

No. 23-175

IN THE  
**Supreme Court of the United States**  
CITY OF GRANTS PASS, OREGON,  
*Petitioner,*

v.

GLORIA JOHNSON, ET AL., ON BEHALF OF THEMSELVES  
AND ALL OTHERS SIMILARLY SITUATED,  
*Respondents.*

**On Writ of Certiorari to  
the United States Court of Appeals  
for the Ninth Circuit**

**BRIEF AMICI CURIAE OF BETTER DAYS AHEAD  
OUTREACH INC., HOMELESS ADVOCACY PRO-  
JECT, REGIONAL HOUSING LEGAL SERVICES,  
MORGANTOWN RAMP, PROJECT RAINBOW,  
KANAWHA VALLEY COLLECTIVE, AND SOAR  
IN SUPPORT OF RESPONDENTS**

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## INTERESTS OF AMICI CURIAE<sup>1</sup>

Better Days Ahead Outreach Inc. (“Better Days Ahead”) is a non-profit organization that serves unhoused residents in Montgomery County and throughout Southeastern Pennsylvania. It distributes food, tents, clothing, and other critical supplies to help unhoused residents in Southeastern Pennsylvania to survive. In addition, Better Days Ahead served as plaintiff in *Better Days Ahead Outreach Inc. v. Borough of Pottstown*, No. 2:23-CV-04234, 2023 WL 8237255 (E.D. Pa. Nov. 28, 2023) *appeal filed* (Jan. 4, 2024), in which the Eastern District of Pennsylvania enjoined the Borough of Pottstown from issuing criminal sanctions to a group of unhoused residents. Better Days Ahead’s interest in this case is ensuring that the unhoused residents it serves are not issued criminal sanctions simply for lacking shelter.

Homeless Advocacy Project (“HAP”) is a non-profit organization in Philadelphia, Pennsylvania. HAP is the only legal services organization dedicated specifically to providing direct civil legal services to individuals and families experiencing homelessness in Philadelphia. Its mission is to provide those services and advocacy to reduce the frequency and

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<sup>1</sup> 1) No party’s counsel authored the brief in whole or in part, 2) no party or their counsel contributed money that was intended to fund preparing or submitting this brief, and 3) no person other than Amici or their counsel contributed money that was intended to fund preparing or submitting this brief.

duration of homelessness in Philadelphia. Since its inception, HAP has used an outreach model by reaching clients where they live, sleep, and eat, such as shelters, day centers, medical providers, and soup kitchens. The Homeless Advocacy Project's interest in this case is ensuring that the tactics described in this brief do not expand within the Third Circuit and, most urgently, that the clients it serves are not criminalized simply for lacking shelter.

Regional Housing Legal Services ("RHLS") is a statewide legal services/nonprofit law firm that focuses on the development, preservation and advocacy for affordable housing and equitable community development. RHLS's strategy is to provide boutique-level legal services and policy/legislative insight to organizations that have been excluded from power in the housing system, to engage in advocacy to make the housing system more racially equitable and to reduce homelessness for all communities. RHLS's interest in this case is to ensure its clients are not criminally penalized for lacking shelter.

Morgantown RAMP ("RAMP") is a community-led organization under the fiscal sponsorship of the local First Presbyterian Church operating in Morgantown, West Virginia. RAMP offers tents and direct resources for shelter, medicine, and food services. It has operated a supplementary emergency hotel stay program for three years. When placing families and individuals with disabilities into hotel rooms, one of the most difficult obstacles faced is the enforcement actions when individuals are outside. This leads to

the loss of documents, a disengagement with street outreach workers who are already overloaded, and an increase in the general precariousness experienced by unhoused persons. RAMP has an interest in this case because the increase in barriers that will occur if further criminalization of homelessness is allowed as RAMP's already meager resources will be stretched even thinner and will make the problem of homelessness exponentially worse in Morgantown.

Project Rainbow is a non-profit organization serving unhoused LGBTQ+ folks in West Virginia with emergency shelter and wrap-around supportive services. It assists queer folks in navigating the housing system safely and compassionately and provides shelter to those experiencing unsheltered homelessness in its shelter, the Rainbow House. The Rainbow House is a low-barrier shelter that was created to be a safe place for especially vulnerable members of our community, such as those with mental health concerns, physical disabilities, and trauma. Project Rainbow's interest in this case is to assure that its unhoused clients and other unsheltered individuals in West Virginia, a state where we have with limited shelter and housing resources, are not criminalized for their homelessness, as criminalization creates additional barriers for them and those that serve them to achieving stable, permanent housing.

The Kanawha Valley Collective ("KVC") is a 501c3 that serves individuals experiencing homelessness in Kanawha, Boone, Putnam, and Clay Counties in West Virginia. It offers homeless outreach services and



emergency shelter services to individuals experiencing homelessness. KVC's interest in this case is to ensure that those experiencing unsheltered homelessness are treated with dignity and not penalized with criminal sanctions solely as a result of their homelessness.

