

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 20-0069-DOC (DFMx)

Date: January 14, 2020

Title: CITY OF SANTA V COUNTY OF ORANGE, ET AL

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Deborah Lewman
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR
DEFENDANT:
None Present

**PROCEEDINGS (IN CHAMBERS): ORDER DENYING EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER [5]**

Before the Court is Plaintiff City of Santa Ana’s (“Plaintiff”) Ex Parte Application for Temporary Restraining Order (“Application”) (Dkt. 5). The Court finds this matter appropriate for resolution without oral argument. *See* Fed. R. Civ. P. 78; L.R. 7-15. Having reviewed Plaintiff’s moving papers and thoroughly considered its arguments, the Court now DENIES Plaintiff’s Application.

I. Legal Standard

A temporary restraining order (“TRO”) is intended to preserve the status quo and prevent irreparable harm before a hearing can be held on a preliminary injunction. *Granny Goose Foods v. Bhd. of Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974). The standard for issuing a TRO is substantially identical as for a preliminary injunction. *See Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). This “extraordinary remedy” requires courts to balance competing claims on a case-by-case basis, with “particular regard for the public consequences” of issuing an injunction. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). A plaintiff seeking preliminary injunctive relief “must establish that he is likely to succeed on the

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merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Am. Trucking Ass’ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter*, 555 U.S. at 20).

Alternatively, an injunction can also be justified if a plaintiff raises “serious questions going to the merits” and the balance of hardships “tips sharply toward the plaintiff . . . assuming the other two elements of the *Winter* test are also met.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011). A “serious question” is one on which the movant “has a fair chance of success on the merits.” *Sierra On-Line, Inc. v. Phx. Software, Inc.*, 739 F.2d 1415, 1421 (9th Cir. 1984). The Ninth Circuit follows a “sliding scale” approach to the four preliminary injunction elements, such that “a stronger showing of one element may offset a weaker showing of another, as long as plaintiffs ‘establish that irreparable harm is likely.’” *Doe v. Kelly*, 878 F.3d 710, 719 (9th Cir. 2017) (quoting *Cottrell*, 632 F.3d at 1131).

II. Discussion

In the instant Application, Plaintiff has not met its initial burden to demonstrate an imminent likelihood of irreparable harm, such that an injunction is immediately necessary to preserve the status quo in advance of a hearing on a motion for preliminary injunction. Plaintiff points to comments by San Clemente city officials that they plan to transport the city’s homeless population to “public armories in Santa Ana and Fullerton,” to have those cities and SPAs provide shelter for the homeless from San Clemente. Appl. at 9. The Santa Ana and Fullerton armories are the only two armories in all of Orange County and are located in the northern and central SPAs. *See id.* Plaintiff also highlights the San Clemente City Council’s closing of a homeless shelter. *Id.* The Court notes that Plaintiff offers no evidence that any official from Dana Point or San Juan Capistrano has made a similar statement or taken similar action to those by San Clemente officials. *See id.*

Plaintiff contends that this plan will cause impacts to Dehli Park and Santa Ana as a whole, as a result of the potentially increased population of homeless individuals. Plaintiff also anticipates it will incur greater costs if other cities transport their homeless residents to Santa Ana for shelter. *Id.* at 14-15.

However, these harms are too speculative and remote to warrant the immediate interim relief of a TRO. The cited actions and comments of city officials do not demonstrate that the harms Plaintiff anticipates have yet occurred or are necessarily likely to occur, and do not support its argument that an injunction is *immediately* necessary.

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Because Plaintiff's anticipatory harms are too speculative to be actionable at this time, the Court finds that it must DENY Plaintiff's Application.

To hear and protect the interests of all parties, the Court will set this matter for a preliminary injunction hearing on February 4, 2020 at 8:00 a.m. If the parties stipulate to continue this hearing to a future date because no material harm has yet occurred, the parties shall file a notice of such stipulation with the Court.

III. Disposition

For the reasons set forth above, the Court hereby DENIES Plaintiff's Application for Temporary Restraining Order. A hearing on a preliminary injunction will be set for February 4, 2020 at 8:00 a.m.

The Clerk shall serve this minute order on the parties.

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk: djl