

**BRACH EICHLER LLC**

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UNION CITY PROPERTY HOUSING  
INITIATIVE,

Plaintiff,

v.

CITY OF UNION CITY, MAYOR  
AND BOARD OF COMMISSIONERS  
OF THE CITY OF UNION CITY,  
RENT LEVELING BOARD OF THE  
CITY OF UNION CITY,

Defendants

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUDSON COUNTY  
DOCKET NO.: HUD-L-

Civil Action

**VERIFIED COMPLAINT FOR  
TEMPORARY AND PERMANENT  
INJUNCTIVE RELIEF AND IN LIEU OF  
PREROGATIVE WRIT**

**PRELIMINARY STATEMENT**

This action is a facial constitutional challenge to two recently enacted ordinances that broadly and impermissibly violate the Plaintiff’s constitutional rights in the guise of addressing the public interest.

Union City has for many years enforced strict rent control laws that are applicable to some rental properties in the city. This rent control ordinance (“RCO”) controls the amount and timing of rent increases that can be charged to an existing tenant. Thus, Union City tenants who enter into lease agreements with their landlords, are protected from both frequent and unexpected rent increases, as well as improper increases because the RCO mandates this result. The RCO makes charging rent increases not sanctioned by the ordinance illegal, and any agreement between the landlord and tenant to the contrary is deemed void. As a result of the long history of rent control in Union City, all rent controlled tenants receive protection against frequent, unexpected and

improperly high rent increases, and the rent controlled landlords' agreements with their rent controlled tenants must comply with the requirements of the RCO in order to be entitled to charge and collect any rent increases.

While the guaranteed protection against frequent and improper rent increases extends to many tenants in Union City, many other tenants do not live in rent controlled properties because their dwelling space is excluded from the application of the RCO. For example, tenants residing in property that was constructed after 1987 (new construction), see N.J.S.A. 2A:42.84.1, tenants in properties operated by the cities' housing authorities, see, e.g., Union City Code, Ch. 334-2(B); tenants in properties in which the owner also resides (owner occupied), id.; tenants who rent a condominium unit from the owner, id., – are all excluded from the regulations that are applicable to rent controlled property. Thus, while there are many tenants who enjoy the protection of the RCO in Union City, there are thousands of landlord/tenant relationships that are not governed in any way by the RCO in Union City.

In the midst of a global pandemic that has visited economic hardship on both tenants and landlords, Union City has enacted an ordinance to retroactively freeze the rents *in rent controlled properties only*. This ordinance (the “Freeze Ordinance”) is arbitrary, capricious and unreasonable and violates the constitutional right of equal protection of laws, impairs the right of contract and constitutes an unconstitutional taking without just compensation. Union City has also enacted a freeze on evictions, which re-writes the state statute that governs landlord tenant relationships. This ordinance (the “Eviction Freeze”) violates the carefully crafted balance of landlord and tenant rights that are exclusively governed by the state and, thus, is an excessive use of the police power granted to the municipality. This Complaint seeks temporary and permanent injunctive relief to protect against Union City's Freeze Ordinance and Eviction Freeze.

## PARTIES

1. Plaintiff, Union City Property Housing Initiative (“UCPHI” or “Plaintiff”) is a non-profit association of property owners organized to vindicate the common rights and grievances of its members, who individually own more than 2000 rental properties within the City of Union City.

2. Defendant, City of Union City ("Union City"), is a municipal corporation, duly organized and existing pursuant to and in accordance with the laws of the State of New Jersey.

3. Defendants, the Mayor of the City of Union City and the City of Union City Board of Commissioners, are charged with the duty to control, oversee and regulate the administration and functions of Union City

4. Defendant, Rent Leveling Board of the City of Union City, is charged with the enforcement of Chapter 334 of the Code of the City of Union City.

5. Defendants, Union City, Mayor, Board and Rent Leveling Board (collectively “Union City” or “Defendant”) adopted and promulgated a Rent Control Ordinance as well as certain administrative regulations that affect the enforcement and interpretation of the Ordinance.

## RENT CONTROL GENERALLY IN UNION CITY

6. Rent control is commonplace in New Jersey’s largest cities, and these ordinances control the frequency of and the rate of increases that a landlord can charge to a rent controlled tenant.

7. RCO has been in place for decades in Union City. See, City of Union City Code Chapter 334 attached hereto as **Exhibit “A.”**

8. Union City’s RCO does not fix the rent to be charged based on the tenant household income. Renting a dwelling unit that is subject to rent control is not subject to any economic means testing for the tenant; contains a requirement that increases in rent can only occur

on annual anniversaries of the tenancy; mandates that the rate of annual increase cannot exceed a specific percentage derived with reference to the Consumer Price Index; and mandates that landlords can only charge increases after compliance with the notice requirement of the RCO and state law.

9. Plaintiff's members who own and operate rent controlled property in Union City, have vested contractual rights to charge and collect rents that are in compliance with the RCO from its tenants.

10. Plaintiff's members who own and operate rent controlled property in Union City have reasonable contractual expectations that so long as they comply with the requirements of the RCO that they can increase those rents pursuant to the requirements of the RCO that amounts to a protectable contractual and property right of the Plaintiff members.

11. Recently, the worldwide COVID-19 pandemic has created financial havoc for landlords and tenants alike, and by Executive Order 103, dated March 9, 2020 Governor Phil Murphy has declared a State of Emergency and a Public Health Emergency in New Jersey to contain the spread of Covid-19.

12. Since that Executive Order, Governor Murphy has issued several executive orders designed to protect the health, safety and welfare of New Jersey residents during the state of emergency. Among his orders, Governor Murphy has stayed eviction actions to recover possession from a tenant. By virtue of these emergency orders, as of the filing of this action landlords may not secure the removal of a tenant that is not paying rent that is legally due and owing. Attached hereto as **Exhibit "B"** is a true and accurate copy of Executive Order No. 106

13. Thus, no tenant is currently under a risk of loss of their dwelling space if they fail to pay the legal rent that is due and owing to the landlord or any scheduled increase of their monthly

rental that is authorized by the RCO.

14. Governor Murphy also provided specific relief to tenants who occupy subsidized housing which housing ---where the rent is established with reference to household income. In those properties the tenant must demonstrate financial need in order to reside in the subsidized housing. The Governor deferred – but did not eliminate – rent increases for these government subsidized rental properties which are applicable only to those tenants who satisfy the income limitations in order to reside in those properties.

15. Notably absent from the list of the Governor’s orders has been any freeze on rental increases for either non RCO properties or RCO properties.<sup>1</sup>

16. Tenants who reside in rent controlled properties located in Union City are protected from unexpected and unreasonable rent increases by the RCO.

17. The operation of rent controlled property by the Plaintiff’s members did not cause or contribute to the current emergency.

**UNION CITY ADOPTS RENT FREEZE ORDINANCES TARGETING ONLY  
RENT CONTROLLED LANDLORDS**

18. Despite the protection of their own RCO and Governor Murphy’s orders, Union City has recently passed the Freeze Ordinance freezing rent increases *for RCO properties only* in their cities.

