

IN THE COURT OF COMMON PLEAS FOR ALLEGHENY COUNTY,
PENNSYLVANIA

LANDLORD SERVICE BUREAU,
INC.,

Plaintiff,

v.

THE CITY OF PITTSBURGH;
AND COUNCIL OF THE CITY
OF PITTSBURGH,

Defendants.

CIVIL DIVISION

G.D.-21-1813

COMPLAINT FOR
INJUNCTIVE RELIEF AND
DECLARATORY JUDGMENT

FILED ON BEHALF OF PLAINTIFF

ATTORNEY OF RECORD FOR THIS
PARTY:

JOHN P. CORCORAN, JR., ESQUIRE
PA. I.D. NO. 74906

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JURY TRIAL DEMANDED

FILED

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ALLEGHENY COUNTY PA

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LANDLORD SERVICE BUREAU,
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CIVIL DIVISION

G.D.

Plaintiff,

v.

THE CITY OF PITTSBURGH;
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OF PITTSBURGH,

Defendants.

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
THE ALLEGHENY COUNTY BAR ASSOCIATION
11TH FLOOR KOPPERS BUILDING
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IN THE COURT OF COMMON PLEAS FOR ALLEGHENY COUNTY,
PENNSYLVANIA

LANDLORD SERVICE BUREAU,
INC.,

CIVIL DIVISION

G.D.

Plaintiff,

v.

THE CITY OF PITTSBURGH;
AND COUNCIL OF THE CITY
OF PITTSBURGH,

Defendants.

**COMPLAINT FOR INJUNCTIVE RELIEF
AND DECLARATORY JUDGMENT**

AND NOW, comes the Plaintiff, Landlord Service Bureau, Inc., by and through its counsel, John P. Corcoran, Jr., Esquire, and Jones, Gregg, Creehan & Gerace, LLP, and files the within Complaint for Injunctive Relief and Declaratory Judgment, and in support thereof states as follows:

PREAMBLE

The Plaintiff is a Pennsylvania Landlord service organization, among other services, that provides advocacy to protect the interests and rights of landlords throughout Western Pennsylvania and in this case specifically landlords in the City of Pittsburgh. Plaintiff brings the within action to challenge the validity of the recent enactment of the New Chapter 782 Temporary Eviction Regulation for Disease Prevention and Control Due To COVID-19 ("Eviction Regulation Ordinance"), and request this Court to strike the Eviction Regulation Ordinance in its entirety as *ultra vires*, void and unconstitutional. The Center for Disease Control has set forth regulations for an eviction moratorium that ends

on March 31, 2021. The City of Pittsburgh is imposing regulations that well exceed the Center for Disease Control Order, by forcing Landlords to renew leases; preventing the termination of leases; and prohibiting the filing of actions for eviction. The City is, therefore, violating the CDC Moratorium Order, the Landlord-Tenant Act of 1951, and the rights of due process of law guaranteed by the Pennsylvania Constitution.

The following causes of action are asserted herein:

Count I – Request for Declaratory and Injunctive Relief as the Eviction Regulation Ordinance is in Direct Violation of the Home Rule Charter and Option Plans Law, 53 Pa. C.S.A. § 2901, *et seq.*

Count II – Request for Declaratory and Injunctive Relief as the Eviction Regulation Ordinance is an Impairment of Contracts in Violation of the Pennsylvania Constitution and as pre-empted by the CDC Order.

Count III – Request for Declaratory and Injunctive Relief as the Eviction Regulation Ordinance is in Violation of the Business Uniformity Provisions of the Pennsylvania Constitution.

Count IV – Request for Declaratory and Injunctive Relief as the Eviction Regulation Ordinance Violates Article I, Section 1 and Article I, Section 9 of the Pennsylvania Constitution (Violation of Substantive and Procedural Due Process).

