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THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LISA HOOPER, BRANDIE OSBORNE,  
KAYLA WILLIS, individually and on behalf of  
a class of similarly situated individuals; THE  
EPISCOPAL DIOCESE OF OLYMPIA;  
TRINITY PARISH OF SEATTLE; REAL  
CHANGE,

Plaintiffs,

vs.

CITY OF SEATTLE, WASHINGTON;  
WASHINGTON STATE DEPARTMENT OF  
TRANSPORTATION; ROGER MILLAR,  
SECRETARY OF TRANSPORTATION FOR  
WSDOT, in his official capacity,

Defendants.

No. 2:17-cv-00077-RSM

AMENDED COMPLAINT—CLASS  
ACTION FOR DECLARATORY AND  
INJUNCTIVE RELIEF

AMENDED COMPLAINT—CLASS ACTION FOR  
DECLARATORY AND INJUNCTIVE RELIEF  
(2:17-cv-00077-RSM)

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1 **I. INTRODUCTION**

2 1. Plaintiffs Lisa Hooper, Brandie Osborne, Kayla Willis, the Episcopal Diocese  
3 of Olympia, Trinity Parish of Seattle, and Real Change, by and through counsel, bring this  
4 class action challenging the ongoing policy and practice of the City of Seattle (the “City”) and  
5 the Washington State Department of Transportation (“WSDOT”) (together the “Defendants”)  
6 of seizing and destroying the property of people who are living outside without adequate and  
7 effective notice, an opportunity to be heard, or a meaningful way to reclaim any property that  
8 was not destroyed. This practice is commonly referred to as “sweeping” or “sweeps.”<sup>1</sup>

9 2. Each year, more and more City of Seattle residents are forced to live outside on  
10 public property. According to the Seattle/King County Coalition on Homelessness  
11 (“SKCCH”), on a given night in January 2016, more than 2,942 Seattle residents were found  
12 trying to survive one of the coldest months of the year outdoors. Of this population,  
13 approximately 900 had a vehicle to sleep in, leaving roughly 2,000 Seattle residents with no  
14 shelter but what they could build for themselves or find in the form of existing structures,  
15 such as under roadways. It is estimated that even more individuals are forced to live outside  
16 on public property in 2017.

17 3. Pursuant to official policies and longstanding practice sanctioned by their  
18 policymakers, Defendants have embarked upon a program of seizing and destroying the  
19 property of people living outside, in a process referred to as “sweeps,” or “clean ups.”  
20 Defendants conducted more than 1000 of these sweeps in the past two years alone.

21 4. These sweeps target Plaintiffs and the communities in which they live.  
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<sup>1</sup> “Sweeping” or “sweeps” refers to Defendants’ act of removing and/or destroying the property of people who live outside.

1           5. Pursuant to these policies and practices, Defendants remove and destroy  
2 unhoused peoples' property without a warrant, probable cause, adequate notice, an ability to  
3 be heard, or a meaningful opportunity for people to retrieve their possessions.

4           6. Defendants' actions deprive people living outside of personal belongings that  
5 are critical to their survival, such as: clothing, tents, cooking utensils, and medication;  
6 important personal possessions, such as identification documents; tools necessary for their  
7 profession; and irreplaceable mementos, including family photographs and heirlooms.

8           7. For example, Plaintiff Lisa Hooper has suffered the loss of irreplaceable family  
9 photos and mementoes, important legal paperwork, a mattress, clothing, and several shoes—  
10 leaving her without a matching pair—because of previous sweeps conducted by Defendants  
11 pursuant to a policy with no end in sight.

12           8. Plaintiff Brandie Osborne has also suffered the loss of medication, cooking  
13 utensils, clothing, blankets, sleeping bags, and important documents like applications for work  
14 and housing as well as medical paperwork.

15           9. Plaintiff Kayla Willis has suffered the loss of clothing, tents, blankets, and  
16 cooking utensils.

17           10. Other individuals living outside have lost nearly everything they own but the  
18 belongings on their back as a result of Defendants' sweeps.

19           11. The consequences are devastating. Defendants' conduct leaves an already  
20 vulnerable population at imminent and significantly increased risk of harm from exposure and  
21 want. It makes it more difficult for people living outside to break out of the cycle of  
22 homelessness, as time they could spend working or looking for employment or taking care of  
23 their affairs is by necessity spent instead on replacing essential items like identification and  
24 bedding. It also makes it harder for people living outside to keep appointments for housing  
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1 programs and other services, especially when they lose legal papers and housing application  
2 forms in sweeps, causing individuals to suffer additional delay in their ability to get housing  
3 and other services. And it takes a substantial emotional toll.

4 12. Plaintiffs live in constant fear that all of their remaining possessions will be  
5 seized by Defendants, who have publicly committed to not only continuing their on-going  
6 policies and practices, but expanding their authority to engage in sweeps throughout the City  
7 without notice.

8 13. Defendants' policies and practices are not only unnecessarily cruel, they are  
9 also illegal: they violate Plaintiffs' (1) right to protection from unreasonable search and  
10 seizure under the Fourth Amendment of the U.S. Constitution; (2) right to protection from  
11 invasion of homes and privacy under Article I, Section 7 of the Washington State  
12 Constitution; (3) right to procedural due process under the Fourteenth Amendment of the U.S.  
13 Constitution; and (4) right to procedural due process under Article I, Section 3 of the  
14 Washington State Constitution.

15 14. Despite this pending litigation, Defendants have doubled down on their  
16 unconstitutional actions and policies.

17 15. Rather than taking time to evaluate their policies and practices, or to provide  
18 necessary training for their employees, Defendants have conducted numerous sweeps  
19 throughout the City since this lawsuit was filed on January 19, 2017.

20 16. These sweeps include one on January 26, 2017, in which Defendants arrived at  
21 Plaintiff Brandie Osborne's home without any notice, and gave her 30 minutes to pack up  
22 everything she owned. Defendants told Ms. Osborne that not only were they not required to  
23 provide her any notice, but that any belongings she was not able to move immediately would  
24 be considered garbage. As a result, Ms. Osborne lost even more of her property at the hands  
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1 of WSDOT and the City, such as clothing, food, tools, dishes, a fire pit and firewood, a tent,  
2 tarps, blankets, and sleeping bags.

3 17. During a number of the sweeps conducted after this lawsuit was filed,  
4 Defendants failed to provide notice regarding the storage of property and instead posted  
5 notices that all property in the area was subject to destruction if not removed prior to the  
6 sweep. Defendants additionally failed to conduct at least one sweep on the day it was actually  
7 posted for and Defendants did not provide a new notice for the date on which the sweep  
8 would actually occur. During at least two sweeps, Defendants also destroyed property of  
9 unhoued residents living outside by slashing tents and physically breaking belongings.

10 18. On January 31, 2017, the City also proposed new rules that would enable  
11 Defendants to more frequently engage in sweeps, with greater discretion and fewer controls  
12 than provided for by their previous official policies. The City drafted these proposed rules  
13 without seeking any input from Plaintiffs or their counsel.

14 19. Whatever rules Defendants ultimately adopt, their repeated and ongoing  
15 conduct even in the face of pending litigation demonstrates that they will continue to violate  
16 Plaintiffs' constitutional rights unless and until a Court intervenes. Indeed, Defendants'  
17 Replies in Opposition to Plaintiffs' Motion for a Temporary Restraining Order explicitly  
18 concede that "the City does not contend that each and every clean-up over a multi-year period  
19 has been conducted perfectly," (pg. 18, City's Opposition to Motion for Temporary  
20 Restraining Order and Preliminary Injunction). Defendants further note that the City finds it  
21 "difficult to discern whether a given item remaining on-site is trash or intended for future  
22 use," (pg. 17, City's Opposition to Motion for Temporary Restraining Order and Preliminary  
23 Injunction) that "Plaintiffs appear to have a fundamental disagreement with WSDOT and the  
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1 City about what is trash and what is property,” (pg. 13, WSDOT’s Opposition to Motion for  
2 Temporary Restraining Order and Preliminary Injunction).

3 20. Additionally, WSDOT notes that it routinely disposes of “dirty clothing” and  
4 “urine soaked or infested bedding, and moldy clothing.” (pg. 10 WSDOT’s Opposition to  
5 Motion for Temporary Restraining Order and Preliminary Injunction), and that WSDOT  
6 threw away items belonging to Ms. Osborne that included “wet, dirty clothes, [and] an old  
7 pan.” (pg. 8, WSDOT’s Opposition to Motion for Temporary Restraining Order and  
8 Preliminary Injunction).

9 21. The City has also clarified that it considers “an unorganized pile of bagged and  
10 unbagged wet debris, kitchen and paper waste . . . refuse, without opening each closed bag,”  
11 that it will not store “soaking wet fabrics,” that “the entire contents of a disorganized dry tent  
12 littered with hypodermic needles, bedding and clothing would not be stored because it would  
13 not be safe to handle soft objects with sharps in them,” and that “depending upon the  
14 condition of the tent, it might be stored or it might disposed of.” (Declaration of C. Potter In  
15 Support of City’s Opposition to Plaintiff’s Motion for Temporary Restraining Order at ¶ 19).

16 22. WSDOT has also stated that it routinely disposes of items including “bed bug  
17 ridden wet mattresses, scrap metal parts from bicycles, . . . broken wicker baskets, broken  
18 milk crates, moldy clothing, smashed corrugated boxes and box parts, soiled and ripped tarps,  
19 soiled carpet remnants, ripped plastic sheets, wet clothing, wet tents, and plastic containers  
20 filled with stagnant water.” (Declaration of L. Pascubillo In Support of WSDOT’s Response  
21 to Plaintiff’s Motion for Temporary Restraining Order ¶ 5).

