

12-1578

**In the United States Court of Appeals
for the Second Circuit**

SHUI W. KWONG; GEORGE GRECO; GLENN HERMAN; NICK
LIDAKIS; TIMOTHY S. FUREY; DANIELA GRECO; NUNZIO
CALCE; SECOND AMENDMENT FOUNDATION, INC.; THE
NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC.,

Plaintiffs-Appellants,

v.

MICHAEL R. BLOMBERG, in his Official Capacity as Mayor
of the City of New York; CITY OF NEW YORK,

Defendants-Appellees,

ATTORNEY GENERAL OF THE STATE OF NEW YORK,

Intervenor-Appellee,

ERIC T. SCHNEIDERMAN, in his Official Capacity as
Attorney General of the State of New York,

Defendant.

Appeal from a Judgment of the United States District Court
for the Southern District of New York; Hon. John G. Koeltl,
District Judge, District Court No. 11 Civ. 2356

JOINT APPENDIX: VOLUME I (JA 1 – JA 227)

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CLOSED, APPEAL, ECF

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:11-cv-02356-JGK**

Kwong et al v. Bloomberg et al
Assigned to: Judge John G. Koeltl
Cause: 42:1983 Civil Rights Act

Date Filed: 04/05/2011
Date Terminated: 03/27/2012
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**Shui W. Kwong**

represented by **David Douglas Jensen**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff**George Greco**

represented by **David Douglas Jensen**
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Plaintiff**Glenn Herman**

represented by **David Douglas Jensen**
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Plaintiff**Nick Lidakis**

represented by **David Douglas Jensen**
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Plaintiff**Timothy S. Furey**

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Plaintiff

Daniela Greco

represented by **David Douglas Jensen**
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Plaintiff

Nunzio Calce

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LEAD ATTORNEY
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Plaintiff

Second Amendment Foundation, Inc.

represented by **David Douglas Jensen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

**The New York State Rifle & Pistol
Association, Inc.**

represented by **David Douglas Jensen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Michael Bloomberg
*in his Official Capacity as Mayor of the
City of New York*

represented by **Michelle L. Goldberg-Cahn**
NYC Law Department, Office of the
Corporation Counsel (NYC)
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Defendant

City of New York

represented by **Michelle L. Goldberg-Cahn**
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ATTORNEY TO BE NOTICED

Defendant

Eric Schneiderman
*in his Official Capacity as Attorney
General of the State Of New York*
TERMINATED: 05/23/2011

represented by **Monica Anne Connell**
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General (24th Floor)
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*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Intervenor****The Attorney General of the State of
New York**represented by **Monica Anne Connell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/05/2011	<u>1</u>	COMPLAINT against Michael Bloomberg, City of New York, Eric Schneiderman. (Filing Fee \$ 350.00, Receipt Number 003290) Document filed by Daniela Greco, George Greco, Nick Lidakis, Timothy S. Furey, The New York State Rifle & Pistol Association, Inc., Second Amendment Foundation, Inc., Shui W. Kwong, Nunzio Calce, Glenn Herman.(ama) (Entered: 04/07/2011)
04/05/2011		SUMMONS ISSUED as to Michael Bloomberg, City of New York, Eric Schneiderman. (ama) (Entered: 04/07/2011)
04/05/2011		Magistrate Judge Debra C. Freeman is so designated. (ama) (Entered: 04/07/2011)
04/05/2011		Case Designated ECF. (ama) (Entered: 04/07/2011)
04/05/2011	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Second Amendment Foundation, Inc.(ama) (Entered: 04/07/2011)
04/05/2011	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by The New York State Rifle & Pistol Association, Inc.(ama) (Entered: 04/07/2011)
04/20/2011	<u>4</u>	NOTICE OF APPEARANCE by Michelle L. Goldberg-Cahn on behalf of Michael Bloomberg, City of New York (Goldberg-Cahn, Michelle) (Entered: 04/20/2011)
04/26/2011	<u>5</u>	ENDORSED LETTER addressed to Judge John G. Koeltl from Monica Connell dated 4/25/11 re: counsel for defendant New York State Attorney General Eric Schneiderman request an extension of time to respond to the Complaint. Co-defendants New York City and Mayor Michael Bloomberg, who will be separately represented by Michelle Goldberg-Calm, Senior Counsel in the New York City Law Department, also join in this request. We ask that all defendants be permitted to have until May 21, 2011 to respond to the complaint. ENDORSEMENT: APPLICATION GRANTED. Michael Bloomberg answer due 5/27/2011; City of New York answer due 5/27/2011; Eric Schneiderman answer due 5/27/2011. (Signed by Judge John G. Koeltl on 4/25/11) (pl) (Entered: 04/26/2011)

04/26/2011	<u>6</u>	NOTICE OF APPEARANCE by Monica Anne Connell on behalf of Eric Schneiderman (Connell, Monica) (Entered: 04/26/2011)
05/23/2011	<u>7</u>	ENDORSED LETTER addressed to Judge John G. Koeltl from Monica Connell dated 5/20/11 re: counsel for defendant New York State Attorney General Eric Schneiderman ask the Court for an adjournment of the pre-motion conference currently scheduled for May 31, 2011, if such conference is still necessary. ENDORSEMENT: The Conference is adjourned sine die. The parties should provide the Court with a proposed briefing stipulation. So Ordered. (Signed by Judge John G. Koeltl on 5/20/11) (pl) (Entered: 05/23/2011)
05/23/2011	<u>8</u>	STIPULATION AND ORDER OF DISMISSAL AND INTERVENTION, that, 1. Defendant Eric Schneidennan shall be and hereby is DISMISSED as a Defendant in this action pursuant to Rule 41(a) of the Federal Rules of Civil Procedure; and 2. The Attorney General of the State of New York shall and hereby does INTERVENE in this action to defend the constitutionality of Penal Law § 400.00(14) pursuant to 28 U.S.C. § 2403(b) and Rule 24(a)(1) of the Federal Rules of Civil Procedure. (Signed by Judge John G. Koeltl on 5/20/11) (pl) (Entered: 05/23/2011)
05/25/2011	<u>9</u>	NOTICE OF COURT CONFERENCE: Pretrial Conference set for 7/5/2011 at 04:30 PM in Courtroom 12B, 500 Pearl Street, New York, NY 10007 before Judge John G. Koeltl. All requests for adjournment must be made in writing to the Court. (ab) (Entered: 05/25/2011)
05/25/2011	<u>10</u>	SCHEDULING ORDER: No later than 6/22/2011, Plaintiffs will move for summary judgment, and Intervenor may move to dismiss. No later than 7/29/2011, Defendants and Intervenor will respond to Plaintiffs' motion for summary judgment, Defendants and/or Intervenor may cross-move for summary judgment, and Plaintiffs will respond to Intervenor's motion to dismiss. No later than 8/19/2011, Plaintiffs will file their reply in support of summary judgment and their opposition to any cross-motion for summary judgment, and Intervenor will file its reply in support of its motion to dismiss. No later than 9/13/2011, Defendants and/or Intervenor will file their reply in support of any cross-motion for summary judgment. (Motions due by 6/22/2011. Cross Motions due by 7/29/2011. Responses due by 8/19/2011. Replies due by 9/13/2011.) (Signed by Judge John G. Koeltl on 5/25/2011) (tro) (Entered: 05/26/2011)
05/26/2011	<u>11</u>	ANSWER to <u>1</u> Complaint,. Document filed by Michael Bloomberg, City of New York.(Goldberg-Cahn, Michelle) (Entered: 05/26/2011)
06/22/2011	<u>12</u>	ANSWER to <u>1</u> Complaint,. Document filed by The Attorney General of the State of New York.(Connell, Monica) (Entered: 06/22/2011)
06/23/2011	<u>13</u>	MOTION for Summary Judgment. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. Responses due by 7/29/2011(Jensen, David) (Entered: 06/23/2011)
06/23/2011	<u>14</u>	MEMORANDUM OF LAW in Support re: <u>13</u> MOTION for Summary

		Judgment.. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Jensen, David) (Entered: 06/23/2011)
06/23/2011	15	RULE 56.1 STATEMENT. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Attachments: # 1 Exhibit 01, # 2 Exhibit 02, # 3 Exhibit 03, # 4 Exhibit 04, # 5 Exhibit 05, # 6 Exhibit 06, # 7 Exhibit 07, # 8 Exhibit 08, # 9 Exhibit 09, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29)(Jensen, David) (Entered: 06/23/2011)
07/05/2011		Minute Entry for proceedings held before Judge John G. Koeltl: Interim Pretrial Conference held on 7/5/2011. (rjm) (Entered: 08/17/2011)
07/28/2011	16	CROSS MOTION for Summary Judgment. Document filed by Michael Bloomberg, City of New York. Responses due by 8/19/2011(Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	17	DECLARATION of Michelle Goldberg-Cahn in Opposition re: 16 CROSS MOTION for Summary Judgment., 13 MOTION for Summary Judgment.. Document filed by Michael Bloomberg, City of New York. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C and D, # 4 Exhibit E through G) (Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	18	DECLARATION of Michelle Goldberg-Cahn in Support re: 16 CROSS MOTION for Summary Judgment., 13 MOTION for Summary Judgment.. Document filed by Michael Bloomberg, City of New York. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C and D, # 4 Exhibit E through G, # 5 Exhibit H through K, # 6 Exhibit L, # 7 Exhibit M through O, # 8 Exhibit P through Q, # 9 Exhibit R through T)(Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	19	DECLARATION of Andrew Lunetta in Support re: 16 CROSS MOTION for Summary Judgment., 13 MOTION for Summary Judgment.. Document filed by Michael Bloomberg, City of New York. (Attachments: # 1 Exhibit A through I)(Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	20	DECLARATION of Andy Shiwnarain in Support re: 16 CROSS MOTION for Summary Judgment., 13 MOTION for Summary Judgment.. Document filed by Michael Bloomberg, City of New York. (Attachments: # 1 Exhibit A) (Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	21	RULE 56.1 STATEMENT. Document filed by Michael Bloomberg, City of New York. (Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	22	MEMORANDUM OF LAW in Support re: 16 CROSS MOTION for Summary Judgment., 13 MOTION for Summary Judgment. <i>and in Opposition to</i>

		<i>Plaintiffs' Motion for Summary Judgment.</i> Document filed by Michael Bloomberg, City of New York. (Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	23	COUNTER STATEMENT TO 15 Rule 56.1 Statement,,,. Document filed by Michael Bloomberg, City of New York. (Goldberg-Cahn, Michelle) (Entered: 07/28/2011)
07/28/2011	24	CROSS MOTION for Summary Judgment. Document filed by The Attorney General of the State of New York. Responses due by 8/19/2011(Connell, Monica) (Entered: 07/28/2011)
07/28/2011	25	DECLARATION of Monica A. Connell in Support re: 24 CROSS MOTION for Summary Judgment.. Document filed by The Attorney General of the State of New York. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H(1), # 9 Exhibit H(2), # 10 Exhibit I, # 11 Exhibit J)(Connell, Monica) (Entered: 07/28/2011)
07/28/2011	26	DECLARATION of Sgt. James Sherman in Support re: 24 CROSS MOTION for Summary Judgment.. Document filed by The Attorney General of the State of New York. (Connell, Monica) (Entered: 07/28/2011)
07/28/2011	27	MEMORANDUM OF LAW in Support re: 24 CROSS MOTION for Summary Judgment. <i>and in Opposition to Plaintiffs' Motion for Summary Judgment.</i> Document filed by The Attorney General of the State of New York. (Connell, Monica) (Entered: 07/28/2011)
07/28/2011	28	RULE 56.1 STATEMENT., COUNTER STATEMENT TO 15 Rule 56.1 Statement,,,. Document filed by The Attorney General of the State of New York. (Connell, Monica) (Entered: 07/28/2011)
08/22/2011	29	ENDORSED LETTER addressed to Judge John G. Koeltl from David D. Jensen dated 8/18/2011 re: My office represents Plaintiffs in this action. The parties jointly request the following modification to the scheduling order (Doc. No. 10): Plaintiffs' reply and opposition briefing, presently due August 19, 2011, will be due on August 24, 2011; and Defendants' and Intervenor's reply briefs, presently due on September 13, 2011, will be due on October 4, 2011. ENDORSEMENT: Application granted. Plaintiffs' reply and opposition due August 24, 2011. Defendants' and Intervenor's reply briefs due October 4, 2011. (Responses due by 8/24/2011, Replies due by 10/4/2011.) (Signed by Judge George B. Daniels on 8/22/2011) (lmb) (Entered: 08/22/2011)
08/25/2011	30	FILING ERROR - DEFICIENT DOCKET ENTRY - REPLY MEMORANDUM OF LAW in Support re: 13 MOTION for Summary Judgment. <i>and in Opposition to the Cross-Motions of Defendants and Intervenor.</i> Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc. (Attachments: # 1 Affidavit Supplemental Declaration of David D. Jensen) (Jensen, David) Modified on 8/26/2011 (ldi). (Entered: 08/25/2011)
08/25/2011	31	COUNTER STATEMENT TO 28 Rule 56.1 Statement, Counter Statement to

		Rule 56.1. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Attachments: # 1 Affidavit Supplemental Declaration of Miko Tempski, # 2 Affidavit Supplemental Declaration of Thomas H. King)(Jensen, David) (Entered: 08/25/2011)
08/25/2011	32	RESPONSE re: 21 Rule 56.1 Statement. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Jensen, David) (Entered: 08/25/2011)
08/25/2011	33	RESPONSE re: 28 Rule 56.1 Statement, Counter Statement to Rule 56.1. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Jensen, David) (Entered: 08/25/2011)
08/25/2011		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney David Douglas Jensen to RE-FILE Document 30 Reply Memorandum of Law in Support of Motion. ERROR(S): Supporting documents must be filed separately, each receiving their own document number. Declaration in Support of Motion is found under the event list Replies, Opposition and Supporting Documents. (ldi) (Entered: 08/26/2011)
08/26/2011	34	REPLY MEMORANDUM OF LAW in Support re: 13 MOTION for Summary Judgment. <i>and in Oppositon to Defendants' and Intervenor's Cross-Motions for Summary Judgment</i> . Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Jensen, David) (Entered: 08/26/2011)
08/26/2011	35	DECLARATION of David D. Jensen in Opposition re: 16 CROSS MOTION for Summary Judgment.. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Jensen, David) (Entered: 08/26/2011)
09/30/2011	36	ENDORSED LETTER addressed to Judge John G. Koeltl from Monica Connell dated 9/30/11 re: Counsel for the NYS Attorney General writes to ask for permission to file a reply brief that is 18 pages long. ENDORSEMENT: So ordered. (Signed by Judge John G. Koeltl on 9/30/2011) (mro) (Entered: 09/30/2011)
10/04/2011	37	REPLY MEMORANDUM OF LAW in Support re: 16 CROSS MOTION for Summary Judgment.. Document filed by Michael Bloomberg, City of New York. (Goldberg-Cahn, Michelle) (Entered: 10/04/2011)
10/04/2011	38	RESPONSE re: 31 Counter Statement to Rule 56.1, <i>City Defendants' Responses to Plaintiffs' Counter 56/1 Statement</i> . Document filed by Michael Bloomberg, City of New York. (Goldberg-Cahn, Michelle) (Entered: 10/04/2011)

10/04/2011	39	REPLY MEMORANDUM OF LAW in Support re: 24 CROSS MOTION for Summary Judgment.. Document filed by The Attorney General of the State of New York. (Connell, Monica) (Entered: 10/04/2011)
10/04/2011	40	RULE 56.1 STATEMENT. Document filed by The Attorney General of the State of New York. (Connell, Monica) (Entered: 10/04/2011)
10/05/2011	41	ENDORSED LETTER addressed to Judge John G. Koeltl from Michelle Goldberg-Cahn dated 10/5/2011 re: counsel for Defendants write that in accordance with the briefing schedule ordered by this Court, the parties' motions and cross-motions for summary judgment were fully submitted yesterday. I write collectively with counsel for plaintiffs and counsel for State-Intervenor to request permission or each party to submit courtesy copies of their own papers on the motion and cross-motions. ENDORSEMENT: Application Granted. So Ordered. (Signed by Judge John G. Koeltl on 10/5/2011) (pl) Modified on 10/5/2011 (pl). (Entered: 10/05/2011)
11/22/2011	42	NOTICE of Supplemental Authority re: 13 MOTION for Summary Judgment.. Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. (Jensen, David) (Entered: 11/22/2011)
01/13/2012	43	NOTICE OF ORAL ARGUMENT: You are directed to appear for oral argument on the pending motion(s), to be held on Tuesday, January 24, 2012 at 10:00am in Courtroom 12B, in front of the Honorable John G. Koeltl. All requests for adjournments must be made in writing to the Court. For any further information, please contact the Court at (212) 805-0107. (Oral Argument set for 1/24/2012 at 02:30 PM in Courtroom 12B, 500 Pearl Street, New York, NY 10007 before Judge John G. Koeltl). (jfe) (Entered: 01/13/2012)
01/18/2012	44	ENDORSED LETTER addressed to Judge John G. Koeltl from Monica Connell dated 1/13/12 re: Counsel writes to request an adjournment of the oral argument scheduled for 1/24/12. ENDORSEMENT: Adjourned to Friday, February 10, 2012 at 2:30 p.m. So ordered. (Oral Argument set for 2/10/2012 at 02:30 PM before Judge John G. Koeltl.) (Signed by Judge John G. Koeltl on 1/18/2012) (mro) (Entered: 01/18/2012)
02/10/2012		Minute Entry for proceedings held before Judge John G. Koeltl: Oral Argument held on 2/10/2012 re: 13 MOTION for Summary Judgment filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nick Lidakis, Nunzio Calce. (lmb) (Entered: 02/14/2012)
03/26/2012	45	OPINION AND ORDER: #101621 The Court has considered all of the arguments of the parties. To the extent not specifically addressed above, the remaining arguments are either moot or without merit. For the reasons explained above, the plaintiffs' motion for summary judgment is denied. The cross motions for summary judgment by the City Defendants and the Intervenor are granted. The Clerk is directed to enter Judgment dismissing the

		Complaint. The Clerk is also directed to close all pending motions. (Signed by Judge John G. Koeltl on 3/26/2012) (ft) Modified on 3/28/2012 (jab). (Entered: 03/26/2012)
03/26/2012		Transmission to Judgments and Orders Clerk. Transmitted re: 45 Memorandum & Opinion to the Judgments and Orders Clerk. (ft) (Entered: 03/26/2012)
03/27/2012	46	CLERK'S JUDGMENT That for the reasons stated in the Court's Opinion and Order dated March 26, 2012, Plaintiffs' motion for summary judgment is denied; the cross-motions for summary judgment by the City Defendants and the Intervenor are granted; accordingly, the Complaint is dismissed and all pending motions are closed. (Signed by Clerk of Court Ruby Krajick on 3/27/12) (Attachments: # 1 notice of right to appeal)(ml) (Entered: 03/27/2012)
04/18/2012	47	NOTICE OF CHANGE OF ADDRESS by David Douglas Jensen on behalf of All Plaintiffs. New Address: David Jensen PLLC, 111 John Street, Suite 230, New York, NY, USA 10038, (212) 380-6615. (Jensen, David) (Entered: 04/18/2012)
04/18/2012	48	NOTICE OF APPEAL from 45 Memorandum & Opinion,, Document filed by Nunzio Calce, Timothy S. Furey, Daniela Greco, George Greco, Glenn Herman, Shui W. Kwong, Nick Lidakis, Second Amendment Foundation, Inc., The New York State Rifle & Pistol Association, Inc.. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Jensen, David) (Entered: 04/18/2012)
04/18/2012		Appeal Fee Due: for 48 Notice of Appeal,, \$455.00 Appeal fee due by 5/2/2012. (nd) (Entered: 04/18/2012)
04/18/2012		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 48 Notice of Appeal,, (nd) (Entered: 04/18/2012)
04/18/2012		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for 24 CROSS MOTION for Summary Judgment. filed by The Attorney General of the State of New York, 7 Endorsed Letter, Terminate Deadlines and Hearings,, 45 Memorandum & Opinion,, 36 Endorsed Letter, 46 Clerk's Judgment, 5 Endorsed Letter, Set Deadlines,,, 28 Rule 56.1 Statement, Counter Statement to Rule 56.1 filed by The Attorney General of the State of New York, 18 Declaration in Support of Motion, filed by Michael Bloomberg, City of New York, 16 CROSS MOTION for Summary Judgment. filed by Michael Bloomberg, City of New York, 43 Notice of Hearing, 26 Declaration in Support of Motion filed by The Attorney General of the State of New York, 23 Counter Statement to Rule 56.1 filed by Michael Bloomberg, City of New York, 19 Declaration in Support of Motion filed by Michael Bloomberg, City of New York, 8 Stipulation and Order of Dismissal,, 14 Memorandum of Law in Support of Motion, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nick Lidakis, Nunzio Calce, 3 Rule 7.1 Corporate Disclosure Statement filed by The New York State Rifle & Pistol Association, Inc., 21 Rule 56.1 Statement filed by City of New York, Michael Bloomberg, 17 Declaration in

Opposition to Motion, filed by City of New York, Michael Bloomberg, [42](#) Notice (Other), Notice (Other) filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [12](#) Answer to Complaint filed by The Attorney General of the State of New York, [38](#) Response filed by City of New York, Michael Bloomberg, [13](#) MOTION for Summary Judgment. filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [47](#) Notice of Change of Address filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [11](#) Answer to Complaint filed by City of New York, Michael Bloomberg, [39](#) Reply Memorandum of Law in Support of Motion filed by The Attorney General of the State of New York, [27](#) Memorandum of Law in Support of Motion filed by The Attorney General of the State of New York, [35](#) Declaration in Opposition to Motion, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [37](#) Reply Memorandum of Law in Support of Motion filed by City of New York, Michael Bloomberg, [32](#) Response, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [41](#) Endorsed Letter,, [25](#) Declaration in Support of Motion, filed by The Attorney General of the State of New York, [6](#) Notice of Appearance filed by Eric Schneiderman, [9](#) Notice of Hearing, [33](#) Response, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [4](#) Notice of Appearance filed by City of New York, Michael Bloomberg, [20](#) Declaration in Support of Motion filed by City of New York, Michael Bloomberg, [1](#) Complaint, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [2](#) Rule 7.1 Corporate Disclosure Statement filed by Second Amendment Foundation, Inc., [44](#) Endorsed Letter, Set Hearings,, [34](#) Reply Memorandum of Law in Support of Motion, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [10](#) Scheduling Order,,, [31](#) Counter Statement to Rule 56.1, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [29](#) Endorsed Letter, Set Deadlines,,, [22](#) Memorandum of Law in Support of Motion, filed by City of New York, Michael Bloomberg, [48](#) Notice of Appeal, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis, [40](#) Rule 56.1 Statement filed by The Attorney General of the State of New York, [15](#) Rule 56.1 Statement,,, filed by Second Amendment Foundation, Inc., Daniela

		Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nunzio Calce, Nick Lidakis were transmitted to the U.S. Court of Appeals. (nd) (Entered: 04/18/2012)
05/01/2012		USCA Appeal Fees received \$ 455.00 receipt number 465401036927 on 05/01/2012 re: 48 Notice of Appeal, filed by Second Amendment Foundation, Inc., Daniela Greco, Shui W. Kwong, Timothy S. Furey, Glenn Herman, George Greco, The New York State Rifle & Pistol Association, Inc., Nick Lidakis, Nunzio Calce. (nd) (Entered: 05/01/2012)

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Billable Pages:	8	Cost:	0.80

JUDGE KOELTL

11 CV 2356

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

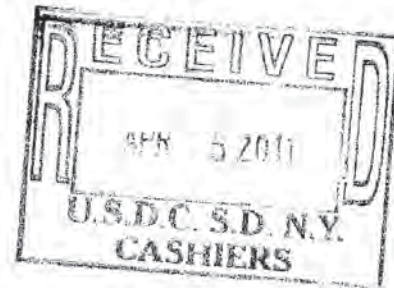
SHUI W. KWONG; GEORGE GRECO; GLENN HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY; DANIELA GRECO; NUNZIO CALCE; SECOND AMENDMENT FOUNDATION, INC.; and THE NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official Capacity as Mayor of the City of New York; CITY OF NEW YORK; and ERIC SCHNEIDERMAN, in his Official Capacity as Attorney General of the State of New York,

Defendants.



**COMPLAINT FOR DEPRIVATION OF
CIVIL RIGHTS UNDER COLOR OF LAW**

Plaintiffs SHUI W. KWONG; GEORGE GRECO; GLENN HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY; DANIELA GRECO; NUNZIO CALCE; SECOND AMENDMENT FOUNDATION, INC.; and THE NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., by and through their undersigned counsel, as and for their Complaint against Defendants MICHAEL BLOOMBERG ("Mayor Bloomberg"), the CITY OF NEW YORK (the "City"), and ERIC SCHNEIDERMAN, allege as follows:

1. This action for deprivation of civil rights concerns the City's \$340 fee for issuance or renewal of a 3-year "Residence Premises" handgun license pursuant to § 400.00(14) of the New York Penal Law and § 10-131(a)(2) of the New York City Administrative Code. This fee is excessive and is not used to defray administrative costs, and hence, it impermissibly burdens the Second Amendment right to keep and bear arms.

2. This suit also challenges Penal Law § 400.00(14), which limits the maximum fee for issuing a New York State handgun license to \$10, but exempts New York State citizens who happen to reside in New York City from its protection. The right to keep and bear arms is a fundamental civil right, and this disparate State law treatment violates the Equal Protection Clause.

3. Plaintiffs seek declaratory and injunctive relief and attorney's fees and costs.

INTRODUCTION

4. It is illegal to possess or carry a handgun in the State of New York, including within one's home, unless one holds a handgun license issued pursuant to § 400.00 of the New York Penal Law. See N.Y. Penal Law §§ 265.01(1), 265.20(a)(3).

5. The City issues Residence Premises handgun licenses to applicants who reside in the City of New York pursuant to § 400.00 of the Penal Law. See N.Y.C. Admin. Code § 10-131(a)(1); 38 RCNY 5-02. A Residence Premises handgun license allows a person to possess and carry a handgun within a specified residence, and also to transport the handgun (locked, cased, and unloaded) directly to and from a target range. See 38 RCNY 5-23(a). A Residence Premises license is the only license that a private citizen living in New York City can obtain without showing special "need" or "cause." See generally 38 RCNY 5-01.

6. A person applying for a handgun license anywhere in New York State must submit fingerprints for a background investigation that is conducted by the New York State Division of Criminal Justice Services ("DCJS"). See N.Y. Penal Law § 400.00(4). DCJS notifies the licensing official (*i.e.* the City of New York, or elsewhere in the State, generally a designated county judge) of the results of the investigation. See id.

7. All applicants in New York State must pay a fingerprint and investigation fee to DCJS that is (presently) \$94.25. See N.Y. Exec. Law § 837(8-a); 9 NYCRR 6051.3(a)-(b). This lawsuit does not challenge this fee.

8. This lawsuit challenges *only* § 10-131(a)(2) of the New York City Administrative Code, which requires applicants in New York City to pay an additional \$340 fee, and § 400.00(14) of the New York Penal Law, which authorizes the City to charge different fees than the other licensing authorities throughout the State. This lawsuit does not otherwise challenge the laws of the City and State governing the issuance of handgun licenses.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983.

10. This Court has personal jurisdiction over each of the Defendants because, *inter alia*, they acted under the color of laws of the City and/or State of New York and/or within the geographic confines of the State of New York.

11. Venue is proper pursuant to 28 U.S.C. § 1391.

PARTIES AND STANDING

12. Plaintiff Shui W. Kwong (“Mr. Kwong”) is a citizen and resident of the State of New York residing in Brooklyn.

13. Mr. Kwong is a 43 year-old Chinese-American who is married and has two children, and who is employed as a union electrical worker.

14. Mr. Kwong holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

15. Mr. Kwong will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

16. Furthermore, Mr. Kwong has paid the \$340 fee prior to the filing of this lawsuit.

17. Plaintiff George Greco (“Mr. Greco”) is a citizen and resident of the State of New York residing in Rockaway.

18. Mr. Greco is a 51 year-old man who is married and has 2 children. Mr. Greco is a principal of Midhattan Woodworking Co. Mr. Greco is a board member of Plaintiff New York State Rifle & Pistol Association.

19. Mr. Greco holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

20. Mr. Greco will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

21. Furthermore, Mr. Greco has paid the \$340 fee prior to the filing of this lawsuit.

22. Plaintiff Glenn Herman (“Mr. Herman”) is a citizen and resident of the State of New York residing in New York, New York.

23. Mr. Herman is a 43 year-old married man. Mr. Herman is a firearms safety instructor certified by the National Rifle Association of America.

24. Mr. Herman holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

25. Mr. Herman will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

26. Furthermore, Mr. Herman has paid the \$340 fee prior to the filing of this lawsuit.

27. Plaintiff Nick Lidakis (“Mr. Lidakis”) is a citizen and resident of the State of New York residing in Queens.

28. Mr. Lidakis is a 37 year-old single man who lives with his girlfriend. Mr. Lidakis is a paramedic who serves the people of the City of New York who require emergency medical assistance.

29. Mr. Lidakis holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

30. Mr. Lidakis will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

31. Furthermore, Mr. Lidakis has paid the \$340 fee prior to the filing of this lawsuit.

32. Plaintiff Timothy Furey (“Mr. Furey”) is a citizen and resident of the State of New York residing in Queens.

33. Mr. Furey holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

34. Mr. Furey’s current Residence Premises handgun license will expire on April 27, 2011. The City sent Mr. Furey renewal paperwork that required, *inter alia*, payment of the \$340 fee specified by N.Y.C. Admin. Code § 10-131(a)(2).

35. Mr. Furey paid the \$340 fee, under protest, on March 21, 2011.

36. Plaintiff Daniela Greco (“Mrs. Greco”) is a citizen and resident of the State of New York residing in Rockaway.

37. Mrs. Greco is married and has two children. She is a New York City public school teacher.

38. Mrs. Greco holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

39. Mrs. Greco will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

40. Furthermore, Mrs. Greco has paid the \$340 fee prior to the filing of this lawsuit.

41. Plaintiff Nunzio Calce (“Mr. Calce”) is a citizen and resident of the State of New York residing in Bronx County.

42. Mr. Calce is a 37 year-old married man with children. He is a Certified Public Accountant and is first generation Italian-American.

