
CITY OF PHILADELPHIA,	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
Plaintiff,	:	CIVIL TRIAL DIVISION
	:	
v.	:	OCTOBER TERM, 2019
	:	NO. 04036
RASHAD T. ARMSTRONG,	:	
	:	
Defendant.	:	

[PROPOSED] ORDER

AND NOW, on this _____ day of _____ 2020, upon consideration of Defendant's Preliminary Objections to the Petition to Intervene, any responses thereto, and a hearing held on _____, this Court **OVERRULES** the Preliminary Objections.

This Court further **ORDERS** and **DECREES** that Petitioners CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers In Charge, Inc., Kimberly Burrell, and Freda Hall are granted leave to intervene as Plaintiffs in this action.

BY THE COURT:

, J.

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**PROPOSED INTERVENORS' ANSWER TO
 DEFENDANT'S PRELIMINARY OBJECTIONS TO PETITION TO INTERVENE**

Proposed Intervenor, CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers In Charge, Inc., Kimberly Burrell, and Freda Hall ("Proposed Intervenor"), submit this Answer to Defendant's Preliminary Objections to Petition to Intervene. The grounds for Proposed Intervenor's opposition to these Preliminary Objections are set forth in further detail in Proposed Intervenor's Memorandum of Law in Opposition to the Preliminary Objections to Petition to Intervene.

1.-4. Admitted.

5. Admitted in part; denied in part. Proposed Intervenor admit that Bill No. 060700 was signed into law on May 9, 2007. The remaining averments in this paragraph purport to summarize Bill No. 060700. Bill No. 060700 is in writing and speaks for itself. Proposed

Intervenors refer to Bill No. 060700 for its full and complete contents and deny anything inconsistent therewith.

6. After reasonable investigation, Proposed Intervenors are without knowledge or information sufficient to form a belief as to the truth of the averments concerning the City of Philadelphia's state of mind in 2008. Proposed Intervenors deny the remaining allegations in this paragraph of the motion or that the Ordinance is inconsistent with the Pennsylvania Constitution or 18 Pa.C.S. § 6120. To the contrary, the Ordinance does not violate any constitutional provision or statute. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

7. After reasonable investigation, Proposed Intervenors are without knowledge or information sufficient to form a belief as to the truth of the averments concerning former District Attorney Lynne Abraham and what she allegedly said or believed. Proposed Intervenors deny the remaining allegations in this paragraph, including that the Ordinance violates state law. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

8. After reasonable investigation, Proposed Intervenors are without knowledge or information sufficient to form a belief as to the truth of the averments concerning former District Attorney Seth Williams and what he allegedly said or believed. Proposed Intervenors deny the remaining allegations in this paragraph, including that the Ordinance is unlawful. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

9. Admitted.

10. Admitted that Defendant filed Preliminary Objections on December 7, 2019. Denied that Defendant filed a Motion for Preliminary Injunction on December 16, 2019. The document that Defendant filed on December 16, 2019 was a Motion for **Permanent** Injunction.

11. Admitted that this paragraph was accurate at the time it was filed. However, the Court has since rescheduled the hearing on the Permanent Injunction for March 5, 2020.

12. Denied. The averments in this paragraph purport to summarize papers filed by Defendant and by Proposed Intervenor. These papers are in writing and speak for themselves. Proposed Intervenor refers to these papers for their full and complete contents and deny anything inconsistent therewith. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

13.-14. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

15. The averments in this paragraph are conclusions of law to which no responsive pleading is required. In further answer, it is irrelevant whether an element for the granting of a preliminary injunction has been met, because Defendant has not sought a preliminary injunction.

16.-17. Admitted in part; denied in part. Proposed Intervenor admits that the quoted language appears in *Dillon v. City of Erie*. The remaining averments in these paragraphs purport to summarize *Dillon v. City of Erie* or are conclusions of law to which no responsive pleading is required. *Dillon v. City of Erie* is in writing and speaks for itself. Proposed Intervenor refers to *Dillon v. City of Erie* for its full and complete contents and deny anything inconsistent therewith.

18-21. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

22. Proposed Intervenor incorporate their answer to paragraphs 1 through 21 as though set forth more fully herein.

23.-24. Admitted in part; denied in part. Proposed Intervenor admit that the quoted language appears in the Pennsylvania Rules of Civil Procedure. The remaining averments in these paragraphs purport to summarize the Rules or are conclusions of law to which no responsive pleading is required. The Rules are in writing and speaks for themselves. Proposed Intervenor refer to the Rules for their full and complete contents and deny anything inconsistent therewith.

25.-27. Denied. The averments in these paragraphs are conclusions of law to which no responsive pleading is required. In further response, although Rule 2328(a) does not require Proposed Intervenor to file an Answer in the procedural posture of this case, Proposed Intervenor have nonetheless attached their Answer to the Preliminary Objections to the Complaint as Exhibit B to their Memorandum of Law in Opposition to Defendant's Preliminary Objections to Petition to Intervene.

28. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. In further response, a Petition to Intervene is not among the types of petitions that must be accompanied by a proposed rule to show cause. Pa.R.C.P. 206.1(a); Philadelphia Local Rule *206.1(a)(1).

29. The averments in this paragraph are conclusions of law to which no responsive pleading is required.

30. Proposed Intervenor incorporate their answer to paragraphs 1 through 29 as though set forth more fully herein.

31. Admitted in part; denied in part. Proposed Intervenor's admit that the quoted language appears in the Pennsylvania Rules of Civil Procedure. The remaining averments in this paragraph purport to summarize the Rules or are conclusions of law to which no responsive pleading is required. The Rules are in writing and speak for themselves. Proposed Intervenor's refer to the Rules for their full and complete contents and deny anything inconsistent therewith.

32. Admitted.

33. The averments in this paragraph purport to summarize the Pennsylvania Rules of Civil Procedure. These Rules are in writing and speak for themselves. Proposed Intervenor's refer to the Rules for their full and complete contents and deny anything inconsistent therewith.

34.-35. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

36. Proposed Intervenor's incorporate their answer to paragraphs 1 through 35 as though set forth more fully herein.

37. The averments in this paragraph purport to summarize the Pennsylvania Rules of Civil Procedure. These Rules are in writing and speak for themselves. Proposed Intervenor's refer to the Rules for their full and complete contents and deny anything inconsistent therewith.

38. Admitted.

39. The averments in this paragraph purport to summarize the Pennsylvania Rules of Civil Procedure. These Rules are in writing and speak for themselves. Proposed Intervenor's refer to the Rules for their full and complete contents and deny anything inconsistent therewith.

40.-41. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

42. Proposed Intervenor incorporate their answer to paragraphs 1 through 41 as though set forth more fully herein.

43. Denied. The quoted language appears not in Pa.R.C.P. 1028(a)(5) but in Pa.R.C.P. 1028(a)(8). In further response, the averments in this paragraph purport to summarize the Pennsylvania Rules of Civil Procedure. These Rules are in writing and speak for themselves. Proposed Intervenor refer to the Rules for their full and complete contents and deny anything inconsistent therewith.

44.-45. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

46. Proposed Intervenor incorporate their answer to paragraphs 1 through 45 as though set forth more fully herein.

47.-49. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

WHEREFORE, Proposed Intervenors respectfully request that the Court overrule Defendant's Preliminary Objections to the Petition to Intervene.

