DOCKET NO. 523504

Supreme Court of the State of New York
Appellate Division – Third Department

BOARD OF TRUSTEES OF THE VILLAGE OF GROTON,
Respondent,

-against-

NORFE J. PIRRO et al.,
Appellants.

Index No. 2015-0719

(And Another Related Proceeding)

BRIEF OF AMICI CURIAE AMERICAN CIVIL LIBERTIES UNION, EMPIRE JUSTICE CENTER, NATIONAL COALITION AGAINST DOMESTIC VIOLENCE, NATIONAL HOUSING LAW PROJECT, NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY, NEW YORK CIVIL LIBERTIES UNION, NEW YORK STATE COALITION AGAINST DOMESTIC VIOLENCE, AND SARGENT SHRIVER NATIONAL CENTER ON POVERTY LAW

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PRELIMINARY STATEMENT

Amici submit this brief to describe how the Groton Property and Building Nuisance Law, Local Law No. 4 of 2014 ("Local Law") violates the rights of tenants. This case presents the first opportunity for the Court to examine a local nuisance ordinance that punishes landlords and tenants based on calls for police service, including when tenants need emergency assistance, or because of criminal activity and other violations on or near rental properties. The ordinance penalizes properties regardless of whether the tenants committed the violations.

While the rights of tenants are seriously threatened by enforcement of ordinances like Groton's, they notably are not parties to this case. Their absence underscores the serious due process problems with the ordinance, including the trampling of tenants' interests without notice or an opportunity to be heard and the crippling of landlords' ability to defend against its enforcement. The ordinance is especially concerning because it harms domestic violence survivors and people with disabilities, many of whom rely on police for protection and emergency assistance, and undermines existing state laws and policies designed to protect them. For these reasons, ordinances like Groton's have been harshly criticized by the U.S. Department of Housing and Urban Development ("HUD"), scholars, state legislatures, and advocates across the country and successfully challenged in other cases based on First Amendment right to petition, due process and other constitutional and statutory grounds.

The Local Law wholly ignores tenants' interests. It authorizes ejection of tenants from their homes without giving them any mechanism to challenge the Local Law's enforcement. The Local Law sanctions these harsh consequences against tenants based on vague definitions of nuisance conduct and criminal allegations where no charges are brought or no convictions result. Moreover, tenants can lose their homes based on conduct committed by others, such as tenants

living in other units, or based on crimes of which they are the victims. This particularly threatens the rights of domestic violence victims, who are more likely to experience crime in their homes and may need the law enforcement assistance that the Local Law targets. The Local Law thus runs afoul of numerous New York state legal protections encouraging domestic violence survivors to report abuse and safeguarding their ability to access law enforcement assistance and maintain secure housing. It also imposes penalties based on incidents involving people with disabilities, pressuring landlords to evict them in violation of laws prohibiting disability-based discrimination. *Amici* strongly urge the Court to invalidate this local law.

STATEMENT OF INTEREST

Amici are organizations dedicated to advancing civil liberties, fair and secure housing, and the rights of survivors of domestic violence. They have worked with tenants in communities across New York State and the country who experienced harmful consequences stemming from local nuisance ordinances, including the chilling of their rights to seek emergency aid and the loss of their housing. The addendum contains detailed descriptions of each organization.

BACKGROUND

Overly broad nuisance ordinances pose a serious threat to the safety and security of communities throughout the United States. Their detrimental impacts have been recognized across the nation and documented in several New York municipalities. The Local Law imposes an undue burden on the residents of Groton, particularly community members who are victims of crime or persons with disabilities, for it prevents people from accessing emergency services.

Nuisance Ordinances Across the United States

People must have access to effective emergency and police assistance and the ability to maintain secure housing in order to promote safe and stable communities. ACLU Women's

Rights Project & Social Science Research Council, *Silenced: How Nuisance Ordinances Punish Crime Victims in New York* 1 (2015) ("*Silenced*"). However, municipalities across the country increasingly undermine people's housing and access to law enforcement by enacting laws that penalize tenants and property owners based on police response or criminal activity occurring on the property, with no exceptions for people who seek emergency aid. *Id.*; Emily Werth, Sargent Shriver Nat'l Ctr. on Poverty Law, *The Cost of Being "Crime Free": Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances* 2 (2013.

These laws – typically called nuisance ordinances, crime-free ordinances, or disorderly house laws – have a disproportionate impact on crime victims, including domestic violence victims, people of color, and people with disabilities, for they penalize and deter people from reporting crime and using emergency services. *Silenced*, *supra*, at 4-6; Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 Am. Sociological Rev. 117, 119. 125, 132, 136-37 (2012) ("*Unpolicing*") (nearly one third of nuisance citations in Milwaukee over a two-year period were generated by domestic violence, and properties located in black neighborhoods were consistently more likely to receive nuisance citations than those in predominantly white neighborhoods even when they were the source of a similar number of calls); Gretchen W. Arnold, *From Victim to Offender: How Nuisance Property Laws Affect Battered Women*, J. Interpers. Violence (May 4, 2016) ("*Victim to Offender*") (finding that St. Louis's nuisance law had long-lasting negative impacts on the battered women who were studied). These laws generally require landlords to abate the nuisance, which often results in evictions or other penalties for victims or others who call 911. *Silenced*, *supra*, at 3; *Unpolicing*, *supra*, at 119-120; *Victim to Offender*, *supra*, at 3-4.

Federal government agencies and courts, as well as state legislatures, have recognized the negative effects of these types of ordinances on vulnerable populations. HUD recently issued guidance to local governments regarding the application of the Fair Housing Act ("FHA") to the enforcement of nuisance ordinances against victims of domestic violence and other crimes. HUD, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services* (Sept. 13, 2016). HUD informed municipalities that they have a "difficult burden" to bear in justifying ordinances that cut off access to emergency services or encourage eviction of crime victims. *Id.* at 9. HUD also stated that repeal of these ordinances would be a step governments could take to eliminate the barriers to fair housing for crime victims presented by these laws. *Id.* at 12. The Secretary of HUD initiated two FHA complaints against Norristown, PA and Berlin, NH because of the enforcement of nuisance ordinances against victims of domestic violence.[1] In addition, federal courts have determined that these types of ordinances present serious constitutional problems in cases brought by the ACLU. *See, e.g.*, *Peters v. City of Wilkes-Barre*, No. 3:15cv152, 2016 WL 320748 (M.D. Pa. Jan. 27, 2016) (denying the City's motion to dismiss and finding that the ordinance fails to provide any pre-deprivation due process); *Victor Valley Family Res. Ctr. v. City of Hesperia*, No. ED CV 16-00903-AB (SPx), 2016 U.S. Dist. LEXIS 92609 (C.D. Cal. July 1, 2016) (preliminarily enjoining ordinance and

