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ED.41  "Rooted" Melanie Amador 2023
Mayor London Breed announced that the City plans to resume enforcing laws governing homelessness in San Francisco in the latest development in a lawsuit against San Francisco for how it conducts operations on street homeless encampments.

In a Medium post on September 25, Mayor Breed said that a district court order from last December has prevented the City from enforcing several of its homelessness ordinances—while allowing street cleaning and clearing blocked sidewalks—but lawyers for the Coalition on Homelessness and seven unhoused plaintiffs dispute that assertion.

“The only limitations the City has faced since a federal court injunction was issued last December are against displacing and punishing homeless individuals just because they have nowhere else to go,” said John Do, senior staff attorney for the American Civil Liberties Union of Northern California. “San Francisco has always been free to enforce any other criminal laws, or to address homeless encampments because of any genuine health and safety concern.”

Magistrate Judge Donna Ryu’s December court order cites Martin v. Boise, a landmark federal case that prohibits citing or arresting people sleeping outdoors if no shelter is made available to them. The City claims it offered encampment residents shelter when it cleared camps, but that homeless people frequently declined those offers. However, the court rejected this argument and noted that it had no basis in the record before the court, where the City was unable to provide any evidence in court that it offered shelter prior to citing or arresting unhoused individuals at least 3,000 times for homelessness-related offenses.

In addition, plaintiffs have noted that the City only tracks the number of shelter placements in encampment operations, and routinely categorizes all those for whom they have no shelter beds available as refusing shelter, whether they have refused shelter or not.

These statements stem from the sides’ dueling interpretations of a ruling from the 9th U.S. Circuit Court of Appeals last month on what constitutes “involuntary homelessness.” The circuit court denied a motion to modify the injunction without prejudice. Despite losing on the motion, City Attorney David Chiu declared victory when Do apparently concurred that Mayor Breed’s statement echoed Chiu’s earlier remarks on this supposed clarification of when an unhoused person declines a specific offer of shelter placement.

As of press time, the 9th Circuit has not published any authorization for the City to continue enforcing bans against sitting, sleeping or lying down on its public rights of way.

Plaintiffs’ lawyers maintain that as long as unhoused people lack an opportunity to have a roof over their heads, ticketing and jailing them amounts to cruel and unusual punishment, and that confiscating their possessions in sweeps is illegal search and seizure.

The City’s recently reactivated waitlist for shelter reservations has about 400 people on it, even as the City’s unsheltered population is above 4,000, according to its estimates from 2022. Zal Shroff, the plaintiffs’ lead attorney, said that this demand for shelter flies in the face of the City’s claims of widespread refusal of its services. “Hundreds of people are on a new, growing waitlist for shelter beds right now, with thousands more lacking appropriate options for shelter or housing,” he said. “But the City has nonetheless closed its same-day lines for shelter, where hundreds of individuals were turned away each day because of the City’s dearth of available shelter options. The idea that unhoused people are refusing shelter in large numbers is completely unfounded and contradicts the evidence submitted to the court that underpins the injunction.”

In another legal action with potential impact on San Francisco, Gov. Gavin Newsom filed a “friend of the court” brief to the Supreme Court on September 22 asking the court to review a similar 9th Circuit decision on a case in Grants Pass, Oregon. The former mayor criticized the ruling on this case and in Boise, Idaho as leaving cities “paralyzed” in enforcing homelessness ordinances. In those cases, the 9th Circuit determined that the government cannot arrest people for sitting, sleeping or lying down in public when there is no real alternative. Three days later, San Diego, Seattle and Honolulu, as well as other cites and conservative organizations, filed a separate brief to the nation’s highest court.

If the parties don’t reach a settlement, a trial date is set for 2024.
FAQ: PRELIMINARY INJUNCTION AGAINST THE CRIMINALIZATION OF HOMELESSNESS IN SAN FRANCISCO

A: In Martin v. Boise, the Ninth Circuit determined that the government cannot arrest poor people for sitting, lying, or sleeping in public when they have no real alternative. The decision does not cover individuals who do have access to appropriate shelter or housing.

