

No. 23-175

IN THE
Supreme Court of the United States

CITY OF GRANTS PASS, OREGON,
Petitioner,

v.

GLORIA JOHNSON AND JOHN LOGAN, ON BEHALF OF
THEMSELVES AND ALL OTHERS SIMILARLY SITUATED,
Respondents.

**On Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

**BRIEF OF *AMICI CURIAE* THE LAWYERS'
COMMITTEE FOR CIVIL RIGHTS UNDER
LAW, THE CENTER ON BUDGET AND POLICY
PRIORITIES, AND THE NATIONAL LOW
INCOME HOUSING COALITION
IN SUPPORT OF RESPONDENTS**

DAMON HEWITT*
JON GREENBAUM
THOMAS SILVERSTEIN
Counsel of Record
TIANNA MAYS
TIANYIN LUO
ALIZEH AHMAD
LAWYERS' COMMITTEE FOR CIVIL
RIGHTS UNDER LAW
1500 K Street, NW, Suite 900
Washington, D.C. 20005
(202) 662-8600
tsilverstein@lawyerscommittee.org

*Admitted in Pennsylvania only.
Practice limited to matters before
federal courts.

Counsel for Amici Curiae

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INTEREST OF AMICI¹

The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee")² is a nonprofit civil rights organization founded in 1963 by the leaders of the American bar, at the request of President Kennedy, to secure equal justice for all through the rule of law, targeting the inequities confronting Black Americans and other people of color. The Lawyers' Committee uses legal advocacy to achieve racial justice to ensure that Black people and other people of color have the voice, opportunity, and power to make the promises of our democracy real. The Lawyers' Committee has advocated for policies that ensure Black households have access to safe, decent, affordable housing and meaningful access to opportunity and has opposed the discriminatory policing of Black people. The Lawyers' Committee has an interest in this case because a decision in favor of Petitioner would perpetuate the harms of racially-biased policing and divert local governments from the work of implementing solutions to homelessness.

The Center on Budget and Policy Priorities (CBPP) is a nonpartisan research and policy institute.

¹ Pursuant to Supreme Court Rule 37.6, amici affirm that no counsel for a party authored this brief in whole or in part and that no person other than amici and their counsel made a monetary contribution to its preparation or submission.

² The Lawyers' Committee includes the following independent affiliates: The Washington Lawyers' Committee for Civil Rights and Urban Affairs; Lawyers for Civil Rights; The Chicago Lawyers' Committee for Civil Rights Under Law, Inc.; Colorado Lawyers' Committee; Mississippi Center for Justice; Public Counsel, Los Angeles, California; the Public Interest Law Center; and Lawyers' Committee for Civil Rights of the San Francisco Bay Area.

CBPP pursues federal and state policies designed to reduce both poverty and income inequality, to promote opportunity, and to ensure that state and federal revenue systems are fair and robust enough to support investments in people and communities that create shared prosperity and ensure everyone has the resources they need to thrive. CBPP applies its extensive expertise in programs and policies to inform the public and policymakers on issues affecting low- and moderate-income people and fiscal policy. Through its work, CBPP has developed a deep knowledge of affordable housing issues affecting people with low incomes, homelessness, and the short- and long-term impacts of major federal assistance programs. CBPP has an interest in this case because a decision in favor of the Petitioner would exacerbate the harm caused by the nation's affordable housing and homelessness challenges, including by making it more difficult for unhoused people to access federal rental assistance.

The National Low Income Housing Coalition (NLIHC) is dedicated to achieving racially and socially equitable public policy that ensures people with the lowest incomes have quality homes that are accessible and affordable in communities of their choice. Its members include state and local housing coalitions, residents of public and assisted housing and other impacted people, nonprofit housing providers, homeless service providers, fair housing organizations, public housing agencies, private developers and property owners, local and state government agencies, faith-based organizations, researchers, and concerned citizens. While its members are drawn from the entire spectrum of housing interests, NLIHC does not represent any one segment of the housing industry. Rather, NLIHC focuses on advocating for policy and funding improvements for extremely low-income people who receive or

need federal housing assistance, including people experiencing and at risk of homelessness. NLIHC has an interest in this case as a decision in favor of Petitioner would perpetuate the housing crisis by diverting local governments from the important work of implementing proven solutions to homelessness.

The Lawyers' Committee, CBPP, and NLIHC are joined by additional organizations identified in Appendix A.

SUMMARY OF ARGUMENT

The studies are clear: homelessness and the hardship experienced by unhoused people derive from the structural failings of government and the market to produce sufficient housing that meets the needs of this country's most marginalized residents. Petitioner's Anti-Camping Ordinances—which seek to punish the unhoused in Grant's Pass—do nothing to address these causes. Instead, the Ordinances banish the unhoused outside city limits. As such, they lack any penological purpose and are cruel and unusual punishments in violation of the Eighth Amendment to the U.S. Constitution.

Record numbers of Americans face homelessness, with significant increases in recent years, especially since the start of the COVID-19 pandemic. Western states like Oregon have experienced particularly large spikes. This increase in homelessness has disproportionately harmed certain populations, including Black people, persons with disabilities, and domestic violence survivors. Effective, constitutional governmental responses to increased homelessness are a civil rights imperative. The evidence shows that the provision of housing and supportive services is critical. By contrast, banishing unhoused people through poli-

cies like Petitioner's Ordinances only serves to compound the harms of homelessness. The Eighth Amendment's ban on cruel and unusual punishment forecloses this option.

Petitioner's Ordinances exacerbate homelessness because they do not account for the root causes of the problem: a gap between renter's incomes and rent costs that create a widespread lack of affordable housing. Homelessness is principally the result of a lack of affordable housing. Places like Oregon, where the affordable housing shortage is more severe, have higher rates of homelessness. In contrast, places where housing is more affordable tend to have lower rates of homelessness. In particular, local governments with programs at scale that connect unhoused individuals and families to permanent affordable housing and to voluntary services have effectively ended homelessness for the vast majority of participating households. Policies like Petitioner's Ordinances undermine these tried-and-true strategies by saddling individuals with debt and arrest and conviction records and disrupting individuals' relationships with service providers attempting to connect them to permanent housing. If the Court rules in Petitioner's favor, the repercussions will be felt not only in Grants Pass, Oregon, but also nationally.

