

LAKISHA BRIGGS

Plaintiff,

V.

BOROUGH OF NORRISTOWN and DAVID R. FORREST, ROBERT H. GLISSON, RUSSELL J. BONO, WILLIE G. RICHT and JOSEPH E. JANUZELLI, in their individual and official capacities

Defendants.

CIVIL ACTION

NO. _____

JURY TRIAL DEMANDED

VERIFIED COMPLAINT

INTRODUCTION

1. This action is brought on behalf of an African-American, female victim of repeated domestic violence, who has periodically needed to rely on the police for protection at her rental home in Norristown, Pennsylvania.

2. Defendants – a Pennsylvania municipality, its Former and Interim Municipal Administrator, Former and Interim Chief of Police, and Municipal Code Manager – have enacted and enforced two consecutive ordinances that authorize them to penalize landlords, and cause those landlords to remove their tenants from their homes, where the tenants have required the assistance of law enforcement for incidents of “disorderly behavior” at their rental properties.

3. Until November 2012, Defendants maintained and enforced Section 245-3 of the Norristown Municipal Code (the “Old Ordinance”) against landlords and tenants in Norristown.

4. The Old Ordinance authorized Defendants *to revoke or suspend a landlord's rental license and forcibly remove a tenant from any property* where the police have responded to three instances of “disorderly behavior” at the property within a four month period.

5. The Old Ordinance broadly defined “disorderly behavior” to cover any “activity that can be characterized as disorderly in nature” and provided several examples of activities that constituted “disorderly behavior,” including instances of domestic violence.

6. The Old Ordinance vested the Chief of Police with sole discretion to determine whether the activity to which the police respond constituted “disorderly behavior” under this definition.

7. Thus, under the Old Ordinance, “disorderly behavior” could be found in virtually any call to which the police responded, including incidents where the tenant was blameless, reasonable in seeking police assistance, or facing a true emergency, and even where the police responded to a baseless call from a vindictive neighbor.

8. Between April and September 2012, Defendants enforced the Old Ordinance against Plaintiff and Plaintiff’s landlord by revoking Plaintiff’s landlord’s rental license and attempting to remove Plaintiff and her infant daughter from their home, on grounds that the police were called upon one too many times to protect her and her daughter from incidents of domestic violence.

9. In the course of enforcing the Old Ordinance, Defendants assigned three “strikes” to Plaintiff and placed her property on a 30-day probationary period.

10. During this probationary period, Plaintiff was so terrified she would lose her home due to Defendants’ enforcement of the Old Ordinance that she refrained from calling the police during an incident in which she was brutally attacked and almost killed by her former boyfriend.

11. Notwithstanding this violent episode, Defendants proceeded undeterred to take steps to remove Plaintiff from her rental property until Plaintiff’s counsel interceded.

12. In a September 2012 letter, Plaintiff's counsel explained to Defendants how enforcement of the Old Ordinance violated Plaintiff's constitutional rights and demanded that Defendants cease enforcement of the Old Ordinance against Plaintiff and other tenants in Norristown.

13. Following a meeting with Plaintiff's counsel, Defendants acknowledged the constitutional deficiencies of the Old Ordinance and subsequently repealed the Old Ordinance in its entirety, in November 2012.

14. Yet, within two weeks after repealing the Old Ordinance, Defendants quickly proceeded to enact, and ultimately did enact, a nearly identical, replacement ordinance (the "New Ordinance") in December 2012, without ever informing Plaintiff's counsel.

15. The New Ordinance permits Defendants ***to assess a series of escalating criminal fines against landlords*** of any property, at which, within a four-month period, the police have responded to three instances of "disorderly behavior," including instances of domestic violence.

16. The New Ordinance is substantially similar to the Old Ordinance. While the New Ordinance changes the penalties on landlords for violations thereof (from a suspension or revocation of rental licenses to a series of criminal fines), the New Ordinance has the same adverse impact as the Old Ordinance on tenants in Norristown and continues to suffer from all of the same constitutional and legal failings. Although the New Ordinance purports to target landlords, the New Ordinance directly infringes on Norristown tenants' constitutional rights.

17. Specifically, Defendants' previous enforcement of the Old Ordinance violated, and threatened enforcement of the New Ordinance continues to violate, Plaintiff's rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution, their Pennsylvania constitutional equivalents, and federal and state housing law.

18. Accordingly, Plaintiff brings this action seeking damages for injuries suffered by Defendants' unconstitutional enforcement of the Old Ordinance and to enjoin Defendants from enforcing the New Ordinance.

19. This action is brought pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 3601 *et seq.*

20. Plaintiff seeks declaratory and injunctive relief, as well as compensatory damages, punitive damages and attorneys' fees as provided under 42 U.S.C. § 1988.

JURISDICTION AND VENUE

21. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(3) & (4).

22. This Court has supplemental jurisdiction over the state constitutional and statutory claims pursuant to 28 U.S.C. § 1367.

23. Declaratory relief is authorized by 28 U.S.C. § 2201 and Federal Rule of Civil Procedure 57.

24. Injunctive relief is authorized by Federal Rule of Civil Procedure 65.

25. This Court has personal jurisdiction over Defendants because they are located or reside in the Eastern District of Pennsylvania.

26. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) in that Defendants are subject to personal jurisdiction within the Eastern District of Pennsylvania and the events that give rise to this action occurred within the Eastern District of Pennsylvania.

PARTIES

27. Plaintiff Lakisha Briggs ("Ms. Briggs") is a 33 year old, African-American, single mother. She is a citizen of the United States and is a resident of Norristown, in Montgomery

County, in the Commonwealth of Pennsylvania. Ms. Briggs has lived in Norristown for 24 years, since she was nine years old, and intends to live in Norristown for the rest of her life.

28. Between November 1, 2010 and February 1, 2013, Ms. Briggs lived on Wayne Avenue, in Norristown.

29. Ms. Briggs currently lives at another rental house in Norristown.

30. Ms. Briggs has two children: a three year old daughter, who lives with Ms. Briggs, and a 21 year old daughter, who lives independently in Philadelphia.

31. Defendant Borough of Norristown (“Norristown” or “the borough”) is a municipal corporation, having the name of “Borough of Norristown,” (see Borough of Norristown Home Rule Charter) located in Montgomery County, in the Commonwealth of Pennsylvania, with administrative offices and police headquarters located at 235 East Airy Street, Norristown, PA 19401.

