

Anne R. Helzer
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

Joene Atoruk, Heather Wolfe Aragon,)
Leonly Fratis III, Seone Lima, Darrell)
Dean Miller, Beulah Moto, Lillian)
Sheakley, Gregory Michael Smith, Tracy)
Lynn Thompson, Della L. Tunkle, Larry C.)
Tunley, Brian Keith Vaughan, and Lucille)
Jane Williams,)
)
Appellants,)
vs.)
)
Municipality of Anchorage,)
)
Appellee.)
) Case No. 3AN-23-07037 CI

OPPOSITION TO MOTION FOR EXPEDITED CONSIDERATION
AND PARTIAL OPPOSITION TO MOTION FOR STAY

The American Civil Liberties Union seeks expedited consideration of their underlying Motion to Stay. Defendant, the Municipality of Anchorage (herein “Municipality”) opposes expedited consideration and motion for stay for the reasons cited herein, primarily because the Municipality has removed the 6/22/23 abatement notices and will not proceed to abate Davis Park on July 5, 2023. Accordingly, the expedited response and the underlying motion are moot and unnecessary.

**MUNICIPALITY
OF
ANCHORAGE**

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At issue is an abatement action noticed on June 22, 2023, which previously stated would have occurred on July 5, 2023, for two parcels of land generally located near Davis Park.¹ These parcels are owned by the Department of Defense and are currently leased by the Municipality for multi-use as a park and a city-wide snow dump. The campsites at Davis Park are prohibited campsites, as defined by AMC 15.20.020B.15, set up all around these parcels and the lack of action of addressing the homeless camps violate the terms of the MOA lease with the Department of Defense. On information and belief, the Department of Defense is requesting that these camps be abated to maintain compliance with the lease and address health, safety and national security concerns.

Plaintiffs are aware of this lease but did not include the Department of Defense as a party to this action even though they have authority over the use and regulation of their property. The Department of Defense has concurrent civil and criminal jurisdiction with the Municipality and may have the authority to abate this property on their own.

Since being emailed with this action on the afternoon of Wednesday, June 28, 2023 the Municipality attempted to contact the Department of Defense landowner to determine their precise position on this issue. Despite numerous attempts, the Municipality has not been able to connect on such short notice during the Fourth of July holiday.

Based on the foregoing, the Municipality needs time to discuss the Appellants' filings and ascertain the position of the Department of Defense. For these reasons, the MOA removed the 6/22/23 abatement notices on Saturday, July 1 and will not go forward with this abatement as noticed. The Municipality agrees to hold off on beginning abatement of Davis Park on July 5, 2023.

¹ The area was noticed for a Zone Abatement which requires ten day notice per AMC 15.20.020B.15.(b)v. and the Municipality must commence abatement within ten days of the removal date provided in the notice per AMC 15.20.020B.15.(b)v.(E).

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Should future abatement be sought, the Municipality will follow AMC 15.20.020. B. 15, generally, which ensures proper notice to the public.

Based on the Municipality's position, and its agreement to remove the 6/22/23 abatement notices, there are no exigent circumstances to justify expedited consideration or the entry of a court ordered stay.

For these reasons, the Motion for Expedited Consideration, and Motion for Stay, should be DENIED.

Respectfully submitted this 3rd day of July, 2023.

ANNE R. HELZER
Municipal Attorney

By: /s Anne R. Helzer
Anne R. Helzer
Assistant Municipal Attorney
Alaska Bar No. 1305018

Certificate of Service

I certify that on 07/03/2023, I caused to be emailed a true and correct copy of the foregoing to:

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 /s Anne R. Helzer
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