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FILED
2018 DEC 04 03:42 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 18-2-56279-1 SEA

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

SAFE SEATTLE,

Plaintiff,

v.

LOW INCOME HOUSING INSTITUTE,
and CITY OF SEATTLE,

Defendants,

No. _____

COMPLAINT

Plaintiff alleges as follows:

INTRODUCTION

1. The Low Income Housing Institute (LIHI) with the approval of the City of Seattle (City) is operating a site in the South Lake Union area at 801

1 Aloha Street for a homeless encampment. The plans including using tiny houses
2 which LIHI and the City consider to not require building-related permits. And,
3 the operator of this encampment is required to care for the general welfare of its
4 inhabitants. But both the City and LIHI ignore the state requirements for
5 operating facilities to provide care for people in ways beyond providing a place to
6 sleep. The result is an unsafe environment for the people that will inhabit the
7 space and the surrounding area.

8 PARTIES

9 2. Plaintiff Safe Seattle is a nonprofit corporation organized under the
10 laws of the State of Washington. Safe Seattle is a non-partisan city-wide
11 community of activists that promotes public safety and government
12 accountability.

13 3. Defendant Low Income Housing Institute (LIHI) is an organization
14 operating under a tax exempt status under Section 501(c)(3) of the Internal
15 Revenue Code and is operating a homeless encampment and installing what are
16 commonly referred to as “tiny houses” at 801 Aloha Street in Seattle.

17 4. Defendant City of Seattle (City) is a municipality of the State of
18 Washington with land use regulatory control over the area at issue. Plaintiffs are
19 informed and believe the City has taken the position that LIHI does not need
20 various permits for the installation of tiny houses on this site and that LIHI
21 concurs with that position.
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JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter under Article IV, Section 6 of the Washington Constitution because jurisdiction has not been vested exclusively by law in some other court.

6. Venue is proper in this Court because Plaintiff and Defendants reside in King County and the property affected by the decisions and actions at issue herein is in, and the cause of action arose in, King County.

FACTS

FIRST CAUSE OF ACTION:

**VIOLATION OF RESIDENTIAL CODE
(UDJA)**

7. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1 through 6 inclusive as though set forth in full here.

8. Plaintiff's rights and Defendants' duties are disputed by Defendants in regard to the placement of tiny houses without permits under the Residential Code and potentially other building-related codes.

9. Plaintiff contends that residential permits must be issued by the City before tiny houses can be placed and inhabited. Defendants contend that the no such permits are required.

10. Plaintiff is informed and believes that Defendants have not applied for, nor received any Residential Code permit for the installation of tiny houses.

1 11. Plaintiff is entitled to a declaration of rights and obligations under
2 the law because Defendants' actions have and will continue to result in
3 substantial and actual injury to Plaintiff's members.

4 12. Plaintiff's members have their own property, residences or working
5 and living conditions affected by Defendants' actions, including decisions
6 granting permission to engage in land uses that impact the environment and the
7 working and living conditions of people in Washington. Such interests here
8 include the quality of life in residing, working and owning property and
9 businesses in the South Lake Union area, the area impacted by Defendant LIHI's
10 plans at issue. The impact will be immediate in the accumulation of people living
11 in substandard dwellings in this area, by encouraging loitering and other
12 substandard living conditions in this area. Plaintiff's members are affected by the
13 lack of governmental, the purpose of which is to allow the City (and members of
14 the public, such as those who reside or work in the area) to evaluate the impacts
15 of the proposal before the proposal is authorized.
16

17 13. A ruling by this Court will terminate the controversies between
18 Plaintiff and Defendants.
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1 SECOND CAUSE OF ACTION

2 VIOLATION OF SMC 23.42.56C
3 (UDJA)

4 14. Plaintiff incorporates by reference each and every allegation
5 contained in Paragraphs 1 through 13 inclusive as though set forth in full here.

6 15. Defendants are using or preparing to use the 801 Aloha Street as a
7 transitional encampment supposedly authorized under SMC 23.42.056.

8 16. SMC 23.42.56C requires:

9 The encampment may be operated by a private party that shall prepare
10 an Encampment Operations Plan that shall address: site management,
11 site maintenance, provision of human and social services, referrals to
12 service providers that are able to provide services to individuals under
13 the age of 18 who arrive at an encampment unaccompanied by a parent
14 or legal guardian, and public health and safety standards. The operations
15 plan shall be filed with the transitional encampment interim use permit
16 application.

17 17. Plaintiff believes no Encampment Operations Plan for the 801
18 Aloha site has been filed.

19 18. The Court should order LIHI to prepare and file the "Encampment
20 Operations Plan" required by SMC 23.42.56C and terminate or prohibit
21 operation of the encampment until the plan is filed and determined to be
22 sufficient under the law.

23 19. A ruling by this Court will terminate the controversies between
Plaintiff and Defendants.

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THIRD CAUSE OF ACTION

**VIOLATION OF CHAPTER 18.20 RCW
(UDJA)**

20. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1 through 19 inclusive as though set forth in full here.

21. Because SMC 23.42.56C requires the operator of an encampment to prepare and file an Encampment Operations Plan with the permit application and the plan must address, among other things, maintenance, provision of human and social services, referrals to service providers for minors and health and safety standards, the encampment operator is subject to chapter 18.20 RCW.

22. RCW 18.20.020(2) provides that

“any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents” is an “assisted living facility.”

