

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RAYMOND SAGER, ANTOINE)
RANDOLPH, GARY WEST and)
WILLIAM DUERR, individually)
and on behalf of a class of) Civil Action No.: 03-0635
similarly-situated) (Ambrose, C.J.)
individuals,)
)
Plaintiffs,)
)
v.)
)
CITY OF PITTSBURGH,)
)
Defendant.)
_____)

SETTLEMENT AGREEMENT

Plaintiffs, defined as current and future unsheltered homeless people sleeping on public property, and Defendant City of Pittsburgh (hereafter "City", which includes all City officials, employees, agents, assigns and all those working in concert with them), make and enter into this Settlement Agreement on this _____ day of _____, 2003,

NOW THEREFORE, intending to be bound, the parties hereby agree as follows:

A. GENERAL PROVISIONS

1. Plaintiffs filed the above-captioned action on May 5, 2003, alleging that the City violated Plaintiffs' rights under the Fourth, Fifth and Fourteenth Amendments to the U. S. Constitution by failing to give

adequate pre-deprivation notice of property clean-ups in public areas and by summarily seizing and destroying Plaintiffs' property without just compensation.

2. The City denies each and every claim raised in the Verified Class Action Complaint regarding any allegations of unfair, unlawful, or unconstitutional treatment of, or injury to, Plaintiffs.
3. The Defendant City of Pittsburgh hereby agrees that it shall not remove or destroy, or assist in the removal or destruction of, the Plaintiffs' personal items and possessions from public property except as authorized herein.

B. POLICY AND PROCEDURE GOVERNING PRE-COLLECTION NOTICE

1. The City agency responsible for removal of unattended personal items from public property shall give written notice of the planned clean-up seven (7) days in advance of the actual clean-up.
2. The notice shall be effected by:
 - a. Placing a written form at each identifiable encampment, or at each identifiable group of possessions. Efforts shall be made to place the notice in a secure location at each identifiable site so that it is not destroyed or removed by

inclement weather, e.g., partially under a bed roll or other sturdy object, or affixed to a tree or wall.

- b. The same notice shall be faxed, again seven (7) days in advance, to a list of homeless service providers, to be identified by the Homeless Outreach Coordination Committee ("HOCC"). HOCC will be responsible for providing, and periodically updating, the City with workable fax numbers.
3. The notice shall contain the following information and be substantially similar to the model attached hereto as Appendix 1:
 - a. A date or dates certain (e.g., Monday, May 12, but if weather prohibits then Tuesday, May 13) on which the clean-up shall occur;
 - b. The date shall not be less than seven (7) days before notice is effected;
 - c. The agency responsible for the clean-up;
 - d. That the items will be stored for at least one (1) year and if unclaimed within that time will be disposed of;
 - e. The location and address where the collected items are stored and where they may be re-claimed;

- f. The hours and days of the week during which the items may be re-claimed;
 - g. The date the notice was given;
 - h. A telephone number to call for more information about the clean-up, missing items and/or re-claiming collected property.
4. Nothing in this agreement prohibits City employees from immediately removing unattended items that are obstructing public passageways, like streets and sidewalks, or from disposing of items that pose a public safety or health risk.
- a. If items are removed due to obstruction or public health or safety, the City shall follow the procedures set forth in paragraphs C.3 through C.11, infra, which govern the removal and collection of personal items and possessions from public property.

C. PROCEDURES FOR COLLECTING PERSONAL ITEMS DURING GENERAL CLEAN-UP OF PUBLIC PROPERTY

- 1. The clean-up shall take place only on the date or dates specified in the seven-day-advance notice, paragraph B, supra.
- 2. Unless there is a public health or safety emergency, or an obstructed passageway needs to be cleared, the City

shall conduct clean-ups only on Mondays or Tuesdays.

3. If an item is deemed to be a health or safety hazard, and cannot or should not be stored, it may be disposed of immediately, notwithstanding any other provision in this Agreement.
4. Items that are not refuse are to be placed in large transparent plastic bags, properly tagged, see paragraph 8, infra., and taken to the designated storage area.
5. Items that are not refuse may include radio's, audio and video equipment, bed rolls, tarps, foam, canvas, mats, blankets, pillows, medication, personal papers, photographs, books and other reading materials, luggage, backpacks or other storage containers, clothing, towels, shoes, toiletries and cosmetics, clocks and watches, eye glasses and bagged recyclables. If the property is stored in a manner that suggests the owner intended to keep it, the employee should not assume that it is refuse. If the employee is in doubt, the item should be stored rather than thrown away.
6. Refuse may be disposed of immediately. Refuse includes, but is not limited to, paper refuse, food remains, empty glasses, bottles or cans unless obviously gathered for recycling purposes.