I. PARTIES

1. Plaintiff, Landlord Service Bureau, Inc. ("Landlord Service" or "Plaintiff"), is a Pennsylvania corporation which represents the interests of over 4,200 building owners, managers, and landlords in the City of Pittsburgh and other locales, with its principal place of business located at 12801 Route 30, Suite #5, North Huntingdon, PA 15642.

2. Plaintiff, through the auspices of the Pennsylvania Landlord Legal Defense Fund files legal actions on behalf of Landlords to protect the rights and interests of Landlords throughout Western Pennsylvania.

3. The Plaintiff has standing in that it represents a representative class of property owners and property managers engaged in the rental of properties in the City of Pittsburgh and they are all adversely effected by the enactment of the Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19.

4. Defendant, The City of Pittsburgh ("City"), is a home rule city, formerly the second class, organized and existing under the Home Rule Charter and Optional Plans Law ("Home Rule Charter"), 53 Pa. C.S. §2901, et seq., having its principal place of business located at 414 Grant Street, Fifth Floor, Pittsburgh, PA 15219.

5 Defendant Council of The City of Pittsburgh ("Council") is the duly elected legislative body of the City and, having its principal place of business located at 414 Grant Street, Fifth Floor, Pittsburgh, PA 15219.

6. The City is a home rule municipality pursuant to the Home Rule Charter and is bound by limitations contained therein.

7. Section 2962(f) of the Home Rule Charter, which is an express limitation of home rule powers imposed by the General Assembly, provides, as follows:

(f) REGULATION OF BUSINESS AND EMPLOYMENT. - **A municipality which adopts a home rule charter shall not determine duties, responsibilities or requirements placed upon businesses, occupations and employers, including the duty to withhold, remit or report taxes or penalties levied or imposed upon them or up on persons in their employment, except as expressly provided by statutes which are applicable in every part of this Commonwealth or which are applicable to all municipalities or to a class or classes of municipalities.** This subsection shall not be construed as

a limitation in fixing rates of taxation on permissible subjects of taxation.

53 Pa. C.S. §2962(f), (emphasis added)

8. Section 2962(c) of the Home Rule Charter, which is an express limitation of home rule powers imposed by the General Assembly, provides in part, as follows:

(c) PROHIBITED POWERS. -- A municipality shall not:

(2) Exercise powers contrary to, or in limitation or enlargement of, powers granted by statutes which are applicable in every part of this Commonwealth.

53 Pa. C.S. §2962(c)(2), emphasis added.

II. JURISDICTION AND VENUE

9. The jurisdiction of this action for declaratory judgment and for injunctive relief is vested in this Honorable Court by virtue of Section 7532 of the Declaratory Judgment Act, 42 Pa. C.S. §7532 and §931(a) of the Judicial Code, 42 Pa. C.S. §931(a). The venue lies in this Honorable Court by virtue of §931(c) of the Judicial Code, 42 Pa. C.S. §931(c).

III. STATEMENT OF MATERIAL FACTS

Enactment of Eviction Regulation Ordinance

10. On March 2, 2021, Council for the City of Pittsburgh (referred to herein as the "City") passed Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19 (referred to herein as "Eviction Regulation Ordinance"). A true and correct copy of the Eviction Regulation Ordinance is attached hereto as Exhibit "A."

11. The Eviction Regulation Ordinance was sent to be signed by the Mayor of Pittsburgh on March 4, 2021.

12. The Eviction Regulation Ordinance, as it is currently written, takes effect immediately.

13. On September 4, 2020 the Centers for Disease Control entered a Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19" ("CDC Order"). 85 Fed. Reg. 55292 (Sept. 4, 2020). This federal regulation preempts the purported illegal actions attempted to be taken by the City of Pittsburgh in the Eviction Regulation Ordinance.

14. Among other things, the Eviction Regulation Ordinance states that "[n]o landlord may take action to cause eviction of an individual or household except for good cause." Section 782.02(b).

15. The Eviction Regulation Ordinance also states, "No landlord can refuse to renew a lease or terminate a lease due to previous tenant non-payment or lease term violation." Section 782.02(c).

