



August 6, 2021

Mayor Trent Thompson, mayor@newlexingtonohio.gov
Village Council Clerk Lisa Spohn, councilclerk@newlexingtonohio.gov
Village Council President Jim Welsh
Village Councilmember Kathy Chute
Village Councilmember Jeff Danison
Village Councilmember Susan Boyle
Village Councilmember Dan Bethel
Village Councilmember Susan Goodfellow
Village Councilmember Doug Fox

Via email

Dear Mayor Thompson and New Lexington Village Council:

I write on behalf of the National Homelessness Law Center (“Law Center”) to express concern regarding plans to prevent the possible construction of a homeless shelter within New Lexington. Outright prohibiting homeless shelters in New Lexington does not address the needs of people experiencing homelessness in New Lexington. Instead, it only serves to separate unhoused people in New Lexington from service providers, makes it less likely for them to obtain permanent housing, and leaves New Lexington open to future litigation.

Who We Are

The Law Center is the national legal advocacy organization dedicated solely to ending and preventing homelessness. We have over 30 years of experience in policy advocacy, public education, and impact litigation. Since 2006, the Law Center has tracked laws criminalizing homelessness in 187 cities across the country, and we have documented the failures and costs of those policies in numerous national reports, including [Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities](#) (2019). We have also published best practices, model policies, and case studies from across the country on how to constructively address homeless encampments. See [Tent City, USA: The Growth of America’s Homeless Encampments, and How Communities are Responding](#) (2018).

We also litigate in federal courts to challenge policies that punish homeless people for living in public space when they lack adequate indoor options. One of our cases, *Martin v. City of Boise*, resulted in an order from the U.S. Court of Appeals for the Ninth Circuit which held that the Eighth Amendment to the U.S. Constitution prohibits enforcement of laws criminalizing sleeping, sitting, and lying down outside against people with no access to indoor shelter.

Discussion

According to a Perry County Tribune news report, https://www.perrytribune.com/news/article_a3a37a50-73b0-5777-9098-1b49e9570da9.html, the New Lexington Village Council convened to discuss “how to prevent a homeless shelter from showing up on the village’s doorstep.” Despite acknowledgement from attorney Bryan Everitt that a blanket prohibition of homeless shelters in New Lexington would be fraught with constitutional challenges, the Village Council continued to seek ways to keep a shelter out of New Lexington, citing opposition from constituents and councilmembers.

The issue was raised again during a Village Council meeting on June 21, 2021, <http://www.newlexingtonohio.gov/sites/default/files/Council%20Minutes%2006%2021%2021.pdf>. During this meeting, Councilmember Dan Bethel proposed an ordinance for Village Council review that would allow the Village Administrator to deny applications to construct a homeless shelter in New Lexington because of zoning regulations.

Considering the context surrounding this discussion, we are concerned that no homeless shelter would ever be approved in New Lexington, and that zoning regulations would be overly restrictive for the purpose of preventing the construction of a homeless shelter. For example, the New Lexington Planning/Economic Committee “does not support a homeless shelter in New Lexington.” Additionally, to support his opposition, Police Chief Scott Ervin indicated that a homeless shelter would create more issues than it would solve, without offering what these issues could be or describing why a hypothetical homeless shelter would contribute to them.

We are troubled that the New Lexington Village Council would spend its efforts to write exclusion into the Village code. People experiencing homelessness do not choose to be homeless. Rising rents, stagnant wages, historically low rental vacancy rates, and the severe decline of federally subsidized housing have led to a critical shortage of affordable housing units. Housing cost burdens and eviction cause homelessness and have contributed to grossly disproportionate rates of homelessness among people of color.

Preventing local charities and churches from providing shelter to those in need is neither effective nor compassionate and could open the Village up to litigation. *See, e.g., Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project* (135 S. Ct. 2507) (2015) (“Suits targeting unlawful zoning laws and other housing restrictions that unfairly exclude minorities from certain neighborhoods without sufficient justification are at the heartland of disparate-impact liability.”). Additionally, in *Martin v. Boise*, the 9th Circuit ruled that punishing a person experiencing homelessness for sitting, sleeping, or lying on public property in the absence of adequate alternatives constitutes cruel and unusual punishment under the Eighth Amendment. *Martin v. City of Boise*, No. 15-35845, Opinion (2018).

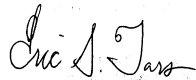
Numerous studies have shown that communities save money by providing housing and services to those in need, rather saddling them with fines, fees and arrest records and cycling them through expensive hospital and jail systems. *See Housing Not Handcuffs* Report. The Economic Roundtable of Homelessness in Los Angeles found that housing reduced average monthly spending by 41% per person, even after including the cost of providing housing. Instead of

displacing people experiencing homelessness and proposing ordinances or regulations that give people experiencing homelessness fewer options to receive crucial assistance, New Lexington should work to permanently house its unhoused residents.

In an era of record poverty exacerbated by the global COVID-19 pandemic, the expiring national eviction moratorium, prolonged unemployment, and a shrinking stock of affordable housing, sensible and cost-effective policies are needed. We all wish to end homelessness in our communities—but the best, most cost-effective, and permanent way to achieve that is to ensure that all who are unsheltered can access adequate, alternative housing. Prohibiting the construction of a homeless shelter in New Lexington or tightening zoning regulations so that a homeless shelter could not be built in does nothing to address homelessness in New Lexington. Instead, it just displaces unhoused people, restricts where they can access crucial services, increases their risk of criminalization, and makes it less likely they obtain permanent, affordable, and adequate housing.

We urge you to reconsider any proposed ordinances or regulations that would exacerbate homelessness in New Lexington and make it more difficult for unhoused people to access services. If you would like, we would be happy to work with you to develop and implement solutions that end homelessness in New Lexington. Please feel free to contact us at etars@nlchp.org.

Sincerely,



Eric Tars, Legal Director, National Homelessness Law Center

Rajan Bal, Housing Not Handcuffs Campaign Manager, National Homelessness Law Center