

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Statement to Sacramento Right to Housing Rally, April 21, 2009

The National Law Center on Homelessness and Poverty (NLCHP) is pleased to support today's efforts of homeless advocates, community members, and homeless individuals in bringing attention to the injustices suffered by homeless individuals in Sacramento. NLCHP is the legal arm of the nationwide movement to end homelessness, and supports both local and federal efforts to make the human right to housing a reality for all through training, litigation, and policy advocacy.

There are over 2,800 homeless individuals in Sacramento. On any given night 1,200 of these individuals have no place to sleep. In the last two years the city's homeless population has increased by 14 percent. The St. John's Shelter for Women and Children is forced to turn away more than 200 women and children every night due to a lack of space.

The city of Sacramento touts its expansion of 40-50 shelter beds at Cal Expo as the solution to Sacramento's tent city on the American River. While a positive temporary step, it in no way solves the larger problem. The city ignores the fact that this solution fails to provide beds for the other 150 residents at the tent city, let alone the other 1,200 unsheltered individuals around the city. The city also ignores the fact that the beds at Cal Expo will be closed in June forcing the 40-50 individuals to join the 1,200 other homeless individuals in hiding from authorities to avoid arrest for the so-called crime of sleeping in public, even though the city is responsible for closing the only other place they had to sleep.

Housing is a basic element of survival, and therefore a basic human right. Homeless individuals' right to shelter themselves is based on the core American promise in the Declaration of Independence guaranteeing "life, liberty, and the pursuit of happiness." In 1944, President Franklin Roosevelt declared that the U.S. had adopted a "second Bill of Rights," including the right to a decent home. In 1948, the U.S. signed the Universal Declaration of Human Rights, which recognizes housing as a human right.¹ Fifty years later, the U.S. ratified the International Covenant on Civil and Political Rights, which has been interpreted as requiring the government to take basic measures to protect homeless persons from exposure to the elements to uphold their right to life.² And in 1996, the U.S. signed on to the Habitat II Declaration, further defining the right to housing and including a provision added by the U.S. delegation that "homeless individuals should not be penalized for their status."³

In line with this strong tradition, at the end of March the City Council agreed with over three quarters of the American population when they declared, "housing is a basic human right."⁴

¹ Universal Declaration of Human Rights, G.A. Res. 217, U.N. GAOR, 3d Sess., pt. 1, art. 25(1), U.N. Doc. A/810 (1948).

² The right to life (Article 6), U.N. ESCOR Hum. Rts. Comm., 16th Sess., International Human Rights Instruments, P 1, U.N. Doc. HRI/GEN/1/Rev. 1 (1994)

³ Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, June 3-14, 1996, U.N. Doc. A/CONF.165/14, at paras. 53-241 (1996) [hereafter Habitat Agenda].

⁴ Sacramento, Cal., Approval of Funding and Strategy to Improve and Expand Homeless Program Options (Mar. 24, 2009)

When a government recognizes a human right, they accept the legal obligations that come with fulfilling that right. Ignoring the plight of over 1,200 unsheltered individuals and enforcing laws that criminalize homelessness is a direct violation of the legal obligations tied to the human right to housing.

In a similar situation, the Supreme Court of British Columbia in Canada recently found their capital city, Victoria, in violation of the right to housing. The city had enacted several laws prohibiting sleeping in public places, despite the fact that most homeless individuals had no place to go. Several homeless individuals filed a lawsuit against the city where they testified that in addition to a lack of space, the shelters were inadequate for many reasons including personal safety, lack of privacy, theft, or restrictions such as age and gender.⁵ Many individuals said they felt safer sleeping in parks with a small community of trusted friends.

Drawing on the human rights language previously mentioned as well as the Canadian Charter of Rights, the Court declared that the ability to “provide oneself with adequate shelter is a necessity of life.”⁶ The Court found that prohibiting homeless individuals from sleeping in public places when the number of available shelter beds was insufficient was a violation of their right to life. The right to housing is one that must be “progressively realized” in accordance with “available resources.”⁷ Given the large number of unsheltered homeless individuals in Sacramento, laws punishing people for sleeping in public violate the human right to housing. Sacramento’s City Council has publicly recognized housing as a basic human right, acknowledging its obligation to either adequately house its citizens or allow them to shelter themselves with dignity.

NLCHP calls upon city leaders to uphold the human right to housing by placing a moratorium on police enforcement of laws that criminalize homelessness at least until adequate shelter and housing is available to all homeless individuals in the community. NLCHP further urges the city to designate a safe and sanitary camping area for the homeless who are currently forced to sleep on sidewalks, in parks and other public places because shelters have no room for them.

By allowing the operation of a tent city and changing the anti-sleeping laws in your community Sacramento can put real meaning to its pledge that housing is a basic human right, and demonstrate that the city cares about the human rights of its most vulnerable citizens. Although the ultimate goal remains progressively realizing the right to adequate housing for all as resources increase, this small improvement in sheltered sleeping quarters will increase protection from the elements, reduce health complications caused by exposure, and protect homeless individuals’ right to life. The tent city will also protect the individuals’ property rights, privacy, and basic human dignity by providing a safe place for them to store personal items during the day. We urge the city of Sacramento to join with Seattle, Ontario, Ventura and others in setting a positive example for the rest of our nation to protect the human right to housing, the right to life, and property rights by creating a tent city for your citizens in need.

⁵ *Victoria (City) v. Adams*, 2008 BCSC 1363.

⁶ *Id.*

⁷ International Covenant on Economic, Social, and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976.