

2010 Year End Update on Rental Registration Cases

By Bradley S. Dornish, Esq.

As we approach the end of the year and look back on our progress on Western Pennsylvania rental registration cases, it has been both a busy and a productive year. In Pittsburgh, City Council is considering the revised draft ordinance which PROA, ACRE, WPREIA, RAMP, Landlord Service Bureau and the Apartment Association of Metropolitan Pittsburgh all participated in negotiating. While RAMP and Landlord Service Bureau still intend to fight the amended ordinance when passed, on broader objections to any rental registration, WPREIA, PROA and ACRE anticipate devoting their resources to other fights against anti-landlord and anti-investor ordinances and laws.

I anticipate that a revised ordinance in Pittsburgh, with a six dollar per year fee, no inspection or zoning prerequisites for registration, and an escrow for registration funds collected until their proposed expenditure is itemized and documented, will go into effect in the Spring of 2011. Despite the planned actions against the revised ordinance, I believe an injunction against that ordinance will not be granted.

Revised ordinances in Uniontown and Connellsville appear to be functioning as expected and further action in those municipalities is not anticipated at this time. Landlords can count those actions as ultimately successful.

The completely adversarial tone of the City of New Castle in the action against the City by the Apartment Association of Lawrence County appeared to moderate at a hearing on November 12th. The City agreed to let members of that association who object to \$100 fees every other year for re-inspection and registration escrow their payments with my office until resolution of the pending suit. At the same time, the solicitor agreed to review our other cases and revised ordinances in other municipalities, and to work with us to move the case forward with discovery while the city considers revising its current ordinance to address landlords' concerns. A meeting between key members of City Council and the Association's board is also planned to open a dialogue. We are truly optimistic that we will be

able to affect change either through negotiation or court determination in New Castle in 2011.

A hearing on an injunction requested in the end of June by ACRE of Washington County against the City of Washington's ordinance was again postponed in early November, based upon a second set of revisions which the City solicitor submitted shortly before the hearing was to occur. The ACRE of Washington board and I are working on a third, and hopefully final draft of a proposed revised ordinance to submit to the judge and City Council by early December. Chances are good for resolution of the Washington case by a new ordinance or through a very narrow court hearing by early 2011.

In Erie, we recently filed a new lawsuit for the Apartment Association of Northwestern PA against that City. Erie had previously faced a challenge to its ordinance, and adjusted its fees so income matched expenses of administering the rental registration and inspection program. The objective appears to have gotten lost with changes in the composition of City Council over the last few years, and the Apartment Association had records suggesting that Erie is making a profit on its ordinance. We took depositions in November which appear to show over \$100,000 per year in excess income from rental registration. Once discovery is completed, we think Erie will work with us to eliminate the profit from rental registration. If the City won't cooperate, the information obtained through the discovery so far will make a pretty clear case in court.

In Wesleyville, south of Erie, on behalf of the Apartment Association of Northwest PA, and in Sharpsburg in Allegheny County, on behalf of WPREIA and the Sharpsburg Association of Landlords, we are in negotiation to resolve the issues with their respective rental registration ordinances before we even file with the courts. The string of current and prior cases by landlords all over Pennsylvania is helping to convince solicitors and municipal councils that we are both serious and likely to be successful in our challenges to their ordinances.

Attorney Lee Stivale on behalf of PROA groups in the eastern part of Pennsylvania has a case in Berwick waiting for appellate court action there, which could benefit all of our cases throughout the Commonwealth. But we still have many similar ordinances throughout Pennsylvania which must be individually addressed. We are preparing to file in O'Hara Township, Allegheny County, and in several municipalities in Beaver County in the near future. We can't stop until we prevent municipalities

anywhere in Pennsylvania from using rental registration and inspection as a special, unjustified and illegal tax upon residential landlords, and ultimately their tenants. Hopefully, we will make as much progress in 2011 as we have this year.

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