[1] HUD, *HUD and Philadelphia-Area Borough Settle Allegations of Housing Discrimination Against Victims of Domestic Violence* (Oct. 2, 2014), http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2014/HUDNo_14-121; HUD, *HUD and City of Berlin, New Hampshire, Settle Allegations of Housing Discrimination Against Victims of Domestic Violence* (Feb. 19, 2015), http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2015/HUDNo_15-022.

recognizing serious constitutional questions because the ordinance lacks notice and a hearing to the tenant). State legislatures have explicitly pre-empted local ordinances that penalize people for calls for emergency assistance because of their impact on crime victims. *See* 53 Pa. Cons. Stat. Ann. § 304; Iowa Code §§ 562B.25B & 562A.27B; Minn. Stat. § 504B.205; 55 Ill. Comp. Stat. Ann. 5/5-1005.10; Cal. Civ. Proc. Code § 1161.3.

Groton's Local Law

Groton's Local Law attributes nuisance points to properties for incidents of alleged misconduct that occur on or near the property. § 152-3. Landlords are held strictly liable for the misconduct once points have been assigned, regardless of whether they were aware of the alleged nuisance conduct. §§ 152-3, 152-6(I). A property is declared a public nuisance once it has accumulated twelve points within six months or eighteen points within twelve months. § 152-3. At that point, property owners are required to submit a written abatement plan to the Village Attorney. § 152-6(C)(6). If the abatement plan includes eviction, the landlord must commence eviction proceedings within ten business days of meeting the Attorney. *Id.*

The Local Law includes two separate procedures for enforcement. First, Article II provides for the commencement of a civil action, which can result in penalties including fines and a temporary shutdown of the property. §§ 152-5 - 152-11. It provides for the "opportunity to abate" but does not include a provision requiring notice and an opportunity to be heard by a neutral factfinder as to whether an incident that led to police intervention is properly labeled a nuisance. § 152-6(C)(6). In addition, there is no provision mandating that the Village provide tenants with any notice prior to initiating proceedings against the landlord that could ultimately result in the closing of the building or their eviction. *Id*. Second, Article III provides for administrative enforcement by the Mayor and police department. §§ 152-12 - 152-14.

Appellants Norfe Pirro and Heritage Homestead Properties, LLC received notice in September 2014 that four of their properties in the Village were deemed nuisances under the Local Law. R.68-70, 202-204. Several of the alleged nuisance incidents involved tenants who were victims of domestic violence, victims of other crimes, and people with mental health disabilities seeking police and emergency assistance for their respective situations. R.503-536. Although Pirro submitted a written abatement plan to the Village Attorney, the Village commenced an action pursuant to Article II, seeking compliance with the Local Law, penalties of up to $1,000 per day, and a temporary closing order for the buildings. R.37-47. Pirro counterclaimed, raising constitutional, statutory, and common law challenges. R.81-88. He also filed a separate Article 78 proceeding. R.103-109. On July 8, 2016, the Supreme Court invalidated Article III of the Local Law, but upheld Article II. R.6-19.[2] This appeal followed.

ARGUMENT

I. THE ORDINANCE IGNORES AND VIOLATES TENANTS' DUE PROCESS RIGHTS IN MYRIAD WAYS, COMPOUNDING THE DUE PROCESS PROBLEMS THAT LANDLORDS FACE

For tenants, the Groton Local Law raises numerous due process issues, including violations based on the failure to provide notice or an opportunity to be heard, the Local Law's overbreadth and vagueness, and the punishment of innocent tenants. The rampant violations of tenants' due process interests highlight the Local Law's constitutional infirmities.

A. The Local Law Does Not Provide Tenants With Any Notice Or Opportunity To Be Heard, Thereby Undermining Tenants' And Landlords' Rights.

The Local Law clearly provides that its enforcement can result in the ejection of tenants. Yet, it provides absolutely no process to tenants to protect their interests in their home. In the

[2] *Amici* do not address Article III in this brief, as the Village did not appeal its invalidation and we agree with the lower court and Appellant that it is unconstitutional.

landmark *Mathews v. Eldridge*, the Supreme Court held that before depriving a person of a property interest, the government must consider: "First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. 319, 335 (1976). The Local Law violates tenants' procedural due process rights because it completely fails to provide tenants with any notice or opportunity to be heard.

Tenants have a strong interest in their leaseholds that is directly threatened by the Local Law. On its face, the Local Law states that its enforcement could result in the eviction of the tenant and mandates a ten-day timeline for doing so. § 152-6(C)(6). Eviction of the tenant is the only specific method of abatement cited by the Local Law. Moreover, the enforcement of the Local Law can result in a preliminary injunction with a temporary order closing the building and the vacature of all residents, and ultimately a judgment awarding a permanent injunction closing the building for up to one year. §§ 152-8, 152-7(C). By threatening the deprivation of their homes, the Local Law undermines serious tenant interests. "[A tenant's] right to maintain control over his home, and to be free from governmental interference, is a private interest of historic and continuing importance." *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53-54 (1993). The seizure of the property deprives both owners and tenants "valuable rights of ownership, including the right of sale, the right of occupancy, the right to unrestricted use and enjoyment, and the right to receive rents." *Id.* at 54.

Second, the risk of erroneous deprivation of the tenants' interests is high, given that tenants are not entitled to any notice or opportunity to be heard in the procedure set out by the

Local Law and given the inadequacies in the process for landlords. Section 152-6 provides that the summons and complaint name the building and at least one owner, and the only pre-filing notice that is provided for consists of notice by the Village Attorney to the owner and any designated property manager. § 152-6(B), (C). There is no mention of tenants. Indeed, the Local Law does not even contemplate any pre-filing opportunity for landlords to contest the nuisance designation, as it assumes that the owner must provide a written plan to abate the nuisance once contacted by the Village Attorney. § 152-6(C)(6). Moreover, only the owner can move for vacature of any closing order that is entered. § 152-7(E).

Tenants have no knowledge of or opportunity to contest the levying of points that can result in their removal from their homes. Tenants are entitled to such notice and process, separate and apart from any eviction process initiated by landlords, as they face forced expulsions of their home due to the potential closing orders that can be imposed under the Local Law. *See Greene v. Lindsey*, 456 U.S. 444 (1982); *Mullane v. Cent. Hanover Trust Co.*, 339 U.S. 306, 314 (1950); *Escalera v. N.Y.C. Hous. Auth.*, 425 F.2d 853, 861 (2d Cir. 1970); *Hesperia*, 2016 U.S. Dist. LEXIS 92609, at *19-20; *Wilkes-Barre*, 2016 WL.320748, at *7. The failure to provide any process to tenants is particularly problematic because landlords frequently do not have any direct knowledge about the incidents cited by the Village, and thus lack the information to protect the interests of themselves and their tenants. The violation of tenants' due process rights feeds into and exacerbates the due process problems presented for landlords.

