



LEGAL LANDSCAPE IMPACTING PEOPLE EXPERIENCING HOMELESSNESS

City Attorney's Office, Public Safety Division

City Council
September 30, 2021



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OVERVIEW

1. Encampments
2. Anti-Camping Ordinances



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ENCAMPMENTS

Constitutional Issues:

1. 4th Amendment

Search and Seizure

2. 8th Amendment

Cruel & Unusual Punishment

3. 14th Amendment

Due Process



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ENCAMPMENTS

Lavan v. City of Los Angeles (2012)

1. Removing and immediately destroying a person's unattended property violates the Constitution.
2. Cities are required to establish a process for property left on sidewalks.
 - Must be notice prior to removal and storage for a reasonable period prior to disposing of it.
 - Does not apply to items which pose an immediate threat to public health and safety, or is evidence of a crime.



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ENCAMPMENTS

Garcia v. City of Los Angeles (2020)

1. City ordinance had allowed — without prior notice — removal and disposal of bulky items, unless the item is being used as shelter. City lost.
2. Citing *Lavan* case, the court said the City's interest in keeping the City clean and safe was not sufficient.
3. Does not apply to abandoned property or trash.



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ANTI-CAMPING ORDINANCES

Laws that criminalize the act of sleeping or pitching tents or other structures on publicly owned property.



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ANTI-CAMPING ORDINANCES

Jones v. Los Angeles (2016)

1. Invalidated a city ordinance that prohibited sitting, lying, or sleeping on a "street, sidewalk or other public way."
2. Violation of 8th Amendment.
3. People experiencing homelessness exceeded the number of available shelter beds.



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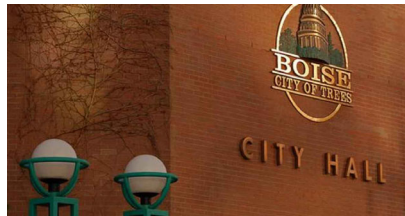
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ANTI-CAMPING ORDINANCES

Martin v. City of Boise (2018)

A city may not enforce its ordinances that prohibit camping when there is no available temporary shelter for persons experiencing homelessness in the city.



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ANTI-CAMPING ORDINANCES

Martin v. City of Boise (2018)

“Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible.”



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ANTI-CAMPING ORDINANCES

Warren v. City of Chico (2021)

- A city constructed an “outdoor temporary shelter facility” at the municipal airport with the capacity to house all of its residents experiencing homelessness.
- Asphalt tarmac without a roof, walls, water or electricity.
- City could not enforce its camping ordinance because it had 120 available shelter beds but over 500 homeless residents.



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LEGAL LANDSCAPE IMPACTING PEOPLE EXPERIENCING HOMELESSNESS

Other City Attorney Office Workshop Presentations:

- 1. Riverside Municipal Code Provisions***
- 2. Bail in California***
- 3. Effect of Voter Initiatives***



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QUESTIONS?



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