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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 Pamela Langley, Renee Askew, Aaron
13 Stinnet, Edward Marquez, Christina
14 Malmen, *individuals*; and Hope’s Village of
15 SLO, *a non-profit corporation*,

16 Plaintiffs

17 v.

18 City of San Luis Obispo, *a municipality*;
19 and DOES 1 to 10, inclusive,

20 Defendants

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

DEMAND FOR JURY TRIAL

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1 Plaintiffs, Pamela Langley, Renee Askew, Aaron Stinnet, Edward Marquez,
2 Christina Malmen, and Hope’s Village of SLO, by and through their attorneys of record,
3 as and for claims against the above-named defendant, City of San Luis Obispo, allege as
4 follows in this complaint. Jurisdiction is invoked in whole or in part under 28 U.S.C. §§
5 1331 and 1343, 42 U.S.C. § 12132, and 42 U.S.C. § 1983 because plaintiffs’ claims arise
6 under the laws and Constitution of the United States. This Court has supplemental
7 jurisdiction over related claims arising under the California Constitution and other
8 California laws under 28 U.S.C. § 1367.
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12 INTRODUCTION

13
14 1. The City of San Luis Obispo (the City), like most cities in California, has an
15 unprecedented shortage of affordable housing and shelter that has left many of its
16 residents unhoused¹, forcing them to use tents, RVs, and cars as shelter. Rather than
17 taking sufficient action to ameliorate this crisis, the City has continued to strictly enforce
18 a myriad of City ordinances to prevent unhoused residents from sheltering in the City’s
19 open spaces and streets.
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24 ¹ A note on terminology: this Complaint uses “homeless” to encompass persons who are
25 both “unhoused,” that is without a fixed residence, and “unsheltered,” that is both
26 unhoused and without physical shelter. The Department of Housing and Urban
27 Development (HUD) defines “literally homeless” as lacking a fixed, regular, and
28 adequate nighttime residence; people who are homeless include people living in public
and private places not meant for human habitation, people living in shelters and similar
temporary arrangements, and people exiting institutions who were homeless prior to
entering the institution.

1 2. According to San Luis Obispo County’s 2019 Homeless Census and Survey,
2 there were 1,483 homeless individuals residing in the County, an increase of 32% since
3 2017. Of those, approximately 1,172—79 percent—were unsheltered. Over a quarter of
4 the County’s unsheltered residents live in the City of San Luis Obispo.
5

6 3. The City has failed to ensure that there is available and adequate shelter for
7 unhoused people before enforcing City ordinances that purport to regulate conduct, but
8 which have been employed to criminalize being homeless; the City’s enforcement of
9 these ordinances has resulted in criminalization of homelessness within its borders. The
10 City’s actions have unlawfully deprived and will continue to deprive hundreds of City
11 residents of a place to rest, sleep, or carry out other life-sustaining activities in the City’s
12 open and public places, their only remaining options.
13

14 4. The City of San Luis Obispo has just one year-round shelter, 40 Prado
15 Homeless Services Center (40 Prado,) that is operated by the Community Action
16 Partnership of San Luis Obispo (CAPSLO). 40 Prado can normally shelter only 124
17 individuals, and its bed capacity was reduced to 70 during the COVID-19 pandemic.
18

19 5. During the most serious global pandemic in a century, the City has embarked
20 on a campaign of driving its unsheltered residents out of town—or at least out of sight—
21 violating their constitutional rights. Instead of heeding the Center for Disease Control
22 and Prevention’s (CDC) guidance urging local governments to allow unsheltered people
23 to shelter in place without disrupting encampments, the City has continued to enforce its
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1 municipal codes against the members of its unsheltered community.

2 6. The City has a policy and practice of citing, fining, and arresting—as well as
3 threatening to cite, fine, and arrest—unsheltered persons to force them to “move along”
4 from public parks, creeks, sidewalks, open spaces, streets, and parking facilities. It often
5 seizes and destroys the personal possessions that these unhoused and unsheltered
6 individuals need for protection, privacy, and survival.
7

8 7. The City's past and ongoing treatment of unhoused individuals threatened and
9 continues to threaten their health, personal autonomy, financial stability, ability to find
10 and continue employment, and access to services and medical attention.
11

12 8. Unhoused residents of San Luis Obispo, including each of the individual
13 Plaintiffs in this lawsuit, are members of the City of San Luis Obispo community. Many
14 are residents who were born and raised in San Luis Obispo. Some have family roots in
15 the area going back many generations. Many attended schools in San Luis Obispo—
16 including at California Polytechnic State University—or work at jobs in the City. Many
17 have serious disabilities.
18

19 9. Plaintiff Hope's Village of SLO is a local nonprofit dedicated to establishing
20 a sustainable community for unhoused people, as well as to helping unhoused people
21 secure the most basic necessities. Hope's Village has been impacted by the City's
22 actions and has had to divert critical resources to alleviate the harm that the City has
23 caused in its efforts to criminalize resting outside.
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1 10. The City's practices and policies impacted and continue to adversely affect
2 all Plaintiffs. Some were cited and excessively fined by the City for living in their
3 vehicles or in open spaces. Others were arrested and prosecuted by the City for simply
4 sleeping outside. Collectively, the City's enforcement of a web of ordinances all but
5 ensures that unsheltered persons are forced out of every zone or category of land within
6 the City. There is simply no place left for the individual Plaintiffs to exist without hiding
7 and without the fear and/or imposition of excessive fines. By punishing individual
8 Plaintiffs and others for their homeless status, the City violates the Eighth Amendment,
9 as well as the California Constitution's prohibition against cruel and unusual
10 punishment.
11

12 11. Similarly, the City violates the Fourth Amendment and the California
13 constitution by seizing and destroying unhoused people's personal property.
14

15 12. The City's policy and practice of forcibly removing unhoused people,
16 including the individuals Plaintiffs, from encampments against CDC guidelines puts
17 them in immediate danger and violates their substantive due process rights under the
18 Fourteenth Amendment
19

20 13. All of these policies and actions have a discriminatory effect on unhoused
21 people with disabilities, many of whom are unable to access the City's scarce shelter
22 resources for disability-related reasons.
23

24 14. Plaintiffs bring this action to stop the Defendant City of San Luis Obispo
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1 from citing, arresting, fining, and removing unsheltered people or their belongings for
2 merely being present in public places or engaging in conduct that is essential to their
3 human existence.
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5 **JURISDICTION AND VENUE**

6
7 15. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331
8 and 1343, 42 U.S.C. § 12132, and 42 U.S.C. § 1983 because Plaintiffs' claims arise
9 under the laws and Constitution of the United States.
10

11 16. Jurisdiction also exists under the Declaratory Judgment Act, 28 U.S.C. §§
12 2201(a) and 2202.
13

14 17. This Court has supplemental jurisdiction over Plaintiffs' related state law
15 claims pursuant to 28 U.S.C. § 1367(a) because those claims form part of the same case
16 or controversy under Article III of the United States Constitution. Plaintiffs' state law
17 claims share all common operative facts with their federal law claims, and the parties are
18 identical. Resolving Plaintiff's federal and state claims in a single action serves the
19 interests of judicial economy, convenience, consistency, and fairness to the parties.
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22 18. Venue is proper in the Central District of California because the events and
23 conduct complained of herein all occurred in the City of San Luis Obispo, located in San
24 Luis Obispo County.
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PARTIES

A. Plaintiffs

19. Individual Plaintiffs Pamela Langley, Renee Askew, Aaron John Stinnet, Edward Marquez, and Christina Malmen are and were at all relevant times unhoused residents of the City of San Luis Obispo. All have been subjected to the City’s enforcement of its varied codes, policies, and practices that criminalize homelessness, impose excessive fines, discriminate against disabled homeless individuals, and in other ways violate federal and state laws.

20. Plaintiff Hope’s Village of SLO is a non-profit 501(c)(3) corporation whose mission is to work to build a sustainable community village for unhoused Veterans and their families. Hope’s Village operates programs to assist unhoused people, including: 1) mobile showers for unhoused persons; 2) temporary shelter at local motels; 3) providing Recreational Vehicles (RVs) and vans to unhoused persons; 4) transportation for family reunification outside of the City; 5) outreach and education to the community on homelessness issues; and 6) providing essential basic supplies to people experiencing homelessness.

B. Defendant

21. Defendant City of San Luis Obispo (hereinafter City) is a municipal corporation organized under the laws of the state of California and the San Luis Obispo City Charter, with the capacity to sue and be sued.

