

HOUSING JUSTICE

National Housing Law Project

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Domestic Violence Survivor Challenges Nuisance Ordinances

Nuisance ordinances can impose penalties on landlords. These sanctions are assessed when the police are called a certain number of times to respond to disturbances that occur on the landlords' properties. Often, these ordinances aim to recover the costs associated with excessive police service and attempt to incentivize landlords to prevent criminal activity on their premises. Such laws are becoming increasingly common throughout the country both in large cities, such as Los Angeles and Chicago, and smaller localities. Some of these ordinances explicitly exempt incidents of domestic violence. However, a significant proportion of the ordinances specifically list domestic violence as a nuisance activity. These laws are problematic for domestic violence survivors seeking protection from the police for abuse being committed against them. In many situations, the ordinances force survivors to choose between protecting themselves or maintaining their housing.

Few cases have addressed the legality of these laws as applied to survivors. However, recently, in *Briggs v. Borough of Norristown*, a survivor sued the Borough of Norristown, Pennsylvania in federal court, claiming that its enforcement of certain nuisance ordinances against survivors violated a number of federal and state laws. The outcome of this case may set a legal precedent on whether these ordinances can be applied to survivors seeking protection from further abuse.

In *Briggs v. Borough of Norristown*, Lakisha Briggs, a domestic violence survivor and single

mother of two children, challenged Norristown's former and current nuisance ordinances. Norristown's original ordinance provided that landlords would have their rental licenses revoked if three instances of "disorderly behavior" were reported by the police within a two-month span. It further permitted the forcible removal of a tenant from any property under a three-strike condition. The ordinance not only granted the Chief of Police sole discretion in determining whether "disorderly behavior" existed, but also explicitly stated that "domestic disturbances" would be considered such behavior. Norristown eventually repealed the law and enacted a subsequent ordinance that replaced license revocations with large fines, but retained similar provisions as the original ordinance. For example, the new law calls for a series of daily and escalating criminal fines against landlords of any property where the police have responded to three instances of "disorderly behavior" within a four-month period. Additionally, the current ordinance strongly encourages all landlords to include in their leases language indicating that convictions of "disorderly behavior" constitute a breach of the lease.

According to the complaint, after responding to a number of domestic disturbances at Ms. Briggs's residence, the police began assessing "strikes" to Ms. Briggs's property, and warning her that three such "strikes" would lead to her eviction. Ms. Briggs alleged that after her ex-boyfriend assaulted her and her older daughter's boyfriend on separate occasions, she was left in a position where she could not contact the police without

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fearing eviction. This fear, according to Ms. Briggs, forced her to avoid police assistance when further violent incidents occurred and left her essentially defenseless when she was once again targeted by her ex-boyfriend. In one incident, Ms. Briggs's ex-boyfriend attacked her with a brick; in another, he smashed a glass ashtray against her head and stabbed her in the neck. Ms. Briggs had to be taken to an area hospital for emergency medical care and almost died. Ms. Briggs contended that despite these incidents, Norristown's officials quickly revoked Ms. Briggs's landlord's rental license and actively attempted to evict Ms. Briggs. She also alleged that it was only after her attorneys had confronted Norristown's officials did such enforcement attempts cease.

Ms. Briggs has criticized the new ordinance as a feigned repeal of the old law and has asserted that the new ordinance is plagued by the same legal deficiencies. She argues that these ordinances violate the First, Fourth, and Fourteenth Amendments of the United States Constitution and their equivalents under Pennsylvania law, as well as federal and state housing laws, including the Violence Against Women Act, Fair Housing Act and the Pennsylvania Human Relations Act. Specifically, Ms. Briggs contends that certain features of Norristown's ordinances, common in local nuisance laws across the country, are unconstitutional. These characteristics include the inability of an individual to contest the seizure of their property rights and the vague statutory description of what may constitute a "strike."

In addition, Ms. Briggs, who receives a housing subsidy from the Section 8 Choice Voucher program, alleges that the Violence Against Women Act (VAWA) prohibits Norristown from evicting survivors due to the abuse being committed against them. Specifically, she claims that there is a direct link between her calling the police because of the domestic violence and the penalty of eviction under the ordinances. VAWA provides that incidents of domestic violence do not constitute good cause for terminating tenancy of the victim of such violence. Finally, under the Fair

For More Information on *Briggs v. Borough of Norristown*

<http://www.aclu.org/womens-rights/briggs-v-borough-norristown-et-al>

Housing Act and related Pennsylvania laws, Ms. Briggs argues that that the Borough, by including "domestic disturbances" within the definition of "disorderly behavior" in the ordinances, intentionally discriminated against women, who make up the majority of survivors. She further alleges that these ordinances had a disparate impact on women in violation of the Fair Housing Act. ■

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