This Court has held that, under the Eighth Amendment, punishments that lack a legitimate penological purpose are always disproportionate to the offense and therefore cruel and unusual. *Graham v. Florida*, 560 U.S. 48, 71 (2010). In light of the involuntariness of homelessness and the unresponsiveness of the Ordinances to the causes of homelessness, it is clear that the Ordinances do not further any of this Court's recognized penological purposes: deterrence, retribution, incapacitation, or rehabilitation. *See Robinson v.*

California, 370 U.S. 660 (1962). Instead, the Ordinances attempt to accomplish the impermissible goal of banishing unhoused people to other jurisdictions.

The Court should affirm the judgment of the U.S. Court of Appeals for the Ninth Circuit and uphold the time-honored principle that punishments must have a legitimate penological purpose, which the Ordinances clearly lack in light of the voluminous evidence regarding the causes of and solutions to homelessness.

ARGUMENT

I. The Ordinances are Cruel and Unusual Punishment Under the Eighth Amendment Because They Serve No Penological Purpose.

Petitioner’s three municipal ordinances (the “Ordinances”)³ violate the Eighth Amendment to the U.S. Constitution and its prohibition against cruel and unusual punishments. U.S. Const. amend. VIII. In its Eighth Amendment jurisprudence, this Court has consistently found that punishments that are grossly disproportionate to the underlying offense violate the Eighth Amendment. *See, e.g., Weems v. United States*,

³ Grants Pass has adopted three ordinances that restrict camping and sleeping in public areas. The first prohibits sleeping “on public sidewalks, streets, or alleyways at any time as a matter of individual and public safety.” Grants Pass Mun. Code § 5.61.020(A). The second prohibits “[c]amping” on “any sidewalk, street, alley, lane, public right of way, park, bench, or any other publicly-owned property or under any bridge or viaduct,” *id.* § 5.61.030, with a “[c]ampsite” defined as “any place where bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed,” *id.* § 5.61.010(B). And the third prohibits camping specifically in the City’s parks. *Id.* § 6.46.090. Pet’r’s Br. at 6.

217 U.S. 349 (1910); *Trop v. Dulles*, 356 U.S. 86 (1958); *Atkins v. Virginia*, 536 U.S. 304 (2002); *Graham v. Florida*, 560 U.S. 48 (2010); *Ingraham v. Wright*, 430 U.S. 651 (1977). Under a proportionality analysis, Petitioner’s Ordinances are cruel and unusual punishments proscribed by the Eighth Amendment because the criminalization of unhoused people who have nowhere else to go serves no penological purpose recognized by this Court.

A. The Supreme Court’s Recognized Penological Purposes.

In assessing whether a punishment is disproportionate to the crime such that it is “cruel and unusual,” a court must consider the punishment’s penological purpose. *See Graham v. Florida*, 560 U.S. 48, 71 (2010) (“A sentence lacking any legitimate penological justification is by its nature disproportionate to the offense.”); *Gregg v. Georgia*, 428 U.S. 153, 183 (1976) (holding that punishment not be “totally without penological justification.”). “[T]he sanction imposed cannot be so totally without penological justification that it results in the gratuitous infliction of suffering.” *Gregg v. Georgia*, 428 U.S. 153, 183 (1976). Although this Court has never mandated a specific penological justification, the absence of any is indicative that the punishment at issue does not comport with the basic concept of human dignity that is at the core of the Eighth Amendment. *See Trop v. Dulles*, 356 U.S. at 100 (plurality opinion); *Harmelin v. Michigan*, 501 U.S. at 999 (opinion of Kennedy, J.) (“[T]he Eighth Amendment does not mandate adoption of any one penological theory.”). Generally, this Court has recognized the following penological theories: deterrence, retribution, rehabilitation, and incapacitation. *See, e.g., Graham v.*

Florida, 560 U.S. 48, 71 (2010) (citing to *Ewing v. California*, 538 U.S. 11, 25 (2003)) (plurality opinion).⁴

B. The Ordinances Exacerbate the Social and Economic Drivers of Homelessness, Creating a State-Imposed Punitive Trap and Thus Serving No Penological Purpose.

Grants Pass has used its Ordinances to push its unhoused population out of its city limits and down the road. In March 2013, the Grants Pass City Council held a Community Roundtable to “identify solutions to current vagrancy problems.” Joint App. at 112, *City of Grants Pass, Or. v. Johnson*, 144 S. Ct. 679 (Mem) (No. 23-175) (petition for cert. granted Jan. 12, 2024). At this meeting, participants considered strategies for pushing unhoused residents into other locations. *Id.* at 113-114. A City Counselor said that Grants Pass’ goal was to “make it uncomfortable enough for [unhoused persons] in our city so they will want to move down the road.” *Id.* at 114. While legislatures should be afforded great deference on matters of public policy, courts must

⁴ Deterrence is the notion that punishing someone for illegal conduct will stop others from committing future crimes because they will fear similar punishment. Christopher J. Walsh, *Out of the Strike Zone: Why Graham v. Florida Makes It Unconstitutional to Use Juvenile-Age Convictions As Strikes to Mandate Life Without Parole Under § 841(b)(1)(A)*, 61 AM. UNIV. L. REV. 165, 179-83 (2011). Retribution is the idea that society is entitled to punish the conduct as an expression of its moral outrage or as an attempt to right the balance for the wrong to the victim. *Id.* Rehabilitation is the concept that punishment will result in reform and improve a person’s character so that they can become a productive member of society. *Id.*; see *Graham*, 560 U.S. at 73-74. Lastly, incapacitation is the theory that punishment will prevent a person from being a further threat to the community. *Id.*; see *Graham*, 560 U.S. at 72-73.

remove unconstitutional tools from a legislature's toolbox. *See Robinson v. California*, 370 U.S. 660 (1962).