19. In the Freeze Ordinance, Union City cites the current Covid-19 pandemic as the basis for them to enact the rent freeze.

20. Specifically, on April 16, 2020, Union City enacted Ordinance 2020-07 “An

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<sup>1</sup> Indeed, Governor Murphy understands that freeze impairs the private right of contract, and has stated “There are thousands, maybe hundreds of thousands, if not millions of contracts between landlords and renters . . . Putting a freeze in place is, I believe, impractical [as] a legal matter. . . We have said that you can’t be thrown out of your house or evicted. . .” See Transcript, April 11, 2020 Coronavirus Briefing, <https://www.nj.gov/governor/news/news/562020/20200411c.shtml> (last visited April 23, 2020).

Ordinance Amending Chapter 334 to Place a Moratorium on Rent Increases.” Attached hereto as **Exhibit “C”** is a true and accurate copy of the Ordinance. The Ordinance reads in pertinent part:

A moratorium shall be effectuated to prevent any rent increases as set forth in Section 334-10, and remain in effect for no longer than two (2) months following the end of the State of Emergency due to the COVID-19 pandemic. The moratorium shall commence immediately and apply for the month of March 2020.

21. The Freeze Ordinance not only freezes rents going forward<sup>2</sup>, but also applies retroactively to March 1, 2020. Accordingly, notices of rents increases timely sent to RCO tenants for increases on March 1, 2020 are also frozen.

22. Subsequent to its adoption, the Defendant has provided conflicting directions to the Plaintiff regarding the rent freeze but has specifically directed that landlords notify tenants that the tenant does not have to pay any rent increase as of March 1 even if those increases were implemented by the landlord prior to the ordinance.

23. When advised by the Plaintiff that litigation was going to be commenced regarding this Rent Freeze, the Defendants are currently considering amending the Freeze Ordinance in a manner that does not address its constitutional infirmities. While the amendment has not been adopted we have attached it hereto as **“Exhibit E”** since it demonstrates that the Defendant will not cure its constitutional defects without the court’s intervention.

**UNION CITY ADOPTS ORDINANCE DECLARING  
MORATORIUM ON EVICTIONS**

24. New Jersey’s Anti-Eviction Act, N.J.S.A. 2A:18-61.1, enumerates specific grounds for eviction, outlines the jurisdictional and procedural requirements for eviction of a residential tenant for non-payment of rent, grants landlords the statutory right to bring a summary

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<sup>2</sup> The Defendants, in their haste to pander to the tenant interests, EVEN BEFORE THE ORDINANCE WAS ADOPTED, hand delivered notices to each rent controlled tenant on March 24, 2020 indicating that scheduled rent increases would be stopped by the Ordinance. See Exhibit D attached hereto.

dispossession action to evict a tenant for non-payment of rent and specifies defenses available to tenants in a summary dispossession action.

25. The New Jersey Legislature has intended the Anti-Eviction Act to preempt local ordinances that set forth grounds for or defenses to eviction.

26. By Executive Order No. 106, Governor Murphy ordered that no lessee, tenant or homeowner shall be removed from a residential property by eviction or foreclosure during the current state of emergency. Nothing in his order bars a landlord from filing a summary dispossession action during the pandemic for unpaid rent, but during the emergency, evictions cannot occur for non-payment.

27. Despite the legislature's intent to preempt this area of law and Governor Murphy's protections to stay evictions pending the pandemic, Union City has recently passed the Eviction Freeze declaring a moratorium on evictions in Union City, which also create new and impermissible defenses available to Union City residents facing an eviction action.

28. Specifically, on April 28, 2020, Union City enacted Ordinance No. 2020-07 "An Ordinance To Prevent Evictions For Non-Payment of Rent Resulting From The Coronavirus Emergency." (the "Eviction Freeze.") Attached hereto as **Exhibit "F"** is a true and accurate copy of the Ordinance.

29. The Eviction Freeze reads in pertinent part:

**Residential Eviction Moratorium.** ... [I]t shall be an absolute defense to any such eviction action that the notice or complaint were filed or served during the State of Emergency.

#### **SECTION FIVE**

**No Residential Eviction for Nonpayment of Rent that Became Due During the State of Emergency.** In any action for eviction for non-payment of rent, it shall be a presumption and absolute defense that the unpaid rent which became due during the State of Emergency, was unpaid because of a substantial reduction in household income or substantial increase

in expenses resulting from the Coronavirus pandemic. Nothing in this subsection shall relieve the tenant of liability for the unpaid rent which the Landlord may pursue against the tenant pursuant to Section Seven of this ordinance.

### **SECTION SEVEN**

**No Relief from Liability for Rent.** Nothing in this Ordinance shall relieve any tenant, whether commercial or residential, of liability for unpaid rent that became due during the State of Emergency. The rent shall become a debt and may be collected as any other debt in the Superior Court of New Jersey, Law Division, but such unpaid rent shall not form the basis of a non-payment proceeding in which a judgment of possession and warrant of eviction may result.

30. The Eviction Freeze improperly attempts to create a defense not enumerated in the Anti-Eviction Act and conflicts with state law.

31. The Ordinance mandates that a Union City landlord cannot bring a statutory summary dispossession action against a Union City tenant who fails to pay rent because of the pandemic. Instead, a landlord may only file a Complaint in Law Division seeking to collect this unpaid debt, but not exercise its statutory right of eviction for unpaid rent.

32. The Eviction Freeze directly conflicts with state law; conflicts and modifies the landlords contracts with its tenants; impermissibly applies to dates before its enactment; deprives the Plaintiff of remedies provided under state law and is an impermissible exercise of the police power.

### **COUNT I**

#### **TEMPORARY AND PERMANENT INJUNCTIVE RELIEF RELATED TO THE FREEZE ORDINANCE**

33. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

34. Plaintiff's members have vested, enforceable contractual rights and reasonable contractual expectations to obtain rents from its tenants and to request to increase those rents pursuant to the requirements of local rent control ordinances. This relationship is a protectable contractual interest and property right held by Plaintiff and its members.



35. The Freeze Ordinance impair Plaintiff's pre-existing contractual rights with its tenants and its reasonable contractual expectancy so long as they comply with the RCO requirements.

36. The Freeze Ordinance will interfere with and eliminate these substantial contractual rights since approximately 40% of the Plaintiff's members' tenancies will come up for annual rent increase anniversaries in the next 90 days and the enactment deprives the Plaintiff of these rights.

37. The Freeze Ordinance eliminates Plaintiff's ability to collect authorized rent increases and surcharges permitted by the RCO and wrongfully impose substantial losses on Plaintiff including, but not limited to, the loss of income, loss of property value, and the inability to realize their reasonable expectations from operating the properties. This loss causes an irreparable harm and risks the potential destruction to Plaintiff's 'members' business.

38. The Freeze Ordinance is overbroad, arbitrary and capricious and irrational because it only applies to tenants who are already protected by rent control and not in need of further protection.