43. Mr. Calce holds a Residence Premises handgun license issued by the New York City Police Department pursuant to N.Y. Penal Law § 400.00 and N.Y.C. Admin. Code § 10-131.

44. Mr. Calce will be required to pay \$340 to renew his Residence Premises handgun license pursuant to N.Y.C. Admin. Code § 10-131(a)(2).

45. Furthermore, Mr. Calce has paid the \$340 fee prior to the filing of this lawsuit.

46. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a non-profit member organization incorporated under the laws of the State of Washington with its principal place of business in Bellevue, Washington.

47. Plaintiff SAF has over 650,000 members and supporters nationwide, including in the City and State of New York. The purposes of SAF include promoting both the exercise of

the right to keep and bear arms and education, research, publishing, and legal action focusing on the constitutional right to privately own and possess firearms. SAF also promotes research and education on the consequences of abridging the right to keep and bear arms and on the historical grounding and importance of the right to keep and bear arms as one of the core civil rights of United States citizens.

48. Members of SAF have paid the \$340 fee required for a New York City Residence Premises handgun license, and members of SAF would apply for a Residence Premises handgun license but for the prohibitive \$340 fee.

49. SAF brings this action on behalf of itself and its members.

50. Plaintiff The New York State Rifle & Pistol Association, Inc. (“NYSRPA”) is a non-profit membership corporation incorporated under the laws of the State of New York with its principal place of business in Troy, New York.

51. Plaintiff NYSRPA was first organized in 1871 and is the State’s largest, and the nation’s oldest, firearms advocacy organization.

52. NYSRPA is dedicated to the preservation of Second Amendment rights, firearm safety, education and training, and the shooting sports. NYSRPA’s membership consists of individuals and clubs throughout New York State.

53. Members of NYSRPA have paid the \$340 fee required for issuance or renewal of a Residence Premises handgun license, and members of NYSRPA would apply for a Residence Premises handgun license but for the prohibitive \$340 fee.

54. NYSRPA brings this action on behalf of itself and its members.

55. Defendant Mayor Michael Bloomberg (“Mayor Bloomberg”) is sued in his official capacity as Mayor of the City of New York, responsible for executing and administering the laws of the City of New York, including New York City Administrative Code § 10-131.

56. Defendant City of New York (the “City”) is a municipal corporation incorporated under the laws of the State of New York.

57. Defendant Attorney General Eric Schneiderman is sued in his official capacity as the Attorney General of the State of New York, responsible for executing and administering the laws of the State of New York, including Penal Law § 400.00(14).

CONSTITUTIONAL PROVISIONS

58. The Second Amendment provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

U.S. Const. amend. II.

59. The Fourteenth Amendment provides in pertinent part:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV, § 1.

NEW YORK STATE LAWS

60. Section 400.00 of the New York Penal Law governs the issuance of permits to possess and carry handguns.

61. Section 400.00(2) provides in pertinent part:

Types of Licenses. . . . A license for a pistol or revolver . . . shall be issued to (a) have and possess in his dwelling by a householder[.] . . .

N.Y. Penal Law § 400.00(2).

62. Section 400.00(14) provides in pertinent part:

Fees. . . . In [New York C]ity, the city council and in the county of Nassau the Board of Supervisors shall fix the fee to be charged for a license to carry or possess a pistol or revolver and provide for the disposition of such fees. Elsewhere in the state, the licensing officer shall collect and pay into the county treasury the following fees: for each license to carry or possess a pistol or revolver, not less than three dollars nor more than ten dollars as may be determined by the legislative body of the county. . . .

N.Y. Penal Law § 400.00(14).

NEW YORK CITY LAWS

63. Section 10-131 of the New York City Administrative Code provides:

Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of three hundred forty dollars for each original or renewal application for a three year license period or part thereof, a fee of ten dollars for each replacement application of a lost license.

N.Y.C. Admin. Code § 10-131(a)(2).

FIRST CAUSE OF ACTION

THE \$340 FEE REQUIRED BY N.Y.C. ADMIN. CODE § 10-131(a)(2) IMPERMISSIBLY BURDENS THE RIGHT TO KEEP AND BEAR ARMS

64. The Second Amendment “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” District of Columbia v. Heller, 554 U.S. 570, 592 (2008).

65. If a state or municipality requires its citizens to obtain licenses or registrations in order to possess handguns, then it may not refuse to issue the requisite licenses and registrations to people who are otherwise qualified. See Heller, 554 U.S. at 635 (“Assuming that Heller is not disqualified from the exercise of Second Amendment rights, the District must permit him to register his handgun and must issue him a license to carry it in the home.”).

66. The \$340 fee required for issuance or renewal of a 3-year Residence Premises handgun license – in addition to the \$94.25 already charged for fingerprints and the DCJS background check – is unreasonable, burdensome, and prohibitive.

67. Furthermore, the fees obtained by the City for issuance of Residence Premises handgun licenses are not used to defray expenses related to the issuance of handgun licenses.

68. The \$340 fee required by Defendants City and Mayor Bloomberg for issuance or renewal of a Residence Premises handgun license impermissibly burdens the exercise of Second Amendment rights.

69. The \$340 fee requirement of § 10-131(a)(2) is invalid in that and to the extent that it pertains to private citizens seeking to obtain or renew Residence Premises handgun licenses.

SECOND CAUSE OF ACTION

N.Y. PENAL LAW § 400.00(14) DENIES EQUAL PROTECTION OF THE LAW TO CITIZENS OF NEW YORK STATE WHO RESIDE IN NEW YORK CITY

70. Section 400.00(14) of the Penal Law protects New York citizens who wish to obtain handgun licenses by limiting the fee that a licensing authority may charge to a maximum of \$10. However, the statute exempts New York City (and Nassau County) and instead authorizes them to “fix the fee to be charged for a license to carry or possess a pistol or revolver and provide for the disposition of such fees.” N.Y. Penal Law § 400.00(14).

71. On June 28, 2010 the Supreme Court held that “the right to keep and bear arms [is] among those fundamental rights necessary to our system of ordered liberty.” McDonald v. Chicago, 130 S. Ct. 3020, 3042 (2010).

72. When state laws burden the exercise fundamental constitutional rights, “a State must establish that its classification is necessary to serve a compelling interest,” and it must “adopt the least drastic means to achieve [its] ends.” Illinois State Bd. of Elections v. Socialist Workers Party, 440 U.S. 173, 185 (1979).

73. State laws that unequally burden the exercise of fundamental constitutional rights for citizens who live in a particular municipality can only be upheld where the disparate burden is itself narrowly tailored to serve a compelling government interest. See Illinois State Bd. of Elections, 440 U.S. at 186 (“appellant has advance no reason, much less a compelling one, why the State needs a more stringent requirement for Chicago”).

74. Section 400.00(14) of the New York Penal Law is invalid as applied to allow the imposition of a fee in excess of \$10 for the issuance or renewal of a Residence Premises handgun license.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

- i. declaratory judgment that the \$340 fee required by N.Y.C. Admin. Code § 10-131(a)(2) is invalid in that and to the extent that it is applied to private citizens seeking Residence Premises handgun licenses;
- ii. a permanent injunction restraining Defendants City and Mayor Bloomberg, and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of this injunction, from enforcing N.Y.C. Admin. Code § 10-131(a)(2) so as to require private citizens seeking to obtain or renew Residence Premises handgun license to pay the \$340 fee set forth therein;
- iii. declaratory judgment that N.Y. Penal Law § 400.00(14) is invalid as applied to allow the imposition of a fee in excess of \$10 for the issuance or renewal of a Residence Premises handgun license under § 400.00 of the Penal Law;
- iv. a permanent injunction restraining Defendants City and Mayor Bloomberg, and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of this injunction, from requiring private citizens seeking Residence Premises handgun licenses pursuant to N.Y. Penal Law § 400.00 to pay a fee in excess of \$10 to issue or renew a Residence Premises handgun license;
- v. such other and further relief, including injunctive relief, against all Defendants, as may be necessary to effectuate the Court's judgment, or as the Court otherwise deems just and equitable; and
- vi. attorney's fees and costs pursuant to 42 U.S.C. § 1988.

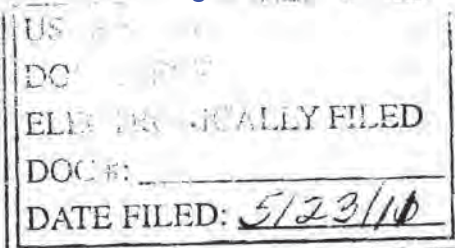
Dated: New York, New York
April 5, 2011

DAVID JENSEN PLLC

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants.

No. 11 Civ. 2356 (JGK) (DCF)


ECF Case

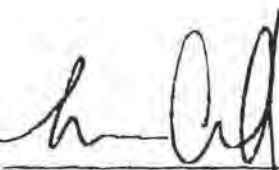
**STIPULATION OF
DISMISSAL AND INTERVENTION**

Counsel for the respective parties hereby stipulate and agree as follows:

1. Defendant Eric Schneiderman shall be and hereby is DISMISSED as a Defendant in this action pursuant to Rule 41(a) of the Federal Rules of Civil Procedure; and
2. The Attorney General of the State of New York shall and hereby does INTERVENE in this action to defend the constitutionality of Penal Law § 400.00(14) pursuant to 28 U.S.C. § 2403(b) and Rule 24(a)(1) of the Federal Rules of Civil Procedure.

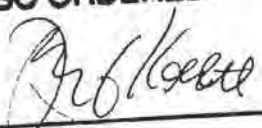
Dated: New York, New York
May 19, 2011

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Attorney for Defendants
Mayor Michael Bloomberg
and City of New York

SO ORDERED:


U.S.D.J.

It is SO ORDERED this _____ Day of _____, 2011.

Hon. John G. Koeltl
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

SHUI W. KWONG; GEORGE GRECO; GLENN
HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY;
SECOND AMENDMENT FOUNDATION, INC.; and
THE NEW YORK STATE RIFLE & PISTOL
ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official Capacity as
Mayor of the City of New York; CITY OF NEW YORK;
and ERIC SCHNEIDERMAN, in his Official Capacity as
Attorney General of the State of New York,

Defendants.

----- X

**CITY DEFENDANTS'
ANSWER**

11 Civ. 2356 (JGK)
ECF Case

Defendants, MICHAEL BLOOMBERG, in his Official Capacity as Mayor of the City of New York, and the CITY OF NEW YORK (collectively referred to as "City defendants"); by their attorney Michael A. Cardozo, Corporation Counsel of the City of New York, for their Answer to the Complaint, dated April 5, 2011 ("complaint"), respectfully allege as follows:

1. Deny the allegations set forth in paragraph "1" of the complaint, except admit that plaintiffs purport to proceed as set forth therein.
2. Deny the allegations set forth in paragraph "2" of the complaint, except admit that plaintiffs purport to proceed as set forth therein.
3. Admit that plaintiffs purport to proceed as set forth in paragraph "3" of the complaint.

4. Deny that the allegations set forth in paragraph “4” of the complaint accurately and completely describe the New York Penal Law (“Penal Law”), and respectfully refer the Court to the law for the full text and true meaning thereof.

5. Deny that the allegations set forth in paragraph “5” of the complaint accurately and completely describe New York City Administrative Code (“Admin. Code”) § 10-131 and the cited sections of title 38, chapter 5 of the Rules of the City of New York (“R.C.N.Y.”), and respectfully refer the Court to the law for the full text and true meaning thereof.

6. Deny that the allegations set forth in paragraph “6” of the complaint accurately and completely describe the provisions of Section 400.00(4) of the Penal Law and the procedure followed with respect to DCJS fingerprint results, and respectfully refer the Court to the law for the full text and true meaning thereof.

7. Deny that the allegations set forth in paragraph “7” of the complaint accurately and completely describe the cited provisions of the New York Executive Law and title 9 of the New York Codes, Rules, and Regulations (“NYCRR”), and respectfully refer the Court to the law for the full text and true meaning thereof; deny the remainder of the allegations set forth in paragraph “7” of the complaint, except admit that the current fingerprint fee is \$94.25 and that plaintiffs are not challenging the fingerprint fee and aver that the fingerprint fee is made payable to the New York City Police Department which is then remitted to the DCJS, and that the fee is a fingerprint fee, not a “fingerprint and investigation fee.”

8. Admit that plaintiffs purport to proceed as set forth in the allegations in paragraph “8” of the complaint.

9. Deny the allegations set forth in paragraph “9” of the complaint, except admit that this Court has subject matter jurisdiction over the allegations in this action.

10. Deny the allegations set forth in paragraph “10” of the complaint, except admit that jurisdiction is proper over defendant City of New York.

11. Deny the allegations set forth in paragraph “11” of the complaint, except admit that venue in this district is proper.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the complaint, except admit that the records of the New York City Police Department (“N.Y.P.D.”) License Division (“License Division”) reflect that plaintiff Kwong resided in Brooklyn, New York at the time of his last application submission to the License Division.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the complaint, except deny that plaintiff Kwong is 43 years old, as the records of the License Division reflect that petitioner’s date of birth is June 2, 1962.

14. Deny the allegations set forth in paragraph “14” of the complaint, except admit that the License Division issued plaintiff Kwong a Residence Premises handgun license and that as of the date of this answer, said license remains valid.

15. Deny the allegations set forth in paragraph “15” of the complaint, except admit that in the event that plaintiff Kwong applies to renew his Premises Residence handgun license, he will be required to pay the fee set forth in Admin. Code § 10-131(a)(2) and that said fee is currently \$340.

16. Deny the allegations set forth in paragraph “16” of the complaint, except admit that the records of the License Division reflect that plaintiff Kwong paid the \$340 fee in May 2009, prior to the commencement of this lawsuit.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “17” of the complaint, except admit that the records of the License Division reflect that plaintiff George Greco resided in Rockaway, New York at the time of his last application submission to the License Division.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “18” of the complaint, except admit that the records of the License Division reflect that plaintiff George Greco’s date of birth is June 25, 1959.

19. Deny the allegations set forth in paragraph “19” of the complaint, except admit that the License Division issued plaintiff George Greco a Residence Premises handgun license and that as of the date of this answer, said license remains valid.

20. Deny the allegations set forth in paragraph “20” of the complaint, except admit that in the event that plaintiff George Greco applies to renew his Premises Residence handgun license, he will be required to pay the fee set forth in Admin. Code § 10-131(a)(2) and that said fee is currently \$340.

21. Deny the allegations set forth in paragraph “21” of the complaint, except admit that the records of the License Division reflect that plaintiff George Greco paid the \$340 fee in June 2008, prior to the commencement of this lawsuit.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “22” of the complaint, except admit that the records of

the License Division reflect that plaintiff Herman resided in New York, New York at the time of his last application submission to the License Division.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “23” of the complaint, except admit that the records of the License Division reflect that plaintiff Herman’s date of birth is December 17, 1967.

24. Deny the allegations set forth in paragraph “24” of the complaint, except admit that the License Division issued plaintiff Herman a Residence Premises handgun license and that as of the date of this answer, said license remains valid.

25. Deny the allegations set forth in paragraph “25” of the complaint, except admit that in the event that plaintiff Herman applies to renew his Premises Residence handgun license, he will be required to pay the fee set forth in Admin. Code § 10-131(a)(2) and that said fee is currently \$340.

26. Deny the allegations set forth in paragraph “26” of the complaint, except admit that the records of the License Division reflect that plaintiff Herman paid the \$340 fee in July 2009, prior to the commencement of this lawsuit.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “27” of the complaint, except deny that plaintiff Lidakis resides in Queens and aver that the records of the License Division reflect that plaintiff Lidakis resided in Bronx, New York at the time of his last application submission to the License Division and that in November 2010, plaintiff Lidakis notified the License Division that he now resides in New York, New York.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “28” of the complaint, except admit that the records of the License Division reflect that plaintiff Lidakis’s date of birth is November 17, 1973.

29. Deny the allegations set forth in paragraph “29” of the complaint, except admit that the License Division issued plaintiff Lidakis a Residence Premises handgun license and that as of the date of this answer, said license remains valid.

30. Deny the allegations set forth in paragraph “30” of the complaint, except admit that in the event that plaintiff Lidakis applies to renew his Premises Residence handgun license, he will be required to pay the fee set forth in Admin. Code § 10-131(a)(2) and that said fee is currently \$340.

31. Deny the allegations set forth in paragraph “31” of the complaint, except admit that the records of the License Division reflect that plaintiff Lidakis paid the \$340 fee in November 2010, prior to the commencement of this lawsuit.

32. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “32” of the complaint, except admit that the records of the License Division reflect that plaintiff Furey resided in Bayside, Queens, New York at the time of his last application submission to the License Division.

33. Deny the allegations set forth in paragraph “33” of the complaint, except admit that the License Division issued plaintiff Furey a Residence Premises handgun license and that as of the date of this answer, said license remains valid.

34. Deny the allegations set forth in paragraph “34” of the complaint, except admit that plaintiff Furey’s Residence Premises handgun license expired on April 27, 2011 and

that the License Division sent plaintiff Furey a renewal application which, among other things, set forth the \$340 application renewal fee.

35. Deny the allegations set forth in paragraph “35” of the complaint, except admit that the records of the License Division reflect that plaintiff Furey paid to it the \$340 fee on March 21, 2011 in connection with the submission of his renewal application.

36. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “36” of the complaint, except admit that the records of the License Division reflect that plaintiff Daniela Greco resided in Rockaway, New York at the time of her last application submission to the License Division.

37. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “37” of the complaint.

38. Deny the allegations set forth in paragraph “38” of the complaint, except admit that the License Division issued plaintiff Daniela Greco a Residence Premises handgun license and that as of the date of this answer, said license remains valid.

39. Deny the allegations set forth in paragraph “39” of the complaint, except admit that in the event that plaintiff Daniela Greco applies to renew her Premises Residence handgun license, she will be required to pay the fee set forth in Admin. Code § 10-131(a)(2) and that said fee is currently \$340.

40. Deny the allegations set forth in paragraph “40” of the complaint, except admit that the records of the License Division reflect that plaintiff Daniela Greco paid the \$340 fee in May 2009, prior to the commencement of this lawsuit.

41. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “41” of the complaint, except admit that the records of

the License Division reflect that plaintiff Calce resided in Bronx, New York at the time of his last application submission to the License Division.

42. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “42” of the complaint, except admit that the records of the License Division reflect that plaintiff George Greco’s date of birth is June 21, 1973.

43. Deny the allegations set forth in paragraph “43” of the complaint, except admit that the License Division issued plaintiff Calce a Residence Premises handgun license and that as of the date of this answer, said license remains valid.

44. Deny the allegations set forth in paragraph “44” of the complaint, except admit that in the event that plaintiff Calce applies to renew his Premises Residence handgun license, he will be required to pay the fee set forth in Admin. Code § 10-131(a)(2) and that said fee is currently \$340.

45. Deny the allegations set forth in paragraph “45” of the complaint, except admit that the records of the License Division reflect that plaintiff Calce paid the \$340 fee in 2009, prior to the commencement of this lawsuit.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of the complaint.

47. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “47” of the complaint.

48. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “48” of the complaint.

49. Deny the allegations set forth in paragraph “49” of the complaint, except admit that plaintiffs purport to proceed as set forth therein.

50. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “50” of the complaint.

51. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “51” of the complaint.

52. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “52” of the complaint.

53. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “53” of the complaint.

54. Deny the allegations set forth in paragraph “54” of the complaint, except admit that plaintiffs purport to proceed as set forth therein.

55. Deny the allegations set forth in paragraph “55” of the complaint, except admit that plaintiffs purport to proceed as set forth therein.

56. Admit the allegations set forth in paragraph “56” of the complaint.

57. Deny the allegations set forth in paragraph “57” of the complaint, except admit that plaintiffs purport to proceed as set forth therein.

58. Deny that the allegations set forth in paragraph “58” of the complaint accurately and completely describe the Second Amendment of the United States Constitution, and respectfully refer the Court to the Second Amendment of the United States Constitution for the full text and true meaning thereof.

59. Deny that the allegations set forth in paragraph “59” of the complaint accurately and completely describe the Fourteenth Amendment of the United States Constitution, and respectfully refer the Court to the Fourteenth Amendment of the United States Constitution for the full text and true meaning thereof.

60. Deny that the allegations set forth in paragraph “60” of the complaint accurately and completely describe Section 400.00 of the Penal Law, and respectfully refer the Court to the cited section of the Penal Law for the full text and true meaning thereof.

61. Deny that the allegations set forth in paragraph “61” of the complaint accurately and completely describe Section 400.00(2) of the Penal Law, and respectfully refer the Court to the cited section of the Penal Law for the full text and true meaning thereof.

62. Deny that the allegations set forth in paragraph “62” of the complaint accurately and completely describe Section 400.00(14) of the Penal Law, and respectfully refer the Court to the cited section of the Penal Law for the full text and true meaning thereof.

63. Deny that the allegations set forth in paragraph “63” of the complaint accurately and completely describe Admin. Code § 10-131, and respectfully refer the Court to the cited section of the Admin. Code for the full text and true meaning thereof.

64. Deny the allegations set forth in the unnumbered heading on page 10 of the complaint, under “First Cause of Action.”

65. Neither admit nor deny the allegations set forth in paragraph “64” of the complaint because it contains legal argument for which no response is required; in the event this Court requires a response, deny the allegations insofar as they allege or purport to allege that plaintiffs have a valid claim against City defendants.

66. Deny the allegations set forth in paragraph “65” of the complaint.

67. Deny the allegations set forth in paragraph “66” of the complaint.

68. Deny the allegations set forth in paragraph “67” of the complaint.

69. Deny the allegations set forth in paragraph “68” of the complaint.

70. Deny the allegations set forth in paragraph “69” of the complaint.

71. Deny the allegations set forth in the unnumbered heading on page 11 of the complaint, under “Second Cause of Action.”

72. Deny that the allegations set forth in paragraph “70” of the complaint accurately and completely describe Section 400.00(14) of the Penal Law, and respectfully refer the Court to the cited section of the Penal Law for the full text and true meaning thereof.

73. Neither admit nor deny the allegations set forth in paragraph “71” of the complaint because it contains legal argument for which no response is required; in the event this Court requires a response, deny the allegations insofar as they allege or purport to allege that plaintiffs have a valid claim against City defendants.

74. Deny the allegations set forth in paragraph “72” of the complaint.

75. Deny the allegations set forth in paragraph “73” of the complaint.

76. Deny the allegations set forth in paragraph “74” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

77. The Complaint should be dismissed as it fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

78. At all times relevant to the case, City defendants acted in a lawful and reasonable manner and in accordance with the laws and the Constitution of the United States.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

79. City defendants’ actions and the provisions of law in question are in all respects legal, proper and reasonable and in conformity with all applicable laws and regulations.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

80. Some or all of the plaintiffs lack standing to assert some or all of the claims set forth in the complaint.

WHEREFORE, City defendants request judgment dismissing the complaint and denying all relief requested therein, along with costs and disbursements, together with such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 26, 2011

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for City Defendants
100 Church Street, 5th Floor
New York, NY 10007
(212) 788-0758

By: 
MICHELLE GOLDBERG-CAHN
Assistant Corporation Counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
Shui W. Kwong, et al.,	:	Civil Action Number:
	:	11 cv 2356
Plaintiffs,	:	
	:	(Hon. John G. Koeltl)
-against-	:	
	:	
Michael Bloomberg, et al.,	:	PLEADING IN
	:	INTERVENTION
Defendants.	:	
-----X	:	

ERIC T. SCHNEIDERMAN, Attorney General of the State of New York ("Intervenor"), for his pleading in intervention, states as follows:

1. By Complaint dated April 5, 2011, Plaintiffs Shui W. Kwong, George Greco, Glenn Herman, Nick Lidakis, Timothy S. Furey, Daniela Greco, Nunzio Calce, the Second Amendment Foundation, Inc. and the New York State Rifle & Pistol Association, Inc. ("Plaintiffs") commenced this action pursuant to 42 U.S.C. § 1983 asserting that Penal Law § 400.00(14) ("the Statute") impermissibly burdens their Second Amendment right to bear arms, and violates their rights under the Equal Protection Clause of the United States Constitution.

2. Attorney General Schneiderman was named as a defendant in the Complaint, but by Stipulation of Dismissal and Intervention executed by the parties, so-ordered by the Court and entered on May 23, 2011, Attorney General Schneiderman was dismissed as a defendant and intervened herein to defend the constitutionality of Penal Law § 400.00(14) pursuant to 28 U.S.C. § 2403(b) and Rule 24(a)(1) of the Federal Rules of Civil Procedure.

3. Except by this intervention, neither the State of New York, nor any agency of the State nor any officer or employee of it as an officer or employee is a party to this action.

4. Penal Law § 400.00(14) affects the public interest and the public interest would be greatly prejudiced if the contention that the Statute is unconstitutional were sustained.

5. Intervenor's sole purpose in intervening herein is to defend the constitutionality of the Statute. For that purpose, Intervenor responds to the Complaint as follows:

6. Paragraphs 1 through 3 of the Complaint contain Plaintiffs' characterization of the action and accordingly require no response. To the extent a response may be deemed required, Intervenor denies the allegations set forth therein.

7. Paragraphs 4 through 7 contain Plaintiffs' characterization of relevant statutes and accordingly require no response. To the extent a response may be deemed required, Intervenor refers the Court to the text of the relevant statutes but admits that a license is required to possess a handgun in New York State and New York City and that a person applying for applying for a handgun license anywhere in New York State must submit fingerprints which are processed by the Division of Criminal Justice Services ("DCJS") for a fee and otherwise denies knowledge or information as to the remaining allegations of these paragraphs.

8. Paragraph 8 through 11 contain Plaintiffs' characterization of the action and accordingly requires no response. To the extent a response may be deemed required, Intervenor denies knowledge or information sufficient to form a belief as to the truth of the

allegations set forth therein.

9. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 12 through 55 of the Complaint.

10. Intervenor admits the allegations contained in paragraph 56 of the Complaint.

11. Intervenor denies the allegations contained in paragraph 57 of the Complaint in light of the Stipulation and Order entered on May 23, 2011 in which the Plaintiffs voluntarily withdrew all claims against the Attorney General.

12. Paragraph 58 through 63 contain Plaintiffs' quotation or characterization of selected portions of the United States Constitution, New York State Penal Code, and New York City Administrative Code to which no response is required. To the extent that a response is required, Intervenor refers the Court to the full text of such provisions and admits that the provisions so read.

13. Paragraphs 64 and 65 contain Plaintiffs' characterization of the Supreme Court decision in District of Columbia v. Heller, 554 U.S. 570, 128 S.Ct. 2783 (2008) to which no response is required. To the extent that response is required, Intervenor refers the Court to the full text of that decision and denies Plaintiffs' characterization except admits that in Heller, the Supreme Court recognized an individual right of certain citizens to possess a handgun in their homes for self-defense purposes.

14. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 66 through 69 of the Complaint.

15. Paragraph 70 contains Plaintiffs' characterization of Penal Law § 400.00(14) and accordingly requires no response. To the extent a response may be deemed required, Intervenor refers the Court to the full text of such provisions and admits that the provisions

so read.

16. Intervenor admits the allegation contained in paragraph 71 of the Complaint that on June 28, 2010, in McDonald v. City of Chicago, Ill., ___ U.S. ___, 130 S.Ct. 3020 (2010), the Supreme Court, in a plurality decision, held that the Second Amendment right recognized in District of Columbia v. Heller, 554 U.S. 570, 128 S.Ct. 2783 (2008) is applicable to the states, refers the Court to the full text of the decision itself and otherwise denies the allegations contained in that paragraph.

17. Paragraph 72 of the Complaint contains a legal conclusion and Plaintiffs' citation to a case they assert supports this contention and thus no response is required. To the extent that a response is required, Intervenor denies the same.

18. Paragraph 73 of the Complaint contains a legal conclusion and Plaintiffs' citation to a case they assert supports this contention and thus no response is required. To the extent that a response is required, Intervenor denies the same.

19. Intervenor denies the allegations of paragraph 74 of the Complaint.

20. Intervenor admits that in their prayer for relief, Plaintiffs set forth the relief requested but denies that Plaintiffs are entitled to such relief.

WHEREFORE, Intervenor New York State Attorney General Eric Schneiderman prays that:

1. The Court reject Plaintiffs' contention that Penal Law § 400.00(14) is unconstitutional.

2. The Court adjudge and declare (a) that Plaintiffs have failed to state a justiciable claim on which relief may be granted as to the constitutionality of Penal Law §

400.00(14); (b) that Penal Law § 400.00(14) as applied to the facts in this case is constitutional; and/or (c) Plaintiffs lack standing to challenge Penal Law § 400.00(14).

3. The Court issue an order dismissing the Complaint insofar as it pertains to Penal Law § 400.00(14), award Intervenor his costs and disbursements, and grant to Intervenor such other and further relief as is just and proper.

Dated: New York, New York
June 22, 2011

ERIC T. SCHNEIDERMAN
Attorney General of the
State of New York
Intervenor
By:

/s/

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; GEORGE GRECO; GLENN
HERMAN; NICK LIDAKIS; TIMOTHY S.
FUREY; DANIELA GRECO; NUNZIO CALCE;
SECOND AMENDMENT FOUNDATION, INC.;
and THE NEW YORK STATE RIFLE & PISTOL
ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official
Capacity as Mayor of the City of New York; and
CITY OF NEW YORK,

Defendants.

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

NOTICE OF MOTION


PLEASE TAKE NOTICE that, pursuant to Rule 56 of the Federal Rules of Civil
Procedure and the Scheduling Order in this case, Plaintiffs move for summary judgment that:

1. New York City's \$340 fee for a "Residence Premises" handgun license, N.Y.C. Admin. Code § 10-131(a)(2), is constitutionally impermissible; and
2. Section 400(14) of the New York Penal Law denies equal protection of the law, as-applied to authorize a "Residence Premises" handgun license fee in excess of \$10.

