



PRESS RELEASE

FOR IMMEDIATE RELEASE
November 1, 2021

For Information:
Ryan Leong, 808.392.7455
rleong@acluhawaii.org

HOUSELESS RESIDENTS SUE THE COUNTY OF MAUI AND MAYOR VICTORINO FOR VIOLATING THEIR RIGHTS DURING SWEEPS AT AMALA PLACE

The plaintiffs argue that seizing houseless peoples' shelters and belongings at Amala Place without first providing a hearing violated their constitutional rights.

Kahului, Hawai'i: On October 20, 2021, plaintiffs Sonia Davis, Jessica Lau, Lauralee B. Riedell, and Adam M. Walton filed a legal action against Mayor Victorino and Maui County stemming from the recent sweeps of the houseless community at Kanahā Beach Park. The legal action filed in Circuit Court is an agency appeal that challenges the decision of Mayor Victorino and other county officials and agencies (collectively the “County”) to evict people and their belongings from Amala Place in Kahului during the week of September 20, 2021. The Plaintiffs are represented by the American Civil Liberties Union of Hawai'i (“ACLU of Hawai'i”). The ACLU of Hawai'i previously sent a demand letter to the County during the sweep, requesting it immediately cease the unconstitutional action, but never received a response.

The appeal of the Mayor's decision describes how Plaintiffs, along with dozens of other houseless people residing in the area, were denied their procedural and constitutional rights. This occurred when their written requests for a contested case hearing, filed before the sweeps began, were not answered. Plaintiffs, and about 60 other people, were forced to vacate the area or face arrest. Some endured the impoundment, disposal, and destruction of their property, including their vehicles, shelters, cooking and water supplies, clothing, and baby supplies. The County's actions, taken without affording Plaintiffs a hearing, violated the rights of people who have no other viable place to reside—rights including procedural due process rights, the right to be free from unreasonable search and seizure, and the right to be free from unlawful agency action.

The Plaintiffs have done everything right: they have worked hard to make a living, have picked themselves up from major life setbacks, and have sacrificed for their families. They were willing to work with the County to seek solutions to houseless issues on Maui; they were willing to move their belongings from the Amala Place area given adequate time; and they *want* housing. And yet, the County gave them little time or support to remove their property from the Amala Place area before the sweep began.

Meanwhile, the Plaintiffs have no other, viable alternative place to be: there are scarce available shelter vacancies (on the day the sweep began there were only 8) and it is difficult, if not impossible, for many houseless persons to stay there, in part because current facilities are insufficient, unsafe, and inadequate.

On October 27, 2021 the Plaintiffs filed a motion for leave to add their declarations to the record. In their statements, the Plaintiffs expand upon their situations and the harm done to them in the September sweep and its aftermath.

Jessica Lau is a 52-year-old woman of Hawaiian, Filipino, and Chinese descent from Maui. She previously worked as a driver and tour guide. But she began experiencing health issues from long days of driving and, around the same time, had to give up her income to help pay rent for her disabled 30-year-old son. As a result, she was evicted in early 2020 for nonpayment. Houseless for the first time in her life, Ms. Lau began sleeping in her car. Yet, she insisted on working hard—**“Even though I was houseless, I knew I needed to get my paycheck to get gas and pay bills and do what I need to do to get back on my feet ... In fact, for most of the pandemic, I have been working two jobs at a time,”** she said. She decided to stay at Kanahā, as a police officer told her she would not be harassed there. But that promise was short-lived when police began distributing notices about the sweep and tagging property for removal that they knew was not abandoned, including two of Ms. Lau’s vehicles. While Ms. Lau had enough time to save some of her belongings, she had to leave other items behind, such as her water tank, fishing poles, and electronics. For Ms. Lau, the sweep was traumatic and disruptive, and the aftermath has been overwhelming. **“People keep saying that houseless people don’t want shelter. That’s not true. I want to find some kind of housing. In fact, I had been calling the shelters every day for weeks and they weren’t able to find shelter or alternative housing for me.”**

Sonia Davis, 64, is a Native Hawaiian woman born and raised on Maui. She has been recovering from surgery to treat cancer—a disease to which she has lost both a brother and sister in the past year. Since her rental assistance funding ran out, she had been unable to afford housing and had been residing in Kanahā. Ms. Davis has worked hard to fight a methamphetamine addiction, and has been sober since completing a rehabilitation program after being arrested in 2019 for possession of drugs. Yet, Ms. Davis was rearrested for a technical violation of her probation after she missed just one phone call from her probation officer. Because of her time in jail, she did not receive notice of the sweep until just a few days before it was to occur. **As one person, Ms. Davis was physically unable to move her and her family’s items, including four vehicles, in just a few days.** Police told her she would be arrested if she was still trying to get belongings out of the area during the sweep, so, faced with no other choice, Ms. Davis gathered the most important belongings she could, but had to leave most behind, including the vehicles, items for shelter such as tents and a canopy, pots and pans, tables, diapers, a stroller, playpen, and a car seat. Ms. Davis has had increased anxiety and depression from the sweep for fear

that at any moment she could again be forced to move or be arrested. All Ms. Davis wants is to be able to exist in peace and have a safe place to stay.

