



SRA Sues Borough of Glenolden for Violating Homeowners' Rights

October 15, 2019

FOR IMMEDIATE RELEASE

CONTACT: 610-981-9000, sra@suburbanrealtorsalliance.com

GLENOLDEN, Pa. – The Suburban REALTORS® Alliance has filed a federal lawsuit against the Borough of Glenolden for refusing to issue residential use and occupancy certificates after municipal code inspections in accordance with state law.

The Alliance's co-plaintiff in the suit, Mohammed Rahman, recently sold a property in the borough and was subjected to the enforcement of unconstitutional ordinances that violate the Pennsylvania Municipal Code and Ordinance Compliance Act (MCOCA).

“Not only did Glenolden Borough ignore state law and impose unconstitutional conditions on the transfer of his property, the borough also extracted from Mr. Rahman more than \$1,200 in fines and has forced him to defend himself against criminal charges,” said Jamie Ridge, president and CEO of the Suburban REALTORS® Alliance. “Glenolden denied him a use and occupancy permit to which he was entitled, then levied criminal sanctions against him for his failure to have the permit. It's ridiculous, arbitrary and wrong.”

Among the unconstitutional conditions that the borough imposed on Mr. Rahman were requiring that he post a \$5,000 escrow in return for the issuance of a use and occupancy permit, and requiring that code inspection repairs be made within 30 days, both of which are prohibited by MCOCA.

“Mr. Rahman is just one example of how Glenolden's outdated ordinances and bullying enforcement tactics continue to stifle the ability of residents and Realtors® to engage in the transfer of private property,” Ridge said.

The lawsuit seeks to have Chapter 61 of Glenolden's code of ordinances, titled “Certificates of Occupancy,” declared unconstitutional and to stop enforcement techniques that violate MCOCA. Right now, the borough ordinances require that a property be brought into full compliance before the borough will issue a use and occupancy permit and allow the property to be sold. Such a restriction violates MCOCA, as amended by Act 133 of 2016, which states municipalities must issue a use and occupancy certificate after an inspection – or a temporary access permit in the case of an unsafe property – and provide no less than 12 months for repairs to be made.

-more-

SRA Sues Borough of Glenolden cont.

page 2

Mr. Rahman acceded to a borough demand that he complete all repairs within 30 days of settlement, though he was under no legal obligation to do so. He completed the repairs within 30 days, but he was still fined more than \$1,200 for not having a use and occupancy certificate at the time of settlement. The borough also held \$5,000 from Mr. Rahman in escrow during the repairs — a practice explicitly prohibited by MCOCA.

Glenolden Borough took these actions despite its officials knowing their demands violated Pennsylvania law.

“We have asked the borough for the past two years to bring its ordinances and enforcement practices in line with state law, but they have chosen to ignore it,” Ridge said. “The extent to which the borough officer’s intentional actions have harmed Rahman and other property owners and wasted the borough’s resources is undetermined at this time.”

The lawsuit — *Mohammad Z. Rahman and Suburban Realtors Alliance v. Borough of Glenolden, et al* — was filed July 24, 2019 in the Eastern District of Pennsylvania. Several borough officials are specifically named as defendants: Kenneth Pfaff, council president; James Boothby, council vice-president; Brian Razzi, borough manager; and Anthony Tartaglia, chief of code enforcement. The plaintiffs are represented by Connor, Weber & Oberlies, based in Paoli, Pennsylvania.

As a part of the lawsuit, Rahman is seeking relief from the criminal sanctions and compensation for the borough’s intentional violation of the rights that should have been afforded to him under MCOCA. The SRA has joined Rahman in the lawsuit to bring to light the borough’s unconstitutional ordinances and to force the borough to incorporate MCOCA’s rights and protections for property owners and Realtors® into the borough’s ordinances.

Although the lawsuit is still ongoing, through a sworn affidavit of Michael Puppio, the borough Solicitor, the borough has represented that it “intends to repeal its existing ordinances and to enact new ordinances consistent with MCOCA.” Under Pennsylvania law, the borough must advertise its new ordinance provisions at least seven days prior to the borough council voting to enact the new provisions.

Roughly half of the municipalities in the Philadelphia suburbs require point-of-sale inspections for property transfers, and most of them have updated their ordinances and practices to comply with MCOCA. Glenolden is one example of the municipalities who maintain ordinances and procedures in contravention of MCOCA.

-more-

SRA Sues Borough of Glenolden

page 3

About Act 133 of 2016 and MCOCA

Act 133 of 2016 is a Pennsylvania law signed by Gov. Tom Wolf that changed the way local governments issue occupancy permits to homeowners. The act amended the Municipal Code & Ordinance Compliance Act, which was passed in 2000. Act 133 was expressly designed to allow property transactions to proceed without compromising safety. The amended law allows code inspectors to issue three kinds of permits after a use and occupancy (U&O) inspection has been performed: 1) a full U&O certificate; 2) a temporary U&O certificate for minor violations, which must be fixed within 12 months; and 3) a temporary access permit, which allow buyers of unsafe homes to make necessary repairs but not move in until an inspector approves. For more information, visit www.suburbanrealtorsalliance.com/act133.

About Suburban Realtors® Alliance

The Suburban Realtors® Alliance is a subsidiary of the three largest local Realtor® associations in Pennsylvania: the Bucks County, Montgomery County and Suburban West associations of Realtors®. Between its three shareholder associations, the Alliance serves more than 12,000 members. For more information, visit www.suburbanrealtorsalliance.com.

###