



James C. Sanchez
City Attorney

October 16, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

Paul Alexander
Heller Ehrman, LLP
275 Middlefield Road
Menlo Park, California 94025-3506

Re: *Temporary Restraining Order*

Dear Mr. Alexander:

The City of Fresno ("City") responds to the concerns raised in your letter of October 16, 2006, as follows:

1. The City objects to your characterization that the City "has for sometime been seizing and summarily destroying the property of homeless persons living in the City." This is an unfounded accusation. The City, in response to reports of health and safety code violations and criminal activity received from private citizens, as well as state and federal entities, has engaged in "clean-up" efforts of the homeless encampments. The "clean-up" efforts are conducted in a humane manner, including giving advance notice of the "clean-up" effort to the affected persons, and allowing adequate time for removal of possessions.
2. The City actions do not violate the "United States and California Constitution or California Statutory and common law." The City acts are authorized, as the City is required to respond to reports of health and safety code violations, and to requests for service from its citizens concerning trespass on private property and governmental property. The requests for service concerning the homeless encampments include reports of public drug use, discarding of drug paraphernalia, and public sexual activity. In addition, the homeless encampments are sites of violent crimes including assault, aggravated assault, robbery, illegal drug sales, and prostitution.

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3. There is a continuing need for the City to respond to calls for service from its citizens, private property owners and governmental entities who report and request assistance for violations of health & safety code requirements, and criminal activity. Accordingly, the City maintains the position its actions are lawful and will not voluntarily agree to cease and desist from this action.

At this juncture, the City will not stipulate to a restraining order, as the proposed restraining order would violate citizen and property owner rights to request enforcement of the laws that protect against trespass and violent crimes; and it would also improperly curtail the City's right to enforce health and safety code violations. If you have alternative suggestions, which meet your concerns and do not compromise the public health and safety issues as noted above, we are available to discuss these suggestions with you. However, the City will not agree to any proposal that suppresses legitimate police and City action.

I look forward to hearing from you.

Sincerely,



FRANCINE M. KANNE
Assistant City Attorney

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