

PRELIMINARY STATEMENT

As a result of the COVID-19 pandemic, the State of New Jersey has, inter alia: (1) declared a Public Health Emergency; (2) declared a State of Emergency; (3) closed non-essential businesses; (4) forbidden any public gatherings; and (5) issued a “stay at home” order. While there is no question that these actions have been necessary to prevent a higher prevalence of infection and to avoid an even greater and more tragic loss of life, a wide swath of New Jersey citizens are experiencing substantial loss of income as a result of business closures, reductions in hours, furloughs, and/or layoffs. Indeed, at a time when the unemployment rate in the United States is at its highest level since the Great Depression, many residents, including those living in the City of Union City (the “City”), have lost or have greatly reduced their ability to pay for basic necessities of life, including housing.

With the above in mind, plaintiff Union City Property Housing Initiative (“Landlords”) has decided that now is an opportune time to file a lawsuit seeking to profit on the backs of the City’s struggling working-class residents. Despite their altruistic-sounding name, the Landlords are merely a group of owners with rental properties located in the City. In short, the Landlords ask this Court to strike down an amendment to the City’s already-existing rent control ordinance and allow them to raise the rents on their properties. Further, they wish to strike a separate ordinance that would prevent them from evicting non-paying tenants.

Such a result could be draconian during the best of times; during a global health catastrophe, it is nothing short of unconscionable. The SARS-CoV-2 virus spreads

primarily through person-to-person contact.¹ It should go without saying that the entire premise behind the state-wide quarantine instituted by Executive Order 107 (Murphy) is that people need to restrict their mobility to reduce the amount of person-to-person contact and, thus, to reduce the incidence of the COVID-19 illness.

At 51,796.6 people per square mile, the City is the second-most densely populated municipality with over 5,000 residents in the United States.² Due to this high population density, the City's residents face a much greater challenge to engage in social distancing with a concomitant greater risk of coming into contact with other people, both of which lead to a greater potential of exposure to persons with the COVID-19 illness. Thus, housing security and stability are of critical importance to the City's public health plans and measures.

In order to maintain that housing stability and security, the City determined that it would amend its already-existing rent control ordinance to place an immediate, temporary moratorium on all rent increases until no later than two (2) months following the end of the State of Emergency. The City also enacted a companion ordinance to stay residential evictions until the end of the State of Emergency. It cannot be credibly argued that either of these ordinances are not rationally related to the goals of preventing the spread of the SARS-CoV-2 virus and the prevalence of the COVID-19 illness.

Yet in a callous display of inhumanity and greed, that is precisely what the Landlords are asking this Court to do, claiming that the subject ordinances violate their

¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last accessed May 22, 2020)

² United States Census Bureau (last accessed 5/22/2020): <https://www.census.gov/quickfacts/fact/table/unioncitycitynewjersey/PST045219>

contractual and constitutional rights. The facts that in the short space of 10 weeks 3,249 City residents have tested positive for the COVID-19 illness³ and that 144 of them have died⁴ does not appear to have any place in the Landlords' calculations.

The Landlords are not entitled to a preliminary injunction because, as discussed infra, it is impossible for them satisfy any one of the Crowe elements, let alone all four. First, the undisputed facts before this Court reveal the City exercised its police powers to impose a temporary moratorium on all rent increases to prevent the spread of the SARS-CoV-2 virus during an unprecedented public health emergency. Second, the law regarding rent control ordinances is well-settled – they are constitutionally valid where a rational relationship exists between the control imposed and a valid public purpose, such as the case here. Third, any damages that the Landlords may suffer are exclusively monetary in nature. Fourth, there is simply no equitable argument that favors the Landlords' unbridled greed over human safety, dignity, and life.

The Landlords already asked this Court to issue temporary restraints to stop the City's humanitarian relief efforts – their entreaty was denied. Similarly, Defendants respectfully posit that this Court should deny a preliminary injunction for the reasons stated, and the matter should move forward in a summary fashion.

³ <http://www.ucnj.com/Articles/Read.aspx?id=833>, last updated May 17, 2020

⁴ Id.