Dated: February 7, 2020

Respectfully submitted,

/s/ George E. Rahn, Jr.

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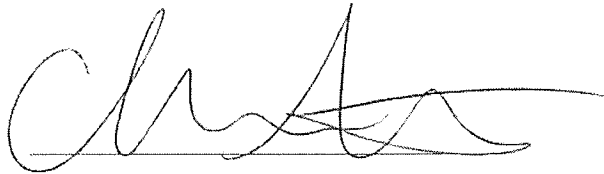
Anti-Drug/Anti-Violence Network, Inc.; Mothers in Charge,

Inc.; Kimberly Burrell; Freda Hall

VERIFICATION

I, Christian Soltysiak, hereby state:

1. I am the Interim Executive Director of CeaseFire Pennsylvania Education Fund;
2. I am authorized to make this verification on behalf of CeaseFire Pennsylvania Education Fund in this action;
3. I have personal knowledge of the statements made in the foregoing Answer;
4. The statements made in the foregoing Answer are true and correct to the best of my own personal knowledge, information, and belief; and
5. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read 'Christian Soltysiak', written over a horizontal line.

Christian Soltysiak, on behalf of
CeaseFire Pennsylvania Education Fund

Dated: February 7, 2020

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CITY OF PHILADELPHIA,

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Defendant.

: PHILADELPHIA COUNTY
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 : CIVIL TRIAL DIVISION
 :

: OCTOBER TERM, 2019
 : NO. 04036
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 :
 :

**PROPOSED INTERVENORS' MEMORANDUM OF LAW IN OPPOSITION TO
 DEFENDANT'S PRELIMINARY OBJECTIONS TO PETITION TO INTERVENE**

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I. Matter Before the Court

Defendant, Rashad Armstrong, has filed Preliminary Objections to the January 16, 2020 Petition to Intervene.

II. Statement of the Questions Involved

1. Whether this Court should grant Defendant's Preliminary Objections to Petitioners' Petition to Intervene?

Suggested Answer: No.

III. Statement of Facts

Homicide rates in Philadelphia are higher than in most other major United States cities, are nearly 3.5 times the national rate, and are higher than in all other Pennsylvania counties. From 2003 to 2017, there were 5,086 homicides in Philadelphia, nearly 82% of which involved a firearm. The vast majority of shootings in Philadelphia involve a handgun.

Many guns used in crimes in Philadelphia are found in the possession of people who lack the right to possess firearms, such as convicted felons, *see* 18 U.S.C. § 922(g)(1), or people who have lost the right to possess a gun as a condition of bail, probation, or parole. Often such crime guns are traced back to a lawful purchaser who, when contacted by authorities, claims to have "lost" or "stolen" the gun that was later used in the crime. Much of the time, the original purchaser bought the gun as a straw purchaser for a disqualified buyer, planning to use a bogus "lost" or "stolen" excuse if the gun were ever traced back to him.

Philadelphia's reporting requirement for lost and stolen guns is designed to reduce the number of guns in the black market and thus to drive down rates of gun crimes. Although this requirement applies citywide, its benefits will be felt largely in Philadelphia's most disadvantaged neighborhoods, and in struggling communities beyond Philadelphia's boundaries

such as the City of Lancaster. Firearm homicide is the eleventh-leading cause of death in Philadelphia, but it is the leading cause of death among young black and Hispanic males. Gun violence in Philadelphia is concentrated in certain neighborhoods, including North Philadelphia, Southwest Philadelphia, and West Philadelphia. And gun violence that originates in Philadelphia does not respect the City's boundaries, but all too often spreads to struggling communities elsewhere in the metro area.

Proposed Intervenor Kimberly Burrell lives in Southwest Philadelphia, an area plagued by high rates of gun violence. Ms. Burrell tragically lost a son to a shooting and is herself subject to a much higher than normal risk of a shooting injury. Proposed Intervenor Freda Hall lives in Lancaster, another area of high gun violence. She also lost a son to a shooting, and is impacted by the flow of illegal guns from Philadelphia.

Proposed Organizational Intervenors CeaseFirePA, PAAN, and Mothers in Charge serve communities that are concentrated in neighborhoods with high rates of gun violence. Each organization has members, partners, or community supporters who live in areas that are subject to high rates of gun violence. In addition, these organizations have limited funds, and responding to gun violence diverts resources that the organizations would otherwise use for different purposes.

For these reasons, on January 16, 2020, Proposed Intervenors—CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers in Charge, Inc., Kimberly Burrell, and Freda Hall—filed a Petition to Intervene in the above-captioned action in support of the position of Plaintiff, the City of Philadelphia. The Petition to Intervene and accompanying Memorandum of Law set out the facts relevant to the Petition.

On January 26, 2020, Defendant filed Preliminary Objections to the Petition to Intervene.

IV. Argument

A. Mr. Armstrong's Filing is Premised on Several Misunderstandings of the Rules of Civil Procedure

Before addressing the substance of Mr. Armstrong's Preliminary Objections, Proposed Intervenor note three misunderstandings of the Rules of Civil Procedure that underlie his arguments.

1. Preliminary Objections Are Not a Proper Response to a Petition to Intervene

According to Pa.R.C.P. 1028(a), "Preliminary objections may be filed by any party to any pleading." And per Pa.R.C.P. 1017(a), "the pleadings in an action are limited to" a list of filings that does not include petitions to intervene. Because a petition to intervene is not a "pleading," preliminary objections are an improper response to such a petition. For this reason alone, Mr. Armstrong's Preliminary Objections to the Petition to Intervene should be dismissed.

2. Proposed Intervenor Were Not Required to File a Proposed Rule to Show Cause

Mr. Armstrong insists that Proposed Intervenor have acted "in violation of Philadelphia Local Rule 206.4(c) and Pa.R.C.P. 206.6(c)" by not filing a proposed rule to show cause. Preliminary Objections ¶ 28. Those rules do not apply to a petition to intervene. Pa.R.C.P. 206.1(a) states: "As used in this chapter, 'petition' means (1) an application to strike and/or open a default judgment or a judgment of non pros, and (2) any other application which is designated by local rule, numbered Local Rule 206.1(a), to be governed by Rule 206.1 *et seq.*" Philadelphia Local Rule *206.1(a) in turn lists nine types of petitions that "are governed by the procedures set forth in Pa.R.C.P. 206.1 *et seq.*" A Petition to Intervene is not among those nine types. Accordingly, the rule-to-show-cause procedures of Pa.R.C.P. 206.6(c) and Philadelphia Local Rule *206.4(c) do not apply here and provide no basis for dismissing the Petition to Intervene.