Criminalizing the steps that unhoused people take to survive outside compounds the problem it purports to address by creating obstacles—debt and a criminal record—that make it more difficult for anyone to break from a cycle of homelessness. Before Petitioner jails the unhoused people, it fines them. Petitioner contends that “[t]here is nothing cruel or unusual about a civil fine for violating commonplace restrictions on public camping,” but that does not tell the entire story. Pet. for Cert. at 3. Fining the insolvent is a cynical exercise. It creates debt and forces noncompliance. When someone cannot pay the automatic \$295 fee per citation and \$75 for sleeping outside, they then owe \$537.60 per citation and \$160 for sleeping outside. Appellees’ Br. at 14, *Johnson v. City of Grants Pass*, 72 F. 4th 868 (9th Cir. 2023) (No. 20-35752). When they cannot pay that and miss the notice to appear because they do not have an address or access to transportation, they go to jail and owe another \$1,250. Pet.’s Br. at 12; *see also Bearden v. Georgia*, 461 U.S. 660 (1983) (holding that it is unconstitutional to imprison someone for failing to pay court debt without a finding of willfulness). Outstanding debt impairs households’ ability to pay security deposits to move into permanent housing and, can show up in credit screening reports that landlords use to deny admission to housing. *Tenant Background Checks Market*, Consumer Fin. Prot. Bureau, 16 (Nov. 2022), https://files.consumerfinance.gov/f/documents/cfpb_tenant-background-checks-market_report_2022-11.pdf.

Additionally, before the Ordinances create the kinds of tenant screening barriers discussed in Section II(c) *infra* and can result in loss of current employment,

obstacles to future employment, and loss of Supplemental Security Income (“SSI”) income during incarceration, all of which impair the ability to afford housing. Lucius Couloute & Daniel Kopf, *Out of Prison & Out of Work: Unemployment among formerly incarcerated people*, Prison Pol’y Initiative (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html> (finding that formerly incarcerated people were unemployed at a rate of over 27%). In practice, the Ordinances force arrest and conviction records on otherwise law-abiding people for involuntary conduct like sleeping, using cardboard or a blanket to protect one’s body from the Oregon cold, or not being able to afford to pay fines for minor infractions. Tony Robinson & Allison Sickels, *No Right to Rest: Criminalizing Homelessness in Colorado*, Univ. Colo. Denver, 35 (Apr. 4, 2015), <https://wp-cpr.s3.amazonaws.com/uploads/2019/06/homelessness-study.pdf> (60% of unhoused survey respondents reported having been jailed for failing to pay a fine for a minor infraction at least once). It is thus unsurprising that incarceration is a risk factor for homelessness rather than a solution to it. Greg A. Greenberg & Robert A. Rosenheck, *Jail Incarceration, Homelessness, and Mental Health: A National Study*, 59 *Psychiatric Servs.* 170, 176 (Feb. 1 2008). In summary, the Ordinances are cruel and unusual because they directly result in people experiencing homelessness, particularly people of color, becoming excluded from future housing opportunities and do not provide pathways out of homelessness.

The Ordinances also disrupt individuals’ relationships with service providers who may be working to help unhoused people secure permanent housing or to access needed healthcare. Morgan Baskin, *Six Weeks After McPherson Square Encampment Clearing, Most Residents Still Don’t Have Homes*, DCist (Mar. 28,

2023), <https://dcist.com/story/23/03/28/dc-mcpherson-square-encampment-clearing-housing/> (describing how some individuals forced from an encampment moved to parts of the District of Columbia where other service providers were responsible for working with unhoused individuals); Gabrielle de la Guéronnière & Deborah A. Reid, *Strengthening Access to Care: Developing Systems that Maximize Medicaid Eligibility, Support Enrollment, and Promote Seamless Coverage in the Criminal Legal System*, Legal Action Ctr., 2 (Jan. 2022), <https://www.lac.org/assets/files/january-2022-FINAL-Medicaid-Coverage-CLS-Brief.pdf> (noting that incarceration can cause disruptions to Medicaid coverage).

As the above research shows, criminalizing the actions unhoused people who have nowhere else to go take to survive does not serve any of the penological purposes recognized by this Court. Petitioner admits as much—the underlying record makes clear that their goal was to move the unhoused population out of its city limits. In *Robinson v. California*, 370 U.S. 660 (1962), this Court held that a California statute making it a misdemeanor punishable by imprisonment for any person to be addicted to the use of narcotics violated the Eighth Amendment. *Id.* at 666-667. In doing so, this Court recognized that while imprisonment for ninety days “is not, in the abstract, a punishment which is either cruel or unusual,” the Eighth Amendment’s proportionality analysis requires consideration of the punishment in context of the offense. *Id.* at 667; *see also Trop v. Dulles*, 356 U.S. 86 (1958) (finding that the loss of citizenship is an unconstitutionally disproportionate punishment for desertion of the U.S. army during wartime). As Justice Douglas noted in his concurrence, criminalizing the status of addiction would not achieve any penological purpose. *Robinson v. California*, 370 U.S. at 676-78 (Douglas, J., concur-

ring) (“The purpose of § 11721 is not to cure, but to penalize . . . A prosecution for addiction, with its resulting stigma and irreparable damage to the good name of the accused, cannot be justified as a means of protecting society . . . This prosecution has no relationship to the curing of an illness.”). This Court’s holding in *Robinson*—that statuses may not be penalized—is just one end of the proportionality spectrum. As this Court noted in *Robinson*, “[e]ven one day in prison would be a cruel and unusual punishment for the ‘crime’ of having a common cold.” *Id.* at 667.

Here, as in *Robinson*, fining, imprisoning, and eventually prosecuting unhoused individuals who have no adequate options for shelter or housing, do nothing to deter or prevent homelessness, do nothing to protect society from any harm associated with unsheltered homelessness, and do nothing to further rehabilitative goals. Accordingly, the punishment imposed by Petitioner’s Ordinances is wholly disproportional in context and should be prohibited as cruel and unusual punishment under the Eighth Amendment.

II. Lack of Affordable Housing and Insufficient Income Are the Principal Drivers of Homelessness and Are Not Addressed by the Ordinances.

Punitive measures like the City of Grants Pass’s Ordinances fail to reduce homelessness because punishment of people who are living outside due to a lack of alternatives do not address the reasons why people live in a state of unsheltered homelessness. The Ordinances and similar policies fundamentally misapprehend the principal drivers of homelessness, which are structural inadequacies in (1) the supply of housing that is affordable to the lowest-income and most marginalized people, (2) a parallel lack of income

sufficient to keep up with rising housing costs, and (3) lack of tenant protections to prevent evictions. These problems have persisted for decades, and the connection between them and the rise of unsheltered homelessness is clear. Valid governmental responses to unsheltered homelessness account for these factors; policies that further encumber access to housing, like the Ordinances at issue, do not.

