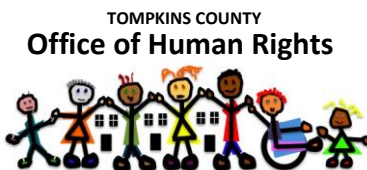




Cornell University
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TCHRC
HUMAN RIGHTS COMMISSION

Freedom from Domestic Violence Workgroup
120 West Martin Luther King, Jr. Street
Ithaca, NY 14850

10 April 2017

Honorable Mayor Christopher J. Neville
Village of Groton
P.O. Box 100
143 East Cortland Street
Groton, New York 13073

Dear Honorable Mayor Neville:

We, the Freedom from Domestic Violence Workgroup, are writing to express our concern about the Groton Property and Building Nuisance Law, Local Law No. 4 of 2014 (hereinafter Local Law No. 4) and to ask the Village Board of Trustees to repeal it. We understand the Board adopted Local Law No. 4 in an effort to improve the safety and welfare of Groton residents. We agree these goals are critically important but are concerned Local Law No. 4 will have a direct and disparate impact on Groton residents who are already at risk when it comes to housing opportunities and safety, especially those who are victims of domestic violence.

As you know, Local Law No. 4 punishes landlords for disturbances that occur on their property by assigning point values to different nuisances. Landlords are fined based on the number of disturbances occurring at a specific property over the course of six months or a year. Evidence for the total number of disturbances can be collected from records of police visits or emergency calls. Landlords are required to take action to remedy such situations and often respond by evicting the tenants who are seen as the cause of the disturbance.

As we discuss in more detail below, Local Law No. 4 does, in effect, penalize tenants who seek police protection or emergency assistance, including tenants who are victims of domestic violence, have disabilities, or are victims of crime. Calls for assistance leads to an assessment of nuisance points and, ultimately, may result in the tenant's eviction.

Local Law No. 4 has a particularly negative impact on victims of domestic violence. Nationwide, domestic-violence-related calls make up the largest categories of calls received by police departments, and domestic violence is regularly cited as nuisance conduct. Local Law No. 4, therefore, places victims of domestic violence in the untenable situation of choosing between getting the help they need and risking homelessness. By deterring victims of domestic violence and other crimes from seeking assistance, and penalizing them if they do, Local Law No. 4 not only puts tenants at risk, but also compromises the safety of the community at large.

Local Law No. 4 harms victims of domestic violence and other crimes

Under Local Law No. 4, each time victims of crime, including victims of domestic violence, call the police to report crime in their homes they may find themselves one step closer to eviction. The fear and real likelihood of eviction created by Local Law No. 4 presents a substantial dilemma for Groton residents who need to seek help from the police. Domestic violence, in particular, involves a repeated pattern of abusive incidents. According to police reports, one Groton family's experience with domestic violence and substance abuse resulted in eighteen (18) nuisance points being assigned to their home between July 2014 and February 2015.

This system of "double victimization" discourages victims from calling the police while exacerbating the barriers victims already face in securing and maintaining housing, forcing them to remain silent and endure further abuse in order to keep their homes. Recent studies of nuisance laws have found that they have the effect of forcing abused women to choose between calling the police (only to risk eviction) or staying in their apartments (only to risk more abuse). In some cases, violence may escalate because the abuser is unconstrained by potential criminal justice system intervention.

Several municipalities in our region have amended or repealed their nuisance laws because of the serious harm those laws caused to victims of domestic violence. For example, East Rochester resident Darla Wilce made frequent 911 calls in response to threats by her ex-husband.¹ East Rochester officials told the local landlord he had to abate the nuisance. So the landlord informed Ms. Wilce that he would be forced to evict her if she called 911 again. Wilce's ex-husband found out about her inability to call law enforcement and used it to threaten her, even calling police himself. Ms. Wilce and another domestic violence survivor filed a lawsuit against the town. East Rochester settled with the plaintiffs for \$100,000 and amended its law to exempt crime victims from penalty.²

