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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR PACIFIC COUNTY

BEACON CHARTERS AND RV)
PARK, LLC, FKA BEACON RV PARK)
Plaintiff,)
v.)
LAWRENCE BERGQUIST,)
and all other occupants, 332 Elizabeth Av SE)
space 40, Ilwaco, WA 98624;)
Defendants.)

Case No. 22-2-00135-25
RESPONSE IN OPPOSITION TO
DEFENDANT’S MOTION
FOR PRELIMINARY INJUNCTION

COMES NOW Plaintiff, Beacon Charters and RV Park, LLC, fka Beacon RV Park (“Beacon” or the “Park”) by and through their counsel Mark G. Passannante, of Broer & Passannante, P.S. and Robert S. Phed, Of Counsel, and respond in opposition to Plaintiff’s Motion for Preliminary Injunction filed on September 30, 2022 and cited in for a hearing on October 31, 2022 and requests this Court deny Defendant’s request for an injunction.

Because there is not a motion to consolidate, but a motion for a joint hearing with cases Nos. 22-2-00126-25; 22-2-00128-25; 22-2-00133-25; 22-2-00135-25; 22-2-00136-25; 22-2-00138-25, Plaintiff does not object to a joint hearing on the motions that were filed in each of these individual cases but which are identical for all effects and purposes. Plaintiff further requests this Court to treat

1 this Response as a Response for each of the above listed cases for the purposes of judicial economy.
2 Should the Court require Plaintiff to file exact duplicates of the Response for each of the affected
3 cases with a different caption for each, Plaintiff is agreeable to doing so.

4 **RESPONSE**

5 Defendant's Motion for Preliminary Injunction and its supporting declarations contain quite
6 a lot of fiction and misrepresentation of facts to suit a continuous narrative of a vendetta against the
7 owners of Beacon. The scope of relief requested is overbroad and without support in law or fact.

8 Defendant filed the present Motion to enjoin Plaintiff from demolishing or removing,
9 altering or destroying of "park models" and ANY structures at Beacon, without regard to whether
10 said structures belong to the Plaintiff or whether they belong to the former owner, Mr. Cassinelli.
11 The Motion insinuates that Plaintiff destroyed "park models" that belonged to other residents. The
12 allegation is not true.

13 The Motion seeks to Prevent Plaintiff from intentionally causing termination or interruption
14 of Defendant's utility services. Plaintiff, without prejudice to its claim that they are not defendant's
15 landlord, has already taken steps to assure that utility services to the Park have remained active by
16 paying the utility bills for Beacon while occupants are still living on the premises. Plaintiff has
17 likewise undertaken steps to maintain Beacon common areas clean and continued to provide garbage
18 service to the Park.

19 Defendant claims they have a fear that Plaintiff will apparently discontinue to undertake the
20 tasks that they have but at the same time claims that Plaintiff's representatives presence at Beacon
21 "interferes" with their right of privacy and quiet enjoyment of their homes. Defendant sees
22 "harassment" in every conceivable act that could be performed by an owner of a park: walking
23 around with a dog; performing maintenance on the property; taking care of landscaping; removing
24 empty trailers owned by the Park to prevent rodent harborage and vagrants occupying the same and
25 contracting with a company to assure that demolition is done in a reasonable manner and removing
26 debris from the premises as demolition is completed. Defendant faults the Plaintiff for its attempts

1 to comply with the lease with the Port of Ilwaco and wrongly blaming Plaintiff for conditions at the
2 Park that existed before plaintiff's leasehold came into existence. Plaintiff purchased business assets
3 and leased the premises at issue in this action from the Port of Ilwaco in or about April 6, 2022. The
4 prior lease with between the Port and Mr. Cassinelli, was terminated. A copy of Plaintiff's lease
5 and the recorded termination of the Cassinelli lease are attached to Passannante Declaration as
6 Exhibit 1. Of note is that Defendant did not bring any of action nor lodge any complaints against the
7 former leaseholder of the premises, Mr. Cassinelli, who caused the Park to fall into disrepair. Of
8 note is that the use of the Port's property as a mobile home park is not a legal use of the premises.
9 *See Werner Declaration, Exhibit 1.*

10 Defendant recycles the Attorney General's failed motion for similar relief that Defendants
11 lack "certainty" to live at Beacon. Every one of the residents was provided with an opportunity to
12 move to a different park and was offered a financial incentive to do so, thus providing the certainty
13 sought by Ms. Rayamajhi's office. 30 residents were able to move out and find alternative housing
14 options, including 18 residents who received the \$2,000.00 incentive and numerous physical
15 assistance from Beacon in making their RVs movable again. *Lelani Rabi Declaration.* These actions
16 were done not because Plaintiff neglected the property, but rather so Plaintiffs could undertake to
17 improve the premises that had long been neglected by Mr. Cassinelli, the prior lease holder and
18 because of the condition of, in particular, the electrical service to the Park.

