

1 UNITED STATES DISTRICT COURT  
2  
3 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
4  
5 HONORABLE DAVID O. CARTER, U.S. DISTRICT JUDGE  
6  
7  
8 L.A. ALLIANCE FOR HUMAN )  
9 RIGHTS, et al., )  
10 )  
11 PLAINTIFFS, ) Case No.  
12 )  
13 vs. ) CV 20-02291-DOC  
14 )  
15 CITY OF LOS ANGELES, )  
16 et al., )  
17 ) PAGES 1 TO 61  
18 DEFENDANTS. )  
19 \_\_\_\_\_)

REPORTER'S TRANSCRIPT OF  
STATUS CONFERENCE  
WEDNESDAY, MAY 26, 2021  
10:01 A.M.  
LOS ANGELES, CALIFORNIA

**MIRANDA ALGORRI, CSR 12743, RPR, CRR**  
FEDERAL OFFICIAL COURT REPORTER  
350 WEST 1ST STREET, SUITE 4455  
LOS ANGELES, CALIFORNIA 90012  
MIRANDAALGORRI@GMAIL.COM

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFFS:

4

SPERTUS LANDES & UMHOFER, LLP  
BY: ELIZABETH ANNE MITCHELL  
617 West 7th Street  
Suite 200  
Los Angeles, California 90017

7

8

9

SPERTUS LANDES & UMHOFER, LLP  
BY: MATTHEW DONALD UMHOFER  
1990 South Bundy Drive  
Suite 705  
Los Angeles, California 90025

10

11

FOR DEFENDANT CITY OF LOS ANGELES:

12

13

14

15

16

17

18

19

20

21

22

23

24

25

LOS ANGELES CITY ATTORNEY'S OFFICE  
BY: SCOTT D. MARCUS  
BY: JESSICA MARIANI  
200 North Main Street  
7th Floor, Room 675  
Los Angeles, California 90012

FOR DEFENDANT COUNTY OF LOS ANGELES:

MILLER BARONDESS, LLP  
BY: LOUIS R. MILLER  
BY: JENNIFER MIRA HASHMALL  
1999 Avenue of the Stars  
Suite 1000  
Los Angeles, California 90067

FOR THE INTERVENORS LOS ANGELES CATHOLIC WORKER, ORANGE COUNTY  
CATHOLIC WORKER AND LOS ANGELES COMMUNITY ACTION NETWORK:

LAW OFFICE OF CAROL A. SOBEL  
BY: CAROL A. SOBEL  
1158 26th Street  
Suite 552  
Santa Monica, California 90403

1 APPEARANCES OF COUNSEL CONTINUED:

2  
3 FOR THE INTERVENOR LOS ANGELES CATHOLIC WORKER:

4 LEGAL AID FOUNDATION OF LOS ANGELES  
5 BY: SHAYLA RENEE MYERS  
6 7000 South Broadway  
7 Los Angeles, California 90003

8 Also Present:

9 Honorable Andre Birotte  
10 Special Master Michele Martinez

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1                   **LOS ANGELES, CALIFORNIA; WEDNESDAY, MAY 26, 2021**

2                   **10:01 A.M.**

3                   ---

4

5                   THE COURT: First, good morning. Let's get  
6 started. Judge Birotte is going to join us in a few moments.  
7 He's in his chambers at the present time.

8                   We will call the court to order in First  
9 Alliance -- or L.A. Alliance for Human Rights versus City of  
10 Los Angeles and the County of Los Angeles, 20-2291. Then,  
11 counsel, sometimes I will refer to you by your first name. No  
12 disrespect is intended, but I know you so well that I am in a  
13 habit of doing that. Let's begin with the City and appearance  
14 by the City, please.

15                  MR. MARCUS: Good morning, Your Honor.

16                  Scott Marcus on behalf of the City of  
17 Los Angeles.

18                  THE COURT: All right. And on behalf of the  
19 County?

20                  MR. MILLER: Good morning, Your Honor.

21                  Skip Miller and my partner Mira Hashmall on  
22 behalf of the County.

23                  THE COURT: Thank you. And on behalf of the  
24 intervenors?

25                  MS. MYERS: Good morning, Your Honor.

1                         Shayla Myers on behalf of Los Angeles Catholic  
2 Worker and L.A. Community Action Network.

3                         MS. SOBEL: Good morning, Your Honor.

4                         Carol Sobel on behalf of the Orange County  
5 Catholic Worker, the Los Angeles County Catholic Worker, and --

6                         THE COURT: Just remain seated. Have a seat.

7                         Pull the microphone closer. Please don't stand. It's not  
8 necessary.

9                         MS. SOBEL: Carol Sobel on behalf of the  
10 Orange County Catholic Worker, the Los Angeles County Catholic  
11 Worker.

12                         THE COURT: And on behalf of the plaintiffs?

13                         MS. MITCHELL: Good morning, Your Honor.

14                         Elizabeth Mitchell on behalf of plaintiffs along  
15 with Matthew Umhofer.

16                         THE COURT: I want to take a few moments and  
17 retrace by using the projection, the beginning of this  
18 opportunity for all of us with the May 22nd, 2020, preliminary  
19 injunction, which is docket 123 for your records. And if you  
20 would be so kind to project that document up and then turn to  
21 page 11, please.

22                         Under the provisions of the preliminary  
23 injunction, the Court had stated an order that individuals  
24 experiencing homelessness encamped within 500 feet of an  
25 overpass, underpass, or ramp must be offered housing as

1 described below and subsequently and humanely relocated at  
2 least 500 feet away from such areas by no later than  
3 September 1st, 2020, which was footnote 6.

4 As a part of this humane relocation effort and to  
5 promote the underlying public health and safety goals, the City  
6 of Los Angeles and the County of Los Angeles must provide  
7 shelter or alternative housing options such as government  
8 encampments following the existing Veterans Affairs model, safe  
9 parking sites, or hotel and motel rooms contracted following  
10 the Project Roomkey model to individuals experiencing  
11 homelessness.

12 In addition to the foregoing examples, the Court  
13 is open to receiving any suggestions from the parties for  
14 reasonable alternative housing options.

15 Footnote 6, to remind all of the parties, because  
16 many of you literally are not reading the Court's orders  
17 apparently, stated that the requirements of 500 feet is taken  
18 from the City of Los Angeles Department of City Planning which  
19 reports that, quote, "Air pollution studies indicate a strong  
20 link between chronic exposure to vehicle exhaust and  
21 particulate matter from roads and freeways and elevated risk of  
22 adverse health impacts. Areas located within 500 feet of a  
23 freeway are known to experience the greatest concentration of  
24 fine and ultrafine particulate matter, PM, and a pollutant  
25 implicated in asthma and other health conditions," end of

1 quote, the City of Los Angeles Department of City Planning  
2 Freeway Adjacent Advisory Notice Zoning Information, file  
3 No. 2427@1, 2018.

4 Then the Court set out a series of criteria.

5 Now, you have to remember, in those days my law clerks and I  
6 were working trying to set out what we thought were a series of  
7 humane criteria. And I had been told repeatedly, starting  
8 clear back with the matters three years before, that the life  
9 of a homeless person was decreased an average of 23 years.  
10 Sometimes that information varied coming from Ms. Sobel at the  
11 time and Ms. Weitzman at the time to 20 years to 25 years, but  
12 that was a rough estimate. And although it supposedly caught  
13 many of you by surprise, the Court disagrees with that.

14 I had indicated on the record, if you look back  
15 in March and April, that, if you brought a matter to the  
16 federal court stating that there was a decrease significantly  
17 in life expectancy, how could you expect a federal court not to  
18 act? Number two, the City, nor County, never provided permits.  
19 So I will say to each of you as counsel, show me the permit or  
20 give the Court the permit that states that it is safe for  
21 people to live under or adjacent to a freeway against your own  
22 ordinances, and the Court would be happy to consider that, and  
23 we can bring all sorts of things to bear in terms of housing  
24 under freeways. I have never seen that.

25 So now I am respectfully asking you are you

1 willing to bring such a permit to me, Mr. Marcus? Is the City  
2 willing to bring the Court a permit to allow people to inhabit  
3 underneath the freeway system? And remember, I grew up in  
4 Oakland with the 880 Freeway collapse that killed hundreds of  
5 people. So please tell me that the City is prepared to bring  
6 the Court a permit. You can remain seated. And that just  
7 requires a yes or no.

8 MR. MARCUS: Your Honor, I can't answer that  
9 "yes" or "no." I apologize.

10 THE COURT: Why?

11 MR. MARCUS: Well, a few things, Your Honor.  
12 First of all, as I believe the City has indicated in prior  
13 pleadings to this Court, the 500-foot requirement is not a  
14 prohibition against occupancy. It requires additional  
15 maintenance to be done, additional types of filters to  
16 be installed.

17 THE COURT: Well, let's assume that can be  
18 accomplished because you're accomplishing that on 16th and  
19 Maple because I have driven by it. Are you saying that it is  
20 acceptable to the City that people live underneath freeways?