SOAR WV is a Charleston, West Virginia-based community group that promotes the health, dignity, and voices of individuals who are impacted by drug use. SOAR WV has distributed over 33,000 naloxone doses since COVID-19. SOAR WV is interested in this case to protect the human rights of unhoused neighbors in Charleston, West Virginia and throughout West Virginia and beyond.

### **SUMMARY OF ARGUMENT**

Many Amici in support of Petitioner attempt to cast blame on *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019), for exacerbating the homelessness crisis in the Ninth Circuit. These Amici claim incorrectly that, absent *Martin*, municipalities would respond to homelessness through a compassionate mix of services and offers of shelter, using criminalization mainly as a last resort. Unfortunately, however, the experience of service and legal aid providers in Pennsylvania and West Virginia — states located in circuits without any Court of Appeals precedent equivalent to *Martin* — dispels any notion that eliminating the protections of *Martin* would alleviate homelessness.

Instead, contrary to the constructive, balanced approaches that Amici suggest they would take, the experiences of service and legal aid providers in Pennsylvania and West Virginia demonstrate that, without appropriate constitutional guardrails, municipalities and their leaders all-too-frequently weaponize law enforcement to attempt to drive unhoused residents out of their municipal boundaries entirely and into neighboring jurisdictions. Enabling municipalities to use their police powers to push unhoused people out of their boundaries leads to chaos and to an endless cycle of banishment, not to a reduction in homelessness, and increases the criminalization of individuals experiencing a lack of shelter.

## ARGUMENT

### I. Southeastern Pennsylvania

The sudden destruction of a significant portion of Montgomery County, Pennsylvania's affordable housing supply during Hurricane Ida in 2021, compounded by inflation in the wake of the COVID-19 pandemic, spawned an affordable housing crisis in Montgomery County, located in the suburbs outside of Philadelphia.<sup>2</sup> This affordable housing crisis in turn sparked a sharp rise in homelessness, which was

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<sup>2</sup> Ellie Rushing, *Hurricane Ida Destroyed Affordable Rental Units. Hundreds of Families Still Can't Find New Ones*, PHILA. INQUIRER, (Dec. 9, 2021), available at <https://www.inquirer.com/real-estate/housing/hurricane-ida-pennsylvania-homeless-families-affordable-housing-20211209.html>

particularly acute in the immediate aftermath of Hurricane Ida, when the number of unhoused people in Montgomery County in 2022 suddenly more than doubled from the prior year.<sup>3</sup> While the number of unhoused people in Montgomery County has since declined, their numbers remain higher than at any point since 2017.<sup>4</sup>

At the same time that Montgomery County experienced a massive spike in homelessness, the Coordinated Homeless Outreach Center, the only year-round homeless shelter for single adults in Montgomery County, closed its doors in 2022.<sup>5</sup> Since then, Montgomery County has been providing a limited number of hotel stays in place of the former homeless shelter, but the hotel stay program has a

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<sup>3</sup> Montgomery County Homeless Taskforce April 24, 2023 PowerPoint Slides at 6-7, *available at* [https://www.montgomerycountypa.gov/DocumentCenter/View/39191/Homelessness-Taskforce-Mtg\\_4-24-23\\_Final](https://www.montgomerycountypa.gov/DocumentCenter/View/39191/Homelessness-Taskforce-Mtg_4-24-23_Final)

<sup>4</sup> *Id.*; *see also* Justine McDaniel, “*I Can’t Get Out*”: *These Families Lost their Homes in Hurricane Ida. They’re Stuck in Hotels Six Months Later*, PHILA. INQUIRER (Feb. 24, 2022), *available at* <https://www.inquirer.com/news/pennsylvania/hurricane-ida-recovery-homeless-families-montco-chesco-20220224.html> (“Of the 302 households put up in hotels by Montgomery and Chester Counties, 182 have found housing or returned to their repaired homes. The remaining 120 have no inhabitable home to return to. And that number doesn’t include displaced families who aren’t staying in the county-funded hotels.”).

<sup>5</sup> *See Better Days Ahead Outreach Inc. v. Borough of Pottstown*, No. 2:23-CV-04234, 2023 WL 8237255, at \*1 (E.D. Pa. Nov. 28, 2023), *appeal filed* (Jan. 4, 2024).

lengthy waitlist of approximately three to six months.<sup>6</sup> As a result of the extremely limited emergency shelter options, most unhoused people in Montgomery County have no choice but to sleep outside.<sup>7</sup>

Despite Montgomery County's increase in homelessness stemming largely from a natural disaster and the clear lack of alternative shelter, some municipalities in Montgomery County responded to the sharp rise in homelessness by attempting to push unhoused residents out of their boundaries. The response of these municipalities, described below, illustrates the critical need for constitutional guardrails to prevent municipalities from using criminalization as their first-choice response to homelessness.

#### **A. Borough of Pottstown**

The Borough of Pottstown, located at the western edge of Montgomery County, offers an instructive example. Approximately seventy-five to ninety-five unhoused people call the Borough of Pottstown their home, with approximately forty residents sleeping outside during the winter.<sup>8</sup>

Beacon of Hope, a non-profit church-based warming center program in the Borough of Pottstown,

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at \*3.