32. Defendant David R. Forrest is the former Municipal Administrator for Norristown and in that position had the responsibility under the Old Ordinance for, among other things, determining whether and when to revoke or suspend rental licenses and whether and when to condemn private property and declare it unlawful to occupy the property as a rental unit. Defendant Forrest had ultimate supervisory authority over enforcement of the New Ordinance. Defendant Forrest maintained an office at the Norristown Municipal Building, 235 East Airy Street, Norristown, PA 19401. Defendant Forrest resigned from his position effective February 28, 2013.

33. Defendant Robert H. Glisson is the Interim Municipal Administrator and, in this position, has ultimate supervisory authority over enforcement of the New Ordinance. Defendant Glisson maintains an office at the Norristown Municipal Building, 235 East Airy Street,

Norristown, PA 19401. Defendant Glisson assumed his position immediately after Defendant Forrest's resignation.

34. Defendant Russell J. Bono is the former Chief of Police for the Norristown Police Department and in that position, under both the Old Ordinance and the New Ordinance (collectively "the Ordinances"), had responsibility for, among other things, determining whether a call to which the police respond involves activity that can be characterized as disorderly in nature under the Ordinances. Defendant Bono maintained an office at the Norristown Police Department, 235 East Airy Street, Norristown, PA 19401. Defendant Bono resigned from his position effective February 28, 2013.

35. Defendant Willie G. Richet is the Interim Chief of Police for the Norristown Police Department and in that position, under the New Ordinance has responsibility for, among other things, determining whether a call to which the police respond involves activity that can be characterized as disorderly in nature under the New Ordinance. Defendant Richet maintains an office at the Norristown Police Department, 235 East Airy Street, Norristown, PA 19401. Defendant Richet assumed his position immediately after Defendant Bono's resignation.

36. Defendant Joseph E. Januzelli is the Municipal Code Manager for Norristown and in that position had and has responsibility for, among other things, enforcement of the Ordinances. Defendant Januzelli maintains an office with the Building & Code Enforcement Department at the Norristown Municipal Building, 235 East Airy Street, Norristown, PA 19401.

37. Defendants Forrest, Glisson, Bono, Richet, and Januzelli (collectively, the "Individual Defendants") are named herein in both their individual and official capacities. Each of the Individual Defendants is a "person" as that term is defined in 42 U.S.C. § 1983 and at all relevant times has been acting under color of state law.

THE OLD ORDINANCE

38. At all relevant times, Norristown has required landlords to obtain rental licenses for each property that a landlord desires to rent to tenants in Norristown. *See* Section 245-2 of the Norristown Municipal Code, attached hereto as Exhibit A.

39. The Old Ordinance was in effect between January 5, 2009 and November 7, 2012 and allowed Norristown's Municipal Administrator to revoke or suspend the rental license for any property where the police have responded to three instances of what the Chief of Police – in his sole discretion – considered “disorderly behavior” at the property within a four month period, including any “[d]omestic disturbances that do not require that a mandatory arrest be made.”¹ *See* Section 245-3 of the Norristown Municipal Code, attached hereto as Exhibit A. For each incident of “disorderly behavior,” landlords and their tenants were assigned a “strike.”

40. While the Old Ordinance purported to provide two exceptions to its enforcement for calls seeking “emergency assistance,” a plain reading of the relevant language reveals that these supposed “exceptions” were devoid of meaning:

a. First, the “exceptions” only exempted emergency calls made by “a tenant, a member of a tenant's family or a tenant's guest” and, thus, excluded calls for emergency assistance or otherwise by neighbors or any others outside the rental property;

b. Second, one of the “exceptions” did not apply if it was later determined, in the unilateral discretion of the Norristown Police Department, that any acts of “disorderly behavior” (as defined in the Old Ordinance) had occurred at the property; and

c. Third, the other “exception” only excused such calls seeking “emergency assistance that is protected by Pennsylvania statute.”

¹ Pennsylvania does not have a mandatory arrest provision in the law for domestic violence crimes.

41. The emptiness of these supposed “exceptions” was borne out by Defendants’ enforcement of the Old Ordinance against Ms. Briggs when the police were called to respond to emergency situations at her property and to protect her from incidents of domestic violence, as discussed herein.

42. The Old Ordinance unconstitutionally penalized domestic violence victims, like Ms. Briggs, who cannot control or prevent the violence perpetrated against them.

43. Although the nominal targets of the Old Ordinance were landlords in Norristown, the Old Ordinance had several direct, adverse effects on Ms. Briggs and other victims of domestic violence:

a. The Old Ordinance stripped domestic violence victims – some of the most vulnerable citizens in the community – of police protection, silenced them from reporting acts of violence against them, and emboldened their abusers to perpetrate their acts of violence in the home. Under the Old Ordinance, victims of domestic violence were essentially forced to choose between eviction and calling for help when they were being battered in their homes.

b. The Old Ordinance exacerbated the preexisting challenges that victims of domestic violence already face in accessing and maintaining housing. It is well-documented that domestic violence is a primary cause of homelessness and housing instability for women and children. Congress has found that women and families are being discriminated against and evicted from housing because of their status as victims of domestic violence, 42 U.S.C. § 14043e. Norristown itself reported to the federal Department of Housing and Urban Development in 2012 that 20% of its homeless population are domestic violence victims. *See* Norristown Third Program Year Action Plan at 26, attached hereto as Exhibit B.

44. Domestic violence is a serious criminal, public health, and societal issue. One in three women in the United States has experienced rape, physical violence and/or stalking by an intimate partner in her lifetime, and it has been estimated that 85% of victims of domestic violence are women. Federal, state, and local governments have recognized the need for effective law enforcement response to these crimes, which historically were treated as private matters unworthy of police intervention. *See, e.g.*, Chapter 19 – Domestic Violence, U.S. Dept. of Hous. and Urban Dev., Pub. Hous. Occupancy Guidebook, at 216-19 (June 2003), attached hereto as Exhibit C.

45. Because the overwhelming numbers of domestic violence victims are women, the Old Ordinance had an inherent disparate impact on female tenants in Norristown.

THE RENTAL PROPERTY

46. Between November 1, 2010 and February 1, 2013, Ms. Briggs rented a house with a Section 8 voucher on Wayne Avenue, in Norristown (“the Property”).

47. Ms. Briggs’ landlord at the Property is named Darren Sudman (“Mr. Sudman”). Mr. Sudman considered Ms. Briggs to be a good tenant who paid her rent in a timely fashion.

