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ROHRBACHER, MARCIA RAINES, KENT BASSO

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 SAUSALITO/MARIN COUNTY CHAPTER
16 OF THE CALIFORNIA HOMELESS UNION,
17 on behalf of itself and those it represents;
ROBBIE POWELSON; SHERI L. RILEY;
18 ARTHUR BRUCE; MELANIE MUASOU;
SUNNY JEAN YOW; NAOMI
19 MONTEMAYOR; MARK JEFF; MIKE
20 NORTH; JACKIE CUTLER and MICHAEL
ARNOLD on behalf of themselves and
21 similarly situated homeless persons,

22 Plaintiffs,

23 v.

24 CITY OF SAUSALITO; MAYOR JILL
25 JAMES HOFFMAN; POLICE CHIEF JOHN
ROHRBACHER; CITY MANAGER
26 MARCIA RAINES; DEPT. OF PUBLIC
WORKS SUPERVISOR KENT BASSO,
27 individually and in their respective official
28 capacities,

Defendants.

CASE NO. 3:21-cv-01143-LB

**SUPPLEMENTAL DECLARATION OF JOHN
ROHRBACHER IN SUPPORT OF
DEFENDANTS' (1) OPPOSITION TO
PLAINTIFFS' EX PARTE MOTION; AND (2)
EX PARTE MOTION TO MODIFY
PRELIMINARY INJUNCTION**

Date: December 9, 2021
Time: 1:30 p.m.
Courtroom: 5 – 17th Floor

Action Filed: February 16, 2021
Trial Date: T.B.D.
Judge: Hon. Judge Edward M. Chen

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DECLARATION OF JOHN ROHRBACHER

I, John Rohrbacher, declare as follows:

1. I am the Chief of Police for the City of Sausalito and have held that position since January 2016. If called as a witness, I could and would competently testify to all facts stated herein based upon my personal knowledge except where stated upon information and belief. This Declaration is submitted in support of Defendants’ (1) Opposition to Plaintiffs’ *Ex Parte* Motion and (2) *Ex Parte* Motion to Modify Preliminary Injunction.

2. I have personal knowledge of the events stated herein as I have debriefed with my Departmental staff on these incidents, reviewed relevant City of Sausalito Police Department's records regarding these events, and communicated with other witnesses to the events and/or conditions described herein.

3. The following describes developments at the Marinship Park encampment since my earlier declaration.

Vandalism of Temporary Sleeping Area in Marinship Parking Lot

4. In response to residents’ allegations about flooding and contamination in Marinship Park, the City made a portion of the adjacent parking lot available as a temporary sleeping area, pending full relocation of the encampment to the tennis courts.

5. On November 18, the City installed traffic barriers to mark off and protect the temporary sleeping area within the parking lot. Photographs of the installed barriers are attached as **Exhibit 1**.

6. During the night of November 18 to 19, encampment residents dismantled and removed the barriers, taking some of them into the encampment. Photographs taken on the morning of November 19, showing the damage to the barriers, are attached as **Exhibit 2**.

7. On November 19, in response to the vandalism, the City installed heavier K-Rails (temporary concrete barriers) to mark off and protect the sleeping area within the parking lot. Photographs of the K-Rails are attached as **Exhibit 3**.

1 **Theft of City Tent Platforms and Construction of Unpermitted Residences**

2 8. The City, at its own expense, constructed tent platforms for the benefit of
3 encampment residents. The intended purpose of the platforms, which my officers explained to the
4 residents, is to enable the residents to raise their tents off the ground and have better protection
5 against the elements.

6 9. On November 24, as detailed in the accompanying Supplemental Declaration of
7 Kevin McGowan, the Department of Public Works (DPW) began delivering and installing the tent
8 platforms on the Marinship Park tennis courts.

