



Apartment Association of Metropolitan Pittsburgh sues city over rental registry

JULIA FELTON | Thursday, March 17, 2022 11:31 a.m.

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The Apartment Association of Metropolitan Pittsburgh is suing the city over its rental registry, a program that was struck down in court once before.

Pittsburgh City Council in November [approved legislation to create a rental registration and inspection schedule](#) for rental units, though a similar measure enacted in 2009 failed amid legal battles regarding related fees. The program was [scheduled to begin in May](#), and would include lead dust wipe inspections for rental properties built before 1978, as required by the city's new [Lead Safety Ordinance](#).

“It’s still unconstitutional,” said Lawrence Fisher, an attorney with LawFirst, who is representing the Apartment Association of Metropolitan Pittsburgh.

The lawsuit is seeking a hearing for injunctive relief to keep the ordinance from going into effect in May, Fisher said. That hearing has not yet been scheduled.

Fisher has been fighting the concept since it was first introduced in 2009. The [Apartment Association of Metropolitan Pittsburgh](#) is comprised of more than 200 members, including apartment builders, developers, owners, managers, investors, financial institutions, suppliers, subcontractors and utilities.

Their lawsuit, which was filed Tuesday in Allegheny County Common Pleas Court, still revolves around the fee — though Fisher acknowledged it had been reduced from the fee previously struck down in court.

“As a fundamental threshold issue, the fee which the registration ordinance charges was previously declared unconstitutional and grossly unreasonable, not proportional to the cost of the program,” Fisher said.

He argued that the new fee, while lower, still has “no relationship with the cost of the program.”

A judge who heard arguments about the city’s first try at a rental registry ruled that the city could not enforce the ordinance until it implemented a “fee that is fair, reasonable and not grossly disproportionate to the cost of maintaining the program.”

The fee structure that was previously blocked in court included a rental registration permit fee of \$65 per unit for up to 10 housing units, \$55 per unit for 11 to 100 units and \$45 per unit for more than 100 units.

The updated legislation lowered the costs. It now includes a \$16 application fee, a \$5.50 charge for an inspector to travel to the property and a \$14 charge per unit.

When the existing legislation was passed, members of City Council said it took into account the judge’s ruling regarding the fees. Councilman Bruce Kraus said they believed the bill was “constructed in such a way that it would withstand any scrutiny in courts.”

But Fisher said he believes the fee still has “no relationship with the cost of the program.” A fair way to sort through the problem outside of court, he said, would be to have the city implement the program without fees for one year. Then, they could calculate how much the program costs the city and create a fee structure from that data.

The lawsuit also challenges the portion of the city’s new lead ordinance that requires rental properties built before 1978 to be tested for lead. Fisher said the measure seems to single out rental properties, though it has no requirements for lead testing for other buildings that could also be problematic for lead exposure, including public housing and university-managed rental properties.

“It feels as if they are targeting landlords and rental properties,” Fisher said, claiming the legislation has carve-outs and “special interest perks” for certain groups.

Other concerns raised in the lawsuit include worries that landlords may be violating tenants’ rights to privacy if they have to disclose information about tenants to the city or grant city inspectors access to private rental units. Fisher said they’re also challenging a clause that requires rental units be managed by a “local responsible agent,” meaning landlords living in neighboring counties may have to hire someone else to manage their properties.

A spokesperson for Mayor Ed Gainey did not immediately respond to requests for comment on the lawsuit.

City Council President Theresa Kail-Smith referred questions to the mayor’s office.

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