Q: WHAT IS THE HOLDING OF THE NINTH CIRCUIT CASE MARTIN V. BOISE?

A: No. This is not a ban on addressing homeless encampments. The City can enforce all necessary health, accessibility, and public safety laws to address homeless encampments when necessary—including for routine street cleanings. The City can also clear encampments if it makes real offers of available shelter to the affected people.

Q: DOES THE PRELIMINARY INJUNCTION BAN THE CITY FROM ADDRESSING STREET ENCAMPMENTS?

A: No. The injunction does not prohibit the City of San Francisco from offering shelter and services to unhoused people. It actually encourages the City to make real offers of shelter as the only way to address the homelessness crisis. Under the injunction, if the City can provide a real offer of shelter (meaning a specific accommodation that is available to and appropriate for the unhoused person whose encampment is being cleared), it is then free to enforce anti-homeless laws against that individual.

Q: UNDER THE INJUNCTION, DOES THE CITY NEED TO HAVE ENOUGH SHELTER FOR THOUSANDS OF HOMELESS RESIDENTS BEFORE IT CAN ENFORCE ITS LAWS THAT PUNISH BEING HOMELESS?

A: No. The City can enforce its anti-homelessness laws now if it can make real, specific offers of shelter to unhoused individuals, and the injunction does not prohibit enforcement against individuals who have such shelter.

Q: WHAT IS THE COALITION ON HOMELESSNESS LAWSUIT ABOUT, AND WHAT ARE THE PLaintiffs SEEKING WITH THIS INJUNCTION?

A: Plaintiffs are seeking to ensure that San Francisco meets its commitments to taxpayers to deliver on real improvements to street homelessness. The lawsuit seeks to ensure that the City is following data-driven policies to address this crisis, including by connecting unhoused individuals to real opportunities for shelter and affordable housing instead of destroying survival belongings. The lawsuit also points out the immediate, commonsense steps San Francisco can take over the next several months to dramatically reduce street homelessness.

Q: WHAT IS THE CURRENT STATUS OF THE CASE?

A: The City’s appeal of the preliminary injunction is still before the Ninth Circuit. The Ninth Circuit recently denied the City’s motion to modify the injunction in the meantime. The City had asked the Ninth Circuit to allow it to return to its prior policy on encampments which Plaintiffs had established led to thousands of citations and arrests of people who had no access to shelter. A trial is currently scheduled for October 2024.

Q: CAN THE CITY ENFORCE THE INJUNCTION IN THE MEANTIME?

A: Unless the preliminary injunction is modified or dissolved, it will remain in place until there is a final judgment, typically after a trial is held. A trial is currently scheduled for October 2024.

Q: DO UNHoused RESIDENTS HAVE ACCESS TO SHELTER?

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“You’re on the [housing voucher] programs, it takes time,” Shawn said.

On the morning of Monday, August 8, 2023, Shawn and Genea woke up in Mosswood Park to the sound of a track loader rumbling outside their tent. As the loader’s claw trudged through a neighbor’s possessions along the Webster Street fence line, the City of Oakland’s Encampment Management Team approached Shawn and Genea with law enforcement close behind.

"I woke up to the sound of beeping and heard someone say, ‘Is anyone in this tent?’” Shawn recalled. "I poked my head out so they’d see me. They told us they were here to clean up, that whatever stuff we needed—we wanted to keep—to start packing it up… That’s when I got out of the tent and noticed they had already bulldozed our other tent with all of my stuff in it.”

A week prior, the City of Oakland had posted a notice to vacate throughout Mosswood Park for the week of August 8–10, warning of imminent closure of all encampments spanning from Webster Street to Broadway. Born and raised in the East Bay, Shawn and Genea have been together since 2020. They have spent the past two years living in Mosswood Park after a series of negative experiences in the City’s shelter system, including separation from each other through closure of all encampments spanning from Webster Street to Broadway.

"I grew up in the foster care system, and I know how the system works. Of Shawn and Genea’s experience, a BACS representative said:

“We cannot confirm the details of this account, but it sounds like there was a miscommunication and we encourage them to visit again—or for anybody who is in need of community support and housing assistance to stop by. Assessments are available Monday to Friday, noon to 5 p.m., so when people arrive earlier we encourage them to use our computers, get some food or coffee, join one of our peer-led groups, spend time in the garden, and connect with other community members until assessments start.”