EPISODES OF DOMESTIC VIOLENCE

48. While living at the Property, Ms. Briggs experienced several incidents of domestic violence where the police were called.

Early Incidents

49. On or about January 20, February 4, and March 12 and 17, 2012, Ms. Briggs called the police for assistance with domestic disturbances.

50. The police responded to all four of these calls but did not inform Ms. Briggs of the Old Ordinance and did not mention at that time whether the call would count as a strike.

April 9, 2012 Incident

51. On or about April 9, 2012, Ms. Briggs' boyfriend at the time, Wilbert Bennett ("Wilbert"), came to her home around 2:00 a.m. and tried to wake her up. He was intoxicated.

52. Wilbert and Ms. Briggs began arguing, and Wilbert hit her.

53. Ms. Briggs' 21 year old daughter, who was at the Property at the time, called the police. When the police arrived, they arrested Wilbert and charged him with disorderly conduct, public drunkenness, and possession of marijuana.

54. The police did not charge Ms. Briggs with a crime, issue a citation or accuse her of any violation of law.

55. This was the first occasion that the police informed Ms. Briggs about the Old Ordinance and warned her that this incident of domestic violence was her first strike. The police told her that they were charging her with a strike under the Old Ordinance because they were tired of responding to Ms. Briggs' previous calls to the police.

56. The police officer who told her about the Old Ordinance said: "You are on three strikes. We're gonna have your landlord evict you." The officer did not give Ms. Briggs any paperwork regarding the Old Ordinance or the three strikes policy.

57. Following this incident, Ms. Briggs had a lengthy discussion with members of her family and Wilbert regarding the Old Ordinance. She told them that any "disorderly behavior" could get her evicted under the Old Ordinance. She told them that it would be terrible if she got evicted and she needed to keep the rental house to raise her three year old daughter.

April 15, 2012 Incident

58. Just six days later, on or about April 15, 2012, Wilbert and members of Ms. Briggs' family were at Ms. Briggs' home for a barbeque.

59. A fight arose between Wilbert and the boyfriend of Ms. Briggs' 21 year old daughter.

60. None of the individuals from Ms. Briggs' home called the police for fear of incurring a second strike.

61. Instead, a neighbor called the police. Upon arrival, the police entered the house with guns drawn because it was reported – erroneously – that shots had been fired.

62. The police arrested Wilbert and Ms. Briggs' 21 year old daughter's boyfriend and charged them with simple assault and reckless endangerment.

63. The police officers did not mention the Old Ordinance or any strikes at that time.

64. However, Mr. Sudman, Ms. Briggs' landlord, later received a notice in the mail indicating that this incident constituted a second strike against Ms. Briggs.

65. When Ms. Briggs found out about the second strike, she filed a Pennsylvania "Right to Know" Request to learn more and spoke to Detective Todd Dillon of the Norristown Police Department, who informed her that this incident counted as her second strike.

66. Following the April 15 incident, Ms. Briggs broke up with Wilbert and told him that he could no longer stay at or even visit her home.

67. Ms. Briggs wanted everyone out of her home, except for her three year old daughter. She did not want to do anything to risk losing her home.

May 2, 2012 Incident

68. Two and a half weeks later, on or about May 2, 2012, Ms. Briggs returned home from work and saw Wilbert in an alleyway near her house, drinking and talking with some unknown individuals.

69. Wilbert chased Ms. Briggs down the alley with a brick and followed her to her house, where he attacked her.

70. An unknown person called the police. When the police arrived at her house, Wilbert ran into the house to hide from the police.

71. Ms. Briggs remained on the porch in only her bra; her shirt had been ripped off by Wilbert during the struggle.

72. Notwithstanding the obvious appearance of being assaulted, Ms. Briggs declined to tell the police what had happened and told them that there was no one in the house. She was reluctant to tell the police the truth for fear that it could lead to a third strike under the Old Ordinance.

73. When the police asked if they should remove Wilbert from the house, Ms. Briggs declined because she was worried about eviction under the Old Ordinance.

74. The police eventually entered the house and arrested Wilbert. Wilbert was charged with public drunkenness, and both Ms. Briggs and Wilbert were cited for disorderly conduct and fighting.

75. For each of the April 9, April 15, and May 2, 2012 incidents, the police charged Ms. Briggs with a strike under the Old Ordinance. The borough then initiated license-revocation proceedings against Mr. Sudman, Ms. Briggs' landlord.

MEETING WITH BOROUGH OFFICIALS

76. On or about May 23, 2012, Ms. Briggs accompanied Mr. Sudman to a meeting with borough officials, regarding whether Mr. Sudman's license for the property on Wayne Avenue should be suspended or revoked and whether Ms. Briggs could continue to live in the house.

77. In attendance at the meeting were Defendants Forrest, Bono, and Januzelli, and Norristown's Solicitor, Sean Kilkenny, Esq.

78. The meeting lasted approximately 30 minutes. No official record, transcript or minutes were kept and no one appeared to be designated as a finder of fact.

79. Defendant Bono did most of the talking at the meeting, reporting what was recorded in the police reports.

80. Ms. Briggs attempted to tell her side of the story and describe the incidents, but she was interrupted by Defendant Bono's statements that the police had responded to a call, and that one of the callers had claimed erroneously that shots had been fired at the house. Defendant Bono also made specious allegations of drug-related activity at the house.

81. Mr. Sudman also spoke at the meeting and described Ms. Briggs as a good tenant who paid her rent in a timely manner. He explained that he had never had a problem with Ms. Briggs.

82. Mr. Sudman added that it would be a significant loss for him to lose Ms. Briggs as a tenant and noted that it would be an even greater loss for Ms. Briggs to lose her home because she had a three year old child to care for.

83. Ms. Briggs brought a friend, Dana Henderson, to support her at the meeting, but Ms. Henderson was not permitted to speak.

84. Later the same day, Defendant Forrest issued a letter decision and placed the property on a 30-day probationary period.

85. Defendant Forrest declared in his letter decision that any further violations during the 30-day period would result in suspension or revocation of the rental license.

86. Thus, through this letter as well as their previous communications, the Defendants affirmatively instructed Ms. Briggs that any future calls to the police would lead to her eviction.

They restricted her communications with law enforcement, despite the government's interest in encouraging the reporting of crimes and responding to domestic violence.

