SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Damen Aguila, Mario Lanza Dyer, and Jamie Scarborough, Plaintiffs, v. **Municipality of Anchorage,** Defendant	No. 3AN-25-04570 CI

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OPPOSITION TO THE MUNICIPALITY'S MOTION TO DISMISS

The Court should deny the Municipality of Anchorage's motion to dismiss all claims for mootness. The abatement of the Arctic-Fireweed encampment did not moot Plaintiffs' claim for declaratory relief, because there is still an active controversy between the parties regarding the constitutionality of the Municipality's "prohibited camping" laws, which this Court is well-poised to resolve. Furthermore, in the event Plaintiffs' claims are technically moot, the public interest exception nonetheless applies here.

Under the Municipality's theory, Superior Courts could never review the constitutionality of its "prohibited campsite" laws and enforcement actions. In civil actions, as here, the Municipality argues

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that any constitutional challenge is moot once the enforcement action takes place. But elsewhere, in administrative appeals, the Municipality consistently argues that Superior Courts hearing such cases lack the subject-matter jurisdiction to review constitutional challenges.[1] Taken together, the Municipality's arguments attempt to wholly insulate its "prohibited camping" regime from constitutional challenge. The mootness doctrine does not support such an evasion of judicial review. If allowed here, it would effectively grant the Municipality carte blanche authority to exercise its police powers against a distinct subset of its residents without challenge.

Factual Background

Plaintiffs Damen Aguila, Mario Dyer, and Jamie Scarborough have been living without consistent housing or shelter for between three and twelve years.[2] Most recently, they resided together on the

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[1] *See e.g.*, Brief for Appellee at 9, *Smith v. Anchorage*, No. S-19710 (Alaska Sup. Ct. (Jan. 9, 2024) (arguing that constitutional challenges "fall beyond the scope of [an] administrative appeal" and that "[p]arties may properly seek relief in the form of an original civil action."); Appellee's Reply in Support of Motion to Stay, *Banks, et al., v. Anchorage*, No. 3AN-23-06779 CI (Alaska Super. Ct. Feb. 21, 2025) (arguing that other parties seeking to challenge an abatement action can file an original action "as the plaintiffs did in *Aguila*").

[2] Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 1, 2, 8.

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right-of-way along the east side of Arctic Boulevard, north of West Fireweed Lane ("the Arctic-Fireweed encampment").[3] They lived there because Anchorage lacked any available indoor shelter for them.[4]

On January 31, 2025, the Municipality noticed the Arctic-Fireweed encampment as a public nuisance selected for abatement, instructing Plaintiffs that they had ten days to remove themselves and their belongings.[5] On February 6, 2025, Plaintiffs filed suit against the Municipality.

Plaintiffs brought this suit not only to prevent the abatement of their living space, but also to vindicate their constitutional rights. To that end, their complaint requested two forms of relief. First, Plaintiffs requested preliminary and permanent injunctive relief barring the Municipality from abating the Arctic-Fireweed encampment. Second, Plaintiffs requested a declaratory judgment holding that the Municipal Code's "prohibited camping" regime violates the Alaska Constitution.

On February 11, 2025, this Court denied Plaintiffs' request for preliminary injunctive relief, and the Municipality subsequently abated

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[3] Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 1, 2, 8.

[4] Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 1, 2, 8.

[5] Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 3.

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the Arctic-Fireweed encampment. In reaching its decision, this Court limited its analysis to whether Plaintiffs had "sufficiently fulfilled the tests for preliminary injunction"[6] and determined that Plaintiffs had "not demonstrated probable success on the merits."[7] Discovery has not yet been conducted to develop a factual record.

Outside the context of the present action, the Municipality's "prohibited campsite" regime has been challenged in several administrative appeals.[8] In those cases, the Municipality has consistently argued that administrative appeals are an inappropriate venue for constitutional questions.[9] Instead, it advises unhoused

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[6] Order Den. Pls.' Mot. for Prelim. Inj. at *5.

[7] Order Den. Pls.' Mot. for Prelim. Inj. at *8. The Court did not, as the Municipality claims, hold that Plaintiffs had "*no likelihood* of success on the merits." Def. Mot. to Dismiss at *2–3 (emphasis added).

