MDS

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RICHARD PRICE, et al.,

Plaintiffs,

v.

CITY OF STOCKTON, CALIFORNIA, et al.,

Defendants.

/

NO. CIV. S-02-65 LKK/JFM

O R D E R

Plaintiffs bring this action seeking an injunction, alleging that defendants are violating their statutory duties under the Housing and Community Development Act, 42 U.S.C. §§ 5301 et seq, the Uniform Relocation Act, 42 U.S.C. § 4601, the California Community Redevelopment Law, Cal. Health & Safety Code §§ 33000 et seq., and the California Relocation Assistance Act, Cal Gov't Code §§ 7260 et seq.[1] They also seek declaratory relief and a writ of

[1] Plaintiffs in this matter include the Stockton Metro Ministry and low income individuals who were removed from single room occupancy hotels in downtown Stockton. The Metro Ministry is a nonprofit organization which works to create housing and provide

83

mandate.

The matter is before the court on the plaintiffs' motion for a preliminary injunction. I resolve the motion based on the pleadings and evidence filed herein and after oral argument.

I.

BACKGROUND

In 1961, the City of Stockton and its Redevelopment Agency adopted the West End Urban Renewal Project Development Plan ("West End Plan") to redevelop downtown Stockton. See Mark Lewis Decl. ¶ 16. The West End Plan's most recent amendment in 1991 authorized the Redevelopment Agency to acquire all real property in the project areas for development purposes, and to remove the blighting influence of surrounding properties. See Stephanie Haffner Decl. ¶ 6, Exh. 4. To further redevelopment of downtown Stockton, the City established "a capital program" to demolish buildings and purchase properties to expand available parking in the area. See Lewis Decl. ¶ 21.

In April, 2001, the new City Manager, defendant Mark Lewis, announced his plan to pursue downtown redevelopment. See Haffner Decl. ¶ 8, Exh. 5. In June 2001, the City Council met in a closed session to discuss the possibility of acquiring property in downtown Stockton. See Defendants' Opposition Brief, at 16:5-7. The City's acquisition list included twenty-nine downtown properties, including many single room occupancy

---

food for the homeless and other low and very low income residents of Stockton.

hotels located in the West End project area which house low and very low income persons. See Haffner Decl. ¶ 9, Exh. 7.[2]

Two days after the City Council meeting, the City and its Redevelopment Agency began a policy of zero tolerance for code enforcement violations in downtown hotels. See Haffner Decl. ¶ 11, Exh. 9P; Lewis Decl. ¶ 5. The City Manager used the newly created Community Health Action Team ("CHAT"), a group composed of five City employees, two in the Stockton Police Department and three in the Department of Housing and Redevelopment, to implement its policy. See Lewis Decl. ¶¶ 6-7. Under the policy, hotels that were cited with code enforcement violations could not re-rent rooms that became vacant until all code violations were corrected, without regard to the actual health and safety threat of violations in particular rooms. See Tim Sallady Decl. ¶ 18, Exh. 1; Chuck Lamar Decl. ¶ 18. If the hotels failed to correct these violations, the hotels had to be vacated and closed. Id.

For the next four months, defendants inspected approximately thirty two (32) multi family residential buildings in downtown Stockton and cited more than fifteen (15) single room occupancy hotels for code violations. See Lewis Decl. ¶ 8; Haffner Decl., Exhs. 9, 9A-9T. Each of these hotels are on the

---

[2] The properties on defendants' acquisition list include various single room occupancy hotels located within the West End project area, including the Commercial, Cosmos, Delta, Earle, El Tecolote, Fair, James, La Verta, Mariposa, Merill, Oxford, Phoenix, Steve's, Terry and Toni hotels, as well as the Hunter Apartments. See Haffner Decl. ¶ 9, Exh. 7; ¶ 10, Exh. 8B.

defendants' acquisition list. See Haffner Decl. ¶ 9, Exh. 7; ¶ 11, Exh. 9. The City's and its Redevelopment Agency's code enforcement actions resulted in the closure of nine properties, including those in which plaintiffs resided.[3] See Lewis Decl. ¶ 8; Sallady Decl. ¶ 5. In January 2002, the City issued demolition notices for the Cosmos, Commercial, Earle, El Tecolote, and the Hunter Apartments. See Lamar Decl. ¶ 16; Sallady Decl. ¶ 16. The owners of these hotels have appealed these decisions and/or submitted a renovation and repair plan. Id. The City has also sought to acquire through eminent domain proceedings two residential downtown hotels, Terry and Commercial, that were closed due to code enforcement infractions. See Lewis Decl. ¶ 22; Haffner Decl. ¶¶ 12-14, Exhs. 10-12.[4]

As of June 2001, over two-hundred fifty people, including plaintiffs, were displaced from single room occupancy hotels by

---

[3] The closed properties include the following hotels: Steve's, Terry, Earle, Commercial, James, El Tecolote, Cosmos, and Land. See Lamar Decl. ¶ 5; Sallady Decl. ¶ 5; Haffner Decl. ¶ 10, Exh. 8C. The individual plaintiffs had resided in one of these hotels. See Declarations in Support of Preliminary Injunction, Nos. 2-3, 5, 11, 13, 14. The court has also been informed by both parties that on April 19, 2002, La Verta, another single room occupancy hotel, was also closed.

[4] During the time of the City's code enforcement activities, the City Manager unveiled the City's Downtown Stockton Strategic Action Plan. See Haffner Decl. ¶ 8, Exh. 6; ¶ 16, Exh. 14. The Action Plan's goals included the elimination of substandard housing found in single room occupancy hotels, converting buildings into work lofts (existing SRO's), encouraging artists studios and galleries to locate downtown, and reexamining zoning to consider changes to limit single room occupancy hotels in downtown. See id.

the City's code enforcement activities. See Haffner Decl. ¶¶ 25, 27, Exhs. 23, 25. A disproportionate number of the residents who have been impacted by defendants' actions are disabled. See Haffner Decl. ¶¶ 27-28, Exhs. 25-26. Many of the residents of these hotels were sent to other hotels or to French Camp (also known as Artessi III Camp), a migrant farm labor camp operated by the San Joaquin Housing Authority. See Haffner Decl. ¶ 27, Exh. 25. The migrant camp, however, was closed in February 2001. See Defendants' Opposition Brief, at 13:17. The City's code enforcement activities continue as of this date.

