homeless individuals had no other choice but

to sleep in public, and therefore criminalized the status of homelessness itself); *Pottinger v. City of Miami*, 810 F. Supp. 1551, 1563 (S.D. Fla. 1992) (same).[2]

Pursuant to this case law, Plaintiffs have a substantial likelihood of success on their claim that the MC §10-28-010, as applied to Plaintiffs, violates the Eighth Amendment because it results in criminalization of the status of people who are homeless. Under MC §10-28-010, subsection (b), "Unless otherwise authorized by this code, it shall be unlawful for any person to construct, install or maintain any of the following on, under or above the public way ***without a public way use permit authorized by ordinance passed by the city council.***" [emphasis ours] Moreover, under MC §10-28-010(a)(3), "An application for a public way use permit shall be made to the department and shall include the following: …. proof of the required insurance.

The City makes it illegal to erect a tent on public property (regardless of whether doing so obstructs other users of the public way) without first obtaining a public use permit pursuant to MC §10-28-010. To obtain such a permit, the applicant must first secure passage of a special ordinance by the City Council, such as those used to authorize sidewalk cafes or awnings over the public sidewalk. Then, the applicant has to buy an insurance policy to cover the public way use, or

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[2] The Department of Justice has consistently taken the position that that criminalizing sleeping in public when no shelter is available violates the Eighth Amendment by criminalizing the status of being homeless. See, Statement of Interest, *Bell v. City of Boise*, No. 09-cv-540 (D. Idaho, August 6, 2015); Brief for the United States as Amicus Curiae, *Joyce v. City and County of San Francisco*, No. 95-16940 (9th Cir. Mar. 29, 1996); Brief for the United States as Amicus Curiae, *Tobe v. City of Santa Ana*, No. S03850 (Cal. June 9, 1994).

add it to an existing policy. These onerous requirements make it virtually impossible for an indigent person to obtain a public use permit for the purpose of erecting a temporary shelter such as a tent.

At the same time, homeless individuals such as Plaintiffs have no option but to live in tent encampments such as those currently located under the viaducts or the proposed Stewart School site. This is so because, through no volitional act of their own, they are unable to obtain housing. Ms. Alisa Rodriquez, Deputy Commissioner for the homeless programs of the City of Chicago Department of Family and Support Services, the City's witness in the Administrative Hearing[3] agreed, under cross-examination, that there were insufficient beds in shelters to house the homeless population of Chicago based on the number of homeless individuals in the report of the Chicago Coalition on the Homeless. Transcript of the Appeals Hearing before Senior Administrative Law Judge Frank Lombardo on April 12, 2017, Case No. 17 PA 000002, page 166 lines 19-24.[4] Plaintiffs are thus exposed to potential arrest and/or citation for violation of the municipal code every day for simply carrying out life-sustaining tasks such as sleeping in a temporary shelter such as a tent. See Affidavits of Maria Murray and Joe Murray.

[3] Tent City Alternative To LSD Viaducts and Andy S. Thayer v. City of Chicago and City of Chicago Department of Transportation, Docket # 05CP000654A; April 12, 2017.
[4] Hereinafter, all references to the Transcript shall be T. P __, L ____.

B. The City's Removal Notice, Along with the Denial of the Public Assembly Permit, Violates the First Amendment of the U.S. Constitution and Article 1, Section 5 of the Illinois Constitution

The existing encampments under the Lake Shore Drive bridges in Uptown not only provide community residents with a safe place to stay out of the weather, but they do so in a location which is highly visible to the thousands of people who use Lincoln Park every week. On March 29, 2016, the City of Chicago held a meeting at Clarendon Park Fieldhouse with members of the tent encampments and other interested parties. The purpose of the meeting was to announce a pilot program to find permanent housing for everyone living in the encampments. During the meeting, the City admitted that the reason it was offering this program to the residents of the Uptown encampments was that they were so visible. That visibility plays an important First Amendment function of dramatizing the dire situation of the tens of thousands of homeless people in Chicago—so that "out of sight" will not mean "out of mind." The location of the assembly which is the subject of this case is similarly visible—directly across the street from the Alderman's office, and in front of a closed school which is being converted into expensive residential lofts. The City's denial of plaintiffs' permit application thus deprives plaintiffs of their right to speak in an effective manner, a right protected by the First Amendment.