22 23. The fact that the belongings of Plaintiffs and others who are also unhoused are  
23 not pristinely clean or brand new from the sporting goods store; that their clothing and  
24 bedding are often wet from exposure to the elements (and may mold as a result); and that their  
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1 cooking utensils are old, their tents are tattered, and many items are broken or otherwise in  
2 poor condition should not come as a surprise: they are, after all, living outside. Defendants’  
3 submissions in this case confirm what Plaintiffs have long known, that Defendants have no  
4 respect for their property rights because they view these possessions as nothing more than  
5 garbage. The City’s apparent concession that it has not conducted every sweep “perfectly” is  
6 of little consolation to those who have lost their life’s possessions in a process that  
7 systematically and routinely permits sweeps that result in the summary destruction of personal  
8 property.

9 24. Plaintiffs seek a declaratory judgment that Defendants’ policy and practice of  
10 confiscating and/or destroying the personal property of people living outside without a  
11 warrant, probable cause, an opportunity to be heard, a meaningful opportunity to reclaim  
12 property, and/or requisite procedural due process is unlawful under the federal and state  
13 constitutions.

14 25. Plaintiffs also seek appropriate injunctive relief enjoining Defendants’ use of  
15 sweeps until Defendants adopt and implement procedures that respect Plaintiffs’  
16 constitutional rights.

17 26. If Defendants insist upon seizing and destroying personal property of unhoused  
18 people living outside in Seattle, Plaintiffs—like all property owners in this country—have a  
19 right to adequate and effective notice and an opportunity to be heard before their property is  
20 taken by the government. These rights are not implicated by policies and procedures that  
21 provide true “clean up” services, such as regularly scheduled garbage pickups from  
22 designated garbage bins (like those provided to other City residents) that do not involve the  
23 seizure and destruction of personal property.



1 determine which items were absolutely necessary for survival to take with her, and which she  
2 had to leave. Defendants seized and/or destroyed the property Ms. Hooper was forced to  
3 leave behind, including the only photos she had of her three daughters, her children's baby  
4 teeth that she had been saving for about 20 years, important legal paperwork, a mattress,  
5 clothing, matching shoes, antibiotics, and a family Bible that had information on her family  
6 history going many generations back, among other items.

7 33. Having to repeatedly and on short or no notice move all her belongings to  
8 avoid their confiscation and destruction has imposed significant hardship upon Ms. Hooper  
9 and limits her ability to be away from her property to deal with personal affairs for fear that  
10 the property will have been seized by Defendants in her absence.

11 34. Defendants' refusal to provide effective and adequate notice has left Ms.  
12 Hooper with great uncertainty as to where it is safe to live and keep her belongings. For  
13 example, in January 2017, WSDOT and City personnel conducted a sweep of the area where  
14 Ms. Hooper and her partner live. Defendants posted no prior notice in the area, posting only a  
15 single notice far north of where Ms. Hooper lived. WSDOT then cleared only part of the area  
16 the notice described, and refused to provide information about whether and/or when the area  
17 she lived in would be swept.

18 35. Ms. Hooper lives in constant fear that she will lose her home and everything  
19 she owns in one of Defendants' future sweeps.

20 36. Ms. Hooper is even more fearful now than when the original complaint was  
21 filed that she will lose her home and everything she owns in one of Defendants' future sweeps  
22 without any notice. Defendants' newly proposed rules would enable the City to designate  
23 particular areas that have been previously swept as "emphasis areas," wherein camping is  
24 completely prohibited and Defendants are not required to provide *any* notice before removing  
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1 people and their property from the area. Ms. Hooper's home has been subject to sweeps  
2 repeatedly in the past few months.

3 37. Plaintiff Brandie Osborne is unhoused and lives outside in Seattle,  
4 Washington. For approximately one year and a half, Ms. Osborne resided up the hill from the  
5 intersection of Dearborn Street and the ramp to I-5 North. Ms. Osborne has been forced to  
6 move from there and a multiple other locations in the past few months as a result of  
7 Defendants' sweeps. Ms. Osborne will continue to live outside for the foreseeable future.

8 38. Defendants have conducted roughly four sweeps where Ms. Osborne lives.  
9 Defendants have, on a number of occasions, conducted sweeps of the area without notice.  
10 Ms. Osborne has had possessions confiscated and/or destroyed during these sweeps.

11 39. Because Ms. Osborne has had minimal to no notice of Defendants' sweeps, she  
12 has had to scramble to pack up her entire home and quickly determine which items were  
13 absolutely necessary for survival to take with her, and which she had to leave. Defendants  
14 seized and/or destroyed the property she was forced to leave behind, including important  
15 personal property like tents, tarps, plywood, and landscaping tools; clothing, sleeping pads,  
16 and blankets; a bike and Orca card, an EBT card, important paperwork like phone numbers  
17 and business cards, applications for work and housing and medical paperwork as well as  
18 medication; a Holy Bible, books, reading glasses, and hygiene items; pots and pans, a water  
19 jug, dishes, and food items; a cell phone, flashlights, phone chargers and batteries, garbage  
20 cans, and jewelry. Ms. Osborne's tent was also damaged beyond repair after having to move  
21 it so many times.

22 40. Having to repeatedly move all of her belongings to avoid their confiscation and  
23 destruction has imposed significant hardship on Ms. Osborne, and limits her ability to be  
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1 away from her property to deal with personal affairs for fear that the property will have been  
2 seized by Defendants in her absence.

3 41. Defendants' refusal to provide effective and adequate notice has also left Ms.  
4 Osborne with great uncertainty as to where it is safe to live and keep her belongings. For  
5 example, in December of 2016, WSDOT provided notice of a sweep that would affect the  
6 area where she lives. Ms. Osborne, with the assistance of her neighbors and volunteers,  
7 moved most of her belongings. WSDOT then cleared only part of the area the notice  
8 described, not including the area where Ms. Osborne lived, and refused to provide  
9 information about whether and/or when the area she lived in would itself be swept.

10 42. Over the Martin Luther King holiday weekend in January 2017, Ms. Osborne  
11 saw a notice that the location of her home could be swept on January 19, 2017, and was  
12 forced to move her home again. When Ms. Osborne's partner was moving their camp  
13 however, their tent was taken. The only other individuals present on that day, aside from Ms.  
14 Osborne and her partner, were employees and/or agents of WSDOT.

15 43. Just one week later, on January 26, 2017, WSDOT showed up again at Ms.  
16 Osborne's home, this time without providing any notice. WSDOT employees yelled at Ms.  
17 Osborne outside her tent that she had 30 minutes to move everything she owned from the  
18 area; anything she left behind would be considered garbage. Ms. Osborne replied that it was  
19 not possible to move all of her property in 30 minutes, but was told that it did not matter.  
20 When Ms. Osborne told WSDOT she never received notice that her home would be swept,  
21 she was told that it did not matter, and that Defendants were not required to provide notice.  
22 Ms. Osborne was able to secure help in moving a number of her belongings from a friends'  
23 mother, but was still forced to leave many of her possessions behind, including a bike,  
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1 clothing, food, dishes and tools, a fire pit and firewood, tent, tarps, blankets and sleeping  
2 bags. These items were destroyed by WSDOT.

3 44. Ms. Osborne lives in constant fear that she will lose her home and everything  
4 she owns in one of Defendants' future sweeps.

5 45. Ms. Osborne is even more fearful now than when the original complaint was  
6 filed that she will lose her home and everything she owns in one of Defendants' future sweeps  
7 without any notice. This is because of Defendants' newly proposed rules would enable the  
8 City to designate particular areas that have been previously swept as "emphasis areas,"  
9 wherein camping is completely prohibited and Defendants are not required to provide *any*  
10 notice before removing people and their property from the area. Ms. Osborne's home has  
11 been subject to sweeps repeatedly in the past few months and she has had to move to another  
12 outdoor location at least three times since this original complaint was filed.

13 46. Plaintiff Kayla Willis is unhoused and lives outside in Seattle, Washington, on  
14 the hill between the I-90 and I-5 overpass ramps. Ms. Willis has lived outside in that location  
15 for a few weeks now, and maintains a home with her male partner. Ms. Willis has lived  
16 outside for approximately three years in the City. Ms. Willis and her partner will continue to  
17 live outside for the foreseeable future.

18 47. Defendants have conducted approximately eight sweeps in locations where  
19 Ms. Willis and her partner have lived. Defendants have, on a number of occasions, conducted  
20 sweeps of the area without adequate notice. Ms. Willis has had many of her possessions  
21 confiscated and/or destroyed during Defendants' sweeps, including clothing, tents, blankets,  
22 and cooking utensils.

23 48. Having to repeatedly and on short or inadequate notice move all her  
24 belongings to avoid their confiscation and destruction has imposed significant hardship upon  
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1 Ms. Willis. For example, Ms. Willis has epilepsy, and the stress of having to pack everything  
2 she owns and prepare for pending sweeps frequently triggers seizures. Ms. Willis and her  
3 partner also both have disabilities that make it difficult to move all of their property,  
4 particularly with only a few days notice or less.

5 49. Defendants’ refusal to provide effective and adequate notice has left Ms. Willis  
6 with great uncertainty as to where it is safe to live and keep her belongings.

7 50. Ms. Willis lives in constant fear that she will lose her home and everything she  
8 owns in one of Defendants’ future sweeps.