II.

STANDARDS FOR A PRELIMINARY INJUNCTION

The purpose of the preliminary injunction as provided by Fed. R. Civ. P. 65 is to preserve the relative positions of the parties -- the status quo -- until a full trial on the merits can be conducted. See University of Texas v. Camenisch, 451 U.S. 390, 395 (1981). The limited record usually available on such motions renders a final decision on the merits inappropriate. See Brown v. Chote, 411 U.S. 452, 456 (1973).

"The [Supreme] Court has repeatedly held that the basis for injunctive relief in the federal courts has always been irreparable injury and the inadequacy of legal remedies." Weinberger v. Romero-Barcelo, 456 U.S. 305, 312 (1982). In the Ninth Circuit, two interrelated tests exist for determining the propriety of the issuance of a preliminary injunction. The moving party carries the burden of proof on each element of

either test. See Los Angeles Memorial Coliseum Comm'n v. National Football League, 634 F.2d 1197, 1203 (9th Cir. 1980). Under the first "traditional" test, the court may not issue a preliminary injunction unless each of the following requirements is satisfied: (1) the moving party has demonstrated a likelihood of success on the merits, (2) the moving party will suffer irreparable injury and has no adequate remedy at law if injunctive relief is not granted, (3) in balancing the equities, the non-moving party will not be harmed more than the moving party is helped by the injunction, and (4) granting the injunction is in the public interest. See Martin v. International Olympic Committee, 740 F.2d 670, 674-75 (9th Cir. 1984).

Under the second "alternative" test, the court may not issue a preliminary injunction unless the moving party demonstrates either "probable success on the merits and irreparable injury . . . or . . . sufficiently serious questions going to the merits to make the case a fair ground for litigation and a balance of hardships tipping decidedly in favor of the party requesting relief." Topanga Press Inc. v. City of Los Angeles, 989 F.2d 1524, 1528 (9th Cir. 1993) (citations omitted). The Ninth Circuit has explained that the two parts of the alternative test are not separate and unrelated, but are "extremes of a single continuum." Benda v. Grand Lodge of International Association of Machinists, 584 F.2d 308, 315 (9th Cir. 1978), cert. dismissed, 441 U.S. 937 (1979). We are taught

that the critical element within this alternative test is the relative hardship to the parties. See id. "[T]he required degree of irreparable harm increases as the probability of success decreases." United States v. Nutri-cology Inc., 982 F.2d 394, 397 (9th Cir. 1992) (citations and internal quotation marks omitted). Even if the balance tips sharply in favor of the moving party, however, "it must be shown as an irreducible minimum that there is a fair chance of success on the merits." International Olympic Committee, 740 F.2d at 674-75. (citation omitted).

III.

STANDING

Defendants assert that plaintiff Metro Ministry does not have standing to bring this action because the organization asserts no more than an abstract concern for the well-being of downtown tenants and former tenants of residential hotels. I cannot agree.

When an organization brings an action on its own behalf, rather than on behalf of its members, the organization must show that it has standing to assert its claims. See National Coalition Government of the Union of Burma v. Unocal, Inc., 176 F.R.D. 329, 340 (C.D. Cal. 1997). To satisfy the minimum constitutional requirements for standing, the organization must have suffered an "injury in fact" that is "fairly . . . trace[able] to the challenged action of the defendant." See Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992).

Where the defendants' "practices have perceptibly impaired [the organizational plaintiff's] ability to provide [the services it was formed to provide] . . . there can be no question that the organization suffered injury in fact." Havens Realty Corp. v. Coleman, 455 U.S. 363, 379 (1982)(alleging injury to organization's activities and consequent drain on its resources satisfies injury requirement for organization to assert standing in its own right). Nonetheless, "it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision'" of the district court. Id. (citations omitted). The party invoking federal jurisdiction bears the burden of establishing these elements. See FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990).

In Fair Housing of Marin v. Combs, 285 F.3d 899 (9th Cir. 2002), the Ninth Circuit considered the issue of organizational standing when a non profit housing organization brought suit alleging illegal housing discrimination against the owner of an apartment complex. The organizational plaintiff alleged that its activities "in combating illegal housing discrimination is to provide 'outreach and education to the community regarding fair housing'. . . [and that] as a result of defendant's discriminatory practices, it has 'suffered injury to its ability to carry out its purposes . . . [and] caused it to suffer injury to its ability to provide outreach and education.'" Id. at 905. The Circuit reaffirmed its prior position that an organization which is required to "'expend resources in representing clients

they otherwise would spend in other ways . . . establish[s] standing.'" See id. (citing El Rescate Legal Serv., Inc. v. Executive Office of Immigration Review, 959 F.2d 742, 748 (9th Cir. 1992)). Because plaintiffs' allegations in Marin "showed a drain on its resources from both a diversion of its resources and frustration of its mission" the Circuit held that the fair housing organization had standing to bring suit. Id.

In the matter at bar, Metro Ministry alleges that its primary purpose is to create housing and to provide food for the homeless and other low and very low income residents of Stockton. See Complaint at ¶ 14. Because of defendants' actions, Metro Ministry has had to expend more time and resources in meeting the demands of low income persons who are in the need of immediate housing and who are confronted with the threat of being homeless. See Elbert Hoffman Decl. ¶ 7. Specifically, Metro Ministry's case worker has spent hours assisting clients who were displaced from downtown hotels that defendants vacated and closed. See Complaint at ¶ 14; Hoffman Decl. ¶¶ 6-7. Metro Ministry asserts that the continued displacement of low income persons from downtown hotels and motels continues to drain its resources and frustrate the mission of the organization to plan and provide for the needs of hungry and homeless people. See Hoffman Decl. ¶ 7.

For the reasons stated above, the court concludes that Metro Ministry has standing to prevent the City from vacating, acquiring and/or converting hotels in downtown Stockton which

house low income persons.[5]

IV.

ABSTENTION

On October 25, 2001, the matter of San Joaquin Motel and Hotel Property Owners Association v. City of Stockton, CV-015543, was filed in the Superior Court for the State of California, in and for the County of San Joaquin. The plaintiff there, the hotel property owners association ("association"), brought suit seeking to prohibit the City of Stockton from requiring the owners of hotels that have been vacated because of the City's code enforcement activities to retrofit their property to meet existing code standards. See Defendants' Request for Judicial Notice, Exh. 3. The association also challenges the City's refusal to allow hotel owners a reasonable time to make the necessary repairs and/or obtain reasonable extensions to make such repairs. Id. Finally, the association seeks to ensure that defendants cannot reinspect hotels and issue new violations on portions of hotels which had been previously inspected and cleared unless there is a change in the condition of the hotel itself. Id.