Under established case law, public authorities may limit the application of the public assembly provision of the 1st Amendment of the U.S. Constitution on the grounds of "time" "place" and "manner." Article 1, Section 5 of the Illinois Constitution, however, limits public authorities' power to use "manner" restrictions

on public assemblies by explicitly adding in protections for what it calls "non-expressive" assemblies.

Under MC §10-8-334, the City is required to offer an alternative location and time for applications that it rejects. In the case of Plaintiffs' second application, as part of the City's rejection, it stated that Plaintiffs would be permitted to assemble in the exact same time and place as requested on their application – but without tents. Hence, only the City's right to reject public assemblies based upon manner is at issue. As with the City's specious "public safety" objections to Plaintiffs' first public assembly application, the City is concocting a manner objection due to the fact that Plaintiffs work with and/or are homeless themselves. Moreover, Plaintiffs' proposal to erect tents is precisely the kind of "non-expressive" assembly contemplated by Article 1, Section 5 of the Illinois Constitution.

Plaintiffs' permit application was for a parkway open to the public. Originally, this was a public street; however, the street was closed and converted to a pedestrian mall as part of the expansion of the campus of Stewart Elementary School. When the school was closed in the summer of 2013, the parkway became fully accessible to the public. While the City sold the school building to a private developer, it has admitted (see Statement of Facts) that the developer had no right to use the parkway. It thus remains open to the public. As a public parkway, it is a traditional forum for public speech. As such, restrictions on speech in that forum are subject to strict scrutiny. *Choose Life Ill., Inc. v. White*, 547 F.3d 853, 864 (7th

Cir. 2008), citing *Perry Educ. Ass'n v. Perry Local Educators' Ass'n,* 460 U.S. 37, 45, 103 S. Ct. 948, 74 L. Ed. 2d 794 (1983).

Under strict scrutiny analysis, "[t]he government may 'exclude a speaker from a . . . public forum only when the exclusion is necessary to serve a compelling state interest and the exclusion is narrowly drawn to achieve that interest.'" *Christian Legal Soc'y v. Walker*, 453 F.3d 853, 865 (7th Cir. 2006) (internal quotation marks omitted) (quoting *Ark. Educ. Television Comm'n v. Forbes*, 523 U.S. 666, 677, 118 S. Ct. 1633, 140 L. Ed. 2d 875 (1998)). Stated differently:

> [T]he time, place, and manner of a speaker's activities can be regulated without violating the First Amendment so long as the restrictions are (1) content-neutral, (2) narrowly tailored to serve a significant government interest, and (3) leave open ample alternative channels for communication.

Marcavage v. City of Chicago, 659 F.3d 626, 630 (7th Cir. 2011).

As noted in the Statement of Facts, the City's ***only*** reason for denying plaintiffs' permit application was that erecting tents on the parkway would violate the law barring construction of a "structure" on the public way, in the absence of a City Ordinance (and the required insurance) for doing so. The City's interpretation of the word "structure" to include a tent is inherently suspicious[5]. However, the

[5] Counsel believes that the City does not require such an ordinance for the hundreds of temporary tents erected at the innumerable street festivals held in Chicago every year (or for that matter, the tents erected every week on the federal plaza across the street from this courthouse or in front of the Daly Center courthouse for "Farmers Markets". For example, the City's permit application for 'Special Events" clearly states, in bold red ink, that a "tent permit" is required ***only*** if the tent will be over 400 square feet. None of the tents at issue in this case are that large. City of Chicago Special Events Permit Package, p. 4 (https://www.cityofchicago.org/content/dam/city/depts/dca/Neighborhood%20Festivals/PermitPacket2016.pdf, last visited August 27, 2017).

Court need not delve into the issue of statutory construction, because the City admitted (Doc. 9, Admin. Record, p. 36) that no permit had ever been granted to homeless people living in tents. The City further admitted that no tent under the Wilson and Lawrence bridges had ever posed any sort of safety hazard (*id*, at 41). The City has thus admitted that it has no compelling interest served by denying plaintiffs' application for a public assembly permit.

