

**ROB BONTA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



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September 23, 2022

Mayor Bill Wells and City Councilmembers  
City of El Cajon  
200 Civic Center Way  
El Cajon, CA 92020  
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**RE: DEMAND TO IMMEDIATELY RESCIND WARNING NOTICES TO HOTELS  
PARTICIPATING IN COUNTY OF SAN DIEGO'S BRIDGE MOTEL VOUCHER  
PROGRAM AND NOTICE OF VIOLATIONS OF THE FAIR EMPLOYMENT AND  
HOUSING ACT**

Dear Mayor Wells and City Councilmembers:

As we discussed earlier today with City Attorney Morgan Foley, it has come to our office's attention that the City of El Cajon has threatened to fine local hotels for accepting participants in the County of San Diego's bridge housing voucher program. These vouchers provide payment assistance to qualifying individuals experiencing homelessness to allow them temporary lodging in participating hotels in the County. Despite the fact that this program is unquestionably legal, the City of El Cajon has accused participating hotels of unauthorized operation of emergency shelters, and threatened fines of up to \$1000 a day. (See Ex. A-C, attached.) Some of these notices state that the hotels must reduce their "voucher use to no more than 15% of rooms"; others seem to more categorically ban hotels' acceptance of the vouchers. (*Ibid.*) Public reports indicate that at least one hotel owner has stated that "there appears to be no other option than to comply with the city directive to reduce capacity,"<sup>1</sup> raising the specter of

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<sup>1</sup> Matt Hoffman, *Dispute over county's hotel voucher program for homeless continues in El Cajon*, KPBS (Sept. 20, 2022) <<https://www.kpbs.org/news/local/2022/09/20/dispute-over-countys-hotel-voucher-program-for-homeless-continues-in-el-cajon>>.

formerly homeless individuals being imminently turned out into the streets and again becoming homeless.<sup>2</sup>

Similarly, we have heard reports that the City's police officers have been mobilized to knock on doors to accost guests, have followed new guests into their rooms, and have interrogated guests on where they have come from.<sup>3</sup>

The City's actions cannot stand. The City's conduct constitutes unlawful discrimination in direct contravention of the Fair Employment and Housing Act. Our office hereby demands that the City **immediately (1) rescind the warning notices, (2) agree to refrain from issuing such notices in the future, (3) publicly state that hotels will not be subjected to adverse action from the City for accepting such vouchers and (4) order its law enforcement officers to immediately cease any unlawful harassment of hotel guests at participating hotels.**

**A. The City's Actions Amount to Unlawful Source of Income Discrimination in Violation of the Fair Employment and Housing Act (FEHA)**

The Legislature has formally recognized that the opportunity to obtain housing free of discrimination based on source of income is a civil right in the State. (Gov. Code, § 12921, subd. (b).) Discrimination based on source of income is accordingly unlawful and against public policy. (*Id.* at § 12920.) The FEHA defines "source of income" as lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies. (*Id.* at § 12955, subds. (a), (p)(1).) These provisions do not only apply to private landlords; government entities, like the City of El Cajon, are also prohibited from discriminating based on source of income through public land use practices, decisions, and authorizations. (*Id.* at § 12955, subd. (l).)

There can be no dispute that the vouchers at issue here meet the definition of "lawful, verifiable income," which is phrased expansively to include local public assistance paid directly to a housing owner. And the City's actions here in accusing hotel operators of violating its

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<sup>2</sup> While City officials claim to have reached an agreement with hotel operators under which they "will not accept new vouchers to allow homeless people to stay in the rooms, and also would not evict anybody" (Gary Warth, *El Cajon, motel operators to meet Friday to discuss homeless voucher dispute*, San Diego Union-Tribune (Sept. 20, 2022) <<https://www.sandiegouniontribune.com/news/homelessness/story/2022-09-20/el-cajon-motel-operators-to-meet-friday-to-discuss-homeless-voucher-dispute>>), it is unclear whether all of the hotels subject to the warning notices are part of this ostensible "agreement," and whether the City has rescinded the notices issued to hotels which have agreed. Further, refusing to provide housing to new residents on the basis of their use of the voucher would itself be a violation of FEHA's prohibition on source-of-income discrimination, as discussed below.