21 MR. MARCUS: No, Your Honor. No.

22 THE COURT: Are you acceptable -- are you stating  
23 to the Court that it is acceptable that they live on  
24 overpasses?

25 MR. MARCUS: No.

1                   THE COURT: Is it acceptable that they live on  
2 underpasses?

3                   MR. MARCUS: No.

4                   THE COURT: Then with the decrease of 23 years on  
5 the average, why would the Court condone this?

6                   MR. MARCUS: Your Honor, the City isn't condoning  
7 this either. The City --

8                   THE COURT: No. Just a moment. Yes, you are.

9 Why would the Court condone it? In other words, if you bring  
10 me statistics or the intervenors bring me statistics about  
11 decreased life expectancy -- and, by the way, the third leading  
12 cause of death versus heart attack. Second is overdose of  
13 narcotics or use and consumption of alcoholism. The third  
14 leading cause of death is getting hit by a car. The Court  
15 can't control narcotics, and I can't control heart attacks.  
16 Now, concerning the third leading cause of death, why would the  
17 Court condone this?

18                  MR. MARCUS: Your Honor, I want to make a  
19 distinction between living under a freeway, under an overpass,  
20 on top of an overpass versus living near a freeway because I  
21 think that is an important distinction.

22                  THE COURT: How about your access and egress?  
23 Let's include those also because your homeless are encamped  
24 along those as well.

25                  MR. MARCUS: Yes. I understand that and the City

1 agrees with that, Your Honor.

2 Again, the requirement, the state law allows for  
3 residences within 20 feet of a freeway. That is the state law.  
4 I'm not aware of a city ordinance that requires anything  
5 different. So state law allows living quarters within 20 feet  
6 of a freeway. That's state law.

7 THE COURT: Look at footnote 6 on page 11,  
8 please. And put that up for -- Alexa, would you put that up?  
9 You can step over to the screen and read your own ordinance if  
10 you would like to.

11 MR. MARCUS: As I indicated, Your Honor, the  
12 500-foot restriction that I believe is from Building and Safety  
13 requires additional things to be put into that residence to  
14 prevent against this particular matter. It doesn't prevent the  
15 building of residences within 500 feet.

16 THE COURT: We understand that.

17 MR. MARCUS: It allows the residences to be built  
18 within 500 feet with additional requirements. State law  
19 prohibits living within 20 feet. That is my understanding.

20 THE COURT: All right. The first thing that I  
21 required in this initial injunction was that all shelters and  
22 alternate housing options must be configured with adequate  
23 physical space to allow the sheltered individuals to maintain  
24 the minimum recommended social distance of six feet to mitigate  
25 the transmission of SARS or COVID. Later on the CDC

1        implemented 12 feet.

2                  The second was all shelters and alternative  
3        housing options must have adequate hygiene facilities such as  
4        handwashing stations and showers.

5                  The third was all shelters and alternate housing  
6        options must have qualified staff where upon intake test each  
7        homeless individual for communicable diseases and other health  
8        conditions. And I stated that the Court may consider revising  
9        this aspect of the preliminary injunction in the future  
10      depending upon the state of COVID-19 pandemic.

11                 The fourth was, if any individual experiencing  
12      homelessness tests positive for COVID-19, that the individual  
13      must be sheltered in the facility in which they can be  
14      individually isolated until they recover.

15                 The fifth was that all shelters and alternative  
16      housing options must be staffed by security as necessary to  
17      ensure the safety of the homeless person sheltered therein.

18                 Judge Birotte is joining us.

19                 And the sixth was, before beginning the process  
20      of clearing overpasses, underpasses, and ramps, all homeless  
21      individuals living in the vicinity must be given advance notice  
22      of at least ten days. Such notice shall include information  
23      about available shelters and alternative housing options in  
24      that council district or supervisorial district.

25                 Now, in the past in the 17 clearances that the

1 Court has been personally involved with, that has always been  
2 at least two weeks, 14 days. I think it looks like 21 days  
3 would be fine. 30 days. There is no magic to that number,  
4 quite frankly. The goal in the past has been to flood that  
5 area with mental health, detox, and offer those in a  
6 concentrated form rather than the year-long process that seems  
7 to be going on in Los Angeles and, therefore, flooding that  
8 with the necessary services which seems to have worked fairly  
9 well.

10                   At a minimum, the interim period between notice  
11 and relocation, social workers -- and this is No. 7. So we all  
12 read it together because most of you aren't reading these  
13 orders, frankly. At a minimum, in the interim period between  
14 notice and relocation, social workers, mental health workers,  
15 and LAHSA authorities shall reach out -- that is not may. That  
16 is not might. That is shall. That is an order -- shall reach  
17 out to noticed individuals experiencing homelessness to provide  
18 services and to facilitate the transition to shelter. The  
19 Court also encourages such outreach to occur as early as  
20 possible even before notice is given.

21                   The eighth was the City and County of Los Angeles  
22 may not relocate individuals experiencing homelessness in the  
23 given council district or supervisorial district until such  
24 notice is given and after the City of Los Angeles and/or County  
25 of Los Angeles provides adequate alternative shelter for all

1 individuals experiencing homelessness in that council district  
2 or supervisorial district. After these conditions are met, the  
3 City of Los Angeles and County of Los Angeles will be allowed  
4 to enforce anti-camping laws in that council district or  
5 supervisorial district within 500 feet of overpasses,  
6 underpasses, and ramps located. This process helps to ensure  
7 that these individuals are being moved to safer locations. To  
8 be clear, while an individual experiencing homelessness cannot  
9 be ordered to enter a shelter facility, they must be given that  
10 option and, if they decline, can then be ordered to relocate at  
11 least 500 feet away from an overpass, underpass, or ramp. If  
12 during the humane relocation process a social worker, mental  
13 health worker, law enforcement officer, or other qualified  
14 person that encounters an individual experiencing COVID-19  
15 symptoms, such individual should be referred to an individual  
16 testing and quarantine process such as, but not limited to,  
17 Project Roomkey. If all of the above requirements are met,  
18 then relocation in these limited areas would be fully compliant  
19 with *Martin versus Boise*.

20 As they begin efforts to comply with this  
21 preliminary injunction, the City of Los Angeles and County of  
22 Los Angeles are responsible for disentangling which entity has  
23 the authority over the subject locations and the relevant  
24 funding mechanisms.

25 Let me stop for a moment and state to you at that

1 point CalTrans was called to the Court's attention and they  
2 have never been voluntarily or involuntarily enjoined in this  
3 lawsuit although every one of your council members and three of  
4 your members of the board have complained about CalTrans's  
5 response up to this point and their interaction with both the  
6 City and the County.

7                   The Court is hopeful that this initial limited  
8 action will assist the parties moving forward as they work to  
9 overcome years of bureaucratic inertia and develop humane  
10 solutions in the best interests of both individuals  
11 experiencing homelessness and the general public. Indeed, the  
12 parties' efforts to provide emergency shelter and services  
13 since the onset of COVID-19 crisis present a stark contrast to  
14 the characteristic inaction that has persisted for years with  
15 respect to homelessness in the greater Los Angeles area.

16                   The Court is concerned, however, that, as the  
17 COVID-19 pandemic subsides, the present momentum will be lost  
18 to longstanding disputes over funding and jurisdictional  
19 authority. The most recent filings by the City and County of  
20 Los Angeles, quoted at length above, already demonstrate a  
21 resurgence of the quarreling and deadlock surrounding the  
22 issues of homelessness.

23                   I'm reading from page 12 of docket 123 filed on  
24 May 22nd, 2020.

25                   And, finally, the Court concluded,

1 notwithstanding the failure of the parties to reach an  
2 agreement on the terms and conditions of a settlement, the  
3 Court, based on input from both the City and County, elected  
4 officials, as well as plaintiffs and intervenors, finds the  
5 decision makers are fully aware of the crisis created by  
6 homelessness in our communities and are dedicated to  
7 formulating solutions that will not only improve the living  
8 conditions of our homeless population but also enhance the  
9 opportunities for the general public to enjoy the benefits that  
10 will result from enlightened approach to addressing these  
11 issues. All parties have the same goal in mind. Their  
12 differences lie in the route to be followed in achieving that  
13 goal. The Court is confident a global solution to the  
14 homelessness crisis will be found while the parties take the  
15 initial step of remedying the emergency health hazards targeted  
16 by this injunction.

17                   A short time after that, the parties approached  
18 the Court and entered into settlement discussions which led to  
19 a request by the Court to withdraw this preliminary injunction,  
20 and I did that in good faith. So historically let's walk  
21 through this for a moment and see where we were.

22                   Without those confidential communications coming  
23 in, many of those calls came into my home, others in private  
24 conversations. Judge Birotte was involved imminently and was  
25 the architect I think of this with my compliments.

1                   So if you would put up the seven pages or the  
2 seven paragraphs.

3                   Now, in deciding to work with you, the Court took  
4 a risk. And that is, when Courts say something, we should  
5 usually mean it, and we should follow through with it. We're  
6 not politicians. What we mean should have some weight, and not  
7 that politicians shouldn't have weight, but occasionally things  
8 change.

