

North Ave. homeless campers, ACLU sue Burlington

Jess Aloe, Burlington Free Press

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(Photo: KEVIN HURLEY/for the Free Press)

Three homeless men living at a North Avenue camp that Burlington officials planned to disband had the American Civil Liberties Union's local chapter file a lawsuit on their behalf requesting an emergency order to halt the eviction.

On Friday afternoon, Judge Geoffrey W. Crawford granted the temporary restraining order, prohibiting the city from disbanding the camp. The order lasts until Wednesday morning, when a hearing is scheduled.

Crawford granted the order before the city was able to respond, but wrote that the affidavits of the named plaintiffs were sufficient to establish that the men faced "immediate and irreparable loss through the threatened seizure and disposal of their belongings, the loss of their temporary home sites, and the threat of criminal

prosecution."

ACLU of Vermont lawyers filed on Friday morning in federal court the request along with the class-action lawsuit challenging the constitutionality of the city's disbandment of homeless camps.

Lawyer Jay Diaz, along with two other lawyers, filed on behalf of Brian Croteau, Larry Priest and Richard Pursell, who currently live in a camp that was slated for removal on Monday.

More coverage of homeless camps in BTV:

- [Sears Lane homeless campers evicted after delays \(/story/news/2017/10/19/burlington-halts-homeless-camp-clearing-due-property-storage-concerns/780011001/\)](/story/news/2017/10/19/burlington-halts-homeless-camp-clearing-due-property-storage-concerns/780011001/)
- [Homeless campers face eviction, full shelters \(/story/news/2017/10/06/homeless-campers-face-eviction-full-shelters/735619001/\)](/story/news/2017/10/06/homeless-campers-face-eviction-full-shelters/735619001/)
- [City serves homeless campers an eviction notice \(/story/news/2017/09/19/city-serves-homeless-campers-eviction-notice/682394001/\)](/story/news/2017/09/19/city-serves-homeless-campers-eviction-notice/682394001/)

The filed complaint argues that the city's removal of camps punishes homeless people for basic human needs like sleeping and violates the Eighth Amendment of the U.S. Constitution, which prohibits cruel and unusual punishment. The complaint also argues that by threatening to seize property, the city is violating the Fourth Amendment, which prohibits unreasonable search and seizure.

City Attorney Eileen Blackwood said on Friday afternoon that the city does not agree with the ACLU's constitutional analysis nor the facts of the case. She said they plan to file responses with the court arguing against both the temporary restraining order and the broader lawsuit.

"The city's belief and understanding is that the people being asked to move do have other locations to move to," she said, referring to other wooded areas.

The location of the camp is being managed as an urban wild, Blackwood said, and is designated as a "rare pine-oak heath sand plain forest." The area is a wildlife corridor and has a sand bluff that is highly susceptible to erosion, she said.

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She said the city does not prohibit people from sleeping in the woods and only disbands camps when there are health and safety issues. She added that Burlington has the right to enforce zoning, health and safety rules.

"What the ACLU is seeking is really broad," she said. She said if the ACLU's proposed temporary restraining order is granted, the city would have to allow a homeless person to set up a camp on property anywhere.

On Thursday, the city moved to disband a camp in the city's South End after nine days of delays. Burlington Police Chief Brandon del Pozo said the city had been stalled in its efforts to figure out storage for property.

Documents obtained by the Burlington Free Press show that the city had discussed removing the camp as early as July 2017, when Burlington Police Department community affairs liaison Lacey-Ann Smith confirmed with Burlington College developer Eric Farrell that he had given the city permission to move forward with the removal procedure.

On Friday afternoon, Farrell said that the city had called him to ensure he had no problems with the camp's removal. Though Smith referred to the property as "jointly-owned," Farrell said he believed the city owns the property where the camp is currently located.

In statements filed with the court, Croteau said he has been homeless since 2016. He stated that he has unsuccessfully attempted to seek a bed in the city's emergency shelters.

"I last contacted COTS and ANEW Place on October 19, 2017 to inquire about a shelter bed. On the phone, the COTS' representative told me that their respective shelter was at capacity. ANEW Place did not respond," Croteau wrote.

He said the North Avenue camp is one of the only places where he feels safe.

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Stephen Marshall, advocate for homeless and a former resident of a camp in a patch of woods off Sears Lane in Burlington's South End, watches and waits for a warned action by the city to clear out the camp on Tuesday morning, Oct. 10, 2017. Despite plans to start work at 8 a.m. and the brief presence of a few DPW trucks, an hour later, no action had been taken. (Photo: RYAN MERCER/FREE PRESS)

In a court filing, Stephen Marshall, a homeless advocate who is a voting member of the Chittenden County Homeless Alliance's steering committee, estimated about 30 people live in camps throughout Burlington.

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