---

[5] Defendants also argue that the individual plaintiffs do not have standing to prevent the acquisition, conversion or demolition of hotels or motels in which they do not currently reside. That argument is rendered moot by the court's conclusion the Metro Ministry has standing to challenge the City's actions which result in the loss of low income housing in downtown Stockton. The defendants do not assert that the individual plaintiffs lack standing to challenge whether defendants complied with federal and state law when they were displaced.

On November 16, 2001, the Superior Court held a hearing to consider plaintiffs' motion for a temporary restraining order. While not a party to the litigation, Stephanie Haffner, plaintiffs' attorney in this matter, appeared on behalf of low income residents who lived in these hotels. See Haffner Decl. Exh. 13C. Ms. Haffner also submitted a declaration in support of plaintiffs' position. See Defendants' Request for Judicial Notice, Exh. 4.

On January 25, 2002, the Superior Court issued a preliminary injunction prohibiting the City from requiring the hotel owners to upgrade their properties to current standards. See Haffner Decl., Exh. 13B. Judge Saiers concluded that the "Uniform Building Code in effect at the time the hotels were built is the correct standard." Id. The court also prohibited the City from demolishing hotels within the first ninety (90) days after code enforcement citations were issued. Id. The City has appealed that ruling to the California Court of Appeal. See Defendants' Request for Judicial Notice, Exh. 6. The remaining issues are pending in the state superior court.

In light of this ongoing proceeding, defendants claim there are three grounds upon which the court should abstain from hearing this matter. Below, I examine each seriatim.

A. YOUNGER

Abstention pursuant to Younger v. Harris, 401 U.S. 37 (1971), is proper where (1) there are ongoing state judicial proceedings, (2) that implicate important state interests, and

(3) there is an adequate opportunity in the state proceedings to raise federal questions. See Confederated Salish v. Simonich, 29 F.3d 1398, (9th Cir. 1994)(citing Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432 (1982)). The Ninth Circuit has recently explained that these factors are not flexible and must be plainly satisfied to trigger the application of this doctrine. Green v. City of Tucson, 255 F.3d 1086, 1093 (2001)("So in addressing Younger abstention issues, district courts must exercise jurisdiction except when specific legal standards are met, and may not exercise jurisdiction when those standards are met; there is no discretion vested in the district courts to do otherwise."). Where applicable, Younger abstention requires dismissal of the federal action. See Beltran v. State of California, 871 F.2d 777, 782 (9th Cir. 1988).

The general is that when federal plaintiffs are not parties to pending state litigation, they may proceed with their federal suit. Green, 255 F.3d at 1099. While the High Court has recognized exceptions to this rule in certain circumstances, it also acknowledged that those circumstances are rare. See Hicks v. Miranda, 422 U.S. 332, 345 (1975). Indeed, the Ninth Circuit has explained that the "[c]ongruence of interests is not enough, nor is identity of counsel, but [only] a party whose interest is so intertwined with those of the state court party that direct interference with the state court proceeding" mandates abstention under Younger. Green, 255 F.3d at 1099; Doran v.

Salem Inn, 422 U.S. 922, 928-29 (1975)("while respondents are represented by common counsel, and have similar business activities and problems, they are apparently unrelated in terms of ownership, control and management. We thus think that each of the respondents should be placed in the position required by our cases as if that respondent stood alone.").

In the matter at bar, plaintiffs are neither parties to the state court action nor do they have similar interests to the associational plaintiffs in that proceeding. More to the point, the preliminary injunction issued in the state court action does not address plaintiffs' concerns. Thus, the injunction only precludes the City from demolishing hotels within the first ninety (90) days after code violation citations are issued. See Haffner Decl. at 13B. While such a ruling may protect the interests of the hotel owners, it does not consider plaintiffs' interests. The ruling simply does not address the position of plaintiff Metro Ministry which seeks injunctive relief to ensure that defendants comply with federal and state law before vacating and converting these low income properties. Moreover, the state court action does not consider the individual plaintiffs' interests in receiving relocation assistance and comparable housing. For these reasons, abstention under Younger is not justified.

B. BURFORD

In Burford v. Sun Oil Co., 319 U.S. 315 (1943), the Supreme Court held that when an issue "clearly involves basic problems

of [state] policy[,] . . . equitable discretion should be exercised to give the [state] courts the first opportunity to consider them." Id. at 332. The policy underlying the Burford doctrine is to prevent the federal judiciary from undermining a state's administrative process and disrupting a state's efforts to establish a coherent, uniform policy with respect to the matters at issue. Id. at 355; New Orleans Pub. Service, Inc. v. City County of New Orleans, 491 U.S. 350, 362 (1989). Burford abstention, however, is not appropriate "if the suit primarily involves federal questions and does not involve any issue of state law that needs to be resolved before the federal questions." See 17A Moore's Federal Practice § 120.22[4][c](2002) (citing New Orleans Pub. Serv. Inc., 491 U.S. at 361-363). Because federal questions predominate, and there are no pending state administrative proceedings, abstention is not warranted under Burford.

C. THIBODAUX

The High Court has taught that it may be appropriate for a federal court to abstain from deciding a diversity suit that requires an interpretation of an unclear provision of a state's eminent domain law. See Louisiana Power & Light Company v. City of Thibodaux, 36 U.S. 25, 28-30 (1959). Thibodaux abstention is "not appropriate for ordinary issues of state law that happen to be unresolved." See 17A Moore's Federal Practice § 120.22[3]. Nor if a state's eminent domain law in unambiguous. See Allegheny County v. Frank Mashuda Co., 360 U.S. 185, 186-188

(1959).

Here, the City has begun eminent domain proceedings to acquire the Terry, Commercial and Toni hotels. See Lewis Decl. ¶ 22. Plaintiffs do not challenge defendants' right to acquire downtown Stockton hotels or to proceed with any current eminent domain action in state court. Rather, plaintiffs seek injunctive relief to ensure that defendants comply with federal and state law prior to vacating or converting downtown properties which house low and very low income persons. Moreover, neither party argues that the state's eminent domain law are ambiguous. Finally, the parties in this action are not diverse, a prerequisite to invocation of this doctrine. See 17A Moore's Federal Practice § 120.22[22][3]. Accordingly, abstention is not appropriate under Thibodaux.