[8] *E.g.*, *Vaughan v. Anchorage*, No. 3AN-21-07931CI (Alaska Super. Ct. June 16, 2022); *Smith v. Anchorage*, No. S-19710 (Alaska Sup. Ct. argued May 7, 2024) (draft circulating); *Banks, et al., v. Anchorage,* No. 3AN-23-06779 CI (Alaska Super. Ct. filed June 16, 2023) (currently in litigation).

[9] *See e.g.*, Br. for Appellee at 9, *Smith v. Anchorage*, No. S-19710 (Alaska Sup. Ct. argued May 7, 2024) (arguing that constitutional challenges "fall beyond the scope of [an] administrative appeal" and that "[p]arties may properly seek relief in the form of an original civil action."); Appellee's Reply in Supp. of Mot. to Stay, *Banks, et al., v. Anchorage*, No. 3AN -23-06779 CI (Alaska Super. Ct. filed June 16, 2023) (arguing that other parties seeking to challenge an abatement action can file an original action "as the plaintiffs did in *Aguila*").

litigants to file an original action if they wish to raise constitutional challenges.[10]

Now, when unhoused litigants have filed an original action, the Municipality again seeks to insulate its "prohibited camping" regime from judicial review by moving to dismiss Plaintiffs' complaint for mootness. This motion was filed before the 30-day window to file an administrative appeal closed.[11]

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[10] In fact, in its most recent filing in *Banks*, the Municipality cited to the present case as evidence that unhoused litigants had meaningful access to the courts via original actions. *See* Appellee's Reply in Supp. of Mot. to Stay, *Banks, et al., v. Anchorage*, No. 3AN -23-06779 CI (Alaska Super. Ct. filed June 16, 2023) ("[A]ffected individuals will have every opportunity to bring appropriate legal challenges in Superior Court and seek preliminary relief, as the plaintiffs did in *Aguila*.").

[11] AMC 15.20.020.B.15.e ("A posted notice of campsite abatement is a final administrative decision and appeals shall be to the superior court within 30 days from the date the notice of campsite abatement is posted, in accordance with the Alaska court rules."). Here, the Arctic-Fireweed encampment was noticed on January 31, 2025. *See* Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 3. The Municipality's motion to dismiss was filed less than 30 days later. *See* Def. Mot. to Dismiss (filed February 26, 2025).

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Legal Standard

A claim only becomes moot if it lacks an "actual controversy" and the possibility for "meaningful relief."[12] For example, claims for declaratory relief commonly become moot if the law at issue is repealed or amended[13] or if the relief requested concerns a "hypothetical or abstract dispute."[14] However, claims for declaratory relief remain justiciable where the law at issue remains in effect and the court is able to grant "specific relief through a decree of a conclusive character."[15]

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[12] *City of Valdez v. Regul. Comm'n of Alaska*, 548 P.3d 1067, 1079 (Alaska 2024), *reh'g denied* (May 31, 2024).

[13] *Leahy v. Conant*, 436 P.3d 1039, 1048 (Alaska 2019) ("[C]laims for declaratory relief are commonly moot when the statute or regulation at issue is no longer in effect or has been amended.") (quoting *Alaska Jud. Council v. Kruse*, 331 P.3d 375, 380 (Alaska 2014)); *see also Leahy,* 436 P.3d at 1048 n.44 (collecting cases).

[14] *Sitkans for Responsible Gov't v. City & Borough of Sitka*, 274 P.3d 486, 491 (Alaska 2012) (citations omitted); *see also Ulmer v. Alaska Rest. & Beverage Ass'n*, 33 P.3d 773, 776 (Alaska 2001) ("[C]ourts should avoid becoming involved in premature adjudication of disputes that are uncertain to occur." (quotations omitted)).

[15] *Kruse*, 331 P.3d at 379 (quoting *Jefferson v. Asplund*, 458 P.2d 995, 999 (Alaska 1969)). *See also id.* at 379–80 (holding that plaintiff's claim for declaratory relief was not moot, because the relevant statute was "still in effect" and the court was "able to grant relief in the form of a declaration on the constitutionality of [the statute at issue]").