Street Spirit also reached out to the City of Oakland and Operation Dignity for comment, but did not hear back. We will update this story if we do.

The coordinated entry system is made up of a series of assessments that help BACS or Alameda County staff to determine what resources are best suited for the person being assessed. They include questions to determine what resources the person is interested in, and based on their circumstances, which they are most likely to qualify for. When successful, coordinated entry can connect people to domestic violence programs, health resources, short-term housing such as safe parking programs and transitional housing, or longer-term housing such as affordable programs. It is intended to categorize a person’s needs and funnel them into the pathway designed to meet them.

However, many feel that the resources provided are not sufficient, or they simply never complete their assessments. Unhoused people are often described as “service resistant.” But often, those who seek services find that they are not accessible, adequate or safe. Both Shawn and Genea want to find permanent housing, but are wary to relive the hardships—and potential separation—they will face in the meantime.

Soon after their arrival in Mosswood Park, Shawn and Genea had been accepted into the coordinated entry program and placed in two separate sheds at the Mandela Community Sheds at the Mandela Community
First, let it be clear: Because of the current economic system we live under, the choice of how to live should be ours, not the government’s.

Rents are skyrocketing, as documented by countless local and statewide surveys, such as one that found that over 50% of unhoused seniors in California were receiving an average of $960 a month and lost their housing. Once seniors are unhoused, most have difficulties in being rehoused. The majority of those surveyed said that they wouldn’t have lost their housing if they had received subsidies.

Youth and adults of all ages, including families with children and college students are also unhoused. Many of those unhoused have found relief from neighbors in large encampments. In Oakland, San Francisco, Los Angeles, San Diego, and Phoenix, Washington state, and Tennessee, among other states, people have banded together not just to survive: They also formed communities, helping each other, physically and emotionally.

Policymakers and media have put out a narrative that says homeless people refuse services offered to them in favor of remaining homeless. But unhoused people have their own reasons. Among the reasons for refusing shelter are limitations on pets and possessions allowed, separations of couples, and terrible previous shelter experiences, such as thefts, violence, lack of privacy and being forced to share dwelling with someone they don’t know or trust.

In its lawsuit against the City of San Francisco, the Coalition on Homelessness cited 3,000 cases where homeless people were jailed and cited for living on the streets—without being offered shelter.

America, whether homeless people accept shelter or not, jail and citations are not the solutions. Where are the unhoused supposed to go?

America, don’t turn your back on the poor and unfortunate who become unhoused because of rising rents, health emergencies, deaths of family members or roommates, layoffs, or COVID.

Jesus Christ preached while homeless. Take up the homelessness cause in your church, schools or union meetings.

Remember: Let the voice for life, liberty and the pursuit of happiness ring out for those who have little choice other than to live on the streets, in parks, in vehicles or encampments.

Don’t let the government get away with jailing, citing and sweeping our unhoused neighbors for not accepting inappropriate offers of shelter. The United Nations declared in 1948 that housing is a human right. Let’s stand up for the human rights of our unhoused community members.
LANDLORDS’ PARTY CELEBRATING THE END OF THE COVID EVICTION MORATORIUM ENDS IN CONFRONTATION BETWEEN TENANTS AND LANDLORDS

On the evening of September 12, local landlords with the Berkeley Property Owners Association (BPOA) hosted a private mixer at Freehouse Pub to celebrate the end of Berkeley’s eviction moratorium.

“I think it’s pretty insensitive and shows how they’re not really part of the community,” Berkeley Rent Board chair Leah Simon-Wiesberg told Street Spirit. “To me it’s just shocking that anybody could celebrate that now more people are vulnerable to eviction.”