1 22. Defendant City of San Luis Obispo is a recipient of federal funds, including
2 Community Development Block Grant Funds that it uses to fund the Community Action
3 Partnership of San Luis Obispo (CAPSLO). On March 3, 2020, the San Luis Obispo
4 City Council approved \$74,453 of its Community Development Block Grant Funds for
5 the 2020 year to go to CAPSLO for its operation of 40 Prado Homeless Services Center.
6 On March 2, 2021, the San Luis Obispo City Council approved \$70,963 of its
7 Community Development Block Grant Funds for the 2021 year to go to CAPSLO for its
8 operation of 40 Prado Homeless Services Center.
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12 23. The City also receives funds from the State of California.
13

14 24. The City, its employees, including the City Manager, and its agents
15 participated in the unlawful conduct challenged herein. To the extent they did not
16 personally participate, they authorized, acquiesced, set in motion, or failed to take
17 necessary steps to prevent the acts that resulted in the unlawful conduct and harm
18 suffered or that will be suffered by the Plaintiffs. Their acts constitute policies, practices,
19 and customs of the City.
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23 25. The San Luis Obispo Parks and Recreations Department and the San Luis
24 Obispo Police Department are departments of the City responsible for the administrative
25 ordinance interpretations, exclusion of unhoused people from parks at night, banning of
26 tents at public parks, and other actions which violated Plaintiffs' constitutional and
27 statutory rights.
28

FACTUAL ALLEGATIONS

A. The City's Housing Crisis

26. The City's has a housing affordability crisis that is decades old.

27. Approximately one-third of those employed in the City of San Luis Obispo cannot afford housing in the City.

28. According to the According to the California Housing Partnership, San Luis Obispo County has a shortfall of over 9,000 housing units affordable to extremely low-income households (households whose income is less than 30 percent of the Area Median Income).

29. Lower-income renters often struggle to pay their rent. At least 56% of the City's 11,425 renter households were "cost-burdened" in 2017, meaning they spent more than 30% of their monthly income on housing costs. Eighty-four percent of extremely low-income renters are cost-burdened. Even those with tenant-based housing subsidies like the Section 8 Housing Choice Voucher have a hard time affording the rising rental rates within the City.

30. New housing being built in the City is overwhelmingly out-of-reach for the City's lower-income residents. From 2014 to 2019, the City permitted 1,332 housing units affordable to "above-moderate-income" households (households whose incomes are more than 120 percent of Area Median Income), nearly three times its projected need for above-moderate-income housing. In contrast, it permitted only 166 units of housing

1 affordable to very low-income households (households whose incomes are less than 50%
2 of area median income), only a fraction of the needed housing for very low-income
3 households. This mismatch, in which housing development in the City favors expensive,
4 market-rate housing over housing that is affordable to low-wage workers and people on
5 public benefits, has deepened an already dire housing and homelessness crisis.
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8 31. This lack of affordable housing is the primary cause of homelessness in San
9 Luis Obispo. According to San Luis Obispo County's 2019 Homeless Census & Survey,
10 respondents identified inability to afford rent (66%) and not enough income (35%) as the
11 top barriers to obtaining permanent housing.
12

13 **B. Homelessness in the City**

14 32. San Luis Obispo County's most recent Homeless Census & Survey, conducted
15 in 2019, identified 482 homeless individuals living within San Luis Obispo. Of those,
16 326—over two thirds—were unsheltered, meaning that they were sleeping on the street,
17 in tents, in vehicles, or in other places not fit for human habitation.
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20 33. Additionally, a large percentage of homeless individuals within the City are
21 living with disabilities. In 2015, CAPSLO reported that 57% of the individuals served at
22 40 Prado were persons with disabilities.² Of the homeless individuals surveyed in the
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27 ² August 25, 2017, Agreement between the City of San Luis Obispo and the Community
28 Action Partnership of San Luis Obispo County, Inc. For the Operation of the Homeless
Shelter (pg.15 Exhibit A Attachment B-Narrative Responses)

1 2019 Homeless Census & Survey, 31% reported having psychiatric/emotional conditions;
2 26% reported having Post-Traumatic Stress Disorder; 21% reported having a physical
3 disability; and 41% reported having at least one disabling condition.
4

5 34. In contrast, Census data indicate that only 5.5% of the City's residents under
6 age 65 have disabilities.
7

8 **C. The City's Lack of Sufficient Shelter**

9 35. As of 2019, the entire County of San Luis Obispo had approximately 300
10 shelter beds, roughly 20% of the number of unhoused people in the County.
11

12 36. The City has only one homeless shelter, 40 Prado, which is run by CAPSLO
13 and serves the entire County. 40 Prado has day services, such as laundry and showers. It
14 also has night services, such as a bed to sleep in. 40 Prado provides meals and toiletries,
15 like soap and toothpaste.
16
17

18 37. At maximum capacity, 40 Prado can house, at most, 124 individuals, or
19 approximately 38% of the 482 homeless individuals (326 unsheltered and 156 sheltered)
20 officially counted in the City 2019. Since the Point-in-Time count is generally regarded
21 as an undercount, the gap between 40 Prado's capacity and the number of homeless
22 individuals in the City is likely far greater. This is especially true now, as there are more
23 unhoused individuals in the City of San Luis Obispo than there were in the beginning of
24 2019.
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1 38. 40 Prado is a congregate homeless shelter. It is an open dormitory with bunk
2 beds. Residents must share bunk beds. Due to the congregate environment, the shelter is
3 often noisy. The lights at the facility turn off at 11:00 p.m. and turn on again at 5:00 a.m.
4

5 39. 40 Prado reduced its capacity to 70 beds from March 2020 to around May 2021
6 in response to the COVID-19 pandemic.
7

8 40. On information and belief, CAPSLO discovered an outbreak of the COVID-19
9 virus at 40 Prado on or around December 14, 2020, and it did not admit anyone new to
10 the shelter for one to two weeks.
11

12 41. On information and belief, there have been approximately 30 positive COVID-
13 19 cases at 40 Prado since the end of July 2021.
14

15 42. On information and belief, 40 Prado is currently short-staffed and not operating
16 at full capacity. The shelter is now limiting applicants to priority groups like families,
17 those 65 years and older, victims of domestic violence, and people referred from local
18 hospitals.
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20

21 43. In addition to not having enough capacity to meet the community need, 40
22 Prado is not accessible to many people with disabilities. Individuals such as Plaintiffs
23 Renee Askew, and Edward Marquez, who have experienced severe or sustained trauma
24 often have flashbacks, panic attacks, or other mental health symptoms triggered by
25 crowded, loud environments like 40 Prado. Similarly, many individuals who are
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1 homeless have agoraphobia, anxiety, or other mental health impairments that make
2 staying at shelters like 40 Prado extremely difficult for them.

3
4 44. 40 Prado has strict rules that function to exclude many members of the City's
5 homeless community. 40 Prado requires participants to present a valid California
6 identification with a current address within San Luis Obispo County, even though many
7 unhoused people face barriers to obtaining and keeping IDs. Individuals must verify that
8 they are not required to register as a sex offender, complete a questionnaire, and sign a
9 contract acknowledging 40 Prado's rules and procedures.
10
11

12 45. Participants staying overnight must leave the shelter from 7:00 a.m. to 8:30 a.m.
13 and again from 2 p.m. to 5 p.m. Participants then must check-in by 6:00 p.m. to secure
14 their bed and cannot leave the shelter premises until morning.
15
16

17 46. People who stay at 40 Prado must also sign up for and complete chores. Chores
18 include tasks such as wiping down appliances and mopping. The chores are mandatory
19 for all participants, and, if a person cannot complete a chore, the shelter ejects the person
20 from the shelter and bans them from returning for a period of time. Upon information and
21 belief, 40 Prado does not accommodate persons with disabilities who are unable to
22 complete chores because of their disabilities.
23
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25 47. 40 Prado gives priority on beds to individuals who are on a verified self-
26 sufficiency plan such as a verified employment search program. It gives additional
27 priority to participants of programs like 40 Prado's Recuperative Care Program or
28

1 individuals immediately fleeing domestic violence. Individuals seeking beds are then
2 accepted in the following order: in-county families, fragile seniors sixty-five years or
3 older who can care for themselves independently, and in-county individuals. 40 Prado is
4 not currently accepting out-of-county residents.
5

6 48. 40 Prado offers a limited safe parking program for unsheltered individuals who
7 sleep in their vehicles in its parking lot. The parking lot is also shared with participants
8 who use day and night services, so safe parking availability fluctuates. The program
9 requires that the vehicle occupant possess a current driver's license, vehicle registration,
10 and insurance. It also conditions access on participation in a case management program.
11 The City recently opened an additional safe parking lot at Railroad Square with 20
12 available parking spots.
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17 49. Taken together, the City's dearth of affordable housing, limited shelter
18 resources, and limited access to these resources create a situation in which many of its
19 poor and disabled residents have no option but to live outdoors in cars, in tents, or
20 sleeping rough.
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23 **D. Unhoused People Living Outdoors on Public Property**

24 50. The City of San Luis Obispo contains over 2,501 acres of land zoned as
25 Conservation/Open Space, including Laguna Lake Park, the Terrace Hill Open Space, the
26 Bob Jones Trail, and various portions of land that serve as buffers between the City limits
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1 and other areas of town. The City has designated only slightly more land for residential
2 use than it has for open space.

