

No. 24-6576

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JEFFREY POWERS, et al.,

Plaintiffs-Appellees,

v.

DENIS RICHARD MCDONOUGH, et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the Central District of California
The Honorable David O. Carter
Case No. 2:22-cv-08357-DOC (JEMx)

**BRIEF OF AMICI CURIAE
VETERANS ORGANIZATIONS
IN SUPPORT OF PLAINTIFFS-APPELLEES**

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VVA CALIFORNIA STATE COUNCIL

VVA CHAPTERS #53, #355, #446, AND #526

AMVETS DEPARTMENT OF CALIFORNIA

MILITARY ORDER OF THE PURPLE HEART

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure Rule 26.1, amici curiae state as follows:

Vietnam Veterans of America has no parent company, and no publicly held corporation owns 10% or more of its stock.

AMVETS Department of California is the California arm of the national AMVETS organization. No publicly held corporation owns 10% or more of its stock.

Military Order of the Purple Heart has no parent company, and no publicly held corporation owns 10% or more of its stock.

FRAP 29(a)(4)(E) STATEMENT

No party's counsel authored this brief in whole or in part, and no party, counsel or third party contributed money intended to fund preparing or submitting this brief other than pro bono support by amici curiae's counsel.

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Pursuant to Federal Rule of Appellate Procedure 29, amici curiae submit this brief in support of Plaintiffs. All parties have consented to this filing.

INTEREST OF *AMICI CURIAE*

Vietnam Veterans of America (“VVA”) is a national non-profit, congressionally chartered veterans’ service organization exclusively made up of Vietnam War veterans. Its members are committed to VVA’s founding principles, “Never again will one generation of veterans abandon another.”

VVA’s work includes providing legal advocacy for veterans seeking governmental benefits and services, and working towards systemic solutions to widespread problems facing veterans. VVA was pivotal in establishing the right to judicial review for Veteran’s Administration (“VA”) benefits and in bringing *Valentini v. Shinseki*, referenced by the district court in this case. VVA focuses on saving the lives of veterans, especially the most vulnerable veterans—the homeless. Building additional housing on the West Los Angeles VA grounds is at the core of VVA’s experience and expertise.

This brief is supported by the VVA California State Council, VVA Chapter #53 (Torrance), VVA Chapter #355 (Santa Clarita), VVA Chapter #446 (Pasadena), and VVA Chapter #526 (Culver City).

AMVETS Department of California is a non-profit organization composed of veterans and active members of the U.S. Armed Forces, including the National Guard and Reserves. Its mission is to provide programs that serve and enrich the lives of veterans, their families, and their communities. Among those programs is “Welcome Home,” which provides veterans with furniture, linens, and household goods to enable their successful transition into their community. Through that program, AMVETS Department of California knows firsthand the crucial role that stable housing plays in veterans’ lives. AMVETS Department of California strongly supports the construction of additional housing for veterans on the West Los Angeles VA grounds.

Military Order of the Purple Heart (MOPH) is a non-profit organization composed of approximately 50,000 veterans who received the Purple Heart Medal for wounds suffered in

combat or in international terrorism. MOPH serves veterans and their families, particularly those being treated at VA facilities. It works to foster camaraderie among combat-wounded veterans, promote patriotism, and pursue legislation that advances veterans' interests.

As part of its mission, MOPH endeavors to end veteran homelessness. Its past efforts include advancing legislation that aids law enforcement and first responders in meeting the needs of missing veterans with mental health issues, and coordinating soup kitchens and clothing drives. MOPH strongly supports the construction of additional housing for veterans on the West Los Angeles VA grounds.

INTRODUCTION

In October 2024, the district court wrote:

Without temporary supportive housing, countless veterans may die on the streets or in shelters while waiting for permanent housing to be built.

1-ER-86.

Then came the fires.

The January 2025 Los Angeles County wildfires destroyed more than 11,000 residential buildings and swept across some 40,000 acres. Sean Greene et al., *Mapping the damage from the Eaton and Palisades Fires*, LA Times (Jan. 27, 2025)

<https://perma.cc/R2W4-BXGU> (as of Feb. 19, 2025).

