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Attorneys for Plaintiff

ADAM SZYFMAN, on behalf of himself
and all others similarly situated, RYAN
DEUTSCH, on behalf of himself and all
others similarly situated, ELIZABETH
QUAM, on behalf of herself and all others
similarly situated, DAN CAPO, on behalf
of himself and all others similarly situated,
GLASSBORO GUARDIANS and
JOHN DOE, on behalf of himself and all
others similarly situated,

Plaintiffs,

v.

BOROUGH OF GLASSBORO, RAYMOND
MARTELINI, JAMES RHYNARD and
RAYMOND DICLAUDIO,

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION
: GLOUCESTER COUNTY
:
: DOCKET NO: GLO-304-17
:
:
:
: CIVIL ACTION
:
:
:
: **SECOND AMENDED COMPLAINT,**
: **DESIGNATION OF TRIAL COUNSEL**
: **AND DEMAND FOR TRIAL BY JURY**
:
:
:
:

Plaintiffs, ADAM SZYFMAN (hereinafter A.S.), on behalf of himself and all others
similarly situated, RYAN DEUTSCH (hereinafter R.D.), on behalf of himself and all others
similarly situated, ELIZABETH QUAM (hereinafter E.Q.), on behalf of herself and all others
similarly situated, DAN CAPO (hereinafter D.C.), on behalf of himself and all others similarly
situated, GLASSBORO GUARDIANS (hereinafter G.G.), and JOHN DOE (hereinafter John),
on behalf of himself and all others similarly situated), by way of Complaint against Defendants,
BOROUGH OF GLASSBORO (hereinafter B.G.), RAYMOND MARTELINI (hereinafter

R.M.), JAMES RHYNARD (hereinafter J.R.) and RAYMOND DICLAUDIO (hereinafter R.D.C.), say:

PARTIES

1. A.S. is a property owner in the Borough of Glassboro (B.G.). He owns residential single family homes that are rented to college students (ages eighteen to twenty-three). He is a member of G.G. He sues on behalf of himself and all others similarly situated.

2. R.D. is a student at Rowan University and has resided at three different single family homes rented to college students in B.G. He has been between the ages of eighteen and twenty-three all during these rentals. He sues on behalf of himself and all others similarly situated.

3. E.Q. is a property owner and resident in B.G. She owns single family homes that are rented to college students (ages eighteen to twenty-three). She is a member of G.G. She sues on behalf of herself and all others similarly situated.

4. D.C. is an owner of property in B.G. He owns single family homes that are rented to college students (ages eighteen to twenty-three). He is a member of G.G. He sues on behalf of himself and all others similarly situated.

5. G.G. is a New Jersey non-profit corporation that is made up of property owners of single family homes in B.G. These homes are, for the most part, rented to college students between the ages of eighteen and twenty-three who attend Rowan University.

6. J.D. represents all students at Rowan University who have been discriminated against because of their age, because they are renters and those that have been unable to rent single family homes.

FACTS COMMON TO ALL PLAINTIFFS

7. Since the 1970s B.G. has adopted ordinances that have discriminated against students who attend the college/university located in the municipality (Glassboro State College/Rowan University).

8. The effect of these actions is to discriminate based upon age, as the vast majority of these students are between the ages of eighteen and twenty-two.

9. The school has not, during that time period, provided enough on-campus housing to accommodate its students. In 1972, 868 on-campus beds were available but there were 6,000 full time students. As of 2016, there were 16,155 full time students. On-campus housing can only accommodate 4,483 students, thus leaving a current shortfall of 11,672 beds. This need is being filled by the private marketplace. Owners of single family homes in B.G. are renting these houses to groups of college students. As of March 24, 2016, there were 1,129 dwellings in B.G. with rental tenants, with the total number of occupants at 3,314. Approximately eighty percent of these occupants are college students between the age of eighteen and twenty-three (or 2,651).

10. Defendants have, since the 1970s, enacted laws and selectively enforced laws in a discriminatory fashion so as to discourage, reduce and eliminate these rentals to college students.

(a) Ordinance Number 379 is the rental property ordinance. It illegally charged a fee for a “license” for many years. It now charges an improper and illegal amount of \$160.00 to register every rental property (generating \$180,640.00 per year) which is substantially beyond the cost to register and administer these properties and amounts to an illegal and unauthorized tax.

