

SCANPH Summary of Judge Carter's Injunction

Overview

On April 20, 2021 in the case of LA Alliance for Human Rights, et al. v. City of Los Angeles, et al, the Honorable David O. Carter issued an injunction through the United States District Court, Central District of California. After giving the historical background of LA's homelessness problem and describing the human harm homelessness causes today, the Judge establishes the federal court's authority to compel LA City and County to act through this injunction.

Judge Carter's injunction demands specific steps that the local governments must take specifically around the Skid Row area of Los Angeles. Those actions are detailed at the end of this summary.

Historical Background of Homelessness in Los Angeles

Judge Carter gives a historical context summary to the homeless crisis in Los Angeles today, which includes an examination of the role racism plays in housing and homelessness. The injunction reviews redlining, racial covenants, racist lending practices, community destroying highway construction, and the creation of Skid Row in the 1970s as a containment zone for people who had no place to go. All of that is a precursor to the tragic situation today, where Black people in LA County are four times more likely to be homeless than white people.

The injunction also goes through a history of public housing and affordable housing in the United States, including the 1986 introduction of the Low Income Housing Tax Credit (LIHTC). He criticizes the mechanics of affordable housing today that is built around these tax credits.

The Response of Elected Leaders

The Judge continues to look at the statements of public leaders around homelessness, most prominently Governor Gavin Newsom and Mayor Eric Garcetti. The Judge is particularly critical of Garcetti. Although the Mayor has called homelessness "the humanitarian crisis of our lives," the Judge states:

To this day, Mayor Garcetti has not employed the emergency powers given to him by the City Charter despite overwhelming evidence that the magnitude of the homelessness crisis is "beyond the control of the normal services" of the City government.

Criticism of Measure HHH Implementation

The Judge is particularly frustrated by what he describes as government inaction on homelessness. He writes, "The disconnect between politicians' public statements about the

severity of this crisis and the actual efforts made to fund effective solutions is growing.” Judge Carter details the 2016 passage of Measure HHH, but he focuses on delays that affect this \$1.2 billion voter-approved decision to move toward long-term solutions to homelessness.

Disconcertingly, rather than focusing on the countless redundant bureaucratic hoops and complex layers of funding that nonprofit affordable housing builders have to navigate, the Judge implies that “developers” are part of the problem. Here he echoes some of Los Angeles City Controller Ron Galperin’s HHH critiques and, even more concerning, looks to Ron Miller, Executive Secretary of the Los Angeles/Orange Counties Building and Construction Trades Council, as a source for criticism:

Miller referenced reports “alleging everything from fake not-for-profits to contractors with zero employees and multi-million dollar development fees, and lucrative guaranteed management fees that support zero-risk development.”

The Human Costs of Homelessness

The Judge continues to describe the horrible social costs of homelessness: fires in encampments, high rates of death, escalations of mental health problems, poor public health for those living in close proximity, and patient dumping of the mentally ill in Skid Row. He highlights the particular problems that women face, especially as more are being affected by homelessness now and that they are vulnerable to becoming victims of gender-based violence.

Legal Justification for the Federal Courts to Act in order to Prevent “Irreparable Harm”

After describing LA’s path to this crisis and the harm it is causing, in the “Discussion” section Judge Carter pivots to a legal justification of why the federal court has the authority to act. In his words, the City of Los Angeles and LA County “have shown themselves to be unable or unwilling to devise effective solutions to L.A.’s homelessness crisis. For the reasons discussed below, the Court must now do so.”

The Judge says that the courts have authority to act to prevent “irreparable harm” with an injunction, and he links homelessness in LA in 2021 to other historical injustices such as school segregation before the landmark 1954 Supreme Court decision *Brown versus the Board of Education*. For him, the irreparable harm is clearly present in the 1,383 deaths of homeless individuals in LA County last year. In addition, there is a general public interest in solving this humanitarian crisis.

According to Judge Carter, a court “may employ equitable powers as a means of enforcement to compel defendants to take certain steps to ensure compliance with constitutional mandates.” With that power, he ordered the following through his injunction.

Specific Demands of Judge Carter’s Injunction

The provisions of court’s injunction begin on page 105, and are broken into two sections: Accountability and Action. The implementation of the document and its demands is to be overseen by a Special Monitor, Michele Martinez.

Accountability Section

The stipulations of the accountability section each come with deadlines and include:

- The Court orders that the \$1 billion described by Mayor Garcetti in his April 19, 2021 “justice budget,” announced just one day before the release of this injunction, “be placed in escrow forthwith, with funding streams accounted for and reported to the Court within 7 days;”
- An audit of all sources of funding to the City and County of Los Angeles designed to abate homelessness (within 90 days);
- An investigation of all developers currently receiving Proposition HHH funds (within 90 days); and
- An audit of any funds dedicated by the County to mental health and substance abuse treatment plans (within 30 days).

The injunction also requires that all audits and investigations be completed by independent auditors, and that agencies and parties meet with the Special Monitor, Michele Martinez, within 10 days to receive input regarding the selection of auditors.

Actions Section

The “actions” section is broken up into those that are City-wide or County-wide and then actions that are specific to Skid Row.

City and County Actions

- A requirement that the City Controller create a report of all potentially available land in each council district for housing and sheltering of people experiencing homelessness (within 30 days).
- The immediate cessation of sales and transfers by lease or covenant of the over 14,000 City properties pending the above-mentioned report from the City Controller *and* any similarly situated lands belonging to the County pending a County report.
- The City Council Homelessness and Poverty Committee shall report to the court within 30 days with specific actions to address the following:
 - Structural barriers that cause people of color to experience homelessness disproportionately;
 - Solutions to the problem of extremely low income individuals being excluded from the affordable housing market in favor of relatively wealthier individuals;
 - The possibility of rezoning to expand multi-family zoning.

- Mayor Eric Garcetti and the Chair of the County Board of Supervisors Hilda Solis shall submit a report explaining why a state of emergency has not been declared regarding homelessness by April 27.
- The City and County must prepare a report on the status of Projects Homekey and Roomkey (within 30 days).
- The County must report back on the progress jail diversion including information on the establishment of approximately 1,500 new sub-acute beds for non-jail population and 1,400 new sub-acute beds to accommodate those with substance abuse disorders being diverted from jails (within 30 days).

Skid Row Specific Actions

The injunction has a number of mandates regarding the unhoused population of Skid Row. They focus on the provision of immediate shelter or housing to those who voluntarily accept it.

- The City and County must offer and if accepted provide shelter and housing to all unaccompanied women and children living in Skid Row (within 90 days).
- The County must offer and if accepted provide shelter or housing to all individuals in need of special placement through the Department of Mental Health or Department of Public Health.
- The County must provide or fund third parties to provide support services to all homeless residents who accept the offer of housing. The County and City shall evenly split the costs of providing operational services.
- The City and County shall prepare a plan that uplifts and enhances Skid Row without involuntarily displacing current residents.