June 23, 2012 Incident

87. Wilbert was briefly incarcerated for some period of time as a result of the May 2nd incident.

88. However, Wilbert was released from prison around the middle of June and went to find Ms. Briggs at her house.

89. Wilbert wanted to get back together. He threatened Ms. Briggs: "You are going to be with me or you are going to be with no one."

90. Ms. Briggs told Wilbert that she did not want to be with him anymore, but Wilbert would not accept her decision and refused to leave.

91. Ms. Briggs permitted Wilbert to stay because she could not by herself physically force him to leave and knew that she could not call on the police to remove him without violating the probationary period and facing eviction under the Old Ordinance.

92. Left powerless, Ms. Briggs acquiesced to Wilbert's demands. She let her abuser stay because she felt intimidated and worried that he would harm her or her three year old daughter if she tried to do anything to force him out, and she knew that she could not call the police for help without risking eviction.

93. On or about the evening of June 23, 2012, Wilbert invited some of his friends over to Ms. Briggs' house.

94. Powerless to prevent Wilbert's and his friends' intrusion without calling the police, Ms. Briggs let them stay. She could not call the police without violating the Old Ordinance.

95. Later that evening, Wilbert attacked Ms. Briggs for allegedly flirting with other men.

96. He bit and tore her lip.

97. He broke a glass ashtray against the right side of her head, knocking her down and leaving a two-inch gash.

98. He stabbed her in the neck with one of the large broken glass shards.

99. Ms. Briggs ultimately passed out, with blood gushing from a four-inch-long puncture wound in her neck.

100. Ms. Briggs did not call the police for fear of triggering eviction under the Old Ordinance. A neighbor called the police.

101. Ms. Briggs was quickly flown by trauma helicopter to the University of Pennsylvania Hospital for emergency medical care.

102. Wilbert later turned himself in to authorities and was held on aggravated assault charges.

103. Ms. Briggs subsequently obtained a Protection from Abuse (“PFA”) restraining order against Wilbert on July 12, 2012, which expires on July 11, 2015.

EVICTON PROCEEDINGS

104. Three days after the stabbing incident, on or about June 26, 2012, Defendant Forrest told Mr. Sudman that his rental license was revoked and that Ms. Briggs had ten days to vacate the property. However, Defendant Forrest told Mr. Sudman that he could apply for a new rental license as soon as Ms. Briggs vacated the property. See June 26, 2012 email chain, attached hereto as Exhibit D.

105. Ms. Briggs had just returned home from the hospital after being treated for the stabbing incident. It was the middle of her pay period and she did not have the money to go anywhere else.

106. Mr. Sudman told Ms. Briggs that the borough was, unfortunately, forcing him to file for her eviction.

First Eviction Hearing

107. Ms. Briggs, her attorney Susan Strong, Esq., and Mr. Sudman attended the first eviction hearing before Magisterial District Justice Margaret Hunsicker.

108. Mr. Sudman told District Justice Hunsicker that he did not want to evict Ms. Briggs because she was a good tenant who paid her rent in a timely fashion, and was bringing the eviction action solely because he was required to do so by the borough.

109. The Court issued a continuance and postponed its decision to give the borough some time to reconsider its decision.

110. Susan Strong communicated what had transpired at the eviction hearings to the borough.

Second Eviction Hearing – August 22, 2012

111. At the second eviction hearing, on or about August 22, 2012, District Justice Hunsicker ruled that Ms. Briggs could continue to live at the rental house if she paid her rent up through the end of August and Mr. Sudman's court filing fees relating to the eviction proceedings.

112. Ms. Briggs promptly paid the required amounts and was, therefore, entitled to remain in the property.

113. Susan Strong communicated the outcome of the hearing to Mr. Sudman and the borough.

SUBSEQUENT ATTEMPTS TO REMOVE MS. BRIGGS

114. Despite District Justice Hunsicker's ruling, the borough continued to pursue the removal of Ms. Briggs from her home.

115. On or about August 27, 2012, Defendant Forrest told Mr. Sudman that – based on advice of counsel and notwithstanding the U.S. Constitution, applicable federal law and District Justice Hunsicker's decision – the borough had an “independent right” under the Old Ordinance to revoke his rental license, condemn the property as “unlawful,” and remove Ms. Briggs for trespassing. Accordingly, the borough strongly recommended that Mr. Sudman encourage Ms. Briggs to vacate the property voluntarily. *See* August 27, 2012 email from D. Forrest to D. Sudman, attached hereto as Exhibit E.

NOTICE OF CONSTITUTIONAL VIOLATIONS UNDER THE OLD ORDINANCE

116. Ms. Briggs, through her undersigned counsel, sent Defendants a letter on September 10, 2012 notifying Defendants of the unconstitutionality of Defendants' actions under the Old Ordinance and demanding that Defendants cease enforcement of the Old Ordinance against Ms. Briggs and other tenants in Norristown. *See* September 10, 2012 letter, attached hereto as Exhibit F.

117. The September 10, 2012 letter also outlined the numerous constitutional problems associated with enforcement of the Old Ordinance and pointed out that the Old Ordinance violated the First, Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution and their Pennsylvania equivalents, as well as federal and state statutory law. *See id.*

118. Plaintiff's counsel later met with Defendants and Defendants' counsel on September 19, 2012 to discuss the constitutional concerns described in the September 10, 2012 letter.

119. At this meeting Defendants appeared to acknowledge the constitutional failings of the Old Ordinance.

120. Following this meeting, Defendants agreed to five demands by Plaintiff's counsel, including a repeal of the Old Ordinance:

a. First, Norristown agreed to cease any enforcement activities against Ms. Briggs under the Old Ordinance. Ms. Briggs would be free to call the Norristown Police Department without fear of eviction. Ms. Briggs would also not risk a strike or eviction if a neighbor or another person called the Norristown Police Department concerning Ms. Briggs' property.

b. Second, Norristown agreed to cease any enforcement activities against Ms. Briggs' landlord, Darren Sudman, under the Old Ordinance. Norristown would restore Mr. Sudman's rental license in full.

c. Third, Norristown agreed to suspend any enforcement of the Old Ordinance against any individuals (landlords or tenants) pending re-evaluation of the Old Ordinance by the Norristown Municipal Council.

d. Fourth, Norristown agreed to restore, where possible, the pre-enforcement positions of recently affected individuals (landlords or tenants).

e. Fifth, Norristown agreed to take steps to repeal the Old Ordinance in its entirety. See October 25, 2012 email chain, attached hereto as Exhibit G.