9 51. Plaintiffs bring this suit on behalf of themselves and all other similarly situated  
10 unhoused persons who live outside.<sup>2</sup>

11 **B. Organizational Plaintiffs**

12 52. Plaintiff Diocese of Olympia is a diocese of The Episcopal Church in  
13 Washington State. It is comprised of “more than 26,000 Episcopalians in more than 100  
14 worshipping communities throughout Western Washington.” Diocese congregations include  
15 numerous members who are unhoused. The mission of the Diocese of Olympia is to “build  
16 strong communities of faith.” To accomplish its mission, among other things, the Diocese of  
17 Olympia assists congregations with their development and work, including strengthening the  
18 stewardship of available resources. For example, the Diocese offers training, grants,  
19 resources, and other programs to its member churches.

20 53. There are a number of churches in the City of Seattle that are members of the  
21 Episcopal Diocese, including St. Luke’s Episcopal Church and Trinity Parish of Seattle.

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23 \_\_\_\_\_  
24 <sup>2</sup> “Unhoused” refers to all individuals who lack fixed, stable, or adequate shelter or housing. While  
25 the term “homeless” is often utilized to refer to this population, we use the term “unhoused” because  
people who lack permanent or stable housing still have homes in which they sleep and go about their  
private affairs.

1 Many of these churches, as an integral part of their mission and ministry, provide services to  
2 unhoused people in Seattle.

3 54. For example, St. Luke's Episcopal Church in Ballard operates a Meals  
4 Ministry called Edible Hope, wherein the church and its congregation serve a hot breakfast  
5 five days a week to approximately 150-180 people each day, 90 to 95 percent of whom are  
6 homeless. The church also co-sponsors a program called the Bridge Drop In which offers a  
7 number of drop in services to unhoused individuals, including counseling, and stations for  
8 people to charge their electronics, and operates a shelter on site.

9 55. The confiscation and destruction of the belongings of people living outside has  
10 affected the church's operation in a number of ways. Since Defendants have increased their  
11 use of sweeps, the church has had significantly more unhoused people needing its meal and  
12 Bridge Drop In services. This increased demand has put additional burden on the church's  
13 facilities, and required significant additional church resources. The church is also affected by  
14 Defendants' actions through its membership: approximately 20 percent of the church's  
15 congregation is unhoused.

16 56. Plaintiff Trinity Parish of Seattle is also a member of the Diocese of Olympia.  
17 As a part of its mission, Trinity Parish offers a number of services for unhoused individuals in  
18 Seattle, including a thrift shop in First Hill.

19 57. Trinity Parish operates the Thrift Shop, which receives donations from  
20 community members and also purchases many of the items it sells and/or gives away, as well  
21 as contracts with other entities to meet the needs of the Thrift shop's clientele. In addition to  
22 selling items, the Thrift Shop operates a voucher program for the store wherein people can get  
23 clothing and other necessities they might need, like blankets, coats, sleeping bags, and socks  
24 to survive the cold weather for free. Unhoused residents who live outside throughout the City  
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1 rely upon the Thrift Shop to meet their basic needs. The Thrift Shop hands out approximately  
2 80 to 100 vouchers per week to individuals, many of whom are unhoused and living outside.  
3 In recent years, it has been more difficult for the Thrift Shop to keep up with the number of  
4 individuals who rely on it, and the Thrift Shop frequently runs low or is unable to keep up  
5 with the items many unhoused community residents rely upon, such as blankets, sleeping  
6 bags, and socks. The demand for these types of items has increased in tandem with the City  
7 and WSDOT's increased use of sweeps. The Thrift Shop has seen numerous individuals  
8 who have come in over the last couple of years who have lost everything as a result of  
9 Defendants' sweeps. The Thrift Shop can occasionally provide emergency vouchers for  
10 individuals, or clothing items and necessities, but is often unable to meet the increased  
11 demand for such items. This strain on resources is made all the more difficult by the fact that  
12 the items that the Thrift Shop is able to provide to unhoused individuals are frequently seized  
13 and destroyed by Defendants. The Thrift Shop has had countless individuals return to their  
14 shop after having been provided with clothing or other items who say they have lost  
15 everything in a sweep.

16 58. Plaintiff Real Change exists to provide opportunity and a voice for low-income  
17 and unhoused people while taking action for economic, social and racial justice. Tim Harris  
18 founded Real Change in 1994 and has served as its director since. Real Change's mission is  
19 to offer immediate employment options for the poor and unhoused and challenge the  
20 structures that create poverty. Real Change publishes a weekly newspaper of the same name  
21 that provides employment to about 800 poor and unhoused people annually, who sell the  
22 papers throughout the greater Seattle area. At any given time, about half of Real Change's  
23 vendors are unhoused, and one-third of Real Change's vendors live outside, many in  
24 greenbelts and other encampments throughout the City. The employment that Real Change  
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1 provides to unhoused people, including those living outside, gives them the income they need  
2 to buy food, medicines, clothes, sleeping bags, tents, and other necessities.

3 59. Many of the unhoused vendors living outside who work for Real Change have  
4 been victimized by Defendants' sweeps, which have seized and destroyed valuables like  
5 sleeping bags, medicines, and clothing—items that were purchased with the income they  
6 earned as Real Change newspaper vendors. City and WSDOT employees have also seized  
7 and destroyed irreplaceable mementos and photographs belonging to Real Change vendors,  
8 essential identification papers, and the Real Change newspapers that provide the basis of their  
9 income.

10 60. Defendants' actions have severely disrupted the lives of Real Change vendors,  
11 who are unable to sell papers and earn an income after their property is seized and destroyed  
12 because they must instead devote their time to replacing lost articles. As a result, some  
13 vendors have become unable to work for Real Change, which reduces the organization's  
14 presence on the streets and negatively impacts its fulfillment of its mission, and deprives the  
15 vendors of much needed income.

16 61. To allay the disruption and dislocation that Real Change vendors have suffered  
17 and will continue to suffer as a result of Defendants' sweeps, Real Change staff collects  
18 replacement sleeping bags, coats, and other necessities to give to those Real Change vendors  
19 whose property has been seized by Defendants. Real Change staff also helps those impacted  
20 by the sweeps by connecting them to social service organizations that can help them replace  
21 lost identification and other essential paperwork. Real Change also assists its unhoused  
22 vendors living outside who are caught up in sweeps by providing them access to community  
23 space where they receive emotional and physical support from other vendors, and to  
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1 computers where they can begin the process of replacing their identification and other  
2 documents.

3 62. Real Change has been impacted by Defendants' actions both by and through its  
4 vendors and because it has had to divert organizational resources as a result of Defendants'  
5 sweeps.

6 **C. Defendants**

7 63. Defendant City of Seattle is a political subdivision and municipal corporation  
8 organized under the laws of the State of Washington. The City is a legal entity with the  
9 capacity to sue and be sued. The City of Seattle is sued in its own right and on the basis of the  
10 acts or omissions of its officials, agents, and employees who were following the City's  
11 policies.

12 64. Defendant Washington State Department of Transportation is an agency and  
13 instrumentality of the State of Washington.

14 65. Defendant Roger Millar is the Secretary of Transportation for WSDOT.  
15 Defendant Millar is responsible for implementing and carrying out WSDOT's programs and  
16 policies and is joined to this action in his official capacity only.

17 **IV. CLASS ACTION ALLEGATIONS**

18 66. Pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2), the named Plaintiffs bring this  
19 action individually and on behalf of all other persons similarly situated. The proposed  
20 Plaintiff Class consists of

21 All unhoused persons who live outside within the City of Seattle, Washington and  
22 who keep their belongings on public property.

23 67. The requirements of Rule 23(a) are met because the members of the proposed  
24 Plaintiff Class are so numerous that joinder is impracticable; there are questions of law and  
25 fact common to all members of the proposed Plaintiff Class; the claims of the named

1 Plaintiffs are typical of those of the proposed class members; and the named Plaintiffs will  
2 fairly and adequately protect the interests of the proposed Plaintiff Class.

3 68. The defined class is so numerous that joinder of all plaintiffs is impracticable.  
4 While it is impossible to know the exact number of people living outside in the City of  
5 Seattle, SKCCH found that on a given night, in January 2016, at least 2,000 individuals were  
6 sleeping outside within the City limits. Even more individuals cycle through emergency and  
7 temporary shelters and may find themselves temporarily living outside. Further, in part due to  
8 Defendants' practices and policies, the population of people living outside is transient,  
9 making it difficult to find and identify all class members individually.

10 69. There are questions of law and fact common to the class. These include:

11 a. Whether Defendants have a practice and policy of seizing and destroying  
12 the personal property of people living outside without a warrant, probable  
13 cause, adequate notice, an opportunity to have a meaningful pre- or post-  
14 deprivation hearing, or an opportunity to retrieve vital personal property before  
15 its seizure or destruction;

16 b. Whether Defendants' custom, policy, or practice violates Plaintiffs'  
17 constitutional rights against unreasonable search and seizures under the Fourth  
18 Amendment of the U.S. Constitution;

19 c. Whether Defendants' custom, policy, or practice violates class members'  
20 right to privacy under Article I, Section 7 of the Washington State  
21 Constitution;

22 d. Whether Defendants' custom, policy, or practice violates class members'  
23 constitutional rights to procedural due process under the Fourteenth  
24 Amendment of U.S. Constitution; and  
25

1 e. Whether Defendants’ custom, policy, or practice violates class members’  
2 constitutional rights to procedural due process under Article I, Section 3 of the  
3 Washington State Constitution.

4 70. The claims of the named Plaintiffs are typical of the claims of the Class. The  
5 named Plaintiffs’ claims arise from the same conduct—Defendants’ sweeps—that gives rise  
6 to the absent members’ claims, and the declaratory and injunctive relief requested applies  
7 equally to all members of the Class.

8 71. The named Plaintiffs will fairly and adequately protect the interests of the  
9 Class. Plaintiffs seek to ensure that Defendants respect the constitutional rights of all people  
10 who live outside and/or maintain their belongings on public property. The relief they seek will  
11 benefit all members of the class. The named Plaintiffs have no interests antagonistic to the  
12 interests of the Class.