<sup>3</sup> *Ibid.*; Gary Warth, *El Cajon threatens hotels with fines for allegedly operating illegal shelters*, San Diego Tribune (Sept. 16, 2022) <<https://www.sandiegouniontribune.com/news/homelessness/story/2022-09-16/el-cajon-threatens-hotels-with-fines-for-allegedly-operating-illegal-shelters>>.

Municipal Code by operating an “emergency shelter” and threatening them with fines clearly constitute a public land use practice or decision.

**B. The City’s Actions Have an Unlawful Disparate Impact on Racial Subgroups, People with Disabilities, the Elderly, and Veterans, in Violation of FEHA**

FEHA prohibits discrimination based on membership in a protected class, including but not limited to race, color, age, national origin, disability, medical conditions, or military or veteran status. It is unlawful for a governmental entity to engage in a land use decision that has a discriminatory effect on members of a protected class. (*Id.* at §12955.8, subd. (a)(2).) Such actions include any practice that denies, restricts, conditions, or adversely impacts housing opportunities or privileges associated with housing opportunities. (Cal. Code Regs. tit. 2, § 12161, subds. (a), (b)(1)-(2), (5), (7).) These practices also include requiring persons to “take actions against individuals include mandating initiation of eviction procedures against tenants or occupants, prohibiting renewal of an existing tenancy, or requiring the initiation of adverse actions against one or more tenants, occupants or guests.” (*Id.* at § 12162, subd. (a).)

San Diego’s unhoused population is disproportionately disabled, older, and Black.<sup>4</sup> Veterans are also disproportionately represented in the County’s unhoused population. (*Ibid.*) The City of El Cajon’s actions unlawfully restrict housing opportunities and privileges in a manner that has a disparate impact on these protected classes. Furthermore, by exhorting hotel owners to reduce the number of voucher-holding guests, allegedly mobilizing its police department to harass and interrogate guests, and threatening hotels with hefty fines, the City of El Cajon is unlawfully limiting and interfering with housing opportunities and catalyzing the removal of hotel guests in violation of the aforementioned provisions.

The City may also be liable for intentional discrimination. The FEHA and its implementing regulations state that where a public land use practice “reflects acquiescence to the bias, prejudices or stereotypes of the public, members of the public, or organizational members, intentional discrimination may be shown even if officials or decision-makers themselves do not hold such bias, prejudice or stereotypes.” (*Id.* at § 12161, subd. (c).) Were our office to engage in an investigation or litigation relating to this matter, such evidence may come to light and we could pursue a claim on these grounds.

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<sup>4</sup> San Diego Regional Taskforce on Homelessness, *Community Analysis Dashboard, FY 2021* (as of Sept. 23, 2022) <<https://public.tableau.com/app/profile/gaither.stephens3473/viz/00036-RegionalTaskForceontheHomeless-CAD/CommunityAnalysis>>.

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As outlined above, we have concluded that the City of El Cajon's actions violate FEHA. To avoid further action by our office, the City must immediately take the actions outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read "Sahar", is centered on a light blue rectangular background.

SAHAR DURALI  
Deputy Attorney General

For     ROB BONTA  
Attorney General

Cc:     Morgan Foley, City Attorney  
         [mfoley@mcdougallove.com](mailto:mfoley@mcdougallove.com)  
         [hsavage@cityofelcajon.us](mailto:hsavage@cityofelcajon.us)

# EXHIBIT A





**City of El Cajon**  
**Community Development**  
200 Civic Center Way  
El Cajon, CA 92020  
619-441-1742

Case Number: **CODE-2022-0282**

## Warning Notice

Case Type: **Code Compliance**  
Date Case Established: **9/13/2022**

Compliance Deadline: **9/16/2022**

September 14, 2022

### Mailing Address

Owner  
Jala Inc  
425 W Main St  
El Cajon CA 92020

### Notice of Violation for the following location:

#### Address

425 W MAIN ST Office  
El Cajon, CA 92020

#### Parcel

4873312200

**Violation:** 17.145.150 - Commercial land use table

**Corrective Action:** Cease unauthorized operation of emergency shelter. Specific Plan 182 prohibits emergency shelters.