Examples of conclusive relief include determinations regarding "the validity and construction of statutes and public acts."[16]

Alaska courts have also "long recognized a 'public interest' exception to the mootness doctrine."[17] Courts weigh three factors in determining whether to apply this exception: "(1) whether the disputed issues are capable of repetition, (2) whether the mootness doctrine, if applied, may cause review of the issues to be repeatedly circumvented, and (3) whether the issues presented are so important to the public interest as to justify overriding the mootness doctrine."[18] Courts have discretion in determining how much weight to give to each factor and no one factor is dispositive.[19]

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[16] *Jefferson*, 548 P.2d at 999. *Accord City of Valdez*, 548 P.3d at 1079 (concluding in an appeal of a regulatory decision that "disputes about the interpretation" of a statute were not moot as they continued to present a live controversy).

[17] *Legislative Council v. Knowles*, 988 P.2d 604, 606 (Alaska 1999) (citations omitted).

[18] *Fairbanks Fire Fighters Ass'n, Loc. 1324 v. City of Fairbanks*, 48 P.3d 1165, 1168 (Alaska 2002) (quoting *Kodiak Seafood Processors Ass'n v. State*, 900 P.2d 1191, 1196 (Alaska 1995)).

[19] *Sitka Tribe of Alaska v. Alaska Dep't of Fish & Game*, 540 P.3d 893, 902 (Alaska 2023) ("The weight given to each of these factors is discretionary, and no single factor is dispositive.") (citing *Ulmer v. Alaska Rest. & Beverage Ass'n*, 33 P.3d 773, 778 (Alaska 2001)).

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Argument

A. Plaintiffs' claim for declaratory relief is not moot because the parties' interests remain adverse, and the Court can grant meaningful relief.

Plaintiffs' claims for declaratory relief are justiciable.[20] A claim is not moot if there is an "actual controversy"—meaning a controversy that is "definite and concrete, touching the legal relations of parties having adverse legal interests"—and the court is "able to provide some form of relief."[21] That is so here.

First, Plaintiffs' claims for declaratory relief constitute an actual controversy, touching on the legal relations of adverse parties. The Municipality relied on the validity of its "prohibited camping" laws to forcibly remove Plaintiffs from the Arctic-Fireweed encampment in violation of their rights under the Alaska Constitution.[22] Because the Municipality would not instruct Plaintiffs on where they could legally

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[20] Compl. at *21 (seeking "a declaratory judgment declaring that the Municipal Code's 'prohibited camping' regime violates the Alaska Constitution.").

[21] *City of Valdez*, 548 P.3d at 1079 (internal quotations and citations omitted).

[22] Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 3.

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go,[23] and because the Municipality continues to rely on these laws to abate encampments throughout the city,[24] Plaintiffs remain in an adverse posture to the Municipality over this legal issue.

Second, a declaration from this Court on the constitutionality of the challenged laws would provide meaningful relief to Plaintiffs. These laws remain in effect and continue to be enforced by the Municipality.[25] When considered along with land-use decisions the Municipality has made, and with the Code's criminal trespass provisions, the Municipality's "prohibited camping" regime leaves Plaintiffs in never-ending legal limbo, with nowhere permissible to go forever at risk of

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[23] In its motion, the Municipality suggests that a combination of turnover in the Municipality's shelter system, "personal connections," and "private charity" should suffice to provide unhoused residents of Anchorage alternatives to self-sheltering on public land. Def's Mot. to Dismiss at *6. This fact-specific assertion is in direct conflict with other reports from the Municipality and its contractors regarding shelter capacity. *See Meeting of the Housing and Homelessness Committee,* Municipality of Anchorage Assembly (Jan. 15, 2025), https://youtu.be/oCd7hUlMZ9g?t=1201 ("[A]ll of our shelter services are running at capacity."); Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 5 ("Shelters see increased demand and remain full with new vacancies filled immediately.").

[24] As recently as March 7, 2025, the Municipality relied on this chapter of the Municipal Code to notice Campbell Creek Trail for abatement. *See* Pls. Ex. 1.

[25] Pls. Ex. 1.