9                   In good faith, you entered into a binding  
10 agreement and term sheet, and it's dated June 16th, and you  
11 will find it at docket 136. Now, let me remind you, when you  
12 entered into this binding term sheet, you represented to -- and  
13 I will name the names if you want to -- members of the board  
14 and council that you will have an MOU within two weeks. Let me  
15 repeat that. Two weeks.

16                  Mr. Marcus, how long did that take to get an MOU?  
17                  MR. MARCUS: I believe the MOU was signed in  
18 October.

19                  THE COURT: Four months?

20                  MR. MARCUS: Roughly, yes.

21                  THE COURT: Mr. Miller, how long did that take?

22                  MR. MILLER: Sounds right, Your Honor.

23                  THE COURT: About four months?

24                  MR. MILLER: Yes.

25                  THE COURT: So you can understand the Court being

1 a little concerned about the representation of two weeks and  
2 four months.

3 So let's go through your binding term sheet.

4 First, you agreed that the City agrees to provide 6,700 beds  
5 within 18 months to house or shelter PEH living within 500 feet  
6 of freeway overpasses, underpasses, and ramps within the City  
7 of Los Angeles and then to give priority to providing housing  
8 or shelter to PEH 65 plus within the City of Los Angeles and  
9 other vulnerable PEH within the City of Los Angeles.

The schedule will be as follows: New beds, not existing agreements, 6,000; 5,300 within ten months; a bonus of \$8 million if ten-month target date met; 700 within 18 months. And then you agreed to the beds in the existing agreements of 700 beds within ten months. In other words, those projects that were already in progress.

Now, at that time we then moved to a total of  
6,700 beds established within 18 months. 5,300 of the 6,700  
beds will be new beds -- circle that for a moment in red -- and  
will be created within ten months and 700 additional new beds  
created within 18 months. Must be beds not previously  
captured.

22 Circle that for a moment.

23                   In any agreement or plan between the City and  
24 County, 700 of the 6,000 beds created within ten months may be  
25 beds previously captured in an agreement or planned between the

1 City and County;

2                   Paragraph 2, to assist in funding services for  
3 the 6,000 new beds, County shall pay City up to \$60 million per  
4 year for five years. In the first year, the County shall pay  
5 the City \$53 million; 17 million -- or 17.66 million on  
6 September 1st, 2020; 17.67 million on January 1st, 2021; and  
7 17.67 million on April 1st, 2021. In the second through fifth  
8 years, the County shall pay the City \$60 million on July 1st.  
9 However, if 6,000 new beds have not been created by the  
10 July 1st payment date, the County can prorate payment equal to  
11 \$10,000 per new bed that exists or will open within 60 days of  
12 the payment date.

13                   The funding under this agreement is exclusive,  
14 and the County will continue to allocate Measure H funding by  
15 public -- by Service Planning Area, SPA, based on LAHSA's  
16 homeless count and, where applicable, to homeless population  
17 estimate consistent with the board policy;

18                   Third, the County will pay to the City a one-time  
19 bonus of \$8 million if the 5,300 new-bed target is reached  
20 within ten months from the execution of the agreement; and,

21                   Fourth, the County will take action to provide a  
22 package of mainstream services for PEH residing in facilities  
23 established by the City pursuant to this agreement;

24                   Fifth, the agreement is subject to the court  
25 approval, monitoring, and enforcement; and,

1                   Sixth, the agreement is subject to the City and  
2 County approval;

3                   Finally, paragraph 7. If the parties will -- the  
4 parties will submit this term sheet to the Court upon approval  
5 of this term sheet by the City and County. The parties will  
6 respectfully request the Court to entertain an oral motion  
7 coupled with a joint stipulation from the City and County that  
8 the preliminary injunction dated May 27, 2020, will be vacated  
9 without prejudice subject to the Court's later consideration of  
10 reinstatement of the preliminary injunction should the parties  
11 fail to comply with the terms identified above.

12                  It's apparent to the Court that many of you have  
13 forgotten the original provisions by the Court in my initial  
14 injunctive relief, and it's apparent to the Court that there  
15 has been no permit forthcoming from the City or the County  
16 concerning having people sleep under the freeway system.

17                  So now I want to turn to the last part of some  
18 slides I had compiled for a moment. I want to go to the  
19 Academy Awards for a moment. 51. I want to show you  
20 apparently what you're capable of doing.

21                  And I invite Heidi to come up for a moment or any  
22 representative of LAHSA. And just be comfortable, Heidi. Have  
23 a seat in the chair if you would like to or the lectern. You  
24 can sit in the extra chair if you want to or go to the lectern.

25                  I want to show you your overpasses and

1 underpasses -- strike that -- your overpasses leading up to the  
2 Academy Awards for a moment.

3 So if I can see 52. This is on the way to the  
4 Academy Awards, and I represent to you that this was clogged  
5 with homeless tents a short time before the Academy Awards. If  
6 you don't know that, then you don't know Los Angeles, and  
7 you're not walking around your own community. This was cleared  
8 somehow.

9 53, another photograph taking a look down the  
10 101. You can see the overpasses, and this is near the old  
11 federal court.

12 54, been cleared.

13 55, looking down also at the clearances. I'm  
14 sorry. Looking up now, up the 101. The overpass is not  
15 cleared which is just a short distance from the access and the  
16 egress to the Academy Awards.

17 56, this is kind of a panoramic view. This shows  
18 your old federal courthouse. It shows the pristine clean  
19 sidewalks.

20 Now go to 57 for a moment. Just walk up two  
21 overpasses. Those two overpasses being the cleared overpasses  
22 for the Academy Awards, and this is what you will find on the  
23 other overpasses.

24 58 is the next overpass up.

25 59, 60, 61, 62. We will stop there for a moment.

1                   So on behalf of LAHSA, I'm curious and, quite  
2 frankly, interested in how you were able to accomplish this.  
3 What was offered, how you humanely did this because these are  
4 cleared overpasses without one single tent. And this is what  
5 we would hope to see because I didn't see or hear of any  
6 arrests. So in a sense you got compliments from the Court.

7 How did you accomplish this?

8                   MS. MARSTON: Your Honor, for the Academy Awards,  
9 the area -- the surrounding areas were actually closed prior to  
10 the Academy Awards. So leading up to the event itself, LAHSA  
11 conducted outreach, told the clients in the area that at a  
12 particular date the area would be closed off for the  
13 Academy Awards. There were offers of shelter made for those  
14 who wanted it. But the alternative was that folks left and  
15 went to other areas.

16                  THE COURT: Pete, come on in and have a seat.

17                  Let me ask you something. You said it was closed  
18 off and that was a lot to absorb. Who made that decision?

19                  MS. MARSTON: I believe the City of L.A. and the  
20 Academy Awards make those decisions.

21                  THE COURT: Who? Give me a name.

22                  MS. MARSTON: I'm not clear on who made --

23                  THE COURT: Well, see, I'm used to dealing with  
24 that. The mystical Wizard of Oz. Who? Martinez?  
25 Mayor Garcetti? A bureaucrat? Who?

1 MS. MARSTON: I'm not clear who closes the  
2 streets. My understanding on -- in situations like this where  
3 we have big events --

4 THE COURT: I'm sorry. You don't know, do you?

5 MS. MARSTON: No. I don't know who makes the  
6 decisions.

7 THE COURT: But somebody had to make that  
8 decision above your pay grade.

9 MS. MARSTON: Correct. We were just conducting  
10 the outreach and providing notification.

11 THE COURT: So I want to get this straight. You  
12 actually started outreach before this area was closed, in good  
13 faith offering things to the homeless folks along these  
14 overpasses and this area leading to the Academy Awards;  
15 correct?

16 MS. MARSTON: Correct.

17 THE COURT: What did you offer?

18 MS. MARSTON: There were options. So there were  
19 shelter options provided to folks, but there was also just the  
20 expectation setting that on this particular date at this  
21 particular time you're not going to be able to be here. So you  
22 can take these options or you can go somewhere else.

23 THE COURT: So somebody basically said to these  
24 folks, look, we're offering you something, but if you don't get  
25 off these overpasses -- basically you're going to have to get

1 off of the overpasses. Who made that decision?

2 MS. MARSTON: I'm not clear who makes the  
3 decision. My understanding, it's a collaborative effort  
4 between LAPD, the Academy Awards. But that is a City function.

5 THE COURT: I'm going to joke with you. It  
6 sounds like the Wizard of Oz again. Pull back the curtain. We  
7 don't know. But somebody had to make that over and above your  
8 position; correct?

9 MS. MARSTON: Correct.

10 THE COURT: So in summary then, why did we cover  
11 up this humanity and inhumanity to the very people in Hollywood  
12 who have a heart who might, seeing this, be the most capable  
13 and able public figures, whether they're basketball players or  
14 football players or Academy Awards, why do we cover this over?  
15 And who made that decision?