Lauralee B. Riedell, 48, has been houseless for about 10 months and is currently working as a house cleaner. Despite relentlessly looking for housing options, she and her partner have been unable to find any livable location in their budget on Maui. Thus, they had been residing at Kanahā in their car. Ms. Riedell recalls the sudden surge of police officers putting up “no trespassing” signs and arriving right before the sweep began. Wanting to cooperate with the officers, she and her partner moved to the Family Life Center pallet facility. **“It was my understanding that the shelters were a safe place to be,” Ms. Riedell said, but her experience there has proved otherwise. She notes the shelter has a confusing set of requirements, and she and her partner have been harassed by an employee, have found the facilities to be crowded, dirty, and dangerous, and neither feel safe nor comfortable there.** Ms. Riedell has found that there is little, if any, reliable information coming from authorities—she did not receive any official notice of the sweep, did not receive information on how to retrieve belongings taken during the sweep, and feels in the dark about the shelter’s operations. She merely longs for a safe place to sleep and park her car—“it causes a lot of problems, not having that sleep—this is something very frequent in the homeless community as we’re constantly woken up in the middle of the night ... I’m so tired, and don’t even have the energy to go to work because I feel so exhausted from this ordeal.”

Adam M. Walton, 40, Ms. Riedell’s partner, is also working as a house cleaner and has been houseless for the last 10 months despite persistently looking for affordable lodging. After being forcibly removed from the Amala Place area, he and Ms. Riedell have been staying at the Family Life Center pallet facility, one of the locations offered by the County, but they note how unsafe and inhospitable it is. A security guard working at the facility harassed and violated Mr. Walton’s privacy. The facility is near over-capacity with minimal resources—particularly concerning during the ongoing Covid-19 pandemic. Because he was working, Mr. Walton did not receive notice of the sweep, had no opportunity to contest it, and no way to inquire further because no information on how to do so was provided. As a result, he and his partner have been forced to put themselves at risk in supposedly “adequate” alternative housing. **Contrary to the way the County has portrayed the help houseless people have received, Mr. Walton notes how difficult it has been to receive assistance from Family Life Center.** A case worker is “supposed to make contact with us, but we have no information on that,” Mr. Walton said, noting that he was told he might be eligible for rental assistance but has to find a willing landlord, which has been immensely difficult when none consider his income sufficient. “We’re supposed to go out there and find the unicorn, and then they’ll catch it for you,” Mr. Walton says of trying to find housing, “but there is no unicorn.”

Each of the Plaintiffs, like the majority of houseless people, fell into difficult circumstances that have made staying in a housing unit impossible. Despite their best efforts, the Plaintiffs had been unable to find a safer, more secure alternative to residing

at Kanahā Beach Park. As Ms. Riedell points out, it is a fine line between having a stable place to live and having just one set-back that erases that: “imagine you’re a single mom and you just lost your job and you get eviction notice, you don’t know where you’re going to go... [becoming houseless] can happen to anybody, and it does.”

Wookie Kim, Legal Director of the ACLU of Hawai‘i, said: “The September sweep of the Kanahā Beach Park area was not only deeply troubling but also unconstitutional. Our constitutions prohibit the government from taking people’s property without due process. This means the government must provide notice and an opportunity to be heard. But our clients were given neither: the County gave them a defective paper notice mere days before the sweep began, and it did not grant our clients’ written requests for a contested case hearing. In acting this way, the County appears to believe that our clients are not entitled to constitutional protections because they are houseless and reside in public spaces. We filed this lawsuit to challenge that notion. We would like the Hawai‘i courts to clarify—as the federal courts already have—that people do not lose their constitutional rights simply because they do not live in a house.”

The lawsuit asks the court to issue a declaratory judgment that each Plaintiff’s procedural due process rights were violated and that their right to be free from unreasonable search and seizures was violated by the sweep, and that the County was required to conduct a contested case for the Plaintiffs. It also asks the court to enter an order requiring the County to hold a contested case hearing for the Plaintiffs, and to require that, before any future sweeps occur, affected persons will receive adequate, sufficient notice and an opportunity for a contested case hearing if they request one.

Joshua Wisch, Executive Director of the ACLU of Hawai‘i, said: “The September sweep at Kanahā has only made things worse. It has made the Plaintiffs’ lives more stressful and it has made finding adequate housing more difficult for them. It has done nothing to address the challenge of houselessness on Maui, and it was done illegally. If the Plaintiffs had simply been provided a contested case hearing, as they lawfully requested, the trauma, stress, loss of property, and violation of constitutional rights could have been avoided.”

Attached are copies of the filed notice of appeal and Plaintiffs’ declarations.

The mission of the ACLU of Hawai‘i is to protect the fundamental freedoms enshrined in the U.S. and Hawai‘i constitutions. The ACLU of Hawai‘i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai‘i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai‘i has been serving Hawai‘i for over 50 years.