3
4 51. The Bob Jones City-to-the-Sea Trail is a public multiuse trail named after Bob
5 Jones, a local environmentalist who worked for the California Department of Fish and
6 Wildlife and served as president of the Land Conservancy for the County of San Luis
7 Obispo.
8

9
10 52. The trail has sections along the San Luis Obispo Creek in the Cities of San Luis
11 Obispo and Avila Beach. The portion of the trail that is in the City of San Luis Obispo
12 stretches between Prado Road and Los Osos Valley Road in a segment approximately
13 two miles long.
14

15
16 53. For many years, dozens of homeless individuals such as Plaintiffs Pamela
17 Langley, Renee Askew, and Aaron Stinnet have made their home in areas next the San
18 Luis Obispo Creek and the Bob Jones Trail. Since the City of San Luis Obispo contains
19 few sites where homeless individuals can rest out of sight, its homeless community finds
20 some refuge and privacy along the Bob Jones Trail. Others stay in different areas of the
21 City. One area, known as “The Circle”, is near the 40 Prado homeless shelter and the Bob
22 Jones trailhead. Another area is an open space three miles south of downtown San Luis
23 Obispo next to the historic Pereira Octagon Barn structure, also known as the “Octagon
24 Barn” camp.
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1 54. At each of these locations, unhoused individuals and families form small
2 camps, stay for as long as they can, but are eventually forced to leave—sometimes via
3 arrest—by police officers and park rangers. This cycle repeats itself again and again, and
4 the City’s unsheltered residents find themselves constantly on the move, constantly
5 hiding, and constantly in fear of being arrested.
6
7

8 **E. The City’s Relevant Municipal Codes and History of Enforcement**

9 55. The City’s systematic enforcement of a constellation of local ordinances
10 effectively makes it a crime for homeless individuals to exist in certain public areas and,
11 thus, punishes them by virtue of their homelessness. These ordinances include the
12 following San Luis Obispo Municipal Code sections:
13
14

15 SLOMC § 10.34.020(A) (prohibition against camping or sleeping overnight
16 in vehicles);

17 SLOMC § 12.04.020 (encroachment);

18 SLOMC § 12.20.40(E) (ban on being present in a park after hours);

19 SLOMC § 12.22.050(B) (prohibition against being present in open spaces
20 overnight or after dark);

21 SLOMC § 12.22.050(P) (no travelling outside designated trails);

22 SLOMC § 12.23.030(B) (no staying or camping overnight near a
23 creek or on City land that includes or is adjacent to riparian areas);

24 and
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1 SLOMC § 12.23.030(I) (no travelling outside of designated paths near creeks or on
2 City land that includes or is adjacent to riparian areas).

3
4 56. The City punishes violations of these ordinances as an infraction, a
5 misdemeanor, or both.

6
7 57. Public records provided by the City pursuant to a Public Records Act requests
8 show that between May 2018 and June 2021, the City issued over 300 criminal and
9 administrative citations punishing people for violating this web of ordinances that
10 criminalize, ban and punish sleeping, lying, sitting, and resting outdoors in public places.
11

12 58. Approximately 170 of these citations were for simply being in a City park
13 after hours (SLOMC § 12.20.040E), including 28 citations issued in the first six months
14 of 2021.
15

16
17 59. During this time, the City issued 64 citations for being present in open spaces
18 overnight (SLOMC § 12.22.050B); 63 for traveling outside of designated paths near
19 creeks (SLOMC § 12.23.030I), four for being off trail in an open space area (SLOMC §
20 12.22.050(P)), and one citation each for camping overnight in a vehicle (SLOMC §
21 10.34.020A) and camping overnight near a creek (SLOMC § 12.23.030B).
22

23
24 60. A substantial majority of the above citations—a mix of misdemeanors and
25 infractions—were issued to unhoused people.
26

27 61. The City also issued 27 citations for “unlawful lodging” (Penal Code § 647(e))
28 to individuals whom it identified as homeless between May 2018 and May 2020.

1 62. The City's enforcement actions have also included a number of recent
2 encampment sweeps, in which the City forcibly displaced unhoused people from public
3 property.
4

5 63. The City conducted two major sweeps of the Bob Jones trail in May 2020 and
6 October 2020 that affected more than 70 people and over 60 campsites. The City
7 conducted these sweeps under the threat of arrest and displaced all of the individual
8 Plaintiffs from their community. Some lost personal belongings. The City conducted
9 these sweeps while the City lacked adequate shelter to accommodate its unhoused
10 population.
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14 64. In February 2021, the City began increasing enforcement efforts against
15 unhoused individuals at public parks, including at Mitchell Park, a City park near
16 downtown San Luis Obispo. On April 13, 2021, the City Council approved on first
17 reading an ordinance that would explicitly ban the use of tents at public parks; City
18 documents indicate that removing unhoused people from Mitchell Park was a primary
19 purpose of this effort. However, the City Council never held a second reading of the
20 ordinance after receiving a demand letter from Plaintiffs challenging the legality of the
21 ordinance.
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25 65. In late June 2021, the City issued written notices to unhoused residents staying
26 at "the Circle" area of the Bob Jones Trail. The notices stated they would be subject to
27 arrest if they did not move.
28

1 66. On or about July 8, 2021, the City issued notices to unhoused residents staying
2 along the Bob Jones Trail stating they would be arrested if they did not move.

3
4 67. As a result of receiving the June and July 2021 notices, more than a dozen
5 unhoused residents left their campsites along the Bob Jones Trail.

6
7 68. Also on or about July 8, 2021, the City issued written notices to residents
8 staying at an encampment at the Octagon Barn. These notices also ordered residents to
9 leave under threat of arrest.

10
11 69. On or about July 19, 2021, the City issued written notices to vacate to
12 unhoused persons in an encampment next to the San Luis Obispo Creek, approximately
13 one mile south of downtown San Luis Obispo. The notice indicated that encampment
14 residents would be arrested if they did not leave immediately.

15
16
17 70. On July 25, 2021, San Luis Obispo Police officers disbanded a camp in the
18 open space near Santa Rosa Park by issuing verbal notices to vacate. On August 19,
19 2021, the City gave written notices to unhoused residents living in encampments near the
20 Bob Jones Trail by Los Osos Valley Road. The notices indicated they would be arrested
21 if they did not move and cited Municipal Code sections pertaining to public open space.

22
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24 **F. The City Destroys and Fails to Secure the Personal Property of Unhoused**
25 **Persons**

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27 71. Although the City has written procedures in place regarding encampment
28 sweeps, the City applies these policies inconsistently and unhoused individuals have lost

1 property during encampment sweeps.

2 72. The City has a document called, “Illegal Camping Abatement Procedures and
3 Protocols.” These procedures and protocols require the City to conspicuously post
4 “Notices of Law Violations” that include descriptions of notable items in campsites and
5 identification of the owner, if possible. The City has a template notice of law violation it
6 uses to fulfill this requirement. The template notice states that persons must leave
7 “immediately” with their personal property. The notice also states: “Failure to comply
8 with this order will result in the arrest of your person and the seizure of your property. If
9 you leave, and in so doing, abandon your belongings...the belongings will be removed
10 and discarded. You will be prosecuted for the abandoning of the belongings...the
11 abandoning of the belongings shall establish your intent to give up all rights of ownership
12 of said belongings to the City of San Luis Obispo.”
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18 73. The City’s encampment abatement protocols also require park rangers to take
19 a picture of the notice and the campsite. Rangers must visit encampment sites at least one
20 or two days prior to a scheduled clean-up to verify the encampment’s status. City staff
21 must also photograph the site before and after the encampment sweep and record
22 information about the cleanup and post the photos in its ArcGIS platform.³ According to
23 the policy, every opportunity must be given to the occupant to remove their belongings.
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28 ³ ArcGIS is a mapping and data tracking system used by the City in a variety of departments, including to track encampment locations.