Even if a landlord responds to the Village by submitting an abatement plan, the tenants are left with no way of knowing or influencing whether their homes continue to hang in the balance. In this case, Pirro submitted a plan that cited the departure and eviction of many of the tenants and proposed quickly evicting others in violation of the ordinance; he stated he did not

anticipate that the Village would file suit months later. R.78, R.204-5. The tenants had no formal means to contribute or respond to that plan, and after its submission, ascertaining whether the Village would accept it, demand a change, or take action against the property.

Lastly, any governmental interests Groton might purport to have simply cannot justify the serious due process deficiencies with the Local Law. There is no compelling rationale for depriving tenants of their homes using the Local Law without any notice or opportunity to be heard, given that "real property cannot abscond." *James Daniel Good,* 510 U.S. at 57. Moreover, the Local Law undermines governmental interests in promoting effective law enforcement and community safety and avoiding homelessness. *See* Sections II and III, *infra*. For example, in January 2015, one of Pirro's properties was cited because an unnamed tenant had reported to police that a shotgun was under the common stairwell, even though it was unclear who was responsible; this de-incentivized future reporting. R.516 (Police Report G15-0001). In another instance, the Village assigned nuisance points to Pirro's property because the police responded to a complaint of a woman yelling for help. R.510 (Police Report G14-0614). Pirro's property also was cited because a tenant reported a potential burglary. R.512 (Police Report G15-0570). Other examples involving domestic violence are described in Section III.

B. The Vagueness And Breadth Of The Local Law's Terms Exacerbates The Risk Of Erroneous Deprivations Of Rights.

Due process requires that a law "give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly." *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972); *see also City of Chi. v. Morales*, 527 U.S. 41, 52, 56 (1999); *Papachristou v. City of Jacksonville*, 405 U.S. 156, 166-67 (1972). A statute which delegates unlimited discretion to enforcers of a criminal or civil law may be unconstitutionally overbroad. *See, e.g., Thornhill v. Ala.*, 310 U.S. 88, 97-98 (1940). "[I]f arbitrary and discriminatory

enforcement is to be prevented, laws must provide explicit standards for those who apply them." *Grayned*, 408 U.S. at 108; *see also Tyson v. N.Y.C. Hous. Auth.*, 369 F. Supp. 513, 520 (S.D.N.Y. 1974); *Cowan v. City of Buffalo*, 247 App. Div. 591, 592-93 (4th Dep't 1936).

The Local Law is overly broad and vague. The definition of public nuisance is limitless, vesting the Village with untrammeled discretion. Section 152-3(E) defines violations as "penal law violations other than those set forth above, including **but not limited to** murder, attempted murder, assault, attempted assault, sex offenses, **etc.**" (emphasis added). The "etc." could sweep in any activity the Village chose without giving any prior warning to residents. Moreover, the Local Law penalizes "suffering or permitting the premises to become disorderly," § 152-3(A)(2), and "general disturbances at a particular location," § 152-3(B)(3), which similarly fail to inform a reasonable person of the proscribed conduct.

In addition, the risk of arbitrary and discriminatory enforcement is high because the standards for the evidence needed to prove a public nuisance are set extremely low. The Local Law provides that no charge or conviction for the criminal activity is required, §152-3. Competent evidence can include "common fame and general reputation of the building, structure or place" or "of the inhabitants or occupants thereof, or of those resorting thereto," §152-4(A), and knowledge and participation in the nuisance by the owners and lessees can be established by this "general reputation" evidence. §152-4(B). HUD has stated that mere arrests (let alone "general reputation") are "not a reliable basis upon which to assess the potential risk to resident safety or property posed by a particular individual." HUD, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions* 5 (Apr. 4, 2016). Any "policy or practice that fails to consider the nature, severity, and recency of criminal conduct is unlikely to be proven

necessary to serve a 'substantial, legitimate, nondiscriminatory interest'" sufficient to avoid liability under the FHA. *Id.* at 7. Likewise, an ordinance that imposes penalties based on an unbounded definition of nuisance activity and unreliable evidence violates due process because of its overbreadth and vagueness.

The Village's enforcement illustrates the overbreadth problem. In one instance, a property was assigned nuisance points because a tenant was involved in a dispute at a 7-11 store down the street from one of Pirro's buildings, R.523 (Police Report G14-1364); thus, the Village held tenants and owner responsible for a tenant's activities even away from the property. In another case, a patrol officer saw two tenants drinking beer on the sidewalk outside 184 Main Street and cautioned them that it was illegal to drink on the sidewalk. The tenants complied and went back onto the property. No other actions, such as an arrest, were taken, yet the property still received points for the incident. R.522 (Police Report G14-0802). The Village also attributed points because a tenant engaged in an argument with a nonresident in the middle of the street near Pirro's property. R.515 (Police Report G14-0972).

And because the Local Law infringes on First Amendment right to petition the government, which includes the right to contact law enforcement (*see* Section II, *infra*), a more stringent vagueness test should apply. Tenants and owners can be penalized under the Local Law based on evidence of repeated criminal activity which has an "adverse impact," defined as including "complaints made to law enforcement officials of illegal activity associated with the property." §§ 152-3, 152-4(C)(3). Thus the Local Law can be, and was in fact, triggered based on calls to the police to report crime. For example, the Village levied points against Pirro's properties because police responded to tenants' reports of harassment. In one incident, two tenants complained that other building residents broke their window and were yelling and

pounding on their door. R.509 (Police Report G15-0392). In the other case, a tenant called the police to enlist help in removing an intoxicated individual who was rapping on his window. R.523 (Police Report G14-1179). By enforcing the Local Law in these situations, the Village penalized and unduly chilled the First Amendment rights of tenants to report crime to police. Given these First Amendment implications, the Village bears an even greater burden in ensuring the Local Law is detailed in what it proscribes. *See, e.g., Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982); *Smith v. Goguen*, 415 U.S. 566, 573 (1974).