PLEASE TAKE FURTHER NOTICE that Plaintiffs rely upon the Memorandum of Law,
Statement of Undisputed Facts, and supporting Declarations and Exhibits filed herewith.

Dated: New York, New York
June 22, 2011

DAVID JENSEN PLLC

By: 

David D. Jensen, Esq.
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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; GEORGE GRECO; GLENN
HERMAN; NICK LIDAKIS; TIMOTHY S.
FUREY; DANIELA GRECO; NUNZIO CALCE;
SECOND AMENDMENT FOUNDATION, INC.;
and THE NEW YORK STATE RIFLE & PISTOL
ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official
Capacity as Mayor of the City of New York; and
CITY OF NEW YORK,

Defendants.

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

**PLAINTIFFS' STATEMENT OF
UNDISPUTED MATERIAL FACTS**

Pursuant to Rule 56.1 and Local Rule 56.1 of this Court, Plaintiffs respectfully submit that there is no dispute as to the following material facts:

1. Plaintiff Shui W. Kwong is a union electrical contractor, husband, and father who immigrated to the United States from Hong Kong. Ex. 1, Declaration of Shui W. Kwong ("Kwong Dec.") ¶ 1.
2. Plaintiff Nick Lidakis is a first-generation Greek American who serves the City as a paramedic. Ex. 2, Declaration of Nick Lidakis ("Lidakis Dec.") ¶ 1.

3. Plaintiff Nunzio Calce is a first-generation Italian American who is a father and a certified public accountant. Ex. 3, Declaration of Nunzio Calce (“Calce Dec.”) ¶ 1.
4. Plaintiffs George and Daniela Greco have been married for 24 years and have two children. Ex. 4, Declaration of George Greco (“G. Greco Dec.”) ¶ 1; Ex. 5, Declaration of Daniela Greco (“D. Greco Dec.”) ¶¶ 1-2.
5. Plaintiff Mr. Greco operates Midhattan Woodwork Corp., which is a successful third-generation family woodworking business. Ex. 4, G. Greco Dec. ¶ 1.
6. Plaintiff Mrs. Greco is a New York City public school teacher. Ex. 5, D. Greco Dec. ¶ 1.
7. Plaintiff Glenn Herman is married and is a certified firearms safety instructor. Ex. 6, Declaration of Glenn Herman (“Herman Dec.”) ¶ 1.
8. Plaintiff Timothy Furey is an investment professional who serves clients throughout the world. Ex. 7, Declaration of Timothy Furey (“Furey Dec.”) ¶ 1.
9. Plaintiff Mr. Kwong holds a New York City Residence Premises handgun license, has previously paid the \$340 fee, and will need to pay the \$340 fee in order to renew his license in the future. Ex. 1, Kwong Dec. ¶¶ 2-4.
10. Plaintiff Mr. Lidakis holds a New York City Residence Premises handgun license, has previously paid the \$340 fee, and will need to pay the \$340 fee in order to renew his license in the future. Ex. 2, Lidakis Dec. ¶¶ 2-4.
11. Plaintiff Mr. Calce holds a New York City Residence Premises handgun license, has previously paid the \$340 fee, and will need to pay the \$340 fee in order to renew his license in the future. Ex. 3, Calce Dec. ¶¶ 2-4.

12. Plaintiff Mr. Greco holds a New York City Residence Premises handgun license, has previously paid the \$340 fee, and will need to pay the \$340 fee in order to renew his license in the future. Ex. 4, G. Greco Dec. ¶¶ 2-4.
13. Plaintiff Mrs. Greco holds a New York City Residence Premises handgun license, has previously paid the \$340 fee, and will need to pay the \$340 fee in order to renew her license in the future. Ex. 5, D. Greco Dec. ¶¶ 3-5.
14. Plaintiff Mr. Herman holds a New York City Residence Premises handgun license, has previously paid the \$340 fee, and will need to pay the \$340 fee in order to renew his license in the future. Ex. 6, Herman Dec. ¶¶ 2-4.
15. Plaintiff Mr. Furey holds a New York City Residence Premises handgun license, has previously paid the \$340 fee, and will need to pay the \$340 fee in order to renew his license in the future. Ex. 7, Furey Dec. ¶¶ 2-4.
16. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is organized under the laws of the State of Washington. Ex. 8, Declaration of Miko Tempski (“Tempski Dec.”) ¶ 3.
17. SAF is a 501(c)(3) not-for profit member organization. Ex. 8, Declaration of Miko Tempski (“Tempski Dec.”) ¶ 3.
18. SAF has over 650,000 members and supporters nationwide, including in the City and State of New York. Ex. 8, Tempski Dec. ¶ 4.
19. SAF’s core purposes include promoting both the exercise of the right to keep and bear arms, as well as education, research, publishing, and legal action focusing on the constitutional right to privately own and possess firearms. SAF publishes three periodicals (The New Gun Week, Women and Guns, and The Gottlieb-Tartaro

- Report) and also publishes the academic publication *Journal of Firearms and Public Policy*. Ex. 8, Tempiski Dec. ¶ 5.
20. SAF sponsored and was a party to the McDonald v. Chicago litigation, and SAF has sponsored and continues to sponsor litigation that seeks to vindicate the constitutional right to keep and bear arms. Ex. 8, Tempiski Dec. ¶ 6.
21. Plaintiffs Nick Lidakis, Nunzio Calce, and Glenn Herman are members of SAF. Ex. 2, Lidakis Dec. ¶ 5; Ex. 3, Calce Dec. ¶ 5; Ex. 6, Herman Dec. ¶ 5.
22. Plaintiff The New York State Rifle and Pistol Association, Inc. (“NYSRPA”) is a 501(c)(4) not-for profit member organization that is organized under the laws of the State of New York as a non-profit corporation. Ex. 9, Declaration of Thomas H. King (“King Dec.”) ¶ 3.
23. NYSRPA has 22,000 members in the State of New York, including in New York City. Ex. 9, King Dec. ¶ 5.
24. NYSRPA is the oldest firearms advocacy organization in the nation, being organized in 1871 in New York City. NYSRPA is the largest state-level firearms organization in the State of New York. Ex. 9, King Dec. ¶ 4.
25. NYSRPA’s core purposes include providing education and training in both firearms safety and firearms proficiency. NYSRPA actively promotes the shooting sports throughout the State of New York, and its membership includes affiliated hunting and shooting clubs in all regions. Another core purpose of NYSRPA is to promote the preservation of Second Amendment rights through both legislative and legal action. Ex. 9, King Dec. ¶ 6.

26. Plaintiff Glenn Herman is a member of NYSRPA, and Plaintiff George Greco is a NYSRPA board member. Ex. 4, G. Greco Dec. ¶ 5; Ex. 6, Herman Dec. ¶ 5.
27. The document attached as Ex. 11 is a copy of 1911 N.Y. Laws ch. 195, provided as a convenience to the Court. Ex. 10, Declaration of David Jensen (“Jensen Dec.”) ¶ .
28. The document attached as Ex. 12 is a copy of § 1897 of the 1909 Penal Code of New York, provided as a convenience to the Court. Jensen Dec. ¶ 2.
29. The document attached as Ex. 13 is a copy of “Instructions to All Handgun License Applicants” prepared by the New York City Police Department, available at <http://www.nyc.gov/html/nypd/downloads/pdf/permits/HandGunLicenseApplicationFormsComplete.pdf> (last visited Jun. 22, 2011). Jensen Dec. ¶ 5.
30. At the present time, handgun license applicants in New York City must pay a fee of \$94.25 for fingerprinting and background checks conducted by the New York State Division of Criminal Justice Services. Jensen Dec. ¶ 5 & ex. 13.
31. The document attached as Ex. 14 is a copy of 1922 N.Y. Laws ch. 198, provided as a convenience to the Court. Jensen Dec. ¶ 2.
32. The Consumer Price Index, maintained by the Bureau of Labor Statistics, increased in value by 1345.0% from 1922 to 2011. See generally Bureau of Labor Statistics, “Inflation Calculator,” available at http://www.bls.gov/data/inflation_calculator.htm (last visited Jun. 22, 2011).
33. The document attached as Ex. 15 is a copy of 1938 N.Y. Laws ch. 374, provided as a convenience to the Court. Jensen Dec. ¶ 2.

34. The document attached as Ex. 16 is a copy of A. 1526-1382, which is the “Bill Jacket” accompanying 1938 N.Y. Laws ch. 374, provided as a convenience to the Court. Jensen Dec. ¶ 4.
35. The document attached as Ex. 17 is a copy of §§ B18-1.0(7) and 436-5.0(2) of the 1938 New York City Administrative Code, provided as a convenience to the Court. Jensen Dec. ¶ 3.
36. The Consumer Price Index, maintained by the Bureau of Labor Statistics, increased in value by 1602.6% from 1938 to 2011. See generally Bureau of Labor Statistics, “Inflation Calculator,” available at http://www.bls.gov/data/inflation_calculator.htm (last visited Jun. 22, 2011).
37. The document attached as Ex. 18 is a copy of the 1947 N.Y. Laws ch. 147, provided as a convenience to the Court. Jensen Dec. ¶ 2.
38. The document attached as Ex. 19 is a copy of A. 499-497, which is the “Bill Jacket” accompanying 1947 N.Y. Laws ch. 147, provided as a convenience to the Court. Jensen Dec. ¶ 4.
39. The document attached as Ex. 20 is a copy of New York City Local Law No. 32-1948, provided as a convenience to the Court. Jensen Dec. ¶ 3.
40. The Consumer Price Index, maintained by the Bureau of Labor Statistics, increased in value by 937.6% from 1948 to 2011. See generally Bureau of Labor Statistics, “Inflation Calculator,” available at http://www.bls.gov/data/inflation_calculator.htm (last visited Jun. 22, 2011).
41. The document attached as Ex. 21 is a copy of New York City Local Law No. 37-2004, provided as a convenience to the Court. Jensen Dec. ¶ 5.

42. The document attached as Ex. 22 is a copy of the Fiscal Impact Statement for New York City Local Law No. 37-2004, provided as a convenience to the Court. Jensen Dec. ¶ 5.
43. The document attached as Ex. 23 is a copy of pertinent excerpts from minutes of a hearing held by New York City Council on June 24, 2004, provided as a convenience to the Court. Jensen Dec. ¶ 5.
44. The document attached as Ex. 24 is a copy of § 353 of the Greater New York Charter (1906), provided as a convenience to the Court. Jensen Dec. ¶ 3.
45. The document attached as Ex. 25 is a copy of New York City Council Introduction 313-2010, provided as a convenience to the Court. Jensen Dec. ¶ 5.
46. The document attached as Ex. 26 is a copy of the Report of the New York City Council Committee on Public Safety for Introduction 313-2010, dated Sept. 15, 2010, provided as a convenience to the Court. Jensen Dec. ¶ 5.
47. The document attached as Ex. 27 is a copy of excerpts from the Nassau County, New York Police Department's "Pistol License Handbook" dated April 2010, available at http://www.police.co.nassau.ny.us/pdf/InformationHandbookWebPage%20_2_.pdf (last visited Jun. 22, 2011), which sets forth basic requirements to apply for a handgun license in Nassau County. Jensen Dec. ¶ 5.
48. At the present time, handgun license applicants in Nassau County must pay \$200 for a license that is valid for 5 years. Jensen Dec. ¶ 5 & ex. 27 p. 5.
49. The document attached as Ex. 28 is an excerpt from a webpage maintained by the New Jersey State Police entitled "Frequently Asked Questions," available at <http://www.njsp.org/faq.html#firearms> (last visited Jun. 22, 2011). Jensen Dec. ¶ 5.


50. At the present time, a person seeking to purchase a handgun for the first time in New Jersey must pay \$60.25 for a background check. Jensen Dec. ¶ 5 & ex. 28 at Q5.

51. The document attached as Ex. 29 is an excerpt from a webpage maintained by the Bureau of Firearms of the California Department of Justice entitled “Frequently Asked Questions,” available at <http://ag.ca.gov/firearms/pubfaqs.php> (last visited Jun. 22, 2011). Jensen Dec. ¶ 5.

52. At the present time, a person seeking to purchase a handgun in California must pay \$25 for additional state background check. Jensen Dec. ¶ 5 & ex. 29 at 13.

Dated: New York, New York
June 22, 2011

DAVID JENSEN PLLC

By: 
David D. Jensen, Esq.
708 Third Avenue, Sixth Floor
New York, New York 10017
Tel: 212.380.6615
Fax: 917.591.1318
david@djensenpllc.com
Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case


DECLARATION OF
SHUI W. KWONG

I, Shui W. Kwong, declare as follows:

1. I am a union electrical worker living in Brooklyn, New York. I am 48 years of age, married, and I have two children. I immigrated to the United States from Hong Kong.
2. I hold Residence Premises handgun license number 100034082 issued by the New York City Police Department. A true and correct redacted copy of this license is attached hereto. Among other reasons, I possess handguns for the purpose of protecting myself and my family.
3. In approximately June 2009, I paid a \$340 fee to the New York City Police Department in order to renew my handgun license.
4. I understand that I will need to again pay the \$340 fee to renew my handgun license when the license expires in 2012.

I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 21, 2011



Shui W. Kwong



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

**DECLARATION OF
NICK LIDAKIS**

I, Nick Lidakis, declare as follows:

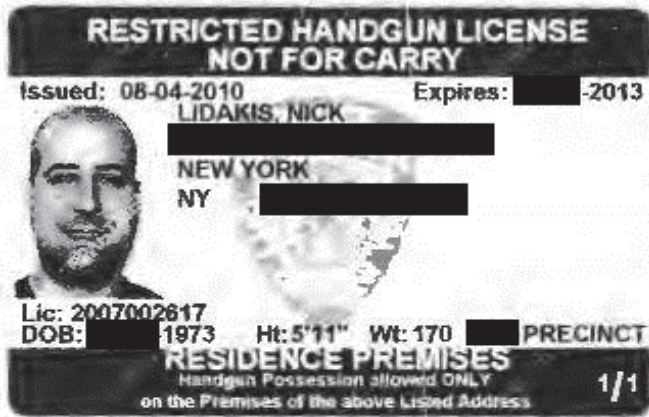
1. I am a New York City paramedic living in New York, New York. I am 37 years of age and single. My parents immigrated to the United States from Greece.
2. I hold Residence Premises handgun license number 2007002617 issued by the New York City Police Department. A true and correct redacted copy of this license is attached hereto. Among other reasons, I possess handguns for the purpose of self-defense.
3. In approximately July 2010, I paid a \$340 fee to the New York City Police Department in order to renew my handgun license.
4. I understand that I will need to again pay the \$340 fee to renew my handgun license when the license expires in 2013.
5. I am a member of Plaintiff Second Amendment Foundation, Inc.

I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 1, 2011

A handwritten signature in black ink, appearing to read "Nick Lidakis", written over a horizontal line.

Nick Lidakis



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

**DECLARATION OF
NUNZIO CALCE**

I, Nunzio Calce, declare as follows:

1. I am a certified public accountant living in Bronx, New York. I am 37 years of age, married, and I have one young child.

2. I hold Residence Premises handgun license number 2006001267 issued by the New York City Police Department. A true and correct redacted copy of this license is attached hereto. Among other reasons, I possess handguns for the purpose of self-defense.

3. In approximately April 2009, I paid a \$340 fee to the New York City Police Department in order to renew my handgun license.

4. I understand that I will need to again pay the \$340 fee to renew my handgun license when the license expires in 2012.

5. I am a member of Plaintiff Second Amendment Foundation, Inc.

I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 1, 2011



Nunzio Calce



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

**DECLARATION OF
GEORGE GRECO**

I, George Greco, declare as follows:

1. I live in Rockaway, New York. I am 51 years of age, married, and I have two children. I am a principal of Midhattan Woodworking Co., a third-generation family business.

2. I hold Residence Premises handgun license number 2002002431 issued by the New York City Police Department. A true and correct redacted copy of this license is attached hereto. Among other reasons, I possess handguns for the purpose of self-defense.

3. In approximately 2008, I paid a \$340 fee to the New York City Police Department in order to renew my handgun license.

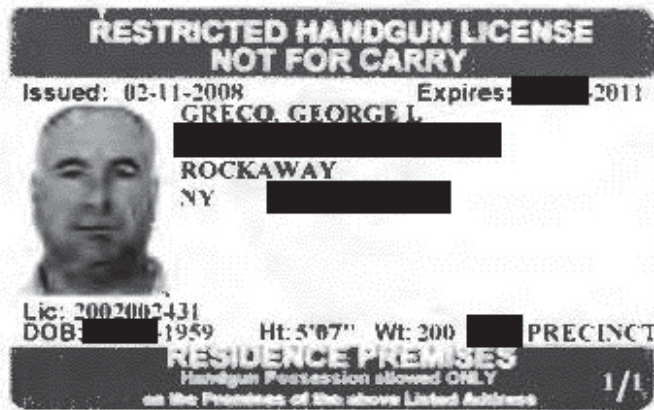
4. I again paid the \$340 fee to renew my handgun license in May 2011, as my current license will expire later this month.

5. I am a member and board member of Plaintiff The New York State Rifle & Pistol Association, Inc.

I affirm all of the foregoing statements under penalty of perjury under the laws of the
United States of America.

Dated: June ^{27th} 15, 2011


George Greco



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

**DECLARATION OF
DANIELA GRECO**

I, Daniela Greco, declare as follows:

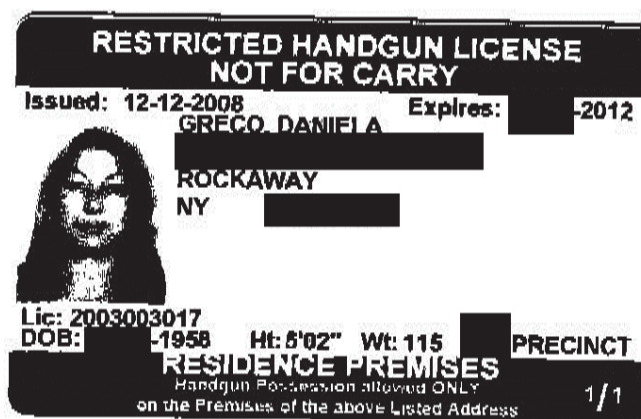
1. I live in Rockaway, New York. I am 53 years of age, married, and I have two children. I am a public school teacher in New York City.
2. I have been married to Plaintiff George Greco since October 1986.
3. I hold Residence Premises handgun license number 2003003017 issued by the New York City Police Department. A true and correct redacted copy of this license is attached hereto. Among other reasons, I possess handguns for the purpose of self-defense.
4. In approximately December 2008, I paid a \$340 fee to the New York City Police Department in order to renew my handgun license.
5. I understand that I will need to again pay the \$340 fee to renew my handgun license when the license expires in April 2012.

I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 16, 2011




Daniela Greco



I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 1, 2011


Glenn E. Herman



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case


DECLARATION OF
TIMOTHY S. FUREY

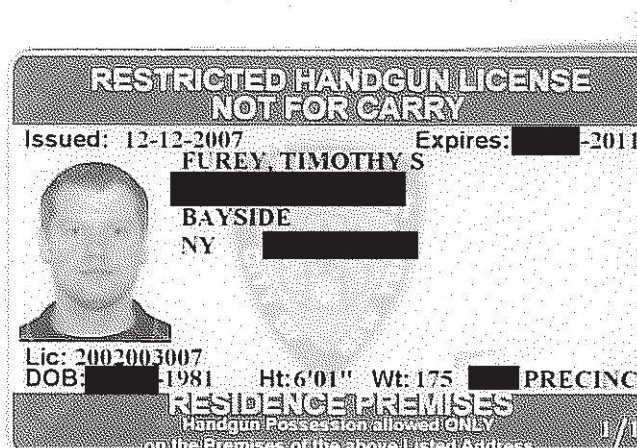
I, Timothy S. Furey, declare as follows:

1. I am a financial analyst living in Bayside, New York. I am 30 years of age and single.
2. I hold Residence Premises handgun license number 2002003007 issued by the New York City Police Department. A true and correct redacted copy of this license is attached hereto. Among other reasons, I possess handguns for the purpose of self-defense.
3. In approximately April 2011, I paid a \$340 fee to the New York City Police Department in order to renew my handgun license.
4. I understand that I will need to again pay the \$340 fee to renew my handgun license when the license expires in 2014.

I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 1, 2011


Timothy S. Furey



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

DECLARATION OF
MIKO TEMPSKI

I, Miko Tempski, declare as follows:

1. I live in Seattle, Washington. I am over 18 years of age and am competent to testify on my own behalf.
2. I am General Counsel for Plaintiff Second Amendment Foundation, Inc. (“SAF”), which is a Plaintiff in this action. I am an attorney and am admitted to practice law in the State of Washington. I am authorized to testify on SAF’s behalf.
3. SAF is a 501(c)(3) not-for profit member organization that is organized under the laws of the State of Washington as a non-profit corporation. SAF’s principal place of business is in Bellevue, Washington. SAF maintains a web page at <http://www.saf.org>.
4. SAF has over 650,000 supporters nationwide, including in the City and State of New York.

5. SAF's core purposes include promoting both the exercise of the right to keep and bear arms, as well as education, research, publishing, and legal action focusing on the constitutional right to privately own and possess firearms. SAF publishes three periodicals (The New Gun Week, Women and Guns, and The Gottlieb-Tartaro Report) and also publishes the academic publication Journal of Firearms and Public Policy. SAF promotes research and education on the consequences of abridging the right to keep and bear arms and on the historical grounding and importance of the right to keep and bear arms as one of the core civil rights of United States citizens.

6. One of the core purposes of SAF is to promote legal action on behalf of the constitutional right to keep and bear arms. SAF was a party to, and sponsor of, the McDonald v. Chicago litigation, which resulted in the Supreme Court incorporating the Second Amendment against the States and invalidating a Chicago law that prohibited handguns for most Chicago residents. In the past, SAF successfully overturned a San Francisco, California ordinance that prohibited citizens of the City from possessing handguns, and it successfully overturned a New Haven, Connecticut law that prohibited the sale of handguns.

7. Many members of SAF live in the City of New York. I personally know that some of these individuals hold New York City Residence Premises handgun licenses and that they have paid the fees required to obtain these licenses in the City. In the past, members of SAF have complained to the organization about the prohibitive license fees imposed in the City of New York.

I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 16TH, 2011


Miko Tempski

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; et al.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG; et al.,

Defendants,

-and-

ATTORNEY GENERAL OF THE STATE OF
NEW YORK,

Intervenor.

No. 11 Civ. 2356 (JGK) (DCF)

ECF Case

**DECLARATION OF
THOMAS H. KING**

I, Thomas H. King, declare as follows:

1. I live in East Greenbush, New York. I am over 18 years of age and am competent to testify on my own behalf.

2. I am the President of The New York State Rifle and Pistol Association, Inc. (“NYSRPA”), which is a Plaintiff in this action. NYSRPA’s by-laws authorize me, as President, to testify on NYSRPA’s behalf.

3. NYSRPA is a 501(c)(4) not-for profit member organization that is organized under the laws of the State of New York as a non-profit corporation. NYSRPA’s principal place of business is in Rensselaer County, New York. NYSRPA maintains a web page at <http://nysrpa.org>.

4. NYSRPA is the oldest firearms advocacy organization in the nation, and it is the largest state-level firearms organization in the State of New York. Law-abiding New York gun owners and sportsmen originally organized NYSRPA in 1871 in New York City.

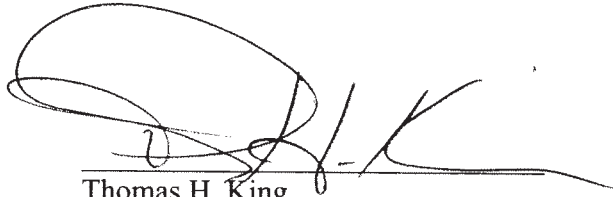
5. NYSRPA has 22,000 members throughout the City and State of New York.

6. NYSRPA's core purposes include providing education and training in both firearms safety and firearms proficiency, and NYSRPA provides these services both to law-abiding New York citizens who own guns, and also to those who may be considering gun ownership, or who otherwise wish to learn about the safe and proper use firearms. NYSRPA actively promotes the shooting sports throughout the State of New York, and its membership includes affiliated hunting and shooting clubs in all regions. Another core purpose of NYSRPA is to promote the preservation of Second Amendment rights through both legislative and legal action.

7. Many members of NYSRPA live in the City of New York. I personally know that some of these individuals hold New York City Residence Premises handgun licenses and that they have paid the fees required to obtain these licenses in the City. In the past, members of NYSRPA have complained to the organization about the prohibitive license fees imposed in the City of New York.

I affirm all of the foregoing statements under penalty of perjury under the laws of the United States of America.

Dated: June 15, 2011



Thomas H. King

city council,² and shall pay the same into the treasury of the county or of such city, as the case may be. The application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the city or county clerk of the city or county, as the case may be, where the applicant resides, and in addition, a duplicate copy of the application shall be filed in the office of the executive department, division of state police, within ten days after the issuance of the license. Every such license shall specify the weapon or weapons for which the license is issued and whether to be carried on the person or possessed on the premises. Elsewhere than in the city of New York every such license shall be in force and effect until revoked as herein provided. In the city of New York every such license shall expire on the ensuing first day of January, provided, however, that any such license may be limited as to time to expire on a date fixed in the license prior to such date. Each license issued to possess a weapon not to be carried on the person shall specify the place where the licensee shall possess the same. Each application for a license to carry a weapon on the person shall be accompanied by a photograph of the applicant in duplicate which photograph shall have been taken within thirty days prior to the filing of such application and one copy of which shall be attached to the license and the other remain with the application. Before a license is issued as provided in this section the officer to whom the application is made shall ascertain if the applicant has been convicted of crime and shall cause the finger prints of such applicant, except he be a householder, to be taken in duplicate. One original of such finger prints shall be filed in the office of the executive department, division of state police, within ten days after the license is issued and one shall remain on file in the office of the officer taking the same. No such finger print may be inspected by any person, other than a peace officer, except on order of a judge or justice of a court of record on such notice, if any, to the person to whom the license was issued as the judge or justice may determine. A person who has been convicted in this state or elsewhere of a felony or any one of the seven misdemeanors mentioned in section five hundred and fifty-two of the code of criminal procedure shall not be entitled to a license under this section. At any time a license may be revoked and cancelled in the city of New York by the police commissioner and in the county of Nassau by the chief of police of such county. Elsewhere than in the city of New York a license also may be revoked and cancelled at any time by any judge, or justice of a court of record. In the city of New York if, before the date of the expiration thereof, providing the license shall not have been cancelled or revoked, the licensee apply for a renewal, the term of such license shall thereby be extended until the application for

² Words "of not less than fifty cents or more than one dollar and fifty cents as may be determined by the board of supervisors where such license is issued or, in the case of the city of New York, as may be determined by the city council" inserted.

carcass or part transported; or the taker may take one carcass of a deer with head attached, to a member of the state police, a forest ranger or a game protector, other than a special game protector, who shall witness the cutting up of the deer into as many parts as the taker desires and shall mark each part for identification as the department may provide. Any part so marked may be transported in any manner except by parcel post.

The untanned hide of a deer shall not be treated so as to destroy evidence of sex except in process of tanning. If evidence of sex has been removed such hide shall not be possessed, bought or sold.

4. Antlerless deer: No open season except by order. The department may by order declare an open season on antlerless deer. Before the effective date of such order a copy thereof certified by the secretary of the department shall be filed in the office of the clerk of each county affected. The department shall have power to issue a special license for the taking of such deer, and to fix the terms thereof. The provisions of section one hundred eighty and of this section shall apply to licenses issued and deer taken under this subdivision in so far as the same are applicable. "Antlerless deer" includes deer without horns or having horns less than three inches in length.

§ 2. This act shall take effect immediately.

CHAPTER 374

AN ACT to amend the penal law, in relation to fees for the issuance of licenses to carry and use dangerous weapons

Became a law April 2, 1938, with the approval of the Governor. Passed, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision ten of section eighteen hundred ninety-seven of the penal law is hereby amended to read as follows:

10. The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the city of New York in the case of the police commissioner of such city, which blank applications, licenses and record books shall, except in the city of New York, be approved as to form by the superintendent of state police. Such judge, justice or officer shall collect a fee for each license issued of not less than fifty cents or more than one dollar and fifty cents as may be determined by the board of supervisors where such license is issued or, in the case of the city of New York, as may be determined by the

¹ Words "of fifty cents" omitted.

renewal shall have been disposed of by such commissioner, chief of police, judge or justice.

§ 2. This act shall take effect July first, nineteen hundred thirty-eight.

CHAPTER 375

AN ACT to incorporate the Volunteer and Exempt Firemen's Benevolent Association of Floral Park, Long Island, New York, and providing for its powers and duties

Became a law April 2, 1938, with the approval of the Governor. Passed, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Incorporation; membership.** A membership corporation by the name of "Volunteer and Exempt Firemen's Benevolent Association of Floral Park, Long Island, New York," is hereby created. It shall be composed of such persons eligible to membership therein as hereinafter provided as shall (a) notify the secretary of the Floral Park fire department in writing prior to the organization meeting of such corporation hereinafter provided for of their desire to become members, or (b) shall attend such meeting or an adjournment thereof, or (c) shall notify the secretary of such corporation in writing within sixty days after his election of their desire to become members thereof, and also such persons so eligible as may become members of such corporation pursuant to its by-laws.

§ 2. **Persons eligible to membership.** All persons who are now, or have been, or who hereafter shall be volunteer members of Floral Park fire department, or of any fire engine, hook and ladder, patrol, emergency rescue squad or hose company in the village of Floral Park, and all persons resident in the village of Floral Park who are entitled to the general exemptions of volunteer firemen therein as provided in the general municipal law, the village law or any other applicable law, shall be eligible to membership therein.

§ 3. **Purposes.** The purposes of such corporation shall be the maintenance of suitable headquarters for the members of such corporation, and the relief, aid and assistance of such members and their families, who are disabled or indigent.

