

**IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

MEADVILLE LANDLORDS UNITED, LLC,

v.

THE CITY OF MEADVILLE,

A.D. 2023-268

FILED
NOV 2023 15 AM 11:01
PROthonotary
CRAWFORD COUNTY, PA

MEMORANDUM OPINION AND ORDER

This matter came before the Court for a hearing on Plaintiff, Meadville Landlords United, LLC, motion for a preliminary injunction filed October 11, 2023 attempting to enjoin the enforcement of the “CITY OF MEADVILLE RESIDENTIAL RENTAL LICENSING PROGRAM” Ordinance No. 3805 of 2022 preliminarily until this litigation is completed. Compliance with this ordinance began the day before this hearing, October 31, 2023, when all non-exempt rental property owners were required to file an application to register their rental properties and obtain a license. Plaintiff’s counsel did not present any testimony or other evidence at the hearing, but Defendant, City of Meadville, called two witnesses (the City Mayor, Jaime Kinder, and Gary Johnson its Zoning and Code Enforcement Administrator), and presented several exhibits to contest the motion. The Court also accepted uncontested representations from the plaintiff’s attorney regarding the nature of the plaintiff.

Upon inquiry by the Court, Plaintiff’s counsel indicated that Meadville Landlords United, LLC was formed, after the ordinance was adopted, by a group of rental property owners in the City of Meadville for the primary purpose of challenging the ordinance by this litigation. The LLC has the same registered address as its law firm. Plaintiff LLC itself is not an owner of rental property in Meadville but its unidentified members are owners of such rental properties who are apparently subject to this ordinance. However, Plaintiff does not represent all owners of Meadville rental properties as its members own about 800 rental units in the City of Meadville,

which is about 25% of the 3,100 rental units the City knows of that would be regulated by this ordinance. Some or all of the landlords who joined as members of the LLC wish to prevent their identities released to the public at this time. Accordingly, the parties reached a temporary accommodation whereby plaintiff's counsel will submit a list of the landlords in the LLC to attorneys for the City who shall keep that list in escrow and the information on the list shall not be released to the public by defense attorneys and their staffs nor by any person affiliated with the City of Meadville. However, defense counsel is permitted to share the information with Gary Johnson to prevent the City from pursuing enforcement and/or violations of the ordinance against those on the list until midnight on December 29, 2023, because it is believed that none of the LLC landlords have filed the required paperwork under the ordinance by the October 31, 2023 deadline, and the court is herein granting them a grace period until December 29, 2023 to comply with the ordinance by filing the appropriate paperwork, etc. as was required on October 31, 2023..

It is noteworthy that the parties agreed upon the applicable law for issuance of a preliminary injunction and that the rational basis test applied to the various constitutional challenges. Moreover, plaintiff is not challenging the legal authority of the City to enact ordinances regulating rental properties nor the need for providing safe housing to the community, but is challenging the facial constitutionality of the ordinance.

Accordingly, the Court makes the following findings and conclusions of law.

1. An initiative began in the City of Meadville around 2007 when the Commonwealth of Pennsylvania recommended a registration system be established to monitor and maintain a supply of safe and healthy rental units in the community. Gradually over the years reports on the topic were done in the City. Around 2018, the Meadville Heart and Soul Initiative conducted about 700 interviews of its citizens and listened to various complaints about unsafe and/or unhealthy conditions of some rental units, and it was

determined that a program was needed to assure safe and affordable housing for adults and children in the City.