In Norristown, Pennsylvania, Lakisha Briggs was forced to endure violence at the hands of her abuser so that she and her children would not lose their home.³ In order to avoid eviction, she even declined to call 911 when her abuser stabbed her in the neck. Ultimately, though, she was evicted because neighbors called for help on her behalf. After her case went to court and the U.S. Department of Housing and Urban Development (HUD) initiated an investigation, the Borough of Norristown agreed to pay Ms. Briggs a \$495,000 settlement and repealed its nuisance ordinance.⁴

We believe that Local Law No. 4 may violate the rights and protections afforded to victims of domestic violence under federal and state law. As recently as September 2016, HUD announced new guidance explaining that local nuisance ordinances that penalize tenants for calling 911 can lead to sex discrimination based on the federal Fair Housing Act.⁵ Furthermore, local governments and landlords receiving federal funding may also violate the federal Violence Against Women Act of 1994, which protects individuals residing in certain types of federally-assisted housing from eviction because of domestic

¹ ACLU Women's Rights Project, *Silenced: How Nuisance Ordinances Punish Crime Victims in New York* (2010), at 10, available at <https://www.aclu.org/report/silenced-how-nuisance-ordinances-punish-crime-victims-new-york>.

² *Id.*

³ *Id.*, at 5-6.

⁴ *Id.*

⁵ HUD, Office of Fair Housing and Equal Opportunity Guidance for Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA) (Feb. 9, 2011).

violence that is committed against them.⁶ And finally, in January 2016, New York State Human Rights Law was amended to protect victims of domestic violence in rental housing from discrimination.⁷

Local Law No. 4 harms people with disabilities

Local Law No. 4 also has a disparate impact on residents with disabilities because people with physical or mental disabilities are more likely to require support from law enforcement or medical service providers for problems involving non-violent disagreements, mental disturbances, and other medical emergencies. These types of interactions may be characterized as “disturbances” by law enforcement and lead to the assignment of nuisance points.

When it comes to protections for persons with disabilities, Local Law No. 4 may put the Village at risk of violating the Federal Fair Housing Act,⁸ New York State Human Rights Law,⁹ Section 504 of the Rehabilitation Act,¹⁰ and its federal obligation to Affirmatively Further Fair Housing.¹¹ It also appears that Local Law No. 4 is inconsistent with Groton’s own Fair Housing Law, which prohibits discrimination in the rental of housing on the basis of disability, among other protected categories.¹²

Local Law No. 4 denies tenants due process

Beyond its disproportionate negative consequences for domestic violence victims, other victims of crime, and people with disabilities, we believe Local Law No. 4 denies tenants their constitutional rights to due process and to petition the government.

The enforcement of Local Law No. 4 may result in a temporary order closing the building and removing all of its residents.¹³ This can be followed up with a permanent injunction closing down the building for one year.¹⁴ Our concern is that this process does not involve any notice or opportunities for tenants to be heard. Consequently, tenants face removal from their homes without having a chance to appeal or provide explanations, and they are not given any notice that their tenancy is at risk. Similarly, the Village may file a civil proceeding against the property where the nuisance is considered to have taken place without giving the landlord any prior opportunity to contest the nuisance designation.

⁶ Pub. L. 109-162, 119 Stat. 2960 (2006), also included in HUD Office of Fair Housing and Equal Opportunity Guidance for Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA) (Feb. 9, 2011).

⁷ NYS RPAPL § 744 (prohibiting discrimination in housing based on domestic violence status. Includes renting, terms or conditions of rental and eviction).

⁸ 42 U.S.C. §§ 1301-19 (prohibiting discrimination in the sale, rental or financing of housing based on disability, among other protected characteristics).

⁹ N.Y. Exec. L. § 296(5) (prohibiting discrimination in housing based on race and disability).

¹⁰ Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 (prohibiting governmental agencies from discriminating on the basis of disability).

¹¹ Affirmatively Furthering Fair Housing Regulations, 80 Fed. Reg. 136 (July 16, 2015) (requiring recipients of federal funds to identify and eliminate impediments to fair housing choice in their communities).