39. The Freeze Ordinance is specifically intended to favor the private economic interest of one class of resident---rent controlled tenant---and is not rationally related to the general public interest.

40. The Freeze Ordinance violates equal protection since the Freeze Ordinances do not apply to all rental property, just rent controlled property that are already subject to regulation and protected from unreasonable increases.

41. The Freeze Ordinance is irrational because its retroactive application impairs Plaintiffs' contractual relationship with its tenants by forcing Plaintiffs to forgo properly noticed rental increases due and owing March 1, 2020. Rent increases in March had to be noticed to the

tenant on or before January 31, 2020; and increases effective April 1 had to be noticed to the tenant on or before February 29, 2020.

42. The Freeze Ordinance has a wide confiscatory effect and operates as a regulatory taking of property without the payment of just compensation, and the regulatory taking set forth in the Freeze Ordinances cannot withstand even a lower level of scrutiny required because it bears no rational basis to a legitimate governmental interest. Rather it is a government mandated private subsidy to the benefit of another individual---not in the general public interest.

43. The Freeze Ordinance is impermissible because its retroactive application impairs Plaintiffs' vested rights and is manifestly unjust because it forces Plaintiffs to forgo properly noticed rental increases due and owing March 1, 2020.

44. Because of Union City's unconstitutional Freeze Ordinance, Plaintiff has and will continue to suffer irreparable harm as a result.

45. Plaintiff lacks an adequate remedy at law and can never recover any rentals that the Freeze Ordinance prevents them from charging and collecting.<sup>3</sup>

**COUNT II**

**TEMPORARY AND PERMANENT INJUNCTIVE RELIEF RELATED TO THE EVICTION FREEZE**

46. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

47. Pursuant to the Anti-Eviction Act, N.J.S.A. 2A:18-61.1, Plaintiff's members have an enforceable statutory right to seek eviction of a tenant who fails to pay rent timely and to do so by the process of a summary dispossession action.

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<sup>3</sup> It bears noting that the Plaintiff members are all engaging directly with their tenants to address the economic consequences of the pandemic. Since no evictions for nonpayment of rent can occur, and the tenant is already protected from unreasonable rent increases, they should be permitted to do so without interference from the government. This action is specifically directed to the excessive government interference with the relationship between the landlord and tenant.

48. The Eviction Freeze conflicts with provisions of state law, impairs rights and remedies provided under state law and creates a new defense for Union City tenants not available in the Anti-Eviction Act.

49. The New Jersey Legislature has intended the Anti-Eviction Act to preempt local ordinances that set forth grounds for or defenses to eviction and the enactment is thus an improper exercise of the police power.

50. Because of the Union City's efforts to override state law, Plaintiff has and will continue to suffer irreparable harm as a result.

51. Plaintiff lacks an adequate remedy at law.

### **COUNT III**

#### **SUBSTANTIVE DUE PROCESS**

52. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

53. By adoption of the Freeze Ordinance, Union City has acted in an arbitrary, capricious and unreasonable manner in violation of the United States and New Jersey Constitutions

54. Although Union City is authorized to pass rent control ordinances pursuant to the general grant of police power under N.J.S.A. 40:48-2 to act in the public interest, this grant of legislative authority must not be exercised in a manner that is arbitrary, capricious or irrational.

55. Pursuant to the Union City RCO, tenants subject to rent control are protected by law against unscheduled and unreasonable rent increases.

56. The Freeze Ordinance imposes a freeze on otherwise rent controlled compliant rent increases for tenants subject to rent control and interferes with or eliminates Plaintiff's right to increase these rents pursuant to the requirements of local rent control ordinance.

57. There is no legitimate governmental interest or general public interest that warrants

providing a freeze to tenants subject to rent control and interfering with and eliminating Plaintiff's right to increase these rents pursuant to the requirements of local rent control ordinances.

58. The enactment and enforcement of Freeze Ordinance is arbitrary and capricious and unconstitutional.

59. Plaintiff and its members have wrongfully sustained and continue to sustain substantial losses including loss of rental income, loss of property value and the inability to maximize the value of the subject property, which is subject to the Freeze Ordinance all in violation of the rights guaranteed under law.

60. As a result of these action, Plaintiffs and its members have and will continue to be irreparably harmed and have suffered damage.

#### **COUNT IV**

#### **EQUAL PROTECTION**

61. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

62. By adoption of the Freeze Ordinance, Union City has violated the equal protection rights established in the United States and New Jersey Constitutions.

63. All landlords and tenants located in the Union City are equally impacted by the current pandemic and its economic consequences and are thus similarly situated within Union City.

64. Rent controlled tenants have legislative and actual protection against frequent and unreasonable rent increases since they are protected by Union City's RCO.

65. The Freeze Ordinance only applies to rent controlled dwelling spaces owned by the Plaintiff members.

66. The Freeze Ordinance does not apply to properties that are not controlled, whose owners may continue to seek rent increases and associated revenue during the Covid-19 pandemic.

67. The Freeze Ordinance arbitrarily discriminates between persons similarly situated, and lay the burden of a rent freeze solely on Plaintiff and its members. Specifically, the Freeze Ordinance impermissibly favors a class of landlords---non rent controlled landlords---over the rent controlled landlord without any rational basis only imposes the burdens of the Rent Freeze upon the rent controlled landlord. Both classes of landlords rent property to tenants and are all equally impacted by the current conditions brought on by the pandemic and there is no rational basis to justify this classification and the burdens imposed upon one, and the benefits provided to the other.

68. By passing and promulgating the Freeze Ordinance, Union City has violated Plaintiff's and its members equal protection rights under the Fifth and Fourteenth Amendments of the United States Constitution and the Constitution of the State of New Jersey.

69. As a result of these actions, Plaintiff and its members have been irreparably harmed and have suffered damage.

### **COUNT V**

#### **IMPAIRMENT OF CONTRACT**

70. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

71. By adoption of the Freeze Ordinance, Union City has impaired Plaintiff's and its members vested contractual rights in violation of the United States and New Jersey Constitutions.

72. Article I, Section 10 of the United States Constitution provides that "No state ... shall ... pass any ... law impairing the obligation of contracts...."

73. Pursuant to Article IV, Section VII, Paragraph 3 of the Constitution of the State of New Jersey, Union City is prohibited from passing any law that "impair(s) the obligation of contracts, or deprive(s) any remedy for enforcing a contract that existed when the law was made."

74. Plaintiff has a contractual entitlement and expectancy to payment of reasonable

rents from its tenants.

75. Due to the constraints imposed by the Freeze Ordinance, Plaintiff and its members is not permitted to notify or receive scheduled rent increases pursuant to their contracts and the local rent control law. Plaintiffs will never be permitted to collect any increase that is otherwise permitted due to this government action.

76. The Freeze Ordinance impairs Plaintiff's contractual right to the receive benefit of its contract with tenants and violates Article I of the United States Constitution and Article IV of the New Jersey Constitution.