C. The Local Law Violates Due Process By Penalizing Innocent Tenants.

The Local Law raises additional serious constitutional problems because it penalizes tenants who have not committed wrongful acts, including tenants who are merely associated with others deemed undesirable by the Village. "Implicit within the concept of due process is that liability may be imposed on an individual only as a result of that person's own acts or omissions, not merely because of his association with any group." *Tyson*, 369 F. Supp. at 518 (citing to *Scales v. United States*, 367 U.S. 203, 224 (1961)). Courts repeatedly have held that tenants cannot be blamed for the wrongful acts of others. *See id.*; *Matter of Adams v. Franco*, 168 Misc. 2d 399, 405-406 (Sup. Ct. 1996); *Matter of Corchado v. Popolizio*, 171 A.D.2d 598, 598 (1st Dep't 1991); *Matter of Brown v. Popolizio*, 166 A.D.2d 44, 47 (1st Dep't 1991). The U.S. Supreme Court explicitly said that this principle survives *Dep't of Hous. and Urban Dev. v. Rucker* where the government acts as a sovereign, rather than a landlord. 535 U.S. 125, 135 (2002). The Village, in enforcing the Local Law, exercises its sovereign powers.

The Village draws no distinction between those who commit the nuisance conduct, and those who are merely present nearby or who are victimized by it. Tenants and owners face a designation of public nuisance based on incidents at the building. There is no mandate that the

owners or tenants perpetrate any offenses before they are found at fault. Disturbingly, the offenses with highest point values are likely to have victims who are tenants – for example, murder, attempted murder, assault, and sex offenses all garner twelve points, which reaches the threshold for enforcement. Thus, victims of the most heinous penal law offenses can lose their homes based on the crimes perpetrated against them. And, because points are levied against the property as a whole, tenants are at serious risk of losing their homes based on the conduct of other tenants over whom they have no control. Any governmental interest in deterring criminal activity is outweighed by the innocent tenants' interest in their leaseholds. *See Property Clerk of Police Dept. of City of N.Y. v. Harris*, 9 N.Y.3d 237, 244-45 (2007) (noting that closure may be inappropriate if an innocent co-owner relies on the unit, a consideration that is only heightened when considering the rights of innocent tenants of other units).

II. GROTON'S LAW IMPERMISSIBLY BURDENS THE RIGHT TO PETITION.

The First Amendment of the U.S. Constitution guarantees the right "to petition the Government for a redress of grievances." U.S. Const. amend. I. Likewise, under New York's Constitution, "No law shall be passed abridging the rights of the people…to petition the government, or any department thereof." N.Y. Const. art. I, § 9, cl. 1. Courts have recognized repeatedly that the right to petition includes the ability to seek law enforcement assistance. *See, e.g., BE & K Const. Co. v. NLRB*, 536 U.S. 516, 524 (2002); *Eastern R.R. Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127, 133, 139 (1961); *Meyer v. Bd. of County Comm'rs*, 482 F.3d 1232, 1243 (10th Cir. 2007); *Forro Precision, Inc. v. Int'l Bus. Machs.*, 673 F.2d 1045, 1060 (9th Cir. 1982). "It is axiomatic 'that filing a criminal complaint with law enforcement officials constitutes an exercise of the First Amendment right' to petition government for the redress of grievances." *Morris v. Dapolito*, 297 F. Supp. 2d. 680, 692 (S.D.N.Y. 2004) (citations

omitted; *see also Anderson v. City of N.Y.*, 2000 WL 1010984 at *4 (E.D.N.Y. 2000) (finding that the right to petition "arguably extends to. . . [the] right to lodge complaints with the police."). "[T]here is 'no doubt' as to the existence of this right" and it "applies equally to the victims of crimes." *Lott v. Andrews Ctr.*, 259 F. Supp. 2d 564, 570-71 (E.D. Tex. 2003). Chilling that right undermines community safety. *Ottensmeyer v. Chesapeake & Potomac Tel. Co.*, 756 F.2d 986, 993-994 (4th Cir. 1985) (chilling effect on information flow to law enforcement would cause the police to be "handicapped in protecting the public"); *Forro Precision, Inc.*, 673 F.2d at 1060 (monetary fines could have a "chilling effect" on a community member's desire to further report crimes); *Jackson v. New York*, 381 F. Supp. 2d 80 (N.D.N.Y. 2005) (First Amendment right to petition encompasses actions seeking enforcement of orders of protection).

Under Groton's ordinance scheme, each time victims, including of domestic violence, call the police to report crime in their homes, they are one step closer to eviction. By imposing strict liability on victims for crimes that occurred in their homes, the Local Law impermissibly punishes tenants who seek police assistance in response to those crimes. The fear – and real likelihood – of eviction created by the Local Law presents a substantial barrier to Groton residents who may want to call law enforcement for help, chilling their right to petition. *See* Filomena Gehart, *Domestic Violence Victims a Nuisance to Cities*, 43 Pepp. L. Rev. 1101, 1124 (2016); Anna Kastner, *The Other War at Home: Chronic Nuisance Laws and the Revictimization of Survivors of Domestic Violence*, 103 Cal. L. Rev. 1047, 1071 (2015); Theresa Langley, *Living Without Protection: Nuisance Property Laws Unduly Burden Innocent Tenants and Entrench Divisions Between Impoverished Communities And Law Enforcement*, 52 Hous. L. Rev. 1255, 1269 (2015); Cari Fais, *Denying Access to Justice: The Cost of Applying Chronic Nuisance Laws to Domestic Violence*, 108 Colum. L. Rev. 1181, 1221 (2008).

The Record amply reflects that these potentially chilling activities occurred in Groton. Appellant Pirro explained the dilemma: "Another problem is I am required to evict people that did not do anything wrong, or is considered a violation of the lease [sic]." R.208. A victim-tenant's (Brig) home was assigned four points when she called police from a local store and advised officers that she was afraid to go home because her abuser pushed her, was intoxicated, volatile, and had a weapon. R.523 (Police Report G15-0035). The abuser was not a leaseholder and left Brig's home after the officers directed him to go. Discussing this incident, Pirro stated, "I saw no other way to 'abate the nuisance' other than evicting Brig, the innocent victim…as a result of her calling the police to report that she was being beaten." R.209. Similarly, police were summoned to a lawful resident's (Taomina) home to intervene in a domestic incident involving her cohabitant. R.534 (Police Report G14-1281). Although the police enforced the stay-away order of protection the victim had in place against her abuser, four nuisance points were subsequently levied against her home. *Id.* According to the Appellant, "I either have to evict the tenant who was lawfully within his home, or issue a *persona non grata* order to a woman who is his family member and the beneficiary of an order of protection. It is a Catch 22." R.208.

Further, Police Reports G14-0675, G14-0684, G14-1294, G15-0103, G15-0159 appear to involve a family (Grady & Peters) plagued by domestic violence and concomitant substance abuse. R.533-535 (Nuisance Law Summaries). As domestic violence typically involves a pattern of incidents, this family aggregated 18 nuisance points at their home between July 2014 and February 2015, presumably as a result of disorderly conduct and or noise violations. Virtually all of these incidents involved one party yelling or otherwise behaving aggressively toward the other party when intoxicated. The points were assigned to the home punishing the innocent tenant, as well as the domestic abuser.