<sup>8</sup> Montgomery County Homeless Taskforce April 24, 2023 PowerPoint Slides, *supra* footnote 3, at 7.

aims to offer up to thirty-five overnight warming beds on a first-come, first-served basis from November 1 to May 1 each year, but these beds are not enough to meet the need for overnight beds in the Pottstown community.<sup>9</sup> Indeed, Beacon of Hope typically needs to turn away three to eight unhoused residents each night from December through March.<sup>10</sup>

Beacon of Hope would like to have more capacity so that it can help more unhoused people come inside on cold winter nights. But ironically, instead of supporting Beacon of Hope’s efforts to bring unhoused people inside, the Borough of Pottstown has instead blamed Beacon of Hope for, in its view, causing “an influx of homeless individuals,” and has used its power to attempt to impede Beacon of Hope’s mission and to reduce its capacity.<sup>11</sup>

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<sup>9</sup> *Better Days Ahead Outreach Inc.*, 2023 WL 8237255, at \*2; Aff. of T. Niarhos at ¶¶ 7-8, ECF Dkt. 4-4 for EDPA case number 2:23-cv-04234, *available at* <https://ecf.paed.uscourts.gov/doc1/153121558022>.

<sup>10</sup> Aff. of T. Niarhos at ¶ 8, ECF Dkt. 4-4 for EDPA case number 2:23-cv-04234, *available at* <https://ecf.paed.uscourts.gov/doc1/153121558022>.

<sup>11</sup> Borough of Pottstown Council, Text Statement Read on Behalf of Pottstown Borough Council at the December 7, 2022 Committee-of-the-Whole Meeting Regarding Temporary Homeless Shelter Located at 931 N. Franklin Street, at 3 (Dec. 7, 2022), *available at* <https://www.pottstown.org/DocumentCenter/View/3944/Temporary-Homeless-Shelter-931-N-Franklin-Street?bidId=>.

For example, in 2022, the Borough of Pottstown issued a cease and desist letter to Beacon of Hope, demanding that Beacon of Hope stop providing overnight warming beds to the unhoused community.<sup>12</sup> In defense of this position, the Borough of Pottstown issued a press release on December 7, 2022, stating that its “Zoning Ordinance does not permit homeless shelters to operate within the Borough.”<sup>13</sup> Ultimately, the Borough of Pottstown allowed Beacon of Hope to continue its warming center program only if it agreed to move churches every thirty days, further reducing its capacity for part of the 2023-24 winter.<sup>14</sup>

At the same time as the Borough of Pottstown sought to obstruct Beacon of Hope’s ability to provide warming beds, it also began weaponizing its police department to close encampments.<sup>15</sup> At one encampment, the police chief testified that, if ordered by Borough Council, it would begin issuing citations for criminal trespass if the unhoused residents did not vacate ahead of a deadline set by the Borough.<sup>16</sup>

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<sup>12</sup> *Better Days Ahead Outreach Inc.*, 2023 WL 8237255, at \*3.

<sup>13</sup> Borough of Pottstown Council, *ibid.* footnote 11, at 1.

<sup>14</sup> *Better Days Ahead Outreach Inc.*, 2023 WL 8237255, at \*3.

<sup>15</sup> *Id.* at \*2.

<sup>16</sup> *Id.* at \* 2.

Ultimately, the U.S. District Court for the Eastern District of Pennsylvania enjoined the Borough of Pottstown from weaponizing criminal sanctions against unhoused residents at an encampment where residents lacked any alternative source of shelter, though the court explicitly authorized the Borough of Pottstown to use means other than criminal enforcement to close the encampment.<sup>17</sup> Rather than using these other means, however, the Borough of Pottstown pressed ahead with its bid to use criminal sanctions as its first choice method for closing the encampment, seeking reconsideration of the district court's ruling and appealing to the Third Circuit.<sup>18</sup>

The Borough of Pottstown's weaponization of its police force to criminalize homelessness shows that, unconstrained by authority such as *Martin*, municipalities do *not* respond to homelessness through compassionate services or offers of shelter, as Amici for Petitioner would suggest. Rather, it illustrates how the narrow principle set forth in *Martin*—that unhoused people should not be subject to criminal sanctions simply for having nowhere else to go—serves as a key constitutional check on municipalities' use of their law enforcement powers.

## B. Norristown

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<sup>17</sup> *Id.* at \*6.

<sup>18</sup> *See* Third Circuit Docket 12, Case Number 24-1003, available at <https://ecf.ca3.uscourts.gov/docs1/003014597959>.