16. Accordingly, a landlord under this Eviction Regulation Ordinance Section 782.02(c) is prohibited from engaging in any contractual rights to terminate a lease and is forced to renew a lease in violation of the Landlord Tenant Act of 1951 as codified at 68 PS §§250.101-250.510-B.

COUNT I

REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF AS THE EVICTION REGULATION ORDINANCE IS IN DIRECT VIOLATION OF THE HOME RULE CHARTER AND OPTION PLANS LAW, 53 Pa. C.S.A. § 2901, et seq.

17. Paragraphs 1 through 16 are incorporated by reference as though set forth at length herein.

18. The City of Pittsburgh adopted its Home Rule Charter and Option Plans Law, 53 Pa. C.S.A § 2901, et seq. (referred to herein as "Home Rule Charter") in or around November of 1974.

19. In adopting the Home Rule Charter, the City is bound by the powers granted by the Commonwealth of Pennsylvania.

20. Pursuant to Article 9, § 2 of the Pennsylvania Constitution:

A municipality which has a home rule charter may exercise any power or perform any function not denied by this Constitution, by its home rule charter or by the General Assembly at any time.

Pa. Const. Art. 9, § 2.

21. In pertinent part, 53 Pa. C.S.A. § 2962(f) entitled "Limitation on Municipal Powers" expressly provides:

(f) Regulation of business and employment.--**A municipality which adopts a home rule charter shall not determine duties, responsibilities or requirements placed upon businesses**, occupations and employers, including the duty to withhold, remit or report taxes or penalties levied or imposed upon them or upon persons in their employment, **except as expressly provided by statutes which are applicable in every part of this Commonwealth or which are applicable to all municipalities or to a class or classes of municipalities**. This subsection shall not be construed as a limitation in fixing rates of taxation on permissible subjects of taxation.

53 Pa. C.S.A. § 2962(f). (Emphasis added).

22. Plaintiff represents the interest of property owners, managers, and/or landlord representatives currently engaged in the business or occupation of renting and investing in residential property.

23. The Eviction Regulation Ordinance under the provision Residential Eviction **Regulation** prevents property owners that rent properties from filing actions for eviction. *Eviction Ordinance* § 781.02(b). (Emphasis added).

24. Pursuant to § 781.02(c) of the Eviction Regulation Ordinance the landlord is regulated to the extent that no landlord can refuse to renew a lease or terminate a lease due to previous tenant non-payment or lease term violation.

25. In effect, rental property owners in the City of Pittsburgh, are forced to renew rental agreements with tenants, which is contrary to the most basic principles of contract law in that parties cannot be forced to continue contractual relationships.

26. Accordingly, The Eviction Regulation Ordinance explicitly places affirmative duties, responsibilities and requirements on rental property owners, which is in direct conflict with the mandates of 53 Pa. C.S.A. § 2962(f).

27. Pennsylvania courts have read § 2962(f) of the Home Rule Charter narrowly and said Charter explicitly prohibits the placement of affirmative duties on businesses. *Building Owners and Managers Assoc. of Pittsburgh v. City of Pittsburgh*, 929 A.2d 267, 271 (Pa. Cmwlth. 2007) *affirmed* 985 A.2d 711 (Pa 2009); *Hartman v. City of Allentown*, 880 A.2d 737 (Pa. Cmwlth. 2005)); *Smaller Manufacturers Council v. Counsel of the City of Pittsburgh*, 485 A.2d 73 (Pa. Commw. 1984); *Pennsylvania Restaurant and Lodging Association v. City of Pittsburgh*, 211 A3d 810 (Pa. 2019).

28. By imposing regulations on contracts for City Landlords and regulating private business terms and conditions, the City has exceeded its powers granted by the Commonwealth of Pennsylvania pursuant to the Home Rule Charter and is in direct contravention to 53 Pa. C.S.A. § 2962(f).