Given the Respondents' aggressive enforcement of the Local Law, tenants who are crime victims are chilled from fully exercising their rights to petition the government for aid.

III. THE LOCAL LAW POSES SEVERE CONSEQUENCES ON DOMESTIC VIOLENCE SURVIVORS, IN CONFLICT WITH STATE LAW.

A. Nuisance Ordinances, Including Groton's, Threaten The Lives, Safety, And Housing Of Domestic Violence Survivors.

"Domestic violence is a pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim." N.Y. State Office for the Prevention of Domestic Violence ("OPDV"), *Domestic Violence: Frequently Asked Questions*. Alarmingly, the Center for Disease Control and Prevention found that, on average, nearly twenty people per minute are physically abused by an intimate partner in the United States. Ctr. for Disease Control & Prevention, *National Intimate Partner and Sexual Violence Survey* (Mar. 10, 2015). This equates to more than 10 million women and men per year. *Id.* Domestic violence-related calls for service have been found to constitute the single largest category of calls received by police. Andrew R. Klein, Nat'l Inst. of Justice, *Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges* 6 (June 2009). New York's Division of Criminal Justice ("DCJS") reports that police outside of New York City responded to 189,327 domestic incidents in 2015. N.Y. OPDV, *Domestic Violence Dashboard* (2015). These law enforcement agencies responded to 48,590 assaults, sex offenses, and violations of orders of protection last year. DCJS, *Domestic Violence Victim Data by County* (2015) ("DCJS Victim Data").

The National Crime Victimization Survey found that most domestic violence (77%) occurred at or near the victim's home. Jennifer L. Truman et al., U.S. Department of Justice,

Nonfatal Domestic Violence 2003-2012, Table 10, NCJ 244697 (April 2014), https://www.bjs.gov/content/pub/pdf/ndv0312.pdf.[3] Accordingly, an ordinance that targets criminal activity occurring in or near the home will indisputably impact most victims of domestic violence in that community. Fais, 108 Colum. L. Rev. at 1195.

By imposing the threat or reality of eviction whenever victims seek or receive help from police, these ordinances blame victims for the very abuse they suffer. The link between nuisance ordinances and their harmful impact on housing, safety, and security for victims of domestic violence has been well documented. *See generally Silenced*, *supra*; *Unpolicing*, *supra*; *Victim to Offender*, *supra.* This toxic system creates a "double victimization" that discourages victims from calling police, exacerbates barriers that victims already face in securing and maintaining housing, and forces them to remain silent and endure further abuse in order to keep their homes.

Desmond and Valdez's 2012 empirical study confirmed these harmful effects. *See generally Unpolicing, supra*. Reviewing every nuisance property citation issued in Milwaukee during a two-year period, researchers found that domestic violence was the third most common reason a citation was issued and in 83% of these cases, the landlords either initiated formal eviction proceeding against the household where abuse occurred, forced the tenant out by informal means, or threatened them with eviction if 911 was called again. *Id*. at 137. Characterizing this problem as a "devil's bargain," the researchers summarized their findings by stating, "*The nuisance property ordinance has the effect of forcing abused women to choose between calling the police on their abusers (only to risk eviction) or staying in their apartments (only to risk more abuse).*" *Id.* (emphasis by the original author).

[3] Unlike domestic violence, most violence committed by acquaintances (61%) and strangers (75%) occurred in locations other than the home, such as commercial places, parking lots or garages, school, or open areas. *Id.*

Using evidence from interviews with domestic violence victims, Professor Gretchen Arnold's 2016 study found that the St. Louis nuisance property law directly harmed victims of domestic violence in similar ways, including by "hindering their access to safe and secure housing, discouraging them from calling 911, increasing their vulnerability to violence, and compounding the trauma of the intimate partner violence." *Victim to Offender*, *supra*, at 1. St. Louis landlords would attempt to forestall a nuisance citation by banning abusers from the property. *Id.* However, if the abuser showed up uninvited, the victim would be penalized by the landlord for failing to abide by the ban, as well as penalized under the nuisance ordinance because they called 911 for help in enforcing the landlord's restriction. *Id.* Arnold observed that landlords most commonly used eviction to abate the nuisance, setting off "a chain of negative events from which it was hard to recover" including subsequent homelessness. *Id.*

The participants in Arnold's study also reported that not having access to police services increased victims' fear that they would be physically harmed by their abusers. *Id*. at 14. In some cases, the violence escalated because the abuser was unconstrained by potential criminal justice system intervention. *Id.* at 15. In the absence of police protection, some victims resorted to ad hoc self-help measures, such as recruiting family members to serve as "personal body guards" or barricading themselves in their homes. *Id.* Despite the danger posed by an abuser, landlords told victims to "go down the block" to call 911 so their home addresses would not trigger the ordinance. *Id.* at 17. "The result is that *nuisance property laws obscure the real crime of intimate partner violence and turn the victim into the offender*." *Id.* at 21 (emphasis in original).

Finally, the *Silenced* report took a close look at two municipalities in New York – Binghamton and Fulton – whose ordinances, like Groton's, did not contain any exception for victims of crime such as domestic violence. *Silenced*, *supra.* In both communities, the ordinances

were ostensibly enacted to protect the city's quality of life. *Id*. at 20. However, more than two years of records revealed systemic enforcement against the victims of domestic violence. In both communities, domestic violence was the single largest category of activity triggering enforcement of the respective nuisance ordinance. *Id.* at 2. Domestic violence made up nearly half of incidents included in nuisance enforcement warnings issued by the Fulton Chief of Police. *Id.* at 23. In Binghamton, while domestic violence only accounted for 13% of the incidents, it accounted for 38% of all points imposed in enforcement actions. *Id*. at 17. Binghamton landlords' most common response to a nuisance warning was to remove the tenants who were the subject of police response.[4] *Id.* at 19. In some cases, landlords took negative action against all tenants at the property, such as informing them they would all be evicted or face higher rents if they call 911. *Id.*

Three federal cases commenced against New York municipalities further illustrate the harmful effects of nuisance ordinances on victims of domestic violence. Second Amended Complaint, *Grape v. Town/Vill. of East Rochester*, No. 07 CV 6075 CJS (F) (W.D.N.Y. July 6, 2007); Complaint, *Peeso v. City of Hornell*, No. 6:11-cv-6306 (W.D.N.Y. June 17, 2011); *Simmons v. City of Rochester*, No. 6:12 CV 06705 CJS (W.D.N.Y. Dec. 12, 2012). The ACLU has filed similar challenges on behalf of survivors of domestic violence against municipalities in Pennsylvania and Arizona, resulting in repeal of the ordinances and significant monetary settlements awarded to the plaintiffs. First Amended Complaint, *Briggs v. Borough of Norristown*, No. 2:13-cv-02191-ER (E.D. Pa. filed Apr. 29, 2013); Amended Complaint, *Markham v. City of Surprise*, No. 2:15-cv-01696-SRB (D. Ariz. filed Sept. 21, 2015).