13 72. Plaintiffs are represented by the ACLU of Washington, which has extensive  
14 experience in civil-rights and class-action litigation and has sufficient resources to diligently  
15 prosecute the claims of the class. Plaintiffs are also represented by the law firm of Corr  
16 Cronin Michelson Baumgardner Fogg & Moore LLP.

17 73. Class certification is proper under Rule 23(b)(2). Defendants have acted in an  
18 unlawful manner generally applicable to all proposed Plaintiff Class members by conducting  
19 sweeps of areas where people living outside reside without a warrant, probable cause,  
20 adequate and effective notice, an opportunity to be heard, or a meaningful opportunity to  
21 retrieve belongings. Defendants’ unlawful acts have caused irreparable injury to Plaintiffs  
22 and the Class including but not limited to the loss of property and emotional damage, and  
23 placed Plaintiffs and the Class at imminent risk of further such injury. Injunctive and  
24 declaratory relief with respect to the entire class is therefore appropriate.

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**V. FACTUAL ALLEGATIONS**

**A. The City's Homeless Population**

74. On November 2, 2015, the City of Seattle Mayor, Edward Murray, declared a State of Emergency (“Declaration”) on homelessness, seeking outside assistance to deal with the alarming number of Seattle residents living without fixed, regular, or adequate housing. Since the Mayor’s Declaration, the number of people living outside in the City has only increased.

75. On January 29, 2016, SKCCH counted approximately 2,942 Seattle residents sleeping and living outside. An estimated 914 of these individuals were found trying to survive the harsh January weather in a car or truck. Shelter for the remaining 2,028 consisted of that which they built for themselves or could find in the form of existing structures such as under roadways. These numbers are always assumed to be an undercount, as they do not include those who have taken great care to stay out of sight, as well those living in encampments SKCCH deemed unsuitable for volunteers to count and other spaces volunteers simply did not get to.

76. The numbers of unhoused individuals and Seattle residents sleeping and living outside are expected to be even higher in 2017. Another count was conducted on January 27, 2017, however the results of this count will not be released until the spring.

77. Unhoused Seattle residents who live outside have homes. They look different than brick and mortar houses but serve the same purposes. They are often made of tents, tarps, blankets, poles, and other materials to create safe, dry, insulated, and private shelter. And, like everyone else’s homes, they contain most if not all of the owner’s possessions. These belongings are often critical to survival or of particular psychological value, including medication, hearing aids, respirators, wheelchairs, and canes; blankets, a sleeping bag, or

1 clothing to stay warm; tents or tarps to provide shelter; cookware, eating utensils, and food;  
2 identification, immigration, or court documents; bikes or other modes of transportation; work  
3 tools; schoolbooks and materials; and family photos and mementos.

4 78. People living outside frequently build their homes on public property and in  
5 areas that provide some shelter from the elements, such as under bridges or roadways, and  
6 offer some privacy from the public to keep themselves and their possessions safe. Many live  
7 near and among other people, in communities, much as those who live in houses do. These  
8 communities (often referred to as encampments) offer an increased sense of safety,  
9 community, and stability. In fact, individuals living outside frequently stay in their place of  
10 residency for many months, or even years.

11 79. These communities also provide the unhoused with a place to leave their  
12 belongings while they go about their daily lives. Like all members of society, people living  
13 outside have personal and business affairs to attend to during the day, including working or  
14 searching for employment; attending school; visiting lawyers, doctors, social workers, or  
15 other service providers; and obtaining food, clean water, and other necessities of survival.  
16 Having a stable place to live and store belongings makes it easier for people living outside to  
17 find a job and obtain employment, and meet with service providers to take the requisite steps  
18 to secure more permanent housing.

19 80. Like all people, those living outside also generate waste and garbage. The City  
20 provides containers for disposal, regularly scheduled garbage pickup, and a sewer system for  
21 those living in houses, but people living outside often have no option other than to place their  
22 garbage near their homes. In areas where multiple people live, this garbage accumulates more  
23 quickly. Many residents try to keep the area they live clean—including keeping their garbage  
24 in discreet piles away from their homes, or disposing of it in garbage bins or cans they are  
25

1 able to secure. Defendants have taken these items during their sweeps. Residents have  
2 additionally asked the City for assistance in these areas—requesting garbage pick-up and  
3 assistance in dealing with vermin—to no avail.

4 **B. Defendants Have An Ongoing Policy and Practice of Sweeping Unhoused People**  
5 **and Their Possessions from Public Property**

6 81. As an integral part of its strategy to address homelessness, Defendants have a  
7 longstanding and ongoing policy and practice of conducting sweeps of people living outside.  
8 Defendants often refer to this conduct as “cleanups” of “unauthorized,” “unsanctioned,” or  
9 “illegal” encampments. Defendants claim the sweeps are necessary to ensure that public  
10 property is used as it was intended to be used, and/or that sweeps are necessary for the public  
11 health and safety of both Seattle’s housed and unhoused residents. Defendants have  
12 additionally asserted that these sweeps will help connect people living outside with the  
13 services they need to get off the streets.

14 82. The reality is that these sweeps are conducted in a manner that violates  
15 Plaintiffs’ constitutional rights and causes them irreparable harm.

16 83. Defendants’ sweeps target only areas in which unhoused people have built  
17 their homes and maintain their possessions, not any public property where garbage, waste, or  
18 hazardous materials have accumulated.

19 84. In fact, housed Seattle residents are encouraged to report unauthorized  
20 encampments to the City, either online, via phone, or through the City’s “Find It, Fix It”  
21 phone app. WSDOT additionally receives and responds to complaints regarding use of its  
22 public property by unhoused individuals.

23 85. Defendants are deeply committed to conducting these sweeps, sharply  
24 increasing the number of sweeps conducted in the last several years. In 2012, Defendants  
25 conducted 80 sweeps of people living outside and their belongings; in 2014, Defendants

1 conducted 351 sweeps, exceeding any prior year on record. Defendants’ use of sweeps has  
2 only continued to grow—in 2015, Defendants conducted more than 500 sweeps. Since the  
3 City’s Declaration on November 2, 2015, Defendants have conducted approximately 600  
4 sweeps, averaging nearly eleven a week. Defendants have conducted numerous sweeps since  
5 this lawsuit was filed.

6 86. Defendants have devoted significant money, resources, and time to planning  
7 and conducting these sweeps. Approximately one third of the more than \$7 million the City  
8 secured as a result of its State of Emergency Declaration was spent removing the homes of  
9 people living outside and seizing and destroying their property. WSDOT has also devoted  
10 considerable resources on sweeps, noting it spends approximately \$250,000 a year removing  
11 unhoused people’s property in recent years and calling its activities “evictions.”

12 87. The sweeps are carried out by the City and/or WSDOT personnel, overseen by  
13 City and/or WSDOT personnel, and conducted pursuant to policies approved by Defendants’  
14 most senior decision makers.

15 **C. Defendants’ Official Policies Governing Sweeps are Unconstitutional**

16 88. In 2008, shortly after a WSDOT contractor killed a man with a brush cleaning  
17 tractor during a sweep, Defendants adopted official policies and guidelines to govern sweeps  
18 of areas where people live outside on public property. The City promulgated the Multi-  
19 Departmental Administrative Rules 08-01 (“MDAR”), and WSDOT adopted the “Guidelines  
20 to Address Illegal Encampments” (“WSDOT Guidelines”).

21 89. Both the MDAR and the WSDOT Guidelines are still in effect and constitute  
22 Defendants’ only known official published policies pertaining directly to sweeps.  
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1           90. Although Defendants may have modified some of their regulations, these  
2 modifications have not been formally adopted, are not enforceable, and are subject to  
3 inconsistent implementation at best.

4           91. Although the MDAR and WSDOT Guidelines purport to offer more  
5 procedural safeguards than previously existed, they were largely intended to address the  
6 patchwork system of rules and agencies previously responsible for the sweeps, and do not  
7 ensure that sweeps are conducted in compliance with the constitution.

8           92. Even if Defendants’ sweeps were conducted fully in accordance with both the  
9 MDAR and the WSDOT Guidelines, they would still be unconstitutional.

10           **1. Defendants’ Official Policies Fail to Provide for Adequate and Effective  
11 Notice**

12           93. Both the MDAR and the WSDOT Guidelines lack sufficient requirements for  
13 notice to protect the rights of unhoused residents living outside in Seattle. Although both  
14 require 72-hour notice prior to the removal of property and storage of such property for 60  
15 days (MDAR) or 70 days (WSDOT Guidelines), the requirements are so filled with  
16 exceptions and exclusions as to make them meaningless. The requirements exempt many, if  
17 not most, people living outside from even the most minimal of notice protections.

18           94. For example, the notice requirements under the MDAR apply only to  
19 “encampments,” defined as three or more or more unauthorized structures within an  
20 identifiable area or within 300 feet of another encampment. This means that under its own  
21 rules, the City does not have to provide any notice to individuals camping alone or in pairs or  
22 to those who do not live in structures (like tents or lean-tos) before seizing and destroying all  
23 of their possessions.

24           95. The notice requirements of the MDAR additionally do not apply to “recurring  
25 encampments,” which are sites where an encampment has been observed three or more times

1 within any 60 day period. This exception essentially excludes all long-term encampments  
2 from any notice requirement before all of the residents' property is seized and destroyed, as  
3 long as notice had at some point since 2008 been posted for the encampment. This exception  
4 applies even if none of the current residents lived there within the prior 60 days, or were  
5 otherwise unaware that a notice for the area had been posted at some point within the last 8  
6 years.

