



INSTITUTE FOR JUSTICE

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VIA EMAIL

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RE: City's Unconstitutional Actions Against Sierra Vista Residents

To Mayor Mueller, City Attorney Williams, and Senior Planner Pregler:

The Institute for Justice has learned that the City sent letters to several long-time property owners in Sierra Vista, notifying them that they had 30-days to move their RV homes to a different zoning district. Some of these property owners have lived on their land for decades. Others have been renting to the same tenants for years. These property owners and tenants use their RV homes as a primary residence and none of them can afford to move, nor should they have to. In ordinary times, the City's attempt to force these people to move is unconscionable and likely unconstitutional. During a global pandemic, the City's actions are even more outrageous. We urge the City to rescind these letters and tell the property owners and their tenants that they can keep their homes where they are.

The Institute for Justice is a public interest, civil liberties law firm that has dedicated 30 years to protecting property rights across the nation and for 20 of those years we have had an office here in Arizona. We represented Susette Kelo and her neighbors before the U.S. Supreme Court in the infamous *Kelo v. City of New London* case, which sparked a nationwide revolt

against eminent domain abuse that continues to this day. We also represented Randy Bailey in his fight against eminent domain abuse in Arizona and won significant constitutional protections for property rights in *Bailey v. Meyers* (City of Mesa). Additionally, we have successfully sued dozens of states and municipalities for violating the rights of property owners and tenants. Several of these cases involved abusive zoning regulations.

The letters that Sierra Vista sent to its residents is very concerning. The letters order residents to remove their RV homes from their property and relocate them to a different zoning district within the City. It states:

“According to Development Code Article 151.22.006, *Matrix of Use Permissions*, RV’s [sic] can only be used for living purposes within a manufactured home park or any property zoned Recreational Vehicle Park. Your property is currently zoned Manufactured Home Residence . . . [t]herefore, the use of an RV for housing is a violation of the Development Code. To continue to use the RV for housing purposes will require the vehicle to be relocated to a manufactured home park with permission from the park owner. The City will provide up to 30 days to remove the RV from the property.”

The letter does not state that anything is wrong with the RVs. The City has no health or safety concerns. The City just wants the RVs moved to a different part of town.

This is supremely unjust. Sierra Vista residents have been living in RVs in the Manufactured Home Residence zoning district for years and have never received any complaints before now. Amanda Root, for instance, has lived in her RV for three years. She has owned the land that it sits on for two decades and she owns this land free and clear. Amanda is 65 years old, has severe medical problems, and subsists on disability payments. She cannot afford to move her RV, nor can she afford to pay rent at a manufactured home park. If she had to move, she would be homeless.

Similarly, Randy and Georgia Myers have rented their RV and the land that it sits on for six years. Randy and Georgia are a retired married couple in their 70s and survive on social security payments. Randy also has serious medical problems and relies on an oxygen tank. They cannot afford to move. Yet the City is trying to push Amanda, Randy, Georgia, and several others like them out of their homes. Making matters worse, Arizona is in the grips of a global pandemic.

The City’s actions are likely unconstitutional and violate the property owners’ and tenants’ substantive due process rights. The City can only enforce zoning ordinances that have a legitimate government interest. But the City cannot have any legitimate interest in enforcing an ordinance that it has ignored for years. The City has allowed multiple people to live in RVs in the Manufactured Home Residence district; it cannot now suddenly change its mind. In addition, the City has already conceded that these RVs have no health or safety problem but are simply located in the wrong spot. This is not a sufficient justification for kicking people off of their property.

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The City has also violated the property owners' and tenants' procedural due process rights. The City sent the letters, with no prior notice, telling residents that they have only 30-days to move their RV homes. While the City later gave some residents more time to move, the City never notified them of their right to challenge or appeal the City's decision. The only reason the residents learned of their rights was through our pro bono law firm. This is again unconstitutional.

We thus urge you to rescind these letters and inform the property owners and tenants that they may stay in their homes for as long as they want. We are available to discuss this further. Erica Smith's number is 631-383-5302 and her email is esmith@ij.org. Paul Avelar's number is 480-557-8316 and his email is pavelar@ij.org.

Sincerely,



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