3. The Court Has Stayed Proceedings Related to Mr. Armstrong's Preliminary Objections to the Complaint, Which is the Only Pleading to Which Proposed Intervenor Could Respond

Finally, Mr. Armstrong calls for the Court to dismiss the Petition to Intervene because the Proposed Intervenor did not file an Answer to his pleadings. Proposed Intervenor addressed this issue in their Memorandum of Law in Support of the Petition to Intervene, which Mr. Armstrong did not attach to this filing, and which is attached to this Memorandum of Law as Exhibit A:

Although a petition to intervene is normally accompanied by the petitioner's proposed pleading, *see* Pa.R.C.P. 2328, in this case the court has stayed consideration of Mr. Armstrong's pleading (his Preliminary Objections). Consistent with this stay, Petitioners are refraining from filing their Answer to and Memorandum of Law in Opposition to the Preliminary Objections until and unless the Court lifts the stay. Should the Court grant the Petition to Intervene, Petitioners request the right to file their Answer to Defendant's Motion for Permanent Injunction and their Memorandum of Law in Opposition to Defendant's Motion for Permanent Injunction pursuant to the Court's January 3, 2020 scheduling order, i.e., no later than five (5) days before the hearing on the permanent injunction scheduled for February 21, 2020.

Exhibit A at 2–3. More specifically, the Honorable Lyris F. Younge entered two orders on January 9, 2020. The first of these orders stated: "Defendant's Preliminary Objections to the Plaintiff's Complaint are STAYED pending a determination on Defendant's Motion for Permanent Injunction." The second order stated, at ¶ 2: "Plaintiff's response to Defendant's Preliminary Objections is hereby STAYED, pending a determination on Defendant's Motion for a Permanent Injunction."

Because of Mr. Armstrong's decision to file his Motion for Permanent Injunction just days after filing his Preliminary Objections to the Complaint, and his decision to submit (with the City) a stipulation seeking the stay of Plaintiff's response to Mr. Armstrong's Preliminary Objections, Proposed Intervenor's Answer to Mr. Armstrong's Preliminary Objections to the

Complaint are not yet due.¹ Nevertheless, in the interest of speedily resolving this matter, Proposed Intervenor have attached their Answer to the Preliminary Objections to the Complaint as Exhibit B to this Memorandum of Law.

B. The Proposed Intervenor Easily Pass the Tests for Standing

Mr. Armstrong’s principal argument is that the Proposed Intervenor lack a legally enforceable interest in the enforceability of Phila. Code § 10-838a (the “Ordinance”). This is incorrect, both as to the individual Proposed Intervenor and the organizational Proposed Intervenor.

1. The Individual Proposed Intervenor Have Standing, Because They Have Substantial Interests That Surpass Those of All Citizens and Face an Ongoing, Elevated Risk of Gun Violence

Proposed Intervenor Kimberly Burrell and Freda Hall each have a substantial, direct, and immediate interest in the outcome of the litigation. *See generally Phantom Fireworks Showrooms, LLC v. Wolf*, 198 A.3d 1205, 1215 (Pa. Commw. 2018) (en banc) (“A substantial interest in the outcome of litigation is one that surpasses the common interest of all citizens in procuring obedience to the law. A direct interest requires a causal connection between the asserted violation and the harm complained of. An interest is immediate when the causal connection is not remote or speculative.”) (citations omitted).

The interests of Ms. Burrell and Ms. Hall are “substantial.” Mr. Armstrong attempts to rebut this by arguing that “18 Pa.C.S. § 6120 [is] absolute—without exception—that only the General Assembly can regulate firearms and ammunition in the Commonwealth.” Brief at 8. Here Mr. Armstrong asks the Court to jump straight to a decision on the merits of his motion for

¹ Mr. Armstrong’s Motion for Permanent Injunction is not a “pleading,” *see* Pa.R.C.P. 1017(a), and therefore no Answer to his Motion for Permanent Injunction is required by Pa.R.C.P. 2328(a).

permanent injunction by holding that state law preempts the Ordinance. This is premature. And as Proposed Intervenor will argue in depth at the merits stage, it is wrong. 18 Pa.C.S. § 6120(a) says:

No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

But Mr. Armstrong would have the Court read the statute like this:

~~No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.~~

At the merits stage, Proposed Intervenor will demonstrate why this would be an improper interpretation of the statute. But this is not an issue to be resolved at the petition-to-intervene stage.

Mr. Armstrong further challenges the individual Proposed Intervenor's substantial interest on the grounds that "there is no evidence that supports the allegation that Ms. Burrell and Ms. Hall have any greater interest in the enforcement of the Lost and Stolen Ordinance than the average Philadelphian." Brief at 8. That is not true. As alleged in the Petition to Intervene, *see* ¶¶ 2, 4, 9, a small number of Philadelphia neighborhoods and their residents face far higher rates of gun violence than the rest of the City of Philadelphia. Gun-violence rates are also unusually high in the City of Lancaster. *See id.* ¶ 5. Ms. Burrell alleges that she "is a resident of the Southwest section of Philadelphia, where she lives with another of her sons. Southwest Philadelphia has a high rate of gun violence." *Id.* ¶ 4. Similarly, Ms. Hall alleges that she is a resident of Lancaster, and that there is "an ongoing trend in Lancaster of shootings involving guns from Philadelphia, many of which were illegally possessed." *Id.* ¶ 5; *see also* Memorandum

of Law in Support of Petition to Intervene, attached as Exhibit A, at 7 (“Particularly as a resident of Southwest Philadelphia, Ms. Burrell faces an elevated risk of exposure to gun violence against herself or against members of her family and community, which the ordinance could alleviate if enforcement continues. . . . As a resident of the City of Lancaster, where gun crime rates are high, Ms. Hall herself and her family and community members likewise have an interest in stemming the flow of crime guns from Philadelphia to Lancaster, which the ordinance would help to achieve.”); *id.* at 1 (map showing that gun violence in Philadelphia is heavily concentrated in a handful of neighborhoods, including Southwest Philadelphia).

Mr. Armstrong contends that Ms. Burrell and Ms. Hall “rely on the[se] assertion[s] without an evidence substantiating their claim.” Brief at 8. That is not an appropriate basis for preliminary objections in the nature of a demurrer. When considering such preliminary objections, “the court must accept as true all well pleaded material allegations and any reasonable inferences therefrom.” *Bayada Nurses, Inc. v. Dep’t of Labor & Indus.*, 8 A.3d 866, 884 (Pa. 2010). Here, that includes allegations that Ms. Burrell and Ms. Hall live in locations with unusually high rates of gun violence.

Mr. Armstrong further urges that this interest is “common to all citizens.” Brief at 9, 10. This might be the case if Ms. Hall and Ms. Burrell alleged nothing more than a general interest in not being shot. *See, e.g., Citizens Against Gambling Subsidies, Inc. v. Pa. Gaming Control Bd.*, 916 A.2d 624, 628 (Pa. 2007) (finding that no “direct interest arose from Petitioner Curry’s status as a taxpayer and property owner in Erie County”). But they allege—and at an appropriate stage can prove—that they have a much more direct interest than that, as residents and community members in neighborhoods that are hit particularly hard by the epidemic of gun violence. This is more than enough to establish a direct interest. *See, e.g., Powell v. Illinois*, No.

18-cv-6675, 2019 U.S. Dist. LEXIS 168209, at *20 (N.D. Ill. Sept. 30, 2019) (“The complaint contains ample statistical evidence that gun violence in Chicago is concentrated in Austin and other predominately African-American neighborhoods. It is reasonable to infer that the concentrated violence begets trauma and the psychological and behavioral injuries described in the complaint, creating discrete pockets of predominately African-American individuals disproportionately likely to be harmed by ongoing exposure.”) (citation omitted); *Robinson Twp. v. Commonwealth*, 83 A.3d 901, 922 (Pa. 2013) (finding standing for “residents and/or owners of property and business interests in municipalities and zoning districts that either already host or are likely to host active natural gas operations related to the Marcellus Shale Formation”); *In re El Rancho Grande*, 437 A.2d 1150, 1153 (Pa. 1981) (“Certainly the individual appellants here have asserted an interest beyond the common interest of all citizens. They allege that they are the closest licensees to Applicant’s proposed establishment, and that certain of them are located at distances of one to three miles from the new licensee.”).