19 Further, Defendant acknowledges that several residents accepted a settlement offer to allow
20 them to move to a different, secure place since the beginning of these actions. Defendant does not
21 even concern itself that a claim that Beacon is subject to MHLTA in all regards is a conclusion of
22 law that has not been yet reached by this Court. This position that an RV Park with 2 park models
23 subjects all tenants in all spaces to MHLTA is overbroad and is the subject of the litigation in the
24 AG's suit against Beacon. A Similar position was expressed by MHDRP in their Notice of
25 Violation/Cease and Desist Order which never became effective because it was appealed. Such
26 position has the unintended consequence of eliminating a short stay option at an RV Park making

1 even overnight guests subject to one year lease requirements and resulting obligations of payment
2 of rent under RCW 59.20.090 and potentially including apartments or even commercial tenants who
3 happen to occupy dwellings or other structures within a mobile home park. The position exceeds the
4 territorial application of MHLTA. RCW 59.20.040 (governs agreements for mobile home lots).

5 Robina Rayamajhi, an attorney with Thurston County Volunteer Legal Services, who
6 represents several remaining residents in the Beacon Park, stated:“I know none of them really want
7 to be there[...]It’s not a great situation to be living in.”¹ In the same news story, a park resident Ms.
8 Gill, who in April was considering the payoff and was waiting for a space to open elsewhere, in July
9 compared the owners of the park and their staff to Nazis, an absolute affront to any victim of Nazism
10 in the world. Id. Ms. Gill vacated later on, but the smears she left published by the local news has
11 never been corrected. Plaintiff’s only sin was to lease the premises from the Port of Ilwaco and agree
12 to improve the Park’s conditions and operate the premises in accordance with local laws which do
13 not permit a mobile home park on the premises. It is the need to correct years of neglect that
14 Plaintiff had nothing to do with and to assure that use of the premises is in compliance with local law
15 that underlines Plaintiff’s claim for possession.

16 This Court should not grant the injunction to stop Beacon from demolition any of the Park-
17 owned or abandoned RVs, which are a magnet for houseless persons to take up residence thus
18 creating dangerous living conditions for the remaining occupants and potentially use the occupancy
19 to demand a move out incentive payment. This Court should not grant the injunction to stop Beacon
20 from demolition of any structures it owns or has control over as it clearly infringes on Beacon’s
21 rights. This Court should not grant the injunction because Beacon complied with the agreement
22 reached with the AG’s representatives on April 13, 2022 and has done nothing to breach it. Plaintiff
23 has relied on negotiation and the legal action in their effort to recover possession of the premises.

24 This Court should not grant the injunction because Legal Aid’s evidence is chock full of

25 _____
26 ¹ <https://kmun.org/state-orders-ilwaco-rv-park-owners-to-stop-unlawful-actions/> (July 28, 2022, by Katie Frankowicz)

1 hearsay and innuendos, not supported by fact or taken out of context for the shock factor alone.

2 This Court should deny the Defendant’s motion for a preliminary injunction.

3 **FACTUAL BACKGROUND**

4 Beacon Charters and RV Park, LLC (“Beacon”) was formed by Michael and Denise Werner
5 with the purpose of operating and holding a leasehold interest in the Beacon RV Park property
6 located in Ilwaco, WA. *Werner Declaration*.