16 MS. MARSTON: LAHSA does not make that decision.

17 THE COURT: I know that.

18 MS. MARSTON: I'm not clear. I believe that it  
19 is a combination of the City of L.A. and the Academy Awards.

20 THE COURT: Watch me. See that? I got it.  
21 LAHSA is not responsible.

22 MS. MARSTON: No.

23 THE COURT: Who?

24 Let me turn to the city attorney. Who made that  
25 decision? Who wanted to take this inhumanity and pretend that

1 it wasn't there when we probably have one of the most caring  
2 industries in the world with really good people in Hollywood  
3 who might want to do something about this? Did you make that  
4 decision?

5 MR. MARCUS: Your Honor, I do not know who made  
6 the decision.

7 THE COURT: Mr. Miller, who made that decision?

8 MR. MILLER: I don't know, Your Honor.

9 THE COURT: Is there any way we can find out?

10 MR. MARCUS: Yes, Your Honor. I can find out for  
11 you who made that decision to temporarily close those streets  
12 at that time. I can find out for you.

13 THE COURT: Okay. Now, if we can do that and you  
14 have entered into an agreement which we will discuss in a few  
15 moments, why can't that humanely be done on these overpasses,  
16 underpasses and along the freeway? Why can't those resources  
17 be devoted if we have the third leading cause of death caused  
18 by automobiles?

19 Now I'm going to show you some pictures of your  
20 overpasses and underpasses. In fact, we went by them this  
21 morning about 7:00 o'clock. If we can do this for Hollywood,  
22 why can't we do this for Curren Price's district or  
23 Kevin DeLeon's district? And who is making these decisions?

24 Mr. Marcus?

25 MR. MARCUS: Your Honor, the City can and is

1 making efforts to relocate people away from freeways pursuant  
2 to the MOU that was going to be discussed today.

3 THE COURT: We're going to discuss that in just a  
4 moment. We might have a disagreement about that.

5 MR. MARCUS: Understood.

6 THE COURT: Okay. But we were certainly able to  
7 bat what I call 100 percent for the Academy Awards, weren't we?  
8 Completely clear. Mr. Marcus, agreed?

9 MR. MARCUS: Yes, Your Honor. For the temporary  
10 closure it does appear that we were able to relocate every  
11 individual that was there.

12 THE COURT: And you did this even during  
13 COVID-19; is that correct?

14 MR. MARCUS: If it was during this year's  
15 Academy Awards, then yes.

16 THE COURT: Well, when was it?

17 MR. MARCUS: I didn't take the pictures,  
18 Your Honor. I'm taking your words that that was from this  
19 year's. So, yes, that was during COVID.

20 THE COURT: Just a moment. You don't agree --  
21 you don't know that these overpasses were cleared? Is that  
22 what you're saying to me?

23 MR. MARCUS: Your Honor, I was not there at that  
24 time at that location. I'm not saying it's incorrect. Yes,  
25 obviously that's what the pictures show, Your Honor. I can't

1 speak to something that I didn't personally observe. But, yes,  
2 if it was during this year's Academy Awards, then, yes, this  
3 was done during COVID.

4 THE COURT: Heidi, were these cleared? Are these  
5 accurate pictures so we can help Mr. Marcus?

6 MS. MARSTON: There was temporary closure of  
7 these locations during the Academy Awards which was during  
8 COVID.

9 THE COURT: Okay. Would you be kind enough,  
10 Ellie -- I'm going to switch for a moment, and I'm going to  
11 take Curren Price's letter to the court next which I had  
12 docketed, and it would be on slide 33.

13 You know, up until the time that the County  
14 informed the Court that it was going to unilaterally bring a  
15 Motion to Dismiss, you had given me permission to talk to  
16 folks. I immediately ceased talking to people after that. I  
17 think my last engagement was two days later with Miguel Santana  
18 and Fred Ali to keep that, and after that I have not  
19 communicated with any of you.

20 This is a letter dated March 22nd, 2021, that is  
21 on the docket.

22 "Dear Judge Carter. Thank you for taking the  
23 time to meet with my staff so many times over the last year.  
24 We appreciate your hands-on approach to this case and your  
25 willingness to come to our district to see firsthand the

1       struggles and challenges facing our community. Our homeless  
2       neighbors are suffering, and while we are doing our best to  
3       build as many beds as possible as quickly as possible, we still  
4       have much work ahead of us. To solve this crisis, we need not  
5       only the City but the County, LAHSA, and other service  
6       providers in the state to play their part.

7                 "I am writing this letter in particular to the  
8       State's role, specifically CalTrans" -- and we will get to the  
9       \$12 million by Governor Newsom in just a moment -- or 12  
10      billion. I'm sorry. And the 1.5 billion from CalTrans along  
11      with another 13 billion that has already been expended in the  
12      last three years tomorrow. "There's a large population of  
13      homeless individuals living near the freeways, and as is  
14      sometimes the case in my district on the freeways, I am  
15      attaching some photos to illustrate my concern. These  
16      individuals are facing an immediate threat to their health and  
17      safety as well as the safety of those around them. We need the  
18      cooperation of CalTrans to assure we can make contact with  
19      these individuals and move them to a safe location.

20                 "It would be helpful for the City to have an  
21      agreement with CalTrans in regards to how we can coordinate our  
22      outreach efforts and provide cleaning to an area once an  
23      individual has been moved into a housing solution.

24                 "I welcome your feedback and assistance in this  
25      matter. Curren Price."

1                   Okay. 34. 35. 36. 37. 38. Now, this lady,  
2 by the way, is on your egress, and she worries about being  
3 raped. So she maintains this as cars whiz by because she  
4 believes it will be safe there because of the volume of traffic  
5 getting on the freeway. So she's consciously chosen this as  
6 safe haven for herself, and that is the egress for the 110.

7                   Next. Next one. Next one. Next one. Next one.  
8 Next one.

9                   Now, this is a lady you will meet in the  
10 residential area -- and Shayla Myers knows this area well, as  
11 well as I do, Shayla. But this is a lady who is a private  
12 citizen who comes out every morning to clean up in front of her  
13 house. And these are residential areas right across the street  
14 in Curren Price's district. This is a poor neighborhood.  
15 These folks are suffering just as much as the west side of  
16 Los Angeles is suffering. In fact, more so.

17                   Next. Next. Fires are breaking out. Next.  
18 Next. Next. Next. More fires. This area was cleaned and  
19 finally fenced.

20                   And I am going to challenge all of you to get out  
21 of your offices and start walking around your own community and  
22 take a look at this firsthand instead of being lawyers coming  
23 into my court who haven't seen this. Next. Okay.

24                   Back to you, LAHSA. Heidi, why can't these  
25 freeway overpasses and underpasses and these areas be cleared

1 with humanity -- humanely?

2 MS. MARSTON: Your Honor, they certainly can be.

3 The efforts that we have been focusing on are just the priority  
4 locations that --

5 THE COURT: The Academy Awards. I'm joking with  
6 you.

7 MS. MARSTON: So the Academy Awards, the  
8 communication that LAHSA received was that the areas needed to  
9 be temporarily closed off for security reasons.

10 THE COURT: From who?

11 MS. MARSTON: From the City of L.A.

12 THE COURT: Who?

13 MS. MARSTON: Our communication was from the  
14 mayor's office, I believe.

15 THE COURT: Who?

16 MS. MARSTON: Who at the mayor's office?

17 THE COURT: Yes.

18 MS. MARSTON: I believe --

19 THE COURT: I sound like an owl. Who?

20 MS. MARSTON: I believe it was the  
21 Deputy Mayor Che as well as the Unified Homeless Response  
22 Center.

23 THE COURT: The name?

24 MS. MARSTON: Che. But Brian Buchner is the lead  
25 of the Unified Homeless Response Center and coordinates that.

1                   THE COURT: I want to compliment you. That took  
2 five minutes to get a name. I'm just joking with you. We have  
3 a name.

4                   All right. Now we're going to go back for just a  
5 moment, and I'm going to be calling upon Mr. Miller in just a  
6 moment.

7                   Would you go to slide 19, and I think I have got  
8 this memorized. Go to docket -- all of you can pull this up,  
9 docket 267-1. It's page 205 for our record. It's City of  
10 Los Angeles Quarterly Status Report pursuant to the MOU  
11 docket 267. Let's all read this together because in a moment  
12 it's going to require higher math.

13                  So, Mr. Miller, get your pen out. I'm going to  
14 walk you through this.

15                  On the first page you're going to see interim  
16 housing. If you go from No. 1 all the way through to  
17 page 20 -- if you put that up, Alexa, next page, page 20 -- you  
18 will see 2,200 personally added by this Court numerous times.  
19 So interim housing you can put down 2,200 up to this report by  
20 the City. Then go from line 34 down to line 39, and if you add  
21 up those lines, you will see 451 permanent supportive housing.

22                  Now go back down one more line, and you will see  
23 Homekey starting at line 40 all the way down to line 48 -- and  
24 turn the page one more time, Alexa, to 21 -- if you look at  
25 line 49, if you add up 40 through 49, you will come out with

1 1,464 Roomkey.