In Norristown, Pennsylvania, another municipality in Montgomery County with a large unhoused population made even larger in the wake of Hurricane Ida, municipal officials have likewise made clear that their primary goal is to drive unhoused residents “out of town.”<sup>19</sup> Although municipal officials, including Norristown’s police department, have recognized that unhoused residents are on the streets because they do not have alternative housing, Norristown nonetheless enacted Ordinance 22-02, which criminalizes staying in parks overnight.<sup>20</sup> The purpose of Ordinance 22-02 was to enable Norristown Police Department officers to “hold over [unhoused residents] . . . head[s]” the threat of a criminal citation when Norristown PD officers demand that they relocate.<sup>21</sup> And indeed, Norristown officials have done just that, engaging in sweeps of homeless encampments in the municipality.<sup>22</sup>

Norristown, like the Borough of Pottstown, has also resisted efforts to reduce homelessness by providing unhoused residents with shelter, instead resorting to criminalizing homelessness as its first-

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<sup>19</sup> App. 7a; *see also* App. 5a.

<sup>20</sup> App. 7a-11a; Municipality of Norristown, Ordinance No. 22-02 of 2022.

<sup>21</sup> Emily Rizzo, *Advocates Say There’s ‘No Place’ for Unhoused People in Norristown, Where it May Soon be Illegal to Stay in Parks Past Dusk*, WHYY (Aug. 9, 2022), available at <https://whyy.org/articles/norristown-pa-unhoused-people-dawn-to-dusk-park-ordinance/>

<sup>22</sup> *See, e.g.*, App. 2a-3a.



choice tactic. For instance, Norristown has sought to block “Code Blue” shelters that provide emergency beds on especially cold nights through zoning appeals.<sup>23</sup> Further, Norristown officials have vigorously opposed constructing affordable rental units, going so far as to reject applying for HUD funding under its Housing Trust Fund program “for fear of imposing ‘affordable’ requirements for rental units,” which “goes against [Norristown’s] vision for future housing in Norristown.”<sup>24</sup> Norristown instead supports only “emergency housing solutions in the other 60 communities” in Montgomery County, laying bare that Norristown’s goal is to push unhoused residents into neighboring municipalities.<sup>25</sup>

As if this were not enough, as the public conversation surrounding homelessness and affordable housing intensified in Norristown, Norristown officials staked out even more extreme proposals for eliminating Norristown’s unhoused community. Most notably, the president of Norristown’s council went so far as to declare that he would pay unhoused residents to board buses that would take them to live on Villanova University’s

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<sup>23</sup> *Norristown Council Won’t Pursue Process to Appeal Zoning Decision on ‘Code Blue’ Shelter*, TIMES HERALD (Jan. 17, 2024), [available at https://www.timesherald.com/2024/01/17/norristown-council-wont-pursue-process-to-appeal-zoning-decision-on-code-blue-shelter/](https://www.timesherald.com/2024/01/17/norristown-council-wont-pursue-process-to-appeal-zoning-decision-on-code-blue-shelter/).

<sup>24</sup> App. 12a-13a.

<sup>25</sup> App. 15a.

campus—a proposal that drew widespread derision and condemnation in the local press.<sup>26</sup> While intense media coverage prevented Norristown’s busing plan from materializing, it is nonetheless illustrative of the lengths municipalities will go to drive unhoused people from their borders in the absence of constitutional guardrails.

## II. West Virginia

The experiences of service and legal aid providers in West Virginia largely mirrors the experiences of those in Pennsylvania. Like many small, rural states across the country, West Virginia has long struggled to provide sufficient services to individuals experiencing homelessness. Though national focus tends to center on large urban areas, the plight of those in smaller towns and rural areas is no less severe, and the need for basic constitutional protections is just as great.

### A. Charleston

Charleston is the state capital and the largest city in West Virginia. Located in western West Virginia, Charleston is approximately an hour from the Kentucky border.

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<sup>26</sup> Alfred Lubrano, *Norristown Official Wants to Bus People Living Homeless to Villanova University*, PHILA. INQUIRER (June 2, 2023), available at <https://www.inquirer.com/news/homeless-encampments-norristown-villanova-university-20230602.html>

The City of Charleston has a long history of using its police force to attempt to push unhoused residents out of its borders. In January 2016, the city ordered the dismantling of “Tent City,” an encampment in Charleston, without *any* prior notice to residents.<sup>27</sup> While litigation brought by Mountain State Justice, *Cutright v. Jones*, eventually resulted in a settlement requiring the City of Charleston to give notice before dismantling encampment, the lack of Fourth Circuit precedent similar to *Martin* has enabled the City to continue to attempt to drive unhoused people out of the City into neighboring areas.<sup>28</sup>

For instance, just last summer, prior to the Sternwheel Regatta Festival, the Charleston Police swept city parks and arrested over two dozen people, many of whom were unhoused.<sup>29</sup> Eleven of those arrested were held on the sole charge of being at a

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<sup>27</sup> National Law Center on Homelessness & Poverty, *Tent City, USA: The Growth of America’s Homeless Encampments and How Communities are Responding* (2018), available at [https://homelesslaw.org/wp-content/uploads/2018/10/Tent\\_City\\_USA\\_2017.pdf](https://homelesslaw.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf) (last accessed Mar. 25, 2024).

