



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

FOR IMMEDIATE RELEASE: SEPTEMBER 21, 2006

Contact: Jeff Van Deerlin, Public Affairs Manager (619) 235-5725 (direct line & pager)

CITY ATTORNEY STANDS BY LEGAL OBLIGATION TO PROPOSE HOMELESS SLEEPING SOLUTIONS

San Diego, CA – City Attorney Michael Aguirre today stood by the proposed ordinance being prepared by his Office regarding the City of San Diego ticketing violators of illegal lodging laws. The proposal is part of a comprehensive legal settlement in the *Spencer v. City of San Diego* lawsuit filed in federal court. The lawsuit is the twin of another case, *Jones v. City of Los Angeles*, based on the Eighth Amendment of the U.S. Constitution, citing jail as “cruel and unusual punishment” for sleeping on public property. In the L.A. case, the Ninth District Court of Appeals opined:

We do not suggest that Los Angeles adopt any particular social policy, plan, or law to care for the homeless...there is obviously a “homeless problem”...which the City is free to address in any way that it sees fit...all we hold is that, so long as there is a greater number of homeless individuals in Los Angeles than the number of available beds, the City may not enforce section 41.18(d) at all times and places throughout the City against homeless individuals for involuntarily sitting, lying, and sleeping in public. Appellants are entitled at a minimum to a narrowly tailored injunction against...enforcement...at certain times and/or places.

In other words, the City of Los Angeles was told that it must provide certain times when or certain places where ticketing or jailing violators of the illegal lodging laws cannot take place. Those working to settle the cases in both cities are drafting proposed ordinances that comply with this ruling. City Attorney Aguirre noted that the City of San Diego is already subject to a series of outside injunctions and oversight proposals.

“We are now looking at the possibility of another injunction being issued against our current practice of treating homeless men, women and children asleep in our City as a criminals. Our challenge as a City is to find a time and/or a place where they are free to sleep.”

Settlement talks in the *Spencer v. City of San Diego* case have resumed as of today and plans are being made for San Diego Deputy City Attorneys to meet with the Los Angeles City Attorney’s Office next week with the aim of creating a consistent legal settlement that will have full review by Mayor Sanders and the San Diego City Council in the coming weeks.

###