2 Now, Mr. Miller, go down to line 59. All rapid  
3 rehousing shared housing, 644. For a moment I want you to pay  
4 particular attention to that rapid rehousing 644 because  
5 Ms. Sobel got very excited when all of you were in front of the  
6 Court and represented there would be up to 3,000 rapid  
7 rehousing. I've got that on the record. I didn't capture her  
8 excitement, but she was very excited about that.

9 Now go down to safe parking from lines 60 through  
10 70, and you will find 258. Turn the page, and then we go back  
11 to interim again. We have 428 from line 70 to 75, and from  
12 line 76 to 81 we have 300 of permanent supportive housing.

13 Now, to make that easy, if you turn over to 23,  
14 we start to combine these on two sheets for you, Mr. Miller.  
15 And in a moment -- just flash 24 to him also, Alexa, so he can  
16 see that. I'm going to walk you through this very slowly.

17 I want you to look for a moment at line 28. So  
18 if you go back, Alexa and Ellie, to slide 28, I want you to see  
19 on line 28 CD-14, which is interim housing, 1060 North Vignes  
20 Street.

21 Mr. Miller, what is that location?

22 MR. MILLER: Interim housing on Vignes.

23 THE COURT: Right. But what is it?

24 MR. MILLER: I don't know. I haven't been there.

25 THE COURT: I know. Well, Hilda Solis was kind

1 enough to personally take the Court there.

2 MR. MILLER: Right.

3 THE COURT: This was boarded by the Board of  
4 Supervisors in October, and this is the site of 232 that I  
5 especially paid a compliment to the Board of Supervisors about  
6 because they constructed this by December 28 of last year. In  
7 my last order, if you read it, I particularly noted and  
8 complimented the board in accomplishing this. This is all  
9 county land, all county funding.

10 And, Mr. Marcus, why is this being listed as a  
11 credit to the City when the County has paid for the 232?

12 MR. MARCUS: Your Honor, the City and the County  
13 actually worked collaboratively on the bit --

14 THE COURT: No. No. You may work together, but  
15 this was represented to me by the chairman of the board who was  
16 then not the chair that this was all county funding, all county  
17 property, and the only way that they were able to get it  
18 through was because of the County's efforts. I see the City  
19 though counting this in your statistics.

20 MR. MARCUS: With agreement from the County,  
21 Your Honor, because the City is actually providing the funding  
22 for the services at these locations. It was built on county  
23 property with county funds, but it is actually the City paying  
24 for all the services at these beds. And the City and County  
25 worked out an agreement that it would count towards the 5,300.

1 That has all been part of their collaboration between the City  
2 and the County that has been going on since the term sheet has  
3 been signed.

4 THE COURT: Okay. Let's go along the way. I  
5 want to make sure that the County is -- Mr. Miller, do you  
6 agree to that?

7 MR. MILLER: Yes. I think that is correct,  
8 Your Honor.

9 THE COURT: Okay. We will count that then as a  
10 credit.

11 MR. MILLER: Yes.

12 THE COURT: Excellent. In fact, I'm glad.

13 Now I want you to go to 644 rehousing on  
14 slide 24. Now I want you to go to line 59. Do you see that?

15 I want to make sure, Mr. Miller, you are tracking  
16 it. If not, don't worry. We will slow down.

17 MR. MILLER: I've got it, Your Honor.

18 THE COURT: Now, I want you to turn with the help  
19 of my law clerks to the next slide, 25. I want you to go to  
20 item No. 1. I'm going to read that. The verse says, CD all.  
21 Project type rapid rehousing shared housing which is what had  
22 all of us excited. 3,000 rapid rehousing. Scattered sites and  
23 then number of beds.

24 Do you see the 3,000? Yes or no.

25 MR. MILLER: Yes.

1                   THE COURT: Now, trace over and tell me how many  
2 individuals have been served.

3                   MR. MILLER: Let me look at it. Looks like 385.

4                   THE COURT: Out of 3,000. Is that right,  
5 Mr. Miller?

6                   MR. MILLER: It's not clear. It looks like  
7 there's a number of other --

8                   THE COURT: We will get to those individually. I  
9 just want to see if you agree that --

10                  MR. MILLER: That's what it says, 385.

11                  THE COURT: Well, who made up these numbers?

12 This is what the Court is receiving; so I am going to rely upon  
13 it. I see 385. Don't you?

14                  MR. MILLER: Yeah.

15                  THE COURT: Okay. Now turn back to slide 24 for  
16 a moment. Go back to line 59. It says, rapid rehousing,  
17 doesn't it? Mr. Miller, look at that screen.

18                  MR. MILLER: Yes. I see it, Your Honor.

19                  THE COURT: How many does it say?

20                  MR. MILLER: 644.

21                  THE COURT: Okay. What does it say after that?  
22 In process?

23                  MR. MILLER: Yes.

24                  THE COURT: What does that mean?

25                  MR. MILLER: It must mean it's in the works.

1                   THE COURT: Why would the Court then count 644 in  
2 the total represented to it by the City?

3                   MR. MILLER: Good question.

4                   THE COURT: Why don't you step over and talk to  
5 Mr. Marcus. He probably has the answer.

6                   MR. MILLER: I would like to know when it's done.

7                   THE COURT: I would too.

8                   MR. MARCUS: Your Honor, if I can try to explain.  
9 And I do have Meg Barkley who is the homeless coordinator here  
10 from the CAO's office who can correct me if I'm wrong.

11                  These two numbers represent slightly different  
12 things as the title of the documents represent. So the 3,000  
13 rapid rehousing beds is what is in the plan for the entire term  
14 of the MOU which, as you know, we have until December.

15                  THE COURT: You only have 700 more beds. You're  
16 supposed to complete about -- 5,300 plus 700 by today's date.  
17 Look at your agreement again.

18                  MR. MARCUS: We did.

19                  THE COURT: You have 700 more -- no, you haven't.  
20 You have 700 more beds than you have latitude for 18 months.  
21 Now, before you say you did, be very, very careful.

22                  MR. MARCUS: I am, Your Honor. We have been  
23 submitting quarterly reports from the very beginning. The City  
24 has been 100 percent transparent --

25                  THE COURT: No. No. No. No. I'm not listening

1 to lawyers now. I'm going to do this again. Why are you  
2 counting 644?

3 MR. MARCUS: The 644 beds, Your Honor, as I  
4 understand it, represents rapid rehousing beds that were open  
5 and occupiable as of April 16, 2021. That is a different  
6 number than the 3,000 that we were hoping to have all in total,  
7 and it's also a different number than the 385 individuals who  
8 have been served by the 644 beds that were open and occupiable  
9 as of that date.

10 THE COURT: Would you go to slide 28 for just a  
11 moment.

12 Now, Mr. Miller, this is going to take a lot of  
13 concentration.

14 MR. MILLER: I will do my best, Your Honor.

15 THE COURT: When you go back to the original  
16 agreement between you and the City, what was the first  
17 priority? It's in paragraph one.

18 MR. MILLER: 6,000 new beds.

19 THE COURT: Excellent. By what date? If you add  
20 the two together, although it's convoluted, 6,000 new beds  
21 within ten months. 700 additional within 18 months. But I  
22 will let you figure that out, and you make the statement for  
23 the record so I don't have to.

24 MR. MILLER: What is the question, Your Honor?

25 THE COURT: I want your statement, not mine,

1       although I think I have this memorized now, that within ten  
2       months, however you equate this, there's supposed to be 6,000  
3       new beds within ten months and 700 additional within 18 months.

4                    MR. MILLER: Right.

5                    THE COURT: Is that correct?

6                    MR. MILLER: That is what it says.

7                    THE COURT: Okay. And now go back to your  
8       agreement with the City, and tell me the priority, and see if  
9       you agree that the first priority are to be freeway overpasses  
10      and underpasses. The second priority is to be 65 plus.

11                  MR. MILLER: Right.

12                  THE COURT: And we both agree, because of CDC,  
13       the Court is not going to have any movement. In fact, we want  
14       those beds filled. So I'm not going to quibble over whether we  
15       put 65-year-olds in or whether we put freeway overpasses in. I  
16       don't really care at that point. I just want those beds  
17       filled.

18                  MR. MILLER: Right.

19                  THE COURT: Now look down at line 103, and tell  
20       me how many PEH within 500 feet -- how many individuals on your  
21       overpasses, underpasses have been served within 500 feet.

22                  MR. MILLER: According to this document, within  
23       500 feet of freeways, 396 people.

24                  THE COURT: Okay. 396 people out of the  
25       representation by Heidi and LAHSA that we had about 3,000 to

1       3,100 people living under or over overpasses and within 500  
2       feet.

3                     Now I want you to look at the second priority.  
4       And, by the way, this was in negotiations with Martinez and  
5       MRT. The next one is 65 years and older; right?

6                     MR. MILLER: Right.

7                     THE COURT: What is the number?

8                     MR. MILLER: 601.

9                     THE COURT: Now I want you to go over to other  
10      PEH not prioritized in the agreement, 1,343. Could you please  
11      explain to me, when you're the ones who reached the agreement  
12      of 65-year-old overpasses and underpasses and ask me to  
13      withdraw my preliminary injunction, how we're coming up with  
14      1,343 other people when we seem to be with rather low numbers  
15      for our 65-year-olds and our overpasses and underpasses and if  
16      that's the agreement that all of you reached.