9 10. As part of its work, DPW amassed a stack of six 6’x12’ platform panels on the
10 concrete pad in front of the Marinship Park restroom. An encampment resident, Daniel Eggink,
11 then climbed on top of the stack and refused to move, preventing the DPW work crew from
12 completing its work. To avoid conflict, the Police Department chose to not forcibly remove Mr.
13 Eggink, and DPW and Police Department personnel left Marinship Park.

14 11. On November 25, encampment residents stole the stack of six platform panels and
15 converted them into an unpermitted residential structure. Photographs of the structure are attached
16 as **Exhibit 4**.

17 12. The estimated value of the theft is \$1140 (\$190 per panel), which qualifies as a
18 felony.

19 13. Encampment residents have also completed construction of the tiny house
20 described in earlier briefing, and a resident is now living inside the structure, contrary to Plaintiffs’
21 agreement that it would be used only for storage of food and materials.

22 **Trespass and Vandalism at Tennis Courts**

23 14. On November 29, the Police Department found that encampment residents Daniel
24 Worthen and James Leblanc had trespassed into the gated and locked tennis courts and had begun
25 setting up camp before the tennis courts were ready for occupancy. Mr. Worthen and Mr. Leblanc
26 had also taken the City’s tent platforms and used them to form makeshift cubicles.

27 15. Officers discovered that someone had opened the southernmost gate of the tennis
28 courts by unscrewing the clamps and rolling back the fencing from the frame. Mr. Worthen and

1 Mr. Leblanc each stated that the gate was open when they arrived. Mr. Worthen further stated that
2 Homeless Union President Robbie Powelson told him he could move onto the tennis courts.

3 16. Photographs of the damaged gate and the trespass are attached as **Exhibit 5**.

4 **Criminal Threats Against Mayor Hoffman**

5 17. On November 23, Emilio Pineda posted a photograph and the location of Mayor
6 Hoffman's home on Facebook. He encouraged his followers to "camp out outside her door" on
7 Thanksgiving night and "catch the turkey by the neck." A redacted copy of his postings, removing
8 the photograph and location of the Mayor's home, is attached as **Exhibit 6**.

9 18. On information and belief, Mr. Pineda is the same person who constructed the
10 unpermitted tiny home within the encampment and fraudulently obtained wood chips by falsely
11 claiming to be a Marin County employee.

12 19. In response to Mr. Pineda's threats, the Police Department asked Mayor Hoffman
13 to file a police report and conducted a security assessment of her home.

14 20. The Police Department is investigating Mr. Pineda's threats as a criminal violation
15 of California Government Code section 6254.21(b), which makes it a misdemeanor to knowingly
16 post the home address of an elected official and intend or threaten to cause imminent great bodily
17 harm.

18 **Expansion of Tents Outside of Marinship Park**

19 21. Encampment residents or affiliates have set up numerous tents outside the
20 designated encampment area in Marinship Park, apparently as a form of protest against the City.
21 The following briefly recites some of the latest incidents.

22 22. On or about November 16, the Police Department located four or five tents within
23 the fenced area of Dunphy Park. The fence had been cut and moved aside. Photographs of the area
24 are attached as **Exhibit 7**.

25 23. On or about November 18, the campers moved their tents from Dunphy Park to
26 Robin Sweeny Park at City Hall. The Police Department posted the tents for removal in 72 hours.
27 The campers removed the tents themselves one day before scheduled removal. Photographs are
28 attached as **Exhibit 8**.

1 24. On or about November 22, the campers moved their tents to Vina Del Mar Plaza.
2 On November 23, the Police Department removed the tents and arrested two people.

3 25. On November 29, the Police Department located a separate tent and belongings on
4 public property to the west of Marinship Park, between Bridgeway and the U.S. Army Corps of
5 Engineers Bay Model. Photographs are attached as **Exhibit 9**.

6
7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Executed on this 29th day of November, 2021 in Sausalito, California.

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DocuSigned by:
John Rohrbacher
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John Rohrbacher