In sum, the court concludes that there is no abstention theory that precludes this court from hearing this matter. I turn now to the merits of plaintiffs' federal claims.

////

////

////

////

////

////

////

////

V.

FEDERAL CLAIMS

A. HOUSING AND COMMUNITY DEVELOPMENT ACT[6]

Both parties agree that if Section 104(d) of the Housing and Community Development Act is triggered, defendants must provide to individuals displaced from the downtown properties both relocation assistance and promulgate a housing replacement plan.[7] Section 104(d) applies to development projects that utilize Community Development Block Grants ("CDBG") funds in connection with activities that result in the displacement of lower income residents and demolition or conversion of their homes to non-lower income housing uses. See 42 U.S.C. § 5304(d).[8] A CDBG recipient's anti-displacement obligations are

---

[6] The Housing and Community Development Act of 1974 was enacted to provide block grant funding to local and state governments to address the "critical social, economic, and environmental problems" facing urban communities in the United States. See 42 U.S.C. § 5301(a). In 1999, the Act was amended to add a residential and anti-displacement and relocation assistance provision. See 42 U.S.C. § 5304(d).

HUD's regulations implementing Section 104(d) include 24 C.F.R. §§ 570.606 et seq. and 24 C.F.R. §§ 42.1 et seq.

[7] The Act provides inter alia:

> A grant under section 5306 or 5318 of this title may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan.

42 U.S.C. § 5304.

[8] A "displaced person" is defined by the federal housing regulations as a lower-income person, who, in connection with an activity assisted under any program subject to this subpart, permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition

triggered when the demolition or conversion of lower income units occurs "in connection with an assisted activity" under the CDBG program. See 24 C.F.R. § 42.375(a).

i. Community Development Block Grants

Defendants assert that they have not used federal funds in connection with an assisted activity to trigger the application of Section 104(d). Below, I conclude that the record before this court does not support defendants' position.

Seeking to demonstrate that the City's code enforcement activities were not funded by CDBG grants, defendants first offer the declaration of Stockton's City Manager who avers that the City's CDBG budget for 2001-2002 does not contemplate using block grant funding for code enforcement purposes in the downtown area. See Lewis Decl. ¶¶ 13, 18. The City Manager declares that the CHAT team deals exclusively with the task of addressing the conditions of downtown hotels, and that its team members are not paid from CDBG funds or any other federal fund. See Lewis Decl. ¶¶ 7, 9, 23.

Defendants also tender the City Council's budget resolution adopted May 29, 2001, and the City's 2002-2003 proposed budget.

---

or conversion of a lower-income dwelling. See 24 C.F.R. § 42.305. A "lower income person" is defined as a person whose income is 80% or less of the area median income. See 24 C.F.R. § 42.350, § 570.3. In the matter at bar, plaintiffs are all qualified for relocation assistance as lower income displaced persons, and most of them are of extremely low incomes, below 30% of the AMI. See Baker Decl. ¶ 4; Cobbs Decl. ¶ 4; Henderson Decl. ¶ 5; Price Decl. ¶ 6; Watson Decl. ¶ 4.

See Mark Lewis Supp. Decl., Exhs. A & B.[9] The City also offers evidence that Officer Steve Zerweck, a member of CHAT who was paid partially with CDBG funds, was a member of the team only until September. See Steve "Chuck" Lamar Supp. Decl. ¶¶ 16-19. Finally, defendants submit a letter from HUD informing plaintiffs' counsel that the City did not have to comply with federal law in its substandard hotel efforts. See Steven Pinkerton Decl., Exh. B.[10]

Plaintiffs respond with evidence that between 1997 and 2001 defendants requested increasing amounts of CDBG funds from HUD for targeted code enforcement in reference to the downtown hotels. See Haffner Decl. Exhs. 19A-D, 20. Plaintiffs note that on September 26, 2001, the City reported to HUD in its

---

[9] At the hearing on plaintiffs' motion for a preliminary injunction, counsel for defendants filed supplemental evidence. The court admitted the evidence and granted plaintiffs' counsel five (5) days to respond. That evidence is considered herein.

[10] On November 21, 2001, plaintiffs' counsel wrote HUD asserting that the City of Stockton was using CDBG funds in its downtown code enforcement efforts. Counsel informed HUD that it would explain its basis for making such a conclusion upon its request, and requested that HUD review this matter no later than December 15, 2001, to avoid any potential litigation. See Lamar Supp. Decl., Exh A. On March 26, 2002, HUD responded to plaintiffs' counsel. See Decl. Pinkerton, Exh B. The agency stated that because the City informed HUD that it does not use CDBG funds in its substandard hotel efforts, federal law is not implicated. See Decl. Pinkerton, Exh B.

Under the circumstances, the court concludes that HUD's determination is not entitled to any deference. The agency did not permit plaintiffs' counsel to explain the basis for her conclusion that federal law was implicated. Nor did the agency require the City to provide documentation to support its position or conduct any further inquiry. Given the massive record tendered to the court, HUD's conclusions cannot be taken seriously.

Consolidated Annual Performance and Evaluation Report that it used CDBG funds for these specific code enforcement activities. See Haffner Decl. Exh. 19D. Moreover, plaintiffs submit that the annual budgets approved by the City Council for 2000-2001 and 2001-2002 reflect that the Council allocated CDBG funds "for costs associated with the Code Enforcement Program. The programs consist of concentrated code enforcement in the downtown hotel/motels, and the Safe Neighborhoods program." See Haffner Supp. Decl. Exhs. 9-10. I conclude that this evidence seriously suggests that federal funds were used to fund downtown code enforcement activities, at least until the end of 2002.

Plaintiffs also point to defendants own evidence to demonstrate that employees of the Neighborhood Services Division of the Department of Housing and Redevelopment, participated in CHAT code enforcement activities. See Sallady Exhs. 2, 4, 5, 7-10. All of these employees were paid partially with CDBG funds. See Lewis Decl., Exh. 2. These employees issued notices to vacate, initiated the liens against the downtown hotels, were responsible for code enforcement "follow-up," and coordinated the response to the appeals of the hotel owners. See id.