2. Jaime Kinder was sworn in as mayor of Meadville on January 6, 2022. She grew up in Meadville in a poor family and lived in rental units as did many members of her extended family. One of her platforms when she ran for mayor was safe housing, and she made this a priority for her administration. A housing subcommittee was setup by city council that held public meetings some of which were televised and broadcast on social media. Information was received from renters, landlords, inspectors and the citizens. Eventually, a petition bearing about 1,000 signatures was presented to city council in 2022 requesting the creation of a rental unit inspection program to promote safe and healthy housing in the City. See Plaintiff's Ex. 1.
3. City Council of Meadville adopted the City of Meadville Residential Rental Licensing Program, Ordinance No. 3805 of 2022 on December 28, 2022, effective 21 days later.
4. The ordinance does not apply to all rental properties in the City and exempts many classes of properties in Section 7.
5. The City has identified about 3,100 rental units that would be regulated by the ordinance and they know of about 200 units that will need repairs to comply with the ordinance.
6. The City of Meadville has had a property maintenance code and an international property code in place for more than a decade that applies to all properties in the City. Enforcement of these codes on the rental units regulated by the subject ordinance has been ineffective for regulating the safety of rental units for several reasons. Code enforcement officers cannot go into rental units without permission of the owner but must rely upon complaints by tenants who are very concerned about retaliation from the landlord.

7. The rental licensing ordinance here did not change any of the above maintenance codes, but does require an inspection of the inside and outside of each rental unit as a condition of obtaining a rental license at the beginning of the program, and at least every two years thereafter. Ordinance Section 6(c)(2). A license will be granted only after the defects are corrected. The ordinance also mandates that the inspection be scheduled with the landlord and does not otherwise empower the inspector to simply enter a rental unit. *Id.* Section 11.
8. Upon registering a rental unit and applying for a license, the ordinance requires payment of a \$76 application fee, and a certificate of casualty and hazard insurance of at least \$25,000 per rental unit. The City anticipates that the policy would apply to demolition expenses if necessary to offset any costs incurred by the City (which may range from 8-15,000 dollars) if the owner abandons the property and it needs demolished.
9. The City has entered into a contract with Building Inspection Underwriters (BIU) to conduct the inspections under the subject ordinance at the rate of \$59.50 per inspection that the City would pay from the \$76 fee. In addition, the remaining \$16.50 of the fee would be used by the city to offset the cost of two full time city employees who would be processing the paperwork and overseeing the application and inspection process.
10. Almost 1,000 applications for rental licenses were received timely by the City.
11. Inspections under the ordinance will not begin until March 2024. The owner will have 180 to 240 days to repair any defects identified by the inspector depending on the nature of the defects and other circumstances that may affect when the repairs can be made. Ord. Section 6(6).
12. The ordinance establishes a process to appeal any decision of the code official and the Meadville Code Appeals Board comprised of three citizens who meet when needed. *Id.* Section 13.

13. The ordinance creates an “occupants’ right to report suspected violations” and a defense against landlords for the “taking of an adverse action against an occupant, including but not limited to attempting to terminate the tenancy, increasing unit rent, refusing to renew a lease or adversely changing material terms of a lease, within three (3) months of the occupant’s assertion of rights under this Ordinance” *Id.* Section 9(a).
14. Section 9(a), however, does not create a defense under the ordinance to occupants where a tenant chooses to cease letting a rental unit because the owner cannot afford to or chooses not to incur the expense for making repairs to cure defects as directed by an inspector. However, the ordinance does not affect the occupant’s rights and remedies under their lease and any other laws pertaining to landlord tenant matters.
15. The Ordinance gives the owner the **option** of naming a “responsible agent” who can accept legal notices or service of process. *Id.* Section 5(d)(3)(“The owner **may** designate a responsible agent for the acceptance of all legal notices or service of process with respect to the rental units.”).
16. All responsible agents by definition, however, must reside within a 40 mile radius of the City of Meadville. *Id.* Section 4(o). Naturally, an owner can designate themselves as a responsible agent but they are not required to name anyone. Moreover, the ordinance gives an owner who resides outside the 40 mile radius the option to avoid the expense, if any, of hiring someone to be a responsible agent inside of the 40 mile radius, by simply allowing owners not to designate anyone as a responsible agent. The trade-off under Section 5(d)(3) for not designating a responsible agent to receive and accept notices and process, is that owner agrees (by executing the registration application) “to accept service of original process for matters related only to the residential rental units

by accepting service of process through personal service or, at the option of the City, first class U.S. mail or certified U.S. mail.”