§ 4. **Powers and duties.** Such corporation shall have all of the powers of a membership corporation, and the provisions of law relating to membership corporations shall apply to such corporation, except where they conflict with the provisions of this act.

§ 5. **Organization meeting; by-laws.** The secretary of the Floral Park fire department shall call a meeting for the organization of such corporation to be held not later than sixty days after this act takes effect, notice of which shall be given by him by posting or

causing to be posted a notice thereof in five conspicuous places within the village of Floral Park, and also by publication of notice thereof in one or more newspapers having a general circulation within such territory, and such posting and publication shall be effected at least ten days prior to the date of such meeting. At such meeting or any adjournment thereof the members of such corporation present shall adopt by-laws and elect officers and trustees to serve until the first annual meeting, which shall be held on a date to be fixed by the by-laws. Any member failing to comply with the by-laws, rules or regulations duly adopted by such corporation shall be subject to suspension and expulsion in such manner as may be provided for in such by-laws. Any member who ceases to be such, voluntarily or otherwise, shall forfeit all interest in the property of such corporation.

§ 6. **Control and disposal of funds and property.** The control and disposal of the funds, property and estate of the said association, the exercise of its powers, and the management and control of its affairs shall be vested in and exercised by a board of trustees which shall consist of twelve members of such corporation, viz.: the president, the vice-president, the secretary, the treasurer and eight other members having the title of trustee. Such officers and trustees shall be elected at the annual meeting of such corporation in the manner prescribed by its by-laws.

§ 7. **Precept for payment of foreign fire insurance premium taxes.** Such corporation shall collect and there shall be paid to it all tax imposed by section one hundred thirty-three of the insurance law upon premiums on policies of insurance covering property situated within the village of Floral Park in the town of Hempstead, Nassau county, New York, or within any duly organized territory in which the Floral Park fire department is obligated to render fire protection, except that said corporation shall remit such percentage of all such taxes so collected or paid to it, to the treasurer of the Firemen's Association of the State of New York, as may be required by the insurance law. The officer of said corporation designated by its by-laws to collect and receive the aforesaid tax shall have all the powers and be subject to all the provisions of section one hundred thirty-three of the insurance law, relating to treasurers of fire departments. Such corporation shall also be entitled to receive a share of the tax imposed by section one hundred forty-nine-a of the insurance law, based upon the business written in the territory with respect to which it is entitled to collect and receive the tax under section one hundred thirty-three of the insurance law. Such taxes shall only be used for the care and relief of disabled or indigent volunteer and exempt firemen and their families.

§ 8. This act shall take effect immediately.

Form No. 88

State of New York
In Assembly

.....1938
Ordered, That the Clerk deliver the bill entitled

AN ACT

To amend the penal law, in relation to fees for the issuance
of licenses to carry and use dangerous weapons

to the Senate, and request their concurrence in the same.

By order

ANSLEY B. BORKOWSKI

Clerk

IN SENATE
Passed Without Amendment

15 138

By order of the SENATE

James J. Reilly
CLERK

12
[Clerk]

A Pr. 1526

Int. 1382

A 1382
Ch 374

This bill seeks to amend the Penal Law by modifying subdivision 10 of section 1897 of the Penal Law. Under the present law a fee of \$.50 is chargeable for a pistol license; the proposal seeks to make \$.50 the minimum fee and \$1.50 the maximum, leaving the decision in New York City to the City Council and outside of New York City to the various boards of supervisors.

I can see no objection to the Executive approval of this bill.

CITIZENS' CRIME COMMISSION
OF THE STATE OF NEW YORK, INC.
105 EAST 22^D STREET

LAWRENCE VELLER
President

PHONE: GRAMERCY 5-3860

NEW YORK CITY, March 26, 1938

A. Int. 1332 - Pkt. 1526 - Conway
Fees for Pistol Permits - Local Option

Hon. Herbert H. Lehman
Executive Chamber
Albany N.Y.

Sir:

I am writing you on behalf of this organization in favor of the above mentioned bill which is now before you awaiting Executive action.

This bill amends the Penal Law in regard to pistol permits (\$1897-10) by providing that in place of a fee of 50¢ for a pistol license, as now provided by that law, that 50¢ shall be the minimum fee and the maximum fee not more than \$1.50, as may be determined by the local authorities where the license is issued.

As the provision is a permissive one and local authorities are free to do as they like about increasing the present fee, the bill is unobjectionable.

For these reasons, we trust that this bill will have Executive approval and thus become a law.

Yours sincerely,

President

LV:s

BOARD OF DIRECTORS
NATHAN A. SHYTH
Chairman
New York
CHARLES W. APPLETON
New York
JOHN J. BENNETT, JR.
Albany
GEORGE H. BOND
Syracuse
HERBERT BROWNELL, JR.
New York
GEORGE M. CLANCY
Rochester
W. BRUCE COBB
New York
KENNETH DARTON
New York
JOSEPH J. EARLY
Brooklyn
WILLIAM D. FREEMAN
New York
BOSTON D. EDMOND
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GEORGE R. FRASER
Syracuse
HOMER FOLKE
Yonkers
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Brooklyn
WARNICK J. KERNAN
Utica
HUGH KNOWLTON
New York
JOHN A. KNOX
New York
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Rochester
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New York
JOHN McKIM MINTON, JR.
New York
JOHN LORD O'BRIEN
Buffalo
FERDINAND PECORA
New York
CHARLES POLETTI
New York
FRANK L. POLK
New York
EMMA P. PRENTICE
New York
LAWSON PERDY
New York
BRUCE SMITH
Garden City, L. I.
CHARLES H. TUTTLE
New York
LAWRENCE VELLER
New York
ARCHIBALD R. WATSON
New York
CHARLES S. WHITMAN
New York



J. EDWARD CONWAY

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

March 26, 1938.

His Excellency, The Hon. Herbert H. Lehman,
Governor of the State of New York,
Executive Chambers,
The Capitol,
Albany, New York.

Re: Int. 1382, Pr. 1526

My dear Governor Lehman:

The above bill which is now before you for your consideration proposes to grant to local legislative bodies the right to increase the fee for the issuance of a pistol permit from fifty cents upwards to a sum not to exceed one dollar and a half.

Due to recent amendments in the pistol permit section of the Penal Law, much additional clerical assistance has been required and it has been found that in my county, the fee of fifty cents which is now paid by such licensees does not cover the actual expense of the administration of the pistol permit bureau. This has necessitated an appropriation raised by general taxation to defray the additional cost. In view of the fact that pistol permits issued up-State are good until revoked, it is unfair that the taxpayers should be compelled to stand any portion of the cost of issuing such licenses. When one considers that a hunting and fishing license costs \$2.50 annually, it is not too much to ask of a pistol permit licensee that he pay a sum not to exceed \$1.50 for his license. If the additional increase should result in the issuance of fewer licenses, that in itself would be an improvement in that it would take dangerous weapons from the hands of persons likely to be unreliable.

It is submitted that this measure should be enacted into law.

Respectfully yours,

J. Edward Conway
J. Edward Conway

JUL 10

5

JA 83

JOHN A. WARNER
SUPERINTENDENT

STATE OF NEW YORK

GEORGE P. DUTTON
DEPUTY



NEW YORK STATE TROOPERS
EXECUTIVE DEPARTMENT
DIVISION OF STATE POLICE
ALBANY

March 29, 1938

Hon. Nathan R. Sobel
Counsel to the Governor
Executive Chamber
Albany, New York

My dear Mr. Sobel:

This refers to your letter dated March 25th in reference to Assembly Bill Introductory 1382, Print 1526, by Mr. Conway, which is now before the Governor for executive action.

After carefully reviewing this proposed statute, I find that it merely permits certain local governing bodies to determine the charges which will be assessed for the issuance of revolver licenses between the present statutory fee of 50¢ up to and including the sum of \$1.50, as they may determine.

Undoubtedly this bill was introduced at the instance of some locality who desired increased revenue from the issuance of revolver licenses perhaps with the thought in mind that the present fee was insufficient to cover the cost of the procedure within the county incidental to the process of issuing licenses and filing applications.

Hon. Nathan R. Sobel

-2-

Mar. 29-38

This division merely acts as a filing agency for one copy of each application for a revolver license against which a license has already been issued. The matter of fees therefor is of no interest to us as we do not benefit in any way therefrom and the signing of this law would not affect the division of state police.

Very truly yours,
JOHN A. WARNER

John A. Warner
Superintendent

JAW/hld

CITY OF NEW YORK
OFFICE OF THE MAYOR

April 2, 1938 D

A-COMMAY.....Int:1382,Pr:1526
AN ACT to amend the penal law, in relation to
fees for the issuance of licenses to
carry and use dangerous weapons.

REQUEST FOR APPROVAL

Honorable Herbert H. Lehman
Governor of the State of New York
Albany, New York

Dear Governor Lehman:

The above-entitled bill will eliminate all
possible question of the legality of the present \$1.50 charge for
pistol permits in New York City, \$1.00 of which goes to the Police
Pension Fund.

I therefore request you to give executive
approval to this measure and make it law.

Respectfully yours,



Mayor

OFFICERS
—
PRESIDENT
CHARLES E. HUGHES, JR.
VICE-PRESIDENTS
CLARENCE J. SHEARN
GEORGE Z. MEDALIE
ROBERT MCC. MARSH
—
SECRETARY
TERENCE J. McMANUS
—
TREASURER
RUTH LEWINSON
—
ASSISTANT SECRETARY
KENNETH M. JACKSON
ASSISTANT TREASURER
CHARLES E. J. BOYD



VESEY STREET—FACING ST. PAUL'S
NEW YORK

COMMITTEE ON STATE LEGISLATION
IRVING J. JOSEPH, CHAIRMAN
308 MADISON AVENUE

Ch. 374

April 6th, 1938.

Hon. Herbert H. Lehman,
Executive Chamber,
Albany, N. Y.

My dear Sir:

The Committee on the Criminal Courts
of the New York County Lawyers' Association has
approved the following bill and believes that it
should become law:

A. Int. 1382 Pr. 1526

A copy of a report recommending approval
is enclosed.

Very truly yours,

Irving J. Joseph,
Chairman of Committee on State Legislation.

INTRODUCED BY MR. CONWAY

April 5th, 1938

Report No. 401

A. Int. 1382 Pr. 1526
Same as S. Int. 1112

NEW YORK COUNTY LAWYERS' ASSOCIATION
Committee on State Legislation
14 Vesey Street

Copy of report of Committee on the Criminal Courts on Assembly Bill Int. 1382 Pr. 1526, same as Senate Bill Int. 1112, which seeks to amend Section 1897 of the Penal Law, in relation to fees for the issuance of licenses to carry and use dangerous weapons.

RECOMMENDATION: APPROVAL

At present, Section 1897, subdivision 10, of the Penal Law provides that a fee for a pistol license shall be 50¢. The present measure modifies that fee by providing for a minimum fee of 50¢ and a maximum of \$1.50. The amount to be charged is left solely to the determination of local authorities, namely, by the City Council of New York City and by Boards of Supervisors, outside.

The granting of pistol permits seems to be a proper source for additional revenue. Since the provision is a permissive one, the bill seems unobjectionable. For these reasons, it is approved.

Respectfully submitted,

COMMITTEE ON THE CRIMINAL COURTS.

Report prepared by
MR. STANLEY H. FULD

CHAPTER 147

AN ACT to amend the penal law, in relation to carrying and use of dangerous weapons

Became a law March 13, 1947, with the approval of the Governor. Passed, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The first paragraph of subdivision ten of section eighteen hundred ninety-seven of the penal law, as such subdivision was last amended by chapter six hundred thirty-eight of the laws of nineteen hundred forty-five, is hereby amended to read as follows:

10. The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the city of New York in the case of the police commissioner of such city, which blank applications, licenses and record books shall, except in the city of New York, be approved as to form by the superintendent of state police. Such judge, justice or officer, except in the city of New York,¹ shall collect a fee for each license issued of not less than fifty cents or more than one dollar and fifty cents as may be determined by the board of supervisors where such license is issued,² and shall pay the same into the treasury of the county or of such city, as the case may be. In the city of New York, the city council shall fix the amount of license fee to be charged, and provide for the disposition of such fees.³ The application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the city or county clerk of the city or county, as the case may be, where the applicant resides, and in addition, a duplicate copy of the application shall be filed in the office of the executive department, division of state police, within ten days after the issuance of the license. Every such license shall specify the weapon or weapons for which the license is issued and whether to be carried on the person or possessed on the premises.

§ 2. This act shall take effect immediately.

CHAPTER 148

AN ACT to amend the education law, in relation to the practice of nursing

Became a law March 13, 1947, with the approval of the Governor. Passed, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section thirteen hundred eighty-five of chapter twenty-one of the laws of nineteen hundred nine,

¹ Words "except in the city of New York" new matter inserted.

² Words "or, in the case of the city of New York, as may be determined by the city council" omitted.

³ Entire sentence new matter added.

entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as generally amended by chapter one hundred forty of the laws of nineteen hundred ten, such subdivision having been added by chapter one of the laws of nineteen hundred forty-two, and amended by chapter three hundred eighty-seven of the laws of nineteen hundred forty-six, is hereby amended to read as follows:

3. In view of the present emergency, notwithstanding the provisions of section thirteen hundred and seventy-five, this article shall not be construed as prohibiting the practice of nursing by other than registered or practical nurses until July first, nineteen hundred forty-eight.¹

§ 2. This act shall take effect immediately.

CHAPTER 149

AN ACT to amend the insurance law, in relation to policy forms pertaining to accident and health insurance

Became a law March 13, 1947, with the approval of the Governor. Passed, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred forty-one of chapter eight hundred eighty-two of the laws of nineteen hundred thirty-nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as amended by chapter six hundred eighty-nine of the laws of nineteen hundred forty-six, is hereby further amended to read as follows:

§ 141. **Withdrawal of approval of policy forms.** Whenever by the provisions of this chapter the superintendent is authorized to give his approval of any form of insurance policy, fraternal benefit certificate or annuity contract, he may, after notice and hearing given to the insurer which submitted such form for approval, withdraw an approval previously given, if the use of such form is contrary to the legal requirements applicable to such form at the time of such withdrawal, or in the case of^{1-a} any such policy form pertaining to accident or health insurance, or any application, rider or endorsement to be used in connection therewith (1) if the benefits provided therein are unreasonable in relation to the premium charged, or (2) if it contains provisions which encourage misrepresentation or³ are unjust, unfair, unequitable, misleading, deceptive,⁴ contrary to law or to the public policy of this state. Any such withdrawal shall be effective at the expiration of such period, not less than ninety days after the giving of notice of withdrawal, as the superintendent shall in such notice prescribe.

¹ Word "forty-eight" new matter substituted for word "forty-seven".

^{1-a} Words "in the case of" new matter substituted for word "if".

² Words "(1) if the benefits provided therein are unreasonable in relation to the premium charged, or (2) if it" new matter inserted.

³ Words "encourage misrepresentation or" new matter inserted.

⁴ Word "deceptive" new matter inserted.

CHAPTER

147

No. 499

Int. 497

IN ASSEMBLY

January 21, 1947

Eng

Introduced by Mr. KALISH—read once and referred to the
Committee on Codes

AN ACT

A To amend the penal law, in relation to carrying and use of
dangerous weapons

Notes

Jurats and Enacting Clause

Compared by

C. M. A. S. M. J.

APPROVED

Approved by

MAR 13 1947

Form No. 88

State of New York**In Assembly**

FEB 19

1947

Ordered, That the Clerk deliver the bill entitled

AN ACTTo amend the penal law, in relation to carrying and use of
dangerous weapons

to the Senate, and request their concurrence in the same.

By order

ANSLEY B. BORKOWSKI

Clerk

1.

IN SENATE

Passed Without Amendment

FEB 25 1946

By order of the SENATE

William S. May
CLERK



CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK 7, N.Y.

RECEIVED

1947 - 1947

OFFICE OF THE MAYOR

March 1st, 1947

A-KALISH.....Int:497.....Pr:499
AN ACT To amend the penal law, in relation to carrying and use of dangerous weapons

Honorable Thomas E. Dewey
Governor of the State of New York
Albany, N.Y.

Dear Governor:

The above bill was submitted for introduction by the City of New York. It has passed both houses and has been or soon will be transmitted to you for executive action.

The object of this bill is to amend the first paragraph of Subdivision 10 of Section 1897 of the Penal Law so as to permit the New York City Council to fix the amount of license fee to be charged for pistol permits.

Under this section, a pistol license fee may be no less than \$.50 nor more than \$1.50. The maximum fee is presently charged in New York City but is inadequate to compensate for the administrative expense entailed in the issuance of such licenses.

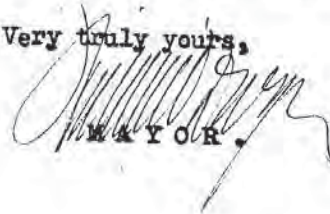
Before a pistol permit is issued, the Police Department conducts an intensive investigation to determine the necessity for the possession of a firearm by the applicant and to insure that his character evidences no traits indicating that his possession of a weapon would jeopardize the safety and welfare of the community. The cost of checking police files, fingerprinting, personal investigation and paper work is much greater than the revenue produced by the \$1.50 fee.

-2-

Honorable Thomas E. Dewey

I request you to approve the bill so as to except the City of New York from the restrictive provisions of Section 1897, and permit the City Council to fix a license fee commensurate with the cost of issuance.

Very truly yours,

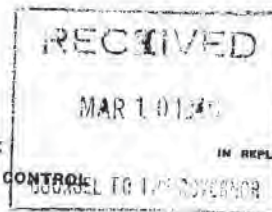

MAYOR.

ADDRESS ALL COMMUNICATIONS
TO THE DEPARTMENT

FRANK C. MOORE
STATE COMPTROLLER



STATE OF NEW YORK
DEPARTMENT OF AUDIT AND CONTROL
ALBANY



March 6, 1947

His Excellency Thomas E. Dewey
Governor of the State of New York
Executive Chamber
Albany, New York

Re: Assembly Bill Int. 497, Pr. 499,
By Mr. Kalish

Sir:

This bill empowers the Council of the City of New York (1) to fix the amount of the fee to be charged for a license to carry or possess a dangerous weapon and (2) to provide for the disposition of such fees. The law presently authorizes the Council to fix a fee of not less than \$.50 nor more than \$1.50 and provides that fees so collected be paid into the city treasury.

License fees may not be fixed at unreasonable rates (Dugan Brothers, Inc. v. Zorn (1932) 145 Misc. 511). Subject to this qualification, the Council could fix fees higher than those now authorized to be charged for licenses to carry or possess dangerous weapons.

The New York City Charter provides for the payment of revenues into the city treasury (Charter, Section 130) and for payment out pursuant to appropriations made by the Council and the Board of Estimate (Charter, Chapter 6) or by the Board of Estimate alone (Charter, Sections 127 and 128). This bill would authorize the Council, without the concurrence of the Board of Estimate, to determine the disposition of fees charged for licenses to carry or possess dangerous weapons.

His Excellency Thomas E. Dewey

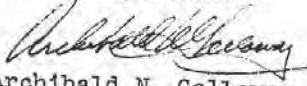
- 2

This Department offers no objection to
the approval of this bill.

Very truly yours,

FRANK C. MOORE
State Comptroller

By


Archibald N. Galloway
Deputy Comptroller



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

LOUIS KALISH

Mr. Charles D. Brietel
Counsel for the Governor
New York State Capitol
Albany, New York

March 7th, 1947
RECEIVED
MAR 8 - 1947
A417

Re: Amendment to Penal Law, (Dangerous
Weapons, N.Y.C. Assembly Int. No.
497, Print A499 - presently with
Governor

Dear Mr. Brietel:

In accordance with your recent request I am setting out
herewith my reasons for proposing and championing the above bill:

At present the fee charged in the City of New York for issuing a permit to carry fire-arms is one dollar and fifty cents (\$1.50). Because of a genuine desire on the part of the Police Department of the City to make sure that no licenses are issued to persons who might use them for the purpose of breaching the peace or interfering with law and order a thorough investigation is made of each application. The result is that the cost to the City exceeds the fee paid by applicants. At a time when the City is experiencing so many monetary difficulties it seems that any legitimately based reasons for raising the revenues to the City should be taken advantage of. To put this particular system of applications on a self-sustaining basis, which is one of the basic reasons for the bill's appearance, seems entirely justifiable.

With respect to allowing the City Council to set the fee, I would like to say this:

Because of the fact that the City is at present spending more money in the investigation of these applications than it receives, the difference between costs and receipts must vary with the number of applications submitted. It was therefore felt that to arbitrarily fix the rate would defeat the basic purpose of the Act. To give discretion in this manner to the City Council provides the flexibility required to keep costs and receipts balanced.

Another reason for the institution of this bill is the feeling that a higher fee, if the City Council considers it wise to impose same, will tend to discourage a great number of possible applicants who are better off, both as concerns themselves and the welfare of this City as a whole, without the possession of fire-arms. In this way the additional fee as well as covering the costs of investigation, thereby insuring their continued high caliber, would, of itself, eliminate a certain percentage of applications,



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

LOUIS KALISH

March 7th, 1947

Mr. Charles D. Brietel
Counsel for the Governor
New York State Capitol
Albany, New York

2nd

principally in that class where the possession of fire-arms is desired for reasons of bravado and like dangerous reasons.

Finally, it is considered that the possession of fire-arms for personal use is in the form of a non-essential grant which may be made the basis for revenue raising taxes.

Should there be any further questions in your mind regarding this bill, its background, and my reasons for supporting it, please consider me at your service.

Sincerely,

Louis Kalish

LK/slg

Received the following vote at the meeting of the New York City Council on June 24, 2004: 47 for, 3 against, 1 not voting.

Was signed by the Mayor on July 12, 2004.

Was returned to the City Clerk on July 14, 2004.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

Int. No. 313

By Council Members Vallone, Chin, Fidler, James, Vacca, Nelson, Cabrera and Lander
(by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to fees for firearm licenses and rifle and shotgun permits and the possession of firearms, rifles and shotguns while intoxicated and other abuse of firearm licenses and rifle and shotgun permits.

Be it enacted by the Council as follows:

Section 1. Paragraphs 2 and 3 of subdivision a of section 10-131 of the administrative code of the city of New York, as amended by local law number 37 for the year 2004, are amended to read as follows:

2. Every license to have and carry or have and possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to have and carry or have and possess a pistol or revolver in the city shall pay [therefor, a fee of three hundred forty dollars for each original or renewal application] for a three year license period or part thereof, a fee of:

(a) seventy dollars for each original application for a license to have and
possess in a dwelling or place of business;

(b) twenty-five dollars for each renewal application for a license to have
and possess in a dwelling or place of business;

(c) one hundred ten dollars for each original application for a license to have and carry concealed, except that the fee shall be fifty dollars for a retired law enforcement officer;

(d) forty dollars for each renewal application for a license to have and
carry concealed, except that the fee shall be twenty-five dollars for a license that is valid

only when the holder is actually engaged in a work assignment as a security guard or gun custodian, for a license that is valid only for carrying a handgun to and from specific locations during specific days and times, and for a license for a retired law enforcement officer; and

(e) ten dollars for each replacement application of a lost license, provided that the police commissioner may waive such fee if the applicant lost the license as a result of being the victim of a crime.

3. Every applicant to whom a license has been issued by any person other than the police commissioner, except as provided in paragraph five of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of [three hundred forty] one hundred ten dollars, for each renewal a fee of [three hundred forty] twenty-five dollars, and for each replacement of a lost permit a fee of ten dollars.

§2. Subdivision d of section 10-303 of the administrative code of the city of New York, as amended by local law number 37 for the year 2004, is amended to read as follows.

d. Fees. The fee for an application for a rifle and shotgun permit [or renewal thereof] shall be [one hundred forty dollars] sixty-five dollars for an original application and twelve dollars for a renewal application.

§3. Title 10 of the administrative code of the city of New York is amended by adding new sections 10-313 and 10-314 to read as follows:

§ 10-313. Prohibition of the possession of firearms, rifles and shotguns while intoxicated.

a. A person shall not possess a firearm, rifle or shotgun outside of his or her home while:

(i) such person is in an intoxicated condition; or

(ii) such person has .08 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's breath, blood, urine or saliva, made pursuant to section eleven hundred ninety-four of the vehicle and traffic law, section 10-314 of this article or other applicable law; or

(iii) such person's ability to safely possess such firearm, rifle or shotgun is impaired by consumption of alcohol; or

(iv) such person's ability to safely possess such firearm, rifle or shotgun is impaired by use of any drug; or

(v) such person's ability to safely possess such firearm, rifle or shotgun is impaired by the combined influence of drugs or of alcohol and any drug or drugs.

b. Any person who shall violate subdivision a of this section shall be guilty of a misdemeanor punishable by a fine of not more than ten thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment. Violation of subdivision a of this section shall also be grounds for the revocation of a license to deal in firearms, deal in rifles and shotguns, possess firearms, or possess a rifle or shotgun in accordance with applicable law.

c. (i) Possession of a valid license for a firearm, rifle or shotgun as provided under sections 10-131 and 10-303 of this title or any other applicable law shall not preclude a conviction for the offense defined in subdivision a of this section.

(ii) Subdivision a of this section shall not apply in the circumstances

(i) Evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall create rebuttable presumptions that the ability of such person to safely possess a firearm, rifle or shotgun was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition;

(iii) Evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall create a rebuttable presumption that such person was not in an intoxicated condition, but shall create a rebuttable presumption that the ability of such person to safely possess a firearm, rifle or shotgun was impaired by the consumption of alcohol.

JA 105

that section three of this local law shall take effect ninety days after its enactment into law; provided, however, that any actions, including but not limited to the promulgation of rules and regulations, necessary to implement the provisions of this act on its effective date are authorized and directed to be made and completed on or before such date.

**Nassau County Police Department
Pistol License Section
1490 Franklin Avenue
Mineola, NY. 11501**

**Telephone (516) 753-7559
Fax (516) 753-7861**

WEB PAGE: www.police.co.nassau.ny.us

Monday & Friday 9:00AM-5:00PM

Tuesday & Thursday 11:00AM-7:00PM

Wednesday 7:30AM-7:00PM

This handbook has been prepared as a general guide for both applicants and pistol license holders. The terms and conditions outlined are concurrent with, and in addition to, those contained in Articles 400.00 and 265.00 of the New York State Penal Law.

Answers to specific questions concerning pistol licenses may be obtained by contacting the Nassau County Police Department, Pistol License Section at 516-573-7559. Licensees are required to be aware of the contents of this booklet, as well as all applicable New York State and Federal Laws.

Revised April, 2010

Nassau County pistol license holders are responsible for all future revisions of this handbook.

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APPLICANT REQUIREMENTS

AN APPLICANT MUST:

- Be of good moral character.
- Have no prior conviction for a felony or other serious offense, as defined in Section 265.00 Definitions. Sub.17 and Section 400.00 Sub. 1.(d).
- Disclose any history of mental illness.
- Be free from any mental disorders, defects or diseases that would impair his or her ability to safely possess or use a firearm.
- Reside or maintain a principal place of business within the confines of Nassau County.
- Be an applicant concerning whom no good cause exists for the denial of such license.
- Be at least twenty-one (21) years of age or older, provided, however, that where such applicant has been honorably discharged from the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard of the State of New York, no such age restriction shall apply.
- Not have had a license revoked or not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section 842(a) of the family court act.
- Not have been convicted of a misdemeanor crime of domestic violence.

Licensing Fees

Application	\$200.00
DCJS Fingerprinting Fee (one time only fee)	\$ 94.25
Pistol License Renewal Fee (every 5 years)	\$200.00
Dealer License Renewal Fee (every 3 years)	\$150.00
Gunsmith Renewal Fee (every 3 years)	\$ 75.00
Purchase Document	\$ 10.00
Sale of a Gun	\$ 10.00
Amendment	\$ 10.00
Change of Address	\$ 10.00
Replacement License	\$ 5.00
Records Transfer	\$ 5.00

Checks returned for insufficient funds may result in the suspension of your Pistol License and a \$20.00 returned check fee.


The application fee and renewal fee is waived for qualified Retired Police Officers, Retired Peace Officers and Retired Federal Law Enforcements as per N.Y.S. Penal law Section 400.00, sub.14.

Type of Pistol Licenses and Restrictions

1. Target/Hunting License

A Carry License, which is stamped *Target* restricts the licensee to carrying a loaded firearm to and from a range for recreational or competitive shooting, or for hunting, where legal in New York State, (valid NYS Hunting License also needed) except when traveling through New York City. (See Traveling Thru New York City)

THE STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL

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Colonel Rick Fuentes
Superintendent

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FAQ's

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[Office of Employee and Organization Development \(OEOD\)](#)
[Firearms](#) | [Marine Services](#) | [Missing Persons](#)
[Office of Professional Standards](#) | [Private Detectives](#) | [Recruiting](#)

Firearms

[Firearms Information](#) | [Related Forms](#)

Q1. As a member of a police department, how do we request firearms look-up information?

A1. Please fax a request on police department letterhead. Our fax number is 609-406-9826. If you require immediate assistance, please dial 609-882-2000 ext. 2060 or 2061.

Q2. How do you obtain a Firearms Purchaser Identification Card and/or a Permit to Purchase a Handgun?

[Download Form](#)

A2. You must apply at your local police department. If you do not have a local police department or you are an out of state resident, you must apply at the nearest New Jersey State Police station (excluding toll roads, stations on the New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway).

For any further information outlining specific requirements, contact your local police department or nearest New Jersey State Police station.

Q3. How do you buy rifles and/or shotguns, including bb, pellet, and black powder rifles?

A3. It is the responsibility of the seller of the firearm to ascertain that the buyer has a Firearms Purchaser Identification Card plus one additional form of identification and a completed Certificate of Eligibility. A [Certificate of Eligibility](#) can be obtained at any licensed firearms dealer.

Q4. How do you buy handguns, including bb, pellet, and black powder handguns.

[Download Form](#)

A4. A Permit to Purchase a Handgun must be completed on each handgun transferred in this state. It is the responsibility of the seller of the handgun to ascertain that the buyer has a valid Permit to Purchase a Handgun and one additional form of identification. The permit must be completed by the seller and buyer. It is the responsibility of the seller to forward the copies to the appropriate authority. Instructions are printed on the permit.

