

FILED

MAY 13, 2020

JOSEPH A. TURULA, P.J. Cv.

BRACH EICHLER LLC

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UNION CITY PROPERTY HOUSING
INITIATIVE;

Plaintiff,

v.

CITY OF UNION CITY, MAYOR
AND BOARD OF COMMISSIONERS
OF THE CITY OF UNION CITY,
RENT LEVELING BOARD OF THE
CITY OF UNION CITY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY
DOCKET NO.: HUD-L-1772-20

Civil Action

ORDER TO SHOW CAUSE WITH
~~**TEMPORARY RESTRAINTS**~~

THIS MATTER, having been opened to the court by Brach Eichler, L.L.C., attorneys for Plaintiff, Union City Property Housing Initiative (“Plaintiff”), by way of Order to Show Cause seeking temporary and permanent injunctive relief pursuant to R. 4:52; and the Court having reviewed Plaintiff’s Verified Complaint and Brief in Support of Order to Show Cause; and the Court having found that immediate, irreparable and substantial harm may occur before the return date of this Order to Show Cause; and for good cause shown;

IT IS on this 13th day of May 2020;

HEREBY ORDERED that Defendants, the City of Union City, Mayor and Board of Commissioners of the City of Union City and the Rent Leveling Board of the City of Union City (collectively “Defendants”), shall appear and show cause before the above named court at 11 o'clock in the fore noon or as soon thereafter as counsel can be heard, on the 23rd day of JUNE 2020, why a preliminary injunction order should not be issued:

A. As to Ordinance No. 2020-07

1. Enjoining Defendants from further implementation and enforcement of Ordinance 2020-07 “An Ordinance Amending Chapter 334 to Place a Moratorium on Rent Increases” (the “Freeze Ordinance”);

2. Declaring that Freeze Ordinance is void and that the Defendants' actions are arbitrary, capricious and unreasonable and therefore unconstitutional;

3. Declaring that the Freeze Ordinance is not supported by a rational basis, violates equal protection and is unconstitutional;

4. Declaring that the Freeze Ordinance is an unconstitutional impairment of Plaintiff's right of contract;

5. Declaring that the Freeze Ordinance is an unconstitutional taking without just compensation

6. Declaring that the Freeze Ordinance is impermissibly retroactive and;

7. Declaring that the Freeze Ordinance is void and is of no purpose and effect.

B. As to Ordinance No. 2020-010

1. Enjoining Defendants from further implementation and enforcement of Ordinance No. 2020-10 “An Ordinance To Prevent Evictions For Non-Payment of Rent Resulting From The Coronavirus Emergency.” (the “Eviction Freeze.”);

2. Declaring the Eviction Freeze is preempted by New Jersey's Anti-Eviction Act, N.J.S.A. 2A:18-61.1, is void and is of no purpose and effect.

~~And it is further ORDERED that pending the return date of this application the Court is hereby:~~

D E N I E D

~~1. Temporarily restraining and enjoining Defendants from further~~

~~implementing or enforcing the Freeze Ordinance so as to allow Plaintiff and its members to provide required notices to tenants and obtain rent increases permitted by local rent control ordinances and that in the event any increased rents are collected they will be segregated from the total rent paid and be held in an interest bearing account pending adjudication of this matter;~~

~~2. Temporarily restraining and enjoining Defendants from retroactively applying the Freeze Ordinance to properly noticed rent increases due and owing March 1, 2020 and allowing Plaintiffs to collect those rent increases;~~

~~3. Temporarily restraining and enjoining Defendants from further implementing or enforcing the Eviction Freeze ordinance.~~

And it is further **ORDERED** that:

~~1. Defendants may move to dissolve or modify the temporary restraints herein contained on two (2) days' notice to Plaintiff's counsel.~~

1. A copy of this Order to Show Cause, Verified Complaint, and Brief submitted in support of this application, ^{has been} ~~shall be~~ served upon Defendants. ~~personally within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this Order being the original process.~~

~~3. Plaintiff must file with the Court its proof of service of the pleadings and this Order on the Defendants no later than three (3) days before the return date of this Order to Show Cause.~~

2. Defendants shall file and serve a written response to this Order to Show Cause and proof of service by May 27, 2020. The original document must be filed with the Clerk of the Superior Court in Hudson County, Law Division. Defendants must also send a copy of its opposition papers directly to the Honorable Joseph A. Turula, whose chambers are located at the Hudson County Superior Court in Jersey City, New Jersey. Defendants must also send a copy of its opposition papers to the Plaintiff's attorney whose name and address

DENIED

appear above. A telephone call will not protect Defendants' rights. Defendants must file its opposition ~~and pay the required fee of \$_____~~ and serve its opposition on Plaintiff's counsel if it wants the Court to hear opposition to the injunctive relief the Plaintiff is seeking.

3. Plaintiff must file and serve any written reply to Defendants' Order to Show Cause opposition by June 3, 2020. The reply papers must be filed with the Clerk of the Superior Court, Hudson County, Law Division and a copy of the reply papers must be sent directly to the chambers of the Honorable Joseph A. Turula.

4. If the Defendants do not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiff files a proof of service and a proposed form of order at least three (3) days prior to the return date.

5. If the Plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date must be submitted to the court no later than three (3) days before the return date of this Order to Show Cause.

6. Defendants take notice that the Plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court, Hudson County, Law Division in the county listed above. Include a \$175.00 filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to the Plaintiff's attorney whose name and address appear above. A telephone call will not protect your rights; you must file and serve

your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

7. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at njcourts.gov/forms/10153_deptyclerklawref.pdf. 10.

8. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than days before the return date.



HON. JOSEPH A. TURULA, P.J.Cv.

Reasons set forth by the court on the record on May 13, 2020 at 2:00 PM