7. Non-refuse items are to be placed in large transparent plastic bags. Every effort should be made to place all items from each camp or sleep site into a separate bag.
8. The employee should complete an inventory of the items and tag the bag with the date, general location (e.g., Point State Park) and specific area (e.g., right of Portal Bridge) where the items were collected.
9. If the owner is with his or her property, or he or she returns while the items are being gathered for storage, the City employee shall permit the owner a reasonable time to remove the items. If the owner refuses to remove the items, or does not comply within a reasonable time, the employee shall continue with removal in accordance with the procedures outlined herein.
10. Disputes made by an individual claiming ownership over a non-refuse item will be resolved by a supervisor.
11. After items are collected, a pre-printed notice shall be left at each collection site informing affected people that the City has collected items from this location and stating where and when the items can be re-claimed.

D. PROCEDURES FOR RETURN OF PROPERTY

1. People inquiring about lost, removed or collected items should be referred to the storage area.
2. The City shall maintain a secure storage area at the Southside Boat House (located on Pittsburgh's South Side at the intersection of South 4th Street and the Pittsburgh and Lake Erie Railroad tracks, Pittsburgh, PA, 15203), where collected items shall be taken and stored under terms of this Agreement.
3. The storage area shall be open for people to claim collected items as follows:
 - a. The first Tuesday of every month, between the hours of 1:00 and 4:00 p.m. If the first Tuesday falls on a holiday, the storage area will be open the following day during the same hours.
 - b. Additionally, the storage area shall be open from 1:00 to 4:00 p.m. on the three business days following a general clean-up; and
 - c. Finally, in cases of medical emergency, people can contact the number on the notice form to arrange for a special pick-up.
4. Collected items shall be stored free of charge.
5. When a person comes to retrieve the collected items, he or she must identify them. The employee may not

require the person to show personal identification, but the person must be able to identify key items. The log should reflect that the person has re-claimed his or her property.

6. All stored items that are not claimed within one (1) year shall be made available for donation or disposed of as appropriate.

E. MISCELLANEOUS

1. The City shall adopt regulations to implement this Agreement and to guide City employees. The City shall consult with HOCC when devising the policy. The HOCC will help the City, inter alia, describe ways to distinguish active homeless camps from refuse.
2. The City of Pittsburgh reserves the right to petition this Court during the terms of this Agreement if circumstances arise that impede or prevent the City from performing its obligations under this Settlement Agreement, or if there is a material change in the law. Accordingly, the City may file a motion with this Court requesting that the Court issue an order staying or modifying its obligations under the Settlement Agreement. After due consideration, including a response from Plaintiffs' counsel, the Court may grant,

modify or deny such request.

3. If Plaintiffs believe that the City has failed to comply with any provision in this Settlement Agreement, Plaintiffs shall give written notice of the deficiencies to the City Solicitor. The parties shall have twenty-one (21) days following receipt of the notice to attempt to reach a written agreement resolving the dispute. If a written agreement is not reached within that time, Plaintiffs may seek to enforce in this Court the terms of this Settlement Agreement by way of motion for specific enforcement or contempt.
4. The parties agree that this Settlement Agreement shall remain in effect for three (3) years from this date, unless this Court has ruled within one (1) year of the Agreement's expiration date that the City is not in compliance with the Agreement's terms or is in contempt of the Agreement, in which case the Agreement will terminate one (1) year after the Court has certified that the breach or contempt has been cured.
5. Plaintiffs dismiss, without prejudice, all claims for damages raised in the Verified Class Action Complaint.
6. The parties shall bear their own costs and attorneys' fees.

7. The parties consent to this Court's jurisdiction to the extent that any party may seek to enforce this settlement agreement.
8. Plaintiffs do not waive, and expressly reserve, their right to recover reasonable costs and attorneys' fees to enforce this Settlement Agreement.
9. The Clerk shall mark this case closed and discontinued.

FURTHER THE PARTIES SAYETH NOT.

AGREED TO THIS _____ DAY OF _____, 2003.

For Plaintiffs

For Defendants

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APPROVED THIS _____ DAY OF _____, 2003,

Hon. Donetta W. Ambrose
Chief U. S. District Court Judge

Appendix 1