C. The City's Removal Notice Violates The Illinois Bill of Rights for the Homeless Act

The Illinois Bill of Rights for the Homeless Act was passed on August 22, 2013. Illinois is one of only three states, along with Connecticut and Rhode Island, to pass legislation codifying the civil and human rights of homeless people. The statute's legislative intent states:

> It is the long-standing policy of this State that no person should suffer unnecessarily from cold or hunger, be deprived of shelter or the basic rights incident to shelter, or be subject to unfair discrimination based on his or her homeless status. At the present time, many persons have been rendered homeless as a result of economic hardship, a severe shortage of safe and affordable housing, and a shrinking social safety net. It is the intent of this Act to lessen the adverse effects and conditions caused by the lack of residence or a home.

The Illinois Bill of Rights for the Homeless defines homelessness as "status of having or not having a fixed or regular residence, including the status of living on the streets, in a shelter, or in a temporary residence." 775 ILCS 45/10(b). Among the rights that homeless people are entitled to in Illinois are "the right to use and move freely in public spaces, including but not limited to public sidewalks, public parks, public transportation, and public buildings, in the same manner as any other

person and without discrimination on the basis of his or her housing status," and "the right to a reasonable expectation of privacy in his or her personal property to the same extent as personal property in a permanent residence." 775 ILCS 45/10(a)(1), (7).

These two provisions stand for the proposition that homeless individuals should not be (a) forced to obtain a tent permit that burdens them on the basis of their housing status, and (b) have their property (including tents) displaced from public land. In this case, as discussed at length in the two prior sections, the City granted plaintiffs' permit application to use the space in front of Stewart School for any assembly EXCEPT one involving tents. Since homeless people need to sleep somewhere, this limitation effectively bars them from using the Stewart mall to protest, while allowing any housed person (who can of course go home at night) to use the space. This is exactly the sort of disparate treatment which constitutes prohibited discrimination under the Homeless Bill of Rights.

In sum, Plaintiffs have established a likelihood of success on the merits on each of their three claims in this case sufficient to warrant granting a preliminary injunction.

III. Plaintiffs Meet the Other Criteria to Obtain Preliminary Injunctive Relief

As explained above, in order to prevail on a motion for preliminary injunction, a plaintiff must demonstrate: (1) some likelihood of success on the merits; (2) that he lacks an adequate remedy at law; and (3) a likelihood that he will suffer irreparable harm if the injunction is not granted. *Ty, Inc*, 237 F.3d at 895. If

these conditions are met, a court must then balance the hardships the moving party will suffer in the absence of relief against those the nonmoving party will suffer if the injunction is granted. *Id*. A court weighs all these factors "sitting as would a chancellor in equity," using a "'sliding scale' approach: the more likely it is the plaintiff will succeed on the merits, the less the balance of irreparable harms need weigh towards its side; the less likely it is the plaintiff will succeed, the more the balance need weigh towards its side." *Abbott Labs v. Mead Johnson & Co*., 971 F.2d 6, 11 (7th Cir. 1992).

A. Plaintiffs Lack an Adequate Remedy at Law and Will Suffer Irreparable Harm if an Injunction Is Not Granted

Where, as here, deprivation of a constitutional right is alleged, "most courts hold that no further showing of irreparable injury is necessary." *Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011) (quoting Alan Wright et al., Federal Practice and Procedure §2948.1 (2d ed. 1995)). However, as set forth above, individuals currently living in tent encampments impacted by the City's planned construction will suffer severe harm if the City is not enjoined from enforcing its 30-day removal notice. They will be deprived of a safe community out of the weather; they will be deprived of a space which highlights their plight. Further, many residents will not even be able to relocate to shelters dispersed throughout the City, either because they are not eligible, or because there are not sufficient beds.

B. The Balance of Harms Weighs in Favor of Granting Plaintiff the Relief Requested

There is no evidence that the public interest will be harmed if the Court grants the preliminary injunctive relief they have requested. First, the public has a powerful interest in protecting constitutional rights that is well served by granting injunctive relief here. See, *ACLU v. Alvarez*, 679 F.3d 583, 589-90 (7th Cir. 2012) ("[T]he public interest is not harmed by preliminarily enjoining the enforcement of a statute that is probably unconstitutional.") Second, there is no reason to believe that there is any risk to public safety posed by allowing the people currently living under the viaducts to either remain where they are or move their tent encampment to the Stewart School site. As set forth in the attached declarations, the existing encampments are long standing communities that have not posed any danger to the community in which they are located. Likewise, the Stewart School site currently stands vacant and unused. Allowing Plaintiffs to relocate to that site would pose no obstruction of the public way or other public safety risks.