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant judgment in their favor and

(a) Declare that Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19 is *ultra vires*, void, and unconstitutional;

(b) Maintain the status quo by preliminarily and permanently enjoining the City of Pittsburgh and any of its agents or employees from enforcing or implementing Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19; and

(c) Award such other relief as the Court deems just and equitable.

COUNT II

REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF AS THE EVICTION REGULATION ORDINANCE IS AN IMPAIRMENT OF CONTRACTS IN VIOLATION OF THE PENNSYLVANIA CONSTITUTION

29. Paragraphs 1 through 28 are incorporated by reference as though set forth at length herein.

30. There are currently leases between Landlords and Tenants in Pittsburgh that were in full force and effect prior to the effective date of the Eviction Regulation Ordinance.

31. Article 1, Section 17, of the Pennsylvania Constitution provides that:

§17. Ex post facto laws; impairment of contracts

No *ex post facto* law, nor any law impairing the obligations of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed.

32. The Eviction Regulation Ordinance impairs existing contracts of the Plaintiff Owners and Landlords and Tenants which is in direct contravention of Pa. Const. Art. 1 §17.

33. Section 728.02(c) of the Eviction Regulation Ordinance requires landlords to renew leases and prevents termination of leases in violation of the current contractual obligations between landlords and tenants as set forth in the written contracts and guided by the principles of The Landlord Tenant Act of 1951.

34. A declaration of the invalidity of the Eviction Regulation Ordinance in light of the express provisions of Pa. Const. Art. 1, §17 will end the present uncertainty and controversy.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant judgment in their favor and

(a) Declare that Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19 is *ultra vires*, void, and unconstitutional;

(b) Maintain the status quo by preliminarily and permanently enjoining the City of Pittsburgh and any of its agents or employees from enforcing or implementing Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19; and

(c) Award such other relief as the Court deems just and equitable.

COUNT III

REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF AS THE EVICTION REGULATION ORDINANCE IS IN VIOLATION OF THE BUSINESS UNIFORMITY PROVISIONS OF THE PENNSYLVANIA CONSTITUTION

35. Paragraphs 1 through 34 are incorporated by reference as though set forth at length herein.

36. Article 3, §32, of the Pennsylvania Constitution, Pa. Const. Article 3, §32, provides in pertinent part:

§32. Certain local and special laws

The **General Assembly** shall pass no local or special law in any case which had been or can be provided for by general law and specifically the General Assembly shall not pass any local or special law:

1. Regulating the affairs of counties, cities, townships, wards, boroughs or school districts;
2. Vacating roads, town plats, streets or alleys;
3. Locating or changing county seats, erecting new counties or changing county lines;
4. Erecting new townships or boroughs, changing township lines, borough limits or school districts;
5. Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury;
6. Exempting property from taxation;
7. ***Regulating labor, trade, mining or manufacturing;***
8. Creating corporations, or amending, renewing or extending the charters thereof.

(Emphasis supplied).

37. This above-referenced constitutional restriction requires uniform treatment of all business throughout the Commonwealth because only the General Assembly, not the 2,565 subservient local government units, may establish a uniform classification system.

38. The impermissible provisions of the mandatory renewal and non-termination provisions of the Eviction Regulation Ordinance section 782.02(c) impose an unconstitutional obligation on City of Pittsburgh landlords and violates the Pennsylvania Landlord Tenant Act of 1951.

39. A declaration of the invalidity of Eviction Regulation Ordinance in light of the express provisions of Pa. Const. Art. 3, §32 will end the present uncertainty and controversy.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant judgment in their favor and

(a) Declare that Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19 is *ultra vires*, void, and unconstitutional;

(b) Maintain the status quo by preliminarily and permanently enjoining the City of Pittsburgh and any of its agents or employees from enforcing or implementing Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19; and

(c) Award such other relief as the Court deems just and equitable.