The interests of Ms. Burrell and Ms. Hall are also “direct.” The Ordinance will reduce the flow of black-market guns into their communities. *See Firearm Owners Against Crime v. Papenfuse (FOAC)*, 218 A.3d 497, 508 (Pa. Commw. 2019) (en banc) (“[T]here is a causal connection between [gun owners’] possession and use of firearms and the City’s decision to restrict that activity through the passage and enforcement of these ordinances.”). Like the gun owners in *FOAC*, the Proposed Intervenors complain of a harm (ongoing exposure to elevated risks of gun violence) that is causally connected to the enforcement *vel non* of the Ordinance. Mr. Armstrong argues that the murders of Ms. Burrell’s and Ms. Hall’s sons does not give them a direct interest in the enforcement of laws designed to curb the flow of illegal guns into the black market. Brief at 10–11. But because they are residents of neighborhoods with high gun-

violence rates, there is a direct causal connection between the enforcement of the Ordinance and their continued exposure to unacceptably high risks. *See, e.g., Powell*, 2019 U.S. Dist. LEXIS 168209, at *26–27 (“[G]un violence in Chicago is an epidemic and systemic problem that has the features of a public nuisance such as pollution inasmuch as its effects are geographically concentrated: the greater the concentration, the greater the harm inflicted on children exposed to it.”).

Finally, their interests are “immediate.” Years of non-enforcement of the Ordinance exposed Ms. Burrell and Ms. Hall to heightened danger. If enforcement of the Ordinance is permanently enjoined, their exposure to danger will become even higher. The abatement of this danger turns in large part on the disposition of Mr. Armstrong’s Motion. *See FOAC*, 218 A.3d at 509. Mr. Armstrong calls the link between the Ordinance and their exposure to gun violence “completely speculative.” Brief at 11–12. Again, argument of this sort is inappropriate in preliminary objections. Proposed Intervenorors have alleged that “[e]nforcement of the Ordinance will help to reverse Philadelphia’s gun-violence surge, by making it more difficult for criminals to obtain guns on the black market.” Petition to Intervene ¶ 12. At the permanent injunction stage, Proposed Intervenorors will submit evidence proving this causal link.

2. The Organizational Proposed Intervenorors Have Standing, Both Because They Have Members Subject to High Rates of Gun Violence and Because Increased Gun Violence Will Force Them to Divert Resources

Proposed Intervenorors CeaseFirePA, PAAN, and Mothers in Charge (collectively, the “Organizational Proposed Intervenorors”) also each have a substantial, direct, and immediate interest in the outcome of the litigation. Under *Robinson Twp.*, 83 A.3d at 922, “an association has standing as representative of its members to bring a cause of action even in the absence of

injury to itself, if the association alleges that at least one of its members is suffering immediate or threatened injury as a result of the action challenged.” Such is the case here.

Mr. Armstrong argues variously that “none of [the Organizational Proposed Intervenors] aver that they have any members” or that they “have not described in sufficient detail any such putatively aggrieved members.” Brief at 13. To the contrary, on page 8 of their Memorandum of Law, attached as Exhibit A, all three Organizational Proposed Intervenors alleged that they “serve communities that are concentrated in high-gun-violence neighborhoods, and each has numerous members, partners, or community supporters who live in a Philadelphia neighborhood with high levels of gun violence, including high levels of gun violence from black-market firearms.” This “description of the organization[s]’ members is sufficient to show that they are aggrieved,” and “[s]tanding may be shown without identification of individual members.” *Ams. for Fair Treatment, Inc. v. Phila. Fed’n of Teachers, Local 3*, 150 A.3d 528, 534–35 (Pa. Commw. 2016).

The Organizational Proposed Intervenors have a second, independent basis for standing, because forced diversion of resources has caused injury to the organizations themselves. Mr. Armstrong concedes that “forced diversion of an organization’s resources can constitute an injury, and by extension justify standing.” Brief at 14. Mr. Armstrong’s tactics in this litigation have done just that. His activities have already resulted in a temporary injunction blocking enforcement of the Ordinance. Order of Jan. 9, 2020, ¶ 4. This amounts to a reprieve from accountability for Philadelphians who buy and resell guns on the black market, and it will predictably lead to increased deadly violence in the hardest-hit sections of the City. In the meantime, the pause in enforcement of the Ordinance will force Proposed Intervenor PAAN to react to more gunshot incidents, instead of proactively working to prevent violence. *See* Petition

to Intervene ¶ 2. It will force Proposed Intervenor Mothers In Charge to provide more counseling and grief support services to more families with murdered loved ones, instead of working on legislation and solutions to support safe neighborhoods and communities for children and families. *See id.* ¶ 3. And it will force Proposed Intervenor CeaseFirePA to divert resources from its statewide efforts in Harrisburg, in order to respond to more gun violence incidents in Philadelphia. *See id.* ¶ 1. *See generally Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982) (“If, as broadly alleged, petitioners’ steering practices have perceptibly impaired HOME’s ability to provide counseling and referral services for low- and moderate-income home-seekers, there can be no question that the organization has suffered injury in fact. Such concrete and demonstrable injury to the organization’s activities—with the consequent drain on the organization’s resources—constitutes far more than simply a setback to the organization’s abstract social interests.”); *Robinson v. Block*, 869 F.2d 202, 207, 210 n.9 (3d Cir. 1989) (finding standing under *Havens* for an organization of welfare recipients that “has been forced to expend time, money and resources advocating on behalf of recipients denied or threatened with denial of benefits”).

C. Petitioners Have a Cognizable Claim for Relief, Because Mr. Armstrong Should Not Be Assumed to Have Already Prevailed on His Motion for Permanent Injunction

Mr. Armstrong argues that the Proposed Intervenor “have no cognizable claim for relief.” Brief at 16. His argument here is that he will prevail on his permanent injunction motion, and therefore intervention should be denied. This puts the sequence precisely backward. Proposed Intervenor seek to participate in this case in order to demonstrate that the Ordinance is enforceable under state law. Mr. Armstrong would have the Court decide that merits question first, without the benefit of Proposed Intervenor’s participation, and on that basis decide that the

Proposed Intervenorors are not allowed to argue the merits. In such a topsy-turvy world, no petition to intervene would ever be granted, because courts would always side on the merits with the party opposing intervention, without ever hearing the proposed intervenors' merits arguments.