[4] The records reviewed in Fulton indicated that the City warned landlords about the nuisance conduct at their properties and directed abatement, but did not reveal what abatement plan or methods the landlord used in response. *Silenced*, at 22.

B. Groton's Nuisance Ordinance Violates New York State Constitutional Home Rule Provisions Because It Is Both Inconsistent With and Pre-Empted by Existing Policy Providing Domestic Violence Victims with Access to Law Enforcement and Secure Housing.

While New York State's Constitution grants broad authority to local governments to address certain local matters, there are two firm restrictions on the scope of home rule: (1) the local government may not adopt a local law inconsistent with constitutional or general law; and (2) the locality may not exercise its police power when the Legislature has restricted such exercise by preempting the area of regulation. *New York State Club Ass'n. v. City of New York*, 69 N.Y.2d 211, 217 (1987); N.Y. Const. art IX, § 2(c). "The legislative intent to preempt need not be express. It is enough that the Legislature has impliedly evinced its desire to do so and that desire may be inferred from a declaration of State policy by the Legislature or from the legislative enactment of a comprehensive and detailed regulatory scheme in a particular area." *Id.* Similarly, inconsistency "has been found where local laws prohibit what would have been permissible under State law or impose 'prerequisite "additional restrictions"' on rights under State law, so as to inhibit the operation of the State's general laws." *Id*. (citations omitted).

Amici submit that the Village of Groton's nuisance ordinance impermissibly intrudes on or is inconsistent with several matters of existing statewide policy, namely: the right to access protections granted to victims of "family offenses"; the right of victims of domestic violence to obtain and maintain secure housing, despite their victimization status; as well as the right of residents to petition for emergency aid, previously discussed in Section II.

1. Groton's Law is Inconsistent with the Statutory Scheme Providing a Robust Law Enforcement Response to Victims of Domestic Violence.

In response to growing awareness of the pervasiveness of domestic violence, lawmakers in New York have enacted legislation that institutionalizes and emphasizes a robust criminal

justice response. An Executive Order establishing protections for victims states "domestic violence is a serious public policy concern for the State of New York, requiring the State's participation in the coordinated community response to support victims and hold abusers accountable." N.Y. Exec. Order No. 19 (Oct. 22, 2007). Overall, New York's statutory scheme provides for the protection of victims and accountability for offenders. Punishing victims for the offenses against them, as the Local Law does, runs directly counter to this scheme.

Among the many protections passed over the last few decades, the Legislature specifically provides victims of "family offenses" with certain critical rights designed to support them. State lawmakers categorized penal law offenses most often endured by domestic violence victims as family offenses in order to ensure that victims can access protections specifically targeted to their needs. Melissa L. Breger et al., *NY Law of Domestic Violence* § 2:24 (3d ed.). The legislature expanded the enumerated family offenses to address the physical, sexual, financial, and emotional harms that domestic violence perpetrators most frequently inflict. *Id.* The list now includes disorderly conduct, harassment and aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, strangulation, criminal mischief, menacing, assault and attempted assault, coercion, identity left, and grand larceny. N.Y. Crim. Proc. Law § 530.11(1).

Under New York's statutory scheme, victims of enumerated family offenses are entitled to key rights when law enforcement responds to calls for police service, including but not limited to: completion of a comprehensive Domestic Incident Report documenting the abuse (N.Y. Crim. Proc. Law § 140.10(5)); receipt of a Victim's Rights Notice providing victims in crisis with critical information about their legal rights, remedies, and resources (N.Y. Crim. Proc. Law § 530.11(6)); family offense orders of protection (N.Y. Crim. Proc. Law § 530.11); and primary

aggressor determinations to avoid dual arrests in domestic violence situations where arrest is mandated by statute (N.Y. Crim. Proc. Law § 140.10(4)(c)).

Any law that undermines or is inconsistent with this scheme harms the very category of domestic violence victims that the Legislature has specifically and repeatedly deemed worthy of these heightened rights and protections. By explicitly defining all assault, attempted assault, and sex offense crimes as a "public nuisance" under §152-(3)(E), the Local Law include many of the enumerated family offenses – specifically Assault 2nd and 3rd, Attempted Assault, Sexual Misconduct, Forcible Touching, and Sexual Abuse 3rd and 2nd – as nuisance violations. N.Y. Crim. Proc. Law § 530.11(1). Further, the family offense of Disorderly Conduct and disorderly behavior appears twice as a nuisance violation in § 152-3(A)(2) and (B)(1). Alarmingly, the assigned maximum 12-point values under § 152-3(E) are reserved for the most serious crimes routinely committed against domestic violence victims in New York. *DCJS Victim Data*, *supra*. This leads to the absurd result that a domestic violence victim in Groton who endures a horrific offense will have the highest number of points levied against their home, triggering the nuisance law and its punitive abatement measures. Given its vagueness and overbreadth, as discussed more fully in Section I.B., all of the other enumerated family offenses, together with all other penal laws not already categorized, may be swept into the Local Law's maximum point designation. Section 152-3 also assesses double points for repeat violations. By definition, domestic violence is a pattern of incidents; thus, points are most easily accumulated by victims of the enumerated family offenses. *See, e.g.*, the Grady-Peters incidents detailed in R.533-535.

The Legislature made clear that these offenses are to be taken seriously through documentation, investigation, arrest, and notice protections. Treating these victims as a nuisance, as Groton's law does, is inconsistent with the will of the Legislature. Where a nuisance

ordinance instills fear or serves as a deterrent for seeking help, victims will not receive the life-saving information in the Victim's Rights Notice or the recording of a Domestic Incident Report.

By considering everyone culpable as a nuisance, the Local Law is inconsistent with the state statutory mandate for determining a primary aggressor in domestic violence situations as well as the 2013 law curbing the improper practice of prosecuting victims of domestic violence for "violating" orders of protection issued on their behalf when the abusive, enjoined party violates the order. 2013 N.Y. Laws ch. 480 (Nov. 13, 2013). The bill memo states, "A practice of prosecuting or otherwise penalizing the victim decreases victim safety by shifting responsibility for violence away from abusers, emboldening abusers, deterring victims from calling the police when abusers violate an order of protection…" *Id.* By penalizing innocent tenant victims for the domestic violence committed against them, Groton's law suffers from these same infirmities.

