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December 3, 2009

Via Facsimile and U.S. Mail

Mr. Robert Scott Dreher
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835 Fifth Avenue, Suite 202
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Crawford et.al., v. City of San Diego et.al. Case No. 09-CV-2699-BTM

Dear Mr. Dreher:

I first heard of your lawsuit against the City regarding homeless possessions yesterday afternoon. When we met with you the day before to discuss homeless issues, you didn't mention that you were suing the City. I am disappointed.

Most attorneys would, at least, make an attempt to resolve an issue before filing a lawsuit, particularly when we are already in discussions on a creative means of allowing the City to enforce its illegal lodging laws while increasing homeless services. In fact, we both agreed at the meeting to a general framework for an ultimate agreement.

Based upon our dealings with you, we refuse to believe this is your approach.

However, this approach raises a question about the ACLU's motivation. Are they more interested in seeking attorney's fees through a lawsuit than actually attempting to help the homeless?

Had the ACLU at least raised the issue of homeless possessions before pulling the trigger on litigation, they would have learned that the circumstances in San Diego are far different than in other cities in which they have successfully sued on this issue and recovered attorney fees. Other cities had no policies that respected property rights and were forced by the court to create policies. This is not like other cases in other cities where bulldozers came in and indiscriminately destroyed property. San Diego has a comprehensive policy that provides appropriate notice and follows California Civil Code section 2080.1 which states that unclaimed property valued in excess of \$100 is to be turned over to the police and stored for the owner.

The ACLU would have also learned that the last clean up of abandoned property was on September 22, 2009. This event received some publicity. Following that event, City staff met with our office to determine ways to improve our City's policies to better protect property rights beyond what is required by law. As a result, City policies were revised. We didn't need your lawsuit to do that. We haven't had an incident since those policies were revised.

The City has an obligation to protect the health and safety of everyone in our community. Although we cannot allow abandoned property or risks to public health to remain unabated, we recognize that our City must respect property and personal rights and comply with the law. There are sometimes difficult lines to be drawn and we welcome input in drawing them.

Although we are happy to work with you and the ACLU, there is a choice on your part between working together and litigating.

The two options are as follows:

1. Dismiss your lawsuit without prejudice (meaning it can be re-filed) and talk with us. We will discuss our policy and how it was changed, and will receive and consider any input you may have. The City's goal is to address abandoned property and trash. If you have ideas on how we can do that more effectively with better notice, we're open to discussions. The City is not trying to harass people. The ACLU won't get attorney fees for doing this, but will probably make more progress in addressing the issue than with the second alternative.

We will continue to work on an overall plan to address the homeless issue and keep the lines of communications open should there be incidents. No one waives the right to file lawsuits—but, we do commit to talk first.

By taking this alternative, the ACLU will demonstrate that its true intentions are to help the homeless in a responsible way.

2. Litigate, litigate and litigate some more. Pursue the lawsuit and we will vigorously defend it. We believe the City's policies met state and federal law. The ACLU's failure to talk with us first will clearly indicate that this is all about attorney fees for the ACLU and not about the purported goal of a lawsuit. This motivation will be transparent to any judge reviewing this litigation.

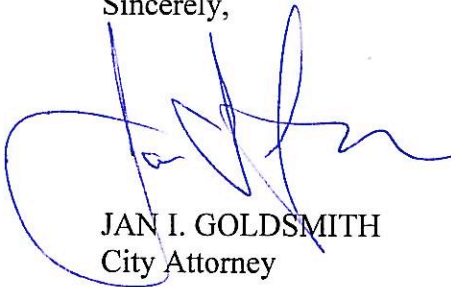
Your request for a temporary restraining order based upon emergency conditions raises a question: How much of an emergency could it be if you met with the City Attorney the day before and failed to raise the issue?

Robert Scott Dreher

December 3, 2009

I read you as a professional and know that you will select the right approach. We hope the ACLU also sees this as an opportunity to do the right thing. We enjoy working with you and would not relish the second alternative. For the sake of our taxpayers and the homeless, I urge the ACLU to select the first alternative.

Sincerely,



JAN I. GOLDSMITH
City Attorney

JIG:gc

Cc: Mr. David Blair-Loy
ACLU Foundation of San Diego & Imperial Counties