D. Dismissal Under Pa.R.C.P. 1028(a)(8) is Unwarranted, Because Proposed Intervenorors Have No Remedy at Law

Mr. Armstrong next suggests that intervention should be denied because the Proposed Intervenorors could petition the General Assembly to change state law. Brief at 17. This argument proves far too much, and would lead to the dismissal of the great majority of civil actions, because the General Assembly has plenary power to pass laws on a wide range of subjects. It also misconstrues Pa.R.C.P. 1028(a)(8), which allows for preliminary objections alleging that a party has a “full, complete and adequate non-statutory remedy at law.” A remedy “at law” means a remedy **in a court of law**, as opposed to a court of equity. *See, e.g., Fawber v. Cohen*, 532 A.2d 429, 433 (Pa. 1987) “(It has long been the law of this Commonwealth that a party should not seek equitable relief when a legal action, such as an action in trespass, would provide an adequate remedy.”). Enactment of a bill by the General Assembly is not a “remedy at law” as that term is used in Rule 1028(a)(8).

E. The City Does Not Adequately Represent the Proposed Intervenorors' Interests

There is no basis for discretionary denial of this Petition to Intervene. Under Pa.R.C.P. 2329, the Court “may” deny a Petition to Intervene for three reasons. *See, e.g., Darlington v. Reilly*, 69 A.2d 84, 86 (Pa. 1949) (“The question of intervention is a matter within the sound discretion of the [trial] court.”); *Grant v. Zoning Hearing Bd.*, 776 A.2d 356, 360 (Pa. Commw. 2001) (noting that Rule 2329 is “discretionary”). Mr. Armstrong urges the Court to exercise its

discretion under Rule 2329(2) to deny intervention for one of these reasons, on the theory that “the interest of the petitioner[s] is already adequately represented” by the City of Philadelphia.

The City’s principal interest in this matter is to vindicate its authority to enforce a duly-enacted ordinance. In addition, the City has a financial interest in its ability to assess fines of \$2000 per violation of the Ordinance. By contrast, the Proposed Intervenor’s interest is in reducing violence from illegally transferred guns in high-crime areas within Philadelphia (PAAN, Mothers in Charge, and Ms. Burrell), in Lancaster (Ms. Hall), and across Pennsylvania (CeaseFirePA). Accordingly, if permitted to participate in this litigation, the Proposed Intervenor will present evidence and legal argument concerning the ordinance’s disproportionate significance within certain areas of Philadelphia, as well as its impact on communities outside Philadelphia. *See, e.g., Pines v. Farrell*, 848 A.2d 94, 97–98 (Pa. 2004) (allowing intervention where proposed intervenor’s arguments were “not merely repetitive of the limited argument forwarded by respondent, but instead, promoted a proper resolution of the dispute”).

The only case Mr. Armstrong cites is not to the contrary. Brief at 17–18 (citing *Cherry Valley Assocs. v. Stroud Twp. Bd. of Supervisors*, 530 A.2d 1039 (Pa. Commw. 1987)). In *Cherry Valley*, residents of Stroud Township sought to intervene in a zoning matter to argue against the permitting of a new development. The residents argued they had “private harms” at stake such as devaluation of their real estate. *Id.* at 1040–41. The Commonwealth Court upheld a ruling against intervention, on the grounds that private harms were a non-issue in that zoning matter, because the sole legal question was whether “the use will not be detrimental to public health, safety, or general welfare.” *Id.* at 1041; *see also id.* (“CVA’s appeal is not the proper forum for Appellants to assert their private interests.”). This case is not about zoning or land use.

Rather, Proposed Intervenors will prove in this case that the permanent injunction Mr. Armstrong seeks would cause the greatest injury to residents of places like Southwest Philadelphia and the City of Lancaster. This is distinct from the City of Philadelphia's citywide interests in protecting its home-rule authority and in collecting revenues, and there is thus no basis for discretionary denial of intervention under Rule 2329(2).

V. Relief

For all of the above-stated reasons, Mr. Armstrong's Preliminary Objections to the Petition to Intervene should be overruled, and the Petition to Intervene should be granted.

Dated: February 7, 2020

Respectfully submitted,

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EXHIBIT A

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CITY OF PHILADELPHIA,

Plaintiff,

v.

RASHAD T. ARMSTRONG,

Defendant.

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS
: CIVIL TRIAL DIVISION
:

: OCTOBER TERM, 2019
: NO. 04036
:

:

:

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MEMORANDUM OF LAW IN SUPPORT OF PETITION TO INTERVENE

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I. Preliminary Statement

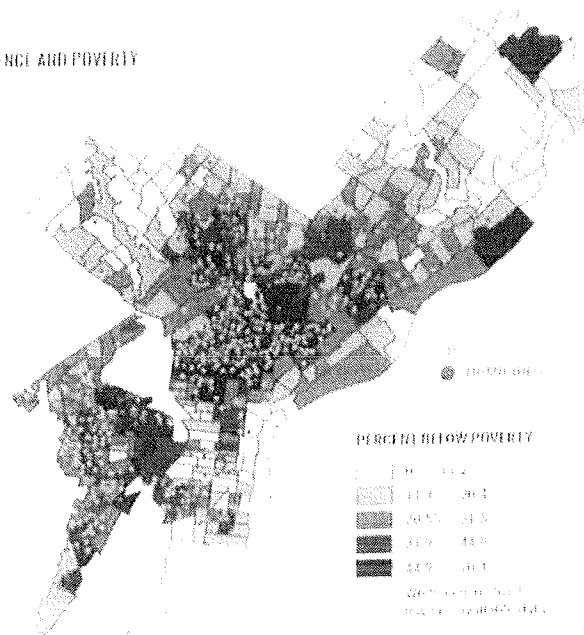
Homicide rates in Philadelphia are higher than in most other major United States cities, are nearly 3.5 times the national rate, and are higher than in all other Pennsylvania counties. From 2003 to 2017, there were 5,086 homicides in Philadelphia, nearly 82% of which involved a firearm. The vast majority of shootings in Philadelphia involve a handgun. And although firearm homicide is only the eleventh-leading cause of death in the City, it is the leading cause of death among young black and Hispanic males. Firearm homicides occur most often in Philadelphia's poorest neighborhoods. Beyond deaths, there were four nonfatal firearm injuries for every firearm homicide in Philadelphia, with over 1,100 people treated in emergency departments for firearm injuries in 2016. In short, there is an epidemic of death and disability from handguns in Philadelphia's black and Hispanic communities as a map of shootings in Philadelphia¹ shows:

INJURIES

GUN VIOLENCE

Over 84 percent of homicides involved a firearm. In addition to the roughly 300 fatal shootings, there were approximately 900 non-fatal shootings in 2017. Shootings clustered in socio-economically disadvantaged neighborhoods.

GUN VIOLENCE AND POVERTY



¹ City of Philadelphia, Dep't of Public Health, *Health of the City 2018*, at 24, available at <https://www.phila.gov/media/20181220135006/Health-of-the-City-2018.pdf>.

This epidemic hits families like that of Proposed Intervenor Kimberly Burrell, whose eighteen-year-old son was killed by one of the many illegally obtained handguns present in Philadelphia. This epidemic also spills out beyond Philadelphia, affecting families like that of Proposed Intervenor Freda Hall, whose innocent-bystander son was shot dead in Lancaster by a man from Philadelphia.

The Philadelphia Ordinance at issue in this case will help stanch the flow of guns into the black market. Accordingly, Petitioners—CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers in Charge, Inc., Kimberly Burrell, and Freda Hall—by and through their undersigned attorneys, have filed a Petition to Intervene in the above-captioned action in support of Plaintiff, the City of Philadelphia, pursuant to Pa.R.C.P. 2327(4).

