

San Francisco to Reform Citizen's Arrest Procedure

■ The promise is part of a settlement in a suit brought by tax-paying squatters who were evicted and then jailed.

By Pamela A. MacLean

Daily Journal Staff Writer

San Francisco has agreed to reform its citizen's arrest procedures and pay \$151,424 to end a long-running civil rights suit by a group of homeless advocates who were arrested in 1999 after squatting in an old two-flat building.

Seven members of Homes Not Jails won the concessions from the city, although not ownership of the original property they sought, an abandoned building in the Lower Haight.

The city agreed that in the future the police will not solicit filing of citizen's arrests and will not obtain a citizen's signature on a blank citizen's arrest form. Instead, officers will first record the name of the person to be arrested and the

charge to be filed against that person, according to a judgment filed Wednesday. *Homes Not Jails v. City of San Francisco*, C99-4204TEH.

"This will apply to the citizen's arrest policy for any issue, not just tenant-landlord disputes," said attorney Michael J. Haddad, of Haddad & Sherwin in Oakland who represented the group.

The city agreed to pay \$22,500 to seven individual plaintiffs and Homes Not Jails for alleged free speech violations stemming from the arrests. The remaining \$128,924 represents attorney fees and costs. The fee amount was determined by U.S. District Judge Thelton Henderson because the 1999 case was just two weeks from trial when it settled.

Deputy City Attorney Cheryl Adams said the agreement is a "no-fault settlement, and there is no admission of liability."

The disputed building had been abandoned for years after the death of its owner, Alice Jones. Her elderly relatives in Texas did not have the funds to settle the estate, according to Adams.

Homes Not Jails asserted that its members

squatted in the building for five years and paid roughly \$5,000 in back property taxes in 1998 just before filing a claim for title to the property under the state's adverse possession law.

Police arrived within hours after the group held a press conference to announce its initial victory in the state property claim suit in January 1999. Officers allegedly asked a property company used by the city's Public Guardian's office to sign citizen's arrest forms to clear the way for the arrests, according to Haddad. The property company, Keynote Properties, is hired by the Public Guardian's office to rehabilitate and sell estates for indigent relatives.

The suit also asserted that the seven individuals were charged not with simple trespass but with conspiracy to trespass, a felony, which allowed the officers to take them to jail.

The suit contended that they were held for 30 hours even though they claimed to be owners of the property and had property tax payment receipts, Haddad said.

Ultimately, a state court found that Homes Not

Jails "had not technically fulfilled all the requirements for adverse possession" and did not acquire title to the property, according to Haddad. He said the police "violated their own policy to refrain from getting into landlord-tenant disputes."

The settlement also calls for San Francisco to retrain officers on handling landlord-tenant issues.

"What made this a strong case [for the plaintiffs] was the police alleged in the title dispute that there had been years of lawlessness, drug sales and prostitution in the abandoned building. But there was no evidence they made any arrests or enforced any laws until within hours of the Homes Not Jails press conference," Haddad said.

He praised Adams for helping achieve the negotiated reforms for the police department, adding it "should prevent improper use of citizen's arrest forms in the future."

Last year, the city agreed to return the \$5,000 in property taxes paid by Homes Not Jails and the house has been sold.