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abatement by the Municipality.[26] Plaintiffs are not seeking an advisory opinion about a hypothetical situation, but rather a conclusive order declaring the current "prohibited camping" regime unconstitutional. Such an order would provide meaningful relief to the Plaintiffs, by recognizing how this law and its enforcement by the Municipality violates their fundamental constitutional rights. An order would also address the conundrum that, as the Municipality itself has conceded, the Municipal Code's camping and trespass provisions together act to "create[] a situation where there is no legal place for individuals to sleep outdoors overnight with or without a tent or bedding"—currently leaving Plaintiffs no legal place to remain in Anchorage.[27]

B. If the Court finds that Plaintiffs' claims are technically moot, the public interest exception nonetheless applies.

In the alternative, if this Court concludes that Plaintiffs' claims have technically been mooted, the three factors of the public interest exception nonetheless favor reaching the merits of Plaintiffs'

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[26] The Municipality has previously recognized that "unhoused people in Anchorage, by necessity because of lack of adequate housing or shelter space, are currently finding somewhere to live in our green spaces, parks, open spaces and undeveloped parcels." Assemb. Res. No. 2023-188(S-1) (June 6, 2023).

[27] *Id.*

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constitutional claims. As demonstrated below, the disputed issues involved in the enforcement of the Municipality's "prohibited camping" laws are capable of repetition and of routine circumvention of review, and are fundamentally important to the public interest.

1. The Municipality has expressed in word and deed a commitment to repeating the issues presented here.

As this Court recognized in its prior order, the constitutional issues as to the abatement of the Arctic-Fireweed encampment are capable of repetition.[28] A legal issue is capable of repetition when it "depend[s] on facts that may be repeated with regard to another in a similar situation."[29] For example, a challenged governmental action is capable of repetition where the government actor has not "disavowed" its conduct and may repeat it with respect to future parties.[30] Conversely, an issue is not considered capable of repetition when it

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[28] Order Den. Pls.' Mot. for Prelim. Inj. at *7 ("[T]he Court recognizes the possibility of this issue being a reoccurring problem[.]").

[29] *E.P. v. Alaska Psychiatric Inst.*, 205 P.3d 1101, 1107 (Alaska 2009), *abrogated on other grounds by Matter of Kara K.*, 555 P.3d 29 (Alaska 2024).

[30] *See e.g.*, *Kodiak Seafood Processors Ass'n*, 900 P.2d at 1196 (holding that a commercial fishing issue was capable of repetition because "[t]he State has not disavowed this type of financial arrangement for future test-fisheries").

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arises from a now-defunct policy[31] or "unusual factual circumstances that were unlikely to repeat themselves."[32]

Contrary to the Municipality's assertions, Plaintiffs need not "imminently face another abatement" for the public interest exception to apply. On the contrary, this exception only asks whether the facts at issue are capable of repetition "with regard *to another in a similar situation*."[33] As such, it is immaterial whether or not these particular plaintiffs will be subject to future enforcement of the "prohibited camping" laws. The court need only find that it is possible that *someone* experiencing homelessness in Anchorage could experience such action.

The Municipality's public statements and actions demonstrate an unequivocal commitment to the continued enforcement of its "prohibited camping" law. The law remains in effect.[34] The current Administration has publicly stated that it considers enforcement of this law—namely, abatements—a cornerstone of its response to

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[31] *Fairbanks Fire Fighters Ass'n*, 48 P.3d at 1168 (citing *Krohn v. State, Dep't of Fish & Game*, 938 P.2d 1019, 1022 (Alaska 1997)).

[32] *Id.* (citing *O'Callaghan v. State*, 920 P.2d 1387, 1388-89) (Alaska 1996)).

[33] *E.P.*, 205 P.3d at 1107 (emphasis added).

[34] AMC 15.20.020.B.15.e.

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homelessness in Anchorage.[35] And, in the weeks since this litigation was filed, the Municipality has continued engaging in such enforcement. As recently as March 7, 2025, the Municipality posted abatement notices along Campbell Creek trail.[36]

While courts are reticent to apply the public interest exception to "unusual circumstances,"[37] the facts of this case are not unusual. The Municipality continues to abate encampments, and continues to use almost identical, broad justification each time. The abatement notice posted at the Arctic-Fireweed encampment stated that the basis for abatement was the "proximity of prohibited campsites within 100' of a protected land use (paved greenbelt and major trail systems, schools, playgrounds, athletic fields); criminal activity; and quantities of garbage, debris, and waste in the area."[38] This quoted language is verbatim the cited rationale for other recent abatements, including at

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[35] *See* Press Release, Mayor's Office, Statement from Mayor LaFrance on Feb. 6 ACLU Suit (Feb. 7, 2025) ("Abatement is an important short-term intervention to address immediate public safety needs in our community."), https://www.muni.org/departments/mayor/pressreleases/Pages/Statement-from-Mayor-LaFrance-on-Feb.-6-ACLU-suit.aspx

[36] Pls. Ex. 1.

