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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN JANOSKO, et al.,  
Plaintiffs,  
v.  
CITY OF OAKLAND,  
Defendant.

Case No. [3:23-cv-00035-WHO](#)

**ORDER DISSOLVING TEMPORARY  
RESTRAINING ORDER**

Re: Dkt. No. 31

United States District Court  
Northern District of California

On January 6, 2023, I granted the plaintiffs’ motion for a temporary restraining order (“TRO”) to restrain the defendant City of Oakland from closing the homeless encampment located at 1707 Wood Street in Oakland, California (“the 1707 Encampment”). [Dkt. No. 18]. I found that the plaintiffs showed serious questions going to the merits of their state created danger claim based on the confluence of then-existing circumstances, including the lack of available shelter beds in the city, the state-of-emergency weather crisis, and the ongoing “tripledeemic.” *Id.* 1:23-2:7. I stated that the TRO would dissolve when the weather conditions improved and the City was able to offer an adequate number of shelter beds to the residents of the 1707 Encampment. *Id.* 7:20-26.

The dissolution of the TRO was twice postponed due to the City’s failure to open adequate shelter beds. [Dkt. Nos. 23, 30]. The City now represents that it finally has adequate shelter beds for all the residents of the 1707 Encampment, including 32 beds at the new cabin community and 29 spaces at the new RV site, which are both now accepting residents and have had residents begin to move in. [Dkt. No. 31]. Additionally, the City represents that there are about 40 open emergency shelter beds throughout the City as well as 65 additional beds available in a congregate shelter. *Id.* For those reasons, the City asserts that it has met the conditions outlined in my Order

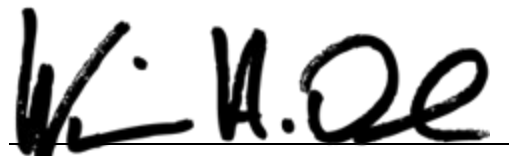
1 granting the TRO and seeks immediate dissolution of the TRO. *Id.* The plaintiffs have not  
2 responded or opposed.

3 Ensuring that the shelter beds are open and available with genuine offers of shelter being  
4 made to residents addresses the state-created danger concerns I addressed in my prior Order. *See*  
5 *Martinez v. City of Clovis*, 943 F.3d 1260, 1271 (9th Cir. 2019) (outlining requirements for state-  
6 created danger claim). And the City must continue to acknowledge its obligations and policies to  
7 not close homeless encampments during inclement weather, as it previously committed. *See*  
8 Declaration of LaTonda Simmons [Dkt. No. 25] ¶ 42. As previously discussed at length, the  
9 City's fundamental argument is that the site needs to be cleared to build an affordable housing  
10 development, which is undoubtedly in the public interest. [Dkt. No. 28 3:1-7]. Given the  
11 representations about adequate shelter beds, the hardship balance now tips toward the City. *See*  
12 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

13 Accordingly, I find that the standard for implementing the TRO is no longer met. The  
14 TRO at Dkt. Nos. 18, 30, shall be **DISSOLVED** upon the filing of this Order. The City may now  
15 post notices of the closure and shall give individuals at the encampment at least seven days' notice  
16 before the closure begins. This dissolution is conditioned on the representations made by the  
17 City's counsel in the papers concerning sufficient shelter options as well as its previous  
18 commitment that outreach workers will be present at the 1707 Encampment every day during the  
19 closure to work with individuals moving to the new sites and also to help those interested in  
20 alternative shelter options.

21 **IT IS SO ORDERED.**

22 Dated: February 27, 2023

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25 William H. Orrick  
26 United States District Judge  
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