<sup>28</sup> *Cutright et al. v. Jones et al.*, Civil Action No. 2:16-cv-06346 (S.D. W. Va. Jul. 14, 2016).

<sup>29</sup> Carrie Hodousek, *Charleston City Council members express concern over arrests made from city park sweeps ahead of Regatta*, WV MetroNews (Jul. 2, 2023), available at <https://wvmetronews.com/2023/07/03/charleston-city-council-members-express-concern-over-arrests-made-from-city-park-sweeps-ahead-of-regatta/> (last accessed Mar. 25, 2024).

public park after hours.<sup>30</sup> But just days later, party goers remained at one of the parks well after midnight and suffered no legal consequences, illustrating how the lack of a Fourth Circuit equivalent to *Martin* has enabled cities to single out unhoused people for criminal sanctions.<sup>31</sup>

## B. Wheeling

The largest city in West Virginia's Northern Panhandle, Wheeling is a former manufacturing center and is located approximately sixty miles from Pittsburgh, Pennsylvania. Wheeling, too, has seen an expansion in the use of municipal ordinances to police and push out homeless and transient individuals.

The number of people in need in Wheeling far exceeds the resources available: in early 2023, one service provider stated it served approximately 250 people experiencing homelessness in the Wheeling

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<sup>30</sup> Rachel Pellegrino, *Charleston addresses allegations of 'sweeping the streets' of unsheltered residents ahead of Regatta weekend*, WOWK (Jul. 5, 2023), available at <https://www.wowktv.com/news/west-virginia/kanawha-county-wv/charleston-addresses-allegations-of-sweeping-the-streets-of-unsheltered-residents-ahead-of-regatta-weekend/> (last accessed Mar. 25, 2024).

<sup>31</sup> *Charleston used police state tactics to disappear unhoused people ahead of Regatta*, American Civil Liberties Union of West Virginia (Jul. 5, 2023), available at <https://www.acluww.org/en/news/charleston-used-police-state-tactics-disappear-unhoused-people-ahead-regatta> (last accessed Mar. 25, 2024).

area.<sup>32</sup> By contrast, the four organizations in the city providing year-round shelter had capacity for less than 100 people, combined.<sup>33</sup> In November 2023, the City of Wheeling passed an ordinance to ban camping on public property in the city. Despite protests from local service providers that the ordinance would leave people with “nowhere else to go,” the ordinance was voted through on November 7, 2023, set to go into effect on January 1, 2024.<sup>34</sup> Although the ordinance provides an exemption for “approved camping locations that may be designated by the city manager,”<sup>35</sup> no managed encampment location was designated by the end of 2023.<sup>36</sup>

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<sup>32</sup> Justice Hudson, “*Where do they want us to go?*” *People Experiencing Homelessness Reach to Looming October 13 Eviction*, The Hudson Editorial (Oct. 12, 2023), available at [https://thehudsoneditorial.com/p/where-do-they-want-us-to-go-people?r=1xsc2r&utm\\_campaign=post&utm\\_medium=web&triedRedirect=true](https://thehudsoneditorial.com/p/where-do-they-want-us-to-go-people?r=1xsc2r&utm_campaign=post&utm_medium=web&triedRedirect=true).

<sup>33</sup> *Id.*

<sup>34</sup> Eric Ayres, *Wheeling Council Passes Amended Ban on Camping on Public Property*, The Intelligencer (Nov. 8, 2023), available at <https://www.theintelligencer.net/news/top-headlines/2023/11/wheeling-council-passes-amended-ban-on-camping-on-public-property/>.

<sup>35</sup> *Id.*

<sup>36</sup> Eric Ayres, *Despite No Managed Camp in Place, Wheeling Camping Ban Ordinance In Effect Jan. 1*, The Intelligencer (Dec. 30, 2023), available at <https://www.theintelligencer.net/news/top-headlines/2023/12/despite-no-managed-camp-in-place-wheeling-camping-ban-ordinance-in-effect-jan-1/>.

Despite vocal and well-publicized public opposition, on January 16, 2024, the Wheeling City Council voted to move forward with the ordinance without designating an approved camping location.<sup>37</sup> Local service providers requested a stay of the ordinance, arguing that the ordinance's implementation would "make the situation worse, not better."<sup>38</sup>

But on Thursday, January 18, 2024, the city cleared the first campsite under the ordinance, giving residents only two hours' notice prior to clearing the camp with "two bulldozers, two big trucks, [and] 10 city employees and police."<sup>39</sup> While the settlement of litigation relating to the ordinance eventually resulted in a promise from the City to allow one exempted site, no such site has materialized as of the date of filing this brief.<sup>40</sup>

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<sup>37</sup> Jarett Lewis, *Urban camping ban in Wheeling to take effect despite calls for a stay*, WV Metro News (Jan. 16, 2024), available at <https://wvmetronews.com/2024/01/16/urban-camping-ban-in-wheeling-to-take-effect-despite-calls-for-a-stay/>.