1 74. The protocols require City staff to determine the “practicality of separating
2 and leaving personal belongings and discarding trash and non-personal belongings.”
3 They indicate that persons can collect their property in the parking lot at the Corp Yard at
4 25 Prado Road. Property is categorized as “safe-keeping property” and “found property.”
5 The City stores “found” property for 90 days, but stores “safekeeping” property for 60
6 days. To claim property, a person must make an appointment or provide written
7 authorization for another person to retrieve the property. The owner of the property must
8 prove ownership before they are able to retrieve their belongings.
9
10
11

12 75. However, the City regularly fails to abide by these written procedures and
13 protocols. The City’s regular policy and practice is to direct its agents to tell people at
14 encampments that any items left at the encampments will be thrown away. It is also
15 customary for the City to take and destroy items left at encampments.
16
17

18 76. The City also regularly throws away or destroys the personal property of
19 unhoused persons who were not able to move their belongings in the time that the City
20 gave them to do so.
21

22 77. The City also regularly discards or destroys personal property that is
23 temporarily unattended, including when unhoused people leave their personal property
24 temporarily unattended to help other residents who were also trying to move or tend to
25 life sustaining activities like getting water, food, or working.
26
27

28 78. These practices, not the written “Illegal Camping Abatement Procedures and

1 Protocols” constitute the City’s regular policy and practice.

2 **G. The City’s Treatment of its Unsheltered Population During the COVID-19**
3 **Pandemic**

4
5 79. Unhoused people are disproportionately vulnerable to severe illness and death
6 from COVID-19, including due to age, underlying health conditions, and barriers to
7 accessing medical care.
8

9
10 80. Indoor congregate settings like homeless shelters are places where the disease is
11 disproportionately more likely to spread. Homeless shelters throughout California—
12 including 40 Prado—have experienced outbreaks of COVID-19.
13

14 81. In spring of 2020, the CDC issued guidance urging local governments to
15 provide handwashing and other sanitation facilities at homeless encampments, and not to
16 clear encampments unless individual housing options are available. The CDC’s guidance
17 specifically recommends that local governments “allow people who are living
18 unsheltered or in encampments to remain where they are,” going on to state: “Clearing
19 encampments can cause people to disperse throughout the community and break
20 connections with service providers. This increases the potential for infectious disease
21 spread.” Over a year later, the CDC continues to recommend not moving unsheltered
22 people or clearing encampments.
23
24
25
26

27 82. Contrary to the CDC’s guidance, the City has broken up encampments and
28 conducted sweeps of unhoused individuals and encampments on public property within

1 the City during the COVID-19 pandemic, including all of the encampment sweeps
2 described above.

3
4 83. The City has undertaken these actions in flagrant disregard for the prevailing
5 public health guidance regarding COVID-19 and unsheltered homelessness, and for the
6 risk of COVID-19 transmission and severe illness among the City's unsheltered residents.
7
8 A September 3, 2020, news article quotes San Luis Obispo City Police Captain Jeff
9 Smith dismissing the CDCs recommendations: "Those are recommendations" and
10 "[t]hey're not laws or anything we're held to or required to do."⁴
11

12
13 84. San Luis Obispo County is now experiencing a surge in COVID-19 cases, due
14 in large part to the presence of the Delta Variant. The San Luis Obispo County Public
15 Health Department reported on September 3, 2021, that the number of COVID-19
16 hospitalizations in the County is near its all-time high, and the County issued a
17 countywide indoor mask mandate on August 31, 2021.
18

19
20 85. But, despite the current COVID-19 surge, the dangers it poses to individual and
21 public health, and the prevailing public health guidance regarding COVID-19 and
22 unsheltered homelessness, the City continues to clear homeless encampments, scatter
23 their residents, and push the City's unsheltered residents from place to place to place.
24
25

26
27 ⁴ <https://www.newtimeslo.com/sanluisobispo/unsheltered-in-place-san-luis-obispo-housed-population-is-staying-home-during-the-pandemic-but-the-unsheltered-are-being-asked-to-move/Content?oid=10067329>
28

1 **H. The Ongoing and Irreparable Harm to Plaintiffs**

2 **i. Pamela Langley**

3
4 86. Pamela Langley is 57 years old. She is a longtime resident of San Luis Obispo
5 County and went to school at Atascadero High School. She later drove a school bus for
6 the Atascadero Unified School District. She is now retired and living with a disability.
7
8 She has Post Traumatic Stress Disorder (PTSD) and anxiety.

9
10 87. Ms. Langley has been homeless since 2018, following a separation from her
11 husband.

12
13 88. Ms. Langley is currently on CalFresh benefits (also known as Food Stamps) and
14 receives some support from her daughter who lives in San Luis Obispo County. She
15 cannot afford housing in San Luis Obispo or the surrounding area.

16
17 89. Ms. Langley is unable to stay at 40 Prado, the City's only shelter, because the
18 loud, crowded environment there exacerbates the symptoms of her disabilities. She
19 stayed at 40 Prado previously, and the loud noises and bright lights during the early
20 morning and late at night at 40 Prado caused her to relive traumatic experiences from her
21 past and made her extremely anxious.
22

23
24 90. Additionally, in January 2020, CAPSLO banned Ms. Langley from sleeping
25 overnight at the shelter. She forgot to do a chore and was banned from sleeping there for
26 three days. She was not offered alternative shelter during this three-day period.
27
28

1 91. After her three-day ban ended, Ms. Langley did not return to 40 Prado due to
2 concerns about her health. During the time Ms. Langley stayed at 40 Prado, she was sick
3 with the flu or a cold and had a cough. She noticed there was little to no air flow at 40
4 Prado. She has not gotten sick while living outside.
5

6 92. During the COVID-19 pandemic, Ms. Langley has been especially concerned
7 about the lack of ventilation and potential for disease spread at 40 Prado.
8

9 93. Ms. Langley continues to use 40 Prado's services during the day. She uses their
10 shower services and toiletries.
11

12 94. On March 6, 2020, early in the COVID-19 pandemic, the City cited Ms.
13 Langley for sleeping at night along the Bob Jones Trail. The citation, issued by the San
14 Luis Obispo Police Department, listed a misdemeanor violation of San Luis Obispo City
15 Municipal Code 12.22.050(B) and indicated that it was for being in "Open Space After
16 Dark."
17
18

19 95. On Monday May 18, 2020, while Ms. Langley was staying along the Bob Jones
20 Trail, San Luis Obispo City park rangers and police officers came to her campsite around
21 at 7:00 a.m. and forced her to move under the threat of arrest.
22
23

24 96. Ms. Langley moved with other individuals to a site off the Bob Jones Trail.
25 She stayed on that site from May 2020 to mid-August 2020. She later returned to the Bob
26 Jones Trail.
27
28

1 97. The City has criminally prosecuted Ms. Langley for sleeping outside. On
2 August 24, 2020, the City brought a misdemeanor charge against Ms. Langley for
3 violating San Luis Obispo City Municipal Code § 12.22.050(B) (case number 20M-
4 05304), the City’s ordinance prohibiting sleeping in open spaces overnight. This charge
5 arose from a separate incident from the March 6, 2020, citation.
6
7

8 98. The City removed Ms. Langley from the Bob Jones Trail for a second time in
9 October 2020.
10

11 99. On or about October 8, 2020, the San Luis Obispo City Police Department
12 posted a notice at her campsite entitled, “Notice of Law Violation and Order to Remove
13 Property.” The notice stated she would be arrested if she failed to remove her property
14 from the Bob Jones Trail pursuant to San Luis Obispo City Municipal Code §
15 12.22.050(B) (prohibition against being in open space after dark) and California Penal
16 Code § 602 (trespass).
17
18

19 100. On October 19, 2020, San Luis Obispo City police officers forced Ms.
20 Langley out of her campsite at the Bob Jones Trail. She could not gather her personal
21 belongings in time, and the City did not store them, and instead destroyed her belongings.
22 These belongings included clothing, food, coolers, and, most significantly, the bicycle the
23 Ms. Langley used as her primary mode of transportation.
24
25
26

27 101. The City continued to threaten Ms. Langley with arrest after the October
28 2020 sweep. On November 10, 2020, San Luis Obispo City Police Officers posted a

1 notice on Ms. Langley’s campsite entitled, “Notice of Law Violation and Order to
2 Remove Property.” It stated she would be arrested if she failed to remove her property
3 from the Bob Jones Trail. It indicated it was being given pursuant to San Luis Obispo
4 Municipal Code § 12.22.050(B) (prohibition against being in open space after dark) and
5 California Penal Code § 602 (trespass).
6
7

8 102. The City has not offered Ms. Langley shelter or housing that is accessible to
9 her. The City has repeatedly forced her to move from public places where she was
10 staying outdoors, failed to offer her shelter other than at 40 Prado, and cited and
11 prosecuted her for camping.
12
13

14 103. On August 6, 2021, Ms. Langley requested a reasonable accommodation
15 from the City requesting that the City not cite, arrest, or displace her from public
16 property, and that it provide access to housing and shelter services that meet her
17 disability-related needs, as a reasonable accommodation of her disability. The City and
18 Ms. Langley are engaging in an interactive process to determine whether and how the
19 City will reasonably accommodate Ms. Langley.
20
21
22

23 **ii. Renee Askew**

24 104. Renee Askew is 54 years old. She was born and raised in Paso Robles and is
25 a fifth-generation resident of San Luis Obispo County. She has PTSD, anxiety, severe
26 depression, and arthritis.
27
28

1 105. The City has repeatedly punished Ms. Askew for living unsheltered in San
2 Luis Obispo, including by citing and charging her for sleeping outdoors in public spaces,
3 and by destroying her personal property during an encampment sweep on the Bob Jones
4 Trail.
5

