

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

Josett Banks, Kyla
Friedenbloom, and Kristine
Shawanokasic,

Appellants,

v.

Municipality of Anchorage,

Appellee

No. 3AN-23-06779CI

FILED in the Trial Courts
State of Alaska Third District

JUN 16 2023

Clerk of the Trial Courts

By _____ Deputy

Joint Appeal From Administrative Agency

Pursuant to Alaska Appellate Rule 602, Josett Banks, Kyla Friedenbloom, and Kristine Shawanokasic jointly appeal from the Municipality of Anchorage's May 24, 2023 Notice of Zone Abatement/Campsite Clean Up for the zoned area defined as "Loussac Library, Cuddy Park, & Old Archive Site: 36th Ave. to S. Municipal Property Line/Denali to B St" and subsequent campsite abatement. Anchorage Municipal Code 15.20.020.B.15.e provides that "[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

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court rules.” That underlying administrative decision, a statement of points on appeal, and a motion to waive the cost bond are attached.

Dated: June 16, 2023

**American Civil Liberties Union of Alaska
Foundation**



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CERTIFICATE OF SERVICE

On June 16, 2023, a true and correct copy of this Joint Appeal from
Administrative Agency (with one attachment) and Notice of Points on
Appeal were sent via email to:

Anne Helzer
Municipal Attorney
Municipal Attorney's Office
632 West 6th Avenue, Ste. 730
Anchorage, Alaska 99501
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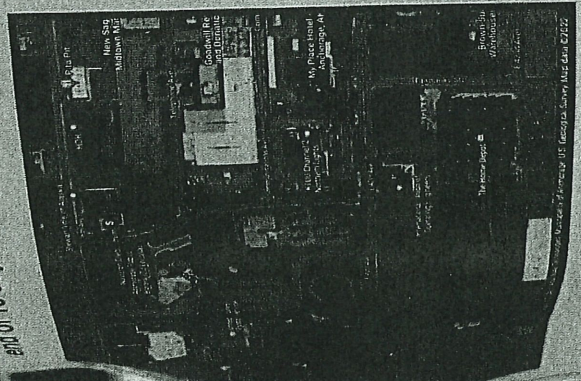
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30 Day Zone Abatement / Campsite Clean Up

Area is closing to camping. Personal property in or around the posted zone at the end of 10 days shall be removed and disposed of. AMC 15.20.020B, 15.b.v.



Posting Date:

5/24/03

Location of Zoned Area:
 LOUSSAC LIBRARY, CUDDY PARK,
 & OLD ARCHIVE SITE:
 36TH AVE. TO S. MUNICIPAL
 PROPERTY LINE / DENALI TO B ST.

ASSISTANCE:

For outreach and housing support, please call 211.
STORAGE:

Personal property placed in this posted zone after notices were posted shall be stored for 30 days after posting date. Personal items must be in fair and usable condition to be eligible for storage (including tents, sleeping bags, toiletries, medication, personal papers and identification, shoes and clothing). Stored property may be recovered by calling (907) 343-4721. Materials including junk, litter, garbage, pallets, and cardboard and items that are spoiled, mildewed, or contaminated with human, biological or hazardous waste will not be stored and will be disposed of as waste.

APPEAL RIGHTS:

This notice serves as a final decision of the Municipality of Anchorage that this posted zone/campsite is subject to abatement. You may appeal this decision to the Alaska Superior Court within 30 days of the posting date. Written notice to the Municipal Attorney's Office of an intent to appeal is also sufficient notice. If the Municipality is able to confirm that either an appeal or intent was timely received, that person's property shall be stored as described above.

Alaska Superior Court
 825 West 4th Avenue
 Anchorage AK 99501
 Municipal Attorney's Office
 622 West 6th Avenue, Suite 730
 Anchorage AK 99501

5/24/03 10:00 AM

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Statement of Points on Appeal

Pursuant to Alaska Appellate Rule 602(c)(1)(A), Joint Appellants Josett Banks, Kyla Friedenbloom, and Kristine Shawanokasic submit the following statement of points on appeal.

1. The Municipality's abatement of unhoused campers in Cuddy Family Midtown Park, noticed May 24, 2023, was a cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. Under *Martin v. Boise*, 920 F. 3d 584 (9th Cir. 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir 2022), cities may not punish unhoused individuals for existing, sleeping, or camping in public spaces when there are not sufficient indoor shelter options available. The Cuddy Park abatement was unconstitutional because it violated these legal principles. The abatement took place when the

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number of unhoused persons far exceeded the number of available shelter beds available in the Municipality, and campers were threatened with arrest and the destruction of their belongings if they refused to leave the abatement area. There was no existing public safety issue requiring abatement; rather, the Municipality violated the constitution when it chose to prioritize contractual revenue from a third-party for-profit event in the park over the constitutional rights, dignity, and humanity of the unhoused Anchorage residents forced to sleep there.

2. The Municipality's abatement of unhoused campers in Cuddy Family Midtown Park, noticed May 24, 2023, violated Eighth Amendment to the United States Constitution, which provides equal or greater protection against cruel and unusual punishment than does the United States constitution.

3. Anchorage Municipal Code 15.20.020.B.15 is unconstitutional under the Eighth Amendment to the United States Constitution and Article I, Section 12 of the Alaska Constitution as applied to the abatement of unhoused campers when no overnight shelter is available, because the ordinance punishes unhoused individuals by separating them from their essential personal property, in effect forcing people to

sleep outdoors without the items they need to stay protected by the elements and warm, dry, and safe.

4. The Municipality violated AMC 15.20.020.B.15.f and the due process rights of unhoused campers by proceeding with the Cuddy Park abatement, under threat of removing and destroying personal property, after it was notified that campers planned to appeal the zone abatement and before the window for additional campers to appeal the abatement—whether or not they had informed the Muni of their intention to do so—had closed.

Dated: June 16, 2023

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