Q5. When is fingerprinting required?

A5. Individuals must be fingerprinted when applying for a Firearms Purchaser Identification Card or a Permit to Purchase a Handgun.

An individual making application for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he or she was previously fingerprinted, and who provides other reasonable satisfactory proof of his or her identity, in the discretion of the chief of police or Superintendent, need not be fingerprinted again.

An individual seeking a Permit to Carry a Handgun must be fingerprinted upon the initial application and each subsequent renewal.

Fees - \$60.25 certified check or money order made out to the Division of State Police S.B.I. Additional information can be obtained from your local police department or nearest New Jersey State Police station.

Police departments with questions concerning fingerprints or fees please contact the Criminal Information Unit at ext. 2991.

Q6. How do you transport firearms?

A6. Firearms shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported.

Ammunition must be transported in a separate container and locked in the trunk of the automobile in which it is being transported. If the vehicle does not have a compartment separate from the passenger compartment, the firearm must be in a locked container other than the vehicle's glove compartment or console.

Q7. How do you become a gunsmith, retail or wholesale firearms dealer, or get information on ammunition sales and/or gunsmithing?

[Download Form](#)

A7. You must first obtain a letter from your local zoning official which states that firearm and/or ammunition sales are permitted from your location.

Once you receive this letter, send the original to the:

**New Jersey State Police
Firearms Investigation Unit
Post Office Box 7068
West Trenton, New Jersey 08628-0068.**

You will then be sent an application package which should be completed in its entirety and forwarded to the Firearms Investigation Unit.

Private Detectives

[Private Detective/Security Info](#) | [Related Forms](#)

Q1. What Rules Govern the Private Detective Industry?

A1. The Private Detective Act of 1939 and the Administrative Rules and Regulations define the statutory obligations of anyone applying for or operating under a private detective license in the State of New Jersey.

As mandated the New Jersey State Police, Private Detective Unit has the responsibility to administer and regulate those individuals engaged in the private detective industry.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHUI W. KWONG; GEORGE GRECO; GLENN
HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY;
SECOND AMENDMENT FOUNDATION, INC.; and
THE NEW YORK STATE RIFLE & PISTOL
ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official Capacity as
Mayor of the City of New York; CITY OF NEW YORK;
and ERIC SCHNEIDERMAN, in his Official Capacity as
Attorney General of the State of New York,

Defendants.

**CITY DEFENDANTS'
NOTICE OF CROSS-
MOTION FOR
SUMMARY
JUDGMENT**

11 Civ. 2356 (JGK)
ECF Case

PLEASE TAKE NOTICE that, that upon the Declarations of Andrew Lunetta dated July 28, 2011, Andy Shiwnarain, dated July 28, 2011, and Michelle Goldberg-Cahn dated July 28, 2011, and the exhibits annexed thereto, Statement Pursuant to Local Civil Rule 56.1 of Defendant Michael Bloomberg (in his official capacity as Mayor of the City of New York) and the City of New York (collectively "City defendants") dated July 28, 2011, City Defendants' Memorandum of Law in Support of Their Cross-Motion For Summary Judgment and in Opposition To Plaintiffs' Motion For Summary Judgment, dated July 28, 2011, and upon the Complaint and all prior papers and proceedings herein, the undersigned will move this Court before the Honorable John G. Koeltl at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, for an order pursuant to Rule 56 of the

Federal Rules of Civil Procedure, granting summary judgment in favor of City Defendants in this action, together with such other and further relief as the Court deems just, fair and equitable.

PLEASE TAKE FURTHER NOTICE, that in accordance with the briefing schedule set by the Court by Order, dated May 25, 2011, plaintiffs shall serve and file their opposition papers by August 19, 2011, and City defendants' reply, if any, shall be served and filed by September 13, 2011, at which time the motion shall be fully-submitted. Failure to oppose by the date set forth above will result in this cross-motion being granted as unopposed.

Dated: New York, New York
July 28, 2011

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for City Defendants
100 Church Street
New York, New York, 10007
(212) 788-0758
migoldbe@law.nyc.gov

By: 
Michelle Goldberg-Cahn (MG4490)
Assistant Corporation Counsel

TO:

David Jensen, Esq.
DAVID JENSEN, PLLC
Counsel for Plaintiffs
708 Third Avenue, Sixth Floor
New York, NY 10017
(212) 380-6615

Monica Connell/Anthony Tomari, Assistant Attorneys General
ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Attorney for State Intervenor

120 Broadway
New York, NY 10271
(212) 416-8965

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

SHUI W. KWONG; GEORGE GRECO; GLENN
HERMAN; NICK LIDAKIS; TIMOTHY S. FUREY;
SECOND AMENDMENT FOUNDATION, INC.; and
THE NEW YORK STATE RIFLE & PISTOL
ASSOCIATION, INC.,

Plaintiffs,

-against-

MICHAEL BLOOMBERG, in his Official Capacity as
Mayor of the City of New York; CITY OF NEW YORK;
and ERIC SCHNEIDERMAN, in his Official Capacity as
Attorney General of the State of New York,

Defendants.

----- X

MICHELLE GOLDBERG-CAHN, declares under the penalty of perjury,
pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct:

1. I am an Assistant Corporation Counsel in the office of MICHAEL A. CARDOZO, Corporation Counsel of the City of New York, attorney for defendants Michael Bloomberg, in his Official Capacity as Mayor of the City of New York and the City of New York (“City defendants”) in this action. I submit this declaration in opposition to plaintiffs’ motion for summary judgment and in support of City defendants’ cross-motion for summary judgment, and to place certain documents on the record of this motion.

2. In response to a request from counsel for plaintiffs, City defendants produced to plaintiffs’ counsel (and counsel for State-Intervenors) a copy of relevant portions of the 2010 New York City Office of Management and Budget (“OMB”) analysis on the costs of certain pistol licensing fees. Some parts of the production were redacted.

**DECLARATION OF
MICHELLE
GOLDBERG-CAHN**

11 Civ. 2356 (JGK)
ECF Case

3. Annexed for this Court's consideration are the following documents:

Legislative Materials for Enacted Laws:

- A copy of the Bill Jacket for New York State Penal Law § 400.00(14), which sets forth the legislative history in support of the 1947 amendment to Penal Law § 400.00(14), is annexed hereto as Exhibit "A."
- A copy of Local Law 32 of 1948, along with the legislative history for Local Law 32 of 1948, which includes letters and memoranda from Police Commissioner Wallander to Mayor O'Dwyer, and the Transcript of the Public Hearing on the local law, all in 1948, are collectively annexed hereto as Exhibit "B." For ease of reference, I placed handwritten numbers on the bottom center of each page in this exhibit.
- A copy of Local Law 47 of 1962 is annexed hereto as Exhibit "C."
- A copy of the legislative history from the City Council for Local Law 47 of 1962, including a memorandum from Police Commissioner Murphy to Mayor Wagner setting forth a cost analysis, and other memoranda, is collectively annexed hereto as Exhibit "D." For ease of reference, I placed handwritten numbers on the bottom center of each page in this exhibit.
- A copy of Local Law 78 of 1973 is annexed hereto as Exhibit "E."
- Copies of Local Law 42 of 1979 and the Report of the Committee on Finance, in Favor of Approving and Adopting, as Amended, a Local Law to Amend the Administrative Code of the City of New York, in Relation to Charges of Fees for Licenses, Permits, or Privileges Issued by the Police Department, dated July 10, 1979, are collectively annexed hereto as Exhibit "F."

- Copies of Local Law 37 of 1985 and the Report of the Committee on Finance – Pistol License, dated July 3, 1985, are collectively annexed hereto as Exhibit “G.”
- Copies of Local Law 51 of 1989 and the Report of the Committee on Finance – Revolver License Fee, dated July 12, 1989, are collectively annexed hereto as Exhibit “H.”
- A copy of Local Law 42 of 1992 is annexed hereto as Exhibit “I.”
- A copy of Local Law 37 of 2004 is annexed hereto as Exhibit “J.”
- Copies of the Report of the Committee on Finance in Favor of Approving and Adopting, a Local Law to Amend the Administrative Code of the City of New York, in Relation to Fees for Firearms Licenses and Rifle and Shotgun Permits, dated June 24, 2004, and the City Council Finance Division Fiscal Impact Statement, submitted June 24, 2004, are collectively annexed hereto as Exhibit “K.”
- Copies of the Chapter 503 of the New York State Laws of 1995, and its legislative history, are collectively annexed hereto as Exhibit “L.”
- Copies of Chapter 200 of the New York State Laws of 1956; and Chapter 111 of the New York State Laws of 1957, are collectively annexed hereto as Exhibit “M.”

City Council Materials for Proposed Legislation in 2010:

- A copy of New York City Council Introduction No. 313 of 2010 is annexed hereto as Exhibit “N.”

- A copy of the City Council Committee on Public Safety Report in Support of Int. No. 313 of 2010, is annexed hereto as Exhibit “O.”
- A copy of relevant portions of the Transcript of the Minutes of the September 15, 2010 New York City Council Committee on Public Safety Hearing, discussing Int. 313 of 2010, is annexed hereto as Exhibit “P.”
- A copy of the printout from the New York City Council’s website reflecting the status of Int. 313 of 2010 was “laid over in committee,” is annexed hereto as Exhibit “Q.”

Publications Referenced by City Defendants:

- A copy of an article authored by Mona A. Wright, MPH and Garen J. Wintemute, entitled Felonious or Violent Criminal Activity that Prevents Gun Ownership Among Prior Purchasers of Handguns: Incidence and Risk Factors, published in the Journal of Trauma, Injury, Infection, and Critical Care (2010), is annexed hereto as Exhibit “R.”
- A copy of an article authored by D. Webster, J. Vernick, & L. Hepburn, entitled Relationship Between Licensing, Registration, and Other Gun Sales and the Source State of Crime Guns, published in Injury Prevention, at 184-189 (2001), is annexed hereto as Exhibit “S.”
- A copy of Webster’s Third International Dictionary (1972), pg. 593, is annexed hereto as Exhibit “T.”

Dated: New York, New York
July 28, 2011

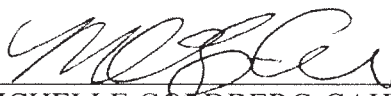

MICHELLE GOLDBERG-CAHN (MG4490)

Exhibit A

Year 1947

Chapter 147

The New York State Library
Legislative Reference Section
Albany, N. Y.

Bill Jacket Collection

MICROFILMED

Date 10/23/58 1
NO. OF PRINTED BILLS
NO. OF EXPOSURES 8
EXCLUSIVE OF BILLS

0-9-10-5M (SUMU-303)

CHAPTER

147

No. 499

Int. 497

IN ASSEMBLY

January 21, 1947

Eng

Introduced by Mr. KALISH—read once and referred to the
Committee on Codes

AN ACT

To amend the penal law, in relation to carrying and use of
dangerous weapons

Notes

Jurats and Enacting Clause

Compared by

C. M. a m m D

APPROVED

Approved by

MAR 13 1947

SECOND READING No. 119

Reported by said committee
without amendment and or
dered to a second reading.

THIS ORIGINAL BILL TO BE
RETURNED WITH REPORT

STATE OF NEW YORK

No. 499

Int. 497

48

IN ASSEMBLY

January 21, 1947

THIRD READING No. 116

Rep. ...
pl...
res...
Co...

Introduced by Mr. KALISH—read once and referred to the
Committee on Codes

AN ACT

To amend the penal law, in relation to carrying and use of
dangerous weapons

*The People of the State of New York, represented in Senate and
Assembly, do enact as follows:*

- 1 Section 1. The first paragraph of subdivision ten of section
- 2 eighteen hundred ninety-seven of the penal law, as such subdivision
- 3 was last amended by chapter six hundred thirty-eight of the laws
- 4 of nineteen hundred forty-five, is hereby amended to read as
- 5 follows:
- 6 10. The expense of providing a judge, justice or officer with blank
- 7 applications, licenses and record books for carrying out the provi-
- 8 sions of this section shall be a charge against the county, or the
- 9 city of New York in the case of the police commissioner of such
- 10 city, which blank applications, licenses and record books shall,
- 11 except in the city of New York, be approved as to form by the

EXPLANATION—Matter in *italics* is new; matter in brackets [] is old law to
be omitted.

Reported from Committee on
Revision without Recommen-
dations, ordered engrossed.

1 superintendent of state police. Such judge, justice or officer,
2 except in the city of New York, shall collect a fee for each license
3 issued of not less than fifty cents or more than one dollar and fifty
4 cents as may be determined by the board of supervisors where such
5 license is issued [or, in the case of the city of New York, as may
6 be determined by the city council], and shall pay the same into the
7 treasury of the county or of such city, as the case may be. In the
8 city of New York, the city council shall fix the amount of license
9 fee to be charged, and provide for the disposition of such fees. The
10 application for any such license, if the license be granted, shall be
11 filed by such judge, justice or officer in the office of the city or
12 county clerk of the city or county, as the case may be, where the
13 applicant resides, and in addition, a duplicate copy of the applica-
14 tion shall be filed in the office of the executive department, division
15 of state police, within ten days after the issuance of the license.
16 Every such license shall specify the weapon or weapons for which
17 the license is issued and whether to be carried on the person or
18 possessed on the premises.

19 § 2. This act shall take effect immediately.

Form No. 88

State of New York

In Assembly

FEB 18

1947

Ordered, That the Clerk deliver the bill entitled

AN ACT

To amend the penal law, in relation to carrying and use of dangerous weapons

to the Senate, and request their concurrence in the same.

By order

ANSLEY B. BORKOWSKI

Clerk

IN SENATE
Passed Without Amendment

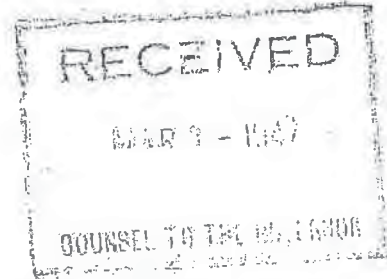
FEB 25 1946

By order of the SENATE

William S. Clark
CLERK



CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK 7, N.Y.



March 1st, 1947

A-KALISH.....Ints:497.....Pr:499
AN ACT To amend the penal law, in relation to carrying and use of dangerous weapons.

Honorable Thomas E. Dewey
Governor of the State of New York
Albany, N.Y.

Dear Governor:

The above bill was submitted for introduction by the City of New York. It has passed both houses and has been or soon will be transmitted to you for executive action.

The object of this bill is to amend the first paragraph of Subdivision 10 of Section 1897 of the Penal Law so as to permit the New York City Council to fix the amount of license fee to be charged for pistol permits.

Under this section, a pistol license fee may be no less than \$.50 nor more than \$1.50. The maximum fee is presently charged in New York City but is inadequate to compensate for the administrative expense entailed in the issuance of such licenses.

Before a pistol permit is issued, the Police Department conducts an intensive investigation to determine the necessity for the possession of a firearm by the applicant and to insure that his character evidences no traits indicating that his possession of a weapon would jeopardize the safety and welfare of the community. The cost of checking police files, fingerprinting, personal investigation and paper work is much greater than the revenue produced by the \$1.50 fee.

-2-

Honorable Thomas E. Dewey

I request you to approve the bill so as to except the City of New York from the restrictive provisions of Section 1897, and permit the City Council to fix a license fee commensurate with the cost of issuance.

Very truly yours,


MAYOR.

ADDRESS ALL COMMUNICATIONS
TO THE DEPARTMENT



RECEIVED

MAR 10 1947

FRANK C. MOORE
STATE COMPTROLLER

STATE OF NEW YORK
DEPARTMENT OF AUDIT AND CONTROL
ALBANY
COUNSEL TO THE GOVERNOR

IN REPLYING REFER TO

March 6, 1947

His Excellency Thomas E. Dewey
Governor of the State of New York
Executive Chamber
Albany, New York

Re: Assembly Bill Int. 497, Pr. 499,
By Mr. Kalish

Sir:

This bill empowers the Council of the City of New York (1) to fix the amount of the fee to be charged for a license to carry or possess a dangerous weapon and (2) to provide for the disposition of such fees. The law presently authorizes the Council to fix a fee of not less than \$.50 nor more than \$1.50 and provides that fees so collected be paid into the city treasury.

License fees may not be fixed at unreasonable rates (*Dugan Brothers, Inc. v. Zorn* (1932) 145 Misc. 611). Subject to this qualification, the Council could fix fees higher than those now authorized to be charged for licenses to carry or possess dangerous weapons.

The New York City Charter provides for the payment of revenues into the city treasury (Charter, Section 130) and for payment out pursuant to appropriations made by the Council and the Board of Estimate (Charter, Chapter 6) or by the Board of Estimate alone (Charter, Sections 127 and 128). This bill would authorize the Council, without the concurrence of the Board of Estimate, to determine the disposition of fees charged for licenses to carry or possess dangerous weapons.

His Excellency Thomas E. Dewey

- 2

5
This Department offers no objection to
the approval of this bill.

Very truly yours,

FRANK C. MOORE
State Comptroller

By

Archibald N. Galloway
Archibald N. Galloway
Deputy Comptroller



LOUIS KALISH

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

March 7th, 1947

Mr. Charles D. Brietel
Counsel for the Governor
New York State Capitol
Albany, New York

Re: Amendment to Penal Law, (Dangerous
Weapons, N.Y.C.) Assembly Int. No.
499, Print A499 - presently with
Governor

Dear Mr. Brietel:

In accordance with your recent request I am setting out herewith my reasons for proposing and championing the above bill:

At present the fee charged in the City of New York for issuing a permit to carry fire-arms is one dollar and fifty cents (\$1.50). Because of a genuine desire on the part of the Police Department of the City to make sure that no licenses are issued to persons who might use them for the purpose of breaching the peace or interfering with law and order a thorough investigation is made of each application. The result is that the cost to the City exceeds the fee paid by applicants. At a time when the City is experiencing so many monetary difficulties it seems that any legitimately based reasons for raising the revenues to the City should be taken advantage of. To put this particular system of applications on a self-sustaining basis, which is one of the basic reasons for the bill's appearance, seems entirely justifiable.

With respect to allowing the City Council to set the fee, I would like to say this:

Because of the fact that the City is at present spending more money in the investigation of these applications than it receives, the difference between costs and receipts must vary with the number of applications submitted. It was therefore felt that to arbitrarily fix the rate would defeat the basic purpose of the Act. To give discretion in this manner to the City Council provides the flexibility required to keep costs and receipts balanced.

Another reason for the institution of this bill is the feeling that a higher fee, if the City Council considers it wise to impose same, will tend to discourage a great number of possible applicants who are better off, both as concerns themselves and the welfare of this City as a whole, without the possession of fire-arms. In this way the additional fee as well as covering the costs of investigation, thereby insuring their continued high caliber, would, of itself, eliminate a certain percentage of applications,



LOUIS KALISH

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

March 7th, 1947

Mr. Charles D. Bristel
Counsel for the Governor
New York State Capitol
Albany, New York

2nd

principally in that class where the possession of fire-arms is desired for reasons of bravado and like dangerous reasons.

Finally, it is considered that the possession of fire-arms for personal use is in the form of a non-essential grant which may be made the basis for revenue raising taxes.

Should there be any further questions in your mind regarding this bill, its background, and my reasons for supporting it, please consider me at your service.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Louis Kalish', written over a horizontal line.

Louis Kalish

LK/slg

Legislative Document (1947)

No. 73

STATE OF NEW YORK

REPORT
OF THE
JOINT LEGISLATIVE COMMITTEE
ON
INTERSTATE COOPERATION

1947



ALBANY
WILLIAMS PRESS, INC.
1947

JA 134

stated that he would "not contest any effort to return me to the State of Pennsylvania" and since the compact itself not only waives extradition on the part of all the states party thereto, but also provides that the officers of the sending state "will be permitted to transport prisoners being retaken through any and all states parties to this compact without interference" that he had no right to contest the present effort made by the officers of the state which granted him the privilege of leaving their custody on the express condition of his returning when wanted.

Proposed Amendments to the Firearms Law

Previous reports of your committee have listed as unfinished business possible amendments to the New York State Firearms Law designed (a) to bring it more in accordance with the Uniform Firearms Act and (b) to alleviate certain interstate difficulties. This question was again brought to the attention of your committee during the past year when it was pointed out that persons engaging in pistol target shooting as a competitive sport even when duly licensed in other states who came to this state either to attend a pistol match or passed through this state on their way to a pistol match in some other state were liable to conviction under our laws because they had no New York pistol permit. Since this matter had been called to the attention of your committee some years ago as a result of meetings with Professor Samuel Bass Warner of Harvard University, then connected with the Interstate Commission on Crime, the subcommittee took the occasion to review the recommendations which your committee had made at that time, but which it had never pressed for consideration by your honorable bodies. In the course of the discussions of this problem in a meeting of the Subcommittee on Crime on December 10, 1946, Deputy Superintendent George M. Searle of the New York State Police raised the question of the advisability of making any changes in the Firearms Law at this time because of the number of violations, the difficulty of enforcement in connection with any exceptions that would be made and in particular because of the influx of firearms into the country as a result of the war. The subcommittee agreed generally in these circumstances that such changes seemed undesirable, but in accordance with the suggestion that the New York City Police Department be consulted unofficially to see if there were any possible way to work out this interstate difficulty at the present time a delegation from the subcommittee was appointed to seek an unofficial expression of opinion on the part of the New York City Police. This was especially necessary in view of the fact that even a New York State license issued elsewhere in the state must be approved under our state law by the New York City Police to be valid in that city. The expression of opinions by the New York City officers re-emphasized the questions raised by the New York State Police, particularly with respect to the tremendous difficulties in police work at the present time due to the influx of firearms following the war. The question as to whether a special

license could be issued to pistol clubs was also explored, but it was pointed out that there was no way in which the police could be certain that such pistol clubs and their membership were bona fide and no way in which they could be certain that there would be constant inspection by another state of the membership lists of such clubs. In this connection it was pointed out that there had been trouble with rifle clubs during the early days of the war when it was discovered that the Bund had infiltrated into certain clubs and that some clubs were engaging in drilling akin to military training. Moreover, there was apprehension that even if neighboring states were to adopt the same licensing standards as prevailed in New York State and, notably in New York City where the supervision of such licenses had been the most thorough, there was no way in which one could be certain of the thoroughness of administration of the approved standards in those other states. In this connection previous experience in New York State was brought to the committee's attention where it had been necessary to change the law to permit New York City to check upon licenses issued in upstate communities.

In view of these conditions your committee withdraws, at least temporarily and until such time as an effective method of control can be found, its recommendations of other years with respect to amendments to the Firearms Law.

IN ASSEMBLY
Introduced by
MR. MILMOE
Print No. 2908

On behalf of the Joint Legislative Committee on Interstate Cooperation
AN ACT to amend the penal law, in relation to licenses for the sale of pistols, revolvers and other firearms

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions five and six of section nineteen hundred fourteen of the penal law, as amended by chapter five hundred thirty-two of the laws of nineteen hundred forty-six, are hereby amended to read, respectively, as follows:

5. The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the city of New York in the case of the police commissioner of such city, and such applications, licenses and record books shall, except in the city of New York, be approved as to form by the superintendent of state police. Each applicant and licensee shall be a citizen of the United States, shall be over the age of twenty-one years, and shall maintain a place of business in the county wherein the license is issued. The application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the city or county clerk of the city or county, as the case may be, where the business is located, and in addition, a [duplicate]

NEW YORK STATE BAR ASSOCIATION BULLETIN

Vol. 19

JUNE, 1947

No. 3

The Bulletin, official publication of the New York State Bar Association, is issued five times each year, February, April, June, October and December, for the purpose of furnishing information to its members of the activities of the Association and of the local associations in the state. Of the membership dues paid annually, \$1.25 is allocated to cover subscription to the Bulletin. Postage is prepaid. Entered as second class matter April 26, 1928, at the postoffice at Albany, New York, under the act of March 8, 1879.

Articles appearing in the Bulletin should be considered as the views of respective authors and do not necessarily carry the endorsement of the Association.

Editorial Board

ROBERT E. LEE
President

CHESTER WOOD
Secretary

ROBERT C. POSKANZER
Treasurer

JOHN V. BUCHER, *Editor*
90 State Street,
Albany 7, N. Y.

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allowed for the services of justices of the peace and police justices; Sec. 938-c by Ch. 804 extending the jurisdiction of the Probation Department in Erie County to the City Court of Buffalo; Sec. 952-V by Ch. 94 relating to the compensation and payment of stenographers in Niagara County; the Penal Law Sec. 1897 (10) by Ch. 147 providing that fees for the issuance of licenses or carrying of possessing weapons shall be fixed in the City of New York by the City Council; Sec. 1897 (10) Penal Law by Ch. 436 providing that applications for pistol permits in Nassau County shall be filed in the Information Bureau of the County Department of Police.

The following are the other important amendments to the Penal Law:

Section 1897 (10) Ch. 442, providing that whenever a license to carry or possess a weapon is revoked, the judge, justice or commissioner of police revoking or cancelling the license shall immediately notify the Executive Department division of State police. The present statute merely provides for the filing of a copy of the application when the license is issued.

Section 1872 by Ch. 296 adding "Fire District" to the officers or boards of the State or any county authorized to audit or allow or pay bills or charges, listed in the Statute, which penalizes persons fraudulently presenting bills or claim for payment to such officers or boards.

Section 966 Penal Law, a new section enacted by Ch. 81 providing it to be unlawful for any person to possess or use an identification card issued to another person by the United Nations.

Ch. 345 amends the Penal Law Sec. 194-b relating to dogs, which apparently was formerly limited to New York City, is now extended to the entire state and prohibits the theft, molestation of dogs or the removal of licenses without the consent of the owner.

It is hard to understand why this statute relating to offenses against dogs should have previously been limited to any particular section of the state.

Sec. 891 of the Penal Law by Ch. 238 relating to the forging of passage tickets is amended to include tickets entitling the holder to pass over any public bridge to the other tickets and passage checks for railways or vessels provided for in the act.

Sec. 442-a of the Penal Law, by Ch. 153 which forbids banks or trust companies to require as a condition for a loan, that the borrower shall negotiate a policy of insurance through a particular broker or agency is broadened to include persons as well as corporations, to apply also to renewals and extensions of loans, and to apply to loans both on personal and real property.

Officers of Greene County Bar

The officers of the Greene County Bar Association for the present year are as follows: N. Joseph Friedman, President; James H. Hyer, Vice President; Harry J. Semenoff, Secretary; and Howard C. Wilbur, Treasurer.

New Amendments to Penal Law and Criminal Procedure

By John McKim Minton, Jr.

*Chairman of Committee on Penal Law and Criminal Procedure of
the New York State Bar Association*



JOHN MCKIM MINTON, JR.

THE following is a resume of the more important statutes relating to Penal Law and Criminal Procedure enacted at the 1947 Session of the Legislature.

The most important one is the amendment of Sections 517, 518 and 519 of the Code of Criminal Procedure by Ch. 706, L. 1947, creating a new right of appeal in a criminal case. The statute provides that a defendant may appeal from an order denying a motion to vacate a judgment of conviction and that the District Attorney may appeal from an order granting a motion to vacate a judgment of conviction. A few words respecting this extension of the right to appeal may not be amiss. Formerly the only appeal which the defendant had in a criminal case was an appeal from the judgment of conviction (Code Crim. Pro., Sec. 517). Motions for change of venue, inspection of grand jury minutes, motions to change a plea, etc., could not be reviewed by an appeal from the order, but could only be reviewed on an appeal from the judgment (*People v. Gersewitz*, 294 N. Y. 163). Furthermore there was no remedy available to the defendant after conviction and sentence where it was alleged that the judgment had been obtained by fraud or in violation of the defendant's constitutional rights under the State or Federal Constitution. In 1943 in *Matter of Lyons v. Goldstein*, 290 N. Y. 19 where the defendant claimed that his plea of guilty had been obtained from him by fraud of the prosecutor, the Court held that, even in the absence of Statute a criminal court had the inherent power to vacate and set aside its judgment if it was procured by fraud or by the denial of a constitutional right. It was held that the remedy was by motion in the Court rendering the judgment and similar in its nature to the common law writ of error *coram nobis*. The following year the Court of Appeals held that this remedy was exclusive and that habeas corpus would not lie (*Matter of Morhous v. N. Y. Supreme Court*, 293 N. Y. 131.).

WOOD, FIELD AND STREAM

By **RAYMOND R. CAMP**

In addition to being flagrantly unfair, the latest proposal on fire-arms regulation now under consideration by the Committee on General Welfare of New York City will place a heavy financial burden and a maximum of red tape on every holder of a pistol or revolver license in the city.

The new measure, introduced by Edward A. Cunningham of the City Council, would amend the present law, which in itself has sufficient red tape to discourage all but the most determined shooters and the criminals. The latter, of course, are not concerned with pistol permits. The new law would raise the cost of the present permit 900 per cent and would require a new application to be filed each year.

Real Joker Found

But here is the real joker. It is almost unbelievable, but we shall quote the text of the proposed amendment and let you see for yourself. "Fees collected as provided herein shall not be refunded in the event the application for license or special permit is denied by the Commissioner."

When it is considered that no reason for refusal to grant a permit is required other than a flat "No," the unfairness of this amendment is quite apparent.

Under the present law, permits

may be reissued from year to year upon the payment of the \$1 fee. The amendment would call for a \$10 fee, and would require a new application to be filed each year.

There is another little joker in the new proposal. In the event a license-holder obtains a permit from any person "other than the Commissioner of Public Safety" the fee will be \$5 instead of \$10. The reason for this cut-rate practice is not given.

Why Penalize Sportsmen?

There are several hundred sportsmen in this city who take an interest in pistol or revolver shooting, and their right to engage in this sport is a constitutional one. Just why they should be penalized by such laws as the one proposed is not at all clear.

Whether or not you possess, or hope to possess in the future, a revolver or pistol permit, you have an obligation to your fellow sportsmen to write to the Committee on General Welfare of the Council of the City of New York and express your opinion of this proposed law.

