PART TWO: DESTROYING SHELTERS

8:54 a.m. Radu and three Berkeley police officers begin announcing to the people on Eighth Street that their tents and other items will be removed. They ask them to take any valuable possessions to the other side of the street.

8:55 a.m. Radu speaks to Shawna Garcia and gives her a 20-minute warning. She tells him that her service dogs take more room than the two-person tent the city will provide. Garcia turns down shelter out of fear of being sexually assaulted. Radu tells her that everything that doesn’t fit in the new tent will be thrown away.

8:59 a.m. Ian Morales, an outreach worker from the Homeless Action Center, tells Radu that he is violating the Fourth Amendment, which prohibits unreasonable search and seizure. Radu says the city will not store “big bulky” items.

9:02 a.m. Radu speaks to Alice Barbee and Mackie. Barbee says she and others were not adequately informed of the extent of the abatement. She says they thought the city was only coming through to do a cleaning. Mackie is distraught that his brand new tent will be taken away.

9:04 a.m. Radu says the city only allows two-person tents that are 7 feet by 5 feet. He offers them shelter at the Old City Hall, saying that Barbee’s dog would be allowed there. Barbee says she doesn’t want to give up her belongings, because then she would have nothing.

9:06 a.m. Vanderzyl’s van is taken away to Avenue Berkeley Towing. The vehicle is damaged when it’s taken up the ramp.
9:07 a.m. Radu talks to Sherif, a disabled veteran from the former Ashby Shellmound encampment. Sherif says his tent area is clean and that he will be unable to move things because of his physical disabilities. When he tells a Berkeley police officer that he needs help, no accommodation is offered.

9:20 a.m. Thomas Barnett sweeps around his van. His electric scooter, cans, clothes, food and copper wiring for recycling were confiscated and thrown out. He still has his vehicle, but the majority of his property was trashed.
9:32 a.m. Jennifer tries to pack up her belongings, but the workers throw them away, picking up everything in their path. Workers dismantle her bed and toss it into the garbage truck.

9:33 a.m. All the structures at Eighth and Harrison have been demolished, including the one in which Chris was living. “It was sturdy and strong,” he says. “I will make the next one stronger.”
10:04 a.m. Angel stands on Seventh Street with her bedding, a few clothes and a stuffed tiger. She's keeping her friend's bike safe, so the city will not also seize it.
10:10 a.m. RJ is sitting outside his tent. He is not wearing any pants. City staff woke him up to tell him to get out of his tent, but they have not offered him any help.

10:11 a.m. Shawna Garcia is asking for help. She feels threatened, and fears being pushed back to Second Street, where the city was allowing people to live in tents and makeshift structures — but that was also where her abusive ex-boyfriend was living. (On Nov. 22, the city posted notices that part of the Second Street encampment would be dismantled and vehicles parked in that area would be towed.)

10:16 a.m. Outreach worker Tony Alcutt sends a text to Bay Area Community Services to inquire about an assessment for Garcia, but there is no guarantee she will receive help.

Ian Morales, an outreach worker from the Homeless Action Center, finds out later that no one informed Bay Area Community Services — the organization responsible for navigating people into shelters — ahead of the encampment sweep.

10:18 a.m. Shawman is clearly in distress. After city employees take her tent, she scrounges in the roadway trying to save whatever food she can gather.
10:20 a.m. Down the street, Okeya Vance, supervisor of the Homeless Response Team, is cracking jokes with Officer Hartley and other police officers. Boone walks past them with all his recycling on a stroller. He leans on the stroller as his left foot is fractured. He says he is going to cash it in down on Third Street and come back for the rest of his belongings. But minutes later, it's all thrown away.
10:33 a.m. Workers throw everything that is left into the middle of the street to be scooped up by the bulldozer.
10:34 a.m. People stand around in shock. They salvage anything they can and drag it across the street.

10:35 a.m. Shawman watches Public Works clear her remaining possessions. She sits shoeless, wearing unmatched socks, guarding her friend's bikes and skateboard.
10:36 a.m. The canopy structures have been torn down. A chest of drawers is half open after residents rushed to empty it out, leaving behind other essential items like a portable heater, batteries and tarps.
10:53 a.m. Clarence Galtney rushes to move items across the street, hoping to save them. Alice Barbee is having a hard time breathing. She has asthma and cannot find her inhaler. Radu is closing in on her, raking her belongings on the ground. Eight police officers surround her area, watching her in distress.
10:58 a.m. Barbee tries to reach for one of her tennis shoes and catches it before it is swept away. She asks Radu to give her time to gather the rest of her belongings, but he ignores her. Barbee asks police officers watching if they could keep Radu away from her. The officers look at each other in confusion — they don’t seem to know whether they are allowed to step in and help.

11 a.m. Sgt. Kleppe steps in from the crowd and tells Barbee she has a few minutes to gather the rest of her belongings, or she could be arrested for “obstruction of an officer’s duty.” Galtney rushes back and forth across the street, helping her carry bags of household items.
11:15 a.m. Public Works reaches Heather, the last person on the sidewalk. Her friend is helping her gather her clothing. They have taken the mattress where she slept. Heather wraps her clothes inside a net that she had used as a wall to protect her space.
11:17 a.m. I spot Officer White, Berkeley Police’s public information officer, and I want to ask him why Berkeley Police is here en masse. But he says today he is not here in a communications capacity, and instead is providing “security” to city staff because the police department is short staffed.

11:18 a.m. Alice Barbee is no longer allowed to retrieve any items. Everything remaining on her spot will be discarded.

11:19 a.m. Felix Torres sits on the stairs of the Berkeley Repertory Theatre building and begins to play his guitar, bringing some relief in the chaos. He sings, “How would you survive another day? They are crushing us.”
11:20 a.m. Barbee's clean clothes get scooped up from the sidewalk and thrown into a garbage truck. All her sweaters and winter jackets disappear.
11:38 a.m. Some residents sleep next to the items they were allowed to save while Public Works finishes clearing the sidewalk.
11:39 a.m. Rob, a veteran, packs all his property into a laundry wagon. He has been promised social services for months, but Vance tells him that he has to follow up on his own because his team doesn’t work with the Veterans Affairs agency. Rob had been living in a tiny home he built with wood pallets for the floor and plywood walls, using the skeleton of an easy-up shade structure for support, and an umbrella and a tarp for the roof.
11:41 a.m. Six police officers surround Shawna Garcia to get her to move the rest of her things, but she only has a small wagon. Officer Hartley suggests asking other neighbors to help move her stuff out.
11:48 a.m. I step in to help. I dash inside Garcia’s tent to grab anything I can save. I see plastic bags on her bed that she has already started packing. Through her window, I see the scooper crushing the wood pallets and the umbrella from Rob’s tiny home.
12:01 p.m. Outreach worker Eve Ahmed does not want me there while she assesses RJ, but he is persistent and says he wants me to stay. Ahmed is looking into a hotel room for RJ at the Berkeley Inn. But he’s not able to acquire a room there without an I.D. Two rooms have ADA accommodations, which he needs. Without identification, RJ cannot get into the motel tonight. He has two options: accept the two-person tent the city offers him or a shelter bed at Old City Hall. He chooses the tent.

Ahmed says, “let him be in the tent and put him on the list. We’ll accommodate him later if something else comes up.” RJ is left on the sidewalk with no pants on.
12:14 p.m. Radu proceeds to trash RJ’s tent because he says, “it’s covered in feces,” even though I had just cleaned out the tent after RJ stepped out. The tent was new — the Lifelong Medical Street Team gave it to him last week. RJ leaves to panhandle at the McDonald’s down the street on San Pablo after his possessions are thrown away.
12:46 p.m. After everyone has been forcibly moved across the street, a city worker pressure washes the sidewalk.
12:49 p.m. The city is cleaning at Harrison and Sixth streets in front of Urban Amadah where Jeff and his wife Eren, Garth and his elderly friend Dominique had all been living. Public works employees and cops pile together their belongings and say it’s all trash. Dominique tries to stop them, but he’s pushed out of the way by one of the workers.
12:50 p.m. Garth is arguing with the police. He says he has tried to keep his area clean to avoid having his belongings taken. He says the warning notice was not specific enough. Police are threatening to arrest Garth, if he doesn’t give up his belongings.

“I want simple instructions on how I can save my property,” he says. “Nobody deserves this.”
12:54 p.m. Garth runs across the street to pick more items from the pile. Eren watches over his shoulder and suggests what to dig out. Dominique stands in front of the scooper to buy his friends more time to search.
12:57 p.m. Garth is being detained, says one officer, because he has been “delaying and obstructing.” Radu says Garth has to move east of Seventh Street. He has to leave the Harrison Corridor if he wants to save his property, Radu says.


“If you are going to live in the corridor, you have to live in the tent we provide,” Radu says to Garth.

1:08 p.m. Officer Kleppe makes a deal with Garth: He tells Garth he has to get out of the area and he has one trip to save his property. A member of Berkeley Copwatch helps Garth load up what can fit in her vehicle. She drops him off at the end of the street by the park.

1:11 p.m. Jeff asks for reasonable time to move his stuff out of the area. His wife, Eren, is breaking down in tears inside their tent with her dog. She is unresponsive and shut down from the stress, her mind scattered on what to do next. “My wife is losing it,” Jeff says. “They are just breaking her down more.”