The eviction moratorium, which officially expired on August 31, 2023, banned all evictions throughout the city with the exception of those filed under the Ellis Act—which effectively takes a property off the market—and those that are the result of health and safety issues. Berkeley was the last city in Alameda County to end this COVID-era tenant protection. Neighboring cities that ended their moratoriums earlier this summer have already seen a wave of evictions. So far in Berkeley, six evictions have been filed since the moratorium ended. So far in Berkeley, six evictions have been filed since the moratorium ended. Though the eviction moratorium has ended, Berkeley tenants still cannot be evicted for rent that was accrued before September 1, 2023 if it was the result of the pandemic, according to the Berkeley Rent Board. Tenants may still ultimately be responsible for paying the back rent, and landlords can take tenants to small claims court for unpaid rent, even if the nonpayment was COVID-related. But tenants may not be evicted solely for non-payment of rent due to COVID, Simon-Wiesberg told Street Spirit.

Berkeley Rent Board chair Leah Simon-Wiesberg told Street Spirit. “To me it’s just shocking that anybody could celebrate that now more people are vulnerable to eviction.”

As news of the mixer became public on Monday afternoon, Tenant and Neighborhood Councils (TANC), a local autonomous tenants union, responded with calls for protest outside Freehouse. One the following day, the group wrote in a press release that “to celebrate the resumption of evictions is incredibly cruel and we can’t let them host this event without a rebuttal from the tenants.”

Over 100 community and tenant union members mobilized in solidarity with TANC’s call to action. Protestors played music from a large Bluetooth speaker, passed out flyers to passersby, and formed a picket line to disrupt and discourage landlords from joining the party. As members of BPOA arrived they were met with chants like “Parasites!” and “Hey hey! Ho ho! The landlord class has got to go!”

While some landlords attempted to talk to protestors before entering Freehouse, many attendees walked through the picket line with smiles on their faces, filmed protestors from the bar’s front steps, or avoided the crowds by entering through the side entrance.

Energy remained high among protestors as the event continued into the evening, becoming a party of its own. Emphasizing the celebratory nature of tenant solidarity and the insensitivities of BPOA’s event, they passed out free pizza and noisemakers. As attendees arrived, protestors offered them a cake reading, “Hey landlords, get a real job!”

Tensions shifted about an hour and half into the rally when protestors entered Freehouse to present party attendees with the cake, filtering into Freehouse’s back courtyard and surrounding its perimeter with chants of “Eat the cake! Eat the cake!”

Within minutes, verbal exchanges between landlords and tenants broke out into a series of violent confrontations. At one point, a female member of TANC who was trying to break up the fight was slapped across the face by a male party attendee, according to witnesses and videos recorded by Street Spirit. The fight ended quickly, and the protest left Freehouse within five minutes of entering the building.

According to reporting in Berkeley, BPOA President Krista Gulbransen said that when she requested the presence of the Berkeley Police, who had been outside observing the protest, officers refused to enter Freehouse.

Community and tenant union members then marched through the upper Southside neighborhood and regrouped blocks away, emphasizing in a short debrief that their solidarity and immediate response to BPOA’s event was an effective step in building working-class tenant power as Berkeley’s eviction moratorium comes to a close.

“It’s not going to be easy—we all know that,” a member of TANC said to the crowd of protestors. “It’s not going to be fuckin’ easy. But you know what, if we get together, if we stick together, and go by the old school ethos of solidarity and ‘victory for one is victory for all,’ we will win.”

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Many people don’t find it difficult to work a job, and as a result they may lack empathy for those of us who find it highly challenging. They just can’t relate to the challenge of working with a disabling condition. Therefore, they might believe something is wrong with the person who finds work to be difficult. Or they might believe a person who has a problem with work it is lazy or that they intend to mess things up.

While unintentional, this attitude unfortunately is one of the reasons that many people find work to be difficult. And if you have a psychiatric disability, that entire picture could be unfamiliar to people without family or friends who have mental illness. That could be why some people say the words “mentally ill” in a whisper, as though it is an odd or shameful thing. It is not.

If for any reason you find it hard to keep pace with what is expected, working can be hellish. In general, work is hard, and as the cliche goes, “That’s why it’s called ’work.’” People take vacations because they can afford to do so, and because it provides a respite from the challenging routine of working. But many people just don’t understand how challenging it is for disabled people to maintain employment.