23. Defendants LIHI has announced that it will be providing a facility for the purpose of providing housing, basic services, general responsibility for the safety and well-being of seven or more residents. Although the number of proposed residents has varied over the last year, the highest estimate was 65 residents and no known estimate from LIHI or the City has been less than seven.

24. The purpose of RCW 18.20 is:

to provide for the development, establishment, and enforcement of standards for the maintenance and operation of assisted living

STEPHENS & KLINGE LLP
601 – 108th Avenue NE, Suite 1900
Bellevue, WA 98004
(425) 453-6206

1 facilities, which, in the light of advancing knowledge, will promote
2 safe and adequate care of the individuals therein. It is further the
3 intent of the legislature that assisted living facilities be available to
4 meet the needs of those for whom they care by recognizing the
5 capabilities of individuals to direct their self-medication or to use
6 supervised self-medication techniques when ordered and approved by
7 a physician licensed under chapter 18.57 or 18.71 RCW or a podiatric
8 physician and surgeon licensed under chapter 18.22 RCW.

9 The legislature finds that many residents of community-based long-
10 term care facilities are vulnerable and their health and well-being
11 are dependent on their caregivers. The quality, skills, and knowledge
12 of their caregivers are often the key to good care. The legislature
13 finds that the need for well-trained caregivers is growing as the
14 state's population ages and residents' needs increase. The legislature
15 intends that current training standards be enhanced.

16 25. Many of the intended residents of 801 Aloha are vulnerable as
17 contemplated by Chapter 18.20. RCW and their health and well-being are
18 believed to be dependent upon the people providing services to them.

19 26. RCW 18.20.030 prohibits anyone from operating or maintaining a
20 facility described in RCW 18.20.020(2) without a license.

21 27. LIHI does not have a license under RCW 18.20.30 for maintaining a
22 facility at 801 Aloha Street in Seattle.

23 28. The Department of Social and Health Services has adopted
24 regulations pursuant to Chapter 18.20 RCW. Those regulations are codified in
25 WAC 388-78A.

26 29. Defendant LIHI has operated other similar encampments using tiny
27 houses with the approval of Defendant City of Seattle without complying with
28 Chapter 18.20 RCW or WAC 388-78A. Defendants have not made their facilities

1 comply with safety requirements of that statute, including registration and
2 training of personnel.

3 30. Defendants have not undertaken efforts to comply with Chapter
4 18.20 RCW or WAC 388-78A at the 801 Aloha Street site.

5 31. Plaintiff is entitled to a declaration of Defendants' obligations under
6 the statutes and regulations because Defendant's actions have and will continue
7 to result in substantial and actual injury to Plaintiff's members.

8 32. A ruling by this Court will terminate the controversies between
9 Plaintiff, LIHI and the City.

10 **FOURTH CAUSE OF ACTION**

11 **APPLICATION OF SMC 22.200**
12 **(UDJA)**

13 33. Plaintiff incorporates by reference each and every allegation
14 contained in Paragraphs 1 through 32 inclusive as though set forth in full here.

15 34. Seattle Municipal Code Chapter 22.200 contains regulations for
16 buildings that are used, designed or intended to be used for human habitation.

17 35. Defendants own or manage buildings that are used, designed or
18 intended to be used for human habitation.

19 36. Plaintiff contends that Chapter 22.200 of the Seattle Municipal
20 Code applies to Defendants' buildings at 801 Aloha Street.

21 37. Defendants contend that Chapter 22.200 of the Seattle Municipal
22 Code does not apply to LIHI's buildings at 801 Aloha Street.
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1 38. Plaintiff is entitled to a declaration of Defendants' obligations under
2 the statutes and regulations because Defendants' actions have and will continue
3 to result in substantial and actual injury to Plaintiff's members.

4 39. A ruling by this Court will terminate the controversy between
5 Plaintiff, LIHI and the City.

6 **FIFTH CAUSE OF ACTION**

7 **INJUNCTION**
8 **(RCW 7.40.020)**

9 40. Plaintiff incorporates by reference each and every allegation
10 contained in Paragraphs 1 through 39 inclusive as though set forth in full here.

11 41. Because Defendants' plans for the 801 Aloha Street site are in
12 violation of the law and would cause injury to Plaintiff's members, Defendants
13 should be enjoined from operating the 801 Aloha Street site for residential
14 purposes.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs respectfully request the Court to award the
17 following relief:

18 A. An order declaring the parties rights and obligations as hereinbefore
19 set forth;

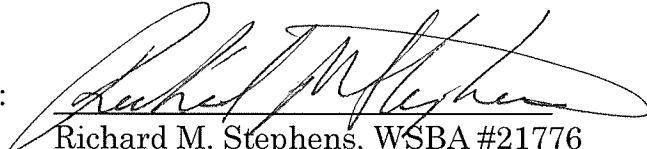
20 B. An injunction requiring Defendants to comply with the rights and
21 obligations hereinbefore set forth before continuing to utilize the 801 Aloha Street
22 site for residential purposes;

- 1 C. Costs and attorney fees in this action as allowed by law; and
2 D. Such other and further relief as the Court deems just and equitable.
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4 RESPECTFULLY SUBMITTED this 4TH day of December, 2018.
5

6 STEPHENS & KLINGE LLP

7
8 By:


Richard M. Stephens, WSBA #21776

Attorneys for Plaintiff
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