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December 4, 2009

Jan Goldsmith, Esq.
Daniel Bamberg, Esq.
City of San Diego City Attorney's Office
1200 Third Avenue, Suite 1620
San Diego, CA 92101

Via Fax (619-236-7215) and U.S. Mail

Re: *The Isaiah Project, Inc. et al. v. City of San Diego, et al.*
Case No. 09-CV-2699-BTM-WVG

Dear Mr. Goldsmith & Mr. Bamberg:

I apologize for not attempting to discuss with you the above-referenced lawsuit before we filed it. I certainly did not mean to offend or disappoint you nor do I want to cause our good personal and working relationship to be undermined. I understand your frustration and will take your comments to heart in the future.

That being said, I don't believe money is the driving force behind the lawsuit, either for me or the ACLU. Let's face it, nobody's going to get rich off this, and anybody can see I've never taken these cases for the \$\$.

I know you agree that the city and the police have an exceptional responsibility to follow the law and do what's right. The first "abatement" on September 22, 2009 drew quite a bit of television and written media attention. At that time I was quoted as saying we would be filing a lawsuit against the City based on alleged violations of the US and California Constitutions. I believe David Ross echoed this sentiment in his discussions with Mr. Long at the Police Department. The City's response to the press at that time was essentially "it's all legal and within our procedures and we'll continue to do what's necessary." It never occurred to me that the response might be different if I broached the subject in one of our meetings regarding the Spencer case.

In addition, beginning on the day the Winter Shelter opened and continuing until the last week or so, Police Officers in the vicinity of the Winter Shelter have been asking homeless people about whether there was going to be a lawsuit, are they involved in such a lawsuit, what's the status of it, and have they heard anything about such a lawsuit.

Certainly, then, somebody on the City's end or in your office, if curious, could conceivably have approached me at one of our meetings and said "what's this we hear about a lawsuit?" and indicated a willingness to head-off litigation.

In addition, on October 20, 2009 we sent Public Records Act requests to the City, which the City Attorney's office handled, whose subjects were the 3 specific "abatelements" discussed in the lawsuit. Your office responded right away with some pictures and in writing requested clarification on other requests. We 'clarified' in writing on November 9, and the City, through your office, produced more documents and information this past Wednesday (December 2).

Such requests might also have prompted questions about a potential lawsuit from your office, which I would have been happy to answer.

We are certainly willing to pull back from an immediate TRO hearing and engage in a productive mediation or negotiation procedure, IF the City will give us written assurances that it will not dispose of any homeless person's things while we're in negotiation or mediation.

We're not able to dismiss the lawsuit however, but I agree with you that avoiding a TRO hearing while giving my clients some reassurances that their possessions won't be destroyed might give everybody some breathing room to talk seriously.

Look forward to chatting further, I remain

Very truly yours,



Robert Scott Dreher
For Dreher Law Firm

Cc: David Blair-Loy, ACLU