CONCLUSION

For all of the reasons set forth above, Plaintiffs respectfully requests that this Honorable Court grant a preliminary injunction barring the City from enforcing the 30-day notice until such time as at least one of the following conditions is met:

a. the public assembly permit for Plaintiffs to establish a tent community at the Stewart School site is granted (even if on a temporary basis, pending final resolution of this case);
b. Plaintiffs and others affected by the Order are provided permanent housing; or
c. The parties are able to agree upon an alternative location that both provides a safe place for Plaintiffs and others affected by the removal notice to stay, and has similar visibility to the current viaduct site and/or the Stewart School site.

Respectfully submitted,

/s/ Alan Mills
/s/ Molly Armour
/s/ Jeffrey Frank
/s/ Adele D. Nicholas
/s/ Susan Hathaway Ritacca
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NOTICE

SITE WILL BE CLOSED FOR CONSTRUCTION

Location: **Wilson Avenue under Lake Shore Drive**

Day: **Monday, September 18, 2017**

Start Time: **7:00 AM**

Construction Duration: **September 18, 2017 thru March 31, 2018**

CHICAGO DEPARTMENT OF TRANSPORTATION

NOTICE

SITE WILL BE CLOSED FOR CONSTRUCTION

Location: **Lawrence Avenue under Lake Shore Drive**

Day: **Monday, September 18, 2017**

Start Time: **7:00 AM**

Construction Duration: **September 18, 2017 thru March 31, 2018**

CHICAGO DEPARTMENT OF TRANSPORTATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TENT CITY ALTERNATIVE TO LSD VIADUCTS and ANDY THAYER,

Plaintiffs,

v.

CITY OF CHICAGO DEPARTMENT OF ADMINISTRATIVE HEARINGS, CITY OF CHICAGO DEAPARTMENT OF TRANSPORTATION, CITY OF CHICAGO,

Defendants.

Case No. 17 CV 4518

Hon. Sydney I. Schenkier,
Presiding Magistrate Judge

Affidavit of Bobby Williams

The undersigned, Bobby Williams, certifies that the following facts are true:

1. I am 59 years old, born on August 21, 1958.
2. I first lived in Uptown as a child in 1968. I stayed with my father in Uptown on the weekends and with my mother on the South Side on weekdays.
3. I moved to my own residence in Uptown at the age of 23, and lived at 5036 North Winthrop for four years. I moved to the South Side with my children's mother in 1986, but moved back to Uptown in 1987.

4. I have three grown children and eight grandchildren, all of whom live out of town and do not know I am homeless.
5. I worked construction with the Teamsters Union from 1980 to 1992.
6. In 1992 there was a shooting in front of my residence, and I sustained five wounds from bullets ricocheting off the pavement and buildings. I do not believe the bullets were meant for me; I was just unlucky.
7. In 1992 I was incarcerated. I was sentenced to seven years, served three years and nine months of my sentence, and served approximately another three years due to alleged parole violations.
8. I was released from prison in 1999. I then worked some non-union construction jobs. For about three years, I lived at the Salvation Army facility at 1025 West Sunnyside in Uptown, and then for about four years in my own apartment in the 4500 block of North Sheridan in Uptown.
9. I became disabled in December 2005 when I shattered an ankle and injured both knees. I suffer from a vitamin D deficiency which makes me susceptible to breaking bones. I also occasionally suffer from seizures, probably due to a head trauma in my youth.
10. After my injury I went to the Salvation Army, where a client and friend stole my personal property. I was able to resolve the matter with the thief and did not want to prosecute, but the Salvation Army insisted on prosecution. This soured

me on the Salvation Army, so I left and went to the Cornerstone shelter on Racine Street in Uptown, where I had also volunteered for many years.

11. I am told that I was in a coma for four days. I was hospitalized for about a month. My father helped me in my recovery, and in 2006 I was recovered enough to start working in construction again.

12. In 2007 I moved to Rogers Park, where I stayed until 2011. I then moved back to a Single Room Occupancy apartment building in Uptown, located at 915 West Wilson. I lived there until 2015.

13. In 2015 I was incarcerated again. I was arrested for "harboring" my nephew, a drug dealer, despite the fact that my nephew never spent a night at my place.

14. I was given a year sentence and served six months. I was freed in February 2016.

15. After my release I stayed in a tent at the Stewart Mall.

16. On September 26, 2016, the police, the Department of Family and Support Services (DFSS), and a private construction contractor forced everyone camped on the Stewart Mall to leave.