77. As a result of these actions, Plaintiff and its members have been irreparably harmed and have suffered damage.

## **COUNT VI**

### **TAKING WITHOUT JUST COMPENSATION**

78. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

79. By adoption of the Freeze Ordinance, Plaintiff and its members have been deprived of their vested contractual and property rights without due process of law or adequate compensation in violation of the United States and New Jersey Constitutions.

80. Union City's action is a taking of property (contract rights, reasonable expectations) through an impermissible regulation (Freeze Ordinance) without compensation, and Union City must demonstrate that the enactment serves a legitimate state interest in order to be sustained.

81. Plaintiff's contractual right to obtain rents from its tenants and to serve notice of permissible rent increases pursuant to the requirements of local rent control ordinances is a contractual and property right held by Plaintiff and its members.

82. The Freeze Ordinance revokes this right without providing compensation to Plaintiff. The Freeze Ordinance includes no mechanism to compensate the Plaintiff's rent increase

revenue lost during its applicability.

83. The Freeze Ordinance substantially and improperly impairs the value of the rental properties and interferes with Plaintiff's investment-backed and contractual expectations without providing just compensation. Plaintiff and its members, through adoption of the Freeze Ordinance, have been substantially deprived of the beneficial use of their property without just compensation.

As a result of these action, Plaintiff and its members have been irreparably harmed and have suffered damage.

#### **COUNT IV**

#### **RETROACTIVE APPLICATION**

84. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

85. The Freeze Ordinance was specifically intended to apply retroactively to rents due and owing on March 1, 2020.

86. Pursuant to the RCO, Plaintiffs' members properly notified RCO tenants by January 31, 2020 of appropriate rent increases effective March 1, 2020.

87. The retroactive application of the Freeze Ordinance unconstitutionally interferes with Plaintiffs' vested right to RCO rent increases due and owing on March 1, 2020 from their RCO tenants and is manifestly unjust.

88. There is no legitimate governmental interest that warrants retroactively depriving Plaintiff of properly noticed RCO rents due and owing on March 1, 2020.

89. As a result of these Freeze Ordinance's unconstitutional retroactive application, Plaintiff and its members have been irreparably harmed and have suffered damage.

90. As a direct and proximate result of the Freeze Ordinance's impermissible retroactive effect it is null and void.

**COUNT VII**

**PREEMPTION**

91. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

92. The Eviction Freeze makes the failure to pay rent during the Covid-19 pandemic by Union City tenants an absolute defense to a summary dispossession action and deprives Plaintiffs of its statutory right to evict a tenant for non-payment of rent under the Anti-Eviction Act, N.J.S.A. 2A:18-61.1.

93. The Eviction Freeze conflicts with the policies and operational effect of the Anti-Eviction Act because it creates a presumptive defense not enumerated in the Anti-Eviction Act.

94. The Anti-Eviction Act is expressly and impliedly intended to be exclusive in the field, and there is a need for uniformity with regard to the basis for and the defenses to a summary dispossession action.

95. The Anti-Eviction Act is so comprehensive and pervasive that it precludes the co-existence of the Eviction Freeze.

96. The Eviction Freeze stands as an obstacle to the accomplishment and the execution of the full purpose of the Anti-Eviction Act<sup>4</sup>.

97. The Eviction Freeze violates the Anti-Eviction Act and deprives Plaintiff of its statutory right to file a summary dispossession action under the Anti-Eviction for non-payment of rights caused Plaintiff immediate and irreparable harm and damages.

98. As a direct and proximate result of these defects in the Eviction Freeze, it is preempted by the Anti-Eviction Act and must be declared null and void.

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<sup>4</sup> **Exhibit G** annexed hereto summarizes the conflicts between state law and the Ordinance.



**COUNT VII**

**VIOLATION OF NEW JERSEY CIVIL RIGHTS ACT**

99. Plaintiff repeats and realleges the previous allegations as if fully set forth herein.

100. By adoption of the Freeze Ordinance and the Eviction Freeze, Union City has violated the New Jersey Civil Rights Act. N.J.S.A. 10:6-1, et seq. and the Plaintiffs substantive rights under law.

101. Plaintiff has been forced to institute this action to protect and enforce its substantive due process, equal protection, contractual and property rights granted to them under the constitutions of the State of New Jersey and the United States.

102. The New Jersey Civil Rights Act provides that :

- e. Any person who deprives, interferes or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any other person of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State is liable for a civil penalty for each violation. The court or jury, as the case may be, shall determine the appropriate amount of the penalty. Any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund.
- f. In addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to subsection c. of this section, the court may award the prevailing party reasonable attorney's fees and costs.

103. By adopting the Freeze Ordinance and the Eviction Freeze, Union City knew that acting in such a manner would prevent Plaintiff and its members from exercising its substantive rights and violated those substantive rights

104. Union City was acting under color of law, and is liable to Plaintiff and its members for a violation of the New Jersey Civil Rights Act.

105. As a result of Union City's actions, Plaintiff has been and will continue to be damaged.

**WHEREFORE**, Plaintiff and its members demand judgment against Defendants, jointly and severally, for following relief:

A. *As to the Freeze Ordinance:*

1. Temporarily and preliminarily enjoining Union City from further implementation and enforcement of the Freeze Ordinance;

2. Entering a *status quo* injunction that pending a final determination by the Court, Plaintiff and its members be permitted to provide required notices to tenants and to obtain rent increases permitted by local rent control ordinances and that in the event any increased rents are collected they will be segregated from the total rent paid and be held in an interest bearing account pending adjudication of this matter;

3. Entering a *status quo* injunction that pending a final determination by the Court, Union City is restrained and enjoined from retroactively applying the Freeze Ordinance to properly noticed rent increases due and owing March 1, 2020 and allowing Plaintiff and its members to collect these rent increases;

4. Declaring that the Freeze Ordinance is not supported by a rational basis, violates equal protection and is unconstitutional;

5. Declaring that Freeze Ordinance is void and that the Union City's actions are arbitrary, capricious and unreasonable and therefore unconstitutional;

6. Declaring that the Freeze Ordinance is an unconstitutional impairment of Plaintiff's and its members' right of contract;

7. Declaring that the Freeze Ordinance is an unconstitutional taking without just compensation;

8. Declaring that the Freeze Ordinance is impermissibly retroactive and;

9. Declaring the Freeze Ordinance void and of no purpose and effect;

10. Awarding compensatory damages pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.

11. Awarding all reasonable attorneys' fees and costs in accordance with the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.; and

*B. As to the Eviction Freeze:*

1. Temporarily and preliminarily enjoining Union City from further implementation and enforcement of the Eviction Freeze;

2. Declaring the Eviction Freeze to be preempted by New Jersey's Anti-Eviction Act, N.J.S.A. 2A:18-61.1, void and of no purpose and effect.

3. Awarding compensatory damages pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.

4. Awarding all reasonable attorneys' fees and costs in accordance with the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.; and

5. Such other relief as the Court deems just and equitable.

**BRACH EICHLER LLC**  
Attorneys for Plaintiff

By: s/Charles X. Gormally, Esq.  
Charles X. Gormally, Esq.