1:18 p.m. Radu talks to Jeff for the first time. He does not know who has been working with them. Housing is based on disability priority, Radu tells Jeff. “We’ll make sure to put some pressure on BACS to meet up with you,” Muhammed says, referring to Bay Area Community Services.
PART THREE: EVERYTHING GOES

2:20 p.m. Dante is still sitting on the sidewalk with the possessions he could save. “They came to just break a person down and turn me back into a criminal,” Dante says. “When you don’t have anything, you are desperate. And you have to do things you don’t want to do.”

2:30 p.m. City staff and Berkeley Police return from lunch. Two outreach workers and two police officers, Perry and Schickore, help set up the city-issued two-person tents.

2:39 p.m. Alice Barbee is trying to pack up all her things to move back to her spot. She is telling Officer Hartley that she is physically ill and she is afraid to leave to use the restroom without them taking all her stuff.

2:48 p.m. Before people can move their stuff across the street into the new tents, the city starts trashing the property they had saved. Barbee is distraught: “We are human,” she says. “We deserve time to at least move our things.” She deeply exhales and hugs her dog Compass for comfort.
2:50 p.m. City workers begin spraying the property. Aiden, once again, is being asked to move across the sidewalk for the deep cleaning. Everything is going.

3 p.m. Merced Dominguez comes screaming my name down Eighth Street. “They are taking all your stuff,” she yells. I rush down the street to find out what’s happening.

3:03 p.m. I had been careful to move everything from the sidewalk, but they take everything that was outside of my RV: the cat carrier, scratch post and toys all go. Even the barbecue grill tucked neatly under a tarp behind my vehicle and my trash cans are tossed into the garbage truck. My neighbor demands my trash cans back, and a police officer steps in to ask Radu if this is necessary. Radu dismisses him, and tells him he knows his job. Reluctantly, one worker returns the trash cans without the lids.

3:25 p.m. The fire department comes to check on Eighth Street responding to a request from the police department to provide medical attention to someone who has “an accelerated heart rate and numbness of the face” [link]. They check Alice Barbee’s temperature and heart beat. She is having a hard time breathing. Barbee declines to go to the hospital because she does not want to risk the city taking all her stuff.
3:34 p.m. "What do you want?" Vance asks Mackie as workers start taking his things. His property was not in the street or right of way, but on the sidewalk. She says the notice applies to all sidewalks as well.

3:38 p.m. Mackie had gone to get something to eat and returns to find his and his stepfather Bobo's belongings in the trash.

3:51 p.m. Mackie tries to save his friend's property. He ties a rope around the bike cart, securing the items to make the move.

3:58 p.m. Eleven public works employees and four cops surround Mackie while he picks up his friend's property. Lt. McGee says, "We need you to get rid of stuff that you don't need. Can you get rid of it? If there's something you don't need, toss that shit." McGee has agreed to save his stuff inside the tent, but only his bedding. He does not want Mackie to take anything else, but Mackie takes his friend's wagon and recycling.

4:08 p.m. Officer Hartley tells Alice Barbee, "They are thinking about taking you into custody. Your footprint is a large structural house." Barbee gets frustrated. Officer Perry takes Barbee's briefcase and pulls it from her. Now, she has to sort through the rest.
4:12 p.m. Barbee squeezes inside her tent to put away her property. She hunches over sorting the remaining items that she could save. Her pit bull, Compass, lies outside in the concrete. The tent is too small for both of them.
4:14 p.m. The crane scoops up Street's belongings. His friend Jimmie Wiggins has been watching them this whole time, but they say he can’t keep them, and if he persists, he will be arrested. A large yellow recycling bag, a solar panel, an ice chest, a water jug, a drum, two bike tires, two bags of clothes are all smashed and scooped up by the crane.

I can’t bear to stand by watching. The crane is above my head, and I rush to save the wheelchair. Street moves in his walker, but on bad days, the chair is essential to get him through his day.
4:20 p.m. On the other side of the street, Public Works employees are going from person to person with Radu, discarding any items that will not fit inside each authorized two-person tent. Bins of clothes, food, hygiene products and water jugs are thrown into the trash.
4:22 p.m. Radu sorts through Alice Barbee's property without her permission. After tossing almost everything, he tells his workers that it is trash. Next, he sorts through the property Barbee has in a wheelbarrow. She had grabbed the wheelbarrow in a rush, tossing anything she could save from her clothes, blankets, dishes, shoes, a purse and a saw. But Radu spends seconds looking at the contents before deciding everything goes.
4:27 p.m. Mackie gets arrested for asking for his property back. The quarrel starts when Radu tells Mackie he can’t keep his tent, and Mackie reacts: “I feel like I want to punch you in the face right now,” he says.
4:28 p.m. Bobo tries to help his son, but is also detained by Berkeley Police. Three officers take hold of him and grasp him tightly. He is not arrested, but not allowed to keep any of his son’s property.
4:37 p.m. Public Works employees start to move in quickly again, taking everything in their path. Even non-bulky items including toilet paper, hand tools and bedding.
4:39 p.m. Radu empties people’s wagons and bike carts, even though items are off the ground. People do not have the chance to put their items inside the new tents.
4:39 p.m. From tent to tent, Radu goes down the street sorting through everyone’s items and tossing them to the ground. “All trash,” Radu says. He shuffles through Cat’s notebooks and sketchbooks, and decides to throw it all out.
4:45 p.m. One young woman rushes out of her tent to get her property, but Radu throws away her wagon with all her clothes and hygiene items. Two officers, White and Valle, stop her from getting close.

A garbage compactor crushes the wagon. The little property everyone had left was thrown in the trash, including religious items.
4:48 p.m. The young woman stands in shock. She was given no warning.
She tries to communicate, but cannot speak. She asks for a pen and paper. Officer White hands them to her. She writes a list of needed essentials that Radu just threw away such as clothes and hygiene products.
4:52 p.m. Officer White shares her note with Eve Ahmed, the team’s social worker. She reads it and says someone will be here later in the day to hand out supplies. White hands the young woman back her note, and tells her someone will be stopping by to check in later. She lays inside her tent, visibly upset, and doesn’t respond.
4:50 p.m. City workers are forcing Garcia to get her belongings inside her two-person tent. She is telling them to back off because they are triggering her PTSD.

5 p.m. Workers continue to throw things away. The wheelchair is confiscated, and Radu tells city workers to take it to the yard where Public Works keeps its vehicles.
5:12 p.m. Public works employees and cops roll out of Eighth Street. It has been a 12-hour shift for all of us.

PART FOUR: FINAL TALLY

5:16 p.m. Housing Recovery Navigators arrive bringing hygiene kits. They offer cheap slippers, instant noodles, menstrual pads, socks and wet towels for cleaning. None of the items are equivalent in quality, quantity or value to the items that were seized and thrown away. Ahmed sorts through the items and grabs some slippers and a pair of socks to hand to the young woman who was too traumatized to speak.
5:23 p.m. Police officers continue to push Shawna Garcia to downsize her footprint. Merced Dominguez helps Garcia consolidate her belongings inside her tent.

5:40 p.m. Before leaving, Eve Ahmed encounters Street, who asks about services. His wheelchair was confiscated, so he is sitting on his walker to rest. But she has no services to offer him, and leaves for the day.
5:46 p.m. Radu walks down Eighth Street, surveying the work done today and snapping pictures for his next report.

6 p.m. Cristina from Housing Recovery Navigators hears feedback from residents as she distributes hygiene supplies. Many ask her, “Why was my medicine thrown away?” “Where is the help?” and “Why can’t I get the tools to remain clean?”
CORRECTION 1/3/2023: Eve Ahmed is an outreach worker for the city of Berkeley. Her last name was incorrect in an earlier version of this story.

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DONATE NOW
A public notice served with less than 72 hours notice before the planned abatement on October 3, 2022.

(Exhibit C)
PUBLIC NOTICE

Date: September 30, 2022

To: Persons Encamped and Vehicles Parked on Harrison Street between 6th Street and 10th Street and on Eighth St between Codornices Creek and Gilman St.

From: City of Berkeley

Subject: Notice of Imminent Health Hazard and Emergency Abatement

Beginning October 3, 2022

On Monday, September 19, 2022 the Environmental Health Division for the City of Berkeley (EHD) conducted a site visit at this location. The site visit revealed significant health and safety hazards due to the presence of excessive amounts of accumulated garbage, open food sources, unmitigated rodent, pet, and human waste, numerous loose syringes and various personal property items which have expanded onto the City's rights-of-way. The conditions observed at the time of the site visit are conducive to the proliferation of rats, which increases the potential for disease transmission from rats to the residents in this area and the surrounding community. The presence of numerous rat burrows within and adjacent to the encampment is evidence of a thriving rat population.

DECLARATION OF IMMINENT HEALTH HAZARD
Based on the observed conditions and associated hazards described above, the Manager of Environmental Health declared the conditions to be an imminent health hazard and public nuisance pursuant to Berkeley Municipal Code Sections 11.36.030 and 11.36.050, and the City Manager ordered a summary abatement of these conditions, on September 26, 2022.