17. After being forced out of the Stewart Mall, I started staying at the Wilson viaduct.

18. During the last two years, I have also stayed at shelters occasionally. I generally stay one to five nights, but then have to leave because of the conditions at the shelters: bedbugs, mice, roaches, spiders, people with scabies, fights among and

between clients and staff, and inappropriate orders and condescending attitudes from shelter staff. Shelters I have stayed at include Cornerstone, North Side Support Services, Lakeview, and Salvation Army.

19. Since I have been living under the Wilson Avenue bridge, city representatives have promised to find me permanent housing, but nothing has materialized.

20. If I am evicted from the Wilson bridge, I will have nowhere else to go. The shelters do not provide me with the same safety and permanency (however tenuous) that the community under the bridge provides. I have lived almost my entire adult life in Uptown, and do not know the rest of Chicago. I rely on social services in Uptown for my health care, and to eat. My only source of income is SSI, and there are no apartments I can afford with this limited income. My criminal record also makes it very hard to find any place that will rent to me.

FURTHER AFFIANT SAYETH NOT

Under penalties for perjury made applicable by28 USC Sec. 1746, I certify under penalty of perjury that the statements set forth in this affidavit are true and correct.

Bobby Williams

Date 8/24/17

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TENT CITY ALTERNATIVE TO LSD VIADUCTS and ANDY THAYER,

Plaintiffs,

v.

CITY OF CHICAGO DEPARTMENT OF ADMINISTRATIVE HEARINGS, CITY OF CHICAGO DEAPARTMENT OF TRANSPORTATION, CITY OF CHICAGO,

Defendants.

Case No. 17 CV 4518

Hon. Sydney I. Schenkier,
Presiding Magistrate Judge

Affidavit of Joe Murray

The undersigned, Joe Murray, certifies that the following facts are true:

1. I became homeless in August 2014 after I was released from Illinois River Correctional Center.
2. I was incarcerated for 13 years. When I was released from prison I was instructed to take a train to Chicago and find a shelter. I had $10 in my pocket. I was not offered any transitional reentry support from the Department of Corrections.
3. I stayed at the following shelters after my release from prison: the Pacific Garden Mission (3 months), Cornerstone (2 months), and Northside Support Services (2 months).

4. I found conditions at these shelters to be inadequate and hazardous.
5. The Pacific Garden Mission only offers necessities like food and showers on the condition that residents participate in religious programming. Additionally, I was robbed there – a backpack filled with all of my belongings (electronics and clothing) was stolen.
6. The men's residence at Cornerstone was infested with mice and bed bugs.
7. I encountered residents who were actively abusing substances at North Side Support Services. Additionally there was significant violence between residents and theft there.
8. A friend who had previously lived at North Side Support Services informed me that he was living in a tent under the Lawrence Viaduct.
9. I began living with my friend under the Lawrence Viaduct in March 2015.
10. I lived under the viaduct for 3-4 months. Due to routine police harassment under the Lawrence Viaduct, I relocated to the park near Montrose Beach in the summer of 2015.
11. The police harassment continued to take place at the park.
12. In August 2015 I met Maria Murray. I married Maria Murray on November 19, 2015.

13. I lived in a tent in the park with Maria Murray From August 2015 until November 2015 when I received an Uptown Tent City Organizers flyer about living under the Lawrence Viaduct.

14. In November 2015, Maria Murray and I moved our tent to the Lawrence Viaduct. I have lived there since and continue to live there to the present date.

15. The City of Chicago has never offered me any assistance in obtaining shelter away from the Lawrence Viaduct or the tent city.

16. I prefer to stay in the tent city encampment at the Lawrence Viaduct because it is a group of people we know and is safer and cleaner than the shelters.

17. At the Lawrence Viaduct, I have a community. We watch out for each other and keep an eye on each other's property. In the years I have lived at the Lawrence Viaduct I have never been robbed or personally experienced any violence.

18. To my knowledge, there are no shelters in the City of Chicago that allow married couples, without children, to stay together. All of the shelters are segregated by gender.

19. While living at the Lawrence Viaduct, I have never been arrested or received any type of citation for law enforcement.

20. I worked part-time at the Preston Bradley Center from January 2017 to May 2017 as a maintenance engineer, earning approximately $100 a month. However, the Preston Bradley Center ran out of funding and I lost my job.