(b) Ordinance Number 379 also requires a yearly inspection of the property, even if the occupant has not changed, which is also illegal and unauthorized and inconsistent with N.J.S.A. 40:48-2.12m.

(c) Ordinance Number 379 arbitrarily discriminates between owners and renters of single family homes by requiring a substantially higher and more costly level of “performance standards” for rentals than owner occupied homes. Such requirements as exterior lighting, security locks, kitchens, cleanliness, parking and interior painting are all arbitrary, capricious and unreasonable, are all discriminatory, and all have increased the cost of housing.

(d) Ordinance Number 379-6 is void for vagueness, as it provides no standards.

11. In addition to the above, the Defendants have used Ordinance Number 379 and Ordinance Number 445 to create an arbitrary, capricious and unreasonable “parking crisis” to further illegally limit, reduce and eliminate college student rentals. Rowan has a severe parking shortage, requires a permit to park in its lots and allows no overnight parking in its “commuter lots.” College students that rent off-campus housing are commuters and if they have a vehicle must find parking off campus. B.G. has arbitrarily restricted parking in Ordinance Number 445-51 by prohibiting any parking on all streets in the Borough between 2:00 a.m. and 6:00 a.m. Thus, all vehicles must be off the street or they will be ticketed. The exception to that is a “parking permit.” In order to obtain one, however, you must be a “permanent resident of B.G.” and must prove same by showing a driver’s license, vehicle registration and insurance card with a B.G. address. Thus, no student can qualify for a parking permit. In addition, §379-5i requires one parking space for every occupant eighteen years or older in a rental, regardless of the number of cars or licensed drivers. In addition, the spaces are required to be unreasonably large (10’ x 20’) and no part of a car can be parked on the grass. Finally, Ordinance Number 16-08 is arbitrary, capricious and unreasonable as it has further taken away parking that was used by students in a municipal lot and in fact was a reprisal specifically aimed at Plaintiff A.S. for a

prior lawsuit. Other parts of Ordinance Number 445 prevent all on-street parking. These are on streets near the University and target the Rowan students.

(a) All of the above is without any rational basis and illegally discriminates between owners and renters on the face of the Ordinance or as applied.

(b) All of the above is specifically intended to reduce the number of college renters and has resulted in increased housing costs to Plaintiffs.

12. The Defendants intentionally and maliciously have violated Plaintiffs' constitutional rights to equal protection and to substantive due process.

13. The Defendants have targeted the Plaintiffs and selectively enforced Ordinances as to them.

14. The Plaintiffs have been damaged as a result of the actions of the Defendants.

FIRST COUNT

15. Plaintiffs repeat paragraphs 1 through 14 as if set forth at length in full herein.

16. Defendants have violated the New Jersey Civil Rights Act by denying Plaintiffs their rights to equal protection (renter vs. owner and age discrimination and selective enforcement).

WHEREFORE, Plaintiffs demand judgment against Defendants:

(a) For damages (compensatory and punitive);

(b) For interest; and

(c) For counsel fees and costs of suit.

SECOND COUNT

17. Plaintiffs repeat paragraphs 1 through 16 as if set forth at length in full herein.

18. Defendants have violated the New Jersey Civil Rights Act by denying Plaintiffs their rights to substantive due process.

WHEREFORE, Plaintiffs demand judgment against Defendants:

- (a) For damages (compensatory and punitive);
- (b) For interest; and
- (c) For counsel fees and costs of suit.

THIRD COUNT

19. Plaintiffs repeat paragraphs 1 through 18 as if set forth at length in full herein.

20. The Rental Property Ordinance is arbitrary, capricious and unreasonable. It amounts to a discriminatory tax. It has requirements beyond the power of the municipality to enact.

21. The Plaintiffs have been damaged.

WHEREFORE, Plaintiffs demand judgment against Defendants:

- (a) Declaring Ordinance Number 379 void;
- (b) Declaring the registration fee invalid and refunding the overpayment to Plaintiffs;
- (c) For damages (compensatory and punitive); and
- (d) For counsel fees and costs of suit.

