

Impact of Increased Homelessness on Safety

Homeless individuals sleeping or camping in public spaces surrounding businesses may pose health or safety concerns to customers and employees, and can block store entrances. Cities throughout California have different laws regarding specific enforcement policies on these issues. However, recent court decisions that bind the state of California have greatly limited law enforcements' capabilities to relocate homeless individuals and their belongings from public spaces.

Homeless Individuals Sleeping or Resting in Public Spaces

In 2018, the 9th Circuit Court of Appeals held in *Martin v. City of Boise* that the City of Boise's prohibition against sleeping in public violated the Eighth Amendment when no alternative shelter was available. *Martin v. City of Boise*, 920 F.3d 584, (2019). This case reinforced the idea that cities in California cannot enforce ordinances that criminalize sitting, sleeping, or lying in public spaces when alternative shelter space is not available in the jurisdiction.

What this means for business owners: Business owners who are concerned about homeless individuals sleeping or camping in public spaces surrounding their business should contact local law enforcement, who may be able to request that the individual(s) relocate. However, *Martin v. Boise* makes clear that law enforcement in California cannot require homeless individuals to relocate from public spaces if shelter space within the jurisdiction is unavailable.

Homeless Individuals' Property & Encampments on Public Property

Homeless encampments have become more prevalent within cities, and can pose serious health and safety concerns for the public and for business owners. The encampments can block both sidewalks and entrances to businesses, and can also pose health concerns due to inadequate sanitation and accumulation of trash.

In 2012, the 9th Circuit Court of Appeals held in *Lavan v. City of L.A* that the City of L.A. had violated homeless individuals' Fourteenth Amendment rights by seizing and destroying the individuals' un-abandoned property left in public spaces. *Lavan v. City of L.A.*, 693 F.3d 1022, (2012). The court held that the individuals' personal property could not be destroyed without providing notice and the opportunity to be heard.

What this means for business owners: If business owners want to remove encampments and personal property owned by homeless individuals that are left in public spaces, the business owners should contact enforcement officers. These enforcement officers can provide the homeless individuals with advance notice that the property needs to be moved, and if the property is not removed within the time frame provided, the officers may be able to remove the property.

A Creative Solution

In 2020, the California city of Elk Grove began funding a program in which homeless individuals receive \$20 gift cards to grocery stores for cleaning up their homeless encampments. The city's homeless outreach officer explained that the program greatly improved the cleanliness of public spaces, and the relationships between community members, and the homeless population. Business owners interested in participating in a similar program should research their local government to see if such a program exists, or find out if their local government is willing to sponsor such a program.

Strategies for Addressing Homelessness: League of CA Cities "Guide"

Link: https://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2019/Summer-Webinar-2019/Strategies-for-Addressing-Homelessness-Webinar_FIN.aspx