121. Plaintiff's counsel subsequently attempted to memorialize an agreement on these points with Defendants on October 25, 2012 in a written settlement agreement. See *id.*

122. However, Defendants, through their counsel, rejected Plaintiff's counsel's proposed settlement agreement and refused to enter into any written settlement agreement. *See id.*

123. Defendants subsequently repealed the Old Ordinance on November 7, 2012 by enacting Ordinance No. 12-11, attached hereto as Exhibit H.

124. In enacting Ordinance No. 12-11, the Norristown Municipal Council gave two reasons for repealing the Old Ordinance:

a. First, the Old Ordinance resulted "in the deprivation of property rights for tenants without due process in violation of the 5th and 14th Amendments to the U.S. Constitution and other federal and state statutes"; and

b. Second, a repeal of the Old Ordinance was "in the best interests of protecting the rights of the residents of Norristown." *See id.*

THE NEW ORDINANCE

125. Notwithstanding Norristown's admissions above in repealing the Old Ordinance, Defendants immediately began the process for introducing a proposed ordinance to re-enact the Old Ordinance in a "new" form.

126. On November 20, 2012, at the very next meeting of the Norristown Municipal Council following the repeal of the Old Ordinance, the Norristown Municipal Council introduced a proposed ordinance, "amending the 3-strikes ordinance." *See* November 20, 2012 Municipal Council minutes, attached hereto as Exhibit I.

127. Defendants did not notify Ms. Briggs or Plaintiff's counsel of the process or their plan to enact this new ordinance immediately following the repeal of the Old Ordinance.

128. At the following meeting of the Norristown Municipal Council on December 4, 2012, Defendants enacted the New Ordinance (Ordinance No. 12-15), to replace former Section 245-3 of the Norristown Municipal Code. *See* Ordinance No. 12-15, attached hereto as Exhibit J.

129. The New Ordinance permits Norristown’s Municipal Administrator to assess a series of daily, escalating criminal fines against landlords of any property where the police have responded to three instances of what the Chief of Police – in his sole discretion – considers “disorderly behavior” at the property within a four month period, including any “[d]omestic disturbances that do not require that a mandatory arrest be made.” *See id.*

130. The New Ordinance is substantially similar to the Old Ordinance in its direct, adverse impact on tenants in Norristown and is plagued by the same constitutional and legal deficiencies. *See* Blackline Comparison of the Old Ordinance and the New Ordinance, attached hereto as Exhibit K.

131. Whereas the Old Ordinance permitted Norristown to revoke or suspend a landlord’s rental license, the New Ordinance allows Norristown to impose criminal fines on landlords for the alleged “disorderly behavior” of a landlord’s tenants. *See id.*

132. Like its predecessor, the New Ordinance:

a. Gives the Chief of Police the authority and unfettered discretion to determine what “disorderly behavior” is and whether a landlord’s tenants or guests have engaged in such “disorderly behavior”;

b. Broadly defines “disorderly behavior” as conduct that “involves activity that can be characterized as disorderly in nature,” including “[d]omestic disturbances that do not require that a mandatory arrest be made”;²

c. Imposes a penalty on landlords where three instances of “disorderly conduct” have occurred at a property within a four month period; and

d. Provides a hollow exception for calls seeking “emergency assistance.” *See id.*

133. Unlike its predecessor, however, the New Ordinance goes further to penalize landlords and adversely impact tenants by:

a. Encouraging landlords to “include in their leases language that provides that it is a breach of the lease for a tenant to be convicted for disorderly behavior”; and

b. Subjecting landlords to criminal penalties according to a graduating series of fines for each instance of “disorderly behavior” that occurs at a landlord’s rental property, where “[e]ach day that a violation continues [] constitute[s] a separate offense.” *See id.*

134. Although the fifth recital of the New Ordinance states that the “Municipal Council desires that no . . . landlord [shall be] criminally responsible for the acts of their tenants,” subsections D, E, and K expressly provide that a landlord shall be subject to criminal fines up to \$1,000 per day for each incident of “disorderly behavior” of their tenants. *See Ordinance No. 12-15*, attached hereto as Exhibit J.

135. Although subsection H of the New Ordinance provides that “[n]o tenant shall be evicted or forced to vacate a rental dwelling unit by the Municipality of Norristown for violation of the provisions of Ordinance,” subsection F expressly provides that “adverse action may be taken [against a landlord] when the [landlord] fails to diligently pursue the eviction process.”

² Again, Pennsylvania does not have a mandatory arrest provision in the law for domestic violence crimes.

Similarly, subsection I states that “[i]t is strongly encouraged that all [landlords] include in their leases language that provides that it is a breach of the lease for a tenant to be convicted for disorderly behavior.” *See id.*

136. Notwithstanding the shift from suspending or revoking landlords’ rental licenses to imposing criminal fines on landlords, the New Ordinance continues to suffer from the same constitutional and legal failings as its predecessor in that it:

- a. Adversely impacts and penalizes victims of domestic violence, like Ms. Briggs, who cannot control or prevent the violence perpetrated against them;
- b. Continues to strip victims of domestic violence of police protection, silences them from reporting acts of violence against them, and emboldens their abusers to perpetrate acts of violence in the home;
- c. Exacerbates the preexisting challenges that victims of domestic violence face in accessing housing;
- d. Has an inherent disparate impact on women; and
- e. Deprives domestic violence victims of a protected liberty interest in a dwelling without due process of law.

137. Defendants have attempted to sidestep the constitutional concerns of the Old Ordinance by drafting the New Ordinance in a way that: (a) penalizes landlords with criminal fines for the alleged “disorderly behavior” of their tenants, instead of revoking or suspending their rental licenses; and (b) expresses Norristown’s disinterest in evicting tenants but establishes a system by which landlords are obligated to take actions that Defendants have admitted would be unconstitutional if taken by them.

138. Such cosmetic alterations do nothing to rescue the New Ordinance from the same constitutional and legal failings that plagued the Old Ordinance.

**THE NEW ORDINANCE CONTINUES TO VIOLATE MS. BRIGGS’
CONSTITUTIONAL RIGHTS**

139. Ms. Briggs continues to fear that contacting the police for any reason may once again place her at risk of losing her home, even when she calls the police to protect her physical safety.

140. This fear was exacerbated when, on December 7, 2012, only a few days after the New Ordinance was enacted, Ms. Briggs learned that Norristown would be inspecting her home at the Property, without her consent, on December 11, 2012 as part of Norristown’s new program of “random inspections” of rental units throughout the borough.