EMERGENCY ABATEMENT
Please be advised that, as soon as possible, but no sooner than October 3, 2022, the City of Berkeley will conduct an emergency abatement due to imminent health hazards at this location based on the extent of violations under BMC sections 11.32.040, 11.32.050, 11.32.070, and 11.36.030. Given the imminent health hazards, the City of Berkeley has determined that this encampment poses an imminent threat for all residents, and the City Manager has ordered immediate abatement of the nuisance, including destruction of any property constituting such a nuisance if the nuisance cannot be abated otherwise. Please take this
interferes with access for individuals with disabilities such as curb and wheelchair ramps”, "in a location where they ... obstruct, restrict, or hinder visibility of traffic devices or signs,” “adjacent to any blue or white curb,” “on a Sidewalk directly in front or within three feet of either side of a building entrance,” or “within a BART Access Corridor, except objects in transit per 14.48.030.” Pursuant to Administrative Regulation 10.2, enforcement may include reducing the footprint of TNC Objects to a 9-square-foot footprint.

FOR THESE VIOLATIONS, YOU ARE HEREBY ORDERED TO:
By or before October 3, 2022, eliminate all trash/debris, any items creating a rodent harborage or other health hazards, and reduce your possessions to a 9-square-foot footprint.

The City of Berkeley will discard items you no longer wish to keep at your request. The City can temporarily store a limited amount of certain types of personal property up to 90 days, depending on value. However, please ensure that you keep with you all necessary personal belongings (medications, identification, electronics, wallets), items of value, clean and unsoiled shelter items, and items of special importance to you. Personal property left unattended may be collected and stored pursuant to the City’s policy, if it meets certain requirements, described in more detail below:

1. **Personal property that may be stored up to 90 days** includes property of a personal nature such as identification; photos/photo albums; tents, sleeping bags, bedding (which is deemed to be in serviceable condition); luggage, backpacks, purses; clothing; documents (together in a packet bound or secured in some way); jewelry; medication; eyewear; electronic equipment; tools; bicycles and other non-motorized methods of transportation which are in working order.

2. **Items that will not be stored and are subject to disposal if left on public property at the time of the abatement include but are not limited to:** soiled or moldy items; loose or scattered papers; wet or damp clothing, bedding or sleeping bags; perishable food or personal products; personal hygiene products such as toothbrushes or hairbrushes; bike carcasses and parts; mattresses, futons, furniture; shopping carts (items easily identified as personal belongings and meeting the criteria for storage may be stored); broken or disassembled items or items stripped of parts; weapons; items that attract rodents or insects (containers for recycling or food storage); hazardous or explosive items such as gasoline cans, propane tanks, batteries.

Unattended property will be handled in accordance with City policy. Individuals who wish to reclaim their property may call “311” to contact the City’s Customer Service Center during regular business hours (Monday – Friday, 9:00 AM to 3:00 PM), or call (510) 981-2489 or (510) 981-CITY. Alternatively, information regarding retrieval of unattended and stored property is available in the lobby of the Berkeley Civic Center, 2180 Milvia Street, Berkeley, during regular business hours.

Vehicles may be subject to tow and impound if authorized by the Vehicle Code and community caretaking needs.

**FAILURE TO COMPLY:**
Failure to comply may result in the City abating the unsafe and hazardous conditions pursuant to BMC Chapter 11.40: **The City prefers not to cite or arrest in order to gain your compliance with this notice. However, absent voluntary compliance, failure to comply may result in citations and/or arrest.**

**RIGHT TO APPEAL:**
opportunity to address the nuisance conditions listed below, by discarding garbage and any items creating a rodent harborage or other health hazards, and reduce your belongings to a 9-square-foot footprint by or before October 3, 2022.

PUBLIC NUISANCE CONDITIONS:
You are notified that pursuant to Berkeley Municipal Code 11.32.040, “No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health."

You are further notified that pursuant to Berkeley Municipal Code 11.32.050, “No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin."

You are further notified that pursuant to Berkeley Municipal Code 11.32.070, “All food or food products intended for human or animal consumption shall be kept or stored in rodent-free and rat-proofed containers, compartments, rooms, buildings or structures. No person shall use any building or structure which is infested with rodents or which, in the opinion of the chief of environmental health, is likely to become infested with rodents for the manufacture, preparation, storage, display or service of any food or food product, unless such building is made free of rodents and is rodent proofed."

You are further notified that pursuant to Berkeley Municipal Code 11.36.030, "...the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom."

You are further notified that pursuant to Berkeley Municipal Code 11.36.050, "[e]ach imminent health hazard as defined in this chapter is declared to be a public nuisance and may be abated as provided in Sections 11.40.130 through 11.40.160 [describing emergency abatement]."

SIDEWALK VIOLATION:
You are hereby notified that pursuant to Berkeley Municipal Code 14.48.020, "It is unlawful for any person to place or cause to be placed anywhere upon any sidewalk or roadway, any object which obstructs, restricts, or prevents the use of any portion of such sidewalk or roadway."

You are further notified that pursuant to Berkeley Municipal Code 14.48.120 and Administrative Regulation 10.2, (1) "TNC Objects are prohibited on Sidewalks in Residential Districts, except Objects in Transit pursuant to BMC §14.48.030 or as otherwise specifically authorized by the BMC"; (2) In Commercial and Manufacturing Districts, TNC Objects shall not be "left unattended for more than 2 hours," "placed in parklets," "interfere with access to and use of driveways, crosswalks, bus benches, bus stops, transit stops, bicycle racks, fire hydrants, faucet bibs, utility boxes, public art installations, mailboxes, ATM machines, embedded trap doors, parking meters, parking payment machines, refuse or recycling cans, or pursuant to a City permit, construction materials, newspaper racks, or sidewalk café seating"; "placed in a location that
News article: Berkeley Says It Was Aggressive in Homeless Encampment Sweeps, Promises Reforms

(Exhibit D)
Berkeley Says It Was Aggressive in Homeless Encampment Sweeps, Promises Reforms

Assistant to the Berkeley City Manager Peter Radu, right, takes notes while listening to encampment residents and outreach workers at a community meeting at Eighth and Harrison streets in July.

08.02.2023 | by YESICA PRADO

After this story was published, we launched a survey via social media to gather community feedback. We invite you to take the survey and tell us what you think: Understanding Homelessness Challenges in Our Communities.

Berkeley is accelerating plans to more humanely deal with homelessness in the wake of a San Francisco Public Press report on a chaotic encampment raid in October, and city staffers say they will start collaborating with unhoused people and homeless advocates when planning to clean or clear large encampments.

Several city departments are changing procedures in response to complaints from those living in encampments and their advocates, and from residential and commercial neighbors.

Here are some key changes:
In my capacity as a professional journalist, I reported for the Public Press on the aggressive October encampment cleaning (https://www.sfpublicpress.org/everything-is-gone-and-you-become-more-lost-12-hours-of-chaos-as-berkeley-clears-encampment/) that upended the lives of more than 50 people living near Eighth and Harrison streets and brought the city’s response to homelessness under scrutiny.


In the wake of photographic evidence from the October encampment cleaning, which exposed the city’s poor communication, lack of transparency, and failure to provide adequate shelter and support to unhoused people, city departments are under review.

Berkeley Senior Auditor Caitlin Palmer wrote in an email that, “We plan to work on the audit in the fall and hope to issue it sometime next year.”

The Berkeley city manager in July concluded an investigation of Berkeley police officers involved in the October encampment sweep who sent text messages (https://www.kron4.com/news/bay-area/berkeley-police-officers-anti-homeless-text-messages-probed/) that the Berkeley Police Accountability Board said showed “anti-homeless and racist remarks (https://www.berkeleyside.org/2022/11/14/berkeley-police-text-messages-darren-kacalek-bpa).” The city manager’s office, which hired an independent company to conduct the investigation, issued a report that the investigation found no wrongdoing. But the office has indicated that it will not release further details from the investigation, which it deems confidential.

**Aiming for Clearer Communication**

Peter Radu, assistant to the city manager, said the city acknowledged that it had mishandled encampment cleanings and used “overhanded” measures that included the destruction of personal property and giving vague, sometimes conflicting instructions to encampment residents. He acknowledged his own role in those events and said that he and the city wanted to work with unhoused people and homeless advocates to rectify the situation.

“I am genuinely sorry,” Radu said to community members gathered at Eighth and Harrison streets. “We’re trying to start something new, and work more with you as opposed to against you moving forward.”

On July 10, dozens of people gathered under and around a gray shade structure at Eighth and Harrison streets. Radu addressed the crowd of outreach workers and encampment residents to tell them that the City Council would soon approve a new shelter, referring to the planned motel conversion. He did not say whether the city would close the encampment, noting that Berkeley has more unhoused people than available shelter spaces, but said that residents in the area would be prioritized. The city has not announced a date for when it plans to begin operating the motel as a shelter.

“Call it a ‘closure’ or call it something else,” Radu wrote in an email asking for clarification about future plans for the encampment. “We do have (1) an opportunity to move people inside with a new resource, and (2) we do have infrastructure repair and construction needs in the area. People cannot live in construction zones.”
Radu's efforts to establish trust have been met with mixed reactions from people living in the camp and their advocates. While some said they appreciated this newfound willingness to cooperate, others remained skeptical.

"You had consequences from your actions and now you are here," said Chloe Madison, a camp resident on Eighth Street. "I've seen this side of you before, and I've also seen the guy who steals people's homes."