6 106. Ms. Askew began residing on the Bob Jones Trail on or about November 11,
7 2019.
8

9 107. On March 6, 2020, the City brought a misdemeanor charge against Ms.
10 Askew for violating City Municipal Code § 12.22.050(B) (prohibiting being in open
11 spaces overnight or after dark).
12

13 108. On or about May 18, 2020, police officers from the San Luis Obispo Police
14 Department forced Ms. Askew to move from her home along the Bob Jones Trail under
15 threat of arrest.
16

17 109. The forced move was traumatizing to Ms. Askew.
18

19 110. When they forced her to move, the police did not give Ms. Askew adequate
20 time to get her personal belongings in order, and she lost many of her possessions,
21 including a nine-person tent and cooking utensils.
22

23 111. On or about October 22, 2020, police officers from the San Luis Obispo Police
24 Department again forced Ms. Askew to move from where she was staying along the Bob
25 Jones Trail.
26
27
28

1 112. On or about November 5, 2020, a San Luis Obispo City police officer arrested
2 Renee Askew for an outstanding warrant. The underlying charge was for violating
3 Municipal Code § 12.22.050(B) (being in open space after dark).
4

5 113. On January 4, 2021, during the height of the COVID-19 pandemic, the City
6 brought a misdemeanor charge against Ms. Askew for allegedly violating City Municipal
7 Code § 12.23.030(I), the City's ordinance prohibiting traveling outside of designated
8 paths.
9
10

11 114. Ms. Askew currently has warrants out for her arrest for misdemeanor
12 charges related to living outside. These warrants are for cases 21M-00345 (SLOMC §
13 12.22.050 [traveling outside designated paths]) and 20M-02241 (SLOMC §
14 12.22.050(B)-(M) [open space violation]).
15
16

17 115. In or about November 2019, while living unsheltered in San Luis Obispo,
18 Ms. Askew tried to obtain shelter at 40 Prado, but she was turned away because she could
19 not prove that she had lived in San Luis Obispo County for all of the past year. Ms.
20 Askew was unable to use 40 Prado's services because she had temporarily lived outside
21 of San Luis Obispo County during the preceding year, and 40 Prado refused services to
22 anyone who could not prove that they had lived in the County for a year or more.
23
24

25 116. Ms. Askew's disabilities also make it difficult—if not impossible—for her to
26 stay in a congregate setting like 40 Prado.
27
28

1 117. In addition to the personal belongings that were seized by the City during the
2 May 2020 sweep of the Bob Jones trail encampment, Ms. Askew has lost other personal
3 property to the City's enforcement efforts, including nine-person tent and cooking
4 utensils.
5

6 118. Currently, Ms. Askew is living outside under constant fear that she will be
7 arrested for her outstanding warrant.
8

9 119. On August 6, 2021, Ms. Askew submitted a reasonable accommodation
10 request to the City requesting that the City not cite, arrest, or displace her from public
11 property, and that it provide access to housing and shelter services that meet her
12 disability-related needs. The City and Ms. Askew are engaging in an interactive process
13 to determine whether and how the City will reasonably accommodate Ms. Askew.
14
15

16
17 **iii. Aaron Stinnet**

18 120. Aaron Stinnet is 37 years old. He has been homeless in San Luis Obispo
19 since 2003. Mr. Stinnet has Attention Deficit Disorder, PTSD, anxiety, and depression.
20

21 121. Mr. Stinnet is not able to stay at a congregate shelter because of his
22 disabilities. The group settings and restrictive rules trigger his anxiety and other mental
23 health impairments.
24

25 122. Mr. Stinnet stayed at the now-closed Maxine Lewis Memorial Shelter a few
26 times six or seven years ago but had a difficult time there.
27
28

1 123. The City has cited and prosecuted Mr. Stinnet multiple times over the years
2 for sleeping outside. On information and belief, from 2012 to 2021, the City has had over
3 500 documented interactions with him. As a result, he has moved from camp to camp and
4 park to park.
5

6 124. The City has both fined and prosecuted Mr. Stinnet for sleeping outside.
7

8 125. On July 10, 2019, the City brought two misdemeanor charges against Mr.
9 Stinnet for violating Municipal Code § 12.23.030(I) (prohibiting travelling outside of
10 designated paths), but those charges were eventually dismissed.
11

12 126. On February 20, 2020, the San Luis Obispo City Police Department issued
13 Mr. Stinnet a citation for violating Municipal Code § 12.20.040(E), (being present in a
14 park after hours). The City brought a civil assessment against him for this charge in the
15 amount of \$861 in fall 2020. On November 3, 2020, the City referred the civil assessment
16 to collections.
17
18

19 127. Mr. Stinnet has no income or assets and cannot afford to pay these fines.
20

21 128. On February 24, 2020, the City Attorney brought a misdemeanor charge
22 against Mr. Stinnet for violating City Municipal Code § 12.23.030(I) (traveling outside of
23 designated paths). There is an active warrant out for Mr. Stinnet's arrest on this charge.
24

25 129. Mr. Stinnet currently lives unsheltered on public property in the City but
26 cannot stay in a fixed location due to the ongoing threat of citation and arrest.
27
28

1 130. On August 6, 2021, Mr. Stinnet requested a reasonable accommodation from
2 the City requesting that the City not cite, arrest, or displace him from public property, and
3 that it provide access to housing and shelter services that meet his disability-related
4 needs, as a reasonable accommodation of his disability. The City and Mr. Stinnet are
5 engaging in an interactive process to determine whether and how the City will reasonably
6 accommodate Mr. Stinnet.
7
8

9 **iv. Edward Antonio Marquez**

10
11 131. Edward Antonio Marquez was born on April 4, 1973, in Monterey Park,
12 California. Mr. Marquez has PTSD, Bipolar Disorder, and Attention Deficit
13 Hyperactivity Disorder.
14

15 132. Mr. Marquez first moved to San Luis Obispo in 1993 when he began
16 attending the California Polytechnic State University of San Luis Obispo (CalPoly). In
17 1997, Mr. Marquez graduated from CalPoly with a degree in photography and a minor in
18 journalism.
19
20

21 133. Mr. Marquez has worked at the Los Angeles Times, and has completed
22 multiple art projects involving font design, web page design, and working on a mural
23 project in downtown San Luis Obispo.
24

25 134. Mr. Marquez has lived in multiple places since graduating from CalPoly,
26 including New York and Los Angeles. He moved back to San Luis Obispo in 2014 after
27 his mother died in 2013. His mother's death was very difficult for Mr. Marquez.
28

1 135. Mr. Marquez became homeless in 2017 and has stayed at different places,
2 both within San Luis Obispo and in other parts of San Luis Obispo County.

3
4 136. In late 2019, Mr. Marquez began staying at an encampment near Ontario Road
5 in the City of San Luis Obispo. Mr. Marquez felt safe at the Octagon Barn and had
6 hoped to shelter in place there during the pandemic. However, the San Luis Obispo
7 Police Department arrested him there in March 2021 for violation of Municipal Code §
8 12.22.050(P) (traveling outside of designated paths). To the best of his recollection, Mr.
9 Marquez did not receive any advance written notice that he had to vacate his shelter by a
10 given date before the police arrested him.
11
12

13
14 137. When police arrested him, Mr. Marquez requested that the City preserve and
15 store his personal property, including his laptop. While Mr. Marquez was under arrest,
16 and before he could return to the Octagon Barn encampment, the San Luis Obispo
17 Ranger Service and San Luis Obispo Police Department removed his shelter and
18 belongings from the encampment. They left a property inventory sheet where Mr.
19 Marquez's shelter and belongings had been removed. But his laptop, as well as several
20 other items, was absent from the list. Nor did the City return these items to him.
21
22

23
24 138. On August 6, 2021, Mr. Marquez requested a reasonable accommodation
25 from the City asking that the City not cite, arrest, or displace him from public property,
26 and that it provide access to housing and shelter services that meet his disability-related
27 needs. Mr. Marquez is still unhoused. The City and Mr. Marquez are engaging in an
28

1 interactive process to determine whether and how the City will reasonably accommodate
2 Mr. Marquez.

3
4 **v. Christina Malmen**

5 139. Christina Malmen is 56 years old. She has been homeless since 2003. Ms.
6 Malmen used to be employed. She worked for different companies, including the
7 Hometown Buffet, Taco Bell, and Barnes and Noble.
8

9 140. In 2014 Ms. Malmen was in a car accident. As a result of that accident, she
10 became disabled. The back injuries and compound fractures she experienced from the
11 accident limited her ability to walk, to bend down, and to climb stairs.
12

13
14 141. Ms. Malmen is currently living in her RV in the City.