17. The City sent packets to know rental unit owners in mid-July of 2023 to assist owners in the registration and application process. Plaintiff’s Ex. 4. The packet contained a cover letter with various instructions on how to comply with the new ordinance, plus a “Rental Registration/License Application” and other material. However, the cover letter and application contain misleading information regarding appointment of responsible agents. The wording in those documents may lead an owner to conclude that they must designate a responsible agent located within the 40 mile radius that has caused those owners outside of the 40 mile radius significant consternation. While paragraph 2 of the cover letter clearly states that owners “**may** designate an agent on the application to act on their behalf,” the next sentence states “that property owners who reside more than 40 miles from the City must designate an agent who resides within that radius to provide for timely response to issues that may arise.” As stated, this information is incorrect. Under no circumstances does the ordinance mandate or require an owner to designate a responsible agent per section 5(d)(3) regardless of where they reside. The 40 mile prerequisite only applies if, and only if, the owner elects to designate a responsible agent.

18. Furthermore, the application contains the same misinformation under the heading, “Responsible Agent Information,” where it states: “Owners of Rental Units residing outside a 40-miles radius of the City of Meadville must designate a Responsible Agent to be named on the Registration/License.” Again, not accurate. The appointment of a responsible agent is optional with the owner, but if designated, then the responsible agent must be within the 40 mile radius. The City must correct both the cover letter and the application to fix this misleading information.

19. The parties agree that a preliminary injunction can only be granted if the plaintiff establishes each of the following:

- a. Plaintiff must prove that an injunction is necessary to prevent immediate and irreparable harm that cannot be compensated by money damages.
- b. Plaintiff must prove that greater injury would result from denying an injunction than granting it, and that the injunction will not substantially harm other interested parties in the case.
- c. Plaintiff must prove that the preliminary injunction will properly restore the parties to their status as it existed immediately prior to the adoption of this ordinance.
- d. Plaintiff must prove that stopping the enforcement of the ordinance pending this litigation is actionable, its right to relief is clear and it is likely to prevail on the merits.
- e. Plaintiff must prove that the injunction is reasonably suited to abate the harm the ordinance will allegedly cause them.
- f. Plaintiff must prove that the preliminary injunction will not adversely affect the public interest.

20. In order to prove that an ordinance constitutes an illegal tax collection device, plaintiff must prove that the license fee exceeds the amount needed to administer the registration/licensing process of the ordinance. Moreover, plaintiff bears the burden of proving that the fee is unreasonable. *Flynn v. Horst*, 51 A.3d 54 (Pa. 1947). "All doubt must be resolved in favor of the reasonableness of the fee, since the municipality must be given reasonable latitude in anticipating the expense of enforcing the ordinance." *Thompson v. City of Altoona Code Appeals Board*, 934 A.2d 130, 133 (Pa. Cmwlth. 2007)(\$40 annual licensing fee per residential rental unit was a permissible regulatory fee, not an unconstitutional tax). See also, *Com. ex rel. Hines v. Winfree*, 182 A.2d 698,

703 (Pa. 1962); *Stark v. Com.*, 494 A.2d 44 (Pa. Cmwlth. 1985)(\$150 annual license fee for door-to-door sales upheld as reasonable); *Phillips v. Borough of Folcroft*, 403 A.2d 194 (Pa. Cmwlth. 1979)(\$150 annual license fee for mechanical amusement devices upheld); and *Cox v. Township of New Sewickley*, 284 A.2d 829 (1971)(\$200 annual license fee for junkyard operation upheld); *Greenacres Apartments v. Bristol Township*, 482 A. 2d 1356 (Pa. Cmwlth.1984). *But see, Olan Mills v. City of Sharon*, 92 A.2d 222 (Pa. 1952).

