



June 5, 2023

Anne Helzer  
Municipal Attorney  
Municipal Attorney's Office  
632 West 6th Avenue, Ste. 730  
Anchorage, Alaska 99501  
Anne.Helzer@anchorageak.gov  
*Via email and hand delivery*

RE: Notices of Appeal of Cuddy Park Campsite Abatement

Dear Ms. Helzer,

The ACLU of Alaska is writing regarding the planned zone abatement of campsites in Cuddy Family Midtown Park and surrounding areas. As you know, AMC 15.20.020.B.15.e allows affected individuals to notice their intention to appeal a planned campsite abatement by notifying the Municipal Attorney's Office in writing. Attached please find thirteen Notices of Intent to Appeal Public Nuisance Determination and Campsite Abatement regarding the planned Cuddy Park abatement.

The Cuddy Park zone abatement notices were first posted on May 24, 2023. Pursuant to AMC 15.20.020.B.15.e, if the Municipality receives a notice of intent to appeal within 10 days, "the municipality shall not remove the personal property until at least 30 days have passed from the date the notice was first posted." The 10th day after the posted abatement was Saturday, June 3; since the Municipal Attorney's Office was not open on Saturday, today, June 5, is the 10th day by operation of law. *See* AMC 21.15.020.E ("If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the municipality, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the municipality."). Since timely notices of the intent to appeal have been submitted, "[a]batement of the campsite area is stayed until the appeal is withdrawn, settled, or a decision is issued and any subsequent appeal rights expire." AMC 15.20.020.B.15.f. **The Municipality may not abate the camp tomorrow.**

Furthermore, and more fundamentally, the Municipality should reconsider its abatement plan of the unhoused persons camping in Cuddy Park because it would violate the United States and Alaska Constitutions. As the appeals will confirm, the Municipality's plan to require campers to vacate the park would constitute a cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution under

well-settled Ninth Circuit law. *Martin v. Boise*, 920 F. 3d 584 (9th Cir. 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir 2022) hold that cities may not punish unhoused individuals for existing, sleeping, or camping in public spaces when there are not sufficient indoor shelter options available. This is clearly the case today in Anchorage; after the closure of the general-population Sullivan Arena cold-weather shelter last month, there are no low-barrier indoor shelter options available in the Municipality today, and the number of unhoused persons far exceeds the number of available shelter beds now available.

The Municipality has previously recognized that it cannot constitutionally perform campsite abatements in Anchorage when there is no available indoor shelter. At the February 15, 2023 meeting of the MOA's Committee on Housing and Homelessness, MOA Homeless Coordinator Alexis Johnson stated on the record that in the absence of indoor shelter options, "under *Martin v. Boise* we cannot abate other camping areas such as the Chester Creek greenbelt or Davis Park . . . we will not be able to abate other spaces." Since Ms. Johnson's acknowledgement of the governing law in February, things have only gotten worse for Anchorage's unhoused population with the closure of the Sullivan shelter. It therefore remains true today that the city may not constitutionally abate encampments in Anchorage. The attempt to abate Cuddy Park is unlawful, unconstitutional, and unconscionable—especially because the Municipality's apparent motive in abating the campers is to allow a private organization to maximize profits from the rental use of city property. The Ninth Circuit has made clear that Anchorage may not punish its homeless residents by rousting them from their shelters when it has no indoor sleeping options to offer them. It certainly may not do this for the purpose of enriching private parties.

Sincerely,



Ruth Botstein  
Legal Director  
ACLU of Alaska

Cc: Dave Bronson, Mayor  
Mario Bird, Acting Municipal Manager  
Alexis Johnson, Homeless Coordinator, Anchorage Health Department  
Darrel Hess, Ombudsman  
Chief Michael Kerle, Anchorage Police Department

encls: Notices of Intent to Appeal Public Nuisance Determination and Campsite Abatement for Appellees Garrette Anelon; Toni Brant; Kyla Friedenbloom; Eric Garton; Grace Jackson; Kristine Shannon Kasic [partially legible]; Jenni Keyes; Leman Lockwood; Bessi Mae Savage; Ruth Starbuck; Roslynn Vanderpool; Gerald S.K. Williams; and Trevor Williams.