<sup>38</sup> *Id.*

<sup>39</sup> Chris Schulz, *First Encampment Cleared Under Wheeling Public Camping Ban*, WV Public Broadcasting (Jan. 18, 2024), available at <https://wvpublic.org/first-encampment-cleared-under-wheeling-public-camping-ban/> (last accessed Mar. 25, 2024).

<sup>40</sup> Lori Kersey, *ACLU reaches agreement with city of Wheeling over camping ban, withdraws suit*, West Virginia Watch (Jan. 23, 2024), available at

Though the City agreed in January that homeless individuals would be allowed to remain on a site near the Catholic Charities Neighborhood Center, the state Division of Highways has now posted a notice requiring people to vacate the site by April 3, 2024.<sup>41</sup> Officials in Wheeling are now requiring those who were staying at the site to move approximately a mile away, far from the showers, laundry, and fellowship offered by the Neighborhood Center at the current site.<sup>42</sup> Rather than focusing on providing or expanding much-needed services — as Amici for Petitioner would have this Court believe that municipalities would do in the absence of *Martin* — the City of Wheeling instead continues to push unhoused residents further from resources and stability and into precarity.

## CONCLUSION

Contrary to the disingenuous claims of Amici for Petitioner, the experience of service and legal aid providers in Pennsylvania and West Virginia shows

---

<https://westvirginiawatch.com/2024/01/23/aclu-reaches-agreement-with-city-of-wheeling-over-camping-ban-withdraws-suit/>.

<sup>41</sup> Lori Kersey, *Months in Wheeling camping ban, city's unhoused people forced to move again*, West Virginia Watch (Mar. 26, 2024), *available at* [https://westvirginiawatch.com/2024/03/26/months-into-wheeling-camping-ban-citys-unhoused-people-forced-to-move-again/?fbclid=IwAR3oj\\_8u0VKR2-qFdJu0eIqwaMIxLgMYUAOWg\\_bWmgWxfKuotQlq-fsF6K8](https://westvirginiawatch.com/2024/03/26/months-into-wheeling-camping-ban-citys-unhoused-people-forced-to-move-again/?fbclid=IwAR3oj_8u0VKR2-qFdJu0eIqwaMIxLgMYUAOWg_bWmgWxfKuotQlq-fsF6K8).

<sup>42</sup> *Id.*

that municipalities are not seeking to use criminal sanctions merely to encourage unhoused people to take advantage of services or to relocate from particularly problematic areas. Rather, many municipalities, like those described above, are instead seeking free reign to wield criminal sanctions against unhoused people as their first-choice means to drive unhoused people out of their municipal boundaries. The narrow principle set forth in *Martin*—that unhoused people should not be subject to criminal sanctions simply for being unhoused—serves as a key constitutional check to prevent such weaponization of law enforcement powers.

MARY H. TOLBERT\*

\* *COUNSEL OF RECORD*

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2a

From: Michael Bishop  
Sent: Wednesday, April 5, 2023 12:10 PM  
To: Crandall Jones  
Subject: RE: Poley Park Homeless Encampment

I have requested this be done tomorrow or Friday, and have copied my Lieutenants, as I will be taking Friday off, to ensure it is carried out.

From: Crandall Jones <cjones@norrictown.org>  
Sent: Wednesday, April 5, 2023 11:40 AM  
To: Michael Bishop <mbishop@norrictown.org>; Thomas Odenigbo <todenigbo@norrictown.org>  
Subject: RE: Poley Park Homeless Encampment

It's very unsightly and on a major thoroughfare through town and at a train stop-give them a week, tops.

Thanks,

A handwritten signature in blue ink, appearing to be 'COJ', enclosed in a thin blue rectangular border.

Crandall O. Jones, ICMA-CM  
Municipal Administrator/CAO  
Municipality of Norristown  
235 East Airy Street  
Norristown, PA 19401  
610.272.8080, Ext. 6  
cionesAnorristown.org

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From: Michael Bishop <[mbishop@norristown.org](mailto:mbishop@norristown.org)>

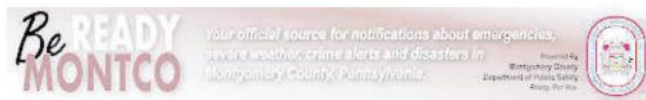
Sent: Wednesday, April 5, 2023 11:38 AM

To: Crandall Jones <[cjones@norristown.org](mailto:cjones@norristown.org)>;

Thomas Odenigbo <[todenigbo@norristown.org](mailto:todenigbo@norristown.org)>

Subject: RE: Poley Park Homeless Encampment

Received. We have already started that conversation with the folks there. I will need to use my Spanish speaking personnel to convey the message, Do you have a time line that I want to give them in mind?