15 142. The City cited Ms. Malmen for living in her vehicle. On February 27, 2020,
16 in the early days of the COVID-19 pandemic, it issued her a fine in the amount of \$130
17 for violating San Luis Obispo Municipal Code § 10.34.020(A), the City's ordinance
18 prohibiting camping or sleeping overnight in vehicles.
19

20
21 143. Ms. Malmen cannot afford the fines levied on her by the City for living in
22 her vehicle. Ms. Malmen tries to survive each month on Social Security with an income
23 of \$925 per month. She is not able to afford an apartment in the City of San Luis Obispo.
24

25
26 144. She fears future citations and fines due to living in her vehicle.
27
28

1 **vi. Hope's Village of SLO**

2 145. Plaintiff Hope's Village of SLO is a non-profit 501(c)(3) corporation whose
3 mission is to work to build a sustainable community village for unhoused Veterans and
4 their families. Hope's Village brings this action as an organizational Plaintiff.
5

6 146. Hope's Village is dedicated to establishing a safe, healthy, and drug-free
7 village where Veterans and others who are unhoused and have little or no income can live
8 in dignity and in peace, where their voices will be heard, and where they will have hope
9 in their hearts for a brighter future.
10

11 147. In a region where thousands of people lack basic shelter, Hope's Village will
12 be a safe haven where those willing to work on improving their lives can reside in simple
13 private dwellings, utilizing their current skills and developing new ones.
14

15 148. Hope's Village serves hundreds of unhoused and low-income residents in
16 the City of San Luis Obispo and surrounding areas in the County of San Luis Obispo. It
17 was founded in 2013 by Becky Jorgeson, who is now its Executive Director. Since then,
18 the organization has been working to establish a safe village for unhoused persons to rest
19 without threat of criminalization by the City.
20

21 149. Hope's Village draws on the experiences of its volunteer staff and board
22 members who have worked with homeless persons for many years; some also have lived
23 experience of being unhoused.
24
25
26
27
28

1 150. Hope's Village serves unhoused individuals through five programs:
2 Showers of Hope, RVs for Veterans, Room at the Inn, A Road Back Home, and A Step
3 Up. The organization is a crucial homelessness service provider in San Luis Obispo.
4

5 151. "Showers of Hope" is a mobile shower unit program that provides free
6 showers for unhoused persons in the City. It operates every Saturday morning, and staff
7 also distribute donated items such as gift cards, clothing, socks, shoes, sleeping bags,
8 tents, tarps, and rain jackets. Showers of Hope has provided over 4,700 showers to
9 unhoused community members over the past four years.
10
11

12 152. Hope's Village also provides people with motel lodging through its "Room
13 at the Inn" program. It provides lodging when unhoused people are discharged from
14 hospitals, when they are ill, or when they need relief from mental health issues such as
15 depression and anxiety, which are often exacerbated by being homeless.
16
17

18 153. "RVs for Veterans" is a program that provides recreational vehicles to
19 unhoused Veterans and their families. The organization has given 102 vehicles to
20 individuals and families, and advocates for increased safe parking options in the City.
21
22

23 154. "A Step Up" is Hope Village's program that provides vans to unhoused
24 persons to allow them to utilize City and County safe parking programs.
25

26 155. The organization also provides transportation costs to unhoused persons
27 through its "A Road Back Home" program.
28

1 156. Hope's Village conducts community outreach and education on
2 homelessness issues. Staff at the organization routinely give informational presentations
3 to government personnel, other community-based organizations, churches and clubs.
4 Staff also regularly provide input to local government officials and City and County staff.
5 Staff present at City Council and County Board of Supervisors meetings about
6 homelessness.
7
8

9 157. There are nine dedicated Hope's Village volunteers who canvas the City
10 providing food, water, sleeping bags, tents, tarps and hope to unhoused people in need.
11

12 158. As COVID-19 spread to San Luis Obispo, Hope's Village became
13 concerned about the impact of the pandemic on the City's unhoused residents. It
14 understood from CDC guidance that there was a concern that individuals living in
15 congregate settings, such as homeless shelters, were at particular risk of spread of the
16 coronavirus and needed to social distance to decrease that risk. It was concerned about
17 the inability to social distance within the shelter. It was also concerned about persons
18 living outside unsheltered. It asked the director of 40 Prado for assistance in moving
19 unhoused people into motels temporarily during the pandemic. The shelter declined to do
20 so. As a result, the organization spent its own funds booking motel rooms to ensure the
21 safety of its shelter residents.
22
23
24
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28

1 159. During the COVID-19 pandemic, Hope's Village staff have spent numerous
2 hours advocating for the City to move unsheltered residents, including chronically
3 homeless individuals, into non-congregate shelter, even if only temporarily.
4

5 160. Hope's Village has also expended funds to purchase tents, masks, hand
6 sanitizer, and other supplies to protect people who are living on the street from getting
7 and spreading COVID-19.
8

9 161. The City's criminalization of persons experiencing homelessness frustrates
10 Hope's Village's mission to build a sustainable community for unhoused persons. Any
11 effort by the City to remove unhoused persons or their property from public property in
12 the absence of adequate available shelter likewise frustrates that mission.
13
14

15 162. Hope's Village has been forced to divert resources that it would otherwise
16 use to further its mission in order to help homeless residents recover life-sustaining items
17 they lost during sweeps. For example, during the October 2020 sweep, Hope's Village
18 brought tents and sleeping bags to unhoused individuals on the trail who had those items
19 seized or destroyed by the City. These expenditures take away resources that the
20 organization would have normally spent on its programs and services, and they prevent
21 the organization from allocating funds toward its long-term goal of building a sustainable
22 village.
23
24
25
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27
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[42 U.S.C. §§ 1983; Cal. Const. art. XI, § 12]

All Plaintiffs as to Defendant City of San Luis Obispo

1
2
3
4 166. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if
5 fully set forth herein.

6
7 167. Both the United States and California Constitutions protect individuals from
8 being subjected to cruel and unusual punishment.

9
10 168. The City's Notice of Law Violations and Orders to Remove Property from
11 areas in the City and enforcement of those notices, along with Defendant's threatened and
12 actual enforcement of the City's anti-camping ordinance and other laws restricting where
13 persons may reside, effectively punish Plaintiffs and other homeless individuals by virtue
14 of their homelessness.

15
16
17 169. City of San Luis Obispo, Municipal Code §§ 10.34.020(A), 12.04.020,
18 12.20.40(E), 12.22.050(B), 12.22.050(P), 12.23.030(B), 12.23.030(I), as enforced by the
19 City against unhoused people, make it a crime for homeless individuals to simply exist in
20 certain public areas and thus punish Plaintiffs and other homeless individuals by virtue of
21 their homelessness.

22
23
24 170. Ms. Langley, Ms. Askew, Mr. Stinnet, Mr. Marquez, and Ms. Malmen along
25 with many of the individuals served by Hope's Village SLO, have faced fines, citations,
26 threat of prosecution/and or have been prosecuted under these ordinances and suffered
27 harm as a result.
28

1 171. The emergency shelter available in the City for the homeless population is
2 insufficient to accommodate all of the unsheltered individuals currently residing in the
3 City of San Luis Obispo.
4

5 172. A large portion of City's homeless population therefore has no choice but to
6 sleep outdoors, in the City's parks, streets, and open space. By criminalizing camping in
7 this manner, the City is preventing its homeless population from carrying out the most
8 basic functions of survival, including sleeping and staying dry and warm while doing so,
9 without breaking the law.
10
11

12 173. Further, the City's limited number of available shelter beds are not
13 appropriate for or accessible to certain individuals with disabilities, including Plaintiffs
14 Pamela Langley, Renee Askew, Aaron Stinnet, and Edward Marquez, who are unable to
15 stay in a large, crowded shelter due to disability-related mental health symptoms.
16
17

18 174. The homeless population in the City, including those who were evicted from
19 the different encampments as described above, have no option but to sleep outdoors,
20 significantly increasing the risk of citation, arrest, fines, and prosecution.
21
22

23 175. Individual Plaintiffs and others living unsheltered in San Luis Obispo,
24 including people served by Hope's Village SLO, live under constant and imminent threat
25 of citation, arrest, fines, and prosecution by the City for living outside in public places.
26

27 176. The City's continued illegal activities subject the individual plaintiffs and
28 Hope's Village of SLO to irreparable injury for which they have no adequate remedy at

1 law. Plaintiffs are therefore entitled to relief as prayed for below.

2 **SECOND CAUSE OF ACTION**

3 Violation of Freedom from Excessive Fines

4 Eighth Amendment to the United States Constitution

5 California Constitution, Article I § 17

6 [42 U.S.C. §§ 1983; Cal. Const. art. XI, § 12]

7 Plaintiffs Aaron Stinnet, Christina Malmen, and Hopes Village as to Defendant City of

8 San Luis Obispo

9 177. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if
10 fully set forth herein.

11 178. The City's policies and practices as alleged violate the Eighth Amendment
12 of the U.S. Constitution and Article I, § 7 of the California Constitution by imposing
13 excessive fines through criminal prosecution of unhoused persons because of them
14 sleeping or resting in public areas.