Many unhoused people say they continue to feel harassed no matter how much they do to avoid residential neighborhoods, because Berkeley staffers have shuffled them around the city with repeated encampment cleanups and closures.

"Just in the past few months, like Seabreeze. I've had like 10 camps in the last couple of years," said Ron, a resident from the Second Street encampment. "You have herded us here."

Okeya Vance, Homeless Response Team supervisor, prepares a public notice for property retrieval that she will leave for Indo, who was away from his makeshift home when city workers arrived. Peter Radu, assistant to the Berkeley city manager, digs through a pile of clothes and puts them in plastic bags that the city will store for Indo to retrieve.

To address such grievances, Radu began working with two of the largest encampments in Berkeley, located near the intersections of Second and Page streets and Eighth and Harrison streets. He said the city and residents needed to find middle ground and take a collaborative approach to addressing the sanitation issues on the streets.

"There's a competing need for space," Radu said at an Eighth and Harrison streets community meeting. "So, we're just trying to find a solution that keeps everybody safe and that allows the community to kind of have a shared use of this public space."

In April, Radu held the first of three community meetings and presented a report (https://docs.google.com/document/d/1YofTDnHrg5uYn60MbtaGcrv6A0poL7Hz2/edit?usp=sharing&ouid=10053267925677701700&rtvof=true&sd=true) to people living at the Second Street encampment, and said that if residents addressed safety concerns voluntarily, the city would not enter anyone's vehicles or tents. He said that because of fire risk, residents would not be allowed to live in other kinds of makeshift structures.
Residents who attended the meeting said they were willing to work with the city, but many also shared their experiences of repeated property loss due to previous sweeps. Ron, who gave only his first name, recounted how he lost his belongings when he arrived late during the last cleaning at Second and Page streets. He said he jumped on the back of the garbage truck to salvage his personal belongings. He was able to save a few items.

"I was five minutes late, five minutes late, and I lost everything," Ron said at the community meeting. "I had things that I carried from town to town. I had things in there for years."

Alice Barbee, who lives in the unhoused community at Eighth and Harrison streets, said the city previously gave instructions, which residents followed, and then discarded their possessions anyway.

"You say to get it all across the street if you want to keep it safe," Barbee said. "But you come and you take that stuff, too. All of it and then call it trash?"

In May, residents of both communities asked for reassurance that no one would enter their households and throw away their possessions.

"We have not been as transparent and communicative as you guys would have liked and as we could have been," Radu said to a gathering of Second Street residents. "I just want to acknowledge there were clearly misunderstandings and miscommunications on our account."

In May, Radu tried collaborative cleaning at both encampments, asking residents to voluntarily address safety concerns highlighted in his reports. He deemed those events a success.

"We schedule a deep cleaning together and, voluntarily, give us what you don’t want," Radu said to Eighth and Harrison residents, noting that the city staff had hauled away 11 tons of debris the previous week from the community living near Second and Page streets. "It was all voluntary. None of it was forcefully taken from anybody. We didn’t enter any tents."
Peter Radu, assistant to the Berkeley city manager, speaks with a Second Street resident about demolishing the makeshift structure where she was living because it was deemed a fire hazard. Berkeley Fire Marshal Dori Teau says wood structures have higher heat output and longer burn time, raising the risk that they could cause fire to spread. In contrast, tents burn faster, reducing the risk of prolonged fires.

But the city does not have a policy for preserving the belongings of someone who is not on site when it conducts a cleaning operation. This means that residents living in tents or makeshift shelters risk losing their possessions when they leave their homes.

The city has also made agreements with surrounding businesses to keep people from camping on their sidewalks. Public notices are issued to residents camping outside of designated zones along Seventh and Eighth streets citing the city's sidewalk ordinance and prohibition of bulky items in commercial corridors. The notices direct people to a shelter that closed in December and is no longer in operation.
Sharing Public Space

In an effort to get everyone on the same page, Radu asked a few homeless advocates to give him feedback on a draft of unofficial guidelines to maintain general cleanliness in the neighborhood and improve interactions with the surrounding business community.

Radu said he hopes the “Good Neighbor Guidelines” will help establish a better working relationship between encampment residents and the city staff. He is seeking additional community input on the draft.
Good Neighbor Guidelines - Harrison and 8th Street

In order to create a safe, clean environment for everyone in this encampment community, please try to follow these guidelines:

1. Please throw away your trash and old food. The City can provide you with reds of trash bags to help you do this. In addition, the City currently provides a dumpster at the corner of 8th and Harrison, and usually sends Public Works crews through the area every Thursday afternoon. To prevent rats, please try to keep good food in closed containers. These are all free ways to keep your area and the community a little cleaner.

2. Please keep your belongings out of the road. The closer you and your things are to moving traffic, the greater a chance there can be for accidents and injuries. To prevent this, please keep everything off the road, including parking spaces. If you need storage, please call Okaya Vance-Duizer at 510-532-5376 to discuss what options the City may be able to provide you.

3. Please do not build any structures out of wood, metal, or other materials that can create a fire hazard or injury risk. If you need new tents or sheltering materials, the City and other nonprofit organizations may be able to provide these to you. Please contact Okaya Vance-Duizer at 510-532-5376 for more information.

4. Please try to stay on one side of the street. Our sidewalks are for everyone, and there are many families who live in the University Village nearby and people who work at businesses nearby. Blocking sidewalks on both sides of the street prevents people from safely walking to catch the bus or get to work, so please try to keep one of the two sidewalks on every street clear for everyone’s use.

5. Please be fire safe. Warming or cooking fires on the sidewalk are not permitted in Berkeley, and can be very unsafe. But if you need to use fire, please keep combustible materials (like wood, fuel, paper, etc) at least three feet away from the fire.

Sticking to these rules will help avoid the need for City interventions, such as encampment deep cleanings or closures. An ongoing lack of respect for these rules may result in an advanced Public Notice and possibly a City intervention.

IF YOU ARE EXPERIENCING A SUICIDE CRISIS, Call: (510) 531-5500, or 911 if it’s a life-threatening emergency. For the Alameda County Suicide and Crisis Lifeline, please call 988 or (800) 330-2273. To leave a direct message for the Berkeley Mobile Crisis Team, call (510) 531-5525

Berkeley City Manager’s Office

Draft No. 4 of Berkeley’s “Good Neighbor Guidelines” as of July 18, 2023.

But the new procedures are challenging for a few residents who sleep on the open sidewalk and struggle with mental health issues. They are in survival mode and have trouble following rules about storing their belongings and discarding food scraps to avoid attracting vermin. And so, they are constantly at risk of having their possessions thrown away during weekly street cleanings.

“The Guidelines are rules the City wants people to follow. The guidelines say ‘Please,’ but behind that ‘please’ is the threat that if they are not followed, eviction, arrest, or a citation will result,” wrote Osha Neumann, a Berkeley civil rights attorney, in an email seeking his comment on the guidelines. “The City needs to realize that a great number of the people out there have significant disabilities, mental and physical, which make following rules difficult.”

The Public Press asked for reactions to the guidelines from Berkeley Mayor Jesse Arreguin and all of the City Council members, about half of whom replied by email. Councilmembers Sophie Hahn, Ben Barlett, Rigel Robinson, and Mark Humbert declined to comment on the city’s response to homelessness despite multiple requests.

“These are temporary, common sense guidelines specifically for this neighborhood during the transition to the Super 8 motel,” Elgstrand wrote on behalf of the mayor. “These guidelines will help ensure the safety and security of encampment residents and neighbors.”

Councilwoman Susan Wengraf wrote that she agrees with what Berkeley city staff is doing and that “Berkeley is moving in the right direction.”

Councilwoman Kate Harrison wrote that “it is critically important that while the City makes these requests of unhoused and housed people in our community, it simultaneously provides the necessary facilities and services that allow people to follow them.”

Councilman Terry Taplin has already promulgated a version of these unofficial rules (https://www.terrytaplin.com/priorities/homelessness/) on his website as his district also grapples with homelessness. “The Good Neighbor policy both increases transparency around what triggers a city intervention and provides recommendations to better manage the public right of way better and improve traffic and fire safety,” he wrote, adding that the city could take further steps to improve encampment sanitation.

“Conditions can be improved by waste pump-out services,” he wrote, also noting that the city’s Homelessness Services Panel of Experts has also recommended expediting the search for a new parking lot for the safe parking program. But no money was earmarked for it on this budget cycle, according to Radu.
Harrison and Taplin agree that the city needs to implement other changes, such as providing more permanent supportive housing and transitional housing programs citywide, in addition to resolving sanitation issues.

The state grant would allow the city to lease the motel for two years, and the city hopes funds from Berkeley's Measure P, which passed in 2019, would pay for three additional years.

"We are working with the County and our nonprofit service providers in finding solutions that enable us to provide access to shelter and services beyond the Super 8 motel," Elgstrand wrote. "Even if this one location reaches full occupancy, we will continue to do everything we can to target resources to the residents of this encampment."

Looking for Representatives to Show Up

Despite recent developments, some encampment residents said they felt frustrated and abandoned by Berkeley city officials. They wondered why City Council members and the mayor attended a recent Gilman District Business Summit (https://twitter.com/RashiKesarwani/status/165718299535243509072?r=20) to talk with business owners but had not attended any of the encampment community meetings.