3a

From: Crandall Jones <cjones@norristown.org>  
Sent: Wednesday, April 5, 2023 11:29 AM  
To: Thomas Odenigbo  
<todenigbo@norristown.org>; Michael Bishop  
<mbishop@norristown.org>  
Subject: Poley Park Homeless Encampment

Gentlemen,

Now that the weather is warming, it's time to get the encampment at Poley Park cleaned out. I'm not sure if they are still using; but, if they are, we need to give them notice to move on and get the area cleaned out. We're moving forward on the skate park project-waiting on the contractor to provide final numbers-and the area will have to be cleaned out anyway.

Thanks,



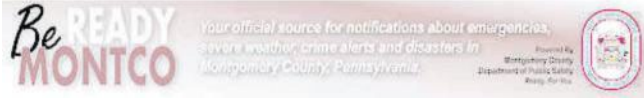
Crandall O. Jones, ICMA-CM  
Municipal Administrator/CAO  
Municipality of Norristown  
235 East Airy Street  
Norristown, PA 19401  
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4a

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5a

From: Lisa Bobyock  
Sent: Friday, June 10, 2022  
4:34 PM  
To: Crandall Jones  
Cc: Lisa Bobyock  
Subject: FW: Homelessness

Importance: High

Good afternoon Crandall,

Thank you for including me in the homeless meeting this afternoon. I liked your comment, Norristown is happy to be part of the solution, but NOT the host! It looks like Your Way Home's website has not posted data on homelessness since 2019 (link below). Also, it looks Montco still has an Interim Director, Penny Lafferty, of Health and Human Services.

<https://yourwayhome.org/system-performance>

Please let me know if I can help you with anything Crandall and enjoy your weekend!

Kind regards,

Lisa Bobyock, MPA

Assistant to the Municipal Administrator

Municipality of Norristown

235 East Airy Street

Norristown, PA 19401-5048

Phone: 610-272-8080

[lbobyock@norristown.org](mailto:lbobyock@norristown.org)

6a



From: Crystal Henry <chenry@norristown.org>  
Sent: Friday, June 10, 2022 11:53 AM  
To: Leah Remolde <lremolde@norristown.org>;  
Kristi Barletta <KBarletta@norristown.org>;  
Derrick Wood <dwood@norristown.org>;  
Rossy Calderon <rcalderon@norristown.org>;  
Ingrid Parker <Iparker@norristown.org>; Lisa  
Bobyock <lbobyock@norristown.org>  
Subject: Homelessness

Importance: High

Hello Team:

Would you kindly advise on the earliest time that  
you are available today? 12p for 30-mins tops?  
2:30p-4:30p is no good on our end.

Many thanks,

Crystal Henry  
Municipality of Norristown  
610.272.8080 ext. 1421  
chenry@norristown.org  
www.norristown.org

7a

From: Kristi Barletta  
Sent: Saturday, July 16,  
2022 7:07 AM  
To: Crandall Jones  
Subject: Fwd: Homeless  
Encampments at Riverfront

Good Morning Crandall,

I am working on a plan to help remove the homeless from Riverfront.

I know ideally we want them out of town & off the street but based on conversations at this time it seems like they will just relocate in town.

Is there anywhere in town that can be suggested as a safe space for them to move just so they don't set up in another location that is not the best for Norristown. Somewhere hidden?

Thank you!

Get Outlook for iOS

From: Derrick Wood <dwood@norristown.org>  
Sent: Friday, July 15, 2022 8:49:09 PM  
To: Kristi Barletta <KBarletta@norristown.org>;  
Michael Bishop <mbishop@norristown.org>  
Cc: Command Staff<CommandStaff@norristown.org>  
Subject: Re: Homeless Encampments at Riverfront  
Okay thanks.



Chief Derrick E. Wood  
Norristown Police Department  
235 East Airy Street  
Norristown, PA 19401  
O: 610-270-0474  
Twitter: @ChiefDWood  
Instagram: @ChiefDWood  
#flyeaglesfly

From: Kristi Barletta <KBarletta@norristown.org>  
Sent: Friday, July 15, 2022 7:48:18 PM  
To: Derrick Wood <dwood@norristown.org>; Michael Bishop <mbishop@norristown.org>  
Cc: Command Staff <CommandStaff@norristown.org>  
Subject: Re: Homeless Encampments at Riverfront

Let me think about it. There is one aggressive male there who is anti police and sovereign citizen. I think the initial convo should not include uniformed police. I noticed a tremendous difference today when I was out there with police vs without police. If the aggressive male is not there then it won't matter. They are all reasonable there. The one family (mother daughter and male) is #5 on the waiting list for apt. Not sure how long that takes. Miss lala has the big corner tent which is set up as a "kitchen"

Thomas N. Odenigbo, P.E., CFM, CSI, CPPA

Director of Public Works  
Municipality of Norristown  
235 East Airy Street  
Norristown, PA 1.9401-5003  
610/270-0437  
610/279-3603 - Fax

From: Michael Bishop <mbishop@norristown.orp  
Sent: Tuesday, April 11, 2023 2:59 PM  
To: Thomas Odenigbo <todenigbo@norristown.m>  
Cc: Crandall Jones <cipries@norristown.org>  
Subject: Poley Park cleanup

Thomas,

What is your plan on cleaning out the encampment at Poley Park? The homeless there are well aware that Friday they need to be out of there, but I have a suspicion they will just relocate to the SEPTA area at Main & Markley. We can have a couple officers go down with RV on Friday to ensure everything goes smoothly, but I need a time that they will be needed. Outside agencies have already been in contact with the folks there, but due to the lack of housing available, they will ultimately pop up somewhere else.