FOURTH COUNT

22. Plaintiffs repeat paragraphs 1 through 20 as if set forth at length in full herein.

23. The Parking Ordinance Number 445 is arbitrary, capricious and unreasonable.

24. The enforcement of this Ordinance has caused Plaintiffs damages.

WHEREFORE, Plaintiffs demand judgment against Defendants:

- (a) For damages (compensatory and punitive);
- (b) For interest;
- (c) For counsel fees and costs of suit; and

(d) Declaring the entirety of Ordinance Number 445 void as arbitrary, capricious and unreasonable.

FIFTH COUNT

25. Plaintiffs repeat paragraphs 1 through 24 as if set forth at length in full herein.

26. The actions of the Defendants amount to discrimination based upon age against Plaintiffs in having the opportunity to obtain real property. Same is a violation of N.J.S.A. 10:5-4.

WHEREFORE, Plaintiffs demand judgment against Defendants:

- (a) For damages (compensatory and punitive);
- (b) For interest; and
- (c) For counsel fees and costs of suit.

SIXTH COUNT

27. Plaintiffs repeat paragraphs 1 through 26 as if set forth at length in full herein.

28. This is a class action. There are three classes represented in this action.

- (a) The first is a class made up of owners of single family homes who rent their entire houses to college students. A.S. and E.Q. are the class representatives.
- (b) The second is a class made up of college students that rent these single family homes. R.D. is the representative of this class.
- (c) The third is a class made up of students who have been precluded from renting these homes because of the improper and illegal actions of the Defendants. John is the representative of this class.

29. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of the thousands of property owners, thousands of college renters, and thousands of students precluded from renting would be impractical.

30. In addition, the damages suffered by some of the class members may be relatively small and, therefore, the expense and burden of the litigation would make it impossible for all of the class members individually to redress the wrongs done to them.

31. The prosecution of separate actions by the individual members of the class would create a risk of inconsistent or varying adjudications. In addition, those separate adjudications would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications and would substantially impair their ability to protect their interest.

32. There are questions of law or fact common to members of the class and same predominate over any other questions affecting only individual members. Thus, a class action is superior to other available methods of the fair and efficient adjudication of the controversy.

33. Plaintiffs anticipate no unusual difficulties in the management of this action as a class action.

WHEREFORE, Plaintiffs ask this Court to certify this action as a class action pursuant to R. 4:32-1.

SEVENTH COUNT

34. Plaintiffs repeat paragraphs 1 through 33 as if set forth at length in full herein.

35. Defendants have targeted Plaintiffs for selective enforcement of B.G.'s Ordinances because they have a personal animus against Plaintiffs and they know they have been violating Plaintiffs' constitutional rights in their actions.

WHEREFORE, Plaintiffs demand judgment against Defendants:

- (a) For damages (compensatory and punitive);
- (b) For interest; and

(c) For counsel fees and costs of suit.

FOX & MELOFCHIK, L.L.C.
Attorneys for Plaintiffs

Dated: Mar. ____, 2017

GARY E. FOX, ESQ.
For the Firm

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that, pursuant to R. 4:25-4, Gary E. Fox, Esq. is hereby designated as trial counsel for this matter.

FOX & MELOFCHIK, L.L.C.
Attorneys for Plaintiffs

Dated: Mar. ____, 2017

GARY E. FOX, ESQ.
For the Firm

DEMAND FOR TRIAL BY JURY

PLEASE TAKE NOTICE that Plaintiffs demand a trial by jury on all issues.

FOX & MELOFCHIK, L.L.C.
Attorneys for Plaintiffs

Dated: Mar. ____, 2017

GARY E. FOX, ESQ.
For the Firm

R. 4:5-1 CERTIFICATION

I hereby certify that the foregoing matter in controversy is not the subject of any other pending action in any court or of a pending arbitration proceeding, with the exception of Glassboro Guardians v. Borough of Glassboro, Docket No. GLO-L-1073-11, wherein judgment was entered and is currently on appeal before the Appellate Division, bearing Docket No. A-001670-16T3 and Docket No. A-001681-T3, nor is any other action or arbitration proceeding contemplated. I further certify that there are no other parties of whom I am aware who should be joined in this action.

Dated: Mar. _____, 2017

GARY E. FOX, ESQ.