Dated: May 11, 2020

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Plaintiff designates Charles X. Gormally, Esq. as trial counsel.

**BRACH EICHLER LLC**  
Attorneys for Plaintiff

By: s/Charles X. Gormally, Esq.  
Charles X. Gormally, Esq.

Dated: May 11, 2020

**CERTIFICATION PURSUANT TO R. 4:5-1**

I certify that, pursuant to R. 4:5-1: (1) the within matter in controversy is not the subject of any other action pending in any other court or arbitration; (2) no other action or arbitration proceeding is contemplated; and (3) no other necessary party to be joined in the subject litigation is presently known.

I certify that the foregoing statements made by me are true. I understand that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**BRACH EICHLER LLC**  
Attorneys for Plaintiff

By: s/Charles X. Gormally, Esq.  
Charles X. Gormally, Esq.

Dated: May 11, 2020

**CERTIFICATION PURSUANT TO R. 4:5-1(3)**

In addition, I certify that confidential personal identifiers have been redacted from the documents now submitted to the Court and will be redacted from all documents submitted in the

future in accordance with R. 1:38-7(b).

**BRACH EICHLER LLC**  
Attorneys for Plaintiff

By: s/Charles X. Gormally, Esq.  
Charles X. Gormally, Esq.

Dated: May 11, 2020

**CERTIFICATION PURSUANT TO 4:69-4**

Pursuant to R. 4:69-4, I hereby certify that all necessary transcripts of the local agency proceeding will be ordered as necessary.

I certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment

**BRACH EICHLER LLC**  
Attorneys for Plaintiff

By: s/Charles X. Gormally, Esq.  
Charles X. Gormally, Esq.

Dated: May 11, 2020

**VERIFICATION OF COMPLAINT**

The undersigned, a Director of Union City Property Housing Initiative, has read the allegations contained in the Verified Complaint and certify that those allegations are true.

I certify that each of the foregoing statements made by me are true. We understand that if any of the statements made are willfully false, I am subject to punishment.

Dated: May 10, 2020



Ronald Simoncini

Director Union City Housing Initiative

**EXHIBIT A**

## Chapter 334

### RENT STABILIZATION

#### GENERAL REFERENCES

Fees — See Ch. 155.

Rental property — See Ch. 329.

Relocation assistance — See Ch. 323.

Income from pay phones — See Ch. 391, Art. II, § 391-11.

#### § 334-1. Findings.

- A. The character of the City of Union City has changed over the years; the governing body has revised and amended the Rent Leveling Ordinance to reflect those changes;
- B. The original Rent Control Ordinance was enacted in response to a housing emergency crisis which existed in the early 1970s;
- C. Hudson County has lost \$1,000,000,000 in tax ratables since 1992 as a result of successful residential and commercial tax appeals. Since 1994, Union City has lost \$40,000,000 as a result of successful residential and commercial tax appeals;
- D. Housing conditions in the City have changed since the enactment of the original Rent Control Ordinance; and
- E. In light of the current economic conditions in the existing housing market in the City, it is no longer in the public interest to maintain rent control on all types of residential units.

#### § 334-2. Applicability; exceptions.

- A. Applicability. The terms of this chapter apply to individual dwelling units within a building, including condominium or cooperative units in the process of being converted, or having been converted, rather than to an individual tenant occupying a dwelling unit. An agreement for occupancy of the dwelling unit shall not circumvent the application of this chapter by titling the agreement as other than a lease, such as, but not limited to a “use and occupancy agreement.” **[Amended 1-5-2016]**
- B. Exceptions. This chapter shall not apply to:
  - (1) Units in one-, two- and three-family buildings.
  - (2) Units in four-, five- and six-family buildings that are owner-occupied. Owners of four-, five- and six-family buildings, as part of their registration, must file an affidavit, stating that they reside in the building and comply with the regulations established by the Rent Stabilization Board, which regulations shall set forth criteria



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to establish proof of residency. The affidavit shall be in a form provided by the office of the Rent Board Administrator. The burden remains on the owner to demonstrate residency. **[Amended 3-1-2016]**

- (3) Motels, hotels and similar type building and buildings intended for transient use, floor space used strictly for commercial purposes in any type building, including state-licensed rooming houses. Dwelling units rented for the first time after the adoption of this chapter are exempt, and the initial rent may be determined by the landlord, but all subsequent rents shall be subject to the provisions of this chapter.
- (4) New construction, consistent with state law, shall be exempt from this chapter.
- C. Existing tenants; establishment of basic rent. Existing tenants will continue to be protected by rent control while they remain in their units. For these tenants, a landlord must still comply with the requirements of this chapter. All rents established by landlords and tenants on March 1, 1973, and any subsequent increase shall represent the base rent from which permitted increases are calculated.
- D. Tenure of rent stabilization. This chapter shall remain in effect until the Board of Commissioners determines, by ordinance, that rent control is no longer necessary in the City of Union City and that it is in the public interest to permit the unrestrained operation of the competitive rental market.

### § 334-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**AVAILABLE FOR RENT TO TENANTS** — A dwelling unit is fit for habitation as defined by the statutes, codes and ordinances in full force and effect in the City, and is occupied, or unoccupied and being offered for rent.

**BOARD** — The Rent Stabilization Board.

**CODE COMPLIANCE** — That the housing space and dwelling are free from all heat, hot water, elevator and all health, safety and fire code violations as well as free of all other violations of the chapter, the Property Maintenance Code and other applicable federal, state, county or local laws or regulations.

**CONVERTER** — The owner, or representative of the owner, of property containing dwelling units covered by this chapter, who proposes to or takes any action for the purpose of effecting a conversion of such property or dwelling units, from some other form of ownership into a cooperative or condominium form of ownership.

**COOPERATIVE and COOPERATIVE CORPORATION** — A cooperative housing association or corporation which entitles the holder of a

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membership interest therein to possess and occupy a unit of dwelling space owned and leased by such association or corporation.

DIVISION — The Division of Housing and Urban Renewal of the New Jersey State Department of Community Affairs.

DWELLING — Any building or structure, including land, cooperative apartments and condominium apartments, or trailer, or land used as a trailer park, rented or offered for rent to one or more tenants or family units. Furnished rooms are subject to the terms of this chapter notwithstanding the fact that furniture is provided by the landlord and/or rent is paid on a weekly or biweekly basis.

DWELLING UNIT — Any unit used for residential purposes, including both rental, cooperatively owned and condominium units.

EQUALIZED ASSESSED VALUATION — The value of the residential portion of real property, calculated by dividing the assessed value of the property for municipal tax purposes, by the equalization ratio published by the Director of the Division of Taxation of the State of New Jersey, and multiplying the result by the fraction of the square footage of the floor area of the building and the area of the adjacent lot used for residential purposes, including corridors, storage space, stairwells and other such uses required in residential space, over the total square footage of the floor area of the building and the area of the adjacent lot, with areas used in common being allocated according to the same proportion.