Lt. Michael F. Bishop #162  
Patrol Command Team  
Norristown Police Department  
235 East Airy Street  
Norristown, PA 19401-5003  
Office: 610-292-8283; Cell: 610-400-  
Anonymous Crime Tip Line:

Phone Number: 610-278-TIPS (8477)  
Email: NPDTios@norristowri.org

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**Available Homeless Outreach Services in Norristown:**

- Norristown Hospitality Center
  - The Salvation Army
  - Your Way Home
  - Central
  - Sisters of Charity Norristown
  - Brother House
  - Access Services
  - Family Promise of the Mainline
  - Women's Center
  - Patrician Society
  - Horizon House
  - Catholic Charities/Martha's Choice Marketplace
- issues identified:
- 68% of the homeless population we engaged with are willing to move into housing if available. At this time there are no beds available based on what they have been told.

- Most of the homeless population we engaged with have been connected to services and are on a waiting list for housing for approximately 6 months or longer.
- The homeless population does not feel the social services available are routinely following up with them .in a meaningful way.
- The homeless population suggested that they would feel more stable if they Were provided a timeline of how long they will have to remain homeless until housing is secured.
- increase in drug & alcohol abuse
- Increase in mental health issues
- Increase in trauma with lack of support
- Increase in victimization

12a

From: Jayne Musonye  
Sent: Monday, February 6,  
2023 11:09 AM  
To: Crandall Jones  
Subject: RE: 2023 Notice  
of Funding  
Availability for  
Community  
Development,  
Affordable  
Housing  
Development,  
Non-Profit &  
Homeless  
Services

Crandall,

HOME funds would interest us; however, we get a bigger pot when we go to the State. Since we cannot apply for these funds from both sources, we plan to apply to the state for these HOME funds this summer.

The Affordable Housing Trust Fund is another pot of funds we would go after if we had a housing development that needed gap financing. We used these funds for Arbor Heights. I am not sure where the MM's project would qualify; in any case, I would be reluctant to recommend using these funds for this project for fear of imposing 'affordable' requirements for rental units. As you know, that goes against our vision for future housing in Norristown.

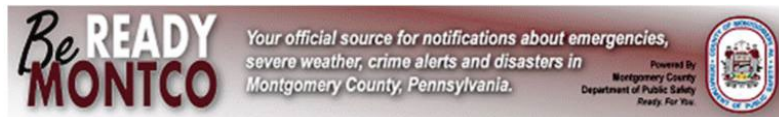
Other funding sources address housing for the homeless population or people with disabilities.

Sincerely,

Jayne Musonye  
Director of Planning  
and Municipal Development  
Municipality of Norristown  
235 East Airy Street  
Norristown, PA 19401-5003  
610.270.0450  
610.270.2892 - Fax  
jmusonye@norristown.org

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14a

From: Crandall Jones <cjones@norristown.org>  
Sent: Friday, February 3, 2023 2:00 PM  
To: Jayne Musonye <Jmusonye@norristown.org>  
Subject: FW: 2023 Notice of Funding Availability for  
Community Development, Affordable Housing  
Development, Non-Profit & Homeless Services

FYI—other than affordable housing, is there anything possible for us? I know we get our on CDBG.

Thanks,

15a

**From:** Jayne Musonye  
**Sent:** Friday, May 13, 2022  
4:44 PM  
**To:** Crandall Jones  
**Subject:** RE: Availability of  
Applications for the Emergency Solutions Grant  
Program

Thanks, Crandall. I know that you know this, but we typically do not apply for these funds directly from HUD or DCED since the County is directly responsible for homeless activities, we only support permanent housing solutions that do not contribute to the concentration of poverty. However, we will support emergency housing solutions in the other 60 communities in the County.

**Jayne Musonye**  
Director of Planning  
and Municipal Development  
Municipality of Norristown  
235 East Airy Street  
Norristown, PA 19401-5003  
610.270.0450  
610.270.2892 - Fax  
jmusonye@norristown.org

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16a

A handwritten signature in blue ink, appearing to be 'CJ', enclosed in a light blue circular stamp.

**From:** Crandall Jones <cjones@norristown.org>  
**Sent:** Friday, May 13, 2022 4:36 PM  
**To:** Jayne Musonye <Jmusonye@norristown.org>  
**Subject:** FW: Availability of Applications for the  
Emergency Solutions Grant Program

FYI

**Crandall O. Jones, ICMA-CM  
Municipal Administrator/CAO  
Municipality of Norristown  
235 East Airy Street  
Norristown, PA 19401  
610.272.8080, Ext. 6  
cjones@norristown.org  
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