7 96. In these situations, the City's own written policy also does not require it to  
8 provide any storage of any property seized during the sweep unless the property has the name  
9 of the owner on it, and is valued at over \$100. The determination of value is made on the spot  
10 by Defendants' employees and is not appealable. This provision authorizes the City to  
11 immediately remove and discard any other property on site.

12 97. The exceptions to Defendants' rules on their face make it impossible for  
13 people living outside to safely live and store their belongings without constant risk that  
14 everything will be taken from them with no notice.

15 98. Defendants have conducted over 1000 sweeps in the City in the past two years  
16 alone in neighborhoods across Seattle. If an unhoused person living outside happens to have  
17 their home in or within 300 feet one of those encampments, they are not entitled to any notice  
18 under the MDAR before their property is taken and destroyed. But neither can an individual  
19 move their home away from an encampment to protect their property from seizure because  
20 the MDAR does not require notice or storage for property not within an encampment.

21 99. The WSDOT Guidelines include just as many exceptions to the notice  
22 requirement, allowing WSDOT to justify the immediate removal of property where it is not  
23 "practical" or "feasible" to post notice because of "[c]rew scheduling, emergency repairs and  
24 removal of nuisances," or other situations "where the maintenance activity cannot wait or be  
25

1 predicted.” In addition, the Guidelines specify that “[s]ites where maintenance occurs on a  
2 frequent but random basis will be posted ‘No Trespassing,’” implying that in such cases, no  
3 72-hour notices will be posted. The Guidelines also exclude recurring encampments from  
4 notice protections, providing that previously cleared encampment sites will be revisited by  
5 WSDOT and, if encampments are again found, “No Trespassing” signs will be posted “and  
6 removal efforts may proceed without 72 hour notification.”

7 100. Further, both the MDAR and the WSDOT Guidelines lack notice requirements  
8 to ensure that notice is actually effective.

9 101. The City’s policymakers have themselves noted that the notices are difficult to  
10 understand; one councilmember stated, “I can barely understand these postings, and I have a  
11 law degree.”

12 102. Neither the MDAR nor the WSDOT Guidelines take into account people with  
13 limited English proficiency, limited literacy, or disabilities (such as blindness).

14 103. Neither the MDAR nor the WSDOT Guidelines require Defendants to actually  
15 conduct the sweep on any particular date or time, including that which is stated in the notice;  
16 or to update the notice if they cancel, prolong, put off the sweep, or limit it to a different area  
17 than posted.

18 104. Neither the MDAR nor the WSDOT Guidelines provide for any training to  
19 Defendants’ employees and staff as to what constitutes constitutionally adequate and effective  
20 notice or how to provide such notice.

21 105. In fact, both the MDAR and the Guidelines explicitly contemplate uneven and  
22 unpredictable enforcement. For example, the Guidelines are not binding on WSDOT crews:

1 These Guidelines form the basis for WSDOT work on state-owned right of  
2 way, and will be revised as necessary to meet the current situation and to  
3 reflect the available resources, including budget and staffing. Each Region  
4 may exercise its discretion to deviate from these Guidelines if the Region  
5 determines that coordination with a local jurisdiction on a specific clean-up  
6 activity is the best course of action under the circumstances. However, the  
7 activity shall be at least as effective as the provisions contained in these  
8 Guidelines.

9 Similarly, the implementation and enforcement of the MDAR are solely at the discretion of  
10 the Executive, enabling vast deviation from the rules without consequence.

11 106. These various deficiencies, when coupled with Defendants’ actual practice and  
12 policy discussed *infra*, make it impossible to predict when a sweep will occur and renders any  
13 notices that are posted meaningless.

14 **2. Defendants’ Official Policies Fail to Provide Constitutionally Required**  
15 **Due Process**

16 107. The MDAR and WSDOT Guidelines similarly lack provisions to ensure pre- or  
17 post-deprivation due process. Once a sweep has begun, the MDAR and WSDOT Guidelines  
18 only require Defendants to store property that Defendants unilaterally determine fits within an  
19 enumerated list or are of a particular value, enabling the destruction of countless items that are  
20 necessary for unsheltered people’s survival and daily activities, or are otherwise of significant  
21 personal value.

22 108. Although the MDAR requires the storage of personal property, personal  
23 property is limited to items which have “apparent utility,” are defined by example, or “have a  
24 reasonable value of more than \$25.” The MDAR does not consider building materials to be  
25 personal property, nor items that are “hazardous,” which can include items that are wet or  
muddy because they are kept outside.

109. The WSDOT Guidelines similarly define personal property by example, and  
provide minimal criteria for determining whether an item should be stored.

1           110. As a result, City and WSDOT personnel have almost complete discretion to  
2 determine whether an item should be stored, regardless of its worth, necessity, or significance  
3 to its owner.

4           111. Even if property is stored, neither regulation ensures that people have any  
5 meaningful opportunity to retrieve their seized property. Neither contains requirements for  
6 property storage that assure storage facilities are in accessible locations or open at regular  
7 hours and neither requires Defendants to adequately notify owners as to how to reclaim their  
8 belongings.

9           112. Neither the MDAR nor the Guidelines contemplate that compensation will be  
10 paid to people to replace property seized and/or destroyed during the sweeps.

11           113. Neither the MDAR nor the Guidelines require adequate training for  
12 Defendants' personnel on the procedural due process rights implicated by government seizure  
13 of personal property. Defendants' Newly Proposed Official Policies Do Nothing to Ensure  
14 Defendants Will Conduct Constitutional Sweeps in the Future

15           114. On January 31, 2017, the City proposed a new set of rules that would modify  
16 the MDAR 08-01. These rules, entitled the Financial Administrative Services Encampment  
17 and the Multi Departmental Administrative Rules Regarding Unauthorized Camping on City  
18 Properties; Enforcement Procedures; and Removal of Unauthorized Property (the "MDAR 17-  
19 01") not only fail to address deficiencies in existing rules, but in many ways are even worse.

20           **3. The MDAR 17-01 Would Enable Defendants to Sweep Virtually Any Area  
21 Without Adequate and Effective Notice**

22           115. First, the new rules would enable the City to remove without notice the  
23 belongings of virtually any unhoused person on City-owned property or City-controlled  
24 property, including many of the areas where unhoused people currently live.  
25

1           116. The City would be allowed to immediately and without notice remove  
2 encampments where unhoused people pose a “hazard,” defined as situations in which the City  
3 unilaterally determines people are “at risk of injury or death beyond that caused by increased  
4 exposure to the elements; or their presence creates a risk of injury or death to others, including  
5 but not limited to camping in a location that can only be accessed by crossing driving lanes  
6 outside of a marked sidewalk.” This definition encompasses a significant number of existing  
7 encampments within the City.

8           117. The City would additionally be allowed, pursuant to the new MDARs, to  
9 immediately and without notice remove encampments that are considered obstructions,  
10 defined as “people, belongings, garbage, or other objects related to an encampment that [the  
11 City unilaterally determines] block the normal use of a city-owned or City-controlled  
12 properties, facilities, or rights of ways.”

13           118. These two exceptions to any notice requirements on their own, and in  
14 conjunction would allow the City to sweep virtually any encampment without notice.

15           119. Defendants contend that virtually all unauthorized encampments on public  
16 property impede the normal use of the area and are inherently dangerous. There is no reason  
17 to believe Defendants will not continue to use these justifications to sweep unhoused people  
18 from public grounds, immediately and without notice seizing and destroying their property.

19           120. The rules would also prevent Defendants from taking into account the  
20 particular needs of the unhoused population by prohibiting the City from providing notice to  
21 individuals living outside more than a week in advance.

22           **4. The MDAR 17-01 Would Force Unhoused Individuals to Areas Dangerous**  
23           **for Camping or Subject to Immediate Removal**

24           121. The rules additionally would allow the City to declare “emphasis areas”  
25 wherein camping is prohibited at all times. The rules provide no criteria for what can

1 constitute an emphasis area: one can be of any size and anywhere within the City limits, as  
2 long as it is somewhere an unauthorized encampment has previously existed and been swept.

3 122. The emphasis areas by definition can only be created where people already  
4 live, and coupled with Defendants' conduct and frequent sweeps of particular areas, will  
5 likely be where many if not most unhoused people currently live.

6 123. These rules would have a tremendous impact on people living outside, many of  
7 whom have been living in the same or a neighboring location for months, if not years, and will  
8 be left with nowhere safe to go and store their belongings. In fact, the rules would prohibit  
9 camping from otherwise reasonable places, pushing individuals to public spaces that in turn  
10 may be unsuitable or unsafe for camping, and thus further subject to immediate removal per  
11 the City's rules.

12 124. The rules still fail to provide an opportunity for Plaintiffs to contest the seizure  
13 and destruction of their property; eliminating the prior existing requirement in the MDAR 08-  
14 01 that unhoused people will be allowed to return to the site to pack up their belongings.

15 125. The proposed MDAR 17-01 additionally fails to provide for any training in  
16 conducting sweeps that respect the constitutional rights of people living outside, despite  
17 Defendants' own recognition that they have difficulty determining what items are property  
18 verses trash, and would additionally have difficulty in determining whether an encampment  
19 posed an immediate public health or safety hazard (even though the new MDARs would  
20 require Defendants to make both determinations).

21 126. Finally, the enforcement of the new rules remains solely at the discretion of the  
22 executive, and aside from brief mention that Defendants may collaborate with one another to  
23 conduct sweeps, provide no requirements for how that coordination will occur or to ensure  
24 sweeps are done constitutionally.