GROUPS or ASSOCIATIONS — Combinations of building units or tenants which shall be recognized and permitted to proceed jointly if the Board finds a sufficient common basis of interest, facts or related connection; but such representation shall be established by appropriate landlord, tenants or others with such direct interest in the premises. Persons without such direct interests shall not represent a landlord, tenants or others, nor shall the unauthorized practice of law or other profession be authorized or permitted.

HOUSING SPACE —

- A. That portion of a dwelling rented or offered for rent for living and dwelling purposes to one individual or family unit, together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.
- B. Includes a garage, carport or parking space, which garage, carport or parking space is included in the agreement for the rental of housing space.

JUST CAUSE FOR EVICTION — That the landlord recovered possession of a housing space or dwelling for one of the reasons outlined in N.J.S.A. 2A:18-61.1, as amended. Removal of a tenant due to a change in ownership is not permissible unless said removal is done in accordance with N.J.S.A. 2A:18-61.1.

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**LANDLORD** — As used in this chapter, the person who owns or purports to own any building, structure or complex of buildings or structures in which there is rented or offered for rent housing space for living or dwelling purposes under either a written or an oral lease, provided that this definition shall not include owner-occupied two- and three-family dwelling premises.

**LIVING AREA** — The amount of total rentable space applicable to any given housing space, measured either in terms of rooms or square footage.

**MAINTENANCE COSTS** — Maintenance costs include real estate taxes, utility expenses, expenses for repairs, upkeep and maintenance respecting a dwelling unit, but shall not include principal or interest payments on any blanket encumbrance or other mortgage or encumbrance.

**MAJOR CAPITAL IMPROVEMENT** — A permanent improvement that is reasonably expected to last more than three years. The improvement must benefit the dwelling and must be subject to an allowance for depreciation under federal income tax provisions, but the Rent Stabilization Board, taking all factors into consideration, will make the ultimate determination.

**MONTHLY MAINTENANCE CHARGE** — The annual maintenance costs divided by 12.

**PERIODIC TENANT** — All tenants, including monthly tenants, who do not have a written lease.

**RENT INCREASE, DECREASE OR ADJUSTMENT** — The notice forwarded by the landlord to the tenant, or by the tenant to the landlord, by letter or in any other form, setting forth the proposed amount of rent increase, rent decrease or other rent adjustment. Each such notice shall state in detail the reasons justifying or requiring the rent increase, rent decrease or other rent adjustment.

**RENTAL STATEMENT** — The statement which the landlord shall be required to sign and deliver to the tenant, when requested by the tenant, and vice versa, describing the housing space rented, the related services and equipment involved, whether such include the use of the basement, garage, clotheslines, washing utilities, heat, hot water, garbage removal, repairs, maintenance and the like, and the base rent and charge as of March 1, 1973, or other applicable date.

**RESALE** — Resale of a dwelling unit means any sale subsequent to the original sale thereof.

**SECRETARY** — The Rent Stabilization Board Secretary.

**SERVICES** — The provision of light, heat, hot water, maintenance, painting, elevator service, air conditioning, storm windows, screens, superintendent service and any other benefit, privilege or facility connected with the use or occupancy of any dwelling or housing space.

**UNINHABITABLE BUILDING** — A structure which is completely vacant and unfit for human habitation as defined by the statutes, codes and ordinances

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in full force and effect in the State of New Jersey, County of Hudson and City of Union City.

**§ 334-4. Rent Stabilization Board.**

- A. Established. The Rent Stabilization Board, consisting of five members as hereinafter established, is hereby continued in existence and maintained as the Rent Stabilization Board of Union City.
- B. Composition; terms.
- (1) The Board shall consist of five members who shall be appointed by the Board of Commissioners by resolution adopted by a majority vote of the Commissioners. For reasons of continuity and in the best interests of the public the terms of the first members appointed pursuant to this subsection shall be staggered terms of one- , two- , three- , four- , and five-year term appointments.
  - (2) Thereafter the term of office of the members of the Board shall be for five years each. Each member shall serve without compensation, but each shall receive such expenses and per diem allowances as the Board of Commissioners, from time to time, may deem appropriate.
- C. Alternate members. In addition to the five members of the Rent Stabilization Board, the Board of Commissioners, as it deems necessary, may appoint two alternate members to the Rent Stabilization Board, by resolution adopted by a majority vote of the Commissioners. The term of an alternate member shall be for one year. If any vacancy should occur among the regular members, then the Board of Commissioners may appoint either of the alternate members to fill the unexpired term. An alternate member shall be entitled to sit with, and participate as a member, in any meeting of or hearing before the Board. An alternate member who has attended the full hearing or hearings on a specific matter may participate in, and may vote upon, any determination made during the absence or disqualification of any regular member.
- D. Disqualification of member. No member or alternate member of the Rent Stabilization Board shall be permitted to act on any matter in which that individual has, either directly or indirectly, any personal or financial interest.
- E. Powers of Board. The Rent Stabilization Board is hereby granted and shall have and exercise all the powers necessary and appropriate to carry out and execute the purposes of this chapter, including, but not limited to, the following:
- (1) To issue and promulgate such rules and regulations as it deems necessary to implement the purpose of this chapter, including, but not limited to, the use of subpoenas, which rules and regulations shall have the force of law until revised, repealed or amended, in its description, providing that such rules are filed with the City Clerk.

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- (2) To supply information and assistance to landlords and tenants to help them comply with the provisions of this chapter.
  - (3) To hold hearings and adjudicate applications from landlords for adjustments or additional rental, as herein provided.
  - (4) To hold hearings and adjudicate applications from tenants for adjustment or reduced rental, as herein provided.
  - (5) To approve and accept a settlement or other agreement on the subject matter of a dispute between a landlord and tenant.
  - (6) To require a landlord to produce for examination his/her books, records, tax returns, balance sheets, profit and loss statements and such other records as the Board may require in connection with any application, hearing, proceeding or purpose, as set forth herein.
  - (7) The Rent Stabilization Board, upon an application by a landlord or tenant or upon its own motion, may set a date for a hearing, consider proofs and grant, deny, modify or otherwise adjust all rentals, by increasing or decreasing same, and the Board may make such determinations as to conditions, services, equipment, terms and related matters pertaining to rentals and controlled premises as may be warranted within the intent and purview of this chapter and applicable state laws.
- F. Quorums. A quorum for hearing shall consist of three members or alternate members, and a majority shall be authorized to issue orders relating to the powers and functions of the Board.

**§ 334-5. Board staff.**

## A. Rent Regulation Officer; duties.

- (1) Position created. There is hereby created the position of Rent Regulation Officer in the Department of Revenue and Finance.
- (2) Qualifications. The Rent Regulation Officer shall be appointed by and under the direction of the Director of the Department of Revenue and Finance.
- (3) Duties. The duties of the Rent Regulation Officer shall be as follows:
  - (a) To obtain, keep and maintain all relevant records and other data and information.
  - (b) To supply information and assistance to landlords and tenants and to bring together tenants and landlords in formal conferences and suggest resolutions of conflicts between them in order to assist them in complying with the provisions of this chapter.