II. Procedural Background

The City of Philadelphia filed this action on November 1, 2019. The action is filed under a Philadelphia ordinance that requires firearm owners to report lost or stolen firearms “to an appropriate law enforcement official within 24 hours after the loss or theft is discovered.” Phila. Code § 10-838a (the “Ordinance”).

Defendant, Rashad T. Armstrong, filed Preliminary Objections on December 9, 2019, and a Motion for Permanent Injunction on December 16, 2019. The Court has scheduled a hearing on the Motion for Permanent Injunction for February 21, 2020 and has required responses to be filed no later than five (5) days before said hearing (Order of Jan. 3, 2020), and it has stayed consideration of the Preliminary Objections pending a determination on Defendant’s Motion for Permanent Injunction (Order of Jan. 9, 2020).

Although a petition to intervene is normally accompanied by the petitioners’ proposed pleading, *see* Pa.R.C.P. 2328, in this case the court has stayed consideration of Mr. Armstrong’s pleading (his Preliminary Objections). Consistent with this stay, Petitioners are refraining from

filing their Answer to and Memorandum of Law in Opposition to the Preliminary Objections until and unless the Court lifts the stay. Should the Court grant the Petition to Intervene, Petitioners request the right to file their Answer to Defendant's Motion for Permanent Injunction and their Memorandum of Law in Opposition to Defendant's Motion for Permanent Injunction pursuant to the Court's January 3, 2020 scheduling order, i.e., no later than five (5) days before the hearing on the permanent injunction scheduled for February 21, 2020.

III. Factual Background

Philadelphia is in the midst of a surge in gun violence. According to statistics recently compiled by Proposed Intervenor CeaseFirePA, "[a]s of November 11th, 100 kids in Philadelphia have been shot [in 2019], 12 fatally." *100 Children Shot in Philadelphia in 2019* (Nov. 13, 2019), <https://www.ceasefirepa.org/general-interest/100-children-shot-in-philadelphia-in-2019-so-far/>. Gun violence in Philadelphia is concentrated in certain neighborhoods, including North Philadelphia, Southwest Philadelphia, and West Philadelphia.

Although this is the first action the City has filed to enforce the Ordinance, *see* Defendant's Motion, Exhibit F at 1, the Ordinance has been on the books since 2008, and many individuals were complying with it even before enforcement began. Enforcement of the Ordinance will help to reverse Philadelphia's gun-violence surge, by making it more difficult for criminals to obtain guns on the black market. And a permanent injunction prohibiting enforcement of the Ordinance would do the opposite, shielding from liability people who buy guns for resale on the black market.

Many guns used in crimes in Philadelphia are found in the possession of people who lack the right to possess firearms, such as convicted felons, *see* 18 U.S.C. § 922(g)(1), or people who have lost the right to possess a gun as a condition of bail, probation, or parole. All too often, such crime guns are traced back to a lawful purchaser who, when contacted by authorities, claims to

have “lost” or “stolen” the gun that was later used in the crime. Much of the time, the original purchaser bought the gun as a straw purchaser for a disqualified buyer, planning to use a bogus “lost” or “stolen” excuse if the gun were ever traced back to him.

IV. The Proposed Intervenors

Proposed Intervenor CeaseFire Pennsylvania Education Fund (“CeaseFirePA”) is a Pennsylvania nonprofit headquartered in Philadelphia. Its mission is to end the epidemic of gun violence across the Commonwealth and our country through education, coalition building, and advocacy. CeaseFirePA provides resources to students, educators, parents, legislators, and the public who want to learn more about the scourge of gun violence in the Commonwealth of Pennsylvania. Its efforts include working to require mandatory reporting of lost or stolen firearms in order to crack down on some of the major sources of crime guns: loss, theft, and straw purchasers – people who buy guns and then sell them illegally to people who can’t buy them on their own. CeaseFirePA has supporters and community partners in all 67 of Pennsylvania’s counties.

Proposed Intervenor Philadelphia Anti-Drug/Anti-Violence Network, Inc. (“PAAN”) is a Pennsylvania nonprofit headquartered in Philadelphia. PAAN, which is based in North Philadelphia, is one of the City’s leading nonprofits dedicated to addressing drug abuse and violence throughout the City. PAAN directly interacts with instances of gun violence through its Violence Interrupter teams, which patrol areas of Philadelphia rife with gun violence by embedding in hot spots of violence between gangs. PAAN works to combat violence by intervening where the violence is most prevalent, using credible messengers who are products of Philadelphia’s most violent neighborhoods as outreach workers to foster meaningful relationships with would-be perpetrators as well as law-abiding residents.

Proposed Intervenor Mothers in Charge, Inc. ("Mothers in Charge") is a Pennsylvania nonprofit headquartered in Philadelphia. Mothers in Charge advocates for families affected by violence and provides counseling and grief support services for families when a loved one has been murdered. The organization is operated by mothers, grandmothers, aunts, and sisters who have lost loved ones to acts of violence, often by guns. Mothers in Charge collaborates with elected officials, community leaders and other community and faith-based organizations on legislation and solutions to support safe neighborhoods and communities for children and families. The organization does not oppose responsible gun ownership, but it works to make sure guns are not in the hands of people who should not have them.

Proposed Intervenor Kimberly Burrell is a resident of Philadelphia. In 2009, a man with an illegally purchased gun shot and killed her 18-year-old son, Darryl Pray, during an argument with another man in Philadelphia. Darryl was an intelligent young man who had graduated early from high school and was set to enroll at Thompson Institute to study technology. He was a beloved member of his community and a role model for his three younger siblings. The same day Darryl died, another man using another illegally owned gun killed someone else in retaliation for Darryl's murder. In the decade since this tragedy, Ms. Burrell has worked hard to prevent other parents in Philadelphia from experiencing such loss. Ms. Burrell is a resident of the Southwest section of Philadelphia, where she lives with another of her sons. Southwest Philadelphia has a high rate of gun violence.

Proposed Intervenor Freda Hall is a resident of Lancaster, Pennsylvania. In 2007, a Philadelphia man named Abdulmumin Walton shot and killed her 19-year-old son, Tyquan Hall, as he ran away from a street fight in Lancaster. Tyquan was an innocent bystander who was shot in the back as he attempted to flee a violent scene. Tyquan was an outgoing young man who was

a beloved member of his community. More than 500 people attended his funeral. Tyquan's murder was part of an ongoing trend in Lancaster of shootings involving guns from Philadelphia, many of which were illegally possessed.² See, e.g., Brett Hambright, *Different Crimes, Similar Stories*, LNP Lancaster Online (June 5, 2007), https://lanasteronline.com/news/different-crimes-similar-stories/article_c3f9931c-dd65-5d8a-9687-27e6ce268416.html. Since the devastating loss of her son, Ms. Hall has become an outspoken advocate in Lancaster about the need to enforce existing laws regarding gun violence and to do more within the community to prevent senseless acts of violence. She regularly provides support to families in Lancaster who have been affected by gun violence.

V. Basis for Proposed Intervention

Pursuant to Pennsylvania Rule of Civil Procedure 2327, this Court “shall” permit a party to intervene if “the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.” Pa.R.C.P. 2327(4).