1           127. Multiple organizations and agencies have submitted similar and additional  
2 concerns on the MDAR 17-01. For example, as SKCCH noted in its public comment on the  
3 MDAR 17-01, “[s]ince 2008, when the City of Seattle created its first MDARs, the rules as  
4 written have been followed inconsistently if at all, sometimes ignored, subject to multiple and  
5 various and frequently arbitrary interpretations, and generally proven to be a poor tool for  
6 creating a city-wide policy that responds to homelessness. They will never address the  
7 fundamental crisis that leads to thousands of people being forced to seek rest and temporary  
8 cover from the elements in doorways, on loading docks, in parks, under bridges, and on  
9 sidewalks.”

10 **D. Defendants’ Actual Practice of Conducting Sweeps Violates Both Their Own**  
11 **Rules and the U.S. and Washington State Constitutions**

12           128. Not only are Defendants’ official policies and proposed rules unconstitutional  
13 as written, but Defendants have conducted and approved of longstanding and ongoing  
14 practices that violate even the most basic portions of their own rules, along with the U.S. and  
15 Washington State constitutions.

16           129. Even if Defendants were to adopt official policies and procedures that comply  
17 with the constitutional rights of Seattle residents living outside, there is no guarantee that  
18 Defendants would follow them absent a court order.

19           130. For decades—and in the 8 years since the MDAR and WSDOT Guidelines  
20 were adopted—Defendants have conducted sweeps sporadically, unpredictably, and with utter  
21 disregard of even their own (wholly inadequate) regulations. In the hundreds if not thousands  
22 of sweeps conducted by Defendants across the City in recent years, they have failed to follow  
23 any consistent procedure with regards to notice to people living outside of impending sweeps,  
24 the disposal or storage of seized property, or the opportunity for people to reclaim their  
25 belongings.

1           131. Although each sweep is different, the following policy and practice has been  
2 implemented on multiple occasions since November 2, 2015 and is ongoing:

3           132. Prior to conducting a sweep, Defendants target areas where people living  
4 outside have set up homes and communities. Defendants frequently refer to these sweeps as  
5 “clean ups”—implying that their goal is to merely clear the area of trash, debris, waste, and/or  
6 other hazardous materials—but target only areas where unhoused people have set up their  
7 homes.

8           133. Although Defendants’ target particular areas, knowing well in advance where a  
9 sweep will be conducted, their officially sanctioned practices are wholly ineffective at  
10 providing constitutionally adequate notice before a sweep occurs.

11           134. Even when Defendants do provide some form of notice, it is typically  
12 inadequate, inconsistent, inaccurate, inaccessible, and/or misleading—rendering every notice  
13 constructively ineffective.

14           135. Notice of a sweep is often provided less than 72 hours in advance, and  
15 sometimes even after the fact, depriving people living in the area of any meaningful  
16 opportunity to make other arrangements for their belongings.

17           136. Notice is frequently only posted in inconspicuous areas that people living  
18 outside do not actually walk past or cannot easily see.

19           137. Notice frequently neglects to specify exactly where a sweep will occur—listing  
20 merely a single street name with no cross street boundaries or other descriptors.

21           138. Although notice is sometimes attached to individual tents, it is just as often  
22 posted to trees, fences, or other structures on the border of an area to be swept. This  
23 inconsistency leaves unhoused people with no idea of the type of notice to expect, if any,  
24 before their property will be seized and destroyed by Defendants.

1           139. Many of the notices merely state that property will be seized after 72 hours,  
2 without specifying a date or time.

3           140. Regardless of the dates on a posted notice, sweeps are often conducted at  
4 widely varying intervals after the notices are posted.

5           141. By way of example, this photo was taken of a notice posted on a tree, allegedly  
6 on December 27, 2016. It offers no description of the actual area to be swept, nor a time  
7 when it was posted.

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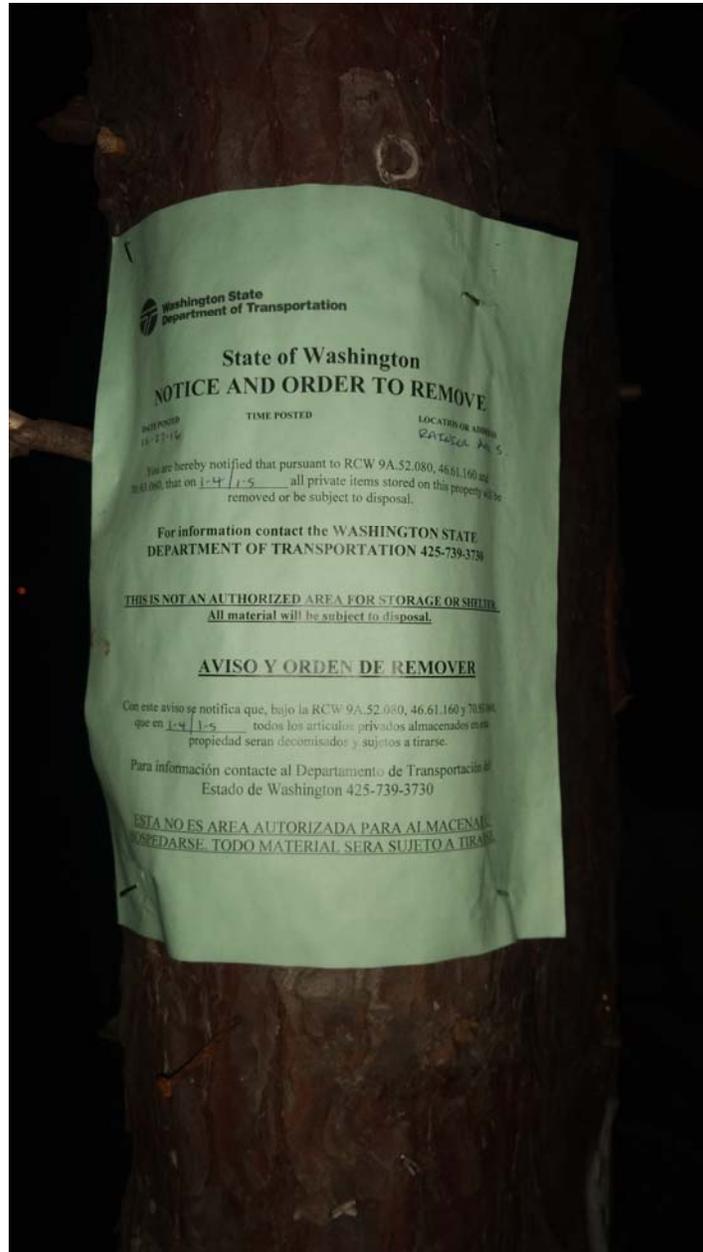
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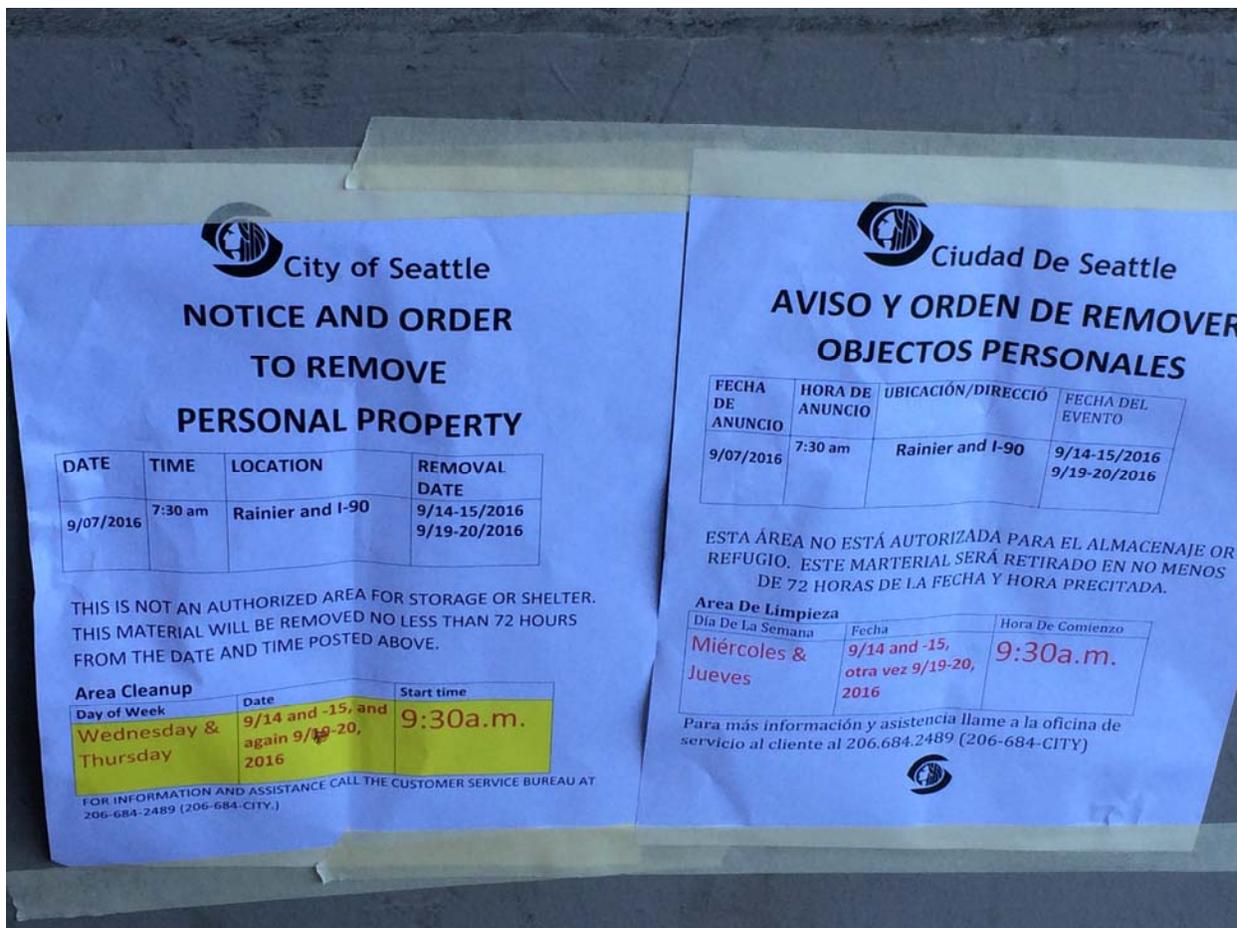
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142. Even signs that do provide more specific information, such as a date and time, often provide inconsistent information, such as days of the week that do not correspond to the dates listed.