15 179. The City has a policy of prosecuting individuals for resting and sleeping in
16 public areas.

17 180. The City enforces Municipal Code §§ 10.34.020(A), 12.04.020, 12.20.40(E),
18 12.22.050(B), 12.22.050(P), 12.23.030(B), and 12.23.030(I) through criminal prosecution
19 and the imposition of fines.

20 181. Individual Plaintiffs are indigent and cannot afford basic necessities. They

1 cannot afford the fines the City imposes on them and therefore are subjected to further
2 prosecution, loss of confiscated property and increased debt. They have faced criminal
3 prosecution and the imposition of fines for violating one or a number of these ordinances.
4

5 182. The City imposed a \$861 fine against Plaintiff Aaron Stinnett for an alleged
6 violation City of San Luis Obispo, Municipal Code § 12.20.040(E) (being present in a
7 park after hours) and then referred that fine to collections.
8

9 183. The City imposed a \$130 fine against Plaintiff Christina Malmen for an
10 alleged violation of San Luis Obispo Municipal Code § 10.34.020 (A) (camping or
11 sleeping in a vehicle).
12

13 184. Plaintiff Hope's Village, as a result, expends more of its limited resources to
14 provide advice and assistance to unhoused persons levied with the fines the City imposes
15 on unhoused person by reason of their being unhoused, including Ms. Malmen.
16

17 185. In some instances, the City has sent fines to a collections agency, which can
18 damage Plaintiffs' credit, making it even more difficult for them to obtain stable housing
19 and compounding the amount they will owe.
20

21 186. The named individual Plaintiffs and other unhoused persons acquired these
22 fines by engaging in the involuntary, life-sustaining activity of sleeping in public spaces.
23

24 187. These fines are grossly disproportionate to the underlying offense.
25

26 188. The City's illegal policies and practices continue, subjecting the individual
27 plaintiffs and Hope's Village of SLO to irreparable injury for which they have no
28

1 adequate remedy at law. Plaintiffs are therefore entitled to relief as prayed for below.

2 **THIRD CAUSE OF ACTION**

3 **Unreasonable Search and Seizure**

4 **Fourth Amendment to the United States Constitution**

5 **California Constitution art. 1, § 13**

6 **[42 U.S.C. §§ 1983; Cal. Const. art. XI, § 12]**

7 **Plaintiffs Pamela Langley, Renee Askew, Edward Marquez, and Hope's Village of**

8 **SLO as to Defendant City of San Luis Obispo**

9 189. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if
10 fully set forth herein.

11 190. The individual Plaintiffs possess and possessed property that holds both
12 monetary and personal value. Plaintiffs have an expectation to be free from meaningful
13 interference with their property rights, even if their property is stored on public property.

14 191. The City's policy and practice is to seize and destroy unhoused people's
15 personal belongings, even if the property poses no threat to public health and does not
16 constitute evidence of a crime.

17 192. The City has unlawfully seized and destroyed the personal property of
18 unsheltered City residents, including the personal property of Plaintiffs Pamela Langley,
19 Renee Askew, and Edward Marquez.

20 193. The City's seizure and destruction of unhoused people's property has caused

1 diversion of Hope's Village's resources and frustrated its mission. This seizure and
2 destruction in turn caused Hopes Village to expend more of its limited resources to obtain
3 and provide replacement tents and other supplies to individuals who had lost their
4 necessary survival gear and other belongings due to the City's actions.
5

6
7 194. Seizure of private property without a warrant or an exception to the warrant
8 requirement constitutes an infringement upon Plaintiffs' Fourth Amendment rights and
9 rights under the California Constitution.
10

11 195. Individual Plaintiffs and other unhoused people remain under imminent threat
12 of seizure and destruction of their personal property.
13

14 196. The City's illegal policies and practices continue, subjecting individual
15 Plaintiffs and Hope's Village to irreparable injury for which they have no adequate
16 remedy at law. Plaintiffs are therefore entitled to relief as prayed for below.
17

18 **FOURTH CAUSE OF ACTION**

19
20 State-Created Danger

21 Fourteenth Amendment to the United States Constitution

22 California Constitution Article 1, Section 7

23 [42 U.S.C. § 1983; Cal. Const. art. XI, § 7]

24 All Plaintiffs as to Defendant City of San Luis Obispo
25
26

27 197. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if
28 fully set forth herein.

1 198. Governmental action that affirmatively places a person in a position of
2 danger deprives that person of substantive due process rights guaranteed by the
3 Fourteenth Amendment of the United States Constitution and article XI, § 7 of the
4 California Constitution.
5

6 199. The City has a policy and practice of removing unhoused people from
7 encampments and other public spaces and of seizing and destroying their personal
8 property, such as tents and other survival gear, that is necessary for their protection.
9
10

11 200. The City engages in these practices without ensuring that individual shelter
12 and/or housing options are available to Plaintiffs and other unhoused individuals.
13

14 201. Without any other available option for shelter and/or seized and destroyed
15 tents and survival gear, homeless individuals are forced to live exposed to the elements,
16 without protection from cold, wind, and rain, jeopardizing their physical and mental
17 health. Plaintiffs with mental health disabilities are likely to suffer aggravated and
18 heightened mental health symptoms and psychological damage. Without protection, the
19 health of homeless individuals with physical disabilities will be jeopardized and their
20 disabilities exacerbated by exposure to the cold, wet, and wind.
21
22
23

24 202. The City destroyed the protective camping equipment of Plaintiff Pamela
25 Langley and other homeless individuals when it swept the Bob Jones trail in May 2021,
26 October 2021, and when it swept other encampments, depriving them of the means to
27
28

1 shelter themselves from the elements and secure their belongings without appropriate and
2 accessible alternative shelter.

3
4 203. During the COVID-19 pandemic, the City cleared encampments without
5 ensuring that individual shelter and/or housing options were available to Plaintiffs and
6 other unhoused individuals, contravening the CDC's public health guidance and
7 increasing the risk of COVID-19 disease spread, illness, and potential death.
8

9
10 204. Additionally, 40 Prado, the City's only emergency shelter, is a congregate
11 shelter that has experienced multiple and recent outbreaks of COVID-19. The City's
12 policies and practices often put unhoused residents in the position of having to choose
13 between going to 40 Prado, where they risk contracting COVID-19, on the one hand, and
14 citation and/or arrest on the other.
15

16
17 205. The City has refused to stop these unlawful practices despite Plaintiffs'
18 representatives' multiple requests that the City stop engaging in these practices. On
19 information and belief and based on the City's prior actions, the City will continue to
20 sweep new encampments in contravention of the CDC's guidance.
21

22
23 206. The City knows and/or should have known that their actions endanger the
24 health and safety of Plaintiffs and other homeless individuals.
25

26
27 207. The City's policies and practices have and will continue to put individual
28 Plaintiffs and other unhoused people in immediate danger, violating their substantive due
process rights under the California and United States Constitutions.

1 214. Individual Plaintiffs Pamela Langley, Aaron Stinnet, Renee Askew, Edward
2 Marquez, and Christina Malmen are “qualified persons with disabilities” as defined under
3 the ADA. 42 U.S.C. § 12102; 42 U.S.C. § 12131; 28 C.F.R. § 35.108.
4

5 215. Discrimination under Title II of the ADA includes administration of programs
6 in a way that has a discriminatory effect on people with disabilities, or that has the “effect
7 of defeating or substantially impairing the accomplishment of the objectives of the
8 service, program, or activity with respect to individuals with disabilities.” 28 C.F.R. §
9 35.130 (b)(3)(ii).
10
11

12 216. The City’s law enforcement activities, including the citation and prosecution
13 of unhoused individuals for living in tents, in vehicles, and outdoors in public spaces and
14 on public streets, are programs, services, and/or activities covered by Title II of the ADA.
15
16

17 217. The City’s parks and open spaces are programs, services, and/or activities
18 covered by Title II of the ADA.
19

20 218. The City’s removal of homeless individuals, their possessions, and homeless
21 encampments from public property are programs, services, and/or activities covered by
22 Title II of the ADA.
23

24 219. The City’s services to unhoused individuals and families, including the
25 services the City funds at the 40 Prado shelter, are programs, services, and/or activities
26 covered by Title II of the ADA.
27

28 220. Individual Plaintiffs, unhoused individuals served by Hope’s Village SLO,

1 and a significant proportion of the homeless population of San Luis Obispo County more
2 broadly have physical or mental health disabilities at greater rates than the City of San
3 Luis Obispo's population, generally, including mobility impairments and mental health
4 disabilities.
5

6
7 221. The City's practice of citing and prosecuting homeless individuals who live
8 outside or in vehicles in the City of San Luis Obispo's public areas has a disparate impact
9 on people with disabilities.
10