7 The land on which Beacon RV Park (Beacon) is physically situated is owned by the Port of
8 Ilwaco. *Id.* Mayor of Ilwaco, Mike Cassinelli, leased the premises from the Port of Ilwaco prior to
9 selling the business assets to Michael and Denise Werner. *Id.* Mr. Cassinelli operated Beacon as an
10 RV Park and retail establishment with some long term residents on site and had oral rental
11 agreements with such residents. When the Werners purchased the business assets from Cassinelli,
12 the Port of Ilwaco terminated the Cassinelli lease and signed a new lease with the Werners that
13 required the new owners of Beacon to open retail operations by June 30, 2022 and complete the
14 Park’s remodel and bring the Park into compliance with local zoning requirements by September
15 of 2022. *Werner Declaration*. Prior to closing, Mike Cassinelli personally requested assistance from
16 Beacon to draft a notice of termination of tenancy because he said, as Mayor of Ilwaco, he did not
17 have time to do so. *Gagliasso Declaration*. Such notice was prepared on 2/25/22 on the express
18 request of Mr. Cassinelli and approved by Cassinelli. *Id.* The notice recognized that Cassinelli’s
19 lease of the property was being terminated.

20 The asset purchase was completed on or about on April 6, 2022. *Werner Declaration*. The
21 new lease signed by the Werners and the Port of Ilwaco required the Werners to operate the park in
22 a “first class” manner and that should the Werners fail to do so, they would be considered in
23 violation of the lease. A copy of the lease is attached to Werner declaration. The park was in
24 deplorable condition due to years of neglect, including an electrical system in need of repair among
25 other things. *Id.* To bring it up to the “first class” condition, the Werners agreed to provide a
26 complete renovation and, in order to do that as well as repair the electrical system. *Id.* A contractor,

1 Schram Brothers Excavating, LLC is unable to proceed with the remodeling project because it cannot
2 be safely done with any remaining residents on site due to the need to disconnect and remove all
3 utilities on site that require digging numerous trenches up to 12 feet deep. *Schram Declaration; Rabi*
4 *Declaration*. The trenching is needed because the repairs to the electrical system require
5 replacement and installation of new service. *Gagliaso Declaration*.

6 The Werners did not assume the rental agreements which existed between the resident and
7 Mr. Cassinelli. The terms of the sale did not provide for the assumption of the rental agreements. As
8 such, Beacon did not accept any rent from any remaining residents in the Park after close of sale with
9 Cassinelli and a new lease with the Port of Ilwaco was signed by the Werners. *Werner Declaration*.

10 In order to facilitate compliance with the terms of the lease and the Port of Ilwaco to
11 complete the requisite improvements and because the electrical system was in worse condition than
12 the Werners originally believed, the Werners issued notice on April 6, 2022 (Miller, exhibit 17),
13 which was later withdrawn on April 13, 2022 (Miller, exhibit 18). No utilities were disconnected to
14 the park at the time. *Werner Declaration*. No utilities have since been disconnected.

15 At the joint conference convened by MHDRP on April 13, 2022, referenced by the
16 Defendant, with participation by the Attorney General's representatives and MHDRP, it was agreed
17 that Beacon will not disconnect the utilities and that Mr. Werner would not issue any other notices
18 to the residents without Mr. Passannante's approval. *Werner Declaration, Passannante Declaration*.

19 The Werners agreed they would not disconnect the utilities or issue further notice without having
20 notice reviewed by their lawyers.

21 Based on the conference of April 13, 2022, Mr. Passannante issued an offer to the residents
22 at Beacon dated April 19, 2022, which detailed significant safety issues in the Park, advised clearly
23 of the need for the replacement of the roads and utilities, requested residents to properly park their
24 RVs on their sites and requested corrective action on sewer hookups, which were not properly done
25 by some of the residents of the park resulting in sewage spills on site. *Declaration of Passannante*.

26 The correspondence also contained an offer to resolve the matter of residents' occupation of
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1 the Beacon park. The letter clearly explained the need for the residents to vacate and explained that
2 the alternative is a suit requesting the Court to “terminate rental agreements and/or occupation of the
3 RV Park due to the need to rehabilitate the same and , that it is neither safe nor feasible to have the
4 RV Park occupied during rehabilitation.” *Id.* As an incentive, the Park clearly offered \$2,000.00 to
5 assist remaining residents in relocating their Rvs to another RV park or camping site in exchange
6 for vacating the Park. The offer provided clear terms of acceptance. *Id.* The letter did not waive
7 defendants’ other remedies including termination of occupancy because the occupants master lease
8 was terminated by the Park.