The court finds that the record amply supports a conclusion that the CHAT team were not the only employees involved with code enforcement activities in downtown. And these other employees were paid, at least partially, from CDBG funds. Thus, federal funds appear to have been used to partially pay employees who were involved in the code enforcement activities

in the City's downtown.

Moreover, defendants evidence acknowledges that Officer Steve Zerweck was a member of CHAT until September, 2001. See Supp. Decl. Lamar ¶ 16; Lewis Decl., Exh. 2. The records suggest that almost all of CHAT's initial inspections of downtown hotels occurred prior to September, 2001, see Haffner Decl., Exhs. 9A-B; 9D-E, 9I-T, and that the inspections were "exclusively" carried out by CHAT team members. See Lewis Decl. ¶¶ 6-8. Because Zerweck was paid with some CDBG funds, the evidence before the court supports the conclusion that a federally funded CHAT officer took part in the bulk of the City's code enforcement activities.

The City Council's budget for 2002-2003 also fails to demonstrate that the City's code enforcement activities in the West End project area are not now and will not in the future be funded in part by HUD's community development block grants. The proposed budget states that "The City of Stockton does allocate CDBG funds annually to pay a portion of the salary costs of personnel that undertake the identification of graffiti, debris, removal, removal of abandoned cars and *related code enforcement activities*" in CDBG target neighborhoods. See Lewis Supp. Decl., Exh. B (emphasis added). Because the previous yearly budgets included related code enforcement activities which "targeted" downtown hotels and motels, the 2002-2003 budget suggests that CDBG funds continue to be used for this purpose.

////

Defendants' arguments to the contrary are not supported by their own evidence.

In sum, the court concludes that there is a strong likelihood that federal funds were used and continue to be used in connection with the City's code enforcement activities, and thus application of Section 104(d) of the Housing and Community Development Act is triggered.[11]

ii. Project In Connection with An Assisted Activity

Defendants assert that the City's code enforcement activities were not "a program or project" as contemplated by Section 104(d) because it was separate from the City's redevelopment activities. Plaintiffs respond that defendants' redevelopment activities, which included code enforcement, notices of vacating and demolition, and the acquisition of hotels through purchase and eminent domain proceedings, amounted to a "single undertaking." For the reasons explained below, I must agree with plaintiffs.

////

////

////

---

[11] Given the above, the court need not consider whether, when federal funds in effect free up city money to engage in activities that otherwise would fall within the purview of § 104(d), it may be said that federal funds were employed "in connection with an assisted activity." I note, without deciding, that permitting such budgetary slight of hand puts form above substance, and would appear to frustrate the plain purpose of the federal statute. Of course, the City need not take federal money; when it does, however, it must accept in good faith the conditions under which such money is granted.

> The HUD Handbook provides:
>
> The term 'project' means an activity or series of activities that are integrally related, each essential to the others, whether or not all of the component activities received Federal financial assistance . . . . A displacement is considered to have occurred 'in connection with' a CDBG . . . - assisted activity if such action and the CDBG . . . - assisted activity are part of [a] single undertaking (i.e., a single project).

HUD Handbook 1378, Tenant Relocation Assistance and Real Property Acquisition, Ch. 7, at 7-5, ¶¶ 7-10(a),(b).[12] In determining whether the assisted activity is part of a single undertaking, the Handbook establishes a multi-factor test:

> (1) *Location*. Are the activities located on the same site (any tract or contiguous tracts of real property in the same or related ownership after acquisition is completed)? (2) *Developer/owner*. Are the activities carried out by, or on behalf of, a single entity or closely related entities? (3) *Timeframe*. Do the individual activities take place within a reasonable time frame of each other? (4) *Objective*. Is the activity essential to the undertaking? Are the activities interdependent? If one is unfinished, will the objective be incomplete?[13]

Id. at ¶ 7-10(c).

Defendants offer evidence seeking to demonstrate that despite the clear logical connection between the City's code enforcement activities and its redevelopment goals, the relationship is only a happy coincidence. They maintain that

---

[12] Both parties cite to the HUD Handbook. While the Handbook does not have the force of law, the courts may look to it for such guidance as it provides. See Rank v. Nimmo, 677 F.2d 692, 699 (9th Cir. 1982).

[13] Defendants only address the final factor of the Handbook's test in their opposition.

the code enforcement activities leading to the closing of the downtown hotels whose presence confounds the redevelopment effort were pursued only as a response to the San Joaquin County Grand Jury Report of 2001-2002 which found excessive code violations in the downtown hotels resulting from the lack of code enforcement. See Lewis Decl., Exh. 1. As a result, defendants assert, the City Council provided additional funding for code enforcement staff to focus on downtown residential buildings, and the City Manager created the CHAT team to deal exclusively with code enforcement violations in these buildings. See Lewis Decl. ¶¶ 6-8.[14] Thus, defendants submit that the downtown code enforcement activities are separate and distinct from the City's other goal to purchase and redevelop buildings in downtown Stockton. See Lewis Decl. ¶ 21.[15]

Plaintiffs respond with evidence that the City's code enforcement activities are directly related to the City's efforts to acquire and/or destroy the more than fifteen residential low income motels and hotels for redevelopment purposes. See Haffner Decl. ¶ 8, Exh. 6; ¶ 9, Exh. 7. While defendants argue that the City's goals to redevelop downtown

---

[14] Defendants assert that code enforcement activities alone cannot not trigger Section 104(d). The court need not address this issue because it concludes in the text that the defendants' actions are likely part of a single orchestrated redevelopment plan.

[15] Perhaps in an effort not to appear utterly disingenuous, the City concedes that "it is undeniably interested in acquiring some of these buildings if the landlords are not willing or able to maintain them in good condition and the City has a need or use for the property." See Defendants' Opposition, at 39:13-15.

through acquisitions of buildings in the area was not what precipitated code enforcement, the circumstances strongly suggest otherwise. I repeat here some of the highlights of those circumstances, which have been more fully set out in the Background section of this opinion.

On June 12, 2001, the Stockton's City Council met in a closed session to confer with its real property negotiators, defendant Lewis and defendant Steve Pickerton, Director of the Department of Housing and Redevelopment, regarding the purchase of twenty-nine downtown properties. See Haffner Decl. ¶ 8, Exh. 7. The properties on defendants' acquisition list consisted largely of single room occupancy hotels in the West End project area. Two days after the June 12 acquisition meeting, the aggressive inspections downtown for code violations commenced. See Haffner Decl. ¶ 11, Exh. 9P.