A. There Is a Severe and Worsening Deficit of Housing Affordable to Households with Extremely Low-Income.

Nationally, there is a severe shortage of housing that is affordable to the lowest-income households in communities across the United States, including Grants Pass, Oregon. Extremely low-income (“ELI”) households, defined as making less than the federal poverty limit or 30% of area median income (“AMI”),⁵ whichever is greater, bear the brunt of the dearth of affordable housing and are at the highest risk of homelessness. Nationwide, there are over 11 million ELI households, but only 3.7 million homes are in fact available and affordable to these households. Andrew Aurand et al., *The Gap: A Shortage of Affordable Homes*, Nat’l Low Income Hous. Coal., 6 (Mar. 2024), https://nlihc.org/sites/default/files/gap/2024/Gap-Report_2024.pdf. As a result, for every 100 ELI households, there are just thirty-four homes that are affordable and available to them. *Id.* at 1. The situation is dire in Oregon where,

⁵ The AMI for a Metropolitan Statistical Area, Metropolitan Division, or non-metropolitan county is the median family income for that area adjusted for household size, as calculated by the U.S. Department of Housing and Urban Development based on American Community Survey data from the U.S. Census Bureau. *Income Limits*, U.S. Dep’t of Hous. & Urb. Dev. (last visited Mar. 28, 2024), <https://www.huduser.gov/Portal/datasets/il.html>.

for every 100 ELI renter households, only twenty-six homes are affordable and available to them. *Id.* at App. A. Dealing seriously with the housing insecurity experienced by ELI renter households means contributing towards efforts to making more housing affordable to close this gap. *Id.* at 7.

This affordable housing shortage exists in part because the market is not incentivized to build low-cost housing that would yield no or minimal profit and public sector efforts to fill this gap have not met the scale of the crisis. Deeply affordable housing generally is not profitable without public subsidy because asking rents are too low to cover operating costs or construction costs. Instead, new private sector construction serves the needs of middle- and high-income households. *The State of the Nation's Housing 2023*, Joint Ctr. for Hous. Stud. of Harv. Univ. 4 (2023), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf. Moreover, in 2021 the average ELI renter household had an income of \$11,451, meaning they could only afford to pay about \$286 a month toward rent, but the average rental unit's monthly operating cost was \$566. Peggy Bailey, *Examining Proposals to Address Housing Affordability, Availability, and Other Community Needs: Testimony of Peggy Bailey, Vice President for Housing and Income Security, Center on Budget and Policy Priorities, Before the Senate Banking, Housing, and Urban Affairs Committee*, Ctr. on Budget & Pol'y Priorities 2 (Mar. 12, 2024), <https://www.cbpp.org/sites/default/files/3-12-24housing-testimony.pdf>. Therefore, the private sector has not met and will not be able to meet the demand for safe, decent, affordable housing among lower-income households despite the visible need unless public subsidies are expanded to the necessary scale.

The level of income needed to afford a modest home under these market conditions underscores the magnitude of the problem. Nationally, a full-time worker would need an hourly wage of \$23.67 to afford a modest one-bedroom rental home and an hourly wage of \$28.58 to afford a modest two-bedroom at the Fair Market Rent.⁶ Andrew Aurand et al., *Out of Reach: The High Cost of Housing*, Nat'l Low Income Hous. Coal. 1 (2023), https://nlihc.org/sites/default/files/2023_OOR.pdf. Such wages far exceed the federal minimum wage of \$7.25 per hour, 29 U.S.C. § 206(a)(1) (2016), and stand well above even the minimum wages of states that have adopted more robust protections for workers. *Consolidated Minimum Wage Table*, U.S. Dep't of Lab., Wage & Hour Div. (Jan. 1, 2024), <https://www.dol.gov/agencies/whd/mw-consolidated> (reflecting a minimum wage of \$13.20 per hour in rural portions of Oregon).

In addition to not having sufficient income to afford rent, ELI households are more likely than other renter households to experience circumstances that limit their ability to work: they are more likely to be older adults, to have a disability, to be enrolled in school, or to be single-adult caregivers of children or individuals with a disability. Aurand, *The Gap*, *supra* at 13. Just as wages have not kept up with housing costs, likewise federal programs that provide income support have not filled the gap. For instance, SSI benefits are adjusted to keep up with changes in inflation but (before any state supplement or income deductions) are about three-fourths of the federal

⁶ Fair Market Rent “represent[s] the cost to rent a moderately-priced dwelling unit in the local housing market.” *See Fair Market Rents*, U.S. Dep't of Hous. & Urb. Dev., https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/landlord/fmr (last visited Mar. 30, 2024).

poverty line for a single person and do not to keep up with rent increases that have tended to exceed inflation. *SSI Federal Payment Amounts*, Social Security Admin., <https://www.ssa.gov/oact/cola/SSIAMts.html> (last visited Mar. 23, 2024); *Policy Basics: Supplemental Security Income*, Ctr. on Budget & Pol’y Priorities, <https://www.cbpp.org/research/social-security/supplemental-security-income> (last updated Mar. 20, 2024). In Grants Pass, a person receiving SSI would have to pay 85% of their monthly SSI income to rent an efficiency apartment. Gina Schaak et al., *Priced Out: The Housing Crisis for People with Disabilities*, Tech. Assistance Collaborative 38 (Dec. 2017), <https://www.tacinc.org/resources/priced-out/>.

Considering rising rents, insufficient incomes, and a lack of public investments, it is unsurprising that, from 2019 to 2021, the number of cost-burdened renter households—defined as those spending more than 30% of their income on housing—increased by 1.2 million to a record 21.6 million households, which is 49% of all renter households, up from 46.4% in 2019. *The State of the Nation’s Housing 2023*, *supra*, at 36. More than half of those cost-burdened renter households—11.6 million households—were severely cost-burdened, paying more than half of their income on rent. *Id.* at 5. Paying such an unsustainably high proportion of one’s income towards rent impairs the ability of households to meet other basic needs. The lowest-income renters who are severely cost burdened spend 39% less on food and 42% less on healthcare than the lowest-income renters who are not cost-burdened. Aurand, *The Gap*, *supra* at 11-12. Under these dire circumstances, just one unexpected expense can push people into homelessness.

B. Congress Has Deprioritized and Under-invested in Federal Programs That Are Effective at Reducing Homelessness and Meeting Extremely Low-Income Housing Needs, Leaving a Gap for Local Governments to Fill.