1 143. By way of example, this photo was taken of a notice allegedly provided before  
2 a sweep in September of 2016.



18 144. Sweeps are routinely conducted at different dates and times than those  
19 indicated on the notice.

20 145. Thus, even when Defendants have provided some sort of notice, residents do  
21 not receive actual and effective notice as required by the Constitution because they still do not  
22 know whether or when a sweep will actually occur. Defendants have functionally deprived  
23 Plaintiffs of notice altogether.

1           146. Defendants make minimal to no accommodations to reach people who cannot  
2 read English—people who are also constitutionally entitled to notice. Notice is only  
3 occasionally provided in Spanish (WSDOT provided notices generally include both; City  
4 provided notices are frequently in English only) and is generally only given in written format.  
5 People who do not speak English or Spanish, who are blind, who cannot read, and who may  
6 have other cognitive disabilities or mental illnesses that make written notice difficult to fully  
7 comprehend are deprived of notice.

8           147. Further, because minimal justification is proffered by Defendants prior to  
9 conducting a sweep, it is impossible for Plaintiffs even to guess whether their homes will be  
10 targeted. Defendants have conducted sweeps in clean and well-maintained encampments, as  
11 well as encampments of the type they promised would not be swept. Some encampments  
12 have been swept multiple times; others’ homes have presumably never been touched.

13           148. Forcing people to guess whether and/or when a seizure and destruction of  
14 property might occur does not constitute constitutionally adequate provision of notice.

15           149. Plaintiffs’ constitutional rights are implicated because Defendants’ “clean up”  
16 strategy does not entail merely disposing of trash, debris, waste, and/or hazardous materials,  
17 or taking affirmative government action to resolve the safety or public health risk allegedly  
18 posed by the residents, such as by providing portable restrooms or garbage disposal services.

19           150. Instead, Defendants’ “clean up” strategy is to seize and destroy the possessions  
20 of people who live outside.

21           151. Defendants often clear entire sites, indiscriminately removing the visible  
22 property and personal belongings either by hand or with heavy machinery like bulldozers and  
23 backhoes.

1           152. When a bulldozer or backhoe is used, the property is immediately destroyed.  
2 By way of example, the picture below was taken on September 14, 2016 at one of  
3 Defendants' sweeps conducted at the location where Plaintiff Hooper lives.



17           153. In addition to using heavy machinery, Defendants sometimes physically  
18 destroy property on site, including slashing tents and tarps, and smashing property before  
19 removing it.

20           154. Defendants throw away things that they unilaterally determine to be garbage or  
21 of insufficient value to be stored. Often these items will be taken offsite for disposal.

22           155. Defendants also frequently gather up all items—mixing actual garbage with  
23 personal belongings—and just leave them in a pile.

1           156. Sometimes Defendants only shift the actual garbage and waste to another area  
2 rather than removing it.

3           157. Defendants conduct these sweeps without warrants to seize and destroy  
4 property, or permission from the property owners.

5           158. Defendants seize and destroy property regardless of whether the owner is  
6 present.

7           159. Defendants frequently seize property that they know is not abandoned but  
8 rather left unattended momentarily while the person living outside attends to other activities  
9 or responsibilities.

10           160. Many residents ask their neighbors to watch over their belongings when they  
11 momentarily step away, but even this will not save their property from destruction.  
12 Defendants inform residents that they are not allowed to pack up or save anyone else's  
13 belongings once a sweep has begun.

14           161. Even an owner's presence may not save the property from destruction. People  
15 have literally wept and begged Defendants not to seize and destroy their property as  
16 Defendants seize and destroy it, to no avail.

17           162. People living outside are frequently forced to scramble to gather as many of  
18 their belongings as possible to prevent the destruction of all of their property. Defendants  
19 seize and often destroy whatever is left, even when they are informed that the owners will  
20 return for their items.

21           163. Defendants routinely and as an officially sanctioned practice ignore their own  
22 policies and procedures for determining whether an item should be held in storage for the  
23 owner.

1           164. Defendants deny Plaintiffs any opportunity, either before or after the fact, to  
2 contest the confiscation or destruction of their property before an impartial decision maker.

3           165. Property that is disposed of immediately is impossible to retrieve - often  
4 crushed inside a garbage truck.

5           166. Property that is comingled by Defendants with actual garbage, debris, or waste  
6 is also immediately destroyed from being soiled.

7           167. Property that is stored is destroyed after 60 days and impossible to retrieve  
8 because Defendants fail to observe appropriate procedures regarding storage of personal  
9 property.

10           168. For example, Defendants fail to notify people whether their property will be  
11 stored, where it will be stored, for how long, or how the property may be retrieved.  
12 WSDOT's posted notices state only: "THIS IS NOT AN AUTHORIZED AREA FOR  
13 STORAGE OR SHELTER. All material will be disposed of in 72 hours."

14           169. The City of Seattle's notices regarding pending sweeps similarly fail to provide  
15 any information regarding storage, and both the written notice they do provide coupled with  
16 their conduct suggests to individuals living outside that all of their property will be destroyed,  
17 not stored. By way of example, the below photo is of a notice provided to unhoused  
18 individuals prior to a sweep conducted on February 10, 2017. The posting merely states that  
19 on February 10, 2017, all property left in the area will be thrown away.  
20  
21  
22  
23  
24  
25



15           170. On the rare occasion they do provide information regarding storage,  
16 Defendants generally only give a phone number, which a person living outside must call to  
17 get specific information. Those living outside who do not have a phone or money to pay for a  
18 phone call (or those whose phone and/or money was taken during the sweep) are left without  
19 recourse, as are those who cannot read the notice.

20           171. Aside from sporadic written notices, Defendants offer zero to minimal  
21 information regarding the actual property retrieval process following a sweep. WSDOT and  
22 City employees answering the phone are unwilling or unable to say where items are stored or  
23 when they can be picked up. On at least one occasion, a City employee answering the  
24 telephone at the number listed on the notices posted at a sweep site was unable to identify  
25

1 where stored belongings are kept. For example, over a period of 15 months, the City only had  
2 inventory records for approximately 7 percent of the sweeps it conducted.

3 172. Defendants routinely fail to inventory or otherwise keep track of items that are  
4 confiscated or destroyed, leaving people with no way of knowing whether their property was  
5 even kept.

6 173. Defendants impose other barriers to property retrieval as well. People living  
7 outside must find a way to not only get to the facility where items are being stored, but figure  
8 out a method to transport any items stored at the facility back to their current place of  
9 residence. The facility where items deemed worthy of storage are kept is at 4200 Airport  
10 Way South, approximately an hour walk from downtown Seattle, making it difficult to access  
11 without a car from many Seattle neighborhoods, and far away from where a lot of people  
12 living outside reside. It becomes even harder to access if Defendants took or destroyed a  
13 method of transportation, like a bicycle or bus pass.

14 174. The storage facility additionally has limited operating hours, rendering it  
15 impractical or impossible for Plaintiffs and other people living outside to retrieve their  
16 property, even if they are able to discover whether and where the property is being stored.

17 175. In the lucky event someone is able to confirm that their property is being  
18 stored and can make it to the facility during operating hours, Defendants may require them to  
19 show government identification and describe all the seized belongings. Neither requirement  
20 may seem overly onerous on its face, unless the identification is precisely the item that was  
21 seized, and until one considers the difficulty of detailing all of one's worldly possessions.

22 176. As a result, one worker at the City's storage facility estimates that only 1 or 2  
23 percent of the materials stored are ever picked up, with the rest eventually thrown out. The  
24 worker additionally noted that "Obviously, for people that don't have anything, this stuff here  
25

1 [at the storage facility] is their everything.” He concluded, “That’s very difficult – to throw  
2 things away that probably mean something to people is probably the toughest part [of his  
3 job].”

4 177. Plaintiffs are informed and believe and on such basis allege that at all times  
5 relevant to this action, each of the individuals who seized and destroyed their property were  
6 the agents, and/or employees of the Defendants and were acting at all times within the scope  
7 of their agency and employment and with the knowledge and consent of their principal and  
8 employer, WSDOT or the City.

9 **E. Defendants Know Or Should Know That Their Conduct is Unconstitutional and**  
10 **Refuse to Remedy It**

11 178. Defendants have been on notice for years that their policy and practice of  
12 evicting people living outside from their homes, and intentionally taking and destroying their  
13 property violates the U.S. and state constitutions. They nevertheless persist in violating  
14 Plaintiffs’ rights.

15 179. State and local advocates and organizations have repeatedly warned  
16 Defendants of the unconstitutional nature of their conduct. For example, after a meeting with  
17 the City in November of 2015, Columbia Legal Services and the ACLU wrote a letter to the  
18 City expressing their concerns that Defendants’ current practice and policy violated the  
19 Fourth and Fourteenth Amendments of the U.S. Constitution, as well as Washington State  
20 law, reminding the City that “[s]weeps conducted with adequate notice to the people living in  
21 the identified locations and/or without adequate procedures to safeguard their property violate  
22 civil and property rights guaranteed by the constitution.”