Between August 2001 and January 2002, the City issued Notices to Vacate to at least ten of the twenty-nine properties on the acquisition list, see Haffner Decl. ¶ 9, Exh. 7; ¶ 11, Exh. 9, and closed seven hotels. See Haffner Decl. ¶ 10, Exh. 8C; ¶ 11, Exh. 9. During this period, the City Manager also unveiled the City's Downtown Stockton Strategic Action Plan. See Haffner Decl. ¶ 8, Exh. 6; ¶ 16, Exh. 14. The Action Plan's goals included the elimination of substandard housing found in single room occupancy hotels, and reexamining zoning to consider changes to limit single room occupancy hotels in Downtown. See id.

By January 14, 2002, the City issued demolition notices to four hotels of the City's acquisition list that were closed. See Haffner Decl. ¶ 17, Exhs. 9, 15. Moreover, the City also voted to acquire the low income residential hotels, Commercial and Terry, for developmental purposes. See Lewis Decl. ¶ 22; Haffner Decl. ¶¶ 12, 13, Exhs. 10, 11; ¶ 14, Exh. 12; ¶ 18, Exh. 16. These hotels were vacated as a result of CHAT inspections. See id.

Given these facts, it seems relatively clear that the code enforcement activities were undertaken in connection with the redevelopment of the downtown.[16] Accordingly, the court concludes that plaintiffs have a strong likelihood of success in proving that defendants' actions were in connection with an assisted activity and thus sufficient to trigger Section 104(d) of the Act.

////

////

////

////

////

---

[16] To distinguish the intense code enforcement activity at issue from redevelopment concerns, the justification must be the health and safety of the residents of the hotels. Circumstances occurring after submission of the instant motion belie that justification. Plaintiffs have filed a motion for a temporary restraining order, and in support thereof have filed affidavits relative to the closing of the La Verta Hotel. If the facts recited in those affidavits are accurate, the brutal manner in which the evictions were carried out demonstrates a complete indifference to the well-being of the hotel's residents.

iii. Replacement Housing Plan[17]

HUD requires that CDBG recipients "shall assure that they have taken all reasonable steps to minimize the displacement of persons as a result of activities assisted" with CDBG funds. 24 C.F.R. § 570.606(a). HUD's regulations implementing Section 104 require one-for-one replacement of housing units destroyed. See 24 C.F.R. § 42.375.[18] While the federal regulations grant the CDBG recipient more than three years after demolishing low-income units to complete construction of rehabilitation or replacement units, the recipient must have a plan satisfying certain requirements before it can enter into a contract which will directly result in demolishing such units. See 24 C.F.R.

////

---

[17] Plaintiffs were all tenants of downtown Stockton's single room occupancy hotels that were vacated and closed as a result of defendants' code enforcement activities. Thus, plaintiffs were "displaced persons" as they were low income persons removed from real property, permanently and involuntarily, as a direct result of the code enforcement activities of the City of Stockton. See 24 C.F.R. § 570.606(b)(2). Because the court has already concluded that there is a strong likelihood that federal funds were used in connection with an assisted activity which displaced people with low income persons, the City has an obligation to develop a replacement plan and provide relocation assistance. See 42 U.S.C. § 5304(d)(1)-(2).

[18] 24 C.F.R. § 42.375 provides:

> One-for One replacement of lower income dwelling units.
>
> (a) Units that must be replaced. All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income dwelling units.

§ 42.375(c).[19] The units must become available for occupancy within the period designated in the following implementing regulation in order to qualify as acceptable units:

> (4) The units must initially be made available for occupancy at any time during the period beginning 1 year before the recipient makes public the information required . . . and ending three years after the commencement of the demolition or rehabilitation related to the conversion.

See 24 C.F.R. § 42.375(b)(4).

These replacement units must be "comparable" to the homes the individuals vacated, but decent, safe, and sanitary. See 49 C.F.R. § 24.2; 24 C.F.R. § 42.350(e)(1).[20] To the extent

---

[19] 24 C.F.R. § 42.375 (c) provides:

> (c) Preliminary information to be made public. Before the recipient enters into a contract committing it to provide funds under programs covered by this subpart for any activity that will directly result in the demolition of lower-income dwelling units or the conversion of lower-income dwelling units to another use, the recipient must make public, and submit in writing to the HUD field officer (or State, in the case of a unit of general local government funded by the State), the following information:
>
> (1) A description of the proposed assisted activity;
>
> (2) The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than for lower-income dwelling units as a direct result of the assisted activity;
>
> (3) A time schedule for the commencement and completion of demolition or conversion . . .
>
> (5) The source of funding and a time schedule for the provision of replacement dwelling units. . . .

[20] Given that the single room occupancy hotels in downtown Stockton are apparently a far cry from safe and sanitary, it may be that, due to the stringent federal requirements, plaintiffs may ultimately end up living in better conditions by virtue of

feasible, the replacement units also shall be located within the same neighborhood as the housing units that are demolished or converted. See 24 C.F.R. § 42.375(b)(1). The replacement units must initially be made available for occupancy no more than three years after the commencement of demolition or rehabilitation. See 24 C.F.R. § 42.375(b)(4). Defendants must also ensure that the new "comparable" units are affordable for those displaced. See 42 U.S.C. §§ 5301 et seq., 24 C.F.R. §§ 42.305, 42.375(a).

Defendants assert that the City and its Redevelopment Agency have made substantial and successful efforts to obtain the construction of new low income housing and the rehabilitation of existing buildings both in downtown and throughout the City to serve its low-income citizens. See Lewis Decl. ¶¶ 26, 27, Exh. 7. Defendants submit that they have constructed or rehabilitated more than six hundred eighty (680) housing units in downtown Stockton, and they plan to develop an additional two hundred fifty (250) more units of affordable housing. See id.

////

////

---

defendants' redevelopment plans. While art galleries and parking facilities are admirable goals, in a better world, safe, sanitary and permanent housing for the City's most vulnerable population would be at least as important a goal of the City of Stockton and its Redevelopment Agency. Undoubtably, it was the federal government's sad experience to the contrary throughout the nation which led to the adoption of § 104(d) in the first place.

