

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

FILED / ENDORSED

AUG 25 2022

By J. Baker, Deputy Clerk

DATE/TIME	August 24, 2022 9:00 a.m.	DEPT. NO	21
JUDGE	HON. SHELLEYANNE W. L. CHANG	CLERK	
<p>AREA CONGREGATIONS TOGETHER; SACRAMENTO HOUSING ALLIANCE; ORGANIZE SACRAMENTO; ACRAMENTO REGIONAL COALITION TO END HOMELESSNESS; and SACRAMENTO HOMELESS UNION,</p> <p style="text-align: center;">Petitioners and Plaintiffs,</p> <p>v.</p> <p>CITY OF SACRAMENTO, a Charter City; HOWARD CHAN, City Manager, in his official capacity; MINDY CUPPY, Sacramento City Clerk, in her official capacity; COURTNEY BAILEY- KANELOS, Sacramento County Registrar of Voters, in her official capacity,,</p> <p style="text-align: center;">Respondents and Defendants.</p>		<p>Case No.: 34-2022-80003928</p>	
Nature of Proceedings:		RULING ON SUBMITTED MATTER RE: PETITION FOR WRIT OF MANDATE	

This matter came on for an emergency hearing to address a petition for writ of mandate concerning election matters on August 24, 2022 at 9:00 a.m. The Court has reviewed the written as well as oral arguments of the parties. The Court now issues its ruling on submitted matter. The petition for writ of mandate is **DENIED**. Petitioners have not clearly demonstrated a likelihood of success on the merits, and review is disfavored in advance of an election absent patently unconstitutional or otherwise illegal provisions.

The Court understands that the issues involved in this matter are complex and that opinions both in favor of and in opposition to the proposed Emergency Shelter and Enforcement Act of 2022 (the “ordinance”) are strong. However, the sole issue before the Court at this juncture is whether it is appropriate for the Court to engage in pre-election review, and prohibit the proposed ordinance from proceeding to the voters.

“As a general rule it is usually more appropriate to review constitutional and other challenges to ballot propositions or initiative measures after an election rather than to disrupt the electoral process by preventing the exercise of the people’s franchise, in the absence of some clear showing of invalidity.” (*Costa v. Superior Court* (2006) 37 Cal.4th 986, 1006)(citations

omitted.) “The ballot box is the sword of democracy. A Court will intervene in the...process only when there are clear, compelling reasons to do so.” (*Zaremborg v. Superior Court* (2004) 115 Cal.App.4th 111, 116)(citations omitted.)

Petitioners carry the burden of demonstrating that the proposed ordinance is facially invalid, such that to allow it to proceed to a decision by the voters is a “useless expenditure of money.” (*Citizens for Responsible Behavior v. Superior Court* (1991) 1 Cal.App.4th 1013, 1023.) Petitioners have not carried this burden. The Court has concerns about whether the ordinance’s proposed “emergency shelters” will in fact comply with *Martin v. City of Boise* (9th Cir. 2019) 920 F.3d 584. *Martin* does refer to “sleeping indoors” and refers to the need for beds “in shelters.” These terms are not defined by *Martin*, and it is unclear, based on the limited time, record, and briefing currently before the Court on this emergency matter, whether *Martin* applies in the present circumstances, and if it does, whether what the “Emergency shelter space” the ordinance proposes to provide violate *Martin*.

This leads the Court to its finding that these issues can be litigated post-election, and perhaps be the subject of a temporary restraining order at that time, if necessary and the appropriate showing is made. If the ordinance is passed by the voters it will take time to implement, and only becomes operative upon the City and the County approving a legally-binding memorandum of understanding concerning their respective roles to “improve the homelessness crisis.” There will certainly be enough time for judicial intervention postelection.

At the hearing on this matter, Petitioners raised concerns about the vagueness of the MOU. The Court notes that this argument is not identified anywhere in the petition, and that Petitioners were unable to provide a citation to any case law or other authority demonstrating that such facts rise to the level of being so vague as to prohibit its placement on the ballot.

At the hearing on this matter, Petitioners also raised the argument that the ordinance is an illegal delegation of the City’s police powers and thus, unconstitutional, preventing it from being placed on the ballot. This argument was not addressed in the petition or the briefing Petitioners submitted and thus, deprived Respondents of the ability to address it. Furthermore, at hearing Petitioners did not provide a citation to any case law or other authority to support these concerns.

Because of the compressed time frame of this matter, the Court was unable to consider the application for leave to file as Amicus Curiae and proposed amicus brief filed by Sacramentans for Safe and Clean Streets and Parks, Sacramento Metropolitan Chamber of Commerce and Sacramento Region Builders. Accordingly, the Court takes no action on this application. These organizations may apply as amicus curiae in any future proceedings concerning the ordinance at issue at which time the Court will consider their application.