Rashi Kesarwani
@RashiKesarwani

Thank you to the business community for holding this important meeting on the unacceptable conditions in the Gilman District.

Everyone deserves a safe work environment.

I thank the City Manager for her pledged commitment to focus City resources here.

More to come!

The Berkeley Scanner @BerkeleyScanner · May 12
The West Berkeley business community turned out in force this week to beg city leaders to do something — anything — about neighborhood blight and rising crime related to area homeless encampments.
berkeleyscanner.com/2023/05/13/cri...

5:36 PM · May 12, 2023 · 4,116 Views

A social media post by Councilwoman Rashi Kesarwani about a meeting hosted for city staff and business owners in her district.

"As long as you ostracize people, and their issues are not as important as others, then anger and resentment starts to come in," Merced Dominguez said at an Eighth and Harrison community meeting, adding that she wanted to see the Gilman District's Councilwoman Rashi Kesarwani attend a future meeting. "We just want to have a dialogue with her to work something out. This is what she was voted in to do."

Kesarwani replied to a request for comment with a general statement but did not directly answer questions about recent policy changes and how Berkeley staff is responding to homelessness in her district despite multiple requests.

Madison, another encampment resident, expressed her frustrations over email, writing that she hadn't heard about the business summit and questioned the timing of that meeting, which portrayed unhoused people disparagingly (https://www.berkeleyscanner.com/2023/05/13/crime/berkeley-pledges-cleanup-homeless-camps-business-summit/), blaming them for criminal behavior and causing others in the neighborhood to feel fearful.
"For you to attempt to approach us in good faith only days later is super skeezy," she wrote to Radu. "Supposedly how we’re all lumped into being scary crime doers when all I do all day is attempt to further my career in a way that works with my mental and physical health." She added that “excluding us from that meeting allows those narratives to perpetuate.”

Radu responded to Madison that he had recommended including encampment members and community advocates at the meeting with business owners, but that the decision was not up to him.

“You’ll understand that I don’t get to make all those decisions, but since then I HAVE recommended to the business leaders that they reach out to you and try to have conversations,” he wrote, adding that “I agree completely with you that the format of the business meeting was not conducive to such trust.”

A Berkeley Public Works employee retrieves a bike frame from the backhoe scooper and returns it to L.A., a Second Street resident, who reaches out to accept the frame. Since L.A. was not present when the area was being cleaned, some items outside his tent were discarded. L.A. inspected the scooper and saved a few more items.

Some encampment residents are accepting, cautiously, what appear to be goodwill gestures.

“For a long time, I think it was a big battle. You guys don’t want to talk to us or work with us,” said Sarah Teague, a Second Street encampment resident, at one of the recent meetings.

“But you guys are making the initiative to come down here and talk to us personally. That’s a huge breakthrough,” she said. “I think it’s a big giant leap of faith for everybody.”

Full disclosure: Radu asked for Yesica Prado’s feedback on the Good Neighbor Guidelines and accepted a few suggestions to clarify wording but did not incorporate her other recommendations.
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We depend on your support. A generous gift, in any amount helps us continue to bring you this service.

DONATE NOW
Order by Judge Edward Chen extending TRO to September 27, 2023.

(Exhibit E)
On September 5, 2023, Judge Gonzalez Rogers (acting as the duty judge) granted Plaintiffs’ application for a temporary restraining order ("TRO"). See Docket No. 11 (order). The TRO is currently set to expire on September 15, 2023, absent further order from the Court. In addition, a briefing schedule was set for a hearing on a continued TRO and/or preliminary injunction. The Court hereby MODIFIES Judge Gonzalez Rogers’s order as follows.

First, the Court modifies the expiration date for the TRO. Under Federal Rule of Civil Procedure 65(b)(2), a TRO may last for 14 days after entry. Here, that would be September 19, 2023. A TRO may then be extended for another 14 days if there is good cause. Here, that would be October 3, 2023. The Court finds that there is good cause to extend the TRO to at least September 27, 2023. This is the date that the Court sets for a hearing on a motion for preliminary injunction. There is good cause to extend the TRO because this case raises serious issues that warrant development of as full and complete a record as possible, not to mention briefing. Moreover, as a practical matter, the Court is unavailable for any hearing on either September 15 or 19.
Second, as noted above, the Court sets a hearing date for a motion for
preliminary injunction: **September 27, 2023, at 10:30 a.m.** The Court deems
Plaintiffs’ motion for a TRO their motion for a preliminary injunction.

Third, the Court sets the briefing schedule as follows. The City’s opposition
brief shall be filed no later than September 13, 2023. Plaintiffs’ reply shall be filed no
later than noon of September 18, 2023.

Fourth, the Court orders Plaintiffs to **immediately** serve a copy of this order on
the City. Given the expedited nature of the proceedings, the Court orders Plaintiffs to
personally deliver a copy of this order (as well as the complaint, the motion for a
TRO/preliminary injunction, and all supporting documents), unless they are able to
establish good cause for service by other means. Plaintiffs may also serve
a *courtesy* copy on the City by email (*e.g.*, to the City Attorney’s office if they have
such contact information). Within three days of the date of this order, Plaintiffs shall
file a declaration certifying that the papers were served on the City and explaining how
service was accomplished. If Plaintiffs have contact information for any attorney
representing the City, they shall include such information in the declaration.

**IT IS SO ORDERED.**

Dated: September 5, 2023

[Signature]

EDWARD M. CHEN
United States District Judge
Judge Chen’s Order to be followed by the CITY of Berkeley to prevent further violation of unhoused residents’ civil rights, during their program of ABATEMENTS.

(Exhibit F)
UNited States District Court
Northern District of California

Yesica Prado, et al.,

Plaintiffs,

v.

City of Berkeley,

Defendant.

Case No. 23-cv-04537-EMC

ORDER DENYING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Docket No. 2

Plaintiffs are four individuals: Yesica Prado, Lucian Jeffords, Erin Spencer, and Angel Kennett. Plaintiffs are currently unhoused and reside in or use an encampment located in Defendant the City of Berkeley – specifically, the encampment located in the area of 8th Street and Harrison Street. Plaintiffs filed suit over the Labor Day weekend after the City issued a notice indicating that there would be an emergency abatement of at least part of the encampment. This Court issued a temporary restraining order enjoining the City from taking action through September 27, 2023, i.e., the date of the hearing on Plaintiffs’ motion for a preliminary injunction. Plaintiffs now ask for a preliminary injunction to “restrain[] [the City] from displacing the residents of 8th and Harrison until adequate shelter is available for them and until [the City] can do so without violating the constitutional and statutory rights of Plaintiffs.” Mot. at 2. Plaintiffs also seek a preliminary injunction enjoining the City from destroying their property. See Mot. at 2.

Having considered the parties’ briefs and accompanying submissions, as well as the oral argument of counsel, the Court hereby DENIES Plaintiffs’ motion for a preliminary injunction. The Court shall allow the City to proceed with abatement of that part of the encampment located
at Harrison, between 7th and 8th, but subject to certain conditions as specified below.

I. FACTUAL & PROCEDURAL BACKGROUND

A. Encampment

The homeless encampment at issue is generally in the area of 8th and Harrison. A part of the encampment – not the entire encampment – is located on Harrison between 7th and 8th.

It is not clear from the record how long the overall encampment, or even that specific part, has been there. It appears, however, that all or part of the encampment has existed for several years. In addition, it appears that the City has provided certain services to the encampment since 2021 – e.g., dumpsters, port-a-potties with wash stations, access to mobile showers and a laundry service, and even, on occasion, tents and tubs. See Radu Decl. ¶ 7(a)-(c), (g). There have been nine deep cleanings of the encampment. See Radu Decl. ¶ 7(f).

At some point in February 2022, the encampment was closed, and there have been three “partial closures” thereafter. See Radu Decl. ¶ 7(e). The record does not reflect how the present encampment reappeared. This pending suit was filed after the City issued notices indicating that it intended to abate part of the encampment – as now clarified, that part located on Harrison between 7th and 8th.

B. Housing Options

The City has contracts with shelters to provide housing options for homeless persons. This includes the Berkeley Inn and the Super 8 Motel (also known as the Campus Motel). Both the Berkeley Inn and the Super 8 provide for noncongregate housing. See Radu Decl. ¶ 8. In addition, at both locations, there are no curfews, and a resident can come and go as he or she pleases. See Radu Decl. ¶ 9. “Shelter participants may bring up to two 64-gallon trash bags of personal belongings into their room and the City has also provided additional onsite storage.” Radu Decl. ¶ 9.

C. Plaintiffs

The evidence of record reflects the following about Plaintiffs.

- **Ms. Prado** is a 31-year-old woman. See Prado Decl. ¶ 2. She is a journalist working with the nonprofit newsroom *San Francisco Public Press* and a Berkeley
community advocate. She has been unhoused and living in an RV since 2017. See Prado Decl. ¶ 3. In August 2018, she began to live in her RV at the encampment at 8th and Harrison. See Prado Decl. ¶ 3. The RV is “currently parked on 8th Street between Harrison and Gilman Streets” — i.e., outside the area subject to abatement. Prado Decl. ¶ 4. The RV is operable but has mechanical issues that prevent it from being moved more than a few hundred feet. See Prado Decl. ¶ 4. Ms. Prado had an intake appointment for shelter at the Super 8 Motel on September 12, 2023. At the time she accepted the appointment, she was not told what the conditions of housing were. See Prado Decl. ¶ 8. Subsequently, she was told that she cannot park her RV at the motel and that she cannot leave it at 8th and Harrison. See Prado Decl. ¶ 11. She also has been told that she cannot have visitors at the motel even though her “community is critical to [her] mental health.” Prado Decl. ¶ 11. The City indicates that, on September 12, Ms. Prado did not relocate to the Super 8 Motel because “she unexpectedly requested that she record her intake (which takes place with a non-profit, not city staff) and have her attorney present. . . . The intake was rescheduled for September 28 . . . .” Radu Decl. ¶ 12(a)(iii).