21. It is the finding of the court that plaintiff has failed to meet its burden of proof in order to obtain a preliminary injunction with regard to the fees charged under the ordinance under the claim that it exceeds the amount needed to administer the registration/licensing process of the ordinance.
22. Plaintiff's constitutional challenges to the ordinance are facial challenges that the parties agree are subject to the rational basis test.
23. Thus, under Article I, Section 1 of the Pennsylvania Constitution substantive due process is met where "the exercise of the police power by state and local entities is limited only to the extent that the law enacted should bear a real and substantial relation to the object sought to be obtained by the law. Thus, it is only where the exercise of the police power is so palpably unreasonable as to suggest that its real object is not to protect the community or to promote the general well-being that a law is subject to judicial rejection." *Berwick Area Landlord Ass'n v. Borough of Berwick*, 48 A.3d 524, 537 (Pa. Cmwlth. 2012)(ordinance upheld that provided a system of inspections, issuance and renewal of landlord occupancy licenses with the **mandatory** designation of a manager if the owner lived 15 miles away). *Accord, McSwain v. Com.*, 520 A.2d 527, 529 (Pa. Cmwlth. 1987). This court finds that plaintiff has failed to prove at this stage of

the proceedings that it is entitled to a preliminary injunction on substantive due process grounds.

24. When “exercising its power to legislate for the general welfare of its citizens, a city has wide discretion in determining what is and is not necessary to those ends, and one challenging the constitutionality of such an enactment has the heavy burden of proving by clear and unmistakable evidence that the law bears no relationship to the ends sought by the city.” *Berwick, supra*, at 537-538 (quoting, *McSwain v. Commonwealth*, 520 A.2d 527, 529 (Pa. Cmwlth. 1987) (*en banc*)).
25. The City must provide mechanisms in ordinances so that an aggrieved party has the opportunity to challenge the various actions and decisions made to administer and enforce ordinances. Procedural due process requires the existence of an adequate system to challenge governmental actions and rectify legal and/or factual errors. The court finds that plaintiff has failed to meet its burden of proof that the ordinance on its face at this stage of the proceedings fails to provide reasonable methods to owner to appeal actions by the city to enforce and administer this ordinance. Section 12 of the ordinance requires the code official to comply with Meadville Municipal Code Section 1921.14 which calls for written notices describing alleged violations, a reasonable time to correct defects and information on how to appeal. Section 13 of the ordinance permits an appeal to the Meadville Code Appeals Board and then to the court of common pleas. Hence, plaintiff has failed to prove at this stage of the proceedings under a procedural due process claim that it is entitled to a preliminary injunction.
26. “Under the equal protection guarantees, distinctions and classifications in legislation are not prohibited, but must only bear some relationship to the ends to be achieved by the law. *Stottlemyer v. Stottlemyer*, 458 Pa. 503, 329 A.2d 892 (1974). Under the equal protection clause, a legislative classification need bear only a rational relationship to the

object sought to be achieved by the law, and will be overturned only if it rests on grounds wholly irrelevant to the achievement of the state's purpose. *McGowan v. Maryland*, 366 U.S. 420, 81 S.Ct. 1101, 6 L.Ed.2d 393 (1961).” *McSwain v. Com.*, 520 A.2d 527, 332 (Pa. Cmwlth. 1987).