Despite the staggering statistics related *supra*, federal expenditures on affordable housing programs have not kept up with need, leaving a gap for local governments to fill using the tools described in Section III(a) of this brief *infra*. The federal government is by far the largest source of housing subsidies in the country and, in some jurisdictions, the only source. When Congress invests in federal housing programs, the results, with respect to overall housing affordability and in reducing homelessness, are impressive. *More Vouchers Needed to End Homelessness*, Ctr. on Budget & Pol’y Priorities (Sept. 15, 2021), <https://www.cbpp.org/research/housing/more-housing-vouchers-needed-to-end-homelessness> (summarizing research showing “that for homeless families, vouchers reduce housing instability, family separations, domestic violence, and food insecurity [], as well as school absences, behavioral problems, and how often children change schools”). In addition, existing affordable housing stock, including public housing and other U.S. Department of Housing and Urban Development (“HUD”) subsidized developments, are being lost because housing agencies do not have sufficient funds to properly operate, maintain, and renovate aging properties. And insufficient funding is a constraint on building new affordable housing units. Will Fischer et al., *An Agenda for the Future of Public Housing*, Ctr. on Budget & Pol’y Priorities (Mar. 11, 2021), <https://www.cbpp.org/research/housing/an-agenda-for-the-future-of-public-housing> (finding that inflation-adjusted funding on public housing declined by 17%

from 2000 to 2019). Although Congress has modestly increased funding levels for the Housing Choice Voucher (“HCV”) and Project-Based Rental Assistance (“PBRA”) programs, in more recent years, it has largely done so with an eye toward avoiding a reduction in the number of households served rather than achieving an increase. *The Section 8 Housing Choice Voucher Program*, Cong. Rsch. Serv. 2 (Dec. 11, 2023), <https://crsreports.congress.gov/product/pdf/IF/IF12546> (reporting that 87% of tenant based rental assistance funding is devoted to the cost of annually renewing existing vouchers); *The Section 8 Project-Based Rental Assistance Program*, Cong. Rsch. Serv. 2 (Dec. 11, 2023), <https://crsreports.congress.gov/product/pdf/IF/IF12545> (reporting that HUD generally has not had the authority to enter into new PBRA contracts since the mid-1980s and that growth in the number of PBRA contracts is attributable to the conversion of former public housing properties to PBRA). As a result, just one out of every four households that is eligible for HCV and other federal rental assistance receives it due to funding limitations. Will Fischer et al., *More Housing Vouchers: Most Important Step to Help More People Afford Stable Homes*, Ctr. on Budget & Pol’y Priorities (May 13, 2021), <https://www.cbpp.org/research/housing/more-housing-vouchers-most-important-step-to-help-more-people-afford-stable-homes>.

The Low-Income Housing Tax Credit (“LIHTC”) program, which Congress uses to produce new affordable housing developments helps efforts to meet the affordable housing needs of ELI households and unhoused people to a degree, but it does so in ways that are less targeted and more precarious than the public housing, PBRA, and HCV programs. For example, unlike in those more targeted programs, LIHTC tenants’ rent

payments are not limited to 30% of their income, *What Can We Learn about the Low-Income Housing Tax Credit Program by Looking at the Tenants*, Furman Ctr. for Real Est. & Urb. Pol’y & Moelis Inst. for Affordable Hous. Pol’y 2 (Oct. 2012), https://furmancenter.org/files/publications/LIHTC_Final_Policy_Brief_v2.pdf, and, because rents are typically set at levels intended to be affordable to households with incomes at 50% or 60% of AMI, a majority of ELI households cannot afford LIHTC units in the absence of some other subsidy. 26 U.S.C. § 42(g)(1) (2020); Megan Bolton et al., *The Alignment Project: Aligning Federal Low Income Housing Programs with Housing Need*, Nat’l Low Income Hous. Coal. 19 (Dec. 2014), https://nlihc.org/sites/default/files/Alignment_Report_1214.pdf (discussing survey results showing that 45% of affordable housing developer respondents reported that at least 90% of ELI tenants in their buildings used federal vouchers to cover rent). Although the LIHTC program could be a part of a more effective response to homelessness with key reforms to the tax credit, it is clear that increased federal investment in programs that are directly responsive to ELI housing needs is critical.

In sum, funding levels and program design for federal housing programs have contributed to decreasing housing affordability which, in turn, has contributed to higher rates of homelessness. However, those trends are not cause for fatalism, both because Congress has it in its power to step up and help solve the problem and, more importantly, because municipalities like Petitioner have the tools at their disposal, as discussed in Section III(a) *infra*, to learn from what has worked well in federal housing policy and implement local solutions.

C. ELI Households That Receive Assistance Still Face Barriers in a Challenging Housing Market.

Even when rents or purchase prices are nominally affordable to ELI households, other factors impede access to housing in the market. Many landlords subject rental applicants to stringent screening processes that require the applicant to disclose their credit history and arrest and conviction records, with some landlords using algorithmic screening tools that can be rife with bias. Eric Smith, *Landlords Use Secret Algorithms to Screen Potential Tenants. Find Out What They've Said about You*, ProPublica (Sept. 20, 2021), <https://www.propublica.org/article/landlords-use-secret-algorithms-to-screen-potential-tenants-find-out-what-theyve-said-about-you>. These practices remain common, notwithstanding HUD's determination that they often violate the Fair Housing Act, 42 U.S.C. §§ 3604-05, due to their disproportionate impact on Black and Latino households. *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Residential Real Estate-Related Transactions*, U.S. Dep't of Hous. & Urb. Dev. (Apr. 4, 2016), https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHAS_TANDCR.PDF.

Many voucher holders still face housing insecurity due to discrimination by landlords. In 2019, only an estimated 61% of households issued vouchers were successful at using their assistance to rent homes within 180 days of issuance of their vouchers. Ingrid Gould Ellen et al., *Using HUD Administrative Data to Estimate Success Rates and Search Durations for New Voucher Recipients*, U.S. Dep't of Hous. & Urb. Dev. vi (Dec. 2021), <https://www.huduser.gov/portal/sites/defa>

ult/files/pdf/Voucher-Success_Rates.pdf. Addressing barriers that undermine the effectiveness of Congress's limited but important investments in affordable housing is the type of approach that a local government focused on addressing the root causes of homelessness would implement, in contrast to Petitioner's Ordinances, which exacerbate these challenges.

