

STATE OF RHODE ISLAND

WASHINGTON COUNTY

SUPERIOR COURT

NICHOLAS A. HAYES, and
ROBERT R. CHARTRAND, JR.

Plaintiffs

V.

WC-2020-0047

TOWN OF NARRAGANSETT,
CHRISTINE SPAGNOLI, in her capacity as
Narragansett Finance Director,
MATTHEW MANNIX, in his capacity as a
Member of the Narragansett Town Council;
JILL LAWLER, in her capacity as a Member
of the Narragansett Town Council;
RICHARD LEMA, in his capacity as a Member
of the Narragansett Town Council,
PATRICK MURRAY, in his capacity as a Member
of the Narragansett Town Council, JESSE PUGH,
in his capacity as a Member of the Narragansett
Town Council, ANTHONY L. SANTILLI, JR.,
In his capacity as the Narragansett Building Official.

Defendants

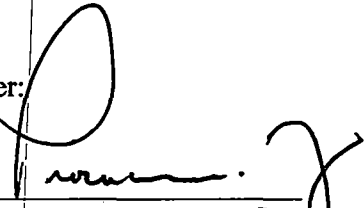
CONSENT ORDER

The above-entitled case came before this Court on January 31, 2020 on the Plaintiffs' Motion For Injunctive Relief. By agreement of the parties, it is hereby:

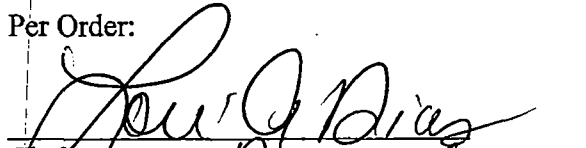
Ordered, Adjudged and Decreed:

1. For the purpose of this Order, this Court incorporates for reference an ordinance passed by the Town of Narragansett on January 21, 2020 entitled, An Emergency Ordinance of the Town of Narragansett Providing For A Moratorium On Building And Development, Under The Provisions Of Section 2-1-9(b) Of The Town Charter ("The Emergency Moratorium Ordinance")(Appended to this Order As *Exhibit A*).
2. The Defendants will not enforce the provisions of the Emergency Moratorium Ordinance as it pertains to the restrictions on the issuance of building permits in areas zoned R-40 or R-80.
3. The Emergency Moratorium Ordinance shall not apply to the issuance of building permits allowing new structures that are four or less bedrooms, or building permits for existing structures seeking approval to increase the number of bedrooms to a maximum of four.

Enter:


1-31-20, J.

Per Order:


Clerk Deputy Clerk 1

AS AGREED UPON BY THE PARTIES,

Defendants,

Plaintiffs,

By their attorney,

By their attorneys

/s/ Andrew Berg

Andrew Berg, Esq. #4754
Narragansett Asst. Town Solicitor
1350 Division Road
Suite 102
West Warwick, RI 02893
Tel. (401) 274-0113
Fax (401) 315-9774
BERG@SBLLP.NET

/s/ Joelle C. Rocha

Michael A. Kelly #2116
Joelle C. Rocha #7590
Andrew G. Blais #9719
Kelly, Souza, Rocha & Parmenter, PC
128 Dorrance Street, Suite 300
Providence, RI 02903
(401) 490-7334
mkelly@ksrplaw.com
jrocha@ksrplaw.com
ablais@ksrplaw.com

Dated: January 31, 2020

Exhibit A

TOWN OF NARRAGANSETT

CHAPTER 1074

AN EMERGENCY ORDINANCE OF THE TOWN OF NARRAGANSETT PROVIDING FOR A MORATORIUM ON BUILDING AND DEVELOPMENT, UNDER THE PROVISIONS OF SECTION 2-1-9(b) OF THE TOWN CHARTER

The Town Council, upon due and proper consideration, finds as follows:

- A. Section 2-1-9 of Article 2 of the Town Charter grants the Town Council the power and authority to enact ordinances to meet a public emergency affecting public peace, health, safety, comfort and welfare of the inhabitants of the town and for protection of persons and property; and
- B. The Community Development Department, Building Official Department and Fire Department have expressed that residential areas of the town are under threat of excessive impact as a result of the construction of single-family homes with six or more bedrooms with the sole purpose of renting these residences for profit; and
- C. Section 2.2 of Section 2 of the Zoning Ordinance defines a *single-family dwelling* as a building containing one dwelling unit, and defines *dwelling unit* as a structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress; and
- D. There is continued intent to construct large residences, identified as single-family dwellings, with six or more bedrooms for the purpose of operating commercial enterprises; and
- E. These additional bedrooms are being rented for periods as brief as one night, and as long as one year; and
- F. The Town Council is concerned for the safety of each building's occupants, as well as the impact the commercialization of these properties is having upon neighboring properties in terms of traffic, parking congestion, emergency access (police, fire and rescue) to residents, and property values; and
- G. The Town Council, Town Manager, Community Development Director, Building Department Director, Fire Chief and Fire Marshal require an opportunity to carefully review and consider regulations that govern the construction and occupation of single-family dwellings and how they correlate to rooming and lodging houses; and
- H. The Town Council hereby finds that these circumstances create an emergency pursuant to Article 2 of the Home Rule Charter of the Town of Narragansett requiring the immediate adoption of an emergency temporary moratorium ordinance on building and development for the preservation of public health, safety and welfare.

Therefore, after due deliberation and consideration, the Town Council declares the following:

Section 1. The Town Council is charged with the responsibility of providing for the orderly development of the town.

Section 2. The rapid development of single-family dwellings with six or more bedrooms being built and/or utilized to maximize income by renting out bedrooms for periods ranging from one night to one year is creating a situation where public peace, health, safety, comfort and welfare of the town's inhabitants are being threatened.

Section 3. This rapid expansion of use and occupation has resulted in an emergency situation wherein interim restrictions on building are necessary for the Town to prepare and implement appropriate policies and ordinances.

Section 4. For the period of sixty (60) days following the passage of this ordinance, all Town agencies and all Town employees shall neither accept, process, approve, deny or in any way act upon any new or incomplete application, plan, permit, license and/or fee for any new construction or use governed by this emergency ordinance for said period of time.

Section 5. Those provisions of the Town's land-use ordinances and land development and subdivision regulations that are inconsistent or conflicting with the provisions of this temporary emergency ordinance are hereby stayed, to the extent that they are applicable, for the duration of the emergency moratorium hereby ordained, but not otherwise.

Section 6. If any clause, sentence, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, action or part directly involved in the controversy in which such judgment shall have been rendered.

Section 7. This ordinance shall take effect upon its passage and, from the effective date of this ordinance until its expiration or repeal, whichever comes first, to the extent that other ordinances or parts of ordinances are inconsistent herewith, said other ordinances or parts of ordinances shall be deemed suspended, and this ordinance shall be deemed to supersede said other ordinances or parts of ordinances.

Introduced, read and passed in Town Council meeting legally called and assembled this 21st day of January, 2020.

Attest:



Theresa C. Donovan, CMC
Town Clerk