9 To date, eighteen (18) former residents of the Park were paid the relocation incentive, with
10 additional twelve (12) residents vacating the park prior to the April 19, 2022 offer. *Rabi Declaration.*
11 Other residents vacated the Park either voluntarily or by settlement after receiving compensation to
12 do so. *Id.*

13 Beacon worked with many residents on assisting them in relocation, namely Linda Robinson,
14 one of the complainants to MHDRP, on not only ensuring that her slider moved back, but finding
15 the moving company and communicating with her counsel Mr. Conklin. *Id.* The Park continued
16 communication with Mr. Conklin on matters relating to other occupants’ move out, including Ms.
17 Susan Gill. *Id.* According to Mr. Conklin, as of May 20, 2022, Ms. Gill apparently was happy to
18 take the offer but was “in a holding pattern due to preparations for her new site.” Yet it was Ms. Gill
19 who had the audacity to compare the Werners and their staff to Nazis in her inflammatory interview
20 to KMUN, referenced prior, just two short months later. *Rabi declaration.* Ms. Gill vacated the
21 premises and her matter has been dismissed. *Id.*

22 The Park extended the offer to many residents upon request numerous times. A spreadsheet
23 showing Beacon’s attempts to work with residents is attached to Rabi Declaration. It shows that
24 some residents even made counteroffers and were actively negotiating with Beacon for the best
25 payout. *Id.* This spreadsheet does not paint a picture of residents in crisis advocated by the Volunteer
26 Attorney’s counsel. Some residents, like Mr. Busse and Bergquist have been outright hostile from

1 the get go. *Id.*

2 It was not until June 16, 2022, that Beacon filed the actions against the remaining residents
3 of the Park asking the Court to terminate the rental agreements and, alternatively, that the remaining
4 residents are not tenants of defendants under their existing lease of the Park from the Port of Ilwaco.

5 Some residents of the Park have engaged in unsavory conduct, such as switching spaces in
6 an attempt to thwart service of process, such as the aforementioned Messrs. Busse and Bergquist.

7 *Rabi declaration.*

8 The discussion at the City of Ilwaco Council on July 11, 2022 concerning the situation with
9 the Beacon RV Park, has described the pre-purchase condition of the Park as “dilapidated” and
10 outlined the intention of the Werners to renovate the park and “returning the park to the intended
11 short term use.” *Passannante Declaration.* The Council was appraised on the legal advise received
12 by the Port of Ilwaco that so long that the Werners are attempting to gain compliance with the terms
13 of the lease in “good faith” the port is required to provide additional time extensions to allow their
14 efforts. *Id.* Such extension has been granted, so long that Beacon is attempting to legally perform its
15 obligations under the Lease and remove the residents to effectuate the needed remodel. *Id.* Notably,
16 counsel to the Port of Ilwaco advised that the “use of the park does not meet the definition of a
17 Mobile Home Park as define [sic] under state statutes, nor does a port district have the authority to
18 manage a long-term mobile home park.” *Id.* This is exactly the same position advocated by Beacon.

19 To Beacon’s surprise, on July 20, 2022 MHDRP issued an Order to Cease and Desist and
20 Notice of Violation. The Notice did not become final until 15 business days after receipt of the
21 Notice and only then if the notice was not appealed. The 15 business days expired on Friday, August
22 12, 2022. Yet, despite the appeal period not being exhausted on the Notice, and the Order not having
23 taken any effect, Defendant here paints the picture as if Plaintiff intentionally violated the Order on
24 July 22, 2022. Between July 22 and 27, 2022 the Park conducted demolition of abandoned and park
25 owned trailers to prevent unhoused people from moving into the park without permission and further
26 preventing trespassers from occupying the leased property which has still not been improved and

1 remains in poor condition. *Rabi Declaration*. The need for the demolition was caused by the news
2 that those Rvs were used by houseless individuals without permission and with a purpose of
3 demanding a relocation incentive but having not previously occupied the property as residents under
4 Cassinelli. *Rabi and Gagliasso Declarations*.

