

Crime-Free Ordinances are the Real Nuisance

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Agenda

- Elements of a Crime-Free Ordinance
- Pennsylvania Legal Landscape
- Violence Against Women Act (VAWA)
- Fair Housing Concerns
- Alternative Solutions



What is a Nuisance Ordinance?

A local law that requires a landlord to penalize or evict a tenant if the police are called to the rental unit.

These laws impose fines or other consequences on tenants and/or landlords for calls to the police.

These laws may also require a landlord evict a tenant after a certain number of calls to the police.

These laws are introduced as deterrents to crime, but are more likely to deter legitimate calls to the police for assistance, particularly in cases of domestic violence.

In 2014, PCADV identified 37 Pennsylvania Municipalities with housing-related Nuisance Ordinances.

- DEBORAH EPSTEIN & LISA A. GOODMAN, *DISCOUNTING WOMEN: DOUBTING DOMESTIC VIOLENCE SURVIVORS' CREDIBILITY AND DISMISSING THEIR EXPERIENCES*, 399. U. PA. L. REV. 443 (2017).



Common Elements of “Crime-Free” or “Nuisance” Ordinances

- Property owner allowed to forcibly remove tenant after several instances of “disorderly behavior” with no exception for DV incidents¹
- Eviction after several incidents, or *perceived*² incidents, occurring at or *near* the home involving residents
- Eviction after *alleged* criminal activity³, or after complaints that are unsubstantiated⁴
- Tenant prohibited from living in the jurisdiction for a period of time (6 -24 months)⁵
- Property owner’s rental license suspended or revoked
- Property owner fined
- Property owner forced to initiate an eviction, including court costs and attorney fees

¹ Briggs v. Borough of Norristown, Apr. 29, 2013, No. 2:13-cv-02191-ER (E.D.P.A.)

² Compls., 1. Somai v. City of Bedford, Jan. 30, 2020, Case No. 1:19-cv-373 (N.D. Ohio, Eastern Div.)

³ <https://www.justice.gov/opa/pr/justice-department-secures-landmark-agreement-city-and-police-department-ending-crime-free>

⁴ Board of Trustees of The Village of Groton v. Piro, N.Y.S.3d 614, 621 (N.Y. App. Div. 2017)

⁵ <https://www.aclu-mo.org/en/news/aclu-victory-ensures-maplewood-missouri-will-stop-punishing-crime-victims-under-nuisance-laws>

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§ 455-137 Purpose.

A. The purpose of this article and the policy of the City of Allentown shall be to **protect and promote the public health, safety and welfare of its citizens**, to establish rights and obligations of owners and occupants relating to residential rental units in the City and to encourage owners and occupants to maintain and improve the quality of rental housing within the community...

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§ 455-138 Definitions: DISRUPTIVE CONDUCT

Any form of conduct, action, incident or behavior perpetrated, caused or permitted by any occupant or visitor of a residential rental unit that is so loud, untimely (as to hour of the day), offensive, riotous, or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises, or causes damage to said premises or causes damages to said premises, or risks a catastrophe by destroying, damaging, disabling or failing to maintain smoke detectors or other life safety features, **such that a report is made to or by a police officer and/or a public officer complaining of such conduct, action, incident, or behavior.** It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for said person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein.

Provided, however, that **no disruptive conduct shall be deemed to have occurred unless a public officer or a police officer shall investigate** and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrences. The tenant and the owner, operator, responsible agent or manager shall be notified of any such occurrences in writing



Sample Language City of Allentown

§ 455-139 (B)(5) Occupant Duties

After three disruptive conduct incidents in any twelve-month period by an occupant documented by disruptive conduct reports, or any violation of Landlord and Tenant Act relating to drug offenses set forth in 68 P.S. § 250.505-A, the owner, operator, responsible agent or manager shall have **10 working days** from the date of his/her receiving the notice to begin eviction proceedings against the occupants. **Failure to take such action will result in the immediate revocation of the residential rental registration or residential rental license.** The residential rental unit involved shall not have its residential rental registration or residential rental license reinstated until the reinstatement fee is paid and the disruptive

occupants have been evicted, the Magisterial District Judge has ruled in the occupant's favor, the Magisterial District Judge has ruled in the owner's favor but has not ordered the eviction of the occupant(s), or the occupants have filed an appeal to a higher court or declared bankruptcy, thereby preventing their eviction. **The disruptive occupants, upon eviction, shall not reoccupy any residential rental unit on the same premises involved for a period of at least one year from date of eviction...**



Sample Language City of Allentown



§ 455-146 Protection for victims of domestic abuse or crime.

[Amended 2-4-2015 by Ord. No. 15185]

The disruptive conduct report portions of this article shall at all times comply in all respects with Pennsylvania House Bill No. 1796 Session of 2013, Printer's No. 2870, and as amended.

§ 455-145 Disruptive Conduct Board of Appeals organization and powers.

