



ANTONIO R. VILLARAIGOSA
MAYOR

November 13, 2006

Honorable Members of the City Council
c/o City Clerk
Room 395, City Hall

Honorable Members of the City Council:

I have asked the City Attorney to withdraw his recommendation to approve the negotiated settlement in Jones v. City of Los Angeles, the challenge to the City's anti-sleeping ordinance in Municipal Code § 41.18(d) currently pending in the Ninth Circuit Court of Appeals, and to invite the plaintiffs back to the negotiating table. I have made this request not because I doubt the wisdom of the proposed settlement, but because of a well of opposition in the community that appears to make approval of the proposal impossible in the current circumstances.

I am concerned that much of the community opposition stems from misinformation. Some fault the settlement proposal because it does not include an increase in services, and therefore conveys an enforcement-only approach to the issue of homelessness. The settlement was never intended to embody a comprehensive approach to this critical issue of citywide concern. In my view, the appropriate course is a comprehensive approach, involving both a significant augmentation of permanent supportive housing and services, as well as law enforcement focused on crime not homelessness. It is a complex approach and in the works, with input from the community and the City's policymakers. Resolving the Jones litigation would facilitate the development of this comprehensive approach by removing a significant legal cloud over law enforcement activity in the Skid Row area. Absent a settlement, I am concerned about the lingering doubt about police action for the next year and longer as the case proceeds toward resolution.

Moreover, rejection of a settlement puts the City in the legal position of continuing to argue that it should be permitted to enforce section 41.18(d) twenty



four hours a day throughout the City. I have stated previously, and reiterate now, that I reject this position on policy and legal grounds. Particularly in light of an acknowledged shortage of shelter beds, arresting people for sleeping outside is tantamount to criminalizing poverty, mental illness, chemical addiction, and the other causes of homelessness. There are some who would characterize this as a position that supports leaving people on the streets. It does not. We can and must do much more to increase affordable housing and to address the root causes of homelessness, but until we successfully do that, arresting and prosecuting people for being homeless is cruel and inhumane. Settling Jones in a manner permitting sleeping outside in limited circumstances removes that element from City policy.

A second misconception about the proposed settlement is that it discriminates by only addressing conduct in the Skid Row area. The settlement addresses that geographic area because the Jones lawsuit addresses that area. The City can and should apply the same principle of daytime and limited nighttime enforcement of section 41.18(d) throughout the City; homelessness is plainly an issue of citywide concern. Indeed, before the Ninth Circuit decision in Jones suspended enforcement of the ordinance, that is how it was enforced. The police engaged only in daytime enforcement. Yet, the ordinance itself – and the City's current legal position – is that twenty-four hour enforcement is appropriate and desired. That ought not be our practice in Skid Row or elsewhere in the City.

Finally, some mistakenly believe that scuttling the settlement would have no effect on current practice under the Safer Cities Initiative launched in September. The police department has for the past month been enforcing the anti-sleeping ordinance during the daytime in Skid Row, but that enforcement has not been subject to legal challenge because of the pending settlement. If the City Council rejects the settlement agreement, the plaintiffs would likely go to court and ask that all enforcement of the anti-sleeping ordinance be barred while the court challenge is still pending. That could take years, with the possibility of no enforcement through that entire period.

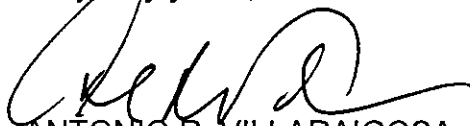
There are numerous reasons to support the proposed settlement in Jones. Because daytime-only enforcement was LAPD's policy and practice, we have not restricted the department's ability to enforce the anti-sleeping ordinance any more than we voluntarily did so previously. Beyond this past practice, the settlement gains us limited nighttime enforcement, the vacating of a potentially troublesome court precedent, and protection from liability and further litigation. All of this in turn would permit us to move forward in crafting and implementing a comprehensive service-oriented approach to homelessness.

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Unfortunately, the level of opposition is such that the settlement is not possible at this time. It is my hope that we can refine the settlement – perhaps to include services. It is also my hope that by continuing negotiations, the plaintiffs will forego seeking to halt current police practices.

Regardless of whether Jones is settled, in my view, we cannot go forward with the theory or practice of twenty-four enforcement of 41.18(d). Therefore, I will work with the City Council to draft and enact replacement legislation for 41.18(d); this should at a minimum limit hours of enforcement citywide, but could also include restrictions on encampments as recently proposed by Councilmember Huizar. My office will also continue to work toward a feasible and effective plan incorporating both expanded services and law enforcement, and cooperation with the County, to address the complex issue of persistent homelessness in our city. We must accelerate these efforts. Optimally, all of this might be folded into a new settlement proposal in Jones. Regardless, it is my fervent hope that we can achieve an agreement – and informed community understanding – to put this litigation behind us and to move forward with unity and vigor in addressing this critical issue.

Very truly yours,



ANTONIO R. VILLARAIGOSA
Mayor