¹² Village of Groton Fair Housing Law, L.L. No. 5-1988, § 93-3. Groton’s fair housing prohibitions make it unlawful to refuse to rent or deny a dwelling to any person, or to discriminate in the terms, conditions or benefits of the rental of a dwelling, because of “handicap” among other protected categories. *Id.* § 93-3 (A-B).

¹³ Village of Groton Property and Building Law, LL. No. 4-2014 § 152-8.

¹⁴ *Id.* §152-7 (C).

Under Local Law No. 4, the term “public nuisance” is defined very broadly. It is described as “suffering or permitting the building to become disorderly,” “general disturbances at a particular location,” and numerous penal violations including “violations other than those set forth above, including but not limited to murder, attempted murder, assault, attempted assault, sex offenses etc.”¹⁵ The broad language of this definition, including the use of the word “etc.,” gives unlimited discretion to Village officials to define any activity as a violation without giving any prior warning to residents.¹⁶ The standards for evidence articulated in Local Law No. 4 for proving a public nuisance are also extremely low. For example, no charge or conviction for the violation is required while “common fame and general reputation of the building, structure or place” or “of the inhabitants or occupants thereof, or of those resorting thereto,” can amount to evidence of nuisance. As a result, tenants may be evicted for issues such as building defects or based on the views of neighbors who may simply dislike a particular tenant.

Local Law No. 4 also seems to penalize innocent tenants because no distinction is made between those who commit the nuisance conduct and those who are victimized by it or are merely present. For example, a victim of domestic violence who is assaulted by her partner could find her home assigned twelve nuisance points, which would place her at immediate risk of losing her home based on the crime that was committed against her. Moreover, as points are levied against the property as a whole, tenants risk losing their homes due to the conduct of other tenants over whom they have no control.

These procedural injustices tend to violate tenants’ and landlords’ rights to due process of the law, which is guaranteed by the Fourteenth Amendment to the U.S. Constitution and section 6 of the New York State Constitution.¹⁷ Local Law No. 4 may also infringe upon tenants’ rights under the First Amendment to the U.S. Constitution and section 9 of the New York State Constitution to petition the government because it punishes tenants who call the police to report crimes in their homes.¹⁸

Local Law No. 4 harms the safety and welfare of the Groton community

The Village of Groton has a proven record of aiming to protect its most vulnerable residents. The Village of Groton was a pioneer in adopting its Fair Housing Law to protect Groton residents from housing discrimination.¹⁹ Also, Groton representative Charles Rankin was one of the signatories of the Tompkins County Council of Government’s 2015 resolution that recognized that freedom from domestic violence is a fundamental human right.²⁰

We understand that Local Law No. 4 was adopted in that same spirit of community protection. However, we believe its unintended impact poses a great risk to the safety and welfare of the community as a whole. Victims of domestic violence already face huge barriers to getting the assistance they need, and their abusers often cut them off from family, friends, and financial resources. They face fear and danger every day, and struggle to provide better lives for their children. When victims of domestic violence and other crime risk losing their homes each time they call for help, families and neighborhoods become less safe; and when real and serious crimes go unreported, communities become less safe.

¹⁵ *Id.* §152-3 (E).

¹⁶ *Thornhill v Ala.*, 310 U.S. 88, 97-97 (1940) (holding that a statute which delegates unlimited discretion to enforcers of a criminal or civil law may be unconstitutionally overbroad).

¹⁷ U.S. Const. Amend. 14; N.Y. Const., art. I § 6.

¹⁸ U.S. Const. Amend. 1; N.Y. Const. art. I §9, cl. 1.

¹⁹ Village of Groton Fair Housing Law, L.L. No. 5-1988, § 93-3.

²⁰ Resolution of the Tompkins County Council of Governments Declaring Freedom from Domestic Violence as a Human Right, Resolution No. 2-2015.

In conclusion, we ask you to please consider repealing Local Law No. 4 in order to protect the most vulnerable residents in Groton and the community at large. We remain eager for any opportunity to discuss this important issue with you further.

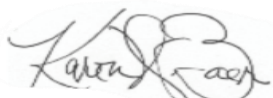
Sincerely,



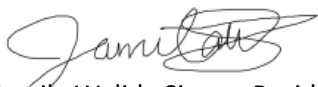
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