We realize it would cost you three cents and would take some of your valuable time, but as a sportsman you cannot afford to neglect such duties. The committee will never know how you feel on this matter unless you inform them.

The New York Times

Published: August 27, 1947

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JA 140

JOB AGENCY CHECK IS ASKED BY CITY

Bill Before State Legislature
Urges Strict Inquiry Into
References to Halt Crime

Special to The New York Times.
ALBANY, Jan. 20.—New York City asked tonight to be given broader regulatory power over employment agencies.

In the most important of a series of bills on the subject placed before the Legislature, the city urged that such agencies, now subject to licensing by the city, be required to keep and make a check upon references offered by those seeking positions of trust in the home or elsewhere.

Inspired by the Caraway murder case, this bill, offered by Mrs. Mary A. Gillen, Brooklyn Democrat, would make it a positive duty of the agencies to keep such records and to investigate at least one of the references offered. Existing law requires such a course "whenever possible."

Seeks to Halt Crimes

"The recent Caraway case, in which the murderer was hired for family service through an employment agency which failed to investigate his criminal background," said Mrs. Gillen, "is a tragic example of the evil which this bill seeks to remedy whenever possible."

Another bill in the series requires that agencies not only keep records but retain them, together with the results of their inquiry into references, for a period of not less than three years.

Two others would give the City Commissioner of Licenses greater latitude in imposing penalties on agencies. The only possible penalty now against an offending agency is revocation of license. The law requires that an agency, losing its license, wait three years before it can qualify for another license.

The proposed change on this score would give the commissioner power either to suspend or revoke a license and, where the latter course is pursued, leave it within his discretion to decide when a new application for a license can be made. The city contends that this would permit punishment of infractions which in the past have been passed over on occasion because of the severity of the penalty.

Ten other city bills, some of them dealing with relatively minor aspects of city finance, were offered. Among these were bills empowering the city to convert unused space on subway mezzanines and approaches for use and lease as retail stores; making permanent the present temporary 7 per cent interest charge on unpaid taxes, and permitting the city to increase the present \$1.50 fee on pistol permits.

Renewed discussion of New York City's five-cent fare was assuaged when Assemblyman Philip J. Schupler of Brooklyn offered a resolution calling for a legislative investigation on city subway operations and deficit.

Fare Subsidy Urged

In offering the resolution asking \$10,000 for the study, Mr. Schupler, a Democrat, made it clear he thought the five-cent fare constituted a public service and that any deficit should be made up from the public treasury "in the same manner as the Health, Fire and Police Department deficits are made up." He charged only the real estate interests sought an increased fare.

Assemblyman Howard Heilig of Manhattan, pointing to a series of nine major crimes, including one homicide, within a matter of months at 50 Manhattan Avenue, announced he was drafting a bill calling for compulsory employment of suitable attendants at all city elevator apartments.

Two resolutions among new legislation were addressed to Congress. One by Assemblyman Joseph R. Younglove, Fulton-Hamilton Republican, urged that Congress "enact with all convenient speed legislation to assure to each State a continuity of chief executives of their own choosing, chosen by the respective States in approved democratic procedure."

The other, by Assemblyman Nathan A. Lashin of the Bronx, called for doubling of present immigration quotas to accommodate displaced persons of Europe and use up the unused quota numbers of the war years.

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The New York Times
Published: January 21, 1947
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Exhibit B

LOCAL LAWS
OF THE
CITIES, COUNTIES
and VILLAGES
IN THE STATE OF NEW YORK
ENACTED DURING THE YEAR
1948

PUBLISHED PURSUANT TO THE
PROVISIONS OF CHAPTER 363
LAWS OF 1924 AND CHAPTER 823 LAWS OF 1940

THOMAS J. CURRAN
SECRETARY OF STATE



ALBANY
1949

New name	Old name	Limits
D'Onofrio square	Unnamed	All of the park area within the lines of White Plains road between East 213th street and East 216th street

§ 2. This local law shall take effect immediately.

LOCAL LAW No. 32

A local law to amend the administrative code of the city of New York, in relation to the fees for keeping or carrying pistols or revolvers.

Became a law May 20, 1948, with the approval of the Mayor. Passed by the local legislative body of the city of New York.

Be it enacted by the council as follows:

Section 1. Subdivision a of section 436-5.0 of the administrative code of the city of New York, is hereby amended to read as follows:

§ 436-5.0 **Firearms.**—a. Pistols or revolvers, keeping or carrying. 1. The commissioner shall grant and issue licenses and permits hereunder pursuant to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses and permits shall expire on December thirty-first of the year of issuance.

2. Every applicant for a license to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefor a fee of ten dollars for each year or part thereof and for each renewal a fee of five dollars.

3. Every applicant for a license to have and carry concealed a pistol or revolver in the city shall pay therefor a fee of ten dollars for each year or part thereof and for each renewal a fee of five dollars.

4. Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph six of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of five dollars for each year or part thereof.

5. Fees paid as provided herein shall not be refunded in the event the application for a license or special permit is denied by the commissioner.

6. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued

CITY OF NEW YORK

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upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

7. The fees prescribed by this subsection shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect immediately.

LOCAL LAW No. 33

A local law to amend the administrative code of the city of New York, in relation to class three, non-fireproof structures.

Became a law May 25, 1948, with the approval of the Mayor. Passed by the local legislative body of the city of New York.

Be it enacted by the council as follows:

Section 1. Section C26-241.0 of the administrative code of the city of New York, is hereby amended by striking out the present text and substituting the following:

a. Class 3, non-fireproof structures are those which are made of incombustible materials or assemblies of materials inadequate to meet the fire resistive rating requirements of class 1 or class 2 structures, or in which the exterior walls are of masonry or reinforced concrete and the interior framing is partly or wholly of wood or unprotected iron or steel. The exterior walls of such structures shall be made of incombustible materials or assemblies of materials with a fire resistive rating of at least one hour when walls are non-bearing, two hours when walls are non-bearing and protection of openings is required, and three hours when they are bearing walls; the floor above the cellar or basement and columns below such floors shall be constructed of incombustible materials or assemblies of materials having a fire resistive rating of three hours (except in residence structures three stories and basement or less in height and in other structures not over four stories or forty feet in height); shafts and required stairway enclosures shall be made of incombustible materials or assemblies having a fire resistive rating of at least two hours (except that in structures not over four stories or forty feet in height such shafts and required stairway enclosures may be made of incombustible materials or assemblies having a fire resistive rating of at least one hour). The exterior walls if of masonry shall be as provided in sections C26-412.0 through C26-467.0.

b. This section shall not be construed as applying to private dwellings of forty feet and four stories or less in height (except as to exterior walls).

§ 2. This local law shall take effect immediately.

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THE COUNCIL

City of New York

March 1, 1948

No. 517

Int. No. 428

Introduced by the VICE-CHAIRMAN (MR. SHARKEY)—read and referred to the Committee on General Welfare.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the fees for keeping or carrying pistols or revolvers.

Be it enacted by the Council as follows:

1 Section 1. Subdivision a of section 436-5.0 of the administrative code of the city
2 of New York, is hereby amended to read as follows:

3 § 436-5.0 **Firearms.**—a. Pistols or revolvers, keeping or carrying.

4 1. The commissioner shall grant and issue licenses *and permits* hereunder pursuant
5 to the provisions of section eighteen hundred ninety-seven of the penal law, which
6 licenses *and permits* shall [continue in force for only one year,] *expire on December*
7 *thirty-first of the year of issuance* [but the same may be reissued from year to year
8 upon the payment of the required fee].

9 2. Every [person to whom] *applicant for* a license [shall be granted] to have and
10 possess a pistol or revolver in a dwelling or place of business in the city shall pay
11 therefore [an annual fee of one dollar] *a fee of ten dollars for each year or part thereof*
12 *and for each renewal a fee of five dollars.*

13 3. Every [person to whom] *applicant for* a license [shall be granted by the com-
Note—New matters in *italics*; old matter in brackets [] to be omitted.

1 missioner,] to have and carry concealed a pistol or revolver in the city shall pay there-
2 for [an annual fee of one dollar] *a fee of ten dollars for each year or part thereof*
3 *and for each renewal a fee of five dollars.*

4 4. *Every applicant to whom a license has been issued by any person other than*
5 *the commissioner, except as provided in paragraph six of this subdivision, for a special*
6 *permit from the commissioner granting it validity within the city of New York, shall*
7 *pay for such permit a fee of five dollars for each year or part thereof.*

8 5. *Fees paid as provided herein shall not be refunded in the event the application*
9 *for a license or special permit is denied by the commissioner.*

10 [4] 6. A fee shall not be charged or collected for a license to have and carry con-
11 cealed a pistol or revolver which shall be issued upon the application of the commissioner
12 of correction, or the warden or superintendent of any prison, penitentiary, workhouse
13 or other institution for the detention of persons convicted or accused of crime or offense,
14 or held as witnesses in criminal cases in the city.

15 [5.] 7. The fees prescribed by this subsection shall be collected by the commis-
16 sioner, and shall be paid by him into the police pension fund, *article one*, and a return
17 in detail shall be made monthly to the comptroller by such commissioner of the fees so
18 collected and paid over by him.

19 § 2. This local law shall take effect immediately,

No. 517

Int. No. 428

Report of the Committee on General Welfare in Favor of Adopting a Local Law to Amend the Administrative Code of The City of New York, in Relation to the Fees for Keeping or Carrying Pistols or Revolvers.

The Committee on General Welfare, to which was referred on March 1, 1948 (Minutes, page 291), the annexed Local Law to amend the Administrative Code of The City of New York, in relation to the fees for keeping or carrying pistols or revolvers, respectfully

REPORTS:

The proposed Local Law amends paragraph "a" of Section 436-5.0 of the Administrative Code, by increasing the fees for such licenses from one dollar to ten dollars for original issue, and a fee of five dollars for each renewal thereafter. Deputy Police Commissioner James J. Sheehy of the Police Department, appeared in favor of the bill and explained that this new bill was designed to meet some of the objections to a similar bill previously considered by the Council on the same subject matter.

Agreeing with the purpose of the bill the Committee accordingly recommends it for adoption.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the fees for keeping or carrying pistols or revolvers.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 436-5.0 of the administrative code of the city of New York, is hereby amended to read as follows:

§ 436-5.0 **Firearms.**—a. Pistols or revolvers, keeping or carrying.

1. The commissioner shall grant and issue licenses and permits hereunder pursuant to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses and permits shall [continue in force for only one year,] *expire on December thirty-first of the year of issuance* [but the same may be reissued from year to year upon the payment of the required fee].

2. Every [person to whom] *applicant* for a license [shall be granted] to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefore [an annual fee of one dollar] *a fee of ten dollars for each year or part thereof and for each renewal a fee of five dollars.*

3. Every [person to whom] *applicant* for a license [shall be granted by the commissioner,] to have and carry concealed a pistol or revolver in the city shall pay therefore [an annual fee of one dollar] *a fee of ten dollars for each year or part thereof and for each renewal a fee of five dollars.*

4. *Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph six of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of five dollars for each year or part thereof.*

5. *Fees paid as provided herein shall not be refunded in the event the application for a license or special permit is denied by the commissioner.*

[4] 6. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

[5.] 7. The fees prescribed by this subsection shall be collected by the commissioner, and shall be paid by him into the police pension fund, *article one*, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect immediately.

Note—New matter in *italics*; old matter in brackets [] to be omitted.

S. SAMUEL DiFALCO, STANLEY ISAACS, FREDERICK SCHICK, EDWARD VOGEL, WILLIAM M. MCCARTHY, Committee on General Welfare.

On motion of the Vice-Chairman (Mr. Sharkey), seconded by Mr. DiFalco, the foregoing local law was made a General Order for the day.

Following discussion by Messrs. Clemente, Davis, Palestin and Phillips, the President pro tem, put the question whether the Council would agree with said report and adopt such local law, which was decided in the affirmative by the following vote:

Affirmative—Cunningham, Davis, DiFalco, Goldberg, Isaacs, McCarthy, Mirabile, Palestin, Schick, Schwartz, Vogel, the Vice-Chairman and the President pro tem. (Mr. Keegan)—13.

Negative—McGahan, Phillips, Quinn and Rager—4.

Not voting—Clemente—1.

THE POLICE COMMISSIONER
CITY OF NEW YORK

February 16, 1948

The Honorable
William O'Dwyer, Mayor
City of New York
City Hall
New York 7, New York

Hempstead

My dear Mr. Mayor:

I annex hereto and recommend for enactment a proposed local law to amend the Administrative Code of the City of New York, in relation to fees for keeping or carrying pistol or revolver. This proposed law is offered as a substitute for Council Int. No. 313 (Print No. 367) which was passed by the City Council on December 4, 1947 but which failed of passage in the Board of Estimate on December 17, 1947.

Local Law Int. No. 313 as passed by the City Council provided for a fee of \$10.00 for an original license and \$10.00 for a renewal license. There was considerable objection to the imposition of a \$10.00 fee for renewal licenses. Because of the necessity for immediate action, due to the fact that licenses for current pistol permits expired on December 31, 1947 it was agreed that the bill as drawn be passed and that subsequently an amendment be enacted which would fix renewal license fees at \$5.00.

The bill, however, failed of passage in the Board of Estimate and was ordered returned to the City Council. The principal objections raised before the Board of Estimate were as follows:

1. The bill was not in definitive form, that is the bill provided a \$10.00 renewal fee, while an agreement had been made by the members of the Council, with the approval of the Police Commissioner, that the renewal fee would be later reduced to \$5.00, and that fees for 1948 renewals would be collected on the \$5.00 basis, 1947 licenses to be regarded as valid until the enactment of the necessary amendment. The enclosed bill provides for a \$5.00 renewal fee.

2. Opponents of the bill objected strenuously to amount of increase, stating that the amount asked for was more of a tax than a fee. I reiterate my statements made at the public hearing of the Committee on General Welfare of the Council that the cost to the City of New York of investigation, processing,

- 2 -

issuance of licenses, supervision, and maintenance of records exceeds by a large amount the present fees, and that because of the fact that the applicant for, and recipient of, a pistol license is receiving a special service, distinguished from the service which the City and Police Department are bound by law to perform for all the citizens, a licensee should be required to defray a reasonable portion of the cost of this special service. In other words, all of the taxpayers of the City should not be required to pay a majority of the cost for special services rendered to a certain class or group of people.

3. Suggestions were made at the Committee's public hearing and before the Board of Estimate that the procedure in effect in the Police Department for investigation, processing, etc., of licenses was impracticable, and that a cheaper system could and should be established. The method of processing licenses and supervision of licensees has been developed over a long period of time. Each step, we consider essential. It is extremely important as an instrumentality of law enforcement that firearms be kept out of the hands of improper persons and we believe our system is doing just that. As an indication of the effectiveness of present procedure, our records show that 7,264 applications for pistol licenses have been disapproved in the past ten years. These disapprovals have been based principally upon the temperament of applicant, criminal activities or record of applicant, and because applicant has not demonstrated necessity for the possession of the firearm. In the same ten year period 1,026 licenses have been revoked. We are unwilling to sacrifice our present efficient method of issuing pistol licenses in the interest of decreasing the cost of license fees. One pistol, placed in the hands of a person who should not have been issued a license, can create disaster.

4. Objections were made to the inclusion in the proposed law of a provision to the effect that the fees prescribed by the section shall be collected by the Commissioner and shall be paid by him into the Police Pension Fund. This provision has been the law since as far back as 1915. We can see no difference between paying the money directly to the Police Pension Fund or directly into the General City Fund. Under the law any deficiency between the receipts of the Police Pension Fund and the expenses thereof must be paid by the City. A budget appropriation for the year 1948-9 of over fourteen million dollars has been requested to meet the deficiency in meeting the expenses of the Police Pension Fund. The direct transfer of fees received for pistol licenses to the Police Pension Fund results in elimination of unnecessary accounting and decreased budget requests by the amount received from these fees. If it is felt that the payment of the fees collected directly into the City Fund is the better method, I have no objection to such procedure.

However, if the present procedure is to be discontinued

Archie W. Woodman

BOOK
MAY 1966
RECEIVED

February 20, 1948 fj

Hon. John P. McGrath
Corporation Counsel
Law Department
Municipal Building
New York, New York

Dear Sir:

Enclosed is a copy of a proposed local
law drafted by the Police Commissioner.

Kindly advise this office if the
proposed local law is in proper form.

Very truly yours

Harold L. Herzstein
Legal Aide to the Mayor

Enc.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to the fees for keeping or carrying pistols or revolvers.

Be it enacted by the Council as follows:

Section 1. Subdivision a. of section 436-5.0 of the administrative code of the city of New York, is hereby amended to read as follows:

§436-5.0 Firearms.--a. Pistols or revolvers, keeping or carrying.

1. The commissioner shall grant and issue licenses hereunder pursuant to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses shall continue in force for only one year/ shall expire on December thirty-first of the year of issuance, but the same may be reissued from year to year upon the payment of the required fee/ .

2. Every ^{applicant for} ~~person to whom~~ a license ~~shall be granted~~ to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefor an annual fee of one dollar/ a fee of ten dollars for each year or part thereof and for each renewal a fee of five dollars.

3. Every ^{applicant for} ~~person to whom~~ a license ~~shall be granted by the commissioner~~ to have and carry concealed a pistol or revolver in the city shall pay therefor an annual fee of one dollar/ a fee of ten dollars for each year or part thereof and for each renewal a fee of five dollars.

4. Every ^{applicant} ~~person to whom~~ a license has been issued by

- 8 -

any person other than the commissioner, except as provided in paragraph six of this subdivision, and who receives a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of five dollars for each year or part thereof.

5. ^{10.2.1.11.} Fees collected as provided herein shall not be refunded in the event the application for license or special permit is denied by the commissioner.

[4.] 6. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

[5.] 7. The fees prescribed by this subsection shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

Section 2. This local law shall take effect immediately.

New matter in italics (underlined).

Old matter in brackets [] to be omitted.

422

February 27, 1948. LO

RE: A Local Law To amend the Administrative
Code of the city of New York, in relation
to the fees for keeping or carrying pistols
or revolvers.

Hon. Joseph T. Sharkey
Vice Chairman, The Council
City Hall
New York 7, New York

Dear Mr. Sharkey:

Attached is an original and two copies of
the proposed local law which I request you to introduce,
or have introduced, in the City Council.

The proposed legislation was requested by
the Police Department, and was drafted by the Corporation
Council.

Very truly yours,

M a y o r.

Enclosures:

Proposed Local Law
Corp. Counsel's Opinion
Letter from Police Commissioner
to the Mayor, requesting this
legislation.

M E M O R A N D U M

To: The Mayor
From: The Corporation Counsel
Attention: Legal aid to the Mayor
Re: A Proposed Local Law to amend the Administrative Code of the City of New York, in relation to the fees for keeping or carrying pistols or revolvers.

I have your letter of February 20, 1948, requesting comment on the above proposed local law as drafted by the Police Commissioner.

The object of the proposed law is to amend subdv. a of §436-5.0 of the Administrative Code, so as to raise the fees for licenses to keep or carry pistols or revolvers. The amendment would provide as follows:

1. Licenses and permits would expire on December 31st of the year of issuance.
2. The fee for a license to possess a pistol or revolver in a dwelling or place of business would be raised from \$1. per year to \$10. for each year or part thereof. The fee for a renewal of such license would be \$5.
3. The fee for having and carrying concealed a pistol or revolver in the City and the renewal

fee therefor would be the same as above.

4. The fee for validating a license issued outside the City would be \$5. per year or part thereof.

5. Fees paid upon application for a license or permit would not be refunded if the application is denied.

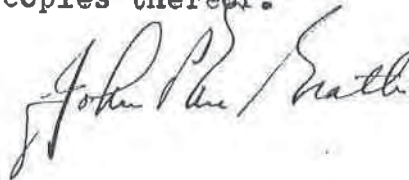
6. No fee would be charged for licenses issued upon the application of the Commissioner of Correction or the warden or superintendent of any penal institution.

7. The fees collected would be paid into the Police Pension Fund, Art. I (the fund for the benefit of members of the police force on or before March 29, 1940).

The City Council is authorized to fix the amount of fee to be charged for licenses or permits to have and carry firearms, and to provide for the disposition of such fees (subdv. 10 of §1897 of the Penal Law as amended by Laws of 1947, Ch. 147).

The enactment of the proposed local law is
a question of policy.

I have corrected the draft of the proposed
local law as to form, and enclose copies thereof.

A handwritten signature in cursive script, appearing to read "John P. Smith".

Feb. 24, 1948

*Pistol fee bill - to
be acted on
not later than May 22.*



CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK 7, N.Y.

A LOCAL LAW To amend the administrative code of
the city of New York, in relation to
the fees for keeping or carrying
pistols or revolvers.

TO: THE MAYOR

FROM: THE DEPUTY MAYOR

RE: PROPOSED LOCAL LAW, INT. NO. 428, PR. NO. 517 - SHARKEY

RECOMMENDATION: A p p r o v a l

OBJECT: The object of the proposed law is to amend the
administrative code in order to raise the fees
for licenses to keep or carry pistols or revol-
vers from \$1.00 per year to \$10.00 per year, and
a fee of \$5.00 for each renewal thereafter.

COMMENT: Chapter 147, Laws of 1947, submitted by the Police
Commissioner and sponsored as a special City bill,
eliminated the pistol permit fee in the City of New
York and provided that such fee in the City shall be
fixed by the Council.

The proposed law was requested by the Police Com-
missioner in a letter to the Mayor dated February
16, 1948.

Dated, April 26, 1948.

J.J.B.



HILDA G. SCHWARTZ, SECRETARY
TELEPHONE WORTH 2-4560

THE CITY OF NEW YORK
BOARD OF ESTIMATE
BUREAU OF THE SECRETARY
MUNICIPAL BUILDING
NEW YORK 7, N. Y.

(Cal. No. 164)

April 27, 1948

Hon. John J. Bennett
Deputy Mayor

Dear Sir:

I return herewith the photostat copy of an opinion of the Corporation Counsel, dated March 11, 1948, addressed to the Hon. Arthur W. Wallander, Police Commissioner, relative to pistol license fees, submitted in connection with calendar number 164 of the Board of Estimate meeting of April 22, 1948.

Respectfully yours,

Hilda G. Schwartz
Secretary

Encl
MC

27-1-10M-10347 114

THE CITY OF NEW YORK,
LAW DEPARTMENT

1
John P. McGrath

~~XXXXXXXXXXXX~~
CORPORATION COUNSEL

OFFICE OF THE CORPORATION COUNSEL

NEW YORK

March 11, 1948

Hon. Arthur W. Wallander,
Police Commissioner.

S i r :

I have your letter of March 2, 1948, requesting my opinion as to whether the City Council is authorized to enact local legislation, sponsored by the Police Department, fixing pistol license fees in excess of \$1.50.

The authority of the Council to fix pistol license fees is contained in subd. 10 of §1897 of the Penal Law. Prior to 1947 that section provided that the Police Commissioner of the City of New York "shall collect a fee for each license issued of not less than fifty cents nor more than one dollar and fifty-cents * * * as may be determined by the city council, and shall pay the same into the treasury * * * of such city * * * ." In 1947 the Legislature enacted three laws at the same session amending subd. 10 without reference to each other. The first amendment was enacted by Chapter 147, effective March 13, 1947, the second by Chapter 436 and the third by Chapter 442, both effective March 27, 1947.

The first law (Ch. 147) amended subd. 10 by excepting the City of New York from the provision that such license fees shall be "not less than fifty cents nor more than one

27-2-2M-10946 114

LETTER TO.....Hon. Arthur W. Wallander..... PAGE.....2.....

dollar and fifty cents * * * as may be determined by the city council * * * " and by adding the provision that

"In the city of New York, the city council shall fix the amount of the license fee to be charged, and provide for the disposition of such fees."

It is clear from this law that the \$1.50 limitation for pistol license fees is no longer applicable in the City of New York and that the City Council may fix such fees in excess of \$1.50.

You point out in your letter that the attorney for the Commerce and Industry Association of the City of New York, Inc., contends that the amendment effected by Chapter 147 was repealed by the two subsequent amendments to subd. 10 enacted by the Legislature during the 1947 session (Chs. 436 and 442) and that consequently the City Council may not fix such license fees in excess of \$1.50. I am of the opinion that there is no merit to this contention and that the above quoted amendment enacted by Chapter 147 is still in effect.

The circumstance upon which the attorney for the Commerce and Industry Association, Inc., bases his contention that the amendment enacted by Chapter 147 was repealed is that in enacting Chapters 436 and 442, the Legislature did not set forth subd. 10 as amended by Chapter 147, but instead set forth that subdivision as it read prior to the adoption of Chapter 147. He argues that that fact indicates that the Legislature

LETTER TO Hon. Arthur W. Hallander PAGE 3

impliedly repealed the provisions of Chapter 147.

It is a principle of statutory construction that repeals by implication are not favored and that this principle applies with particular force as between or among statutes passed at the same session of the Legislature affecting the same provision of law (*Board of Education v. Rogers*, 278 N.Y. 66). In such cases the courts will give the statutes such construction as will make each effective unless they are clearly repugnant to each other (*McMaster v. Gould*, 240 N.Y. 379; *Matter of Donnelly [Kuney-Sauter]* 168 Misc. 285, aff'd *People ex rel. Kuney v. Adams*, 256 App. Div. 802, aff'd 280 N.Y. 794; *Loew v. Interlake Iron Corp.* 183 Misc. 303; 1945 Op. Atty. Gen. 105; 1943 id. 112; *McKinney's Statutes*, §393).

A case most nearly apposite to the situation under consideration is *Loew v. Interlake Iron Corp.*, ~~SNDR~~. In that case the court held that a subsequent law which did not include in the text a new subdivision of a section of the General Corporation Law added by a law previously passed at the same session did not constitute a repeal of that subdivision. Similarly, in 1943 the Attorney General ruled that repetition of language in a subsequent law which had been eliminated by a law previously passed at the same session of the Legislature, did not serve to reinstate the eliminated provision (1943 Op. Atty. Gen. 112). In 1945 the Attorney General ruled that a later amendment which did not contain new matter added by a

LETTER TO.....Hon. Arthur W. Wallander.....PAGE 4.....

former amendment adopted at the same legislative session did not effect a repeal of the new matter (1945, Sp. Atty. Gen. 105).

A consideration of the facts relating to the passage of the three laws in question, which is permissible in ascertaining the intent of the Legislature (Peo. ex rel. Chadbourne v. Voorhis, 236 N.Y. 437), furnishes clear and convincing proof that the Legislature did not intend to repeal Chapter 147 by the enactment of Chapters 436 and 442.

Chapter 147 was passed on February 25th and signed by the Governor on March 13th. Chapter 436 was passed on March 11th, prior to the effective date of Chapter 147, and Chapter 442 was passed on March 13th, the very day upon which Chapter 147 became effective. Hence, the Legislature had no opportunity to incorporate into the later bills the amendment effected by Chapter 147 and necessarily had to include in the texts of Chapters 436 and 442 the provisions of subd. 10 as it read prior to the enactment of Chapter 147. Under such circumstances, to argue that the later laws impliedly repealed the first law is to argue that the Legislature repealed a non-existent law. That the Legislature did not intend to repeal the provisions of Chapter 147 is further evidenced by the fact that the enacting clause of Chapter 436 stated that it was amending subd. 10 as last amended by L. 1945, ch. 638, and the enacting clause of Chapter 442 stated it was

LETTER TO Hon. Arthur W. Wallander PAGE 5

amending that subdivision as last amended by L. 1944,
ch. 302.

The amendments effected by each of the three laws were entirely independent and had no relationship to each other. Each had a definite, separate purpose. Chapter 147 amended the provision relating to the fixing of license fees in New York City. Chapter 436 added a provision that in Nassau County applications that are granted shall be filed in the Information Bureau of the County Department of Police. Chapter 442 added a provision that the State Police Division shall be notified of the revocation or cancellation of a pistol license. These amendments, dealing with entirely different subjects, are not inconsistent and effect must be given to each.

Yours truly,

John P. Smith
Corporation Counsel.

THE POLICE COMMISSIONER
CITY OF NEW YORK

May 13, 1948

Cost
13 per permit

The Honorable
William O'Dwyer, Mayor
City of New York
City Hall
New York 7, New York

My dear Mr. Mayor:

In accordance with directions given by you on May 3, 1948, in considering Council Introductory No. 428, in relation to the fees for keeping and for carrying pistols or revolvers, I annex hereto a memorandum detailing the procedure followed by the Police Department for the issuance and supervision of pistol licenses and licensees.

I hope Your Honor will determine that the bill sponsored by the Police Department for the increase referred to is equitable, and will approve same.

Respectfully

Arthur W. Wallander

Arthur W. Wallander
POLICE COMMISSIONER

Comments re: COUNCIL INT. NO. 428 (Print No. 517) A LOCAL LAW TO AMEND THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, IN RELATION TO THE FEES FOR KEEPING OR CARRYING PISTOLS OR REVOLVERS

This memorandum is submitted in accordance with the direction of His Honor, The Mayor, in support of the above entitled local law and is intended to demonstrate that the increased fees for the issuance of pistol licenses is reasonable, and does not exceed the cost to the city of New York for the issuance and supervision of licenses.

The following procedure is required under the Regulations of the Police Department for the issuance of pistol licenses:

- | | <u>Approximate
Time Consumed</u> |
|---|--------------------------------------|
| 1. Applicant applies to Station House. Interviewed by Commanding Officer, to ascertain if applicant is a proper person to consider for license | 30 Mins. |
| 2. Applicant is given form L.D. 80, which applicant fills out on typewriter and upon return to station house applicant's fingerprints are taken on Forms L.D. 80, L.D. 158 and L.D. 159. These forms are filled in and forwarded. | 30 Mins. |
| 3. (a) Form L.D. 158 is forwarded to the Pistol License Bureau, and transmitted by that Bureau to the Department of Correction, Albany, for search, and report. This form is retained in Albany | |
| (b) Forms L.D. 80 and L.D. 159 are forwarded to Police Headquarters for search of record and report. This search consists of: | |

(1) Classifying fingerprints in the Bureau of Criminal Identification, making entries under name and address in pistol

- 2 -

Approximate
Time Consumed

file, making entries on application if applicant has a criminal record.