17                    MR. MILLER: You know, Your Honor, I can't  
18      explain that column. I didn't prepare this document.

19                    THE COURT: Let me turn to Mr. Marcus then. Will  
20      you explain this to me?

21                    MR. MARCUS: Yes, Your Honor. The City has  
22      created the 5,300 new beds and the 700 existing beds by that  
23      deadline, and we have conducted outreach at hundreds of  
24      encampments including 77 encampments by freeways. The outreach  
25      to the encampment, however and unfortunately, doesn't always

1 result in that person taking that offer of shelter on that day.  
2 And so rather than leave beds empty, LAHSA service providers  
3 make sure that as many beds as can be filled are filled.

4 THE COURT: Well, if we have 3,000 people over  
5 and under freeways and we have always been concerned with the  
6 65-year-olds and over, because of course we get 100 percent now  
7 of FEMA money back, why do we only have 396? We do it for the  
8 Academy Awards. Why do we only have 396?

9 MR. MARCUS: It's not an equal comparison,  
10 Your Honor. As I was saying, the service providers work with  
11 the individual council offices to target outreach at the  
12 encampments that are a target that have been part of the City's  
13 list the entire time to fill the beds that the City has been  
14 creating which has also been on the council plans which we have  
15 been submitting to the Court on a quarterly basis. However, as  
16 we know, an offer of shelter doesn't always necessarily mean  
17 the person will take the shelter.

18 THE COURT: Turn to slide 30, would you, so  
19 Mr. Marcus will have his memory refreshed.

20 If you go down to this docket which is your  
21 filing document, docket 123, would you be kind enough, because  
22 I'm getting tired of reading, to read line 20 through 23.

23 MR. MARCUS: "Identify and activate exits for the  
24 approximately 3,000 people brought into emergency city shelter  
25 settings," open parenthesis, "recreation centers and

1 city-funded Project Roomkey hotels," close parenthesis, "over  
2 the course of 120 days."

3 THE COURT: And then the second paragraph.

4 MR. MARCUS: "Create additional shelter beds and  
5 locations for the relocation of approximately 3,100 people who  
6 live under freeway overpasses and underpasses in the City of  
7 Los Angeles in the subsequent 180 days while ensuring that the  
8 sheltering or housing of any such person does not supersede the  
9 placement of someone who is assessed by the public."

10 THE COURT: All right. Now, I want you to go  
11 back to the Roomkey hotels for just a moment. I'm going to  
12 represent to you that on slide 23 and 24, so you can see them,  
13 there's 1,464 Roomkey hotel rooms.

14 Do you see that?

15 MR. MARCUS: Yes.

16 THE COURT: Okay. Now, we know that the Biden  
17 Administration has moved from 75 percent reimbursement to  
18 100 percent with FEMA; is that correct?

19 MR. MARCUS: That is my understanding, yes.

20 THE COURT: Is that correct or not?

21 MR. MARCUS: That is my understanding that that  
22 announcement was made, yes.

23 THE COURT: I used to teach police officers how  
24 to testify, and I'm going to joke with you a little bit. To  
25 the best of my recollection, see, that never gets you accused

1 of perjury. To the best of my understanding.

2 Are you getting reimbursed 100 percent from the  
3 Biden Administration?

4 MR. MARCUS: We have applied for reimbursement.  
5 We have not received the money back yet.

6 THE COURT: You haven't gotten it applied yet.  
7 It's 100 percent, though, if you get it back; right?

8 MR. MARCUS: Yes. And the application has been  
9 made for approximately 54 million so far for Project Roomkey,  
10 and additional applications are pending.

11 THE COURT: Just a moment. If you don't know it,  
12 you're over 100 million. Go check your records. When I wrote  
13 my opinion, you were at 61 million and climbing. You're over  
14 100 million right now. Do you know that?

15 MR. MARCUS: Yes. I'm talking about the  
16 applications that have actually been put in and submitted to  
17 FEMA.

18 THE COURT: I understand that, but I'm not going  
19 to let you do that for a moment. I'm going to tell you that  
20 you're over 100 million, and I want you to disagree with me.  
21 In other words, regardless of what you have applied for, you  
22 have got well over \$100 million right now out there that you  
23 could request.

24 Am I wrong?

25 MR. MARCUS: I don't believe, Your Honor -- I do

1 not believe you are wrong, and I believe those subsequent  
2 applications are in the process.

3 THE COURT: And I understand the fine line you  
4 are drawing so we don't quibble. Judge, we have only applied  
5 for 51 million, so what we'd like to tell you on the record is  
6 51 million. And I'm saying to you, Mr. Marcus, that, whether  
7 you have applied or not, you've got well over 100 million at  
8 the present time and climbing.

9 MR. MARCUS: And our intention is to apply for  
10 all of it, Your Honor.

11 THE COURT: I'm saying you have well over  
12 \$100 million you can apply for, can't you?

13 MR. MARCUS: Yes. And I believe we are applying  
14 for it. Yes. That's my point.

15 THE COURT: I'm absolutely clear. I know that  
16 you say you are applying for it. I'm going to say it again.  
17 You have well over 100 million, don't you? I know you want to  
18 get into the record, and you will. Golly gosh, we are applying  
19 for it. I understand that. But you have well over  
20 \$100 million out there, don't you?

21 MR. MARCUS: I believe that is yes.

22 THE COURT: Okay. Now, in First Alliance's  
23 document that they filed with the Court, they raised an  
24 interesting issue. If you are applying -- Mr. Miller, pay  
25 attention.

1 MR. MILLER: Yes, Your Honor.

2 THE COURT: If you're applying for \$100 million,  
3 should that be returned to the County?

4 MR. MARCUS: No, Your Honor.

5 THE COURT: Why?

6 MR. MARCUS: Well, first, Your Honor, we don't  
7 have the money back.

8 THE COURT: Just a moment. Let's just assume  
9 that the Biden Administration is in good faith and you get  
10 50 million back, if you want to quibble, or \$100 million back.  
11 Is this what you intended in the agreement?

12 MR. MARCUS: Your Honor, the agreement always  
13 envisioned both the City and the County leveraging whatever  
14 money we can get from whatever funds. There's city, county,  
15 state, and federal money going into both the construction and  
16 the services for the beds that are being created. The City has  
17 put up front all the money for -- almost all the money for the  
18 building, and any money that we get reimbursed is going to go  
19 right back into addressing homelessness in some way.

20 But the plaintiffs weren't part of the  
21 negotiation of the MOU and aren't parties to it, and they don't  
22 understand the negotiations and discussions that did go on and  
23 are continuing to go on between the City and the County to  
24 effectuate the MOU.

25 THE COURT: Well, your negotiations have broken

1 down. You don't have negotiations, from my understanding,  
2 concerning an agreement. Remember, you're only here because  
3 you haven't been able in good faith to reach an agreement  
4 between the County and the City holistically for an omnibus  
5 agreement. That's why you're here, and that is why the Court  
6 is so involved.

7 So let's go back to this. Mr. Miller.

8 MR. MILLER: Yes?

9 THE COURT: Do you agree? Have you gotten your  
10 money out of this bargain? Is this what you bargained for?  
11 Because this is going to go on for four years.

12 MR. MILLER: Your Honor, we are conducting an  
13 audit. We are looking at all these issues now. I don't have a  
14 definitive answer from the audit. I think we will have the  
15 results in -- I think I'm told in July. I mean, we're --

16 THE COURT: We're going to raise that tomorrow.  
17 Tomorrow you can expect to see Elaine Howle stating that  
18 there's been \$13 billion extended in the last three years  
19 throughout the state in which Los Angeles has received an  
20 incredible amount of money. You're going to see some charge  
21 that we'll put up so that you're forewarned about tomorrow  
22 about the governor pledging \$12 billion plus another 1.5  
23 billion for CalTrans. You're going to see some projections,  
24 just in this Court's humble effort, of Proposition J between  
25 300 million and 900 million depending upon what the offsets

1 are. There's some discussion going on. You're going to see  
2 2.6 billion expended just in the last 24 months.

3 So tomorrow we are going to be talking a lot  
4 about money and audits. We won't get into it today, but  
5 tomorrow is going to be quite a day.

6 My question is very simple. As of March 2021,  
7 the City had failed to request in excess of 100 million from  
8 FEMA, and today the representation by Mr. Marcus is -- you  
9 requested how much money?

10 MR. MARCUS: I believe 54 million for  
11 Project Roomkey, and there are additional sums that were  
12 requested in additional programs. There's a report that was  
13 filed by the CAO's office I believe last week publicly. I can  
14 make it available to the Court.

15 THE COURT: That's between the two of you.  
16 Remember, you're only here because you can't reach an  
17 agreement.

18 And then the Court well knows and you well know  
19 that, in total though of the 54 million that you finally filed  
20 for, that you're well in excess of 100 million right now total  
21 figure. You just haven't applied for the other 60 million  
22 approximately. And even though the Federal Government has  
23 increased the percentage to 100 percent through September of  
24 2021, it's interesting to the Court that the County is in the  
25 position of financing this in a sense. And if this was

1 intended by the County, the Court is going to remain silent.