A. Any person aggrieved by any decision of a police officer or public officer in regard to a disruptive conduct report or the revocation of a residential rental registration or residential rental license based upon the issuance of disruptive conduct reports or a revocation a residential rental registration or residential rental license based on the failure to abide by any other provision of this article, may appeal to the Disruptive Conduct Board of Appeals. Such appeal must be filed, in writing with appropriate fee, within 10 working days from the date of receipt of the disruptive conduct report or notice of revocation.

[Amended 11-5-2010 by Ord. No. 14827]

Briggs v. Borough of Norristown
and PA Act 200/53 Pa.C.S. §304

Briggs v Norristown

Norristown Nuisance Ordinance

- 3 strikes, Landlord must evict or lose license
- Lakisha Briggs – 3 strikes
- Incidents of domestic violence counted as strikes
- Last incident almost resulted in her death
- Eviction successfully defended
- Norristown continued to pursue Briggs' removal

ACLU filed suit

- Right to Petition
 - 1st Amendment US Constitution, PA Constitution Art. 1, § 20
- Right to be Secure & Free from Unreasonable Searches
 - 4th Amendment, PA Art. 1, § 8
- Procedural Due Process
- State Created Danger



Legal Arguments

- Equal Protection
- Void for Vagueness
- Fair Housing Act
 - 42 U.S.C. § 3601
- Pennsylvania Human Relations Act
 - 43 P.S §951
- Violence Against Women Act (VAWA)
 - 42 U.S.C. §14043e-11

Settlement

Norristown Agreed:

- \$495,000 in damages, attorney fees & costs
- Repeal ordinance, and
- Not adopt any new ordinances that penalize a resident, landlord, or tenant for requests for police or emergency assistance.

HUD v. Norristown Conciliation Agreement



- Fair Housing Training for Councilmembers, municipal administrator, code enforcement, chief of police & police officers
- Outreach & public education regarding fair housing & right to call police when police respond to tenant calls
- Community domestic violence awareness raising events in collaboration with local dv centers

HUD Issues Guidance

- September 13, 2016
- Issued to explain how FHA applies to nuisance / crime-free ordinances
- Recommends repealing ordinances that deny access to housing or create disparities in access to emergency services as a step towards affirmatively furthering fair housing

Act 200 of 2015 - Protection for victims of abuse or crime / 53 Pa. C.S. § 304

- Preempts Municipal Law
- No ordinance of a municipality shall **penalize** a resident, tenant or landlord for police or emergency assistance by or on behalf of:
 - Victim of abuse
 - Victim of crime
 - Individual in an emergency
- Remedies
 - Civil action
 - Cease & desist
 - Compensatory damages
 - Attorney fees
 - Court costs
 - Other relief

VAWA: Section 603



- Protects right of tenant, landlord, residents, to seek law enforcement or emergency assistance
- Effective October 1, 2022

VAWA Section 603

- Applies to any municipal county or State government that receives Community Development Block Grant (CDBG) funding
- Prohibits penalties based on request for assistance
- Covered entities must review & report any of their laws or policies that impose penalties, and
- Certify their compliance or describe steps they will take to come into compliance
- Violations of VAWA now to be address by HUD:
- [Violence Against Women Act \(VAWA\) | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

Fair Housing Considerations

- FHA/HUD
- Disparate Impact
- PHRC



Exploring Alternative Solutions

Creating Solutions



Situational Awareness



- Seek clarification from elected & appointed officials around the problem or the situation they seek to solve.
- Build your own understanding of the public support for the ordinance.
- Reframe the focus: ordinance is not a holistic solution.

Promote Data-Driven Decisions

- Approach problem-solving from a data-driven perspective
- Ask about what data is driving this:
 - Quantitative
 - Anecdotal
- Who is involved in gathering and analyzing the data



Community Impact



- Acknowledge Community Concerns
- Reminds folks of existing laws
- Focus on the harms the proposed ordinance may have on uninvolved residents
 - Domestic violence victims
 - Children
 - Seniors
 - Landlords

Partnerships

Propose partnerships to solve underlying issues

- Focus on community-driven solutions rather than nuisance ordinances
- Host conversations with community-based groups
- Speak to council or governing board members around alternative solutions
- When all else fails, notify the ACLU



USEFUL LINKS AND RESOURCES...

<https://housingmatters.urban.org/articles/legal-challenges-crime-free-housing-ordinances-bring-effectiveness-question>

<https://www.povertylaw.org/article/how-local-governments-use-nuisance-ordinances-to-maintain-segregation/>

<https://www.equalhousing.org/wp-content/uploads/2024/05/Fair-Housing-Guide-for-Local-Governments.pdf>

https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9644&context=penn_law_review

<https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>

<https://www.pcadv.org/initiatives/housing-homelessness>

<https://www.nhlp.org/initiatives/nuisance/>



Thank you

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