D. Homelessness Has Increased Alongside Housing Costs.

In 2023, HUD estimated that on a given night in January over 650,000 people slept in a shelter or in conditions deemed unfit for human habitation, with four in ten of those people experiencing unsheltered homelessness. Tanya de Sousa et al., *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress, Part 1: Point-In-Time Estimates of Homelessness*, U.S. Dep't of Hous. & Urb. Dev. 2 (Dec. 2023), <https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf>. After nearly a decade of progress in reducing homelessness nationally, the problem started worsening in 2017 and continued increasing leading up to the pandemic. Temporary pandemic relief measures (including the CDC eviction moratorium, Emergency Rental Assistance ("ERA"), Economic Impact Payments, and the expanded Child Tax Credit and Unemployment Insurance) helped stall a rise in homelessness between 2020 and 2022 despite worsening housing needs. Solomon Greene et al., *Rise in homelessness averted amidst worsening housing needs in 2021. What does this tell us about how to end homelessness in the U.S.?*, U.S. Dep't of Hous. & Urb. Dev. (Aug. 22, 2023), <https://www.huduser.gov/portal/pdredge/pdr-edge-firm-asst-sec-082223.html>. An unprecedented \$46 billion investment in ERA coupled with local and national eviction moratoria cut eviction rates in half, Peter

Hepburn et al., *COVID-era policies cut eviction filings by more than half*, Eviction Lab (May 3, 2023), <https://evictionlab.org/covid-era-policies-cut-eviction-filings-by-more-than-half/>, and helped millions of people remain stably housed. *Treasury Announces \$690 Million to be Reallocated to Prevent Eviction*, U.S. Dep't of the Treasury (Jan. 24, 2023), <https://home.treasury.gov/news/press-releases/jy1213>. Just as pandemic-era measures ended, rents and other costs dramatically increased, resulting in eviction filing rates reaching or surpassing pre-pandemic averages in many communities *National Eviction Map & Data (Version 2.0)*, Eviction Lab, <https://evictionlab.org/map> (last updated July 10, 2023). Between 2022 and 2023, homelessness increased by 12%, both nationally and in Oregon, continuing the pre-pandemic rise in homelessness. The 2023 count represents the highest number of people experiencing homelessness since HUD first began to track these figures in 2007 as well as the largest number of people experiencing sheltered homelessness since 2014 and the largest number of people experiencing unsheltered homelessness on record. *Id.* at 12. Moreover, the data confirms the racially disparate impact of homelessness as people who identify as Black, African American, or African comprise 26.2% of the unsheltered homeless population despite being only 13% of the overall population. And people who identify as American Indian, Alaska Native, or Indigenous make up 4.9% of the unsheltered homeless population, despite making up only 0.8% of the nation's overall population. *Compare id.* at 13, with *B03002: Hispanic or Latino Origin by Race, 2022: ACS 5-Year Estimates Detailed Tables*, U.S. Census Bureau, <https://data.census.gov/table/ACS5Y2022.B03002> (last visited Mar. 23, 2024).

Lack of access to affordable, permanent housing is contributing to the rise in homelessness, and associated racially disparate harms. As regional patterns of homelessness illustrate, there is a strong correlation between a region's relative stock of affordable housing and rates of homelessness. Research confirms that homelessness is higher in regions with more severe affordable housing shortages and high housing costs. Gregg Colburn & Clayton Page Aldern, *Homelessness Is a Housing Problem: How Structural Factors Explain U.S. Patterns* 132 (2022) (concluding that “vacancy rates join rental costs as the only variables that explain regional variation in homelessness”); Alex Horowitz et al., *How Housing Costs Drive Levels of Homelessness*, The Pew Charitable Trusts (Aug. 22, 2023), <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/08/22/how-housing-costs-drive-levels-of-homelessness>. The U.S. Government Accountability Office has found that a \$100 increase in median monthly rent is associated with a 9% increase in homelessness in that community. *Homelessness: Better HUD Oversight of Data Collection Could Improve Estimates of Homeless Population*, U.S. Gov't Accountability Off. 30 (July 2020), <https://www.gao.gov/assets/gao-20-433.pdf>. In 2021 and 2022, tenants experienced a nearly \$200 increase in median monthly rents. Housing Affordability: Governmental Barriers and Market-Based Solutions: Hearing Before the Subcomm. on Hous. and Ins., 118 Cong. 7 (2023) (Statement of Diane Yentel).

E. Housing Unaffordability Has Increased in Oregon, Including in Southern Oregon.

The national trends described *supra* are applicable to Oregon, including comparatively rural southern Oregon. Accordingly, Petitioner is not an outlier that

needs recourse to different tools than those that have proven effective elsewhere.

Oregon has a high and increasing level of homelessness, including unsheltered homelessness. Between 2007 and 2023, Oregon had the fifth largest spike in homelessness of any state (2,552 or 14.5%). de Sousa, *supra* at 17. In 2023, only the District of Columbia, New York, and Vermont had higher rates of sheltered homelessness than Oregon's rate of forty-eight sheltered, unhoused people per 10,000 people. *Id.* at 110. The high rate of sheltered homelessness in Oregon is all the more shocking in light of the fact that Oregon had the second highest rate of unsheltered unhoused residents in the country (65% of all unhoused people in the state). *Id.* at 110, 110. The Oregon Balance of State Continuum of Care (OR-505)—which administers HUD-funded homelessness programs in rural Oregon, including Grants Pass—only had enough shelter beds to serve about one-in-four people or families experiencing homelessness in 2022. *State of Homelessness: State and CoC Dashboards*, Nat'l Alliance to End Homelessness, https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-dashboards/?State=Oregon_ (last visited Mar. 26, 2024). As is the case nationally, Black and American Indian or Alaska Native people disproportionately experience homelessness in Oregon with Black people comprising 7.7% of the state's unhoused population but only 1.8% of its total population and American Indian or Alaska Native people comprising 4.9% of Oregon's unhoused population but just 0.7% of its total population. *Compare HUD 2023 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations Report – Oregon*, U.S. Dep't of Hous. & Urb. Dev. (Nov. 20, 2023), https://files.hudexchange.info/reports/published/CoC_PopSub_State

_OR_2023.pdf, with B03002: Hispanic or Latino Origin by Race, 2022: ACS 5-Year Estimates, U.S. Census Bureau, <https://data.census.gov/table/ACSDT5Y2022.B03002?q=B03002:%20Hispanic%20or%20Latino%20Origin%20by%20Race&g=040XX00US41> (last visited Mar. 23, 2024). The Oregon Balance of State Continuum of Care had an unhoused population of 5,365, the fourth largest unhoused population served by any largely rural continuum of care. de Sousa, *supra*, at 20.