[37] *Fairbanks Fire Fighters Ass'n,* 48 P.3d at 1168.

[38] Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 3.

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Valley of the Moon Park,[39] C-Street Garden,[40] and Campbell Creek Trail.[41] Far from being "unusual," the factual circumstances of this case directly mirror other abatements throughout Anchorage.

2. The Municipality's "prohibited camping" law and enforcement practices will continue to evade review if dismissed for mootness, because ten days is insufficient time to appeal.

Constitutional challenges to the Municipality's "prohibited camping" law and enforcement actions (i.e., abatements) will routinely evade judicial review if the public interest exception is not applied. Agency actions that are "inherently temporary and typically brief" are likely to routinely evade review.[42] While there is no hardline rule for what constitutes a "brief" action, the Alaska Supreme Court has

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[39] Plaintiff's Mem. in Supp. of Mot. for TRO Ex. 4.

[40] Pls. Ex. 2.

[41] Pls. Ex. 1.

[42] *Blythe P. v. Dep't of Health & Soc. Servs., Off. of Children's Servs.*, 524 P.3d 238, 244 (Alaska 2023) *see also E.P.,* 205 P.3d at 1107 (holding that API commitments would routinely evade review, because "[i]t is quite unlikely that an appeal from a 30–day or 90–day commitment, or even a 180–day commitment, could be completed before the commitment has expired.").

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applied the public interest exception to agency actions with lifespans ranging from 30 days[43] to five years.[44]

Here, the challenged agency action is so swift that it is highly likely to routinely evade review. The Municipal Code authorizes zone abatements to occur ten days after notice is posted.[45] And here the Municipality asserts that the act of abatement moots any case challenging that abatement.[46] Affected parties would thus have less than two weeks—from the date they first receive notice to the abatement itself—to challenge the agency action.

Ten days is not enough time for affected parties to obtain judicial review. This period is significantly shorter than others that have been found capable of repeatedly evading review.[47] Moreover, the parties affected by this agency action will face significant difficulty getting into

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[43] *E.P.,* 205 P.3d at 1107.

[44] *Copeland v. Ballard*, 210 P.3d 1197, 1202 (Alaska 2009).

[45] Def. Mot. to Dismiss at *7.

[46] Def. Mot. to Dismiss at *5 ("The abatement has now been completed. . . . Plaintiffs' claims are thus moot.").

[47] *Cf. E.P.*, 205 P.3d at 1107 (concluding that appeals of "30–day or 90–day commitment, or even a 180–day commitment[s]" at the Alaska Psychiatric Institute were capable of repeatedly circumventing review); *Copeland*, 210 P.3d at 1202 (concluding that an agency action with a lifespan of 5 years would routinely evade review).

court within such a short window. People experiencing homelessness often have no recourse but to represent themselves pro se.[48] Requiring that all appeals be filed and resolved before the abatement takes place will make them significantly harder for affected parties to challenge. Unhoused litigants would effectively have ten days to not only prepare themselves for the abatement, but also to assemble the complaint, motion for expedited consideration, and motion for preliminary relief required to get into court before the abatement occurs. While unhoused litigants could in theory seek the help of pro bono counsel, such counsel is rarely available.[49]

Lastly, following the Municipality's argument to its logical conclusion would negate the Municipal Code's appeal procedures, which

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[48] *See Engle v. Municipality of Anchorage*, No. 3AN-10-7047 Cl at *13 (Alaska Super. Ct. Jan. 4, 2011) ("Given the Plaintiffs' lack of resources, it is likely that any administrative appeal they bring will be done as pro se litigants or with pro bono counsel."). *Accord Smith v. Anchorage,* No. S-19710 (Alaska Sup. Ct. argued May 7, 2024) (administrative appeal brought by pro se litigants); *Vaughan v. Anchorage*, No. 3AN-21-07931CI (Alaska Super. Ct. June 16, 2022) (same).

[49] *See* Nikole Nelson, *Addressing the Access to Justice Crisis: Think Systemically, Act Locally*, 41 ALASKA L. REV. 1, 3 (2024) (noting that 92% of the legal needs of people with low incomes go unmet).

provide 30 days to appeal an abatement notice.[50] The Municipality provides no guidance as to how preserve the Municipal Code's 30-day appeal window if the act of abatement is capable of mooting an original action after just ten days. The tension between the logic in the Municipality's arguments here and what is provided for in the Municipal Code appears irresolvable.