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- (c) To notify landlords that there is no record of compliance by the landlord with the provisions of this chapter.
  - (d) To remedy violations of this chapter by ordering rebates and increases and bring appropriate legal charges as provided by this chapter.
  - (e) To accept and process complaints from tenants of illegal rental increases and to investigate such complaints prior to any decision being rendered.
  - (f) To accept, process, review and investigate applications from landlords for rental increases or surcharges under the hardship increase or capital improvement recovery sections of this chapter.
  - (g) To coordinate and supervise all staff associated with the operation of this chapter.
  - (h) To attend all meetings of the Rent Stabilization Board.
  - (i) To perform such other duties as the Rent Stabilization Board may specifically direct and as allowed by this chapter.
  - (j) To process all complaints regarding the withholding of certain residential units from the rental housing market with the City and forward them to the Construction Code Official or his/her duly appointed designee, whose responsibility shall be to conduct an investigation in accordance with law. Upon completion of such investigation, a report shall be issued to the Rent Regulation Officer, who shall be authorized to issue a complaint in accordance with the above section.
  - (k) With respect to any application that the Rent Regulation Officer receives from a tenant for a legal rent calculation complaint pursuant to §§ 334-4 and 334-5 above, a tenant shall in no case be entitled to a rent rebate for an illegally collected rent which accrues between the date of the filing of the legal rent complaint and the date of the final determination, which shall not be computed as part of the three-year rebate limitation.
- (4) Compensation. The Rent Regulation Officer shall receive such compensation as established by the Board of Commissioners.
- (5) Term. The term of the Rent Regulation Officer shall be one year and thereafter until a successor is chosen and qualifies.
- (6) Determination. Any determination of the Rent Regulation Officer under this section or such duties as may be delegated to him/her by the Rent Stabilization Board, by regulation, will be rendered by the officer, in writing.

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## (7) Appeal.

(a) In the event an affected party wishes to appeal that determination, that party shall have 30 calendar days from the date of that decision to file a formal appeal of the determination with a fee as set forth in Chapter 155, Fees, of the Code of the City of Union City for each unit which is the subject of the appeal. The notice of appeal shall be forwarded to the Rent Leveling Office by ordinary and certified mail within that thirty-day period.

(b) Upon receipt of the notice of appeal setting forth in detail the grounds for the appeal and the required fee, the matter shall be placed upon the Rent Stabilization Board agenda at the earliest convenient date for determination. During the pendency of the appeal, the rent for the subject unit shall be the rent as established by the Rent Regulation Officer.

## B. Assistant Rent Regulation Officer.

(1) Position created. There is hereby created the position of Assistant Rent Regulation Officer in the Department of Revenue and Finance.

(2) Qualifications. The Assistant Rent Regulation Officer shall be appointed by and under the direction of the Director of the Department of Revenue and Finance.

(3) Duties. The duties of the Assistant Rent Regulation Officer shall be to assist the Rent Regulation Officer in any and all matters which may be required of him/her or delegated to him/her by the Rent Regulation Officer, including those duties performed by the Rent Regulation Officer.

## C. Bilingual Principal Account Clerk/Typist, English and Spanish.

(1) Position created. There is hereby created the office or position of Bilingual Principal Account Clerk/Typist, English and Spanish, in the Department of Revenue and Finance.

(2) Appointment and salary. The appointment of the Bilingual Principal Account Clerk/Typist, English and Spanish, shall be made by the Director of the Department of Revenue and Finance. The person so appointed shall be under the direction of the Director of the Department of Revenue and Finance. The salary for this position shall be as set forth by ordinance.

(3) Qualifications. The qualifications of the Bilingual Principal Account Clerk/Typist, English and Spanish, shall be as follows:

(a) Have the ability to communicate in both English and Spanish and be able to type reasonably well.

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- (b) Have been a resident of the City for at least one year prior to the date of appointment.
- (4) Duties. The duties of the Bilingual Principal Account Clerk/Typist, English and Spanish, shall be:
  - (a) To receive and categorize rent inquiries from tenants and landlords.
  - (b) To prepare an agenda for Rent Stabilization Board meetings.
  - (c) To schedule Rent Stabilization Board meetings and forward notification of the dates and times of the meetings to the appointed members of the Board and the Board's attorney.
  - (d) To prepare and distribute legally required notification of the meetings, such as newspaper advertisements, and the posting on designated buildings involved in rent matters to be reviewed by the Board.
  - (e) To calculate the proposed rent increases or reductions approved by the Board.
  - (f) To maintain files on all registered buildings covered under the present Rent Stabilization Ordinance.
  - (g) To assist tenants and landlords on the method and categories for which rent increases or reductions may be applied for and coordinate such request with the Rent Stabilization Board attorney.
  - (h) To interpret the provisions of the present Rent Stabilization Ordinance with the aid and assistance of the Rent Stabilization Board attorney.

**§ 334-6. Professional services.**

- A. Retention of professional services. In the event the Rent Stabilization Board determines that a landlord or tenant's application for relief contains calculations of a complex nature, then the Board, in the interest of fairness and efficiency, may determine that the services of professional experts are required to assist the Board in evaluating and processing the application.
- B. Estimate of fee. Should the Board determine that professional assistance is required, then the Board shall forthwith send a copy of the application and supporting documents to any professional expert retained to assist the Board in evaluating and processing the application. Within five days of receipt thereof, the professional expert shall submit to the Board and to the applicant an estimate of funds necessary to undertake the professional services to be rendered.



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- C. Escrow funds. The applicant shall forthwith deposit such funds in an escrow account maintained by the City. The professional expert shall submit vouchers for all reasonable and necessary fees for the professional services rendered, which fees shall be paid from the escrow account in the manner prescribed by N.J.S.A. 40A:5-16 through 40A:5-18 and the ordinances of the City of Union City. The professional expert, at the time of submission of any such voucher, shall forward a copy of same to the applicant.
- D. Appeal of fee. In the event that the applicant questions the reasonableness of any such voucher, the applicant may make written protest of such voucher to the Board. In no event shall the Board authorize the payment of any voucher submitted pursuant to this section sooner than 10 days after its submission. Any of the aforesaid moneys which are left in the escrow account upon completion of the application shall be returned to the applicant after the Board reaches its decision. Should additional funds be required after the original funds are exhausted, such funds as shall be necessary in the judgment of the Board shall be paid by the applicant to the City and placed in the escrow account.
- E. Action upon application. The Board shall take no formal action on any application unless and until all escrow funds have been deposited with the City, and any time limitations set forth in this chapter shall be extended until all such escrow funds are deposited with the City.