- **Mr. Jeffords** has lived in the encampment for five years. He currently lives in an RV which “can be moved but only [for] short distances.” Jeffords Decl. ¶ 2. According to the City, he was repeatedly offered shelter at both the Super 8 Motel and at Berkeley Inn, as well as permanent housing at the Depot in Hayward. “He declined the Super 8 offers, stating that he did not want to be near his Harrison St[.] neighbors, but stated he was interested in the Berkeley Inn and Depot housing option.” Radu Decl. ¶ 12(c). Mr. Jeffords, however, was told that he cannot park his RV at the Berkeley Inn, see Jeffords Decl. ¶ 4, and he is not aware of an area in Berkeley where he can park the RV “for a long time on the street.” Jeffords Decl. ¶ 3. According to the City, Mr. Jeffords has admitted that his RV is infested with rats, see Radu Decl. ¶ 12(c)(i), but Mr. Jeffords disputes such. Mr. Jeffords was also told that Berkeley Inn would only allow him to keep one of his cats. See
Jeffords Decl. ¶ 8. But see Radu Decl. ¶ 12(c) (indicating that the City offered to take the additional cat to the animal shelter to find a new home). As indicated above, Mr. Jeffords was also offered shelter at Abode Housing in Hayward, but he was unable to go to Hayward to view the housing option “due to medical issues.” Jeffords Decl. ¶ 3. Mr. Jeffords has medical issues that have left him “unable to eat for days at a time and very physically weak.” Jeffords Decl. ¶ 5. He is not able to “engage in any physical activity such as moving objects and remaining on [his] feet for long periods of time.” Jeffords Decl. ¶ 5. Mr. Jeffords affords no other description of his alleged disability.

- **Mr. Spencer** is a retired member of the marines. He has lived at the encampment at 8th and Harrison for a year. See Spencer Decl. ¶ 3. He has a “service-related disability in [the] right shoulder.” Spencer Decl. ¶ 2. Specifically, his “collar bone puts pressure on the nerve that goes underneath, causing [him] chronic pain and limiting [his] range of motion and ability to lift heavy objects.” Spencer Decl. ¶ 2. Mr. Spencer has received an offer of shelter at the Super 8 but he has “not accepted it because it does not accommodate [his] disability and other needs; specifically, no visitors are allowed, and there are severe limitations on how many personal items” can be brought which affects his ability to do work (e.g., using his tools). Spencer Decl. ¶ 7. In addition, he cannot cook for himself at the Super 8 Motel. See Spencer Decl. ¶ 7. According to the City, Mr. Spencer has been repeatedly offered shelter but has declined on the basis that the shelter offered does not allow visitors. See Radu Decl. ¶ 12(b).

- **Ms. Kennett** is a 41-year-old woman with several disabilities, “including OCD and anxiety.” Kennett Decl. ¶ 3. She also had ovarian cancer in the past. See Kennett Decl. ¶ 3. She currently has a place at the Berkeley Inn but she keeps items that she is not allowed to take there in the encampment at 8th and Harrison. This includes, e.g., bedding and a tent. See Kennett Decl. ¶ 4. She also feels safer being outside instead of at the Berkeley Inn because of the rules and practices it
maintains. See Kennett Decl. ¶7. For example, Berkeley Inn has a no visitors policy, and it also bars residents from socializing with other residents (which prevents Ms. Kennett from socializing with her brother). See Kennett Decl. ¶8. Also, Berkeley Inn prohibits residents from deadbolting doors from the inside. See Kennett Decl. ¶9. Ms. Kennett has been at the Berkeley Inn since mid-March 2023. See Radu Decl. ¶12(d).

D. City Notices

As indicated above, Plaintiffs brought suit over the Labor Day weekend after the City issued notices indicating that, e.g., there would be an emergency abatement of a certain part of the encampment. The City has provided evidence indicating what led to the issuance of the notices. That evidence reflects as follows.

From May through July 2023, three community meetings were held between City staff and residents and advocates of the encampment “to discuss resources and how to improve safety.” Radu Decl. ¶7(i).

Subsequently, on August 23, 2023, the City conducted an investigation of the encampment. The investigation was initiated by the City’s Homeless Response Team (“HRT”).1 The Environmental Health Division and the Fire Department participated in or attended the investigation. See Torres Decl. ¶3; Shaffer-Killey ¶7.

On August 30, 2023, the Environmental Health Division and the Fire Department each provided the City Manager’s Office with a memo detailing its findings related to the encampment. The memo from the Environmental Health Division stated, inter alia, that there “several areas along the north side of Harrison St.” which were problematic. Torres Decl., Ex. A (Environ. Memo. at 1). The memo further stated that the conditions rose “to the level of an imminent health hazard, particularly [given] findings of used syringes, areas where raw sewage was observed and

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1 The City created the HRT “to bring multiple departments together in addressing the needs of the unhoused population. The HRT has representatives from Fire; Police; Public Works; Parks, Recreation, and Waterfront; Environmental Health; Parking Enforcement; Health, Housing, and Community Services; and other departments and divisions as necessary.” Radu Decl. ¶4.
the proliferation of rat burrows all along the Harrison St[,] corridor.”

Torres Decl., Ex. A (Environ. Memo. at 1). Thus, the Division recommended that “those areas identified in the . . . report be summarily abated to minimize the impact to the residents and general public.” Torres Decl., Ex. A (Environ. Memo. at 1); see also Torres Decl. ¶ 4 (testifying that “[t]he presence of rat burrows and accumulation of food and debris on Harrison Street between Seventh and Eighth Streets created an environment conducive to the proliferation of rats, which increases the disease transmission from rats to residents of the area and the surrounding community”); Torres Decl. ¶ 3(b) (testifying that there were “used hypodermic needs scattered over a 400 square foot area along the north side of Harrison St[,] between Seventh and Eighth St[,]” that “[t]he presence of the used hypodermic needles alone constitutes a significant potential for possible disease transmission by accidental prick,” and that “the large amounts of personal belongings mixed in with other miscellaneous debris and trash increases the potential for accidental needle pricks”).

The Fire Department’s memo noted, inter alia, that, from January through August 2023, there were 29 fire-related incidents at the part of the encampment on Harrison between 7th and 8th. See Shaffer-Killey Decl., Ex. A (Fire Memo. at 1-2) (listing incidents). The memo also stated that it found “multiple fire and building code violations” based on the August 23 investigation—e.g., “[t]he structure does not have adequate fire separation distance and fire-resistant construction,” and “[a]ccumulations of combustible waste materials are present in and around the structure and the adjacent encampment areas.”

Shaffer-Killey Decl., Ex. A (Fire Memo. at 2). Finally, the memo stated that “[t]he number and types of calls combined with the observed code violations are sufficiently concerning for the Berkeley Fire Department to recommend that the encampments on the north side of Harrison St. be abated summarily.”

On August 31, i.e., the day after the memos from the Environmental Health Division and Fire Department were provided, Peter Radu (the Assistant to the City Manager) wrote a memo to

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2 The memo includes some photographs related to the Environmental Health Division’s concerns.

3 The memo includes some photographs related to the Fire Department’s concerns.
the City Manager. Mr. Radu provided some history on service efforts for the encampment and then provided an assessment on current conditions there.

For months (and at present) the [Homeless Response Team] continues to observe dead animals, open food sources and spoiled food, used uncapped drug needles, combustible materials like flammable gas containers inside unsafe wooden structures, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products. In addition, the large accumulation of debris and ad-hoc sheltering structures has completely blocked the sidewalk and extended into the roadway, creating numerous concerning fire and traffic safety hazards.

RECOMMENDATION

The HRT and City Manager’s Office will continue to work to finalize the Good Neighbor Guidelines for future implementation at encampments around the City and will continue the ongoing process of moving residents inside the new Super 8 or other City shelter resources. The City has also formally engaged the Alameda County CoC with a recommendation to prioritize this encampment for permanent supportive housing referrals, with a memo dated July 20, 2023, and that recommendation is under discussion.

In the meanwhile, however, the Berkeley Fire Department and Environmental Health Divisions have observed alarming conditions that justify their declaring Harrison St between 7th and 8th Streets an imminent health hazard (see attached memos and reports). Therefore, to resolve these dangerous nuisance conditions now as we work towards a fuller resolution of the entire encampment in the near future, we recommend a summary nuisance abatement of the encampment conditions Harrison St between 7th and 8th Streets.

Radu Decl., Ex. A (Memo. at 2-3) (emphasis in original).

The City Manager responded the same day, approving summary abatement. See Radu Decl., Ex. B (email). The following day, September 1, 2023, two different notices were issued and posted. The notices were not handed out to campers or placed on vehicles belonging to campers but rather were publicly posted. See, e.g., Prado Decl. ¶¶ 5-6.