Predictably, high housing costs have accompanied these high levels of homelessness. Oregon has the fifth highest proportion of ELI renters that are severely cost-burdened. Aurand, *The Gap*, *supra* at 18. In fact, its ratio of housing to households in need is worse than the national average, with only twenty-six units instead of thirty-four for each 100 ELI households. *Id.* at App. A. In Oregon, a full-time worker would need an hourly wage of \$29.52 to afford a modest two-bedroom apartment. Aurand, *Out of Reach*, at OR-210. In Josephine County, where Grants Pass is located, a full-time worker would need a slightly lower hourly wage of \$22.44 to afford a modest two-bedroom home, but any greater affordability of rents in the county is eroded by the fact that the county has the third lowest median income of any county in the state. *Id.* at OR-212. An individual would need to work 1.6 full time jobs at the median hourly wage for renters in Josephine County to afford a modest two-bedroom apartment. *Id.*

Rent costs in Oregon, have also increased markedly in recent years, and at a faster rate than renters' incomes. Between 2001 and 2022, median rent in Oregon (including utilities) rose by 27%, adjusted for inflation, significantly higher than the 19% increase

nationally. The median renter household income in Oregon rose by 15% (adjusted for inflation) during the same period. *Compare B25064: Median Gross Rent (Dollars), 2022: ACS 1-year Estimates Detailed Tables*, U.S. Census Bureau, <https://data.census.gov/table/ACSDT1Y2022.B25064?q=B25064&g=040XX00US41> (last visited Mar. 26, 2024), *with B25119: Median Household Income in the Past 12 Months (in 2022 Inflation-Adjusted Dollars) by Tenure, 2022: ACS 1-year Estimates Detailed Tables*, U.S. Census Bureau, <https://data.census.gov/table/ACSDT1Y2022.B25119?q=B25119&g=040XX00US41> (last visited Mar. 26, 2024).

In sum, Oregon's high rents that have outpaced increases in renters' incomes are the true culprits for rising homelessness. Lack of affordable housing and insufficient incomes are at the root of the problems with which Petitioner purports to be concerned; problems that are not addressed by the Ordinances.

III. Because There Are Many Effective Tools to Address Homelessness, States and Localities Must Not Resort to Unconstitutional Punishment.

There are effective solutions to the clearly identified causes of homelessness explained *supra* that Petitioners and other local governments can put into action.

A. States and Localities Have Access to Many Effective Tools for Solving Homelessness.

Local governments like Petitioner have an array of tools at their disposal that they can use to address homelessness and any putative harm to the community resulting from unsheltered homelessness and thereby fill the gap left by the federal government's under-

investment in truly affordable housing. The abundance of alternative strategies illustrates that Petitioner need not resort to punitive measures to address homelessness. Instead, the most effective intervention to reduce homelessness is to both offer permanent housing that is decent, safe, and affordable and to make available voluntary supportive services. Sam Tsemberis & Ronda F. Eisenberg, *Pathways to Housing: Supported Housing for Street-Dwelling Homeless Individuals with Psychiatric Disabilities*, 51 *Psychiatric Servs.* 487 (2000). Large portions of the cost of providing supportive services, including services to help people search for housing, mental health care, and substance use treatment, do not have to fall on local governments if Medicaid covers such needs, as Oregon does (along with a growing number of states), thereby reducing the financial burden on municipalities of implementing effective solutions. *See, e.g., Oregon Health Plan Section 1115 Demonstration*, Ctrs. for Medicaid & Medicare Servs. 38-39 (Jan. 13 2022), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/or-health-plan-ca-10282022.pdf> (enumerating a list of housing supports that Oregon has authority to cover, including “pre-tenancy and tenancy sustaining” and “housing transition navigation services,” which the state is preparing to implement); *State Plan Under Title XIX of the Social Security Act Medical Assistance Program*, Or. Health Auth. Attach. 3.1-I at 31 (Nov. 22, 2023), <https://www.oregon.gov/oha/HSD/Medicaid-Policy/StatePlans/Medicaid-State-Plan.pdf> (listing Assertive Community Treatment as a Medicaid-covered service for people with chronic mental illness). With respect to permanent affordable housing, for the reasons discussed in Section II of this brief *supra*, existing state and federal resources may not be sufficient to provide enough

affordable housing to end homelessness, but municipalities can supplement those resources both through regulation and by making funding available.

Developed by organizations like Pathways to Housing, the model of providing permanent affordable housing and offering voluntary supportive services has facilitated highly successful participant outcomes in comparison to other ways of attempting to address homelessness. For example, five years after beginning participation in a Pathways to Housing program for unsheltered homeless individuals with psychiatric disabilities, 88% of individuals were still stably housed as compared to 47% of participants in a transitional housing program that required acceptance of treatment and that only offered temporary housing. Tsemberis, *supra*, at 491. It is results like this that led the Substance Abuse and Mental Health Services Administration (“SAHMSA”) to conclude that permanent supportive housing is an evidence-based practice. *Permanent Supportive Housing Evidence-Based Practices (EBP KIT)*, Substance Abuse and Mental Health Servs. Admin. (July 2010), <https://store.samhsa.gov/product/permanent-supportive-housing-evidence-based-practices-ebp-kit/sma10-4509>.

The housing component of permanent supportive housing can take two forms: tenant-based rental assistance, such as HCVs, that households can use to rent housing on the private market; or the construction or rehabilitation of physical structures that are deed-restricted to occupancy by low-income households. Compare Tsemberis, *supra* (participants received housing vouchers), with Rebecca Northrop et al., *HUD Section 811 Project Rental Assistance Program: Six Case Studies on the Implementation Experience of the 2012 Grantees*, U.S. Dep’t of Hous. & Urb. Dev. 64 (Jan.

2018), <https://www.huduser.gov/portal/sites/default/files/pdf/Section-811-CaseStudies.pdf> (describing efforts to conduct outreach to long-term unhoused residents when implementing a program that attached long-term rental subsidy to units primarily located in LIHTC properties). Both rental assistance and construction of affordable developments that include permanent supportive housing units are valid and complementary ways of meeting the need for permanent supportive housing. Moreover, most people experiencing homelessness do not need supportive housing and could gain permanent housing with a rental or income subsidy and housing search assistance alone.