141. On information and belief, the proposed inspection of Ms. Briggs’ home was not random; rather, Norristown officials had affirmatively selected her home for inspection.

142. Plaintiff’s counsel sent Defendants’ counsel a December 8, 2012 email objecting to and challenging the legality of Norristown’s planned inspection of Ms. Briggs’ home. *See* December 10, 2012 email chain, attached hereto as Exhibit L.

143. While Defendants have since agreed not to inspect Ms. Briggs’ home without her consent, they have not indicated any agreement that they will not seek to do so in the future. *See id.*

THE NEW RENTAL PROPERTY

144. On February 1, 2013, Ms. Briggs and her three year old daughter moved from the Property to another location in Norristown, where she rents a house with a Section 8 voucher.

145. The landlord at Ms. Briggs’ new property is named Rick Gallo (“Mr. Gallo”).

146. Even at her new home, Ms. Briggs continues to fear that contacting the police for any reason may place her at risk for losing her home.

147. For example, on or about April 5, 2013, Ms. Briggs heard gun shots in her neighborhood and saw the gunman run through her backyard. She did not call the police to report this information for fear that it could lead to her eviction.

148. Defendants have not advised Ms. Briggs or her new landlord, Mr. Gallo, that Defendants consider the New Ordinance invalid or illegal, or that it will not be applied against them.

149. Defendants' initial actions to enforce the Old Ordinance against Ms. Briggs, their feigned repeal of the Old Ordinance, and their actions in enacting the New Ordinance continue to cause an undue chilling effect on the exercise of Ms. Briggs' free speech rights and her ability to seek the assistance of law enforcement.

150. At all relevant times, Defendants were acting within the enforcement and policy-making authority delegated to them under the Old Ordinance and the New Ordinance, which are both official laws, enacted by the Norristown Municipal Council.

151. Accordingly, Defendants are liable in both their individual and official capacities for harm caused to Ms. Briggs under both the Old Ordinance and the New Ordinance. See *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978).

INJUNCTIVE AND DECLARATORY RELIEF IS NECESSARY

152. Absent injunctive and declaratory relief, Ms. Briggs faces an ongoing threat that she and her three year old daughter will lose their home, which causes an undue chilling effect on the exercise of Ms. Briggs' free speech rights and her ability to seek the assistance of law enforcement.

153. Ms. Briggs will suffer irreparable harm, for which there is no adequate remedy at law, if Defendants are not enjoined from enforcing the New Ordinance against her.

154. Injunctive relief is necessary to ensure that Mr. Gallo is not penalized and, thus, encouraged to evict Ms. Briggs if she reports an incident of domestic violence to the police, and that Ms. Briggs and her three year old daughter are not evicted from their home for exercising their rights under the First Amendment.

COUNT I – RIGHT TO PETITION
(U.S. Const. amend. I; Pa. Const. Art. I, § 20)

155. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

156. The First Amendment to the United States Constitution and its Pennsylvania equivalent guarantee the right to petition the government for redress of grievances.

157. Under the First Amendment’s “right to petition” clause, communications to law enforcement – including (1) reporting physical assault, (2) reporting criminal activity, and (3) filing a complaint with law enforcement – are constitutionally protected activities.

158. Defendants’ enforcement of the Old Ordinance against Ms. Briggs and her landlord for calls made to the police, reporting physical violence and/or criminal activity, directly violated her right to petition the government to redress grievances.

159. Ms. Briggs was reluctant to report physical violence and/or criminal activity to the police for fear of receiving a “strike” under the Old Ordinance and triggering eviction from her home.

160. Thus, the Old Ordinance created an undue chilling effect on Ms. Briggs’ fundamental right to petition the police for protection.

161. Ms. Briggs suffered severe bodily injury as a result. The police affirmatively instructed her that any future calls to the police would lead to her eviction. Ms. Briggs was then effectively prevented from contacting the police when she was brutally attacked and almost killed by Wilbert.

162. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown.

163. Thus, Defendants' threatened enforcement of the New Ordinance against Ms. Briggs and her landlord continues to cause an undue chilling effect on the fundamental right of Ms. Briggs to seek police protection.

164. The Old Ordinance did not and the New Ordinance does not advance any compelling government interest, and neither Ordinance is narrowly tailored to justify the infringement of Ms. Briggs' fundamental right to call the police.

165. Accordingly, the Old Ordinance violated and the New Ordinance continues to violate the First Amendment and its Pennsylvania equivalent.

**COUNT II – UNREASONABLE SEIZURE
(U.S. Const. amend. IV; Pa. Const. Art. I, § 8)**

166. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

167. The Fourth Amendment to the United States Constitution and its Pennsylvania equivalent guarantee individuals the right to be "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."

168. Under the Fourth Amendment and its Pennsylvania equivalent, a seizure of property occurs if there is some meaningful interference with an individual's possessory interest in that property.

169. Tenants have possessory interests in their leaseholds.

170. Defendants, through their enactment and enforcement of the Old Ordinance, unreasonably and meaningfully interfered with Ms. Briggs' property interest in her leasehold by revoking her landlord's rental license and attempting to forcibly remove her from her rental property.

171. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown.

172. Thus, Defendants, through the enactment and enforcement of the New Ordinance, continue to threaten to unreasonably and meaningfully interfere with Ms. Briggs' property interest in her leasehold by subjecting her landlord to potential criminal fines for any future alleged "disorderly behavior" at her home, and by directing and incentivizing her landlord to initiate eviction proceedings against her.

173. Accordingly, the Old Ordinance violated and the New Ordinance continues to violate the Fourth Amendment and its Pennsylvania equivalent.

COUNT III – PROCEDURAL DUE PROCESS
(U.S. Const. amend. XIV; Pa. Const. Art. 1, §§ 1, 9, and 11)

174. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

175. The Fourteenth Amendment to the United States Constitution and its Pennsylvania equivalents provide that no person shall be deprived of life, liberty or property without due process of law.

176. Enforcement of the Old Ordinance threatened to deprive Ms. Briggs of her property interest in her leasehold by revoking her landlord's rental license and attempting to forcibly remove her from her rental property without adequate procedural protections.

177. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown.

178. Thus, enforcement of the New Ordinance continues to threaten to deprive Ms. Briggs of her property interest in her leasehold by subjecting her landlord to potential criminal fines for any future alleged “disorderly behavior” at her home, and by directing and incentivizing her landlord to initiate eviction proceedings against her without adequate procedural protections.