Thousands of veterans lived in the areas impacted by the fires, and many lost their homes—making the number of unhoused veterans even higher than it was when the district court issued its order just a few months ago.

While the fires’ total toll on veterans cannot yet be known, their devastating impact is already coming into focus. This brief recounts the results so far of the investigation by amicus curiae Vietnam Veterans of America (“VVA”) into the fires’ impact on the housing and rental market for veterans—both those whose homes the fires destroyed and those who were already unhoused. That

investigation draws on multiple resources, including both individual veterans and local veterans' organizations.

The fires demonstrate that loss can come quickly and unexpectedly to any veteran, and that more housing is needed—right now. The Veterans' Administration (“VA”) has failed to honor its duty to build more housing for disabled veterans for too long. Los Angeles's veterans who served our country cannot wait any longer.

The VA must use the West LA Grounds for their intended purpose—to house and care for our veterans. In the district court's words, “It is time for the disabled veterans of Los Angeles to come home.” 1-ER-120. The judgment should be affirmed.

ARGUMENT

I. The Los Angeles Fires Exacerbated The Concerns That Drove The District Court’s Judgment: The Large Number Of Unhoused Veterans, And Los Angeles’s Inadequate Housing Supply.

The district court found that the lack of housing at the West Los Angeles Veterans Administration grounds (“West LA VA Grounds”) increases the risk of veterans falling into homelessness. 1-ER-80–81. Veterans who do not get housing at the West LA VA Grounds often end up living far away, and thus “struggle to transit to the West LA VA Grounds for medical care and experience isolation in their scattered apartments.” 1-ER-81. In failing to provide housing on the West LA VA Grounds, “VA consistently denies veterans with serious mental illness and traumatic brain injury meaningful access to the community-based VA healthcare, mental healthcare, and other critical supportive services they need and for which they are eligible.” *Id.*

The major fires that struck the Los Angeles area in January compounded these problems. The fires destroyed many veterans’

homes, increasing the number of veterans who urgently need housing. Further, veterans who were already homeless now face even more obstacles to finding stable housing than before, including price gouging and limited supply as the wide swath of newly displaced Angelenos search for replacement housing.

This is a problem that the Los Angeles area—and the VA—will be reckoning with for years to come as the affected areas recover and rebuild.

A. The fires have increased veteran homelessness.

As of 2024, Los Angeles County had approximately 3,000 homeless veterans. 1-ER-48. Veterans who made tremendous sacrifices for their country have struggled to find housing in Los Angeles—veterans like Plaintiff Josh Pettit, a recipient of three Purple Hearts who has been homeless at various times since 2011.

The fires have increased the number of homeless veterans. Before the Eaton fire, 1,445 veterans lived in Altadena, representing 4.3% of Altadena's population. United States Census Bureau, *S2101 Veteran Status* <https://perma.cc/7GTV-L8SW> (filtered to Altadena City, California) (as of Feb. 19, 2025). The

Eaton fire destroyed 6,116 residential buildings. Sean Greene et al., *Mapping the damage from the Eaton and Palisades Fires*, LA Times (Jan. 27, 2025) <https://perma.cc/R2W4-BXGU> (as of Feb. 19, 2025). A reasonable estimate is that over 250 veterans lost their homes in the Eaton fire (i.e., 4.3% of the destroyed homes).¹

Pacific Palisades was home to 494 veterans before the fire, 3.1% of the Palisades' population. United States Census Bureau, *S2101 Veteran Status* <https://perma.cc/2JYP-Y66J> (filtered to Zip Code 90272) (as of Feb. 19, 2025). The fire destroyed 5,546 residential structures. Sean Greene et al., *Mapping the damage from the Eaton and Palisades Fires*, LA Times (Jan. 27, 2025) <https://perma.cc/R2W4-BXGU> (as of Feb. 19, 2025). A reasonable estimate, therefore, is that some 170 veterans lost their homes in the Pacific Palisades fire. And indeed, roughly 100 veterans have already confirmed with the local American Legion Post 283 that

¹ The actual number is likely higher, given that the fire impacted areas beyond Altadena. Indeed, VVA has heard unofficial counts that as many as 1,500 to 2,000 veterans lived in the radius of the Eaton fire, with the majority of them being over age 70. But as of the filing of this brief, the VVA has not been able to find any official data regarding the Eaton fire's impact on veterans.

they lost their home to the Pacific Palisades fire. Jared Morgan, *The American Legion Stands With the Palisades Community* (Jan. 19, 2025) <https://www.alpost283.com/news/2025/1/11/the-american-legion-stands-ready-to-help-with-damage-assessment> (last accessed Feb. 24, 2025).