Even assuming the accuracy of defendants' evidence,[21] the City and its Redevelopment Agency still fail to tender evidence that these constructed and proposed units are "comparable" lower income replacement units as defined by federal law. Defendants do not identify whether the replacement units are located within the jurisdiction of the CDBG recipient, sufficient in number and size to house at least the same number of occupants who could have been housed in the demolished or converted units, and will remain affordable to lower income households for at least 10 years. See 24 C.F.R. § 42.375(b).[22] Moreover, at oral argument defendants' counsel conceded that the City had not submitted a

---

[21] The units which defendants cite as replacement units, Quan Ying, Gleason Park and Stockton Silvercrest were already counted as replacement housing for the demolition of four different residential hotels in the agreement and order settling Lagunas v. Stockton Redevelopment Agency, CIV 96-2129 LKK JFM, a settlement agreement over which this court retained jurisdiction. Because these low income homes may have been double-counted, serious questions are raised as to the accuracy of defendants' evidence.

[22] 24 C.F.R. § 42.375(b) provides:

> (b) Acceptable replacement units. Replacement lower-income dwelling units may be provided by any government agency or private developer and must meet the following requirements:
>
> (1) The units must be located within the resident's jurisdiction. To the extent feasible . . . the units shall be located within the same neighborhood as the units replaced.
>
> (2) The units must be sufficient in number and size to house no fewer than the number of occupants who could have been housed in the units that are demolished or converted . . .
>
> (5) The units must be designed to remain lower-income dwelling units for at least 10 years from the date of initial occupancy.

replacement plan to HUD. See also Haffner Decl. ¶ 23, Exhs. 21A-E.

In sum, the court concludes that defendants have not adopted and implemented a replacement housing plan that complies with its obligations under federal law.

iv. Relocation Assistance

Plaintiffs contend that the City and its Redevelopment Agency failed to provide sufficient relocation assistance to the low income persons displaced by defendants' actions. Section 104(d) specifically requires defendants to plan for and provide relocation assistance to persons displaced as a result of assisted activities - before displacement occurs. See 42 U.S.C. § 5304(d)(1)-(2). The plan must explain the steps the CDBG recipient will take consistent with the goals and objectives of the CDBG program to minimize displacement of families and individuals from their homes and neighborhoods as a result of any assisted activities. See 24 C.F.R. § 42.325(b).

The relocation assistance offered must provide for advisory services, actual and reasonable moving expenses, the reasonable cost of security deposits and credit checks necessary to rent a replacement unit, interim living costs, and replaceable housing. See 42 U.S.C. § 5304(d)(2)(A); 24 C.F.R. § 42.350. Moreover, those eligible for relocation assistance must be advised of the right to elect to receive relocation assistance under the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1974, 42 U.S.C. §§ 4601 et seq. or the Housing

and Community Development Act, 42 U.S.C. § 5304(d)(2)(B).

As noted above, before lower income tenants can be required to move in connection with an assisted activity, the CDBG recipient must identify in its relocation assistance plan at least units sufficient to accommodate those who are displaced. See 42 U.S.C. § 5304(d)(2); 24 C.F.R. § 42.350. Because the units must be affordable to those displaced, see 42 U.S.C. §§ 5301 et seq., 24 C.F.R. §§ 42.305, 42.375, if the cost of the comparable home is more than the displaced can afford, as defined in the Act, defendants must pay relocation benefits to ensure that for a five-year period, the displaced shelter costs will not exceed 30% of their income. See 42 U.S.C. § 5304(d)(2)(A)(I). As a form of relocation assistance, where feasible, the displaced must also be given a referral to at least three comparable units. See 49 C.F.R. § 24.204(a).

Defendants offer evidence that they provided plaintiffs and other displaced persons an array of relocation assistance and benefits. See George Polk Decl. ¶ 13. Defendants submit that all displaced residents, including plaintiffs, were offered temporary transitional housing and relocations assistance from the City, the County or Fair Housing. See Polk Decl. ¶ 13. Defendants also aver that no persons were "put on the street" as a result of the closure of the these hotels, and that all plaintiffs with which defendants maintained contact now have

////

////

"permanent" housing. See Polk Decl. ¶¶ 3, 7-13.[23]

Plaintiffs respond that defendants own documents support the conclusion that they never provided substantial relocation assistance and services. See Haffner Decl. ¶ 27, Exh. 25; ¶ 23, Exhs. 21E, 21F. Rather, plaintiffs submit that the minimal support offered to plaintiffs and other displaced low income persons came from San Joaquin County and Fair Housing. See Haffner Decl. ¶ 27, Exh. 25; Defendants' Opposition at 11-13. Moreover, defendants fail to show that the homes to which it purports to have placed plaintiffs are "comparable." Nor do defendants offer evidence that other displaced persons were offered any forms of relocations assistance, including actual and reasonable moving expenses, or even replacement housing.

////

////

////

---

[23] Some plaintiffs dispute this assertion with their own declarations. Plaintiff Richard Price lived in the El Tecolote Hotel for sixteen years. See Decl. Price ¶ 7. Price declares that he was moved to the City Hotel and then to French Camp where he presently resides. Id. at ¶¶ 9-11. Plaintiff was informed that he will have to leave French Camp by February 15, 2002, and that he has no place to move.

Plaintiff Dwayne Henderson lived in the El Tecolote Hotel for about nine years. See Decl. Henderson ¶ 6. Henderson declares that he was moved to the City Hotel and then to French Camp. Id. at ¶¶ 6-8. Plaintiff presently resides with his niece and has been unable to find permanent housing. Id. at ¶¶ 9, 12.