For some, their upbringing has made them acclimated to a work atmosphere. One of the biggest challenges of a job, at least as I see it, is the ability to blend into the office or job social atmosphere. If you are socially inept, as I am, it is an additional challenge just to feel “at home” while on the job.

The only thing that’s harder than working is to be unemployed and not have a good source of income. Being poor or broke is a hammer. And it is not envious—it’s not a lifestyle choice that any person would intentionally seek. People can become unemployed or unemployable for many reasons.

In many jobs, how fast you can work is constantly compared to your co-workers. But if your job depends on a special skill that most people don’t have, then you’ve chances of working while slow are better. Slowness may continue to be a hindrance, but it won’t knock you out of the field entirely.

If you need to take antipsychotics because of a psychiatric disorder, like me, slowness at many things is one of the effects of these drugs. I’ve taken antipsychotics nearly every day for the past forty years.

If you are older and can’t be a fanatic of efficiency anymore because your body just can’t physically go there, it is kind of the same thing. If you’ve spent time on the street and you are trying to hold a job so that you can have housing—and this is hypothetical because it is outside of my experience—adapting to a work climate could be quite a challenge.

I did some web-based research about the causes of homelessness in Alameda County, and the numbers are frightening. Many people lose their housing because they lost their jobs. And many others have become homeless less because of the increase in the rents in the Bay Area. That causes a person to enter the seemingly one-way ticket out of mainstream society and into the abyss of being unhoused. And I’m having a panic attack just writing this. It appears that if a person can’t generate a very good income at their work, homelessness becomes a looming possibility.

For these reasons, to live on disability in subsidized housing is to live in a precarious set of life circumstances. Upon reflection, I clearly lacked a realistic idea of how to create a livable future for myself. I believed I was enough of a genius that I could just get hired and I would work my way up in a company and become a millionaire. Obviously, this doesn’t happen. For almost anyone, college might be necessary. There are a few who bypassed college and who are enormously successful. Believing you can be in the tiny percentage of those who didn’t need college to prosper could be magical thinking, unless you have actually done this. But I haven’t done it. I’ve lived with disability my entire adult life, and I have never been wealthy.

I’m almost 60 years old, and for someone with my mental health diagnosis, just living to this age is an accomplishment. No one expects me to do more than I currently do, except me. Any fears, worries, or feelings of inadequacy come from me. Everyone I talk to doesn’t expect me to become a rocket scientist. I suffer from schizoaffective disorder treated with medications. I have arthritis in my knees. I have severe sleep apnea. I’m a walking and talking, medical marvel.

Everyone knows it is hard to get a job and do a job. I want to do that, because to me, it represents a secure future. Maybe other people expect otherwise and don’t expect much of a future. People might believe I’m nearing my life expectancy because of people with my condition not having longevity.

Is it reasonable for a 60-year-old schizophrenic man to look for a future? Maybe not. Maybe I need to live for the “now.”

My health is not entirely bad. I might go another twenty years, or I might just last a few more. How I shape future years, assuming I get them, will be partly a result of how good my planning is, partly how well I do my work, and it will also be a result of how much luck I have.

When a magazine sends me a rejection letter on one of my submissions, the classic line is “Best of luck in placing this story elsewhere.” That’s equivalent to saying “Sorry Charlie. Better luck next time.” But I keep trying. And this itself could be part of the path to homelessness or some other demise. I don’t know because I can’t predict the future. All I can do is to keep trying, and if it doesn’t work, so be it.

Jack Bragen lives and writes in Martinez, California.
HRTC’s Annual Event

“Harm Reduction Is Not A Four-Letter Word!”

Join us Friday, October 13th, from 4-9pm at HRTC’s fixed site, 21 Merlin Street, as we strengthen and support each other in our Harm Reduction efforts in San Francisco. Community prevents overdose—and burn-out!—and we’d love to have you join us for an evening of connection and reconnection in hopes of filling our cups a bit. We’ll have refreshments, community drumming, games, prizes and look forward to great conversations with you there!

email info@harmreductiontherapy.org for more information & to RSVP