5 There was no spilled sewage reported and the demolition was done by a contractor with
6 debris removed. *Id.* While the demolition was in progress there was debris on the property, but it was
7 promptly collected by the contractor. Defendant attached a copy of the Attorney General’s Motion
8 for Preliminary injunction, for no discernible purpose but to add physical, if not legal, weight to his
9 Motion. Defendant failed to attach Beacon’s response with supporting declaration for full context.
10 Thus Miller exhibit 22 lacks context, as it was taken during the active phase of demolition. Similarly,
11 Miller Exhibit 23 fails to even pinpoint the date on which it was taken, blithely declaring that it was
12 showing condition in the “Spring of 2022.” Beacon provided residents who were moving out with
13 dumpsters for depositing the trash. *Rabi Declaration*. Instead of that, residents piled up their trash
14 next to the office building. The trash has been removed. *Id.* Currently, Beacon has 2 yard trash
15 containers with active trash service available to the residents. *Id.* There are portable toilets serviced
16 by a vendor available for use of the residents as the primary source of sanitation given the dilapidated
17 condition Cassinelli left the sewer in. *Id.* Defendant’s position of requiring the common
18 toilets/showers to be maintained is puzzling as the majority of the RVs and trailers come equipped
19 with toilets and showers and each site at Beacon provides water and sewer connectivity for just that
20 use. Again, no utilities were ever disconnected by Beacon and plaintiff has done its best to keep the
21 bathroom open despite break ins and its condition.

22 Defendant’s reliance on Morise Hegan’s declaration that one of the demolished trailers
23 belonged to a resident is misplaced, as such declaration contains hearsay which should be stricken.
24 *See ER 801* . Besides, Plaintiff will show that Mr. Hegan perjured himself by declaring that his
25 trailer in space 25 was demolished. Space 25 was occupied by Mr. Paul Lisac, who vacated the
26 premises and removed the trailer. Space 25 was vacant and not subject to demolition. *Rabi*

1 *Declaration, paragraph 29.* Hegan’s declaration is a work of pure fiction. Even if such allegation
2 was true, which it is not, Mr. Hegan’s claim is for conversion or trespass to chattels, which has a
3 remedy of monetary damages, not injunctive relief.² See: *Sexton v. Brown*, 2008 Wash. App. LEXIS
4 2504, *21:

5 Further, Defendant relies on a declaration Ms. Meindl, with her counsel stating and signing
6 the pleading that “Plaintiff’s employees severed the cable connecting a resident’s fridge to the
7 electrical hookup so that the food in her fridge spoiled.” However, the actual identification of
8 anyone is not included in the declaration. No one associated with plaintiff severed Ms. Meindl’s
9 refrigerator power cord.

10 LEGAL ARGUMENT

11 “An injunction is distinctly an equitable remedy and is "frequently termed 'the strong arm of
12 equity,' or a 'transcendent or extraordinary remedy,' and is a remedy which should not be lightly
13 indulged in, but should be used sparingly and only in a clear and plain case." [...] Accordingly,
14 injunctive relief will not be granted where there is a plain, complete, speedy and adequate remedy
15 at law. [...]” *Kucera v. DOT*, 140 Wn.2d 200, 209-210 (2000) (internal citations omitted).

16 Further: “[O]ne who seeks relief by temporary or permanent injunction must show (1) that
17 he has a clear legal or equitable right, (2) that he has a well-grounded fear of immediate invasion of
18 that right, and (3) that the acts complained of are either resulting in or will result in actual and
19 substantial injury to him.” [S]ince injunctions are addressed to the equitable powers of the court, the
20 listed criteria must be examined in light of equity including balancing the relative interests of the
21 parties and, if appropriate, the interests of the public.[...] If a party seeking a preliminary injunction
22 fails to establish any one of these requirements, the requested relief must be denied. [...]” *Kucera v.*

23
24 ²“The tort of conversion is the willful, unjustified interference with another person's entitlement to possession of chattel.
25 [...]. To establish conversion, the plaintiff must show ownership and the right to possess the converted property. *Id.* at 675. Although
26 the plaintiff is not required to have unqualified title to the property, he or she must at least have the right to possession or some
property interest. [...]. *Moses Lake Constr. Co. v. Johnson*, 2006 Wash. App. LEXIS 1615, *7-8 (internal citation omitted)

1 *DOT*, 140 Wn.2d 200, 209-210 (2000).

2 Plaintiff's attempts to seek court's intervention in terminating occupation based on RCW
3 59.20.230 is fully compliant with the statute. Plaintiff plead its claims in the alternative, arguing that
4 either MHTLA or Residential Landlord Tenant Act applies and sought termination of the agreement
5 under RCW 59.18.120 or because plaintiff is a lessor under a new lease for the property, not
6 defendant's landlord. Thus, Defendant's counsel statement on page 7, paragraph 19 that Plaintiff's
7 counsel "conceded" on the record that the park was regulated under the MHTLA is inaccurate.
8 Plaintiff's counsel did not "concede", but instead described a situation in two of three alternatively
9 plead claims where the facts for the remaining occupants of the Park likely mooted one of the three
10 claims because, if the defendants remaining are tenants under a rental agreement with plaintiff,
11 plaintiff's claim for possession due to the need to replace the electrical system at the property is
12 brought under RCW 59.20 is applicable rather than RCW 59.18.

