



# CITY OF SAN CLEMENTE

OFFICE OF THE CITY MANAGER

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## Why San Clemente Cannot Remove Homeless People From Public Places

The Ninth Circuit federal court of appeals issued a recent ruling in a civil rights lawsuit decided against the City of Boise, Idaho that prohibited cities like San Clemente from “criminalizing sleeping outside.” In that decision, the court said: “Resisting the need to eat, sleep or engage in other life-sustaining activities is impossible [and] avoiding public places while engaging in this otherwise innocent conduct is also impossible . . . As long as the homeless plaintiffs do not have a single place where they can lawfully be, the challenged ordinances, as applied to them, effectively punish them for something for which they may not be convicted under the [Eighth Amendment — sleeping, eating, and other innocent conduct. . . .” The Boise decision does not apply to “individuals who do have access to adequate temporary shelter.” San Clemente currently has no such temporary shelter, but is working aggressively toward options for providing it within the next few weeks, in order to enforce its public sleeping and camping ordinances.