

Los Angeles Blocked from Seizing and Destroying Homeless Individuals' "Bulky Items"

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The City of Los Angeles must stop enforcing its ordinance that authorizes employees to seize and destroy homeless individuals' "Bulky Items" stored on public property.

Pursuant to an ordinance that limits the storage of personal property on public streets, sidewalks, and other areas, the City was conducting cleanups of homeless encampments, sometimes without prior notice to the residents. Cleanups included removal and destruction of residents' "Bulky Items." A "Bulky Item" is any item, except a tent, bicycle, wheelchair, walker, or crutch, that is too large to fit in a container the size of a typical curbside-pickup trash bin. Bulky Items need not be stored by the City, and pre-removal notice is only required if the item is "designed to be used as a shelter." The ordinance also makes it a misdemeanor to resist or obstruct enforcement. City employees often threw Bulky Items directly into a trash compactor, without allowing the owners to move items to another location.

In *Garcia v. City of Los Angeles*, advocacy organizations and individuals whose possessions were destroyed challenged the "Bulky Items provision" as violating the Fourth Amendment's protection against unreasonable seizures and the Fourteenth Amendment's right to procedural due process. Last week, a panel of the Ninth Circuit Court of Appeals affirmed the federal trial court's issuance of a preliminary injunction to prohibit the City from enforcing the provision.

One of the factors courts weigh when considering a preliminary injunction is the challenger's likelihood of success on the merits of their claim. In this case, the Ninth Circuit pointed to its 2012 decision in *Lavan v. City of Los Angeles*, where it held that the City's practice of destroying personal property left unattended on sidewalks violated the Fourth Amendment. The court found "no meaningful distinction" between the practice at issue in *Lavan* and the City's enforcement of the Bulky Items provision. Therefore, the court concluded that the plaintiffs were likely to succeed on their constitutional claim.

Garcia serves as a reminder to cities carrying out encampment cleanups that proper notice of the cleanup must be provided, and that seized items must be stored to allow owners to reclaim their property except in very limited circumstances.

If you have any questions about the decision or your agency's procedures, please contact **Casey Strong** or **Brendan Kearns**.