11 222. The City's enforcement of its anti-camping and related ordinances more
12 broadly, has had a disparate impact on people with disabilities because these ordinances
13 criminalize the daily activities of homeless people, who are disproportionately people
14 with disabilities.
15

16
17 223. The encampment sweeps described above, enforcement actions against
18 individual unhoused people, and ongoing sweeps and enforcement actions had and
19 continue to have a disparate impact on people with disabilities and to deny them
20 meaningful access to the City's programs. The people whom the City has forcibly
21 removed from the place where they had been living, deprived of their personal property,
22 and caused to be in fear of imminent citation, arrest, and incarceration are
23 disproportionately people with disabilities compared to the general population of the
24 City.
25
26
27

28 224. The discriminatory effect of the City's enforcement of local ordinances in a

1 way that effectively criminalizes homelessness is exacerbated by inaccessibility of the
2 City's shelter resources. As a congregate setting, 40 Prado is not a safe and accessible
3 environment for many people with PTSD and other mental health disabilities, including
4 Ms. Langley, Mr. Marquez, Ms. Askew, and Mr. Stinnet.
5

6
7 225. Further, the City's breaking up of homeless encampments contrary to the
8 CDC's guidance regarding COVID-19 and the unsheltered has disproportionately
9 endangered unhoused people with disabilities, including those who have disabilities that
10 increase their risk of serious illness and death if they contract COVID-19.
11

12
13 226. The discrimination has caused injury to the individual Plaintiffs Pamela
14 Langley, Edward Marquez, Aaron Stinnet, and Renee Askew, and other unhoused
15 persons, as the City's conduct exacerbated symptoms of their disabilities through the
16 trauma of their forced removal from the Bob Jones Trail, Octagon Barn Encampment,
17 public parks, and open spaces. The discrimination also has caused Hopes Village to
18 expend resources to provide advice and assistance to address and alleviate the injury of
19 unhoused persons, including Ms. Malmen and Ms. Langley.
20
21

22
23 227. Forcibly removing residents and closing encampments without first
24 identifying and offering alternative shelter that meets the individualized needs of people
25 with disabilities does not serve any sufficiently compelling or bona fide and legitimate
26 interest of the City, and less discriminatory options are available to the City to achieve
27 any interests it claims it is trying to advance.
28

1 228. The City’s ongoing discriminatory policies and practices subject the individual
2 Plaintiffs and Hope’s Village of SLO to irreparable injury for which they have no
3 adequate remedy at law. Plaintiffs are therefore entitled to relief as prayed for below.
4

5 **SIXTH CAUSE OF ACTION**

6 Discrimination Against People with Disabilities in Federally Assisted Programs

7 [29 U.S.C. § 794]

8 All Plaintiffs as to Defendant City of San Luis Obispo

9
10
11 229. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if
12 fully set forth herein.

13
14 230. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) provides
15 that “[n]o otherwise qualified individual with a disability in the United States . . . shall,
16 solely by reason of his or her disability, be excluded from the participation in, be denied
17 the benefits of, or be subjected to discrimination under any program or activity receiving
18 Federal financial assistance.”
19

20
21 231. A “program or activity” includes “a department, agency, special purpose
22 district, or other instrumentality of a State or of a local government” that receives or
23 administers federal funds. 29 U.S.C. § 794 (b)(1)(A).
24

25
26 232. The City receives and/or administers federal funds, including Community
27 Development Block Grant Funds and, as such, is covered by Section 504.

28 233. Individual Plaintiffs are qualified individuals with disabilities under Section

1 504, as are many of the individuals served by Hopes Village.

2 234. Section 504 prohibits covered entities from administering their programs in
3 a way that has a discriminatory effect, or disparate impact, on people with disabilities.
4

5 *See* 24 C.F.R. § 8.4 (b)(4).

6 235. Section 504 requires recipients of federal funds to provide people with
7 disabilities with meaningful access to their programs.
8

9 236. Such discrimination has caused injury to the Plaintiffs.

10 237. The City's illegal policies and practices continue, subjecting the individual
11 plaintiffs to irreparable injury for which they have no adequate remedy at law. Plaintiffs
12 are therefore entitled to relief as prayed for below.
13
14

15 **SEVENTH CAUSE OF ACTION**

16 **Discrimination on the Basis of Disability by State-Funded Entity**

17 [Cal. Gov't Code § 11135]

18 All Plaintiffs as to Defendant City of San Luis Obispo

19 238. Plaintiffs reallege and incorporate by reference all preceding paragraphs as if
20 fully set forth herein.
21
22

23 239. California Government Code § 11135 states that:

24 No person in the State of California shall, on the
25 basis of . . . mental disability, physical disability,
26 [or] medical condition . . . be unlawfully denied full
27
28

1 and equal access to the benefits of, or be unlawfully
2 subjected to discrimination under, any program or
3 activity that is conducted, operated, or administered
4 by the state or by any state agency, is funded
5 directly by the state, or receives any financial
6 assistance from the state.
7
8

9 Gov't Code § 11135 (a).
10

11 240. The City is a recipient of state funding, and the programs and activities of
12 the City described in this Complaint are administered with the use of state funds.
13

14 241. Section 11135 is intended to prohibit all forms of discrimination prohibited
15 under Title II of the Americans with Disabilities Act and, where possible, to be more
16 protective of people with disabilities. Subsection (b) states:
17

18 With respect to discrimination on the basis of
19 disability, programs and activities subject to
20 subdivision (a) shall meet the protections and
21 prohibitions contained in section 202 of the federal
22 Americans with Disabilities Act of 1990 (42 U.S.C.
23 Sec. 12132), and the federal rules and regulations
24 adopted in implementation thereof, except that if the
25 laws of this state prescribe stronger protections and
26
27
28

1 prohibitions, the programs and activities subject to
2 subdivision (a) shall be subject to the stronger
3 protections and prohibitions.
4

5 242. Accordingly, all violations of the Title II of the ADA and Section 504 by the
6 City are also violations of section 11135.
7

8 243. Individual Plaintiffs Pamela Langley, Aaron Stinnet, Renee Askew, Edward
9 Marquez, and Christina Malmen are persons with disabilities under section 11135, as are
10 many of the people served by Hopes Village.
11

12 244. Accordingly, by administering its programs in a manner that has a
13 discriminatory effect on people with disabilities, the City has violated, and continues to
14 violate, section 11135.
15

16 245. Such discrimination has caused injury to the Plaintiffs.
17

18 246. The City continues its discriminatory policies and practices, subjecting the
19 individual Plaintiffs to irreparable injury for which they have no adequate remedy at law.
20 Plaintiffs are therefore entitled to relief as prayed for below.
21

22 **EIGHTH CAUSE OF ACTION**
23

24 Declaratory Relief

25 [28 U.S.C. §§ 2201-2202]
26

27 All Plaintiffs as to Defendant City of San Luis Obispo
28

- b. § 12.04.020 (encroachment);
- c. § 12.20.40(E) (ban on being present in a park after hours);
- d. § 12.22.050(B) (prohibition against being present in open spaces overnight);
- e. § 12.22.050(P) (no travelling outside designated trails);
- f. § 12.23.030(B) (no staying or camping overnight near a creek);
- g. § 12.23.030(I) (no travelling outside of designated paths near creeks).

2. For a preliminary and permanent injunction enjoining the City from violating the Eighth Amendment by imposing excessive fines and fees on unhoused people for violations of the above ordinances.

3. For a preliminary and permanent injunction, enjoining and restraining the City from seizing and disposing of homeless individuals' property in violation of their rights under the United States and California Constitutions.

4. For a preliminary and permanent injunction, enjoining and restraining the City from removing unhoused people from encampments, and from depriving them of their necessary survival gear, in the absence of adequate, individual shelter or housing, in violation of their right to be free from state-created danger under the United States and California Constitutions.

1 5. For a preliminary and permanent injunction, enjoining and restraining the
2 City from acting inconsistently with the CDC's guidance regarding COVID-19 and
3 unsheltered homelessness.
4

5 6. For a preliminary and permanent injunction ordering the City and its agents to
6 cease actions which discriminate against people with disabilities in the administration of
7 their programs and to reasonably modify those programs to avoid any continued
8 discrimination.
9

10 7. For declaratory judgment that Defendant's policies, practices, and conduct as
11 alleged herein violate Plaintiffs' rights under the Eighth Amendment, the Fourth
12 Amendment, the Fourteenth Amendment, analogous provisions of the California
13 Amendment, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act,
14 and section 11135 of the California Government Code.
15
16

17 8. For costs of suit and reasonable attorney's fees as provided by law.
18

19 9. For such other relief as the Court deems just and proper.
20

21 Dated: September 17, 2021

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.
THE PUBLIC INTEREST LAW PROJECT
LAW OFFICE OF BABAK NAFICY

22
23
24 By: *Babak Naficy*
25 BABAK NAFICY
26 Attorneys for Plaintiffs
27
28