21. As apartments in the Uptown neighborhood rent for over $1000 a month, I cannot afford to pay rent. Additionally, due to my history, it is next to impossible for me to be approved for a market rent apartment.

22. I will not live in shelters anymore because they do not provide housing to childless couples. Additionally, all the shelters I have experienced dangerous and unsanitary.

23. If I am forced from the Lawrence Viaduct without a nearby relocation for the tent city, I will suffer significant mental and emotional stress. I will also not be able to receive my much needed medical services at the nearby Heartland Health Center.

FURTHER AFFIANT SAYETH NOT

Under penalties for perjury made applicable by Section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this affidavit are true and correct.

Joe Murray

8/23/17

Joe Murray

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TENT CITY ALTERNATIVE TO LSD VIADUCTS and ANDY THAYER,

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v.

CITY OF CHICAGO DEPARTMENT OF ADMINISTRATIVE HEARINGS, CITY OF CHICAGO DEAPARTMENT OF TRANSPORTATION, CITY OF CHICAGO,

Defendants.

Case No. 17 CV 4518

Hon. Sydney I. Schenkier,
Presiding Magistrate Judge

Affidavit of Maria Murray

The undersigned, Maria Murray, certifies that the following facts are true:

1. I became homeless in July 2013 as a result of a divorce stemming from domestic violence.
2. At the time I was unemployed and caring for my 11 year old son at home.
3. When I moved out of my home I could not afford a new place because I had no income.
4. I stayed at shelters including the Pacific Garden Mission (1 week) and the Franciscan Shelter (2 months).

5. At Pacific Garden Mission, I was required to attend multiple religious services a day in order to have a bed and meals, this made it impossible to go out to find employment.
6. At the Franciscan Shelter I was offered case management. My case manager ultimately offered me housing at his house.
7. I was verbally and sexually abused by my case manager when I lived with him. He would not allow me to leave the house. This person was later fired from the Franciscan Shelter.
8. I fled my case manager's house on June 29, 2015. My only possessions were the clothing I wore.
9. I took shelter on a cardboard box underneath the Lawrence Viaduct. After approximately 2 months with only the clothes on my back, I received a sleeping bag from one of the area's community organizations.
10. I attempted to stay at Sarah's Circle, but there was not room for me.
11. I met Joe Murray in August 2015 at the Lawrence Viaduct. I married Joe Murray on November 19, 2015.
12. Around August 20, 2015, due to near constant harassment by City officials, I moved out of the Lawrence Viaduct and into the park with Joe, in the homeless tent community.
13. While in the park, we were continually harassed by city officials.

14. The beginning of November 2015, Joe and I relocated with our tent from the park to the Lawrence Viaduct.

15. Joe and I have lived together in a tent at the Lawrence Viaduct since November 2015 to the present date.

16. The City of Chicago has never offered me any assistance in obtaining shelter away from the Lawrence Viaduct or the tent city.

17. I prefer to stay in the tent city encampment at the Lawrence Viaduct because it is a group of people we know and is safer and cleaner than the shelters.

18. At the Lawrence Viaduct, I have a community. We watch out for each other and keep an eye on each other's property. In the years I have lived at the Lawrence Viaduct I have never been robbed or personally experienced any violence.

19. To my knowledge, there are no shelters in the City of Chicago that allow married couples, without children, to stay together. All of the shelters are segregated by gender.

20. While living at the Lawrence Viaduct, I have never been arrested or received any type of citation for law enforcement.

21. Presently I am employed at Target as a "team member" (salesperson). I work around 30 hours per week, earning approximately $1000 a month.

22. As apartments in the Uptown neighborhood rent for over $1000 a month, I cannot afford to pay rent. Additionally, after years of being homeless, my credit is not good, and it is next to impossible to be approved for a rental apartment.

23. I will not live in shelters anymore because they do not provide housing to childless couples. Additionally, I will not live in shelters anymore because they are dangerous and unsanitary.

24. If I am forced from the Lawrence Viaduct without a nearby relocation for the tent city, I will suffer significant mental and emotional stress. I will also not be able to receive my much needed medical services at the nearby Heartland Health Center.

FURTHER AFFIANT SAYETH NOT

Under penalties for perjury made applicable by Section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this affidavit are true and correct.

Maria Murray — 8/23/2017

Maria Murray — Date