23 180. Defendants’ policies and practices have also been condemned by a number of  
24 courts. Most recently, the Ninth Circuit made it explicitly clear that the government cannot  
25 “seize and destroy with impunity the worldly possessions of a vulnerable group in our

1 society.” *Lavan v. City of Los Angeles*, 693 F.3d 1022, at 1033 (9th Cir. 2012). The Court  
2 further underscored that “[a]s [the courts] have repeatedly made clear, the government may  
3 not take property like a thief in the night; rather it must announce its intentions and give the  
4 property owner a chance to argue against the taking. This simple rule holds regardless of  
5 whether the property in question is an Escalade, or [a temporary shelter], a Cadillac, or a  
6 cart.” *Id.* at 1032 (internal citations omitted).

7 181. The media has amply documented the illegality of the sweeps. For example, a  
8 *Seattle Times* report observed that “sweeps of encampments have been plagued by  
9 disorganization and miscommunication that has often resulted in homeless residents losing  
10 their possessions.” The report further noted that outreach workers were often not available,  
11 showing up after a sweep had taken place or not at all, due to miscommunications between  
12 cleanup crews and outreach staff.

13 182. Even the City’s own departments have warned Defendants that their policies  
14 and practices are ineffective, inconsistent, and deprive people living outside of effective  
15 notice, an opportunity to be heard, or a meaningful opportunity to retrieve their property.

16 183. For example, on August 31, 2016 the City implemented a Task Force to study  
17 the sweeps. Although the Task Force found Defendants’ “approach has negatively impacted  
18 homeless individuals and neighborhoods,” it proffered no solutions.

19 184. In September 2016, the City hired the Seattle Office of Civil Rights (“OCR”)  
20 to monitor the sweeps. Monitors regularly reported back to Defendants that the sweeps were  
21 traumatizing to observe and that Defendants failed to give appropriate notice of the sweeps.  
22 One note from OCR observes “WSDOT a hott [sic] mess!”

23 185. The Seattle Human Rights Commission also wrote to the Mayor and the City  
24 in September 2016, noting that Defendants are “inconsistent in . . . removal and notification  
25

1 procedures,” “forcibly displac[ing] individuals from their homes and disconnect[ing] them  
2 from their personal property.”

3 186. Defendants have ignored these concerns. For example, despite the “positive  
4 impact” the City admits OCR monitors have had, it has transferred on-the-ground oversight of  
5 its sweeps to the City’s office of Finance and Administrative Services (FAS), with the explicit  
6 goal of “operationaliz[ing] and routiniz[ing]” sweeps.

7 187. As recently as December 23, 2016, the Seattle Human Rights Commission  
8 additionally expressed concern with this switch, writing that “[t]he continued presence of  
9 OCR (Office of Civil Rights) monitors is vital to ensuring that encampment sweeps do not  
10 further violate encampment residents’ civil rights.” The City responded that FAS has  
11 demonstrated it performs robust and responsible management of the City’s encampment  
12 clean-up efforts.

13 188. Yet on the day the letter was issued (January 4, 2016), Defendants conducted a  
14 sweep without providing residents adequate and effective notice, and despite being informed  
15 notice had not been provided, only stopped the sweep after an hour of operating heavy  
16 equipment.

17 189. Defendants’ pattern and practice of behavior coupled with statements by  
18 official policymakers and written procedures make clear they will persist in using sweeps  
19 without the required constitutional protections, making Plaintiffs only recourse this Court.

20 190. In fact, Defendants have additionally proposed rules that would grant  
21 themselves even greater authority to conduct sweeps without notice, and immediately and/or  
22 permanently remove unhoused people living outside from public property.

23 191. In fact, when Ms. Osborne was swept on January 26, she was told that  
24 Defendants were not required to give notice pursuant to the mayor’s “new executive order.”

1           192. Further, rather than halting the sweeps to consider the constitutional violations  
2 inherent in their policies and practices, Defendants have continued with their use of sweeps  
3 unfettered. Numerous sweeps have been conducted since the filing of this lawsuit, a number  
4 of which either occurred without notice, and/or resulted in the immediate and summary  
5 destruction of all property onsite.

6           193. Defendants' ongoing policy and practice has continued even after this lawsuit  
7 was filed. For example, on February 10, 2017, Defendants used a box cutter to slash the tent  
8 of an unhoued individual living outside when conducting a sweep of the Ballard Locks. On  
9 February 13, 2017, Defendants slashed the tents of unhoued residents living in the area,  
10 threw belongings down the hill into the mud, and physically broke property when conducting  
11 a sweep on Galer and Eastlake. Defendants posted a notice for a sweep of the Ballard Locks  
12 on February 10, 2017, but according to their own declarations continued the sweep days later  
13 without posting a multi-day notice. Defendants similarly posted a notice for a sweep under  
14 the Ballard Bridge and Emerson Overpass for February 27, 2017 but did not show up until  
15 February 28, 2017. No notice was reposted. Around 10:00 am on February 28, 2017,  
16 Defendants conducted approximately 10 minutes of clean-up before stopping. The remainder  
17 of time was spent sitting in a truck, walking around or standing in the area, or talking to  
18 individuals who had come to observe the sweep. Defendants offered conflicting information  
19 as to whether an un-abandoned tent full of belongings would be taken and when the sweep  
20 would actually occur or be completed. As of March 1, 2017, Defendants had not completed a  
21 sweep of the area and no notice was reposted.

22           194. Defendants have also indicated that they intend to sweep an area called the  
23 "Field" on Airport Way S. and Royal Brougham, where at least 50-60 residents live. Since  
24 the Jungle was cleared in the Fall of 2016, Defendants have told unhoued individuals that the  
25

1 Field would not be swept, at least until the City's new Navigation Center was established.  
2 Defendants have not posted official notice, but have indicated that the area will be cleared and  
3 camping prohibited there on March 7. Residents have no idea where they will be allowed to  
4 go.

5 195. Whether pursuant to the MDARs not yet implemented, or pursuant to  
6 Defendants' longstanding and ongoing policy and practice of immediately seizing and  
7 destroying the property of people living outside, it is clear this conduct will continue absent  
8 court intervention.

9 **F. Plaintiffs Have Suffered and are at Continued Imminent Risk of Suffering**  
10 **Irreparable Harm as a Result of Defendants' Actions**

11 196. As a direct and proximate result of Defendants' unconstitutional practices and  
12 policies, Plaintiffs have suffered and will continue to suffer serious irreparable harm,  
13 including but not limited to the destruction of personal property. Defendants' actions have  
14 resulted in the loss of essential personal property for many residents living outside including  
15 but not limited to medication, respirators, wheelchairs, canes, blankets, sleeping bags,  
16 clothing, tents, tarps, cookware, eating utensils, food, identification, immigration and court  
17 documents, and irreplaceable family heirlooms. The loss of these items is not only an  
18 emotional blow, as it would be to anyone, but also threatens the physical safety, health, and  
19 well-being of people living outside—particularly in the inclement weather of the Seattle  
20 winter. In many cases, Defendants' actions have deprived people living outside of everything  
21 they own.

22 197. Defendants' actions deprive people of the few possessions they have, forcing  
23 them to survive days or weeks after a sweep without medication, shelter, sufficient food,  
24 essential hygiene items, and transportation. Many people lack the resources to replace items  
25 destroyed by Defendants. In the event a person is able to replace items, it takes significant

1 time. It can take local outreach organizations a year to get someone an ID, and when that ID  
2 is taken or destroyed in a sweep, it can take another year to get a replacement.

3 198. The sweeps create massive disruption in people's lives; rather than trying to  
4 break out of the cycle of homelessness, Defendants' actions force people living outside to  
5 spend their time and resources replacing what has been destroyed. Time that could be spent  
6 looking for housing, employment, or accessing medical care is now spent replacing  
7 belongings and documents necessary for survival. That burden is further exacerbated by  
8 Plaintiffs' fear that what remaining possessions they have cannot ever be left unattended.

9 199. Defendants' actions also have a severe emotional impact. Much like those  
10 whose houses have been destroyed by natural disasters or violated by burglars, people who  
11 have their homes swept report feeling degraded, scared, destabilized, anxious, angry, and  
12 traumatized. Those feelings are amplified by the knowledge that the loss was the result of  
13 state action sanctioned and approved of by Defendants pursuant to an active and on-going  
14 policy without foreseeable end.

15 200. Even individuals who have not yet been swept by Defendants, but live outside  
16 are impacted by Defendants' ongoing and unconstitutional sweeps. Individuals are unable to  
17 work or leave their belongings, and their mental and physical disabilities have been  
18 exacerbated by repeatedly moving all of their belongings and living in constant fear of the  
19 pending seizure and destruction of their property without notice.

20 201. In addition to the injuries Defendants' policies and practices inflict on  
21 individuals, Defendants have directly and proximately increased the burden on the facilities  
22 and services provided by organizations such as the Episcopal Diocese and its member  
23 churches and Real Change. Defendants' unlawful actions have additionally also caused  
24 irreparable harm to members of both organizations.





**VII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for relief as follows:

1. For declaratory and injunctive relief as the court deems appropriate.
2. For an award of attorneys' fees and costs pursuant to 42 U.S.C. § 1988.
3. For such further relief as is just and appropriate.

DATED this 2<sup>nd</sup> day of March, 2017.

CORR CRONIN MICHELSON  
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*s/ Todd T. Williams*

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AMERICAN CIVIL LIBERTIES UNION  
OF WASHINGTON FOUNDATION

*s/ Emily Chiang*

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**CERTIFICATE OF SERVICE**

I hereby certify that on **March 2, 2017**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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