Federal programs illustrate what is effective at ending homelessness but these programs do not currently operate at the scale needed to end homelessness. Fortunately for municipalities, there are additional local steps that they can take to supplement federal interventions. See *Housing Policy Library* Local Housing Solutions, <https://localhousingsolutions.org/housing-policy-library/> (last visited Mar. 24, 2023). Although these efforts may cost money, there is also a substantial cost associated with Petitioner's chosen path of criminalization, which incurs direct costs (in police, jail, and probation budgets). See Jeff Olivet, *Collaborate, Don't Criminalize: How Communities Can Effectively and Humanely Address Homelessness*, U.S. Interagency Council on Homelessness (Oct. 26, 2022), <https://www.usich.gov/news-events/news/collaborate-dont-criminalize-how-communities-can-effectively-and-humanely-address>. The specific tools available to local governments vary by state, but some include local housing trust funds with revenues from taxes or fees, inclusionary zoning policies that require or incentivize developers to make a certain proportion of units in their properties affordable to low-income households, commer-

cial linkage fees that provide funds to meet affordable housing need that is caused by job growth, land banking, bond issues with proceeds dedicated to affordable housing, and locally-funded rental assistance. See *Housing Policy Library, supra*. State and local rental assistance programs that supplement the HCV program are particularly well-suited to the task of ending homelessness. A 2023 study by the National Low Income Housing Coalition found 281 state-level and seventy-two municipal-level rental housing programs in operation that supplement federal rental assistance interventions. Sarah Abdelhadi & Andrew Aurand, *State and Local Investments in Rental Housing: A Summary of Findings from the 2023 Rental Housing Programs Database*, Nat'l Low Income Hous. Coal., <https://nlihc.org/sites/default/files/2023-10/state-and-local-investments-rental-housing-report.pdf> (last visited Mar. 24, 2024).

Additionally, local governments can be more thoughtful in how they leverage existing federal dollars. For example, they can prioritize the use of flexible Community Development Block Grant (“CDBG”) funds for the rehabilitation of affordable housing or the acquisition of land for affordable housing over alternative, eligible uses like economic development and infrastructure. See 42 U.S.C. § 5305 (2012) (listing eligible uses of CDBG funds). They can prioritize providing HOME Investment Partnerships Program (“HOME”) funds for gap financing in LIHTC developments that would include deeply affordable permanent supportive housing units over giving those funds to LIHTC developments solely serving households at 60% of the Area Median Income. Corianne Payton Scally et al., *The Low-Income Housing Tax Credit: How It Works and Who It Serves*, Urb. Inst. 8 (July 2018), <https://www.urban.org/sites/>

default/files/publication/98758/lithc_how_it_works_and_who_it_serves_final_2.pdf (identifying HOME funds as an “ideal source of gap financing for LIHTC projects”). Being strategic in the use of limited federal resources is a vital but underutilized approach to making progress in the fight to end homelessness in fiscally constrained communities.

Municipalities can also prevent homelessness through measures like increasing the income that households have available to pay for housing in addition to ensuring that rents are low. Tools for doing so include universal or guaranteed basic income pilots, local minimum wage increases, project labor agreements, and general assistance programs. Sigal Samuel, *Everywhere Basic Income Has Been Tried, in One Map*, Vox (Oct. 20, 2020), <https://www.vox.com/future-perfect/2020/2/19/21112570/universal-basic-income-ubi-map>; *Minimum Wage Tracker*, Econ. Pol’y Inst., <https://www.epi.org/minimum-wage-tracker/> (last updated Mar. 1, 2024); *Project Labor Agreement Resource Guide*, U.S. Dep’t of Lab., <https://www.dol.gov/general/good-jobs/project-labor-agreement-resource-guide> (last visited Mar. 24, 2024); Liz Schott, *State General Assistance Programs Very Limited in Half the States and Nonexistent in Others, Despite Need*, Ctr. on Budget & Pol’y Priorities (last updated July 2, 2020), <https://www.cbpp.org/research/family-income-support/state-general-assistance-programs-are-weakening-despite-increased>. These programs work well in tandem with local affordable housing efforts and are not mutually exclusive. Together, they show the breadth of options available to municipalities seeking to end homelessness in their communities.

CONCLUSION

The judgment of the U.S. Court of Appeals for the Ninth Circuit should be affirmed.

Respectfully submitted,

DAMON HEWITT*
JON GREENBAUM
THOMAS SILVERSTEIN
Counsel of Record
TIANNA MAYS
TIANYIN LUO
ALIZEH AHMAD
LAWYERS' COMMITTEE FOR CIVIL
RIGHTS UNDER LAW
1500 K Street, NW, Suite 900
Washington, D.C. 20005
(202) 662-8600
tsilverstein@lawyerscommittee.org

*Admitted in Pennsylvania only.
Practice limited to matters before
federal courts.

Counsel for Amici Curiae

April 3, 2024

APPENDIX

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APPENDIX

LIST OF ADDITIONAL *AMICI CURIAE*

Alaska Coalition on Housing and Homelessness
Arkansas Coalition of Housing and Neighborhood
Growth for Empowerment
Brown Initiative for Policy
Coalición de Coaliciones Pro Personas sin Hogar de
PR, Inc.
Connecticut Fair Housing Center
Empower Missouri
Fair Housing Center of Central Indiana
Florida Housing Coalition
Georgia Advancing Communities Together, Inc.
Goodwill Northern Michigan
Greater Indianapolis Multifaith Alliance
Hawaii Appleseed Center for Law & Economic Justice
Hoosier Housing Needs Coalition
Housing Alliance DE
Housing Alliance of Pennsylvania
Housing and Community Development Network of
New Jersey
Housing Arkansas
Housing Justice Center
Housing Oregon
Indiana Coalition Against Domestic Violence
Jesse Tree of Idaho

2a

Lafayette Transitional Housing Center

Leadership Conference on Civil and Human Rights

Michigan Coalition Against Homelessness

Nebraska Appleseed Center for Law in the Public
Interest

Poverty & Race Research Action Council

Prosperity Indiana

Providence Community Radio

Rhode Island Homeless Advocacy Project

Street Wise

Tennessee for Safe Homes

Texas Housers

Washington Lawyers' Committee for Civil Rights and
Urban Affairs

Washington Legal Clinic for the Homeless

West Virginia Center on Budget and Policy

West Virginia Coalition to End Homelessness