Thus, an estimated 420 veterans lost their homes last month to the fires—generating as much as a 14% increase in Los Angeles County’s homeless veteran population. Though not all of the displaced veterans will become chronically homeless, the widespread devastation all but ensures that some—and possibly many—will.

Take the story of one 86-year-old Korean War veteran who lost his home and all his possessions in the Eaton fire. At the time of reporting, he was living in a temporary emergency shelter for fire victims. Bill Hutchinson, *“I just cried”: 86-year-old Korean War veteran loses home in LA fires*, ABC News (Jan. 14, 2025) <https://abcnews.go.com/US/cried-86-year-korean-war-veteran-loses-home/story?id=117653682> (last accessed Feb. 24, 2025). Or another couple, both Navy veterans, one 70 and the other 82 and disabled,

who lost their home and all their possessions, including their electric wheelchair; at the time of reporting, they were staying in a hotel. *Navy veterans lose everything in Eaton Fire*, FOX11 (Jan. 15, 2025) <https://www.foxla.com/video/1577158> (last accessed Feb. 24, 2025).

These are just the stories that have reached the press. There are inevitably many dozens of similar stories not yet reported.

B. The fires have exacerbated the Los Angeles area’s affordable housing crisis, making it more difficult for veterans to find housing.

Even before the fires, there was “little existing affordable housing at or near the West LA VA,” making it difficult for veterans with subsidized government vouchers to reside near the services they need.² 1-ER-88. The search is not necessarily any easier outside the immediate area: The City of Los Angeles

² There is a subsidized housing voucher program specifically for veterans, called U.S. Department of Housing and Urban Development-Veterans Affairs Supportive Housing or HUD-VASH. HUD-VASH vouchers can be project-based or tenant-based, and are the primary vehicle by which veterans receive subsidized housing. See 1-ER-65–66; 42 U.S.C. § 1437f(o)(19).

as a whole lacks sufficient affordable housing. The state-mandated Regional Housing Needs Assessment documents that the City of Los Angeles built less than half of the 30,000 housing units needed for very low and low-income households in the past eight-year assessment cycle. California Department of Housing and Community Development, *5th Cycle RHNA Progress Report*, California Open Data Portal, <https://data.ca.gov/dataset/rhna-progress-report/resource/cff0bc49-dd85-43a1-b1d5-1cfa7cf1ae22> (last visited Feb. 24, 2025). In the current cycle, the need has increased to 185,000 units. California Department of Housing and Community Development, *6th Cycle RHNA Progress Report*, California Open Data Portal, <https://data.ca.gov/dataset/rhna-progress-report/resource/1e80a9cf-724c-432d-8374-e9708a6a92dc> (last visited Feb. 24, 2025); *see generally* Andrew Khouri, *Nonprofits allege Los Angeles plan to boost housing development is too weak, illegal*, LA Times (Feb. 14, 2025), <https://perma.cc/UU4W-2SUC> (as of Feb. 19, 2025). The fires have seriously exacerbated the Los Angeles area's affordable housing crisis and will continue to

do so. Losing more than 11,000 residential buildings means even more people needing housing, with fewer available homes.

The inevitable result: price gouging.

Housing units that might have once been affordable no longer are. Despite Governor Gavin Newsom's executive order prohibiting price gouging, rents have gone up in Los Angeles County by 20% since the fires, and by over 200% in some neighborhoods near the fires. Rachel Siegel et al., *Rent rose by 20 percent across L.A. County after fires. That's illegal.*, Washington Post (Jan. 25, 2025) <https://perma.cc/9FB9-2AU8> (as of Feb. 19, 2025); Jason Ma, *Listed rents soared more than 200% in parts of LA after the wildfire, despite anti-gouging rules*, Yahoo News (Jan. 26, 2025), <https://perma.cc/A9A4-D8FX> (as of Feb. 19, 2025). The Los Angeles City Attorney is actively investigating hundreds of complaints and has already commenced some prosecutions. Pat Maio, *LA City attorney investigating 900 price-gouging complaints following wildfires*, Los Angeles Daily News (Feb. 7, 2025) <https://perma.cc/R5R8-6MPP> (paywall) (as of Feb. 19, 2025); Los Angeles City Attorney, Press Release: LA City Attorney Hydee