One notice was a Notice of Abatement (“Notice of Imminent Health Hazard and

4 In its papers, the City notes that a third set of notices was given to Mr. Spencer specifically. See Shaffer-Killey Decl. ¶¶ 9-10 (testifying that “I posted a Notice of Fire Hazard on a structure . . . later identified as [one] belonging to [Mr.] Spencer” as well as a warning notice stating that “the structure was unsafe”). Plaintiffs do not appear to contest this set of notices to Mr. Spencer. See Shaffer-Killey Decl., Exs. B-C (notices).
Emergency Abatement Beginning Sept 4, 2023’); the other notice was a Notice of Violation

1. Notice of Abatement

The Notice of Abatement was issued to “Persons Encamped and Vehicles Parked on
Harrison Street between 7th Street and 8th Street.” See Prado Decl., Ex. A (Not. of Abatement at
1). The City emphasizes that

that precise section of the larger encampment is the only area subject
to the notice and the only section the City intends to clear pursuant
to the imminent health hazard declaration. Any RVs parked along
8th Street (e.g., Plaintiff Prado’s) are not subject to the specific
notice being challenged. This is also why Plaintiff Prado’s intake
interview was scheduled for September 12, 2023, after the
abatement; as they were not going to be affected by the abatement.

Radu Decl. ¶ 16.

The Notice of Abatement began by noting that, on August 23, 2023, the Environmental
Health Division and Fire Department for the City had conducted a site visit which
revealed significant health and safety hazards due to the presence of
excessive amounts of accumulated garbage, raw sewage, open food
sources, unsafe structures with combustible materials, numerous
loose syringes and various personal property items which have
expended onto the City’s rights-of-way. The conditions observed at
the time of the site visit are conducive to the proliferation of rats,
which increases the potential for disease transmission from rats to
the residents in this area and the surrounding community. The
presence of numerous rat burrows within and adjacent to the
encampment is evidence of a thriving rat population.

Prado Decl., Ex. A (Not. of Abatement at 1).

The Notice of Abatement then stated that the Manager of Environmental Health had
“declared the conditions to be an imminent health hazard and public nuisance pursuant to Berkeley
Municipal Code Sections 11.36.030 and 11.36.050, and the City Manager ordered a summary
abatement of these conditions, on August 31, 2023.” Prado Decl., Ex. A (Not. of Abatement at

5 Section 11.36.030 provides: “For the purpose of this chapter, the existence of the following
condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or
any other organic filth into or upon any place in such a manner that transmission of infective
material to human beings may result therefrom.” Berkeley Mun. Code § 11.36.030.

Section 11.36.050 provides: “Each health and safety hazard as defined in this chapter is
1). The underlying Municipal Code violations identified in the notice were: violations of §§ 11.32.050, 11.32.070, 17.20.030, and 17.20.050. See Prado Decl., Ex. A (Not. of Abatement at 1). The notice also indicated that there were violations of Berkeley Municipal Code § 14.48.020. Abatement would include "destruction of any property constituting [a] nuisance if the nuisance cannot be abated otherwise." Campers were instructed to "address the nuisance conditions listed below, by discarding garbage and any items creating a rodent harborage or other health hazards, and reduce your belongings to a 9-square-foot footprint by or before September 4, 2023 [i.e., Labor Day]." Prado Decl., Ex. A (Not. of Abatement at 1-2).

declared to be a public nuisance and may be abated as provided in Sections 11.40.040 through 11.40.120 of this code. Each imminent health hazard as defined in this chapter is declared to be a public nuisance and may be abated as provided in Sections 11.40.130 through 11.40.160 of this code." Berkeley Mun. Code § 11.36.050.

Section 11.32.050 provides: "No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin." Berkeley Mun. Code § 11.32.050.

Section 11.32.070 provides: "No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain therein that may serve as a rodent harborage, unless the same shall be place don open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health." Berkeley Mun. Code § 11.32.070.

Section 17.20.030 provides: "Except as otherwise expressly exempted below, it is unlawful to discharge any matter except stormwater into the storm drain system." Berkeley Mun. Code § 17.20.030.

Section 17.20.050 provides (in relevant part): "Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements [e.g., littering prohibited, requirements for construction and development]." Berkeley Mun. Code § 17.20.050.

Section 14.48.020 provides (in relevant part): "It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager and adopted by the City Council." Berkeley Mun. Code § 14.48.020.
The Notice stated that the City

will discard items you no longer wish to keep at your request. The City can temporarily store a limited amount of certain types of personal property up to 90 days, depending on value. However, please ensure that you keep with you all necessary personal belongings (medications, identification, electronics, wallets), items of value, clean and unsullied shelter items, and items of special importance to you. Personal property left unattended may be collected and stored pursuant to the City's policy, if it meets certain requirements, described in more details below:

1. Personal property that may be stored up to 90 days includes property of a personal nature such as identification; photos/photo albums; tents, sleeping bags, bedding (which is deemed to be in serviceable condition); luggage, backpacks, purses; clothing; documents (together in a packet bound or secured in some way); jewelry; medication; eyewear; electronic equipment; tools; bicycles and other non-motorized methods of transportation which are in working order.

2. Items that will not be stored and are subject to disposal if left on public property at the time of the abatement include but are not limited to: soiled or moldy items; loose or scattered papers; wet or damp clothing, bedding or sleeping bags; perishable food or personal products; personal hygiene products such as toothbrushes or hairbrushes; bike carcasses and parts; mattresses, futons, furniture; shopping carts (items easily identified as personal belongings and meeting the criteria for storage may be stored); broken or disassembled items or items stripped of parts; weapons; items that attract rodents or insects (containers for recycling or food storage); hazardous or explosive items such as gasoline cans, propane tanks, batteries. Property that is so entangled with hazardous material that it is unsafe for the City to sort through (i.e., visible presence of needs, rodents, bodily waste, etc.) will not be sorted and stored and will be subject to disposal.

Unattended property will be handled in accordance with City policy. Individuals who wish to reclaim their property may call "311" to contact the City's Customer Service Center during regular business hours (Monday-Friday, 9:00 AM to 3:00 PM), or call (510) 981-2489 or (510) 981-CITY. Alternatively, information regarding retrieval of unattended and stored property is available in the lobby of the Berkeley Civic Center, 2180 Milvia Street, Berkeley, during regular business hours.

Vehicles may be subject to two and impound if authorized by the Vehicle Code and community caretaking needs.

Prado Decl., Ex. A (Not. of Abatement at 2) (emphasis in original).

The Notice of Abatement concludes by warning that "[f]ailure to comply may result in the City abating the unsafe and hazardous conditions pursuant to BMC Chapter 11.40. The City
prefers not to cite or arrest in order to gain your compliance with this notice. However,
absent voluntary compliance, failure to comply may result in citations and/or arrest.” Prado
Decl., Ex. A (Not. of Abatement at 3) (emphasis in original). It also provides information about
appeal rights (to the City Manager) – but “because of the imminent health hazards at this location,
any request for a hearing will not prevent the city from abating the hazards as soon as possible
beginning Sept 4, 2023, if you do not comply prior to that date.” Prado Decl., Ex. A (Not. of
Abatement at 3).

The City maintains that it is

prepared to offer shelter to Harrison St[.] residents during the
emergency abatement action. The City is also prepared to store all
belongings that can be properly stored under City policies (including
the use of a 40-foot shipping container purchased with HRT funds
and located at the Super 8 motel for this very purpose), discard any
remaining hazardous items, and provide help in moving Plaintiffs’
belongings that can be kept at the shelter.

Radu Decl. ¶ 18.

2. Notice of Violation

The Notice of Violation was issued either to “Persons at Harrison
Between 8th/7th.” See Radu Decl. ¶ 17; see also Radu Decl., Ex. D (Not. of Violation).

The Notice of Violation refers to a violation of the City’s “Shared Sidewalk Policies, BMC
sections 14.48.020 and 14.48.120, due to the accumulation of your possessions at the above-listed
location.” Prado Decl., Ex. B (Not. of Violation at 1). It directs individuals to “pack or reduce
your belongings to 9 square feet. [¶] The City prefers not to cite or arrest in order to gain your
compliance with this notice. However, absent voluntary compliance, failure to comply may result
in citations and/or arrest.” Prado Decl., Ex. B (Not. of Violation at 1) (emphasis omitted). The
notice then goes on to contain some of the same language contained in the Notice of Abatement –

8 Section 14.48.120 provides (in relevant part): “The City Manager may adopt regulations
specifying what TNC [Temporary Noncommercial] Objects may be permitted under this Section
and where such TNC Objects may be permitted . . . .” Berkeley Mun. Code § 14.48.120. TNC is
defined as personal belongings “[i]n the immediate custody and control of a person or persons at
substantially all times,” “[n]ot offered for sale or exchange or involved in the solicitation of money
for immediate payment”; and “[n]ot otherwise prohibited and of a size, weight and quantity that
can be easily moved by the owner.” Id.
i.e., regarding discarding of property, unattended personal property, storage thereof, etc.

E. Operative Pleading

Based on, inter alia, the above, Plaintiffs filed suit asserting the following causes of action:

- Exposure to state-created danger under the Fourteenth Amendment to the U.S. Constitution and Article I, § 7(a) of the California Constitution.

