

Jurisdiction

5. This paragraph states a legal conclusion to which no response is required.

Background—Jane Doe

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth of this allegation.

11. Denied. By way of further answer, during Defendant Purnell's tenure as Executive Director of WHA, WHA has not evicted a tenant solely for the lawful use or possession of a firearm or other weapon.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff Jane Doe is a responsible, law-abiding adult who is qualified to own firearms in her home for lawful self-defense and other lawful purposes. Denied that The Park View has any lease provision or rule that would prevent a resident of The Park View from lawful possession of firearms in her residence.

13. Denied. By way of further answer, Defendants received a letter dated February 1, 2010, from Robert Dowlut, General Counsel for the National Rifle Association, stating his belief that portions of WHA's Lease and Grievance Procedure for Public Housing Residents violate the Second Amendment and the Constitution of the State of Delaware. Neither Plaintiff Jane Doe nor the other residents of The Park View are subject to the lease provisions objected to in Dowlut's letter.

14. Denied. By way of further answer, none of Defendants' actions have deprived any individual of any constitutional right, whether state or federal. Because Defendants have not deprived any individual of any constitutional right, they cannot have failed to restore those constitutional rights.

15. Denied.

16. This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, they are denied.

17. Denied. By way of further answer, House Rule 24 does not prohibit the lawful possession of a firearm, nor has it been interpreted by Defendants to prohibit the lawful use of a firearm for self defense.

18. Denied. By way of further answer, the specific rule to which Plaintiffs refer provides that a tenant must "refrain from carrying a firearm or other weapon in any common area, except where the firearm or other weapon is being transported to or from the resident's unit" (emphasis added).

19. Denied. By way of further answer, many provisions in the United States Code and the Delaware Code limit the right of individuals to keep and bear arms. See, e.g., the National Firearms Act of 1934, 26 U.S.C. ch. 53; the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3711; the Gun Control Act of 1968, 18 U.S.C. ch. 44; the Brady Handgun Violence Prevention Act of 1993, 18 U.S.C. §§ 921-922; and 11 Del. C. §§ 1441-1459.

Background—Charles Boone

20. Admitted.

21. Admitted.

22. Admitted.

23. Defendants lack knowledge or information sufficient to form a belief as to the truth of this allegation.

24. Denied. By way of further answer, during Defendant Purnell's tenure as Executive Director of WHA, WHA has not evicted a tenant solely for the lawful use or possession of a firearm or other weapon.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of these allegations.

26. Denied. By way of further answer, Defendants received a letter dated February 1, 2010, from Robert Dowlut, General Counsel for the National Rifle Association, stating his belief that portions of WHA's Lease and Grievance Procedure for Public Housing Residents violate the Second Amendment and the Constitution of the State of Delaware.

27. Denied. By way of further answer, none of Defendants' actions have deprived any individual of any constitutional right, whether state or federal. Because Defendants have not deprived any individual of any constitutional right, they cannot fail to restore those constitutional rights.

28. This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, they are denied.

29. Denied. By way of further answer, during Defendant Purnell's tenure as Executive Director of WHA, WHA has not evicted a tenant solely for the lawful use or possession of a firearm or other weapon.

30. Denied. By way of further answer, WHA has initiated the lease revision procedure required by the U.S. Department of Housing and Urban Development, in order to alter Section IX.P. of WHA's Lease and Grievance Procedure for Public Housing Residents. That

procedure requires that WHA publish the proposed lease revision and then solicit comments. Until the comment period has concluded, the terms of the proposed lease amendment and the WHA weapons policy remain undetermined. By way of further answer, Defendants will not enforce Section IX.P of the WHA Lease and Grievance Procedure for Public Housing Residents. As noted above, during the period of Defendant Purnell's employment, Defendants have not evicted a public housing resident solely on the basis that he or she has possessed a firearm.

31. Denied. By way of further answer, many provisions in the United States Code and the Delaware Code limit the right of individuals to keep and bear arms. See, e.g., the National Firearms Act of 1934, 26 U.S.C. ch. 53; the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3711; the Gun Control Act of 1968, 18 U.S.C. ch. 44; the Brady Handgun Violence Prevention Act of 1993, 18 U.S.C. §§ 921-922; and 11 Del. C. §§ 1441-1459.

Basis for Injunctive Relief

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

COUNT 1—VIOLATION OF FEDERAL CONSTITUTIONAL RIGHTS

38. Defendants incorporate by reference all of the answers contained in the foregoing paragraphs as if set forth in full herein.

39. Admitted. By way of further answer, the U.S. Supreme Court has made clear that the Second Amendment does not prohibit reasonable restrictions on possession and use of

firearms, stating in *District of Columbia v. Heller*, 524 U.S. ___, 128 S. Ct. 2783, 2816-2817

(2008):

Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. ... For example, the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues. ... [N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.

We also recognize another important limitation on the right to keep and carry arms. *Miller* said, as we have explained, that the sorts of weapons protected were those “in common use at the time.” We think that limitation is fairly supported by the historical tradition of prohibiting the carrying of “dangerous and unusual weapons.” ...

40. Admitted.

41. Admitted.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

COUNT 2—VIOLATION OF STATE CONSTITUTIONAL RIGHTS

46. Defendants incorporate by reference all of the answers contained in the foregoing paragraphs as if set forth in full herein.

47. Admitted.

48. Denied.

49. Denied.

COUNT 3—PREEMPTION BY STATE LAW

50. Defendants incorporate by reference all of the answers contained in the foregoing paragraphs as if set forth in full herein.

51. This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, they are denied.

52. Admitted.

53. Admitted.

54. Admitted only that the Amended Complaint accurately quotes part of 22 Del. C. § 111; otherwise denied.

55. Admitted only that the Amended Complaint accurately quotes part of 9 Del. C. § 330(c); otherwise denied.

56. Denied.

COUNT 4—EXCEEDING SCOPE OF AUTHORITY

57. Defendants incorporate by reference all of the answers contained in the foregoing paragraphs as if set forth in full herein.

58. Denied.

59. This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, they are denied.

60. Denied.

COUNT 5—DECLARATORY RELIEF UNDER 10 DEL. C. § 6501

61. Defendants incorporate by reference all of the answers contained in the foregoing paragraphs as if set forth in full herein.

62. Denied.

63. This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, they are denied.

64. This paragraph states a legal conclusion to which no response is required. To the extent this paragraph contains factual allegations, they are denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs fail to state a claim upon which relief may be granted.
2. Plaintiffs have failed to exhaust their pre-litigation administrative remedies.
3. No case or controversy currently exists between the parties.
4. Defendants acted at all times in good faith and on reasonable grounds.
5. Defendants have not knowingly or intentionally waived any applicable defenses, and reserve the right to assert and rely on such other applicable defenses as may later become available or apparent. Defendants further reserve the right to amend their Amended Answer and Affirmative Defenses accordingly.

WHEREFORE, Defendants Wilmington Housing Authority and Frederick S. Purnell, Sr. respectfully request that this Court deny Plaintiffs' request for relief, and enter judgment in favor of the Defendants.

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