Given the Respondents' aggressive enforcement of the Local Law against victims of family offenses and inconsistency with protections for victims of family offenses, the rights of the tenants are necessarily chilled and restricted in their ability to seek police protection.

2. The Local Law Is Pre-Empted By and Inconsistent With Domestic Violence Victims' Right to Obtain and Maintain Housing Statewide.

Domestic violence is a leading cause of homelessness and housing insecurity. According to the U.S. Department of Justice, one in four homeless women is homeless because she endured domestic violence. Jana L. Jalinski et al., *The Experience of Violence in the Lives of Homeless Women: A Research Report* 2 (2005). Many domestic violence victims experience housing discrimination, as landlords refuse to rent to them or evict them because of their victimization. *See, e.g.,* Lenora Lapidus, *Doubly Victimized: Housing Discrimination Against Victims of Domestic Violence*, 11 Am. U. J. Gender, Soc. Pol'y & L. 377 (2003). Consistent with these statistics, a one-day census conducted by the National Network to End Domestic Violence found

that 55% of support and advocacy needs relating to domestic violence in New York were for housing and landlord issues and 61% of unmet needs were for housing. National Network to End Domestic Violence, *Domestic Violence Counts 2015: New York Summary* (2016).

In response to this pervasive problem, New York's legislature recently adopted laws providing protection from discrimination based upon domestic violence victim status in housing, as well as from eviction. 2015 N.Y. Laws ch. 366 (Oct. 21, 2015). The amendment to the Real Property Law § 227-d prohibits discrimination based upon domestic violence status and provides that no person, firm or corporation owning or managing any dwelling shall, because of an individual's or family member's domestic violence victim status refuse to rent a residential unit, discriminate in the terms, conditions, or privileges of any such rental, or print or circulate any statement which expresses any limitation, specification, or discrimination. N.Y. Real Prop. Law § 227-d(2). Violation of the law is a misdemeanor and, upon conviction, violators shall be punished by a fine of not less than $1000 and not more than $2000 for each offense. *Id.* at (2)(b)(1). Where victims are able to show discriminatory conduct occurred, they are entitled to damages, attorney's fees and other legal relief. *Id.* at (1). Signaling that this state law occupies the field, the amendment allows local governments to provide *more* protection for victims; they cannot provide less. *Id.* at (5) ("Nothing in this section shall be construed as prohibiting a municipality from retaining or promulgating local laws or ordinances imposing additional or enhanced protections prohibiting discrimination against victims of domestic violence."). The Legislature simultaneously amended the landlord-tenant law, making it unlawful to evict a person based upon their status as a victim of domestic violence. N.Y. Real Prop. Acts. Law § 744. Both laws define victims of enumerated family offenses (and other offenses) as subject to these protections. *Id.* at (1); N.Y. Real Prop. Law § 227-d (1).

Groton's nuisance ordinance undermines these new protections in several ways. First, the new laws apply to housing providers. That means property owners, like Pirro, are subject to these anti-discrimination and anti-eviction mandates while also subject to the nuisance ordinance. As a result, they are trapped between two legal mandates. If they refuse to evict or discriminate against the domestic violence victim, they are subject to the full brunt of the nuisance ordinance. If they discriminate against or evict the victim based on domestic violence, they are subject to the full scope of civil and criminal remedies available to these victims under the law. Second, both laws also provide that landlords may evict or deny housing where such conduct is premised on any other lawful ground. N.Y. Real Prop. Law § 227-d(2); N.Y. Real Prop. Acts. Law § 744. Municipalities could empower and require landlords, like Pirro, to engage in the discrimination that Real Property Law § 227-d prohibits, by characterizing domestic violence as nuisance activities and pressuring landlords to evict accordingly. Finally, these housing protections for domestic violence victims are all for naught if a property owner accumulates points and loses their ability to rent their property pursuant to a nuisance ordinance.

Penalizing domestic violence victims under the Local Law is also inconsistent with the Executive Law's fair housing protections. Pre-dating the anti-discrimination protections of 2015, an Attorney General Opinion announced that refusing to rent to battered women "indiscriminately penalizes victims of domestic violence (and any children they may have)" and "goes further than necessary to protect the landlord and other tenants and thus violates Executive Law, §§ 296.2-a(a) and (b) and 296.5(a)(1) and (2)" prohibitions against sex discrimination. 1985 N.Y. Op. Atty. Gen. 45, 1985 WL 194069 (Nov. 22, 1985). By allowing the imposition of points against victims of domestic violence, most of whom are women, Groton's Local Law is thus inconsistent with the Human Rights Law prohibitions on sex discrimination in housing. *See*

also HUD, *Office of Fair Housing and Equal Opportunity Guidance for Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA)* (Feb. 9, 2011).

Lastly, the Local Law is inconsistent with state statutes that empower victims to terminate their leases early. Real Property Law § 227-c provides that a civil or criminal court that issued a domestic violence victim's temporary or permanent order of protection has the authority to issue an order terminating the lease early if a victim can demonstrate that, despite the existence of the order of protection, a continuing, substantial risk of physical or emotional harm exists and relocation will substantially reduce the risk. *Id.* Upon receiving this early termination order, the tenant is released from any further liability under the rental agreement and may vacate the home without a lease violation on their record or financial penalty, such as a balloon payment of amounts due under the remaining term. *Id.* The victim may also seek the removal of the abuser from the lease through a lease bifurcation. However, without the ability to call the police and use Domestic Incident Reports to prove continuing harms, many victims will be unable to satisfy the standard for early lease termination. And before they may even get their day in court to access relief under the early lease termination protections, they may face eviction and all the negative consequences that flow therefrom.

IV. GROTON'S LAW HARMS PEOPLE WITH DISABILITIES.

Nuisance ordinances such as Groton's also disproportionally impact people with mental or physical disabilities, who often have a greater and more frequent need to access emergency services, including medical treatment and law enforcement assistance. *See* Int'l Assoc. of Police Chiefs, *Building Safer Communities: Improving Police Response to Persons with Mental Illness* 6 (2010) (behaviors resulting from mental illness are a factor in up to 7 percent of law

enforcement calls for service). This is particularly true for those with significant impairments who may not be receiving sufficient community-based services and support and have little choice but to call law enforcement for problems ranging from non-violent disagreements to mental disturbances and other medical emergencies. Despite the lack of any crime, law enforcement often characterize these interactions as "disorderly conduct" or "disturbances," frequently considered a violation under nuisance housing ordinances such as Groton's. *See Silenced*, *supra*, at 4-5 (noting the frequent citation of calls relating to non-criminal activity from individuals with mental health disabilities under an Iowa nuisance ordinance).