179. The Old Ordinance did not and the New Ordinance does not provide adequate legal procedures to protect against the deprivation of Ms. Briggs’ property interests. Neither Ordinance requires any notice to be given to the tenant of violations of the Ordinance, nor gives the tenant an opportunity to contest either the Chief of Police’s discretionary decision to characterize an incident as “disorderly behavior” or the borough’s decision to enforce the Ordinance against the landlord.

180. Accordingly, the Old Ordinance violated and the New Ordinance continues to violate the Fourteenth Amendment’s Procedural Due Process Clause and its Pennsylvania equivalents.

COUNT IV – SUBSTANTIVE DUE PROCESS (STATE-CREATED DANGER)
(U.S. Const. amend. XIV; Pa. Const. Art. 1 § 26)

181. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

182. The Fourteenth Amendment to the United States Constitution and Pennsylvania equivalent provide that no person shall be deprived of life, liberty or property without due process of law.

183. Individuals have a constitutional liberty interest in personal bodily integrity that is protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

184. Under the Due Process Clause, Norristown has an obligation to protect its citizens from dangers it creates.

185. Defendants' enactment and enforcement of the Old Ordinance created a danger to Ms. Briggs because she was effectively prohibited from calling the police during an emergency without risking a strike and ultimate eviction under the Old Ordinance and, as a result, suffered severe bodily injury when she was brutally attacked and almost killed by Wilbert.

186. Defendants knew that Wilbert was violent, had a criminal record, and had a history of physically abusing Ms. Briggs. Indeed, the Norristown police had arrested Wilbert on at least two occasions for violent assaults on Ms. Briggs before he brutally attacked and almost killed her.

187. Defendants knew that the issuance of strikes to a domestic violence victim and tenant, such as Ms. Briggs, for calling the police for protection against domestic violence would cause such victim-tenants to refrain from calling the police for fear of triggering their evictions and would likely result in further injury from their abusers.

188. Defendants knew that Ms. Briggs was a specific target of Wilbert's violence and physical abuse because the police had arrested Wilbert on at least two occasions for violent assaults on Ms. Briggs before she was brutally attacked and almost killed by him.

189. Defendants, by enforcing the Old Ordinance against her, were grossly negligent and/or deliberately indifferent to Ms. Briggs' victimhood and effective inability to call the police for help.

190. Defendants deliberately ignored the clear signs of Wilbert's physical abuse of Ms. Briggs, continued to assign her strikes for Wilbert's attacks against her, and doggedly pursued her removal from the property for incidents of domestic violence at her home. Indeed, immediately after the police arrested Wilbert for his first attack on Ms. Briggs, on April 9, 2012, a Norristown police officer told Ms. Briggs: "You are on three strikes. We're gonna have your landlord evict you." Defendants even sought to remove Ms. Briggs from her home just days after she was brutally attacked and almost killed by Wilbert.

191. Defendants affirmatively enacted and enforced the Old Ordinance, issued strikes against Ms. Briggs for seeking emergency assistance from Norristown police, attempted to remove her from her rental property, and terrified her into believing that she would be evicted if she continued to seek emergency assistance from the police. But for Defendants' overt actions, Ms. Briggs would have sought police protection against the repeated domestic violence perpetrated against her by Wilbert.

192. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown and continues to create a danger to Ms. Briggs and other domestic violence victims who are tenants in Norristown.

193. Accordingly, the Old Ordinance violated and the New Ordinance continues to violate the Fourteenth Amendment's Substantive Due Process Clause and its Pennsylvania equivalent.

COUNT V – EQUAL PROTECTION
(U.S. Const. amend. XIV; Pa. Const. Art. I, §§ 26 & 28)

194. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

195. The Fourteenth Amendment to United States Constitution and its Pennsylvania equivalents prohibit the denial of equal protection of the law.

196. The Old Ordinance provided less protection to victims of domestic violence than to other victims of violence, because “domestic disturbances” were specifically targeted as “disorderly behavior” that can result in the eviction of the victim.

197. The Old Ordinance and its application against domestic violence victims blamed victims for criminal conduct perpetrated against them, and treated domestic violence as a criminal justice problem less seriously than other crimes.

198. The Old Ordinance, thus, intentionally discriminated against female tenants in Norristown, such as Ms. Briggs, who are victims of domestic violence by specifically including “domestic disturbances” in the statute.

199. Ms. Briggs was injured by the Old Ordinance because she could not seek police assistance without being evicted.

200. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown.

201. The New Ordinance was enacted by Norristown with the knowledge and intent that it adversely impacts domestic violence victims’ ability to seek police assistance and maintain their housing.

202. The New Ordinance continues to provide less protection to victims of domestic violence than to other victims of violence, because “domestic disturbances” are specifically targeted as “disorderly behavior” that can result in the eviction of the victim.

203. The New Ordinance and its application against domestic violence victims blame victims for criminal conduct perpetrated against them, and treats domestic violence as a criminal justice problem less seriously than other crimes.

204. Thus, the New Ordinance continues to intentionally discriminate against female tenants in Norristown, such as Ms. Briggs, who are victims of domestic violence by specifically including “domestic disturbances” in the statute.

205. The Old Ordinance did not and the New Ordinance does not advance a compelling or important government interest, and neither is narrowly tailored nor substantially related to advance such an interest.

206. Accordingly, the Old Ordinance violated and the New Ordinance continues to violate the Fourteenth Amendment’s Equal Protection Clause and its Pennsylvania equivalents.

COUNT VI – VAGUENESS
(U.S. Const. amend. XIV; Pa. Const. Art. 1, §§ 1, 9, and 11)

207. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

208. The Fourteenth Amendment to the United States Constitution and its Pennsylvania equivalents prohibit the enforcement of legislation that is unduly vague.

209. The Old Ordinance failed to provide sufficient notice as to what conduct constitutes “disorderly behavior” and was covered by the Old Ordinance.

210. The Old Ordinance was largely incomprehensible and confusingly defined “disorderly behavior” as “activity that can be characterized as disorderly in nature,” including, among other things, “disorderly conduct.”

211. The Old Ordinance provided the Chief of Police with limitless discretion to determine what conduct was covered by the Old Ordinance and, thus, encouraged arbitrary and discriminatory enforcement.

212. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown.

213. Thus, the New Ordinance continues to fail to provide sufficient notice as to what conduct constitutes “disorderly behavior” and is covered by the Ordinances.