COUNT IV

REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF AS THE EVICTION REGULATION ORDINANCE VIOLATES ARTICLE I, SECTION 1 AND ARTICLE SECTION 9 OF THE PENNSYLVANIA CONSTITUTION (VIOLATION OF SUBSTANTIVE AND PROCEDURAL DUE PROCESS)

94. Paragraphs 1 through 93 are incorporated by reference as though set forth at length herein.

95. "Article I, Section 1 of the Pennsylvania Constitution protects the citizen's right to the enjoyment of private property, and governmental interference with this right is circumscribed by [] due process provisions." *Township of Exeter v. Zoning Hearing Bd. of Exeter*, 962 A.2d 653, 659 (Pa. 2009) (quoting *Hopewell Twp. Bd. of Supervisors v. Golla*, 452 A.2d 1337, 1341 (Pa. 1982)).

96. "Procedural due process is designed to protect individuals from deprivations of life, liberty or property without due process of law, and the 'amount of process that is due' depends upon the nature of the interest at stake, but includes as a root requirement both notice of deprivation and fair hearing." *Gresock v. City of Pittsburgh Civil Service Commission*, 698 A.2d 163, 169 (Pa. Cmwlth. 1997) (quoting *School Dist. of Philadelphia v. Pennsylvania Milk Marketing Bd.*, 877 F.Supp. 245, 253 (E.D. Pa. 1995)).

97. Article 1, Section 9 of the Pennsylvania Constitution provides, in pertinent part:

In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to be confronted with the witness against him, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land . . .

PA. CONST. Art. I, §9.

98. As owners of real property within the City of Pittsburgh, Plaintiffs have a constitutionally protected right to enjoy their property and to collect rents.

99. Pursuant to the Eviction Regulation Ordinance, Landlords are forced to renew leases and prohibited from terminating leases. Eviction Regulation Ordinance §781.02(c).

100. The Eviction Regulation Ordinance Section 781.02(b) violates due process and violates the Pennsylvania Landlord Tenant Act, which gives rights to Landlords to file for evictions. Moreover, the CDC Order is a temporary moratorium and Landlords still have a right to file an action for eviction.

101. The Eviction Regulation Ordinance deprives Landlords of substantial property rights without due process of law in violation of the Fourteenth Amendment to the United States Constitution and in violation of Article 1, §9 of the Constitution of Pennsylvania.

102. Article I, Section 1 of the Pennsylvania Constitution provides "[a]ll men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness."

103. The Pennsylvania Constitution guarantees the Plaintiffs' right to substantive due process and right to acquire and possess property. *Township of Exeter v. Zoning Hearing Board of Exeter Township*, 962 A.2d 653 (Pa. 2009).

104. The Eviction Regulation Ordinance eviscerates the Plaintiffs' constitutional substantive due process rights under the Pennsylvania Constitution to enter into contracts, continue contractual relationships, and file legal actions to protect their rights.

105. In addition, the Eviction Regulation Ordinance imposes confiscatory harsh criminal penalties of a fine of up to Ten Thousand Dollars (\$10,000.00) for any violation. *Eviction Regulation Ordinance §782.02(e)*.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant judgment in their favor and

(a) Declare that Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19 is *ultra vires*, void, and unconstitutional;

(b) Maintain the status quo by preliminarily and permanently enjoining the City of Pittsburgh and any of its agents or employees from enforcing or implementing Chapter 782 Temporary Eviction Regulation For Disease Prevention And Control Due to COVID-19; and

(c) Award such other relief as the Court deems just and equitable.

RESPECTFULLY SUBMITTED,

JONES, GREGG, CREEHAN & GERACE, LLP

BY: 

JOHN P. CORCORAN, JR., ESQUIRE

ATTORNEY FOR PLAINTIFF



THE CITY OF PITTSBURGH

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File #: 2021-1237 Version: [2](#) ▼

Type:	Ordinance	Status:	Mayor's Office for Signature
File created:	2/23/2021	In control:	Committee on Land Use and Economic Development
On agenda:	2/23/2021	Final action:	3/2/2021
Enactment date:		Enactment #:	
Effective date:			