(2) Searches in the Old Record Room and in the Bureau of Information under name and address of applicant for record, and pertinent entries

* 2 hrs.

* includes searches, making entries, messenger service.

4. Forms L.D. 80 and L.D. 189, after search, are returned to the Precinct, and if no record is shown that disqualifies applicant, as a matter of law, the Commanding Officer then causes an investigation of statements made in the application including a verification of the necessity for the license. The investigation includes a personal interview with each of the three references given by applicant, and a report of investigation signed by the investigating officer on Form L.D. 80a. In many instances several visits must be made to the residence or office of the applicant before the party is found available. It is estimated that the minimum average time consumed is

4 hrs.

5. After the Commanding Officer of the Precinct has completed his investigation, the application is forwarded, with his approval or disapproval to the Commanding Officer of the Precinct Detectives, the Commanding Officer of the Detective District, and the Commanding Officer of the Patrol Division, each of whom is required to make an independent investigation and recommendation.

2 hrs.

6. The application containing all recommendations is then forwarded to the Fourth Deputy Police Commissioner for final action. The Deputy Commissioner usually follows the recommendations contained on the application, but if the application is disapproved, and applicant asks for a hearing as to the reason for disapproval, a hearing is granted applicant before the Deputy Commissioner and full reports obtained from the Commanding Officers concerned for use at the hearing.

The above steps constitute the investigations and paper work incident to the approval or disapproval of the application. However, the clerical work incident to the applic-

- 3 -

ation, which is necessary for appropriate records and supervision of licensees consists of the following:

7. Records of the Pistol License Bureau are searched for records of or reports on applicant.
8. If application is approved license is prepared, photograph of applicant is pasted thereon and Department seal placed over photograph.
9. If applicant, which is usually the case, asks for authorization to purchase a firearm, a form authorizing such purchase is issued.
10. License is forwarded to the Precinct for delivery. Licensee is required to place his right thumb print in space provided on back of license. Licensee signs a receipt for the license. License record card is prepared and filed in the Precinct.
11. Firearm is brought by licensee to Station House for inspection and check on serial numbers. Forms giving information concerning firearm are forwarded to Pistol License Bureau and Bureau of Information for file.
12. Pistol License Bureau prepares a folder with name of licensee and number of license, in which folder is placed the application and all pertinent information relating to applicant, and two cross index cards prepared.
13. Name and address of licensee is forwarded by the Pistol License Bureau to the Bureau of Special Service and Investigation for their information and check. Upon receipt of a report from Bureau of Special Services and Investigation relative to pistol licensee, notation is made on licensee's record and proper action is taken, if necessary.
14. Appropriate check is made by the Pistol License Bureau with the Accountant's Office to ascertain if the fee has been paid.
15. A separate file for disapproved applications, in alphabetical order, is maintained.
16. In the event of a revoked license and a re-

- 4 -

quest is made for a hearing, a date is set for such hearing by the Fourth Deputy Commissioner, reports are obtained and licensee is given a hearing to determine whether or not the revocation should be sustained.

17. At all hearings stenographic notes of proceedings are taken and later transcribed. This is necessary in the event a court proceeding is instituted to review the action of the Police Commissioner is disapproving or revoking a license.

ESTIMATE OF TIME CONSUMED UNDER
ITEMS SEVEN TO SEVENTEEN - FOUR HOURS

In connection with the investigation, issuance of licenses, and maintenance of records the following forms, printed by the city of New York, are used:

- L.D. 15 - Application for Hearing.
- 75 - Receipt for License Fees
- 80 - Application for Pistol Permit
- 80a - Investigating Officer's Report
- 81 - License to Carry Pistol
- 82 - License to Possess a Pistol on the Premises
- 83 - Purchase Record, Pistol or Revolver
- 84 - Non-renewal Notice for Pistol Permit.
- 85-- Disapproval Notice on Application for Pistol Permit
- 86 - Pistol License Bureau Index Card
- 87 - Special Pistol License Application
- 88 - Special Pistol License Permit
- 89 - Pistol License Record Folder
- 158 - Pistol License Record for the Dep't of Correction
- 159 - Division of Licenses Fingerprint Blank
- 160 - Daily Cash Receipt for Licenses Forwarded to Accountant's Office
- 161 - Licenses Forwarded to Precinct for Distribution
- 162 - License Application Disapproval
- 163 - License Approval Notice
- U.F. 29 - License Record Card
- 65 - Pistol Index Card

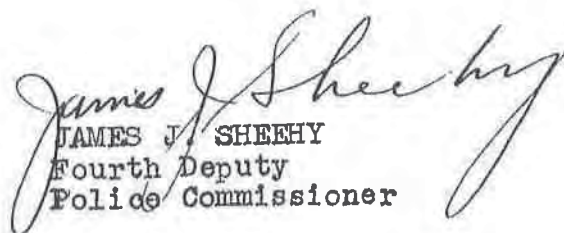
In preparing the above memorandum, attempt has been made to show an overall picture of the cost of issuing pistol licenses, and supervising licensees. Of course, no absolute breakdown could be made upon one particular pistol license

- 5 -

because it is a fact that the processing of some licenses costs more than others, but it is believed that the figures clearly establish that the cost to the city of New York for issuance of pistol licenses is far in excess of the ten dollar license fee proposed in the pending legislation.

The above estimated computation shows that 13 hours are expended by various members of the Department in issuing and supervising pistol licenses. Even based on wages of \$1.00 per hour, this would be \$3.00 more than the \$10.00 fee requested,

The procedure with reference to the issuance of renewal licenses is not as exhaustive and comprehensive as in the case of original licenses, and it is for this reason that we feel a fee of five dollars for renewals is equitable.


JAMES J. SHEEHY
Fourth Deputy
Police Commissioner

Public Hearing before
The Mayor on Int. No. 428, Print No 517
May 3, 1948.

May 3, 1948

Minutes of a Public Hearing before
The Honorable William O'Dwyer, Mayor.

At the Mayor's Office, Executive Chamber, City Hall,
Manhattan, New York, on Monday, May 3, 1948,
on Int. No. 428, Print No. 517, entitled:

A Local Law to amend the administrative code of
the City of New York, in relation to the
fees for keeping or carrying pistols or
revolvers.

Hearing called at 2: P.M.

APPEARANCE:

Robert E. Wool, representing the Commerce
and Industry Association.

Deputy Inspector James J. Sheehey of the
D Police Department.

Captain Daniel P. A. Sweeney, representing
The Legal Bureau of the Police
Department.

THE MAYOR: This is the statutory public hearing
on a local law to amend the administrative code of
the City of New York, in relation to the fees for
keeping or carrying pistols or revolvers, Int.
No. 428. Does anyone wish to be heard in opposition?

MR. WOOL: Your Honor, representing the Commerce and
Industry Association, this bill seeks to raise the
fee for a pistol permit from the sum of \$1.50, which
it is now, to \$10.00 for a permit and \$5.00 for a
renewal. It amends the law to increase it from \$3.50
to \$8.50 for each permit.

In the background of the thing, as we
have it, the original idea was to increase the fee
because the cost of investigating all of these permit
applications was substantially more than \$1.50, which

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was being charged for the license. I am not going into detail as I have already done that before the Board of Estimate.

THE MAYOR: I want to hear the whole story, the whole business.

MR. WOOL: Our interest arose through the members of the Association and others, such as banks, and some of the larger detective agencies interested in the additional fees. They felt that it was a terrific tax upon them, and that it was, in effect, a tax for the purpose of raising revenue more than anything else.

In going into the matter, we found that the money was to go into the Police Pension Fund. If the basic fee for the cost in the amount to be paid for a license is to cover the cost to the City of the investigation of all these applications, then the money should go into the City treasury, rather than the Police Pension Fund. We understand that the Police Department has claimed that the pension fund is terrifically in debt, to the amount of \$14,000,000, and that the City will have to make good the deficit. The City should get the benefit if the fee is going to be so much increased.

As I understand, the State law of March, 1947, fixed the fee as from fifty cents to One dollar and fifty cents, and provided that the local governments would fix the amount within those figures, and that the money would be put into the City treasury. The City of New York presented a bill in 1947 providing that the fee was to be fixed by the New York City Council, and that the fee be paid as the City Council directs. It is under that change that this local law is now presented. Actually, the fact is that it becomes a tax upon certain people whose business depends upon their keeping a pistol.

The Police Department will have more on its hands in the way of giving protection if pistol clubs, detective agencies, banks, etc. do not see a way clear to pay such high license fees. As it is, millions of dollars worth of payrolls are protected by those concerned under the present law as to license fees for pistols, which otherwise the Police Department might have to cover for them. Under the present law they may keep the guns they now possess. One company in New York has 1500 odd guns for their regular business. An increase of five to ten dollars, considering the fact that they paid for their original permits, is going to produce a 'heck of a kick'. I presented

3

the fact that there was some ambiguity in the language of the bill, but apparently the legislative people were satisfied with it. I compared the cost to the City of New York under the present proposal with that of other cities. In some cities there is a cost of One dollar for an indefinite period, during good behavior. There is a fee of \$3.00 in Los Angeles, but you can go outside the City and get it from the Sheriff for nothing. There is nothing to compare with the five and ten dollar fee that is proposed here.

I suggested before the Welfare Committee of the Council and before the Board of Estimate that a reduction to a reasonable amount would certainly not be any basis for complaint, but that ten dollars and five dollars was entirely too much, and that the people involved - all these people I have mentioned who have to have guns for their business operations - are willing to pay, because they realize that conditions in New York City are different than in other places. There was one suggestion of five and three dollars, that is, reducing it to that extent. Apparently, that has been thrown overboard. I don't know whether it is any good to present that point here.

I do know that the great majority of those interested in these increases are quite willing to pay a five dollar original fee, and a proportionately reduced license fee. Otherwise it amounts to an increase of terrific proportion. The language of the bill, as I say, I am going to go over now. I think it is good enough for a Lawyer to read it, and it ought to be good enough for anybody else. I will wait if the other gentlemen want to speak.

THE MAYOR: Let me have clearly what your objections are. You object first to this because the money is going into a certain fund - it is not going into the general fund. But you agree, under the law that the Council has the right to not only raise the fee, but to direct what fund it should be paid into?

MR. WOOL: The enabling law at this time does give the Council the right to fix the fee - not taking the enabling laws.

THE MAYOR: So that, on that point, it is not a question of how they send it into any particular fund or not?

MR. WOOL: Yes.

THE MAYOR: The second point of your objection is that the size of the fee, as proposed in this law, is too high?

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MR. WOOL: So high as to amount to a tax on the peoples' right to carry guns in their regular businesses?

THE MAYOR: The theory of a tax is one thing, and the theory of a license fee to pay the costs of supervision and issuance is another, isn't it?

MR. WOOL: Correct. I have always agreed that a license fee should be enough to pay the cost of it.

THE MAYOR: The question here is reduced to this: do the present fees constitute a tax or a license fee, and the answer to that will be found out when we find what the cost of the issuance of the permit is to the Police Department, and the supervision thereafter?

MR. WOOL: Right, to a certain extent I must agree.

THE MAYOR: We are getting down to a discussion here today on whether or not - I want to get it clearly from you that your attack upon it would be that it is a tax, and not just a license fee, which is sufficient to meet the cost of administration. Now, you haven't given me any figures to show that these fees are taxes. You haven't given me any figures to show that these proposed fees are taxes. You haven't given me any figures to show that the proposed fees would result in having an excess above the amount of money needed for the administration?

MR. WOOL: That is true. We have no way of presenting figures on each step of how much the purchasing of the license fee is. I do know that there are about 27000 licenses outstanding in the City today. At \$1.50 each, that figures about \$40,000, and if the original fee goes up to \$10, and the license renewal fee goes up to \$2.00 there is a difference if it goes into these figures; and it is hard to conceive how the city got along on \$40000, where it is possible to get \$200,000, the discrepancy is so great.

THE MAYOR: I do not think I would care to base a decision here on a comparison with what used to be done, and what is now proposed to be done. The question here is: Is this proposal right within the meaning of the license fee? Is it in excess of that, and consequently unconstitutional?

MR. WOOL: It would be unconstitutional, but, as I say, we have no basis for using the cost of each step taken.

THE MAYOR: (to Official of the Police Department) Have you anything to say as to the cost of issuing licenses?

MR. SWEENEY: A survey made in our department estimated the cost at close to \$11.00 to process an application for a pistol in the manner in which we do it.

THE MAYOR: How about the supervision thereafter?

MR. SWEENEY: The whole thing - they figured it, supervision and processing as we call it. It is a very involved item, and it takes a lot of manpower to do it in the manner in which you want it done.

THE MAYOR: What is the present amount that is taken in from the issuance of original licenses, in the supervision, and through the reissuing of them.

MR. SWEENEY: 28,109 pistol licenses issued in 1947, for which we received \$42,163.50. That was for 1947.

THE MAYOR: That was for the issuance of new license fees, an income of what? What was the cost to the Department?

MR. SWEENEY: I haven't the figures here, no breakdown - about \$11.00 an application. The Comptroller stated on two occasions that the cost of supervising and issuing these permits was far in excess of the fees charged.

THE MAYOR: Before I sign this bill, I want to get a statement of how you arrived at the \$11.00, how you arrived at the cost. I want a statement of what the actual cost is of the 28,000 permits, what is the actual cost to the Police Department of administering that item.

MR. SWEENEY: These are issued in the various precincts throughout the City. The First Precinct may have 4000 a year, and another, like in the Rockaways, may only have 60 or 70.

THE MAYOR: When you get an application certain work has to be done, certain man hours to be put in. One man may not have to do it all. In processing and supervision there are always certain man hours. There is a base pay for these hours which is known. That is a fixed thing. Isn't it possible to show just from the applications - the Police Department has to assign manpower to this item, and that manpower is paid so much. There are other expenses, clerical, etc. Isn't it possible to find out what it costs the Police Department to operate the Bureau for this

28000, or whatever number there would be, and on that basis be able to show me clearly that the proposed increases here are not above the cost of administration. Of course if the costs are above the cost of administration, I would not sign the bill, because it is a tax and not a license. I would like to have that so accurately established that there can be no question about it.

MR. WOOL: Would my request be in order for a copy of it. We may have no reason to complain if we see it.

THE MAYOR: I think I am the one to be satisfied. There is so much of that that is bound to be confidential that I would hesitate to permit you to see the record.

MR. WOOL: Withdrawn.

THE MAYOR: I would carefully look into it, and my decision will be based solely upon what that report shows.

MR. WOOL: I know that Captain Sweeney will agree with me when I say we have been very reasonable about it.

THE MAYOR: I think you are reasonable. I should like to protect the record; and where there is a license fee, it is a question whether or not it is a license fee, or a tax. I must see it from the records of the Police Department, and the figures will guide me in the final decision.

MR. SWEENEY: That was discussed at the hearing before the Council. I wasn't interested on that point of the bill, because our pension comes largely from the general fund.

THE MAYOR: Counsel does not press that. He admits that the State law permits it to be done, and that it is done. He does not say the Council did not have the power to do it.

MR. WOOL: It does have the effect of opening up the difference between the actual license fee and the tax.

THE MAYOR: Nothing will have any effect on that question except the record of the costs of administration, as against the return from applications that have been granted. I think that will be all for the moment.

Steno.
M.O'D.

COUNCIL BAN SOUGHT ON MAY DAY PARADE

Councilman Edward Rager, Manhattan Republican, submitted a resolution yesterday to the City Council asking for revocation of the police permit for a May Day parade to be sponsored by the May Day Committee of 1948, a left-wing group.

The resolution was sent to the rules committee, where it was said to have slight likelihood of favorable action. City policy for many years has permitted virtually every type of parade.

Learning of the Councilman's action, Sam Wiseman, executive director of the committee, declared that it was "exactly what Hitler did in his heyday in Nazi Germany."

Mr. Rager also introduced a proposal to forbid any strike picket to "sit down, lie down or otherwise obstruct the sidewalk or the street." The bill was sent to the committee on general welfare.

By unanimous vote the Council granted an exemption from the residence requirements of the Lyons Law to Raymond M. Hilliard, the new Welfare Commissioner, who was brought here recently by Mayor O'Dwyer from Illinois. The Council also approved a local law increasing pistol permit fees from \$1.50 a year to \$10, with an annual renewal fee of \$5.

The New York Times

Published: April 14, 1948

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Pistol Permit Fee Rise Approved by O'Dwyer

Mayor O'Dwyer signed without comment yesterday a local law increasing the city fee for keeping a pistol in the home or place of business from \$1 a year to \$10 a year. The new law also increases the fee for renewals from \$1 to \$5.

The measure was introduced in the City Council on March 1 by Vice Chairman Joseph T. Sharkey, majority leader, at the Mayor's request. It amends the city's Administrative Code covering the keeping or carrying of pistols or revolvers.

Police Commissioner Arthur Wallander is authorized to issue licenses and permits which expire on Dec. 31 each year, and the initial \$10 fee is charged for the full year or any part of it. Permits may be reissued to the same holders yearly upon payment of the renewal fee. Peace officers are not required to pay the fees.

Proceeds will go into the Police Pension Fund. The local law takes effect immediately.

The New York Times

Published: May 21, 1948

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Exhibit C

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1962

No. 47

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to firearms license fees.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 436-5.0, Chapter 18, of the administrative code of the city of New York, is hereby amended to read as follows:

§ 436-5.0 **Firearms.**—a. Pistols or revolvers, keeping or carrying.

1. The commissioner shall grant and issue licenses and permits hereunder pursuant to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses and permits shall expire on December thirty-first of the year of issuance.

2. Every applicant for a license to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefor a fee of twenty dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten dollars.

3. Every applicant for a license to have and carry concealed a pistol or revolver in the city shall pay therefor a fee of twenty dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten dollars.

4. Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph six of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of twenty dollars for each year or part thereof and for each renewal or for replacement of a lost permit a fee of ten dollars.

5. Fees paid as provided herein shall not be refunded in the event the application for a license or special permit is denied by the commissioner.

6. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

7. The fees prescribed by this subsection shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect immediately.

2

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, SS.:

I hereby certify that the foregoing is a true copy of a local law passed by the Council of The City of New York, concurred in by the Board of Estimate and approved by the Mayor on August 9, 1962, on file in this office.

HERMAN KATZ, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO CITY HOME RULE LAW SECTION 22

Pursuant to the provisions of City Home Rule Law Section 22, I hereby certify that the enclosed local law (Local Law 47 of 1962, Council Int. No. 114, Print No. 135) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 26, 1962: 23 For.

Was approved by the Mayor on August 9, 1962.

Was returned to the City Clerk on August 13, 1962.

Was approved by the Board of Estimate on July 26, 1962.

MORRIS HANDEL, Acting Corporation Counsel.



Exhibit D



THE COUNCIL

City of New York

June 12, 1962

No. 135

Int. No. 114

Introduced by MR. ROSS (by request of the Mayor)—read and referred to the Committee on Finance.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to firearms license fees.

Be it enacted by the Council as follows:

1 Section 1. Subdivision a of section 436-5.0, Chapter 18, of the administrative code
2 of the city of New York, is hereby amended to read as follows:

3 § 436-5.0 **Firearms.**—a. Pistols or revolvers, keeping or carrying.

4 1. The commissioner shall grant and issue licenses and permits hereunder pursuant
5 to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses
6 and permits shall expire on December thirty-first of the year of issuance.

7 2. Every applicant for a license to have and possess a pistol or revolver in a
8 dwelling or place of business in the city shall pay therefor a fee of *twenty* [ten] dollars
9 for each year or part thereof and for each renewal *or for replacement of a lost license*
10 a fee of *ten* [five] dollars.

11 3. Every applicant for a license to have and carry concealed a pistol or revolver
12 in the city shall pay therefor a fee of *twenty* [ten] dollars for each year or part thereof
13 and for each renewal *or for replacement of a lost license* a fee of *ten* [five] dollars.

14 4. Every applicant to whom a license has been issued by any person other than the
15 commissioner, except as provided in paragraph six of this subdivision, for a special per-
16 mit from the commissioner granting it validity within the city of New York, shall pay

Note—New matter in *italics*; old matter in brackets [] to be omitted.

1 for such permit a fee of *twenty* [five] dollars for each year or part thereof *and for each*
2 *renewal or for replacement of a lost permit a fee of ten dollars.*

3 5. Fees paid as provided herein shall not be refunded in the event the application
4 for a license or special permit is denied by the commissioner.

5 6. A fee shall not be charged or collected for a license to have and carry con-
6 cealed a pistol or revolver which shall be issued upon the application of the commis-
7 sioner of correction, or the warden or superintendent of any prison, penitentiary, work-
8 house or other institution for the detention of persons convicted or accused of crime or
9 offense, or held as witnesses in criminal cases in the city.

10 7. The fees prescribed by this subsection shall be collected by the commissioner, and
11 shall be paid by him into the police pension fund, article one, and a return in detail shall
12 be made monthly to the comptroller by such commissioner of the fees so collected and
13 paid over by him.

14 § 2. This local law shall take effect immediately.

A Local Law to amend the Administrative c
of the City of New York in
relation to firearms licen
fees

TO: Mayor

From: Deputy Mayor

Re: Proposed Local Law, Int. No. 114, Pr. No. 135 Ros

Object: To increase the fees charged by the Police
Department for the issuance and renewal of pistol
permits.

Comment: The present rate of fees for such permits was set
in 1948. This increase would bring the fees more
into line with the actual costs of processing suc
documents.

Approved By: Police Department

E. F. C. JR.

Dated August 3, 1962.

No. 135 Int. No. 114

Report of the Committee on Finance in Favor of Adopting a Local Law to Amend the Administrative Code of The City of New York, in Relation to Firearms License Fees.

The Committee on Finance to which was referred on June 12, 1962 (Minutes, page 2281), the annexed local law to amend the Administrative Code of The City of New York, in relation to firearms license fees, respectfully

REPORTS:

Lieut. Frank Nolan, Division of Licenses, Police Department, appeared and spoke in favor of the proposed law.

This proposed local law would amend Section 436-5.0, subdivision a, to increase the fees charged in connection with the issuance, renewal and validation of pistol and revolver licenses. It would further provide for a stipulated fee to be charged for the replacement of a lost permit or the renewal of a validation.

At one time, the license fee was one dollar. At present, the fee is \$10 for the original license and \$5 for renewal or validation. It appears that these fees were set in 1948, about fourteen years ago.

The cost of labor, services, supplies, etc., has been increasing from year to year. The present fees of \$10 and \$5 are inadequate and insufficient under present day costs, particularly since certain procedures which require extensive and thorough investigation of such applicants and licensees were adopted in 1957.

We were advised that a recent cost analysis revealed:

Type of Application	Cost	Present Fee	Proposed Fee
Original	\$19 67	\$10 00	\$20 00
Renewal	10 89	5 00	10 00
Replacement	Unavailable	5 00	10 00
Validation—Original	20 44	5 00	20 00
Validation—Renewal	11 92	5 00	10 00

In 1960, after an audit of the Police Pension Fund, Article I, (the recipient of such fees pursuant to Section 436-5.0, subdivision a (7)), the Comptroller's Office recommended that the said fees should be increased.

Such licensees are a special class, receiving a police service enjoyed by its members exclusive of the remainder of the taxpayers. The present unrealistic fees result in subsidizing this special class and is a discriminatory practice in that the other taxpayers are asked to sustain the costs of a service which they do not require.

The measure has the approval of the Police Commissioner.

We recommend the adoption of this proposed Local Law.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to firearms license fees.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 436-5.0, Chapter 18, of the administrative code of the city of New York, is hereby amended to read as follows:

§ 436-5.0 **Firearms.**—a. Pistols or revolvers, keeping or carrying.

1. The commissioner shall grant and issue licenses and permits hereunder pursuant to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses and permits shall expire on December thirty-first of the year of issuance.

2. Every applicant for a license to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefor a fee of twenty [ten] dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten [five] dollars.

3. Every applicant for a license to have and carry concealed a pistol or revolver in the city shall pay therefor a fee of twenty [ten] dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten [five] dollars.

4. Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph six of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of twenty [five] dollars for each year or part thereof and for each renewal or for replacement of a lost permit a fee of ten dollars.

5. Fees paid as provided herein shall not be refunded in the event the application for a license or special permit is denied by the commissioner.

6. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

7. The fees prescribed by this subsection shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect immediately.

DAVID ROSS, LEONARD FASTENBERG, EDWARD L. SADOWSKY, HERBERT B. EVANS, STANLEY M. ISAACS, FRANK V. SMITH, THOMAS J. CUIE, Committee on Finance.

On motion of Vice-Chairman (Mr. Treulich), seconded by Mr. Ross, the foregoing local law was made a General Order for the day.

The President put the question whether the Council would agree with said report and adopt such local law which was decided in the affirmative by the following vote:

Affirmative—Arculeo, Berman, Boyers, Corso, Cuite, Davis, DiCarlo, Diggs, Evans, Fastenberg, Isaacs, Katzman, Low, Manheimer, Moskowitz, Ross, Sadowsky, Sharison, Sharkey, Smith, Stein, Weiss and the Vice-Chairman (Mr. Treulich)—23.

CITY COUNCIL

JUN 26 1962

No. 114

No. 135

A LOCAL LAW to amend the administrative code of the city of New York, in relation to firearms license fees.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 436-5.0, Chapter 18, of the administrative code of the city of New York, is hereby amended to read as follows:

§ 436-5.0 Firearms.—a. Pistols or revolvers, keeping or carrying.
1. The commissioner shall grant and issue licenses and permits hereunder pursuant to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses and permits shall expire on December thirty-first of the year of issuance.

2. Every applicant for a license to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefor a fee of twenty [ten] dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten [five] dollars.

3. Every applicant for a license to have and carry concealed a pistol or revolver in the city shall pay therefor a fee of twenty [ten] dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten [five] dollars.

4. Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph six of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of twenty [five] dollars for each year or part thereof and for each renewal or for replacement of a lost permit a fee of ten dollars.

5. Fees paid as provided herein shall not be refunded in the event the application for a license or special permit is denied by the commissioner.

6. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

7. The fees prescribed by this subsection shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect immediately.

Note—New matter in *italics*; old matter in brackets [] to be omitted.
Referred to the Committee on Finance.

Meeting - 8/21/60

GENERAL ORDERS

G. O. No. 25—Nos. 95-148.

Int. No. 85

An amended Local Law to amend the Administrative Code of The City of New York, in relation to the placing of concrete reinforcement.

The President pro tem. put the question whether the Council would agree with said report and adopt such amended local law, which was decided in the affirmative by the following vote:

Affirmative—Arculeo, Berman, Boyers, Corso, Cuite, Curry, Curtis, Davis, DiCarlo, Evans, Fastenberg, Katzman, Low, Manheimer, Moskowitz, Ross Sadowsky, Sharison, Sharkey, Smith, Stein, Weiss and the Vice-Chairman (Mr. Treulich) and the President pro tem. (Mr. Ross)—23.

INTRODUCED BY

LB 62-352

JUN 7 1962

Int. 114
Ross
Finance

The Honorable
 Robert F. Wagner
 Mayor, City of New York
 City Hall
 New York 7, N. Y.

Dear Mr. Mayor:

Re: A LOCAL LAW to amend the administrative code of the city of New York, in relation to firearms licensing fees.

The attached proposed local law would amend Section 436-5.0, subdivision a, to increase the fees charged in connection with the issuance, renewal and validation of pistol and revolver licenses. It would further provide for a stipulated fee to be charged for the replacement of a lost permit or the renewal of a validation.

At one time, the license fee was one dollar. At present, the fee is \$10.00 for the original license and \$5.00 for renewal or validation. It appears that these fees were set in 1948, about fourteen years ago.

The cost of labor, services, supplies, etc., has been increasing from year to year. The present fees of \$10.00 and \$5.00 are inadequate and insufficient under present day costs, particularly since certain procedures which require extensive and thorough investigation of such applicants and licensees were adopted in 1957.

A recent cost analysis reveals:

<u>Type of Application</u>	<u>Cost</u>	<u>Present Fee</u>	<u>Proposed Fee</u>
Original	\$19.67	\$10.00	\$20.00
Renewal	10.89	5.00	10.00
Replacement	Unavailable	5.00	10.00
Validation - Original	20.44	5.00	20.00
Validation - Renewal	11.92	5.00	10.00

- 2 -

In 1960, after an audit of the Police Pension Fund, Article I, (the recipient of such fees pursuant to Section 436-5.0, subdivision a (7)), the Comptroller's Office recommended that the said fees should be increased.

Such licensees are a special class, receiving a police service enjoyed by its members exclusive of the remainder of the taxpayers. The present unrealistic fees result in subsidizing this special class and is a discriminatory practice in that the other taxpayers are asked to sustain the costs of a service which they do not require.

Statistics show that a relatively large number of applications are denied. The higher fee should discourage such applicants from applying in the first place, thus reducing the work load of the Department in this area of licensing.

For these reasons, it is requested that the attached proposal be submitted to the City Council for consideration.

Very truly yours,

Michael J. Murphy
POLICE COMMISSIONER

RLW/s

A LOCAL LAW

TO AMEND THE ADMINISTRATIVE CODE
OF THE CITY OF NEW YORK, IN RELATION
TO FIREARMS LICENSE FEES.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 436-5.0, Chapter 18, of the administrative code of the city of New York, is hereby amended to read as follows:

§ 436-5.0 Firearms. -- a. Pistols or revolvers, keeping or carrying.

1. The commissioner shall grant and issue licenses and permits hereunder pursuant to the provisions of section eighteen hundred ninety-seven of the penal law, which licenses and permits shall expire on December thirty-first of the year of issuance.

2. Every applicant for a license to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefor a fee of twenty (ten) dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten (five) dollars.

3. Every applicant for a license to have and carry concealed a pistol or revolver in the city shall pay therefor a fee of twenty (ten) dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten (five) dollars.

4. Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph six of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of twenty (five) dollars for each year or part thereof and for each renewal or for replacement of a lost permit a fee of ten dollars.