Plaintiffs Lucinda Watson and Lance White lived in the Earle Hotel for about two years. See Decl. Watson ¶ 5; Decl. White ¶ 5. Watson and White declare that they are presently living in the City Motel but have been unable to find permanent housing. See Decl. Watson ¶¶ 8-9, 14; Decl. White ¶¶ 8-9, 14.

v. Conclusion

The defendants have failed to adopt and implement a replacement plan for the units that were vacated and to offer plaintiffs and other persons displaced by defendants' actions adequate relocation assistance. Accordingly, the court concludes that plaintiffs have demonstrated a likelihood of success on the merits of their federal claims under the Housing and Community Development Act.[24]

B. FAIR HOUSING CLAIMS

Plaintiffs claim that defendants have violated the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., and the California Fair Employment and Housing Act, Cal. Gov't Code. §§ 12955 et seq., because their code enforcement activities had an adverse and disproportionate impact on displaced persons with disabilities, including plaintiffs Stanford Cobbs and Richard Price. Demonstrating a likelihood of success on the merits of these claims, however, would not entitle plaintiffs to further relief since plaintiffs only seek to enjoin defendants from vacating, demolishing and converting downtown lower income residential units until defendants adopt and implement relocation assistance and replacement housing plans. Because plaintiffs have

---

[24] Plaintiffs have brought a parallel claim under state law. Under California law, a public entity must provide relocation assistance and prepare a relocation plan when it displaces individuals from real property without regard to the source of the funds it used. See Cal. Gov't Code §§ 7260 et seq. Having concluded that plaintiffs demonstrate substantial likelihood of success on the federal claim, it seems apparent that they have demonstrated a likelihood of success on the parallel state claims.

demonstrated a strong likelihood of success on the merits of their federal claim that defendants must implement relocation assistance and replacement housing plans, I need not further address the merits of plaintiffs' Fair Housing Claims.

C. BALANCE OF HARDSHIPS

It cannot be seriously contended that requiring plaintiffs to leave their homes before receiving adequate relocation assistance has been provided is an irreparable injury. Moreover, the uncertainty of not knowing where one will be required to move without an adequate relocation unit being made available works a profound hardship.[25] Thus, defendants' failure to comply with both relocation assistance and replacement obligations results in irreparable injury to plaintiffs. Id. at 24:14-15.

While defendants make no showing of harm to themselves they contend that plaintiffs will not be irreparably harmed because they have permanent housing. As noted above, however, the evidence suggests otherwise. While defendants may ultimately be required to spend money for storage and temporary housing, and to refrain from immediately converting and demolishing buildings

---

[25] Plaintiff Richard Price declares that he has had difficulty sleeping since being forced out of El Tecolote, the hotel he has resided in for sixteen years. See Decl. Price ¶ 17. Lucinda Watson avers that she is tired of moving from place to place not knowing where she will live next week or next month, and as a result suffers from headaches, nausea, and hair loss. See Watson Decl. ¶ 15. Plaintiff George Baker states that he feels tired and stressed out from moving, and that he is frustrated that he has no place to cook in his new home. See Baker Decl. ¶ 16.

which house or once housed low-income people, it is only for as long as it takes the City and its Redevelopment Agency to develop and implement replacement and relocations plans that comport with federal law. Accordingly, the court concludes that balance of hardship tips decidedly in favor of plaintiffs and commands injunctive relief.

D. BOND

No preliminary injunction shall issue "except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c). Under the Rule, it is "well settled that Rule 65(c) gives the court wide discretion in the matter of setting security." Natural Resources Defense Counsel v. Morton, 337 F. Supp. 167, 168 (D.D.C. 1971)(motion for summary reversal dismissed), 458 F.2d 827 (D.C. Cir. 1972). See also Urbain v. Knapp Bros. Mfg. Co., 217 F.2d 810, 815-16 (6th Cir. 1954); Doyne v. Saettele, 112 F.2d 155, 162 (8th Cir. 1940).

In considering the appropriate amount of the bond, I note that the named plaintiffs are all person of very moderate means and the organizational plaintiff is a nonprofit corporation. Clearly, if such plaintiffs were "required to post substantial bonds . . . in order to secure preliminary injunctions . . .," the bonds might undermine mechanisms for private enforcement of the law. Friends of the Earth v. Brinegar, 518 F.2d 322, 323

(9th Cir. 1975)(reducing bond in NEPA case from $4,500,000 to $1,000); accord Morton, 337 F. Supp. at 169 (bond set at $100); Environmental Defense Fund v. Corps. of Engineers, 331 F. Supp. 925 (D.D.C. 1971)(bond set at $1). In sum, the court is "unwilling to close the courthouse door in public interest litigation by imposing a burdensome security requirement." State of Ala. ex rel. Baxley v. Corps of Engineers, 411 F. Supp. 1261, 1276 (N.D. Ala. 1976). Accordingly, bond is set in the amount of One Dollar.

VI.

ORDERS

For all the above reasons, the court hereby makes the following ORDERS:

1. Plaintiffs' motion for a preliminary injunction is GRANTED;

2. Defendants are ENJOINED from vacating, demolishing or converting residential hotels and motels in the downtown Stockton areas, including those located in the West End Urban Project Renewal Area, where the City has conducted code enforcement operations. This injunction shall remain in effect until defendants adopt and implement a valid replacement housing plan and relocation assistance in accordance with 42 U.S.C. § 5304(d);

3. As an exception to this injunction, defendants MAY vacate or convert any units where CHAT has issued an emergency order to vacate or finds that the conditions are immediately

dangerous to the life, health, or safety of its occupants or to the public. In such cases, the defendants shall PROVIDE adequate relocation assistance in accordance with the Section 104(d) and its accompany regulations, including providing displaced low income residents with "comparable" housing as defined by the Act;

4. Defendants shall PROVIDE temporary housing to persons previously displaced by the City's code enforcement activities, including plaintiffs, who have not yet secured "comparable" housing as contemplated by Section 104(d) and its accompanying regulations. This relocation assistance shall INCLUDE moving and storage expenses, identification of comparable replacement housing units, payment of security deposits, and payment of sufficient relocation assistance to assure affordability of the comparable units; and

5. Plaintiffs shall POST bond in the amount of One Dollar ($1.00).

IT IS SO ORDERED.

DATED: May 2, 2002.

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT

United States District Court
for the
Eastern District of California
May 2, 2002

* * CERTIFICATE OF SERVICE * *

2:02-cv-00065

Price

v.

Stockton City

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on May 2, 2002, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

SJ/LKK

Stephanie Elisabeth Haffner
California Rural Legal Assistance
242 North Sutter
Suite 411
Stockton, CA 95202

Jennifer Leigh Marshall
Meyers Nave Riback Silver and Wilson
777 Davis Street
Suite 300
San Leandro, CA 94577

Michael Thomas Rishwain
City of Stockton
City Attorney's Office
425 North El Dorado Street
Room 209
Stockton, CA 95202

Jack L. Wagner, Clerk

BY: _____