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## SF Law School Sues City Over Area's 'Deplorable Conditions'

By **Hailey Konnath**

Law360 (May 4, 2020, 7:12 PM EDT) -- A San Francisco law school accused the city and county of tolerating "deplorable conditions" in its Tenderloin neighborhood, an area that San Francisco has used as a "containment zone," according to a lawsuit filed on Monday in California federal court.

The University of California, Hastings College of the Law, along with business owners and a merchants association, said in their complaint that the city and county of San Francisco has long abandoned the Tenderloin neighborhood, "in an apparent effort to spare other neighborhoods the burdens that confront the city at-large." The neighborhood's conditions constitute a violation of the fundamental civil rights of those who live and work there, the plaintiffs said.

"This is a matter of fundamental fairness; what is a city-wide problem should not be allowed to weigh disproportionately on a low-income working-class neighborhood," they said.

According to the suit, the Tenderloin is a culturally diverse community of seniors, people of color, immigrants, LGBTQ individuals and individuals with disabilities. Many of the neighborhood's residents have low incomes, according to the plaintiffs, which include residents, a pair of hotel managers and a restaurant owner.

All of those residents — both housed and unhoused — are being put at risk by the city's policies, actions and inaction, they said.

As San Francisco used the neighborhood as a sort of "containment zone," the livability and safety there dramatically declined, per the suit. The area is now blighted, the plaintiffs said, adding that its sidewalks are unsanitary, unsafe "and often impassable." There are crowds of drug users and tents that block sidewalks, open-air drug sales and other criminal activity, they said.

And Tenderloin small business owners aren't just dealing with coronavirus-spurred economic challenges — they're also coping with "an existential risk to their future, as customers elect to patronize establishments where sidewalk conditions do not impose physical barriers to safe access," the plaintiffs said.

"The pandemic has ominously exacerbated dangers and harms to those who live, work and go to school in the Tenderloin, and it threatens to do so for years to come as successive waves of infection bring further death and despair," they said.

The law school, business owners and residents are alleging violations of the Americans with Disabilities Act, due process and equal protection laws, public nuisance and negligence, among others. They're after injunctive relief, attorney fees and court costs.

They added that they are not looking to assign blame but rather "to obtain legally obligatory solutions."

Deborah Mallgrave, counsel for the business associations, told Law360 on Monday that she and her clients are calling upon the federal court to solve problems that have "long-plagued the Tenderloin."

The solution: The city must "create and maintain an environment in the Tenderloin that's fair to all of its residents, housed and the unhoused," she said.

John Cote, a spokesperson for the San Francisco City Attorney's Office, told Law360 on Monday that the city will evaluate the suit once it has been served. He said the city's Emergency Operations Center has developed a proposed plan to address the situation in the Tenderloin, including "block-by-block analysis."

"It is unfortunate that UC Hastings chose to go to court rather than allow that community process to proceed and produce a final plan, which will be issued this week," Cote said. "The Emergency Operations Center will continue to finalize the plan, and we invite these plaintiffs to join their neighbors and participate in that process."

Hastings College of the Law is represented by Michael A. Kelly, Richard H. Schoenberger, Matthew D. Davis and Jade Smith-Williams of Walkup Melodia Kelly & Schoenberger and Alan A. Greenberg, Wayne R. Gross and Deborah S. Mallgrave of Greenberg Gross LLP.

Counsel information for San Francisco wasn't immediately available.

The case is Hastings College of the Law et al. v. City and County of San Francisco, case number 3:20-cv-03033, in the U.S. District Court for the Northern District of California.

--Editing by Nicole Bleier.

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