2 Mr. Miller?

3 MR. MILLER: What is the question? I'm sorry,  
4 Your Honor.

5 THE COURT: Well, is this your intent, to finance  
6 the City in this way? It has been argued this is double  
7 recovery.

8 MR. MILLER: Roomkey is a County --

9 THE COURT: Is this your intent? Is this the  
10 agreement you entered into, and if so, I am going to remain  
11 silent. You will spend your money this way.

12 MR. MILLER: No.

13 THE COURT: Okay. I really appreciate this, and  
14 I want to put that on the record. This is the first  
15 nonconvoluted answer I think I have gotten today.

16 MR. MILLER: Roomkey is a County --

17 THE COURT: Hold on. The answer is no, and we  
18 both know it.

19 MR. MILLER: All right.

20 THE COURT: We both know it, so let's quit  
21 dancing now.

22 MR. MILLER: All right.

23 THE COURT: All right. I'm going to say to you  
24 that, instead of being critical, you have a wonderful  
25 opportunity -- and I want to compliment Supervisor Barger for

1 being here. Your presence is always appreciated. You have a  
2 wonderful opportunity.

3 Our whole goal is to increase housing or shelter.  
4 And the way that this money is used is it's obvious -- and  
5 Mr. Miller answered the question succinctly -- that this was  
6 never intended for a double recovery. Why aren't we taking  
7 this money that you're getting back -- and the Court has no  
8 concern whether you put it into shelter or supportive housing.  
9 But why aren't we taking this hundred million dollars in  
10 addition to it and putting it right back into something that  
11 benefits the homeless in the community? Because right now it  
12 could be argued that you're pocketing this regardless of your  
13 representation.

14 What are you going to do with that hundred  
15 million, Mr. Marcus? What is your plan?

16 MR. MARCUS: Your Honor, again, we disagree that  
17 it is double recovery. We have fronted the costs for a lot of  
18 the Roomkey and other interventions that we have funded through  
19 this MOU, and that money is coming back to the City to  
20 reimburse it for that and to then be put back into homeless  
21 interventions.

22 There's been no issue or concern of going forward  
23 in this MOU so far. We have created the interventions,  
24 actually exceeded the number of interventions that were  
25 required in April. We hope to do the same in December. We

1 have provided all information to the Court and to the public  
2 and to the County. The County's auditor-controller is working  
3 with our CAO's office to do an audit. If they come up with any  
4 issues, we will work through them.

5 THE COURT: I have already ordered an audit. It  
6 is appreciated, but if you look at my order, I have already  
7 ordered an audit. That is due within, I think, 90 days.

8 Okay. I'm going to turn this over to the  
9 parties. If everybody is happy with this agreement, I have  
10 nothing further to say. But this is going to go on for four  
11 more years, Mr. Miller. It's your county money. So if you  
12 want to talk, make some phone calls or whatever because now you  
13 represent the county. When you speak to me, you speak on  
14 behalf of each member of the Board of Supervisors.

15 MR. MILLER: Correct.

16 THE COURT: Why don't you take a few moments to  
17 look at this and talk to whomever. This isn't just this year.  
18 It goes on for four more years.

19 MR. MILLER: It's a lot of money, and obviously  
20 we are very committed -- the County is very committed --

21 THE COURT: That is a political speech now. Are  
22 you in favor of this agreement? Is this the way you envision  
23 it being implemented? Is the County getting their money out of  
24 this?

25 MR. MILLER: I think so now. I'm waiting for the

1 audit in July, but I think so.

2 THE COURT: Okay. Then, counsel, this may be a  
3 very short hearing today. Tomorrow will be much longer. Trust  
4 me. So I will go to the intervenors or First Alliance or any  
5 member of the public who wants to comment.

6 MS. MITCHELL: We would like to, Your Honor.

7 THE COURT: Please. And just have a seat so all  
8 the parties can hear you.

9 MS. MITCHELL: The concern in recognizing that  
10 plaintiffs were not part of this agreement, it was between the  
11 County and the City and the Court --

12 THE COURT: For the public benefit.

13 MS. MITCHELL: For the public benefit.

14 THE COURT: I withdrew the preliminary injunction  
15 for the public benefit to let the parties work together. So  
16 this isn't just an agreement between the City and the County.  
17 I have got provision 7 that says I can withdraw this at any  
18 time if I don't think the public is benefiting.

19 MS. MITCHELL: Thank you, Your Honor. And we  
20 would agree. And I want to reiterate what we said originally  
21 in our brief in that the tremendous cooperation that was  
22 required to establish the beds that were established is  
23 commendable, and we're not quibbling with that.

24 But there are some concerns that we raised in our  
25 brief that still remain, and that is the double counting of the

1 Roomkey beds. That is a concern I think for public interest.  
2 There is the lack of accountability on the rapid rehousing  
3 beds, and, frankly, the fact that only 396 people near freeways  
4 were served by this agreement is a huge concern.

5                   The entire purpose behind the preliminary  
6 injunction originally was to address the danger and the health  
7 risks of individuals near the freeway. So the fact we only  
8 have 396 individuals served and nobody humanely relocated does  
9 not serve the original intent of both the -- the agreement  
10 between the parties as well as the original preliminary  
11 injunction.

12                  When you have -- I was kind of going back and  
13 looking at the prior hearings in this case, and I pulled up the  
14 November 2020 hearing where this was discussed quite a bit.  
15 And we specifically had a conversation myself, Mr. Miller, I  
16 think Ms. Marston, Mr. Marcus, and the Court, Ms. Martinez, we  
17 were all talking about what is the purpose behind the beds? We  
18 all agreed that the sort of 3,000 were for folks in and around  
19 freeways and that the remaining, my question was, is that going  
20 to be used for the rec center exits and Project Roomkey exits  
21 because the big concern is we didn't want people exiting these  
22 institutions without getting housing. Everybody agreed that  
23 was the intent with this 6,700 beds was, one, 3,000 for the  
24 individuals near freeways and then 3,000 for Project Roomkey  
25 and rec center exits.

1                   Now, we recognize that Roomkey was extended, and  
2 that's wonderful, and we're not suggesting that it shouldn't  
3 have been certainly. But the fact that we still only have  
4 396 people in and near freeways to me not only seems like a  
5 material breach of the agreement between the parties and the  
6 Court but also is not within the public interest because, as  
7 the Court noted, you do still have significant danger to those  
8 individuals.

9                   So as a member may be speaking for the public  
10 interests, it's still a significant concern for the plaintiffs.  
11 All three of these issues we raised. Not just the freeway  
12 issue but also the lack of accountability in rapid rehousing  
13 and these 1,500 Roomkey beds which still appeared to us to be  
14 double counted. It's our position that those 1,500 Roomkey  
15 beds should be in addition to but not part of this MOU.

16                  THE COURT: Okay. I'm sorry. Shayla Myer or  
17 Carol Sobel -- and pardon me for referring to you by first  
18 name, but if you have any thoughts, I'm throwing it open to  
19 you.

20                  MS. MYERS: We have nothing to add at this point,  
21 Your Honor.

22                  THE COURT: Thank you.

23                  SPECIAL MASTER MARTINEZ: Thank you,  
24 Judge Carter. Michele Martinez, special master.

25                  Out of the 6,195 beds, it seems that 5,895

1 beds -- if you can clarify because it says only 300 are  
2 permanent. So 5,895, are any of those beds permanent, or are  
3 they just temporary in nature which means that, when  
4 Project Roomkey ends, the rapid rehousing or safe, where would  
5 these people go?

6 MR. MARCUS: So yes. Some of --

7 SPECIAL MASTER MARTINEZ: You have a five-year  
8 agreement. So currently only 300 will go into permanent  
9 housing.

10 MR. MARCUS: As of April 16, that is correct.  
11 There are some beds that are being used for this MOU such as  
12 Project Roomkey which are expected to end at some point. Those  
13 beds will be replaced with other beds so that there will be a  
14 constant 6,000 beds open and occupiable for every year of the  
15 agreement. That is part of the ongoing auditing process that  
16 we are engaged in with the auditing-controller.

17 But, yes, every bed that might disappear for  
18 whatever reason, whether it's a Roomkey or whatever, will be  
19 replaced by a one-to-one bed, yes.

20 SPECIAL MASTER MARTINEZ: Fantastic. Thank you.

21 THE COURT: Can you put up May 27th for just one  
22 moment? I want to jump to Elaine Howle for just a minute.  
23 This will pave the way tomorrow for discussion because,  
24 remember, I'm not an auditor. I think I know the difference  
25 between a forensic audit and a placement audit. But, frankly,

1 your questions to my special master have been, let's say, less  
2 than helpful in terms of your understanding.

3                   So I just want to take Elaine Howle for just a  
4 moment to give you a preview for tomorrow and put up a little  
5 chart for a second. I'm not accurate. This is just a judge  
6 and law clerks working off of public documents that you filed,  
7 et cetera.