Title: Ordinance amending Title VII Business Licensing, Article X Rental of Residential Housing by including new Chapter 782 Temporary Eviction Regulation For Disease Prevention and Control Due to COVID-19. (Briefing and Executive Session held 2/25/21)

Sponsors: Deborah L. Gross, All Members

[History \(7\)](#)
[Text](#)

Title

Ordinance amending Title VII Business Licensing, Article X Rental of Residential Housing by including new Chapter 782 Temporary Eviction Regulation For Disease Prevention and Control Due to COVID-19.
(Briefing and Executive Session held 2/25/21)

Body

WHEREAS, on March 13, 2020, The Mayor issued a Declaration of Disaster Emergency in response to local impact of the COVID-19 global pandemic, which was first ratified by City Council on March 17, 2020; and,

WHEREAS, the Declaration of Disaster Emergency has been renewed periodically, most recently ratified by Council on February 16, 2020, to be effective through March 16, 2021; and

WHEREAS, reported nation-wide data about COVID-19 cases indicates that compliance with recommended social distancing practices prevents community spread and surges in cases that can overwhelm healthcare systems; and

WHEREAS, if landlords are able to dispossess tenants from safe shelter for non-payment of rent when they have no financial resources to secure their own safe housing, these residents will be driven into situations that exacerbate the negative impacts of the pandemic, threatening themselves, their families, and the entire community; and

WHEREAS, on March 16, 2020, the Supreme Court of Pennsylvania issued Orders to prevent the Judiciary from effectuating an eviction, ejectment or other displacement from a residence; and

WHEREAS, currently, the President Judge of the Fifth Judicial District in which Pittsburgh is located has ordered an eviction moratorium on hearing specified claims through February 26, 2021; however, each Council District in the City has received reports of a concerning number of eviction proceedings still occurring during the court's stay with District 1 reporting 1; District 2 reporting 42; District 3 reporting 5; District 4 reporting 18; District 5 reporting 63; District 6 reporting 12; District 7 reporting 23; District 8 reporting 8; and District 9 reporting 43; and

WHEREAS, according to published census data, 71,136 of Pittsburgh's 136,275 households, i.e. more than half, live in rental units; and

WHEREAS, many rental units in Pittsburgh are owned by landlords owning a small number of properties; and

WHEREAS, approximately 26% of the funds reflected in the City's current operating budget are from real property taxes; and

WHEREAS, a 2019 Report from Allegheny County Department of Human Services (DHS) and the Pittsburgh Foundation about eviction cases in Allegheny County shows that more than two thirds of the eviction cases initiated by private landlords result in a "Pay and Stay Order" intended to allow the tenancy to continue on condition that the rent arrears are satisfied within an agreed time period; and

WHEREAS, the typical time frame from the date the eviction complaint is filed to the payment deadline or the tenant losses possession ranges from 22 to 42 days; and

WHEREAS, pandemic-related unemployment continues to strain household financial resources for many residents; and

WHEREAS, as this data suggests, many local landlords use eviction proceedings as leverage to receive payment of overdue rent and will only remove the tenant from the dwelling as a last resort: While this method imposes an additional cost on the tenant, the landlord's hoped-for outcome is only

realistic if the tenant has funds available to satisfy the obligation; and

WHEREAS, the negative impact of residential tenant evictions during the COVID-19 pandemic on the lives of Pittsburgh residents exacerbates the current pandemic-related public health emergency in the City of Pittsburgh; and

WHEREAS, in November 2020, relying on Allegheny County Department of Human Services data current as of August, 2020, it was estimated that an increased number of people were experiencing homelessness, including a 240% increase of people experiencing unsheltered homelessness compared to 2019. Those numbers could become higher as the pandemic stretches on, and factors, such as continued unemployment and evictions could lead to people being in need of shelter over the next few months; and

WHEREAS, the City has received funding from the U.S. Department of the Treasury for the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 in the amount of Eight Million, Nine Hundred Forty-Seven Thousand Six Hundred Dollars and Fifty Cents (\$8,947,600.50) to fund an emergency rental assistance program, which will provide funding for eligible tenants and landlords in the City of Pittsburgh to apply for beginning in March 2021; and

WHEREAS, such funding is primarily to be used for direct financial assistance, including rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears, and other expenses related to housing; and

WHEREAS, in conjunction with the distribution of CARES Act funding, this Section regulating evictions will assist residents insofar as preventing residential evictions stemming from COVID-19 will help reduce the spread of the pandemic and assist with averting a housing emergency in the City of Pittsburgh.