- Unreasonable search and seizure under the Fourth and Fourteenth Amendments to the U.S. Constitution and Article I, § 13 of the California Constitution.

- Discrimination against persons with disabilities under the Americans with Disabilities Act ("ADA") and California Government Code § 11135.

- Infliction of cruel and unusual punishment under the Eighth Amendment (i.e., a claim under Martin v. City of Boise, 902 F.2d 1031 (9th Cir. 2019)).

II. DISCUSSION

A. Legal Standard

[Plaintiffs seeking a preliminary injunction must establish that (1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm absent preliminary relief, (3) the balance of equities tips in their favor, and (4) an injunction is in the public interest. [A court] employ[s] a "sliding scale test," which allows a strong showing on the balance of hardships to compensate for a lesser showing of likelihood of success. Thus, when plaintiffs establish that the balance of hardships tips sharply in their favor, there is a likelihood of irreparable injury, and the injunction is in the public interest, they need only show "serious questions" on the merits.

Where Do We Go Berkeley v. Cal. DOT, 32 F.4th 852, 859 (9th Cir. 2022) [hereinafter WDWGB].

B. Irreparable Harm/Balancing of Hardships

The Court begins its analysis by considering whether Plaintiffs are likely to suffer irreparable harm absent preliminary relief. At the hearing, the City made multiple representations that impact the Court’s view of the irreparable harm factor.

- The City stated that any City action here will affect only a portion of the encampment – specifically, Harrison between 7th and 8th – and not the entire
encampment.9

- The City stated that it will only abate the area on Harrison between 7th and 8th. In other words, the City will not be closing that part of the encampment, and people will not be barred from returning to the area to set up camp again once the abatement is completed, at least not in connection with the current abatement action.

- The City stated that, historically, abatements have taken only a few days to be completed. Although the City added that more time could be needed for the specific abatement contemplated here (depending on what is uncovered), there is nothing to suggest, as a facial matter, that the abatement would need to continue beyond a week or two.

- The City confirmed that it is offering all campers located on Harrison between 7th and 8th housing during the time of abatement (and potentially beyond). Specifically, campers are being offered housing at the Super 8 Motel and Berkeley Inn. Both places provide noncongregate housing, and residents are free to come and go as they wish.

- The City confirmed that it will store impacted campers’ belongings during the period of abatement (up to 90 days), subject to valid health and safety concerns.

- The City confirmed that it will help campers to move their belongings to the shelters and/or storage.

- The City stated that, if essential habitation items such as bedding or tents cannot be stored and will need to be destroyed (e.g., because they are soiled or contaminated), the City will offer the affected campers comparable replacements.10 (Replacements need not be identical, but they should be reasonably comparable.)

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9 Given this limitation, Ms. Prado is not impacted by the abatement at all. She currently lives in a different part of the encampment.

10 The City voluntarily offered to provide comparable replacements after the Court asked whether campers could bag their own bedding and/or tents (in order to minimize safety risk to City workers), with the bags then being placed in storage.
- The City did not voice objection to a new notice of abatement being issued, including notice 72 hours in advance (not counting weekend days) of the abatement.

Plaintiffs protest that, in spite of the City’s representations above, they will likely suffer irreparable harm without preliminary injunctive relief. Their main criticism is that the housing options offered by the City are insufficient given their disabilities. For example, Plaintiffs maintain that they have mental impairments that make it difficult for them to follow the shelters’ rules and regulations which will then lead to their being evicted from the shelters for failure to comply. There is no evidence of record, however, to support this specific claim of mental impairments.\(^{11}\) And even if the Court were to accept the representations made by Plaintiffs about their disabilities – whether in the record or at the hearing – the Court must still balance the hardships claimed by Plaintiffs (if no preliminary injunction relief were to issue) with the hardships claimed by the City (if such relief were to issue). Moreover, the balance of hardships must tip sharply in Plaintiffs’ favor in order for them to obtain relief because, as discussed below, they have not shown they are likely to prevail on the merits of their claims and have shown at most serious questions going to the merits.

The City has provided sufficient evidence to support their contention that enjoining abatement – whether entirely or for a significant period of time – would pose a significant hardship on the City. More specifically, enjoining abatement entirely would impose a hardship on both the encampment and the larger community the City represents because there are serious health and safety issues at the encampment that need to be addressed in a timely fashion, as supported by the memos from the Environmental Health Division and Fire Department. This includes used syringes, raw sewage, rat infestations, and fire threats. On the other hand, the hardship to the Plaintiffs of allowing the City to move forward with the conditions attached as articulated herein, would be minimal. The Court, therefore, cannot say at this juncture that the

\(^{11}\) As noted above, Ms. Prado is not living in the part of the encampment subject to abatement. The record indicates that Mr. Jeffords and Mr. Spencer have physical impairments only, not mental. Although the record indicates that Ms. Kennett has some mental impairments, she has been living in the Berkeley Inn since mid-March 2023.
balance of hardships tips sharply in Plaintiffs’ favor; this is particularly true given that the City has not only provided evidence of the substantial hardship it would suffer but also made representations to the Court as to how it would temper hardships to Plaintiffs (as well as others in the affected part of the encampment), and the Court will impose conditions to lifting the temporary injunctive relief.

C. Public Interest

The public interest factor weighs in favor of Defendants. While there is a public interest in ensuring that “members of the community, including the unhoused, are not endangered or parted from their homes and community without cause.” Docket No. 11 (Order at 2), Defendants have offered noncongregate housing to Plaintiffs during the abatement. On the other hand, there is also a strong public interest in abating a significant hazard, and on a timely basis.

D. Likelihood of Success on the Merits

Particularly because the City is offering alternative housing and assistance in moving Plaintiffs and their belongings to that housing, Plaintiffs have not shown a likelihood of success on the merits. They still have, however, raised serious questions on the merits for many of their claims.

For example, on the ADA claim, even if the program here were to be defined narrowly – e.g., a program of abating an imminent health or safety hazard – there are still serious questions as to whether Plaintiffs should be given some time and support to relocate before the abatement takes place. On the state-created danger claim, there are serious questions as to whether the City has exhibited deliberate indifference, particularly as at least some Plaintiffs are disabled and the City’s abatement could deprive them of essential items of living such as bedding, tents, and RVs should those be destroyed and not replaced. With respect to the unlawful seizure claim, there are serious questions as to whether adequate notice of the seizure was given in the first instance. Even if the Berkeley Municipal Code did not require advance notice to be given to Plaintiffs, that does not mean that the Fourth Amendment and/or Due Process Clause did not require such notice.

However, with the conditions imposed herein and the new notice to be given, the legal concerns of Plaintiffs are substantially mitigated.
E. **Summary**

Taking into account the preliminary injunction factors, the Court finds that Plaintiffs have established at most serious questions going to the merits on many of their claims but have not shown that the balance of hardships tips sharply in their favor. Nor have they shown a likelihood of success on this record on their legal claims. The Court’s evaluation of the hardships might have been different if the City had not made the representations it did at the hearing and/or in its papers. In other words, without those representations, the hardships to Plaintiffs would be far greater (e.g., they would not have had a place to stay during the period of abatement and their property essential for habitation could be destroyed). But because of those representations, the hardships to Plaintiffs have been tempered significantly.

The Court, therefore, shall dissolve the TRO and not grant Plaintiffs preliminary injunctive relief. In addition, the Court shall allow the City to abate the part of the encampment located at Harrison, between 7th and 8th, but subject to the following conditions (which largely align with the representations made by the City at the hearing):

- The City shall issue a new notice of abatement.
- Abatement cannot begin unless Plaintiffs are given seventy-two hours’ notice of the abatement. The seventy-two hours does not include weekend days.
- Out of an abundance of caution, the notice shall also be publicly posted and placed on structures and vehicles located in the affected area.
- The notice shall specify that the only area to be abated is that part of the encampment located on Harrison, between 7th and 8th.
- The notice shall specify the exact date that the abatement shall begin and shall provide an estimate as to how long the abatement will take to complete.
- The notice shall specify that people are allowed to return to the area to camp after the abatement is complete.
- The notice shall provide the information provided in the prior notice and further shall provide instructions to campers on how to designate property for storage and how to designate property for their 9-square foot allotments.
• The notice shall specify that, if essential items for habitation are not appropriate for storage and must be destroyed (e.g., because they are soiled or contaminated), the City shall provide comparable replacements.

• The City shall provide comparable replacements for essential habitation items that are destroyed.

• Mr. Jeffords’s RV shall not be moved or destroyed but may be cleaned and/or treated for pests.

• The City shall provide housing for campers at the Super 8 or Berkeley Inn, at the very least during the period of abatement.

• The City shall help campers move themselves or their belongings to the Super 8 or Berkeley Inn and/or to storage.

• The housing at Super 8 and Berkeley Inn shall permit one emotional support animal.

III. CONCLUSION

For the foregoing reasons, Plaintiffs’ motion for a preliminary injunction is denied, and the City may abate the part of the encampment located at Harrison, between 7th and 8th, but subject to the conditions specified above. A violation of these specified conditions may be deemed a violation of this Court’s order.

This order disposes of Docket No. 2.

IT IS SO ORDERED.

Dated: September 27, 2023

[Signature]

EDWARD M. CHEN
United States District Judge