**Compliance Date:** 9/16/2022 12:00:00AM

ECMC Chapter 1.14 provides for the issuance of administrative citations, fine levies and any other remedies available to the City under the law. Administrative citation fines are as follows: (1) \$100 per day per violation for the first violation; (2) \$200 per day per violation for the second violation of the same code section; (3) \$500 per day per violation for a third; and (4) \$1000 per day per violation for the fourth and any subsequent violation.

Please note that should violation(s) persist, fines will be assessed per day, per violation until compliance issues have been met. If you fail to correct violation(s) by the above compliance date, the next level citation may be issued.

Sincerely,

Nicole Kim  
Code Compliance Officer  
nkim@elcajon.gov  
(619) 441-1515



# EXHIBIT B



City of El Cajon  
Community Development  
200 Civic Center Way  
El Cajon, CA 92020  
619-441-1742

Case Number: **CODE-2022-0286**

## Warning Notice

Case Type: Code Compliance  
Date Case Established: 9/14/2022

Compliance Deadline: **9/16/2022**

September 14, 2022

### Mailing Address

Owner  
El Cajon Venture Lp  
1355 E Main St  
El Cajon CA 92021

### Notice of Violation for the following location:

Address	Parcel
1355 E MAIN ST Office El Cajon, CA 92019	4891807700

**Violation:** 17.145.150 - Commercial land use table

**Corrective Action:** Cease unauthorized operation of emergency shelter. Reduce voucher use to no more than 15% of motel rooms. An emergency shelter is only allowed with an approved conditional use permit.

**Compliance Date:** 9/16/2022 12:00:00AM

ECMC Chapter 1.14 provides for the issuance of administrative citations, fine levies and any other remedies available to the City under the law. Administrative citation fines are as follows: (1) \$100 per day per violation for the first violation; (2) \$200 per day per violation for the second violation of the same code section; (3) \$500 per day per violation for a third; and (4) \$1000 per day per violation for the fourth and any subsequent violation.

Please note that should violation(s) persist, fines will be assessed per day, per violation until compliance issues have been met. If you fail to correct violation(s) by the above compliance date, the next level citation may be issued.

Sincerely,

Nicole Kim  
Code Compliance Officer  
nkim@elcajon.gov  
(619) 441-1515



# EXHIBIT C



**City of El Cajon  
Community Development**

200 Civic Center Way  
El Cajon, CA 92020  
619-441-1742

Case Number: **CODE-2022-0285**

**Warning  
Notice**

Case Type: Code Compliance  
Date Case Established: 9/14/2022

Compliance Deadline: **9/16/2022**

September 14, 2022

**Mailing Address**

**Owner**

A & B El Cajon Hotels Llc C/O  
Bharat Maru  
151 N Kraemer Blvd, #120  
Placentia CA 92870

**Notice of Violation for the following location:**

**Address**

1274 OAKDALE AVE Office  
El Cajon, CA 92021

**Parcel**

4893102300

**Violation:** 17.145.150 - Commercial land use table

**Corrective Action:** Cease unauthorized operation of emergency shelter. Reduce voucher use to no more than 15% of motel rooms. An emergency shelter is only allowed with an approved conditional use permit.

**Compliance Date:** 9/16/2022 12:00:00AM

ECMC Chapter 1.14 provides for the issuance of administrative citations, fine levies and any other remedies available to the City under the law. Administrative citation fines are as follows: (1) \$100 per day per violation for the first violation; (2) \$200 per day per violation for the second violation of the same code section; (3) \$500 per day per violation for a third; and (4) \$1000 per day per violation for the fourth and any subsequent violation.

Please note that should violation(s) persist, fines will be assessed per day, per violation until compliance issues have been met. If you fail to correct violation(s) by the above compliance date, the next level citation may be issued.

Sincerely,

Nicole Kim  
Code Compliance Officer  
nkim@elcajon.gov  
(619) 441-1515