3. The rights of unhoused Alaskans and the constitutionality of government action taken against them are matters of public importance.

The Municipality does not refute the fact that the issues involved in this case are of grave public importance. The public has a vested interest in ensuring that the fundamental rights of all Alaskans are respected and that the actions taken by its government are constitutionally permissible. The application of constitutional protections to all persons, great or small, is a bedrock principle of our constitutional order.

When weighing this third prong of the public interest exception, the Alaska Supreme Court has considered both the nature of the rights at stake and the legality of the governmental powers in question. For

[50] AMC 15.20.020.B.15.e.

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example, the "concepts of fairness underlying the right to procedural due process are important"[51] to the public interest, as are "the scope and interpretation of the statutory provisions that allow the State to curtail the liberty of members of the public."[52] The question of whether the government is constitutionally exercising its power is similarly of fundamental importance to the public interest.[53]

Both components of the public interest are implicated by the case at hand. First, Plaintiffs brought this case to vindicate their fundamental rights. Among these are their rights to procedural and substantive due process, to be free from cruel and unusual punishment, to be free from unreasonable seizures, to privacy, and to health and welfare.[54] The substance and scope of these rights are of great importance to the public interest:

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[51] *State, Dep't of Nat. Res. v. Greenpeace, Inc.*, 96 P.3d 1056, 1062–63 (Alaska 2004).

[52] *In re Heather R.*, 366 P.3d 530, 532 (Alaska 2016) (In re Daniel G., 320 P.3d 262, 268 (Alaska 2014)).

[53] *Fairbanks Fire Fighters Ass'n*, 48 P.3d at 1169 ("We have applied the public interest exception to situations, otherwise moot, where the legal power of public officials was in question."); *see e.g.*, *Kodiak Seafood Processors Ass'n*, 900 P.2d at 1196 ("[T]he scope of the Commissioner's power is an issue of public interest.")

[54] Compl. at *15-20 (citing ALASKA CONST. Art. I, §§ 7, 12, 14, 22; ALASKA CONST. Art. VII, §§ 4-5).

> [P]eople experiencing homelessness are members of the community, and their interests, too, must be included in assessing the public interest. Indeed, "[o]ur society as a whole suffers when we neglect the poor, the hungry, the disabled, or when we deprive them of their rights or privileges."[55]

Second, the constitutionality of governmental action is also important to public interest. The Municipality has consistently directed unhoused litigants to file original actions if they wish to obtain judicial review of questions regarding the constitutionality of its abatement regime.[56] Now, they seek to evade review in original actions as well. The public has an interest in obtaining a final judgment on whether this regime is constitutional, particularly given that the Municipality has announced its intentions to continue relying on abatement as part of its response to a persistent homelessness crisis.

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[55] Order and Preliminary Injunction, *Tyson v. San Bernardino*, No. EDCV 23-01539, 2024 U.S. Dist. LEXIS 138743, at *22 (C.D. Cal., Jan. 12, 2024) (citing *Le Van Hung v. Schaff*, No. 19-cv-10436-CRB, 2019 WL 1779584 at 7 (N.D. Cal. 2019); quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

[56] *See* Brief for Appellee at 9, *Smith v. Anchorage*, No. S-19710 (Alaska Sup. Ct. (Jan. 9, 2024) (arguing that constitutional challenges "fall beyond the scope of [an] administrative appeal" and that "[p]arties may properly seek relief in the form of an original civil action.").

CONCLUSION

The Court should deny the Municipality's motion to dismiss all claims on mootness grounds. The Municipality's abatement of the Arctic-Fireweed encampment did not moot the Plaintiffs' claims for declaratory judgment holding that the Municipal Code's "prohibited camping" provisions and enforcement actions are unconstitutional. Moreover, to the extent that Plaintiffs' claims are mooted, this case qualifies for the public interest exception to the mootness doctrine.

Dated: March 13, 2025

American Civil Liberties Union of Alaska Foundation

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CERTIFICATE OF SERVICE

On March 13, 2025, a true and correct copy of the foregoing

Opposition to Defendant's Motion to Dismiss was served on:

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