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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

SEAN GEARY, LINDA MILES, JARED
CARR, HARRY BODE, STEPHEN SANDERS,
and all others similarly situated,

Plaintiffs,

v.

CITY OF PACIFICA,

Defendant.

Case No. 3:21-cv-1780-VC

**STIPULATION AND ~~[PROPOSED]~~
INJUNCTION**

Plaintiffs Sean Geary, Linda Miles, Jared Carr, Harry Bode, and Stephen Sanders (“Plaintiffs”) and Defendant City of Pacifica (the “City”) stipulate as follows:

WHEREAS, Plaintiffs filed their complaint in this action on March 15, 2021;

WHEREAS, this Court has jurisdiction over Plaintiffs, the City, and this action;

WHEREAS, in their complaint, Plaintiffs alleged, inter alia, that the City enacted Ordinance No. 855-C.S. (the “OSV Ordinance”) on or about January 27, 2020, which made it unlawful to park or leave standing an oversized vehicle (“OSV”) on the streets of the City under certain circumstances, and that enactment of the OSV Ordinance violated the rights of Plaintiffs and other persons who reside, have resided, or seek to reside in recreational vehicles (“RVs”) in the City, under the United States Constitution and California Constitution and applicable statutes;

WHEREAS, in their complaint, Plaintiffs sought declaratory relief, injunctive relief, restitution, attorneys’ fees, and costs;

WHEREAS, on March 30, 2021, Plaintiffs filed a motion for preliminary injunction in the action;

WHEREAS, on June 1, 2021, the City filed a motion to dismiss the complaint, which was subsequently withdrawn without prejudice, that denies that it has violated Plaintiffs’ rights in any respect and maintains that it has valid defenses to the claims set forth in the complaint;

WHEREAS, on July 14, 2021, the Court entered a preliminary injunction (“Preliminary Injunction”) and vacated the City’s motion to dismiss without prejudice, based on the stipulation of the parties (ECF 55);

WHEREAS, Plaintiffs and the City have reached a settlement agreement, which has been filed with the Court, that provides for entry of a stipulated injunction (the “Injunction”), subject to the approval of the Court, on the terms set forth herein;

WHEREAS, Plaintiffs and the City consider the settlement agreement and the Injunction to be a just, fair, adequate, and equitable resolution of all claims arising out of this action, and have jointly moved the Court for entry of the Injunction;

WHEREAS, Plaintiffs and the City agree that the settlement agreement and the Injunction, taken together, constitute an appropriate resolution this action; NOW, THEREFORE, it is hereby stipulated by and between Plaintiffs and the City, subject to the approval of the Court, that the Court should issue an injunction in this matter in the form set forth herein.

SO STIPULATED AND AGREED:

Date: March 28, 2022

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN
CALIFORNIA
/s/ Grayce Zelphin
Grayce Zelphin

DISABILITY RIGHTS ADVOCATES
/s/ Thomas Zito
Thomas Zito

LEGAL AID SOCIETY OF SAN MATEO
COUNTY
/s/ M. Stacey Hawver
M. Stacey Hawver
Attorneys for Plaintiffs

BURKE, WILLIAMS & SORENSEN, LLP
/s/ J. Leah Castella
J. Leah Castella
Attorneys for Defendant

~~[PROPOSED]~~ INJUNCTION

Upon the stipulation of the parties, and good cause appearing, it is hereby ORDERED, ADJUDGED, AND DECREED:

1. As used in this injunction, “the City” shall mean the City of Pacifica, as well as its officers, employees, attorneys, and agents,

2. Within 90 days of the date hereof, the City shall refund all fines and fees issued under the OSV Ordinance prior to the date hereof to the extent that such fines have been paid; relinquish any claim for payment of any such fines to the extent as yet unpaid; expunge all citations or infractions issued under the OSV Ordinance; and request that the California Department of Motor Vehicles recall all holds on the registration of vehicles that are the result of the OSV Ordinance and that predate the date hereof.

3. Within 30 days of the date hereof, the City shall provide to Plaintiffs’ counsel a complete list of persons who have paid fines under the OSV Ordinance and attest that repayment shall be made. Plaintiffs’ counsel shall cooperate in locating any persons entitled to a refund to the extent the City has been unable to effectuate a payment to such persons. If a person who paid a fine under the OSV ordinance has not claimed their refund within two years of the date hereof, the unclaimed property will revert to the City.

4. Within 30 days of the date hereof, the City shall provide a list of streets that are allowable for OSV parking (“Allowable Parking List”) and a link to an interactive map of allowable OSV parking (“Allowable Parking Map”) to (i) Plaintiffs’ Counsel; (ii) the Pacifica Resource Center (“PRC”); and (iii) the Pacifica Police Department, who shall provide a link to the Allowable Parking Map in connection with any alleged first violation of the OSV Ordinance occurring after the date hereof. The Allowable Parking List and Allowable Parking Map shall be maintained in form substantially similar to the forms in use as of November 23, 2021, and shall be made available at both of the City’s public libraries, at City Hall, and on the City’s Oversized Vehicle website. The Allowable Parking List and Allowable Parking Map shall be updated and redistributed to reflect any changes to the City’s list of roads on which OSVs are not permitted to park (“No OSV Parking Roads List”) prior to enforcement the OSV Ordinance on any streets

newly added to the No OSV Parking Roads List. In no event shall the streets listed on the Allowable Parking List comprise less than 2.0 miles of suitable streets made available for OSV parking in the City. For purposes of this injunction, “suitable streets” shall mean streets that are not constrained to an unusual degree by driveways or similar obstructions, nor located on steep hills.

5. Within 90 days of approval by the City Counsel of a “safe parking” program on February 28, 2022, subject to a stipulated extension by the Parties if it is determined that Coastal Commission approval is required, the City will implement the program, and will maintain the program for a minimum of three years. The program will provide for a minimum of thirteen parking spaces with an average length of thirty (30) feet, which will be made available for OSV parking by a permit issued by the Pacifica Resource Center (“PRC”) under conditions set forth in a Safe Parking Operations Agreement between the City and PRC, and which may be made available for OSV parking, subject to the City’s preexisting parking regulations, when not occupied by a permit holder.

6. Within 90 days of the date hereof, the City, working with PRC, shall host a mobile dumping station twice a month within the City for at least three years, which shall be available to permit holders and other persons inhabiting OSVs within the City who have obtained a voucher for use of the site from PRC.

7. Within 90 days of the date hereof, the City, working with PRC and Recology, will provide dumpsters or drop off services for garbage disposal for at least three years, which shall be available to permit holders and other persons inhabiting OSVs within the City who have obtained a voucher for use of these facilities from PRC.

8. Within 30 days of the date hereof, the City shall revise its existing “Americans with Disabilities Act (ADA) Complaint/Assistance” form to state that it may be used to request accommodation to the OSV Ordinance, or provide this information on another ADA form made available to the public. So long as the OSV Ordinance remains in effect, the City will post a link to this form on the Oversized Vehicle Parking section of its webpage.

9. Except as provided in Paragraphs 2 and 3 herein, the terms and provisions of the Injunction shall be binding upon and inure to the benefit of the Parties, and is made solely and specifically for their benefit. No other person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of the Injunction as a third-party beneficiary or otherwise.

10. At any time after thirty-six (36) months from the date hereof, after notice to all other parties and a good faith effort to meet and confer with the other party or parties, any party may file with the Court a motion seeking to modify or terminate this injunction.

SO ORDERED this 6th day of April, 2022.



Vince Chhabria
United States District Judge