Enforcement of the Local Law illustrates the targeting and penalization of people with disabilities. Mr. Pirro was cited based on a police report from an officer who had heard sounds of distress coming from an apartment. R.534 (Police Report G14-0840). The officer found the tenant, a counseling aid, in a state of mental and physical distress because of a death of a patient. *Id.* The tenant, who admitted to abusing drugs as a coping mechanism, requested medical assistance and was voluntarily transported to a hospital. Despite the tenant's acute need for help, the incident was labeled a noise complaint, given two points, and served as a basis for demanding abatement under the Local Law. In another incident, officers assisted an individual engaging in self-harm who had a known history of suicide attempts. R.536 (Police Report G15-1077). This incident was labeled a "general disturbance" pursuant to § 152-3(B)(3) and awarded four points. *Id.* Targeting people for possible eviction in these situations deters people from seeking needed assistance, undermining the safety of those with disabilities and their families.

Given this enforcement, there is a serious risk that Groton is forcing or motivating landlords, including Mr. Pirro, to violate bans on housing discrimination against people with disabilities in both federal and state laws. The FHA prohibits discrimination in the sale, rental or

financing of housing on the basis of disability, among other protected characteristics. *See* 42 U.S.C. §§ 3601-19; *see also McGary v. City of Portland*, 386 F.3d 1259 (9th Cir. 2004) (plaintiff with disability stated a claim under the FHA and the Americans with Disabilities Act by denying him a reasonable accommodation to help him comply with Portland's nuisance abatement ordinance). A nuisance ordinance violates this law if it has an unjustified discriminatory effect, even if the local government did not intend to discriminate. 24 C.F.R. § 100.500; *Texas Dep't of Hous. & Cmty. Affairs v. Inclusive Cmtys. Proj., Inc.*, 135 S. Ct. 2507 (2015). Similar protections against disability discrimination exist under New York's Human Rights Law. *See* N.Y. Exec. Law § 296(5) (prohibiting discrimination in housing on the basis of race and disability). Mr. Pirro – and other similarly placed landlords – are placed between the proverbial rock and hard place: he can evict tenants in violation of their federal and state rights or be penalized under the Local Law. *See, e.g.*, R.202-212 (noting the impropriety of issuing his property points due to a tenant's efforts at self-harm due to mental illness).

CONCLUSION

For the reasons stated above and by Appellant, the Court should declare the ordinance to be unconstitutional and enjoin its enforcement.

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Respectfully submitted,

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ADDENDUM – *AMICI* STATEMENTS OF INTEREST

The **American Civil Liberties Union** ("ACLU") is a nationwide, non-partisan organization of more than 400,000 members dedicated to preserving the Constitution and civil and human rights. The ACLU Women's Rights Project, founded in 1972 by Ruth Bader Ginsburg, has been a leader in efforts to eliminate the barriers to women's full equality in American society. These efforts include challenging discrimination against victims of domestic violence, with a particular area of focus in advancing survivors' rights in housing and access to law enforcement. The ACLU has worked in New York state and across the country to challenge the harmful effects of local nuisance ordinances, which include the deprivation of victims' rights to seek emergency aid and the loss of their homes. The New York Civil Liberties Union is the New York State affiliate of the ACLU.

Empire Justice Center is a statewide, not-for-profit public interest law firm in New York with offices in Rochester, Albany, White Plains, and Central Islip. Established in 1973, Empire Justice Center's mission is to protect and strengthen the legal rights of people in New York State who are poor, disabled or disenfranchised through systems change advocacy, direct representation, training and support to other advocates and organizations in a range of substantive law areas, including domestic violence and housing. We represented the plaintiff in *Grape v. Town/Village of East Rochester, No. 07 CV 6075 CJS(F)(W.D.N.Y. July 6, 2007),* the first federal case brought by a domestic violence victim challenging the enforcement of her town's local nuisance ordinance. For nearly a decade, we have educated housing providers, tenant's groups, domestic violence programs, and legal services about the legal infirmities that often plague these laws, as well as the dangerous consequences that flow from their enforcement.

The **National Coalition Against Domestic Violence** ("NCADV") is the voice of victims and survivors. We are the catalyst for changing society to have zero tolerance for domestic violence. We do this by affecting public policy, increasing understanding of the impact of domestic violence, and providing programs and education that drive that change.

The **National Housing Law Project** ("NHLP") is a private, non-profit, national housing and legal advocacy center established in 1968. Our mission is to advance housing justice for poor people by increasing and preserving the supply of decent, affordable housing; expanding and enforcing low-income tenants' and homeowners' rights; and increasing housing opportunities for historically marginalized groups of people. NHLP has worked with hundreds of advocates and attorneys throughout the country on cases involving housing and domestic violence, helping survivors access and maintain safe and decent housing. The case at bar has far-reaching implications for tenants' due process rights as well as the housing rights of individuals with disabilities and survivors of domestic violence, many of whom face the impossible choice forced by the nuisance ordinances between maintaining their housing or seeking assistance they need from the police.

The **National Law Center on Homelessness & Poverty** ("NLCHP") is the only national organization dedicated solely to using the power of the law to end and prevent homelessness. Partnering with pro bono attorneys, we bring high impact litigation, lead and support federal, state and local advocacy campaigns, and educate providers, advocates and the public. NLCHP has extensive experience with statutory and constitutional questions affecting individuals experiencing homelessness, and believes the insights derived from its experience will assist this Court.

The **New York State Coalition Against Domestic Violence** ("NYSCADV") is a statewide membership organization comprised of local domestic violence service providers, allies, and community members committed to ending domestic violence through education, advocacy, and social change. Founded in 1978, NYSCADV works to create and support the social change necessary to prevent and confront all forms of domestic violence.

The **Sargent Shriver National Center on Poverty Law** ("Shriver Center") is a national non-profit legal and policy advocacy organization based in Chicago. The Shriver Center's housing unit operates the Safe Homes Initiative, which provides legal representation and policy advocacy to advance and protect the housing rights of survivors of violence. The Shriver Center housing unit also works to combat the troubling and often discriminatory effects of crime-free and nuisance property ordinances. The Shriver Center released two reports on crime-free and nuisance property ordinances: *The Cost of Being "Crime Free"* and *Reducing the Cost of Crime Free*. The Shriver Center also led efforts in Illinois to successfully pass a state law limiting how local governments can enforce these ordinances against victims of domestic and sexual violence and persons with disabilities.