214. The New Ordinance continues to be largely incomprehensible and confusingly defines “disorderly behavior” as “activity that can be characterized as disorderly in nature,” including, among other things, “disorderly conduct.”

215. The New Ordinance continues to provide the Chief of Police with sole discretionary authority to determine what conduct is covered by the New Ordinance and, thus, encourages arbitrary and discriminatory enforcement.

216. Accordingly, the Old Ordinance was and the New Ordinance is void for vagueness under the Fourteenth Amendment and its Pennsylvania equivalents.

**COUNT VII – FEDERAL FAIR HOUSING ACT AND PENNSYLVANIA HUMAN
RELATIONS ACT**

**(Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*; Pennsylvania Human
Relations Act, 43 P.S. § 951 *et seq.*)**

217. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

218. The Fair Housing Act and its Pennsylvania equivalent prohibit discrimination on the basis of any protected class (including sex) in housing and further prohibit any law that purports to require or permit any action that would constitute a discriminatory housing practice or has a disparate impact on a protected class.

219. The Old Ordinance specifically targeted “domestic disturbances” as “disorderly behavior.”

220. The Old Ordinance did not distinguish between domestic violence perpetrators or victims, but instead applied against both.

221. By including domestic violence as “disorderly behavior,” Norristown had a policy of treating domestic violence offenses differently from other crimes and punishing victims who reported offenses.

222. The Old Ordinance discriminated against and had a disparate impact on female tenants in Norristown, such as Ms. Briggs, who are victims of domestic violence and, therefore, discriminated on the basis of sex.

223. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown.

224. The New Ordinance continues to target “domestic disturbances” even though Norristown was fully aware of the effects of the New Ordinance on domestic violence victims like Ms. Briggs when it was enacted.

225. The New Ordinance continues Norristown’s policy of treating domestic violence offenses differently from other crimes and punishing victims who report offenses.

226. Thus, the New Ordinance continues to discriminate against and continues to have a disparate impact on female tenants of properties in Norristown, such as Ms. Briggs, who are victims of domestic violence and, therefore, continues to discriminate on the basis of sex.

227. Defendants intentionally discriminated against Ms. Briggs on the basis of sex, making a dwelling unavailable to her, discriminating against her in the rental terms, conditions, privileges, and provision of services, and interfering with her exercise and enjoyment of rights

guaranteed under 42 U.S.C. § 3604, in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b) and 3617.

228. By adopting a policy of penalizing victims for police response to “domestic disturbances,” Defendants engaged in a practice that has a disparate impact on women, because the great majority of domestic violence victims are women, and that discriminates on the basis of sex in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b) and 3617.

229. Defendants engaged in such discriminatory conduct intentionally, willfully, and in disregard of the rights of Ms. Briggs, and she suffered injury as a result.

230. Accordingly, the Old Ordinance violated and the New Ordinance continues to violate the Fair Housing Act and its Pennsylvania equivalent.

**COUNT VIII – VIOLENCE AGAINST WOMEN ACT
(Violence Against Women Act, 42 U.S.C. § 1437f, *et seq.*)**

231. Ms. Briggs incorporates by reference the allegations in the preceding paragraphs as though set forth at length herein.

232. In 2005, the federal Violence Against Women Act enacted housing protections for victims of domestic violence who live in public and Section 8 housing. The law provides that incidents of actual or threatened domestic violence, dating violence, or stalking, shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence. Furthermore, the Violence Against Women Act provides that criminal activity directly relating to domestic violence engaged in by a member of a tenant’s household or any guest or other person shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of that domestic violence.

233. Enforcement of the Old Ordinance against tenants of properties in Norristown, such as Ms. Briggs, who are victims of domestic violence, for calls made to the police, reporting physical violence and/or criminal activity, penalized them for being victims of domestic violence.

234. The New Ordinance is substantially similar to the Old Ordinance in its unconstitutional and unlawful impact on tenants in Norristown.

235. Thus, enforcement of the New Ordinance against tenants of properties in Norristown, such as Ms. Briggs, who are victims of domestic violence, for calls made to the police, reporting physical violence and/or criminal activity, threatens to penalize them for being victims of domestic violence.

236. Accordingly, the Old Ordinance violated and the New Ordinance continues to violate the federal Violence Against Women Act and the New Ordinance is preempted under the Supremacy Clause. Federal law clearly protects domestic violence victims who hold Section 8 vouchers, like Ms. Briggs, from termination of assistance, tenancy, or occupancy rights based on incidents of domestic violence.

PRAYER FOR RELIEF

WHEREFORE, Ms. Briggs respectfully requests the following:

a. a temporary restraining order and/or preliminary injunction pursuant to Federal Rule of Civil Procedure 65 prohibiting Defendants from further implementing or enforcing the New Ordinance against Ms. Briggs' landlord for any alleged "disorderly behavior" at her rental property or from requiring their employees to do so, and from deeming any calls for police assistance to Ms. Briggs' home as a "strike" under the New Ordinance;

- b. a declaratory judgment pursuant to 28 U.S.C. §§ 2201 & 2202 and 42 U.S.C. § 1983 declaring the Ordinances, codified at Section 245-3 of the Norristown Municipal Code and enacted pursuant to Ordinance 12-15, violate the First, Fourth, and Fourteenth Amendments to the United States Constitution, their Pennsylvania constitutional equivalents, and federal and state housing law;
- c. damages against all Defendants for violating Ms. Briggs' rights under the United States Constitution, and federal and state housing law by enforcing the Old Ordinance against her;
- d. punitive damages against the Individual Defendants due to their intentional, willful, and reckless deprivation of Ms. Briggs' rights under the United States Constitution and pursuant to 42 U.S.C. § 3613(c);
- e. an order directing Defendants to take such affirmative steps as necessary to prevent discrimination, harassment and retaliation against Ms. Briggs in the future;
- f. an order awarding Ms. Briggs' the costs incurred in this litigation, including attorneys' fees pursuant to 42 U.S.C. § 1988 and § 3613(c); and
- g. such other relief as the Court deems just and proper.

Dated: April 24, 2013

Respectfully submitted,

/s/ Sara J. Rose

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VERIFICATION

I, Lakisha Briggs, hereby declare and affirm under penalty of perjury and pursuant to 28 U.S.C. § 1746 that I am the Plaintiff in this action, that I have personal knowledge of the facts set forth in the foregoing Verified Complaint, and that the facts set forth therein are true and correct to the best of my knowledge, information and belief. Executed on April 23, 2013.


Lakisha Briggs