8                   MR. MILLER: Judge, when you get a chance, I  
9 wanted to ask you about tomorrow and what we're going to do.

10                  THE COURT: I'm asking you in just a moment to  
11 take a look at this, and then I will engage you, Skip, and we  
12 will have a conversation. You have quite a day for you  
13 tomorrow.

14                  This comes from your auditor-controller. This is  
15 just the beginning of what we're going to show you tomorrow  
16 when you tell me, Heidi, that you can't take on 65-year-olds  
17 and the freeway at the same time, you don't have enough  
18 resources. Or a year ago you told me that, to be fair.

19                  MS. MARSTON: At the time, yes.

20                  THE COURT: Let's just take -- California has  
21 spent \$13 billion in just the last three years on the massive  
22 homelessness problem. This is a quote from her. 13 billion.  
23 The auditors have said the approach to dealing with  
24 homelessness is so fragmented and incomplete it actually  
25 hinders efforts at getting people into the stable housing.

1                   Now, tomorrow I'm going to show you that you have  
2 spent over \$2.6 billion in the last 24 months and ask you what  
3 the results of that is. I'm going to show you 662 million just  
4 from HUD alone. I will talk to you about Proposition J  
5 tomorrow. Then I will talk to you about Governor Newsom's  
6 promise about 12 billion plus 1.5 additional, and I'm going to  
7 tell you you're working on \$30 billion. And I'm asking you,  
8 hey, where is the permanent housing if we're going there? I'm  
9 going to ask you tomorrow what you have to show for this.

10                  And by the way, there may be a tremendous amount.  
11 Don't get me wrong. Services out there may be super. These  
12 young people out there are working very hard. By the same  
13 token, this is your state auditor.

14                  And I'm asking you why you think that the Court  
15 is going to let you conduct your own audit and change my order  
16 of an independent audit. So when we're talking about  
17 modifications tomorrow, I think it's going to be a very, very  
18 interesting day because I'm going to say that you've got all  
19 the money at your disposal. You don't have much  
20 accountability.

21                  And that's what I'm going to be asking you about  
22 tomorrow and taking you through some really concise -- now,  
23 some of your committee members may decide not to be present  
24 tomorrow. So be it. I'm going to be asking where they are  
25 because, otherwise, my records stand in terms of my opinion

1 because, by their nonappearance, you have validated structural  
2 racism.

3 SPECIAL MASTER MARTINEZ: Just one more  
4 clarifying question for the County specifically. I just want  
5 to make sure that the County is satisfied with the current  
6 agreement and progress thus far. I know you have an audit that  
7 should be done by July, but just to state for the record, we  
8 want to make sure that the County is satisfied with the current  
9 agreement and progress.

10 MR. MILLER: Yes.

11 THE COURT: Okay. If I disagreed with you and  
12 found that you had not met this agreement, I think there would  
13 be two concerns that this Court has. One, I don't want any  
14 possibility of shelter or housing not being provided in terms  
15 of any potential movement, especially with CDC because I think  
16 that is inhumane.

17 Number two, I'm really wondering why these  
18 additional amounts that you're going to receive back for the  
19 1,464 aren't put into additional housing because in a sense it  
20 could be argued it is double counting. Not only did you get  
21 the County's money, but that money should have been used for  
22 additional housing. Therefore, I may have a strong  
23 disagreement with your position, Mr. Marcus, that there should  
24 be an additional 1,464 constructed and that this money was  
25 always intended for new beds.

1                   So do I act under paragraph 7 today? I don't  
2 think so. I think I wait a little while, but I don't know that  
3 I'm waiting for 18 months. So I would suggest that, since the  
4 audit that I ordered is due in -- Ellie, would you look that up  
5 for me? We have the date.

6                   THE LAW CLERK: This will take a minute.

7                   THE COURT: Yeah. There is an administrative  
8 stay until June 15th. I wrote down the specific date.  
9 July 19th.

10                  Now, I can't help but feel that, before the Court  
11 issued this order, that there wasn't an audit in place. I  
12 can't help speculate that this audit is only occurring because  
13 the Court's ordered you into an audit situation. So,  
14 therefore, you're trying to control your own future through  
15 some audit. And I'm not certain that is independent or not.

16                  And in conversing with my special master, you  
17 have been very obtuse about that. Why would I trust your  
18 internal audit over my order?

19                  MR. MILLER: Your Honor, the auditor-controller  
20 is a separate department, independent department with -- within  
21 the County. I dealt with them over the years. They are  
22 independent. They're not self-serving. They know what they're  
23 doing. They are very experienced, and I have great confidence  
24 in them, quite frankly.

25                  THE COURT: What happens if the Court partially

1 did -- no disagreement. But why wouldn't Elaine Howle be  
2 taking a look at this from the state level and seeing where the  
3 State's money is going? In other words, there the State has a  
4 really strong interest in ferreting out accountability.

5 MR. MILLER: Good question.

6 THE COURT: Well, answer it then.

7 MR. MILLER: I can't answer for her. If she  
8 wanted to do an audit, if the State wanted to do an audit --

9 THE COURT: No. Not the State. In other words,  
10 the Court, depending upon the administrative stay or not, I  
11 could be requesting this of the state. I could go outside to  
12 an independent auditor if I wanted to. But if I wanted to  
13 save money and I really believed in that independence,  
14 Elaine Howle stood up -- and she's been very critical of the  
15 State. I have no doubt that she might be very precise in her  
16 audit. It is in the State's interest to find where this money  
17 is going.

18 MR. MILLER: Yeah. That's a possibility.

19 THE COURT: Something to think about is why are  
20 we even discussing this? Why isn't there a complete  
21 willingness on the County's part for a completely transparent  
22 audit by somebody you're not choosing but by somebody that the  
23 Court also has confidence in that's outside your daily work?  
24 Why wouldn't you be accepting to that and we can take that  
25 issue off the 9th Circuit's plate?

1                   MR. MILLER: I'm not saying no to that as a  
2 general proposition.

3                   THE COURT: Are you saying yes?

4                   MR. MILLER: No. I'm not saying yes. I don't  
5 have that authority either.

6                   THE COURT: Just a moment. You speak for the  
7 board. You told me that.

8                   MR. MILLER: Pardon me?

9                   THE COURT: You speak for the board. You told me  
10 that.

11                  MR. MILLER: Yes. The board is our client.

12                  THE COURT: Are you agreeing to an independent  
13 audit and agreeing to Elaine Howle to take a look at this  
14 money?

15                  MR. MILLER: I don't have that authority, and the  
16 answer is, no, I'm not agreeing to that at this point in time.  
17 I do not have that authority. All I'm saying is the  
18 auditor-controller of the County is independent. I think it  
19 would be reinventing the wheel to go outside. I don't think  
20 it's necessary. They are --

21                  THE COURT: I'm going to show you some -- let's  
22 leave this until tomorrow. It's going to be an interesting day  
23 I think.

24                  MR. MILLER: That's fine.

25                  THE COURT: Yeah.

1 SPECIAL MASTER MARTINEZ: Special Master  
2 Martinez. One more clarifying point, Mr. Miller.

3 MR. MILLER: Sure.

4 SPECIAL MASTER MARTINEZ: The current audit that  
5 you're speaking about is specifically for the freeway agreement  
6 that is currently being done by your auditor-controller  
7 whomever that person is from the County. Is that a true  
8 statement? Yes or no.

9 MR. MILLER: Yes.

10 SPECIAL MASTER MARTINEZ: Great. Thank you.

13 MR. MILLER: What is tomorrow going to look like?

14 THE COURT: I don't know. I'm going to be here  
15 at 9:00 o'clock.

16 | MR. MILLER: Okay.

17 THE COURT: We'll see who shows up.

18 | MR. MILLER: We will be here.

22 Mr. Miller?

23 MR. MILLER: No. I'm good, Your Honor.

24 | THE COURT: Mr. Marcus?

25 MR. MARCUS: Nothing further, thank you.

1                   THE COURT: Shayla or Carol?  
2                   MS. MYERS: No, Your Honor.  
3                   THE COURT: First Alliance?  
4                   Thank you very much. We are in recess. We will  
5 see you tomorrow.

6                   MR. MILLER: Thank you, Your Honor.

7                   (Proceedings concluded at 11:24 a.m.)

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 CERTIFICATE OF OFFICIAL REPORTER  
2  
3  
4

5 I, MIRANDA ALGORRI, FEDERAL OFFICIAL REALTIME  
6 COURT REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR  
7 THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT  
8 PURSUANT TO SECTION 753, TITLE 28, UNITED STATES CODE THAT THE  
9 FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE  
10 STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE  
11 ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE FORMAT IS IN  
12 CONFORMANCE WITH THE REGULATIONS OF THE JUDICIAL CONFERENCE OF  
13 THE UNITED STATES.

14

15 DATED THIS 27TH DAY OF MAY, 2021.

16

17

18 /S/ MIRANDA ALGORRI

19

---

MIRANDA ALGORRI, CSR NO. 12743, CRR  
FEDERAL OFFICIAL COURT REPORTER

20

21

22

23

24

25