A. The Proposed Intervenors Have a Legally Enforceable Interest in this Case

If Mr. Armstrong's Motion for Permanent Injunction is granted, no law will require the reporting of lost and stolen firearms in Philadelphia. All of the Proposed Intervenors have a legally enforceable interest in the maintenance of that reporting requirement.

Ms. Burrell and Ms. Hall each have a substantial, direct, and immediate interest in the outcome of the litigation. See generally *Phantom Fireworks Showrooms, LLC v. Wolf*, 198 A.3d 1205, 1215 (Pa. Commw. 2018) (en banc) (“A substantial interest in the outcome of litigation is one that surpasses the common interest of all citizens in procuring obedience to the law. A direct

² In the present case, the City alleges that the gun traced back to Mr. Armstrong was recovered in 2018 by the Lancaster Police Department.

interest requires a causal connection between the asserted violation and the harm complained of. An interest is immediate when the causal connection is not remote or speculative.” (citations omitted)).

Ms. Burrell and Ms. Hall have a substantial interest in the continued enforcement of the Ordinance. Particularly as a resident of Southwest Philadelphia, Ms. Burrell faces an elevated risk of exposure to gun violence against herself or against members of her family and community, which the ordinance could alleviate if enforcement continues. *See, e.g., Firearm Owners Against Crime v. Papenfuse (FOAC)*, 218 A.3d 497, 508 (Pa. Commw. 2019) (en banc) (gun owners in Harrisburg “have an interest in the legality of [firearm] ordinances that surpasses the common interest of all citizens”). As a resident of the City of Lancaster, where gun crime rates are high, Ms. Hall herself and her family and community members likewise have an interest in stemming the flow of crime guns from Philadelphia to Lancaster, which the ordinance would help to achieve.

They also each have a direct interest in the denial of the Motion for a Permanent Injunction. As noted above, the Ordinance will reduce the flow of black-market guns into their communities. *See id.* (“[T]here is a causal connection between [gun owners’] possession and use of firearms and the City’s decision to restrict that activity through the passage and enforcement of these ordinances.”). Like the gun owners in *FOAC*, the Proposed Intervenors complain of a harm (exposure to gun violence) that is causally connected to the enforcement *vel non* of the Ordinance.

Ms. Burrell’s and Ms. Hall’s interests are also immediate. Ms. Burrell and Ms. Hall were exposed to heightened danger by the previous non-enforcement of the Ordinance. If enforcement of the Ordinance is permanently enjoined, their exposure to danger will become even higher. The

abatement of this danger turns in large part on the disposition of Mr. Armstrong's Motion. *See id.* at 509.

CeaseFirePA, PAAN, and Mothers in Charge (collectively, the "Organizational Proposed Intervenor") also each have a substantial, direct, and immediate interest in the outcome of the litigation. All three Organizational Proposed Intervenor serve communities that are concentrated in high-gun-violence neighborhoods, and each has numerous members, partners, or community supporters who live in a Philadelphia neighborhood with high levels of gun violence, including high levels of gun violence from black-market firearms. *See Robinson Twp. v. Commonwealth*, 83 A.3d 901, 922 (Pa. 2013) ("[A]n association has standing as representative of its members to bring a cause of action even in the absence of injury to itself, if the association alleges that at least one of its members is suffering immediate or threatened injury as a result of the action challenged.").

The organizations' constituents have a great deal at stake in the outcome of this litigation. If the Court grants the permanent injunction, more guns will surge unchecked into the black market in Philadelphia. This will result in even greater gun violence in Philadelphia's hardest-hit neighborhoods, including the home neighborhoods of numerous members, partners, and community supporters of the Organizational Proposed Intervenor. These individuals' interests establish a legally enforceable interest, and thus standing to intervene, for the organizations that represent them. *E.g., Pa. Med. Soc'y v. Dep't of Pub. Welfare*, 39 A.3d 267, 279 (Pa. 2012). This hold true regardless of whether the Organizational Proposed Intervenor are formally organized as membership corporations. *See, e.g., Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 344-45 (1977); *Pub. Interest Research Grp. v. Magnesium Elektron*, 123 F.3d 111, 119 (3d Cir. 1997).

There is a second, independent basis for the Organizational Proposed Intervenor's standing. Each of the Organizational Proposed Intervenor has a core mission to reduce gun violence. If the ordinance is enjoined, the Organizational Proposed Intervenor will be forced to divert resources from their other activities to address an even greater increase in the local supply of illegal handguns and the resulting increase in the number of shootings they will face. For example, Proposed Intervenor PAAN's volunteers face additional risk and more violence because of the plethora of illegal firearms on the streets of Philadelphia, and Proposed Intervenor Mothers in Charge will tragically have to contend with more children shot and killed in the communities it serves.

Injury to an organization in the form of forced diversion of the organization's resources establishes standing. *E.g., Applewhite v. Commonwealth*, No. 330 M.D. 2012, 2014 Pa. Commw. Unpub. LEXIS 756, at *22-23 (Pa. Commw. Jan. 17, 2014) (finding organizational standing where "[t]he Voter ID Law, and Respondents' ever-changing implementation of it, caused [the League of Women Voters] and NAACP to divert scarce resources from their core missions (voter registration and encouraging full participation by citizens in elections) to other efforts"); *see also Robinson v. Block*, 869 F.2d 202, 207, 210 n.9 (3d Cir. 1989) (finding standing for an organization of welfare recipients that "has been forced to expend time, money and resources advocating on behalf of recipients denied or threatened with denial of benefits").

B. There is No Basis to Deny the Petition

There is no basis for discretionary denial of this Petition to Intervene. Under Pa.R.C.P. 2329, the Court "may" deny a Petition to Intervene for three reasons. *See, e.g., Darlington v. Reilly*, 69 A.2d 84, 86 (Pa. 1949) ("The question of intervention is a matter within the sound discretion of the [trial] court."); *Grant v. Zoning Hearing Bd.*, 776 A.2d 356, 360 (Pa. Commw.

2001) (noting that Rule 2329 is “discretionary”). None of the three Rule 2329 grounds are present here.

The first potential grounds for discretionary denial would be that “the claim or defense of the petitioner is not in subordination to and in recognition of the propriety of the action.” Pa.R.C.P. 2329(1). This ground for discretionary denial is inapposite.

The second potential grounds for discretionary denial would be that “the interest of the petitioner is already adequately represented.” Pa.R.C.P. 2329(2). The City’s principal interest in this matter is to vindicate its authority to enforce a duly-enacted ordinance. In addition, the City has a financial interest in its ability to assess fines of \$2000 per violation of the Ordinance. By contrast, the Proposed Intervenor’s interest is in reducing violence from illegally transferred guns in high-crime areas within Philadelphia (PAAN, Mothers in Charge, and Ms. Burrell), in Lancaster (Ms. Hall), and across Pennsylvania (CeaseFirePA). Accordingly, if permitted to participate in this litigation, the Proposed Intervenor will present evidence (potentially including expert testimony) and legal argument concerning the ordinance’s impacts both within and beyond Philadelphia. *See, e.g., Pines v. Farrell*, 848 A.2d 94, 97–98 (Pa. 2004) (allowing intervention where proposed intervenor’s arguments were “not merely repetitive of the limited argument forwarded by respondent, but instead, promoted a proper resolution of the dispute”).