Feldstein Soto Files Civil Suit and Criminal Charges to Fight Price Gouging in Wake of LA Wildfires (Feb. 4, 2025)

<https://perma.cc/ZHC4-VFV6> (City Attorney website, as of Feb. 19, 2025).

Veterans, especially unhoused veterans, are particularly vulnerable to price gouging. As the district court found, government vouchers are often ineffective for securing housing because, in addition to applying for and receiving the voucher, veterans must also meet the landlord’s requirements, which are often more selective. This is especially difficult for disabled veterans whose disability benefits are counted as income and thereby take the veteran over the maximum income threshold that most Los Angeles landlords demand. This “income”—around \$25,000 in Los Angeles—causes veterans with vouchers to be unable to use those vouchers but also unable to afford housing elsewhere. *See* 1-ER-65–70. That leaves unhoused veterans with limited resources to secure housing in what was one of the nation’s least affordable housing markets even before the fires.

The fires' impact on the housing supply and pricing only complicates that problem. Indeed, VVA's investigation revealed that as of a few weeks after the fires, approximately 80 veterans enrolled with the West LA VA Grounds had HUD-VASH vouchers but were unable to find housing.

In addition to the problems associated with finding permanent housing, VVA's investigation confirms that the fires have increased the number of veterans who need emergency shelter. For example, 26 veterans visited the emergency drop-in shelter at the West LA VA Grounds on a single night in January 2025 after the fires. This is a spike from December 2024, when the VA was more often turning away 7-8 veterans.

Disabled Angeleno veterans have long struggled with finding affordable housing in the Los Angeles area. Now, the fires have made this challenging task all the more difficult.

II. The Need For The VA To Live Up To Its Mission Has Never Been Greater.

The VA has repeatedly failed to keep its promises to address veteran homelessness. The VA promised in 2016 to construct 1,200

new units of permanent supportive housing. 1-ER-131. 770 of those units were to be completed by 2022. *Id.* The actual result, as detailed by the VA Office of Inspector General: by 2021, only 55 units—and not a single new unit of permanent supportive housing. 1-ER-56, 132. By August of 2024, only 233 units of permanent supportive housing existed on the West LA VA Grounds—about one-third of what was promised to have been constructed three years ago. 1-ER-132–133.

Even if the VA were to meet its target of 1,200 units five years from now in 2030, that is not sufficient. There are approximately 3,000 homeless veterans in Los Angeles County, but the VA has not committed to constructing additional housing beyond the planned 1,200 units. With even more veterans now homeless in the wake of the fires, the VA must comply with the district court’s judgment to respond to this crisis.

CONCLUSION

Ending veteran homelessness is essential to the VA’s mission. AOB-1. But instead of building housing, the VA sold off about half of the West LA VA Grounds, allowed much of its remaining land to

be used by wealthy neighbors for profit, and left the veterans who served our country to live on the streets—and to die there, too.

1-ER-48, 52, 57–58.

And now, the fires.

The dire conditions that prompted the district court to grant injunctive relief have only worsened. The Court should affirm the judgment.

Date: February 25, 2025

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 2,510 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6). This brief has been prepared in Microsoft Word using 14-point Century Schoolbook, a proportionally spaced typeface.

Date: February 25, 2025

/s/ Robin Meadow

Robin Meadow

CERTIFICATE OF SERVICE

[24-2897]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 6420 Wilshire Boulevard, Suite 1100, Los Angeles, California 90048, and my email address is *mstockard@gmsr.com*.

I certify that on February 25, 2025, I electronically filed the foregoing **BRIEF OF AMICI CURIAE VETERANS ORGANIZATIONS IN SUPPORT OF PLAINTIFFS- APPELLEES** with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that each party in the case is represented by counsel who are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Marsha Stockard

Marsha Stockard