13 Defendant has failed to show a well grounded fear of immediate invasion of the right of
14 residents to the protections under MHTLA. Beacon has shown full cooperation with the AG's office
15 on the issue of not disconnecting utilities to the Park, providing portable toilets and garbage
16 receptacles for the use of the residents. Beacon has, in good faith, offered residents incentives of
17 \$2000 to move out to allow the Park to complete its scheduled renovation. Beacon worked hard to
18 ensure each resident was offered help with mechanical knowhow to make their Rvs operational,
19 securing spaces in other parks, offering tow companies and the like. See *Rabi and Werner*
20 *declarations*.

21 None of the acts complained of by Defendant rise to the actual or substantial injury to any
22 of the remaining residents. Since 4/13/22 no action has been taken to terminate utilities to the Park.
23 No evidence has been offered that the "gross" violations of the MHTLA did not occur before the
24 park's purchase by the Werners and only happened after the purchase. To the contrary, Ms. Meindl's
25 declaration squarely placed the blame for the park's condition on Mr. Cassinelli. Nothing in her
26 declaration says that it was the Park's employees who conducted theft of her belongings, instead she

1 says it is “some people” that wandered into the Park.

2 The Declaration of Mr. Placentile is similarly devoid of any facts that would result in finding
3 that he felt personally threatened or feared for his safety or life. It fails to state who destroyed his
4 personal trailer, does not state when it was destroyed. Beacon has only demolished vacant
5 RVs/trailers owned by plaintiff or its principals. *Rabi Declaration*. The Placentile declaration fails
6 to offer any evidence of a trailer’s vin, license plate or ownership documents. His complaint that a
7 public space was not cleaned or working properly is correct in that this is exactly why Beacon seeks
8 to terminate the rental agreements with the remaining residents: the common areas were indeed in
9 disrepair, but any repairs to the electrical system require replacement of service to the Park and
10 complete trenching which cannot be safely done while the Park is occupied. A declaration from
11 Ford Electric describes why Beacon is unable to patch the problems to “fix” the electrical deficiencies
12 at the Park.

13 The Bergquist declaration also appears to contain nothing but hearsay and general statements
14 about others, without any indication of how exactly he felt that his life or limb were in immediate
15 danger requiring an injunction or the actual injury suffered as a result and /or the potential future
16 injury he could suffer. Bergquist’s statements regarding an alleged sewage spill caused by
17 demolition Park owned RVs have already been debunked in Beacon’s response to the same motion
18 for injunctive relief filed by the AG and denied. The simple fact of the matter is that, because there
19 has not been a determination of the right to possession in the unlawful detainers, the only occupants
20 who have since vacated the Park have done so voluntarily and as part of a settlement agreement.

21 Further, Mr. Berquist is completely wrong in another respect because “contractors” who
22 removed the barrels have not been employees of plaintiff. To the contrary, Defendant is basing his
23 claims and demand for an extraordinary remedy based on hearsay and some vague speculation on
24 who those “contractors” might have been. The “shed” was a metal container that belongs to Mr.
25 Cassinelli and it was him who was supposed to remove the container and its contents from the Park.
26 *Rabi Declaration*. The barrels are filled with diesel, but are in nonflammable barrels, belong to Mr.

1 Cassinelli who is the person removing them and, on information and belief, have been in place for
2 years without complaint from defendants. It is plaintiff demanding that Cassinelli remove his
3 property that is accomplishing what the defendants want, to the extent they are complaining of diesel
4 storage on site. Cassinelli is doing so and there is no evidence that he has been spilling any or that
5 he has caused harm to anyone while he removes his property. Plaintiff is already doing what
6 defendant demands in that regard. Since Mr. Cassinelli is taking his time to remove the container and
7 the barrels, the Park has demanded that he speed up the removal. *Id.*

8 Nobody made any allegations and none exists that Plaintiff's took anyone's property without
9 permission or that they destroyed someone's shed or trailer with their property in it. What if is not
10 a legal standard for grant of preliminary injunction.