- 2 -

5. Fees paid as provided herein shall not be refunded in the event the application for a license or special permit is denied by the commissioner.

6. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

7. The fees prescribed by this subsection shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail shall be made monthly to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect immediately.

New Matter Underlined

Matter in Brackets () to be Deleted



THE POLICE COMMISSIONER
CITY OF NEW YORK

June 7, 1962

The Honorable
Robert F. Wagner
Mayor, City of New York
City Hall
New York 7, N. Y.

Dear Mr. Mayor:

Re: A LOCAL LAW to amend the administrative code of the city of New York, in relation to firearms licensing fees.

The attached proposed local law would amend Section 436-5.0, subdivision a, to increase the fees charged in connection with the issuance, renewal and validation of pistol and revolver licenses. It would further provide for a stipulated fee to be charged for the replacement of a lost permit or the renewal of a validation.

At one time, the license fee was one dollar. At present, the fee is \$10.00 for the original license and \$5.00 for renewal or validation. It appears that these fees were set in 1948, about fourteen years ago.

The cost of labor, services, supplies, etc., has been increasing from year to year. The present fees of \$10.00 and \$5.00 are inadequate and insufficient under present day costs, particularly since certain procedures which require extensive and thorough investigation of such applicants and licensees were adopted in 1957.

A recent cost analysis reveals:

<u>Type of Application</u>	<u>Cost</u>	<u>Present Fee</u>	<u>Proposed Fee</u>
Original	\$19.67	\$10.00	\$20.00
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Replacement	Unavailable	5.00	10.00
Validation - Original	20.44	5.00	20.00
Validation - Renewal	11.92	5.00	10.00

- 2 -

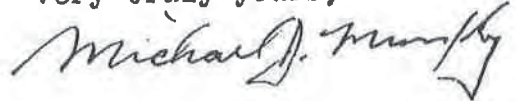
In 1960, after an audit of the Police Pension Fund, Article I, (the recipient of such fees pursuant to Section 436-5.0, subdivision a (7)), the Comptroller's Office recommended that the said fees should be increased.

Such licensees are a special class, receiving a police service enjoyed by its members exclusive of the remainder of the taxpayers. The present unrealistic fees result in subsidizing this special class and is a discriminatory practice in that the other taxpayers are asked to sustain the costs of a service which they do not require.

Statistics show that a relatively large number of applications are denied. The higher fee should discourage such applicants from applying in the first place, thus reducing the work load of the Department in this area of licensing.

For these reasons, it is requested that the attached proposal be submitted to the City Council for consideration.

Very truly yours,



Michael J. Murphy
POLICE COMMISSIONER

June 14, 1962

Hon. Michael E. Murphy
Police Commissioner
240 Centre Street
New York, N.Y.

Dear Commissioner:

Please find enclosed herewith a copy of Intro. #114, to amend the administrative code of the City of New York, in relation to firearms license fees.

I would appreciate your department's views on this proposed legislation together with any recommendations or suggestions that you would like to make.

In order to expedite this matter, I am using a galley proof.

Very truly yours,

ejm/ms
enc. (1)

P.S.: In making your reply, please do so in triplicate.

June 14, 1962

Hon. Abraham D. Beame
Comptroller
530 Municipal Building
New York 7, N.Y.

Dear Mr. Beame:

Please find enclosed herewith a copy of Intro. #114, to amend the administrative code of the City of New York, in relation to firearms license fees.

I would appreciate your department's views on this proposed legislation together with any recommendations or suggestions that you would like to make.

In order to expedite this matter, I am using a galley proof.

Very truly yours,

cjm/ms
enc. (1)

P.S.: In making your reply, please do so in triplicate.

B. 62-552p

June 21, 1962

Mr. Jack Lutsky
 Legal Aide to the Mayor
 City Hall
 New York 7, New York

Re: A LOCAL LAW To amend the
 Administrative Code of the
 City of New York, in relation
to firearms license fees.

Dear Mr. Lutsky:

The above proposed local law was introduced
 at the request of the Police Department.

It would amend Section 436-5.0, subdivision a,
 to increase the fees charged in connection with the
 issuance, renewal and validation of pistol and revolver
 licenses. It would further provide for a stipulated
 fee to be charged for the replacement of a lost permit
 or the renewal of a validation.

At one time, the license fee was one dollar.
 At present, the fee is \$10.00 for the original license
 and \$5.00 for renewal or validation. It appears that
 these fees were set in 1948, about fourteen years ago.

The cost of labor, services, supplies, etc.,
 has been increasing from year to year. The present
 fees of \$10.00 and \$5.00 are inadequate and insuffi-
 cient under present day costs, particularly since cer-
 tain procedures which require extensive and thorough
 investigation of such applicants and licensees were
 adopted in 1957.

A recent cost analysis reveals:

Type of Application	Cost	Present Fee	Proposed Fee
Original	\$19.67	\$10.00	\$20.00
Renewal	10.89	5.00	10.00
Replacement	Unavailable	5.00	10.00
Validation - Original	20.44	5.00	20.00
Validation - Renewal	11.92	5.00	10.00

- 2 -

In 1960, after an audit of the Police Pension Fund, Article I, (the recipient of such fees pursuant to Section 436-5.0, subdivision a (7), the Comptroller's Office recommended that the said fees should be increased.

Such licensees are a special class, receiving a police service enjoyed by its members exclusive of the remainder of the taxpayers. The present unrealistic fees result in subsidizing this special class and is a discriminatory practice in that the other taxpayers are asked to sustain the costs of a service which they do not require.

Statistics show that a relatively large number of applications are denied. The higher fee should discourage such applicants from applying in the first place, thus reducing the work load of the Department in this area of licensing.

This department approves this proposal and urges its enactment.

Vice-Chairman Treulich of the City Council has also asked for this department's views on this proposal. If same meets with your approval, please forward three (3) copies to him.

Very truly yours,

Michael J. Murphy
POLICE COMMISSIONER

RJM:frm

L.B. 62-352p



THE POLICE COMMISSIONER
CITY OF NEW YORK

June 22, 1962

Mr. Jack Lutsky
Legal Aide to the Mayor
City Hall
New York 7, New York

Re: A LOCAL LAW To amend the
Administrative Code of the
City of New York, in relation
to firearms license fees.

Dear Mr. Lutsky:

The above proposed local law was introduced at the request of the Police Department.

It would amend Section 436-5.0, subdivision a, to increase the fees charged in connection with the issuance, renewal and validation of pistol and revolver licenses. It would further provide for a stipulated fee to be charged for the replacement of a lost permit or the renewal of a validation.

At one time, the license fee was one dollar. At present, the fee is \$10.00 for the original license and \$5.00 for renewal or validation. It appears that these fees were set in 1948, about fourteen years ago.

The cost of labor, services, supplies, etc., has been increasing from year to year. The present fees of \$10.00 and \$5.00 are inadequate and insufficient under present day costs, particularly since certain procedures which require extensive and thorough investigation of such applicants and licensees were adopted in 1957.

A recent cost analysis reveals:

<u>Type of Application</u>	<u>Cost</u>	<u>Present Fee</u>	<u>Proposed Fee</u>
Original	\$19.67	\$10.00	\$20.00
Renewal	10.89	5.00	10.00
Replacement	Unavailable	5.00	10.00
Validation - Original	20.44	5.00	20.00
Validation - Renewal	11.92	5.00	10.00

JA 201

- 2 -

In 1960, after an audit of the Police Pension Fund, Article I, (the recipient of such fees pursuant to Section 436-5.0, subdivision a (7), the Comptroller's Office recommended that the said fees should be increased.

Such licensees are a special class, receiving a police service enjoyed by its members exclusive of the remainder of the taxpayers. The present unrealistic fees result in subsidizing this special class and is a discriminatory practice in that the other taxpayers are asked to sustain the costs of a service which they do not require.

Statistics show that a relatively large number of applications are denied. The higher fee should discourage such applicants from applying in the first place, thus reducing the work load of the Department in this area of licensing.

This Department approves this proposal and urges its enactment.

Vice-Chairman Treulich of the City Council has also asked for this department's views on this proposal. If same meets with your approval, please forward three (3) copies to him.

Very truly yours,



Michael J. Murphy
POLICE COMMISSIONER

RLW:frm



EDWARD THOMPSON
FIRE COMMISSIONER

FIRE DEPARTMENT
OF THE CITY OF NEW YORK
MUNICIPAL BUILDING
NEW YORK 7, N. Y.

July 12, 1962

Hon. Eric Treulich
Vice-Chairman of the Council
City Hall
New York 7, N.Y.


RE: Proposed Local Law
Intro. #85
By Mr. DiCarlo

Dear Sir:

Enclosed please find this department's comments on subject legislation.

Very truly yours,

BA
ET/L
Encl.


Edward Thompson
Fire Commissioner

July 12, 1962

RE: Proposed Local Law
Intro. #44
By Mr. DiCarlo

RECOMMENDATION:

No objection

COMMENT:

This Proposed Local Law con-
cerns itself with structural
matters under Chapter 26 of
the Administrative Code. As
such this department has no
objection to this legislation.

Edward Thompson
Fire Commissioner

JL

Bernard Alderman
Deputy Fire Commissioner

Int. No. 114

Transcript of the Stenographic Record
of the
Hearing on Local Laws

Held Before

The Honorable Robert F. Wagner, Mayor

At the Mayor's Reception Room
City Hall

On Thursday, August 9, 1962
At 11:30 A. M.

Int. No. 114, Pr. No. 135--A Local Law to amend the
Administrative Code of the City of New York, in relation
to firearms license fees.

Int. No. 114

MINUTES OF A PUBLIC HEARING

Held Before
Honorable Robert F. Wagner, Mayor

At the Mayor's Reception Room
City Hall

On Thursday, August 9, 1962
At 11:30 A. M.

THE MAYOR: The next hearing is on introductory number 114, print number 135--a proposed local law to amend the Administrative Code of the City of New York, in relation to firearms license fees, and approved by the Police Department.

Anyone to be heard in opposition? (No response)

Anyone to be heard in favor? (No response)

No one to be heard; close the hearing.

(The Mayor thereupon signed the bill)

C.T.

Exhibit E

LAW LIBRARY

FEB 13 1974

OFFICE OF THE
CORPORATION COUNSEL

LOCAL LAWS

OF

THE CITY OF NEW YORK

FOR THE YEAR 1973

No. 78

Introduced by Mr. Cohen (by request of Police Commissioner)—Passed under a message of necessity from the Mayor.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the expiration date and fees for firearms licenses.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 436-5.0 of the administrative code of the city of New York, as last amended by local law number thirty-eight for the year nineteen hundred sixty-four, is hereby amended to read as follows:

Firearms:

a. Pistols or revolvers, keeping or carrying.

1. The commissioners shall grant and issue licenses [and permits] hereunder pursuant to the provisions of article four hundred of the penal law. Unless they indicate otherwise, such licenses and permits shall expire on the first day of the second January after the date of issuance.

2. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of thirty dollars for each original application for the license period or part thereof, a fee of twenty dollars for each renewal application, and a fee of ten dollars for each replacement application of a lost license. A fee of ten dollars shall be paid for each renewal license that is issued for a period of one year or part thereof.

3. Every applicant to whom a license has been issued by any person other than the commissioner, except as provided in paragraph five of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of thirty dollars, for each renewal a fee of twenty dollars, and for each replacement of a lost permit a fee of ten dollars.

4. Fees paid as provided herein shall not be refunded in the event that an original or renewal application, or a special validation permit application is denied by the commissioner.

5. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction, or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

6. The fees prescribed by this subdivision shall be collected by the commissioner, and shall be paid by him into the police pension fund, article one, and a return in detail

shall be made to the comptroller by such commissioner of the fees so collected and paid over by him.

§ 2. This local law shall take effect as of January 1, 1974.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, SS.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 20, 1973, and approved by the Mayor on December 28, 1973.

HERMAN KATZ, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW SECTION 27

Pursuant to the provisions of Municipal Home Rule Law Section 27, I hereby certify that the enclosed local law (Local Law 78 of 1973, Council Int. 915-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on December 20, 1973: 36 for; none against.

Was approved by the Mayor on December 28, 1973.

Was returned to the City Clerk on January 2, 1974.

ADRIAN P. BURKE, Corporation Counsel.

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Exhibit F

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1979**

LAW LIBRARY

AUG 27 1979

OFFICE OF
CORPORATION

No. 42

Introduced by Council Member Sadowsky (by request of the Mayor)—passed under a Message of Necessity from the Mayor.)

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to charges or fees for licenses, permits or privileges issued by the police department.

Be it enacted by the Council as follows:

Section 1. Paragraph two of subdivision a of section 436-5.0 of title A of chapter eighteen of the administrative code of the city of New York, as last amended by local law number seventy eight for the year nineteen hundred seventy-three, is hereby amended to read as follows:

2. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of fifty dollars for each original application for a two year license period or part thereof, a fee of forty dollars for each renewal application, and a fee of ten dollars for each replacement application of a lost license.

§ 2. Subdivision g of section 436-7.0 of such title of such chapter of such code, subdivision g having been last amended by local law number twenty-six for the year nineteen hundred seventy is hereby amended to read as follows:

g. **Fees.**—The owner shall pay a fee of one hundred dollars for each year of the license period, for each towing car that is owned by him. A driver shall pay a fee of fifteen dollars; for each renewal thereof ten dollars. In the event of the loss, mutilation or destruction of any medallion issued hereunder, the owner may file such statement and proof of the facts as the license division of the police department shall require with a fee of five dollars, at the office of the license division, and the license division shall issue a duplicate or substitute medallion. The licensee, when transferring a medallion from one tow truck to another, shall be required to pay a fee of five dollars. In the event of the loss or mutilation of any I.D. card issued hereunder, a fee of three dollars.

§ 3. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S. S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on July 10, 1979, and approved by the Mayor on July 27, 1979.

DAVID N. DINKINS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW SECTION 27
Pursuant to the provisions of Municipal Home Rule Law Section 27, I hereby certify that

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the enclosed local law (Local Law No. 42 of 1979, Council Int. No. 671-A), contains the correct text and, received the following vote at the meeting of the New York City Council on July 10, 1979: 39 for, none against.

Was approved by the Mayor on July 27, 1979.

Was returned to the City Clerk on July 27, 1979.

ALLEN G. SCHWARTZ, Corporation Counsel.

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1821

July 10, 1979

(2) In excess of 10,000 but not more than 20,000 square feet of lot area	[150.00]	250.00
(3) In excess of 20,000 square feet of lot area	[200.00]	350.00
d. Application for amendment of variance or special permit previously granted under paragraph a [b, and c] of subdivision [2] two of this section		100.00
e. Application for amendment of variance or special permit previously granted under paragraph b or c of subdivision two of this section		150.00
[e] f. Application for an extension of time in which to comply with the conditions imposed in the previous resolution of the board of standards and appeals	[50.00]	100.00
[f] g. Application for extension of time to complete construction pursuant to section 11-32 and 11-33 of the zoning resolution of the [City] city of New York	[25.00]	100.00
h. Application for extension of the term of a variance or or special permit previously issued pursuant to subdivision two of this section:		
(1) For such variance or special permit issued pursuant to paragraph a of such subdivision		100.00
(2) For such variance or special permit issued pursuant to subparagraph one of paragraph b of such subdivision		200.00
(3) For such variance or special permit issued pursuant to subparagraph two of paragraph b of such subdivision		300.00
(4) For such variance or special permit issued pursuant to subparagraph three of paragraph b of such subdivision		400.00
(5) For such variance or special permit issued pursuant to subparagraph four of paragraph b of such subdivision		500.00
(6) For such variance or special permit issued pursuant to subparagraph one of paragraph c of such subdivision		150.00
(7) For such variance or special permit issued pursuant to subparagraph two of paragraph c of such subdivision		250.00
(8) For such variance or special permit issued pursuant to subparagraph three of paragraph c of such subdivision		350.00
3. Appeals from or application for review of any order, requirement or determination of the commissioner of buildings or of any borough superintendent of buildings of the department of buildings or of the fire commissioner or any rule or regulation or amendment or repeal thereof made by the fire commissioner or the commissioner of marine and aviation	[50.00]	100.00
4. Application filed for variation of the provisions of the multiple dwelling law, or labor law, and application filed pursuant to the general city law	[50.00]	100.00
5. Exemptions— <i>a.</i> The provisions of this section shall not apply if the owner of the premises affected by the application, appeal or review, be a corporation, or association organized and operated exclusively for religious, charitable or educational purposes, or for one or more such purposes, no part of the net earnings of which inures to the benefit of any private individual and provided that the premises affected are to be used exclusively by such corporation or association for one or more such purposes.		
<i>b.</i> The provisions of this section shall not apply if a municipal department or agency of the city is the applicant or appellant before the board of standards and appeals.		
§ 2. This local law shall take effect immediately.		
Note—New matter in <i>italics</i> , old matter in brackets [] to be omitted.		

EDWARD L. SADOWSKY, Chairman; WALTER WARD, CAROL GREITZER, LUIS A. OLMEDO, FREDERICK E. SAMUEL, PETER F. VALLONE, ABRAHAM G. GERGES, NICHOLAS LAPORTE, ANTHONY I. GIACOBBE, Committee on Finance, July 9, 1979.

On motion of the Vice-Chairman (Council Member Cuite), and adopted, the foregoing matter was coupled as a General Order for the day. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Int. No. 671-A

Report of the Committee on Finance, in Favor of Approving and Adopting, as Amended, a Local Law to Amend the Administrative Code of The City of New York, in Relation to Charges of Fees for Licenses, Permits or Privileges Issued by the Police Department.

The Committee on Finance, to which was referred on May 8, 1979 (Minutes, page 1269), the annexed amended Local Law, respectfully

July 10, 1979

1822

REPORTS:

The first part of the bill deals with a pistol or revolver permit. The initial fee is increased from \$30 to \$50; however, it is made for a two-year license and the renewal fee is increased from \$20 to \$25.

The second part of the bill deals with licenses for tow car ownership and drivers. The ownership fee is increased from \$50 to \$100 and the driver's initial fee is increased from \$5 to \$15 and renewal fee goes from \$3 to \$10. This program is run by the license division of the Police Department rather than the hack bureau and the bill reflects this change.

* Pistol Permits	\$63.78
Cost per service unit	18,149
Average number of units	
Present fees, biennial	30.00
Original	20.00
Renewal	
Proposed fees, biennial	50.00
Original	25.00
Renewal	87,500.00
Estimated increase in revenue	563,000.00
Projected Fiscal Year 1980 revenue	\$1,157,562.00
Total Cost	
Tow Truck Driver License	\$92.01
Cost per service unit	1,066
Average number of units	
Present fees, biennial	8.00
Original	6.00
Renewal	
Proposed fees, biennial	15.00
Original	10.00
Renewal	5,900.00
Estimated increase in revenue	13,000.00
Projected Fiscal Year 1980 revenue	\$98,080.00
Total cost	
License for Tow Truck	\$215.15
Cost per service unit	937
Average number of units	
Present fee, biennial	100.00
Original and renewal	
Proposed fee, biennial	200.00
Original and renewal	156,600.00
Estimated increase in revenue	187,400.00
Projected Fiscal Year 1980 Revenue	\$201,599.00
Total cost	

Accordingly, your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to charges or fees for licenses, permits or privileges issued by the police department.

Be it enacted by the Council as follows:

Section 1. Paragraph two of subdivision a of section 436-5.0 of title a of chapter eighteen of the administrative code of the city of New York, as last amended by local law number seventy eight for the year nineteen hundred seventy-three, is hereby amended to read as follows:

2. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of [thirty] fifty dollars for each original application for [the] a two year license period or part thereof, a fee of [twenty] forty dollars for each renewal application, and a fee of ten dollars for each replacement application of a lost license. [A fee of ten dollars shall be paid for each renewal license that is issued for a period of one year or part thereof.]

§ 2. Subdivision g of section 436-7.0 of such title of such chapter of such code, subdivision g having been last amended by local law number twenty-six for the year nineteen hundred seventy is hereby amended to read as follows:

g. Fees.—The owner shall pay [an annual] a fee of [fifty] one-hundred dollars for each year of the license period, for each towing car that is owned by him. A driver shall pay

Exhibit G

*55

LAW LIBRARY

JUL 26 1985

OFFICE OF THE
CORPORATION COUNSEL

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1985

No. 37

Introduced by Council Member Sadowsky (by request of the Mayor); also Council Member O'Donovan.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to fees for pistol licenses issued by the police department.

Be it enacted by the Council as follows:

Section 1. Paragraph two of subdivision a of section 436-5.0 of title A of chapter eighteen of the administrative code of the city of New York, as amended by local law number forty-two of nineteen hundred seventy-nine, is amended to read as follows:

§2. Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefore, a fee of one hundred dollars for each original or renewal application for a two year license period or part thereof and a fee of ten dollars for each replacement application of a lost license. If a license or renewal is issued for a term of more than two years there shall be an additional prorated fee for the period in excess of two years.

§2. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 12, 1985, and approved by the Mayor on July 3, 1985.

DAVID N. DINKINS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 37 of 1985, Council Int. No. 965) contains the correct text and, received the following vote at the meeting of the New York City Council on June 13, 1985: 33 for, 0 against.

Was approved by the Mayor on July 3, 1985.

Was returned to the City Clerk on July 8, 1985.

HADLEY W. GOLD, Acting Corporation Counsel.

NEW YORK CITY LOCAL LAW REPORTS

children living in an orphanage. After many months of hazardous duty, Dennis Thompson found himself in the headquarters for his unit when it was attacked by Arab terrorists. Dennis Thompson, along with many other young Marines died in the attack.

Dennis Thompson should be remembered as a loving and caring individual who wanted to make his mother proud of him. He died in the service of his country and the naming of this street which can be seen from his family residence would be a fitting tribute.

Accordingly, your committee recommends its adoption.

Report of the Committee on Finance

Pistol License

Local Law #37

July 3, 1985

Intro. No. 965

To approve and adopt a local law to amend the Administrative Code of the City of New York, in relation to fees for pistol licenses issued by the police department.

This bill will increase the fees currently charged by the Police Department to \$100 for both original applications and renewals of pistol licenses. At the present time, the fee for an original license is \$50 for a two year license period or part thereof and \$40 for a renewal application. The fee of \$10 for replacement of a lost license would remain the same.

The bill would set the term for which a license could be issued at 1 to 3 years. If a license or renewal is issued for a term of more than 2 years there would be an additional prorated fee for the period in excess of 2 years.

The fees were last increased in 1979 and a new increase is needed because present fees do not affect the cost involved. The current average cost for processing pistol license applications and renewals is \$102. The fee increase is part of the Mayor's executive budget, and is a priority in the Fiscal 1986 program.

There were 29,933 original or renewal licenses issued in FY 1983 and 26,885 issued in FY 1984 with original licenses averaging 7,300 a year for the last 2 complete fiscal years.

Report of the Committee on Governmental Operations

Stun (Electronic) Gun Regulation

Local Law #38

July 3, 1985

Intro. No. 970-A

To approve and adopt, as amended, a local law to amend the Administrative Code of the City of New York, in relation to prohibiting the sale and possession of electronic stun guns.

This bill would prohibit the sale and possession of electronic stun guns in New York City. Two exceptions to this ban would be provided for possession of stun guns by police officers and the possession and sale by manufacturers, importers, exporters or merchants of stun guns, where such guns are intended for sale outside the city.

Exhibit H

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 51

Introduced by Council Member DeMarco (by request of the Mayor)

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the fees for pistol licenses and rifle and shotgun permits.

Be it enacted by the Council as follows:

Section 1. Paragraphs 2 and 3 of subdivision a of section 10-131 of chapter 1 of title 10 of the administrative code of the city of New York are amended to read as follows:

2. Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefore, a fee of one hundred *thirty-five* dollars for each original or renewal application for a two year license period or part thereof and a fee of ten dollars for each replacement application of a lost license. If a license or renewal is issued for a term of more than two years there shall be an additional prorated fee for the period in excess of two years.

3. Every applicant to whom a license has been issued by any person other than the police commissioner, except as provided in paragraph five of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of [thirty] *one hundred thirty-five* dollars, for each renewal a fee of [twenty] *one hundred thirty-five* dollars, and for each replacement of a lost permit a fee of ten dollars.

§2. Subdivision d of section 10-303 of chapter 3 of title 10 of the administrative code of the city of New York is amended to read as follows:

d. Fees. The fee for an application for a rifle and shotgun permit or renewal thereof shall be [twenty-five] *fifty-five* dollars [(\$25)].

§3. This local law shall take effect July 1, 1989.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 30, 1989, and approved by the Mayor on July 12, 1989.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the

enclosed local law (Local Law 51 of 1989, Council Int. No. 1261) contains the correct text and:
Received the following vote at the meeting of the New York City Council on June 30, 1989:
32 for, 0 against

Was approved by the Mayor on July 12, 1989.

Was returned to the City Clerk on July 13, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

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NEW YORK CITY LOCAL LAW REPORTS

treasury in FY 1990 is \$950,000. Of this total, \$593,000 would be raised by the \$10 increase in TLC driver's license fees.

Report of the Committee on Finance
Revolver License Fee

Local Law #51
 July 12, 1989

Int. No. 1261

To approve and adopt a local law to amend the administrative code of the City of New York, in relation to the fees for pistol licenses and rifle and shotgun permits.

This bill would raise the application fee for a license to carry and possess a pistol or revolver in the city from \$100 to \$135 for each original or renewal application, for a two year license period. Any applicant who receives a license by any person other than the police commissioner would pay an application fee of \$135, up from the present \$30, and a renewal fee of \$135, up from the present \$20, for a special permit from the commissioner granting the licensee validity to carry the pistol or revolver within the city of New York. The fee for an application for a rifle or shotgun permit or renewal would be increased from \$25 to \$55.

The increased fees would be effective on July 1, 1989. The last fee increase occurred in July 1985. The Office of Management and Budget's cost analysis on the pistol license application fee claims an average administrative cost of \$134.88 for each application or renewal based on a yearly average of 28,307 applications or renewals filed. The pistol license fee increase is estimated to bring in an additional \$605,000 in revenue in FY'90 and the rifle and shotgun permit fee increase is estimated to bring in an additional \$475,000 in FY'90 revenue. These increases are included in the Mayor's FY'90 executive budget. The total additional revenue that passage of this bill would add to the city's treasury is estimated to be \$1,080,000.

Report of the Committee on International Intergroup Relations and Special Events
Discrimination/Alienage, Citizenship

Local Law #52
 July 18, 1989

Int. No. 1072-A

To approve and adopt, as amended, a local law to amend the administrative code of the City of New York, in relation to prohibiting discrimination based on a alienage or citizenship status.

On December 22, 1988, the Committee on International Intergroup Relations and Special Events considered Int. No. 1072. Proposed Int. No. 1072-A is the result of that hearing.

Proposed Int. No. 1072-A and its predecessor, Int. No. 1072, represent an attempt to afford all individuals, regardless of their alienage or citizenship status, a remedy when they experience unlawful discrimination or are denied rights conferred upon them by the U.S. Constitution or other federal, state or city law. Both versions of this legislation establish "aliens" as an additional category of individuals who may seek redress for discrimination under the New York City Civil Rights Law and make it an unlawful practice to discriminate against those

Exhibit I

NEW YORK CITY LEGISLATIVE ANNUAL

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1992**

No. 42

Introduced by Council Member Berman (by the request of the Mayor); also Council Members Fields and Robinson. (Passed under a Message of Necessity from the Mayor.)

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to fees for pistol licenses.

Be it enacted by the Council as follows:

Section 1. Paragraphs 2 and 3 of subdivision a of section 10-131 of the administrative code of the city of New York, as amended by local number 51 for the year 1989, are amended to read as follows:

2. Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of one hundred [thirty-five] *seventy* dollars for each original or renewal application for a two year license period or part thereof and a fee of ten dollars for each replacement application of a lost license. If a license or renewal is issued for a term of more than two years there shall be an additional prorated fee for the period in excess of two years.

3. Every applicant to whom a license has been issued by any person other than the police commissioner, except as provided in paragraph five of this subdivision, for a special permit from the commissioner granting it validity within the city of New York, shall pay for such permit a fee of one hundred [thirty-five] *seventy* dollars, for each renewal a fee of one hundred [thirty-five] *seventy* dollars, and for each replacement of a lost permit a fee of ten dollars.

§ 2. This local law shall take effect July 1, 1992.

Received the following vote at the meeting of the New York City Council on June 1, 1992: 46 for, 5 against.

Was approved by the Mayor on June 17, 1992.

Was returned to the City Clerk on June 17, 1992.

NEW YORK CITY LEGISLATIVE ANNUAL

Report of the Committee on Finance

Pistol License Fees

Local Law 42
June 17, 1992

Int. No. 459

To approve and adopt a local law to amend the Administrative Code of the City of New York in relation to the fees for pistol licenses.

Subdivision a of Section 10-131 of the Administrative Code establishes the City's licensing scheme for pistols and revolvers, pursuant to the provisions of Article 400 of the Penal Law. Paragraphs 2 and 3 of § 10-131(a) set the fee for the issuance or renewal of a pistol or revolver license in the amount of \$135 for a two year license period.

Int. No. 459 would increase the two-year fee from \$135 to \$170, which would, according to the Mayor's accompanying memorandum in support, bring the fee to a level commensurate with administrative costs.

Int. No. 459 will take effect July 1, 1992.

Accordingly, your Committee recommends its adoption.

Exhibit J

Received the following vote at the meeting of the New York City Council on June 24, 2004: 47 for, 3 against, 1 not voting.

Was signed by the Mayor on July 12, 2004.

Was returned to the City Clerk on July 14, 2004.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

CERTIFICATE OF SERVICE

On 29 June 2012 I served the foregoing Joint Appendix Vol. I by electronically filing it with the Court's CM/ECF system, which generates a Notice of Filing and effects service upon counsel for all parties in the case.

I affirm the foregoing statement under penalty of perjury under the laws of the United States of America.

Dated: June 29, 2012

s/ David D. Jensen
David D. Jensen
Attorney for Plaintiffs-Appellants