The third potential grounds for discretionary denial would be undue delay, embarrassment, or prejudice. Pa.R.C.P. 2329(3). Proposed Intervenor has speedily filed this Petition just thirty-one (31) days after Mr. Armstrong filed his Motion for Permanent Injunction, thirteen (13) days after the Court’s order scheduling the permanent injunction hearing, and thirty-six (36) days before that hearing. Their participation in this action will not unduly delay the proceedings or cause anyone undue embarrassment or prejudice.

VI. Conclusion

WHEREFORE, Proposed Intervenors CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers In Charge, Inc., Kimberly Burrell, and Freda Hall respectfully request that the Court grant this Petition to Intervene in the above-captioned proceeding, and set a date by which Petitioners shall file their Answer to Defendant's Motion for Permanent Injunction and Memorandum of Law in Opposition to Motion for Permanent Injunction.

Dated: January 16, 2020

Respectfully submitted,



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*Attorneys for Proposed Intervenors CeaseFire
Pennsylvania Education Fund; Philadelphia Anti-
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Inc.; Kimberly Burrell; Freda Hall*

EXHIBIT B

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Attorneys for Proposed Intervenor: CeaseFire Pennsylvania Education Fund; Philadelphia Anti-Drug/Anti-Violence Network, Inc.; Mothers in Charge, Inc.; Kimberly Burrell; Freda Hall

CITY OF PHILADELPHIA,

Plaintiff,

v.

RASHAD T. ARMSTRONG,

Defendant.

: PHILADELPHIA COUNTY
 : COURT OF COMMON PLEAS
 : CIVIL TRIAL DIVISION
 :

: OCTOBER TERM, 2019
 : NO. 04036
 :
 :
 :

**INTERVENORS' ANSWER TO
 DEFENDANT'S PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

Proposed Intervenor, CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers In Charge, Inc., Kimberly Burrell, and Freda Hall ("Intervenor"), submit this Answer to Defendant's Preliminary Objections to Plaintiff's Complaint.

1.-3. Admitted.

4. Admitted in part; denied in part. Intervenor admit that Bill No. 060700 was signed into law on May 9, 2007. The remaining averments in this paragraph purport to summarize Bill No. 060700. Bill No. 060700 is in writing and speaks for itself. Intervenor refer to Bill No. 060700 for its full and complete contents and deny anything inconsistent therewith.

5. After reasonable investigation, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments concerning the City of Philadelphia's state of mind in 2008. Intervenor denies the remaining allegations in this paragraph of the motion or that the Ordinance is inconsistent with the Pennsylvania Constitution or 18 Pa.C. S. § 6120. To the contrary, the Ordinance does not violate any constitutional provision or statute. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

6. After reasonable investigation, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments concerning former District Attorney Lynne Abraham and what she allegedly said or believed. Intervenor denies the remaining allegations in this paragraph of the motion, including that the Ordinance violates state law. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

7. After reasonable investigation, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments concerning former District Attorney Seth Williams and what he said or believed. Intervenor denies the remaining allegations in this paragraph of the motion. See answer to paragraphs 5 and 6 above. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

8. Admitted.

9.-11. The averments in these paragraphs are redacted and Intervenor therefore is without knowledge or information sufficient to form a belief as to the truth of the averments that may be contained in these paragraphs of the motion.

12. The averments in this paragraph are conclusions of law to which no responsive pleading is required

13. After reasonable investigation, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph of the motion.

14.-15. The averments in these paragraphs are redacted, and therefore Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments in the paragraphs.

16. Admitted only that the City issued a press release on November 4, 2019. The remaining averments are denied as they purport to summarize the press release. The release is in writing and the contents speak for themselves.

17.-18. To the extent the averments in these paragraphs are redacted, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments. The remaining averments in these paragraphs are conclusions of law to which no response is required.

19. After reasonable investigation, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

20. Admitted.

21. The averments in this paragraph are conclusions of law to which no responsive pleading is required.

22. Intervenor incorporates their answer to paragraphs 1 through 21 as though set forth more fully herein.

23. Admitted in part; denied in part. Intervenor admits that the quoted language appears in the Pennsylvania Rules of Civil Procedure. The remaining averments in this paragraph purport

to summarize the Rules or are conclusions of law to which no responsive pleading is required. The Rules are in writing and speaks for themselves. Intervenor refers to the Rules for their full and complete contents and deny anything inconsistent therewith.

24. To the extent the averments in this paragraph are redacted, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments. The remaining averments in this paragraph are conclusions of law to which no response is required.

25. The averments in this paragraph are conclusions of law to which no responsive pleading is required.

26. Intervenor incorporates their answer to paragraphs 1 through 25 as though set forth more fully herein.

27.-28. To the extent the averments in these paragraphs are redacted, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments. The remaining averments in these paragraphs are conclusions of law to which no response is required.

29.-30. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

31. Intervenor incorporates their answer to paragraphs 1 through 30 as though set forth more fully herein.

32.-33. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

34. Intervenor incorporates their answer to paragraphs 1 through 33 as though set forth more fully herein.

35.-36. The averments in these paragraphs are conclusions of law to which no responsive pleading is required.

37. After reasonable investigation, Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments concerning whether the City of Philadelphia's sole intention in filing the Complaint was to harass Defendant Armstrong. In further answer, the remaining averments in this paragraph are conclusions of law to which no responsive pleading is required.

38. The averments in this paragraph are redacted, and therefore Intervenor is without knowledge or information sufficient to form a belief as to the truth of the averments in the paragraph.

39. The averments in this paragraph are conclusions of law to which no responsive pleading is required.

WHEREFORE, Intervenor respectfully request that the Court overrule Defendant's Preliminary Objections to Plaintiff's Complaint.

Dated: February 7, 2020 Respectfully submitted,

/s/ George E. Rahn, Jr.

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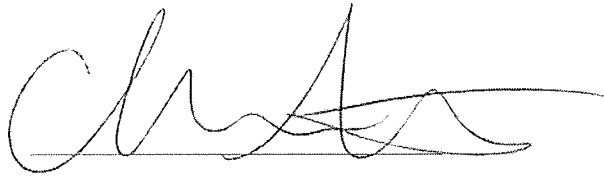
Anti-Drug/Anti-Violence Network, Inc.; Mothers in Charge,

Inc.; Kimberly Burrell; Freda Hall

VERIFICATION

I, Christian Soltysiak, hereby state:

1. I am the Interim Executive Director of CeaseFire Pennsylvania Education Fund;
2. I am authorized to make this verification on behalf of CeaseFire Pennsylvania Education Fund in this action;
3. I have personal knowledge of the statements made in the foregoing Answer;
4. The statements made in the foregoing Answer are true and correct to the best of my own personal knowledge, information, and belief; and
5. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read 'Christian Soltysiak', written over a horizontal line.

Christian Soltysiak, on behalf of
CeaseFire Pennsylvania Education Fund

Dated: February 7, 2020

CERTIFICATE OF SERVICE

I hereby certify that Proposed Intervenor's Answer to Defendant's Preliminary Objections to Petition to Intervene, Memorandum of Law in Support and accompanying Exhibits were served via the Court's electronic filing system upon the following:

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Dated: February 7, 2020

/s/ George E. Rahn, Jr. _____
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