11 Plaintiff also had no notice of the rodent infestation problem until the issue was brought up
12 recently. Rabi Declaration. Plaintiff has contacted a pest control company and will begin rodent
13 treatment. *Id.* An injunction is not warranted when Plaintiff is already doing what it can to address
14 the issues. Plaintiff was presented with illegible black and white photographs that were attached
15 to Exhibit G to the Motion. Plaintiff's counsel was advised that there was no option to provide the
16 Court with a clear color picture. Upon request, Defendant's counsel, to her credit, provided a full list
17 of color pictures, which Plaintiff intends to deliver to the Court for review as a part of the motion.
18 The Pictures show exactly what Plaintiff was dealing with since entering into the lease with the Port
19 - the dilapidated condition of the park, the not up to code power pedestals that were not maintained
20 in good working order, the Cassinelli's container with the drums of what appears to be some kind
21 of liquid. The pictures of what appears to be "glass" on the ground cannot be independently verified
22 whether it was glass or plastic. Yet, 10 small pieces of glass, even if it was glass, hardly qualify as
23 resulting in or continuing to result in an actual and/or substantial injury to Defendants. No evidence
24 was presented as to whether any of the residents were actually injured by any of the debris on site,
25 nor that any defendant, if plaintiff's agents missed picking something up, attempted to advise such
26 persons of the area so the pieces could be picked up and properly disposed. Plaintiff has and will

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1 continue to porter the sight and if defendants would like to identify an area that their clean up efforts
2 may have missed plaintiff will attend to the issue, but injunctive relief on these facts is wholly
3 inappropriate. *Rabi Declaration*.

4 Defendant's claim that Plaintiff's representative was intimidating residents by walking her
5 dog are quite over dramatic. There is no prohibition on owning a dog. Ms. Rabi has walked her
6 Great Dane dog once while inspecting the Park and did not interact with anyone at that time. *Id.*
7 Defendant failed to present any evidence that Plaintiff intends or will imminently deploy a squadron
8 of dangerous attack dogs at the Park to terrorize the residents. One time walking a Great Dane that
9 is not vicious does not rise to the level of danger/injury/threat required by *Kucera*, above to justify
10 an injunction.

11 The balancing interest is not in Defendant's favor. Defendant's injunction will have a chilling
12 effect on all of the RV parks in the State of Washington that rent out spaces to long term permanent
13 residents. Residents who remain at Beacon have engaged in bad faith conduct, intentionally
14 switching spaces to avoid service; being belligerent to the Beacon staff and publicly contradicting
15 themselves when doing so made headlines in the local press.

16 Beacon has continued to provide all utilities and services to the remaining residents until the
17 court makes a determination on whether a rental agreement can be terminated either under RCW
18 59.20.230 or 59.18.120 or, in the alternative, if the court finds remaining residents to be not tenants
19 of plaintiff whose right to possession is based upon their own lease rather than the Cassinelli lease,
20 possession under the unlawful detainer statutes.

21 And to the extent that defendant is asking for a ruling on some of the maintenance issues such
22 as the electrical system and the occupants are tenants of plaintiff, MHLTA resolves this by
23 permitting defendants to request the court to terminate rental agreements where continued occupancy
24 prevents needed repairs as it is not feasible to undertake the same with the occupants and RVs in
25 place. This is the legal means for obtaining possession and is the one pursued by Beacon.

26 Absent satisfying all three prongs of the injunction, this Court must deny Plaintiff's motion.

1 *Kucera, supra.* Here, defendant has failed to meet his burden.

2 For the above reasons, Defendant's motion for the injunctive relief should be denied.

3 Dated: October 28, 2022

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5 Mark G. Passannante, WSBA#25680
6 Robert S. Phed, WSBA#42399
7 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2022, I served the foregoing Response on the party(s) listed below by the method described below:

- Facsimile**
- U.S. Mail, postage prepaid**
Last known address:
Sebastian Miller, WA AAG
Washington State Attorney General
800 Fifth Avenue, Suite 2000
Seattle WA 98104

Robina Rayamajhi
Thurston County Volunteer Legal Services
P.O. Box 405
Olympia, WA 98507

- Hand delivered in Court:**

DATED: October 28, 2022

/s/ Robert S. Phed

Mark G. Passannante, WSBA#25680
Robert S. Phed, WSBA# 42399
Of Attorneys for Defendants