27. The court finds that plaintiff has failed to meet its burden of proof at this time to establish a facial violation of the equal protection clause. To the extent that plaintiff's claim the ordinance violates equal protection because it “mandates” that owners living outside of the 40 mile radius of the city **must** designate a “responsible agent”, this court finds that contention is based on an inaccurate reading of the ordinance which the court and respondent's attorney interpret as optional, which undermines any equal protection claim. See paragraphs 16-18 above. It is likely that plaintiff's interpretation that this designation was mandatory was because of the misleading information in the cover letter and application referred to in paragraphs 16-18 above. Moreover, plaintiff has also failed to meet its burden of proof at this time of an equal protection violation based on any other classifications and distinctions created by the ordinance with regard to residential property rental units that are owner occupied, reside in or out of the 40 mile radius, or are otherwise exempt under Section 7.
28. Plaintiff has also failed to meet its burden of proof for a preliminary injunction based Section 5(d)(3)'s provision for service of process and any conflict that may exist with Pa. R.C.P. Rules 403-404, and 423-424.
29. Plaintiff has failed to meet its burden of proof for a preliminary injunction based on an alleged conflict between the Landlord Tenant Act and the Pa. Real Estate Licensing and Registration Act.
30. Since the aforesaid cover letter and application contain misleading and/or incorrect information regarding whether responsible agents are mandatory for owners located 40

miles or more outside the city, the owners of rental property who are members of the plaintiff LLC shall be granted additional time to file the necessary documentation under Sections 5 and 6 of the ordinance until December 29, 2023. Thus, this ordinance shall be unenforceable as to those owners until midnight on December 29, 2023.

31. The parties and the court agree that under Section 5(b)(2) of the ordinance, it is not required that individual partners and/or office holders and/or owners or shareholders of corporate entities be listed on registration and licensing applications. Instead, it is suffice if the name, address and other contact information be listed on the application for each rental unit, provided, however, that the owner either designate a responsible agent or identify a contact person for day-to-day operations of rental units within the city (with contact information), where the owner is a business entity of any kind.
32. Plaintiff has failed to meet its burden of proof for a preliminary injunction by failing to prove that it will suffer immediate and irreparable harm that cannot be compensated adequately by damages; that greater injury would result from refusing the injunction than from granting it, and concomitantly, the issuance of an injunction will not substantially harm other interested parties in the proceedings; that plaintiff has a clear right to relief and is likely to prevail on the merits; nor that a preliminary injunction will not adversely affect the public interest if the ordinance is enforced prior to final determination on the merits.
33. Plaintiff has also failed to meet its burden of proof for issuance of a preliminary injunction on the claim that the ordinance will be unduly burdensome and costly, and/or that it will cause substantial rent increases.

Hence, this Order:

**IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA
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MEADVILLE LANDLORDS UNITED, LLC,

v.

THE CITY OF MEADVILLE,

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A.D. 2023-268

ORDER

And now on this 1st day of November, 2023, IT IS HEREBY ORDERED as follows:

1. The motion for a preliminary objection is DENIED.
2. For the reasons set forth in the Memorandum Opinion, plaintiff's attorney shall submit a list to defense counsel bearing the names and addresses of its individual members who are rental property owners in the City of Meadville. That list shall be held in escrow and neither the list nor its contents shall be released to anyone or made public without further order of court or written consent from plaintiff's counsel, with the exception that defense counsel may share the information with the code enforcement administrator so that violations of Ordinance No. 3805 of 2022 are not pursued against those individuals until midnight on December 29, 2023. It is further Ordered that the City shall not

enforce the aforesaid ordinance against any name on the aforesaid list until midnight of December 29, 2023 and that the individual rental property owners on that list shall have until December 29, 2023 to comply with Sections 5 and 6 of this ordinance.

3. The City of Meadville shall correct the application to clarify that designation of a responsible agent is optional with all owners of rental property as set forth more fully in the foregoing Memorandum Opinion.
4. Plaintiff's attorney shall file a reply brief to defendant's preliminary objections with the court on or before December 15, 2023 if an amended complaint has not been filed.
5. Oral argument shall be held in the Crawford County Judicial Center on January 25, 2023 at 9:30AM o'clock in Courtroom No. 1.

By The Court,

Christopher J. St. John, S.J.

Christopher J. St. John, Senior Judge

Cc: H. William White, III, Esq. for Plaintiff
Charles H. Saul, Esq. for Defendant

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