WHEREAS, imposition of a regulation on evictions from residential leaseholds during the present phase of COVID-19 is an appropriate and reasonable method to advance the significant and legitimate public purpose of addressing the current public health needs of the residents of the City of Pittsburgh; and

WHEREAS, the City of Pittsburgh is authorized to impose a regulation on evictions for disease prevention and control of the effects of the current local disaster emergency relating to COVID-19 pursuant to the Home Rule Charter and Optional Plans Law, Pittsburgh's Charter, Pittsburgh's Code of Ordinances, the Disease Prevention and Control Law, and applicable municipal laws including traditional police powers; and

WHEREAS, in undertaking these regulations, the City is seeking to protect the welfare of its residents in a temporary manner during a local disaster emergency; however, it does not seek to disturb a landlord's ability to obtain a judgment for contract damages where appropriate and likewise does not absolve tenants of any obligation to pay any amount of rent due under applicable contracts or law.

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PITTSBURGH AS FOLLOWS

Section 1: The Pittsburgh Code of Ordinances shall be amended at Title VII Business Licensing, Article X Rental of Residential Housing by including a new Chapter 782 Temporary Eviction Regulation For Disease Prevention and Control Due to COVID-19 as follows:

Chapter 782: Temporary Eviction Regulation For Disease Prevention and Control Due to COVID-19

Section 782.00 Purpose and Intent:

- (a) The City of Pittsburgh recognizes, in line with federal and state authorities that due to the economic and public health circumstances caused by the COVID-19 crisis, the general public health, safety, and welfare requires a temporary and limited regulation on the right to pursue eviction relief against residential tenants. This regulation is intended to protect a basic societal need for housing, the deprivation of which exacerbates the potential of increased community spread of COVID-19 due to unstable housing circumstances and unsheltered homelessness and is not to be construed as impacting a landlords' ability to obtain a judgment for contract damages or absolve tenants of any obligation to pay any amount of rent.
- (b) This Section is intended to supplement rather than replace existing state and federal COVID-19 relief protections put into place to prevent residential evictions.

Section 782.01 Definitions

Unless otherwise specified herein, the defined terms appearing herein shall be given the meanings listed in Section 781.01 of the City Code of Ordinances. In addition, the following words shall have the following meanings:

- (a) **Certification of COVID-19 Related Hardship.** A signed written statement from a Tenant of a Rental Unit that said tenant has lost income due to the COVID-19 pandemic and setting forth facts that provide an explanation of the COVID-19 financial hardship suffered and how such hardship has rendered timely payment of rent impracticable.

Section 782.02 Residential Eviction Regulation.

- (a) A tenant may or may not present to a court of competent jurisdiction, as a defense to the remedy of eviction specifically and exclusively for non-payment of rent, a Certification of COVID-19 Related Hardship. This defense shall act to prevent the advancement of the remedy of eviction against a tenant for non-payment of rent. This section shall not be construed to limit any other rights or remedies available to a landlord at law or equity.
- (b) No landlord may take action to cause the eviction of an individual or household except for good cause. A landlord desiring to evict an individual or household may request an exemption from the Pittsburgh Commission on Human Relations upon proof of any of the following:

- (1) Non-payment of rent and utilities, unless such non-payment was due to substantial loss of household income or hours of work or wages due to loss of employment and/or medical expenses (both those that are COVID-19 related illnesses and pre-existing illnesses). Non-payment failure also includes late fees, penalties or interest unrelated to the aforementioned reasons.
- (2) Conduct that presents an imminent threat to the health or safety of other residents, inhabitants or property staff including criminal activity in the unit or housing premises, engaging in actions or behaviors that threaten the health or safety of other residents and violating any applicable building code or health ordinance relating to health and safety.
- (3) Other material breach of the lease terms, such as criminal conduct or damage to the property, or other compelling basis not specifically enumerated herein, which breach or other basis shall be strictly scrutinized to ensure that the negative effects of a residential eviction during the

pandemic mitigated. are

- (c) No landlord can refuse to renew a lease or terminate a lease due to previous tenant non-payment or lease term violation.
- (d) The Pittsburgh Commission on Human Relations shall develop procedures for accepting and reviewing requests for exemption from the requirements of this Chapter, in partnership with such boards, authorities, and departments of the City and non- governmental entities as it finds appropriate.
- (e) Violation of this Chapter shall be subject to a summary offence which may lead to a fine of up to \$10,000.

Section 782.03 Sunset.

This Chapter 782 shall expire upon termination of the City's Disaster Emergency Declaration or by City Council legislative termination, whichever is sooner.

Section ■■■ Severability.

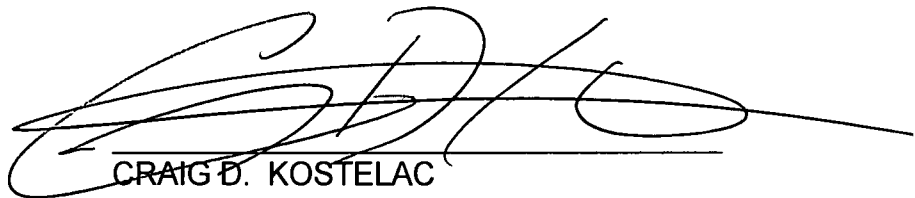
This Chapter 782 and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Chapter 782 shall not be affected thereby.

VERIFICATION

I, Craig Kostelac, of Landlord Service Bureau, Inc., Plaintiff, in the above-captioned matter, hereby verify that the statements set forth in the foregoing **COMPLAINT FOR INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT** are true and correct to the best of my knowledge, information, and belief.

Any false statements contained herein are made subject to the penalties of 18 Pa. §4904 relating to unsworn falsification to authorities.

DATED: MARCH 13/2021


CRAIG D. KOSTELAC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **COMPLAINT FOR INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT** has been furnished, via Hand-Delivery, this 4 day of March, 2021, to:

LAWRENCE BAUMILLER, SOLICITOR
CITY OF PITTSBURGH
313 CITY-COUNTY BUILDING
414 GRANT STREET
PITTSBURGH, PA 15219

JONES, GREGG, CREEHAN & GERACE, LLP

BY: 

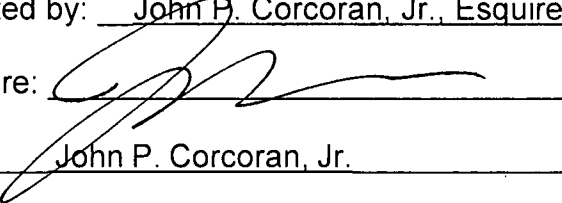
JOHN P. CORCORAN, JR., ESQUIRE

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: John P. Corcoran, Jr., Esquire

Signature: _____

Name: John P. Corcoran, Jr.

Attorney No. (if applicable): 74906

Supreme Court of Pennsylvania

Court of Common Pleas

Civil Cover Sheet

Allegheny

County

For Prothonotary Use Only:

Docket No:

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

Landlord Service Bureau, Inc.

Lead Defendant's Name:

The City of Pittsburgh, et al.

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits
☒ outside arbitration limits
(check one)

Is this a *Class Action Suit*? ☐ Yes ☒ No

Is this an *MDJ Appeal*? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: John P. Corcoran, Jr., Esquire

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

- ☐ Employment Dispute:
Discrimination
☐ Employment Dispute: Other

☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☒ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