**§ 334-7. Hearings.**

- A. Opportunity to be heard. All interested persons shall be given the opportunity to be heard, with or without counsel, except that the Board, in its discretion, may limit repetitious testimony or ask that a spokesperson for the tenants be appointed.
- B. The Rent Regulation Officer shall advise the appealing party of the date of the initial hearing on an appeal of his or her determination. The appealing party shall serve notice of the hearing date to the nonappealing party by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing.
- C. Oral decision by Board. In the event the Board renders its decision orally, immediately following the hearing the landlord shall notify the tenants of the Board's decision if that decision affects the rent or term of any tenancy. The notice shall be by regular and certified mail, return receipt requested. Within 30 days thereof, the landlord shall provide the Board with a copy of any notice served upon any tenant. The Rent Stabilization Board shall not be required to render its decision in writing unless requested to by the landlord within 30 days of the hearing.
- D. Reserved decision. In the event the Board reserves decision, the Board shall render a written decision within 45 days of the hearing unless the

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Board, in its discretion, determines that an additional hearing is necessary.

- E. Additional hearings. If an additional hearing is necessary, the Board shall so notify the landlord within 20 days of the initial hearing. A copy of the notice of hearing shall be posted conspicuously in the lobby of the building. The landlord shall serve notice of the hearing date to the tenant, by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing.

**§ 334-8. Appeals.**

Either the landlord or a tenant may appeal the decision of the Rent Stabilization Board. All decisions of the Board are final. Any landlord or tenant wishing to appeal the decisions of the Board may do so in the Superior Court of New Jersey pursuant to its rules and procedures.

**§ 334-9. Tenants' Advocacy Attorney.**

- A. Established; appointment.

- (1) There is hereby established within the Department of Public Affairs the Office of Tenants' Advocacy Attorney. The Tenants' Advocacy Attorney shall be appointed by the governing body for the term of one year or until a successor is appointed and qualified.
- (2) The Attorney shall be a duly licensed attorney at law and shall be compensated by the Mayor and Board of Commissioners.

- B. Duties. The Tenants' Advocacy Attorney, among other duties, shall:

- (1) Provide and distribute information to tenants regarding federal, state and municipal laws affecting the rights and duties of landlords and tenants.
- (2) Distribute information specifically dealing with tenants' legal rights.
- (3) Write and publish information, pamphlets, leaflets or booklets providing information on tenant/landlord rights and duties.
- (4) Operate a hotline to provide advice to tenants.
- (5) Promote, sponsor and organize tenants rights workshops to disseminate information between tenants and tenant groups in organizing to protect tenants' rights.
- (6) Receive and forward to appropriate agencies of the City complaints from tenants relating to the administrative action or inaction of any department.
- (7) Give free advice and assistance to apartment dwellers in their dealings with the City Rent Stabilization Board and/or before any

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court or administrative tribunal as may be assigned by the appropriate official of the City.

**§ 334-10. Permitted increases.**

- A. Rent control established. All units, unless otherwise specifically exempted, shall be subject to the provisions of this chapter. Any and all increases not in accordance with the provisions of this chapter shall be refunded or credited to the tenant.
- B. Annual increases for covered units.
- (1) The maximum permissible annual rent increase is 3.5%.
  - (2) Exception for qualified senior tenants. The maximum annual permissible rent increase for a senior tenant who satisfies each of the following requirements is 2%:
    - (a) Sixty-five years of age or older; and
    - (b) Eligible to receive benefits under the Pharmaceutical Assistance to the Aged and Disabled (PAAD);<sup>1</sup> and
    - (c) Whose annual income combined with the annual income of all other occupants of the unit does not exceed the combined annual income of an applicant and spouse to be eligible for PAAD except for a caregiver employed to provide care or services to the senior tenant.
  - (3) A landlord may apply for a hardship increase under Subsection C of this section in the event that the maximum annual rent increase for covered units does not allow the landlord a reasonable return on his investment.
- C. Hardship increase. This subsection applies where the annual operating expenses for any one building exceed at least 75% of the total annual gross income. Operating expenses shall include all reasonable expenses necessary to carry out the proper operation and maintenance of the property, including property taxes allocated to the year. Operating expenses shall exclude mortgage amortization, mortgage interest, interest or costs of financing, attorney's, expert's or engineer's fees related to the filing of hardship or capital improvement applications, depreciation or expenditures for capital improvements. In reviewing operating expenses, the Board shall consider normal and recurring expenses and may make adjustments for extraordinarily high or low operating expenses in any given year. Annual gross income shall include all income realized in connection with the operation of the premises including rentals from all residential and commercial units, as well as fees collected for parking, rental from machines, concessions

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1. Note: Chapter 83, Pharmaceutical Assistance to the Aged, New Jersey Administrative Code 8:83-1.1 et seq.

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and garages or other services. As to cooperatives and condominiums, the rent charges shall be at least equivalent to the maintenance costs charged by the association. This figure becomes the new base rent and may be increased by 10% after the first year.

- (1) In considering a hardship application, the Board shall give due consideration to any and all relevant factors, including, but not limited to the following:
  - (a) The level and quality of service rendered by the landlord in maintaining and operating the building.
  - (b) The presence or absence of reasonable, efficient and economic management. Total management fees may not exceed 6%.
- (2) An applicant for hardship relief shall submit to the Board 10 copies of the following:
  - (a) A statement for three prior twelve-month periods of gross rentals and actual expenses incurred for that time in connection with the operation of the building to be adjusted to reflect the actual period of time the applicant has owned the building if owned for less than three years.
  - (b) A list of all present owners of the property.
- (3) A landlord shall not be entitled to apply for a hardship increase until (s)he has owned the property for at least 18 months.
- (4) The Board's decision shall become effective after full 30 days' statutory notice to tenants.
- (5) The Board shall promulgate rules, regulations and necessary forms to be utilized, notice to tenants of hardship applications and notice to tenants and landlords regarding hearings and general procedure. Those rules and regulations shall have the force of the law and shall be filed with the City Clerk.
- (6) With the filing of a hardship increase application, the landlord shall simultaneously deliver notice thereof to each affected tenant. At a minimum, a landlord seeking a hardship increase shall notify tenants, in writing, by regular and certified mail, return receipt requested, and provide tenants with a summary of the application and state the increase sought. Any tenant who receives such notice shall have 30 days to file any written comments with the Board regarding the application.
- (7) Within 30 days of receipt of a complete application, the Board shall notify the landlord, in writing, of the time and place for the hearing. The hearing shall be held not more than 90 days nor less than 30 days, from the date of receipt of a complete application. The landlord shall immediately, upon receipt of such notification of hearing, serve such notice upon each affected tenant. The landlord

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shall serve notice of the hearing date to the tenant by regular and certified mail, return receipt requested, at least 20 days in advance of the hearing. Prior to any hearing on such application, the landlord shall present the Board with proof of service of notice to affected tenant.

- (8) No hardship application shall be considered or granted by the Board for a period of time more than one year after the expiration of applicant's last tax reporting year.
- (9) The Board shall render a decision on a hardship application within 45 days of the conclusion of the hearing before the Board. Failure of the Board to render its decision within the time period, absent consent of the landlord, shall result in the application being deemed granted.
- (10) A hardship increase shall become part of the base rent.

D. Capital improvement surcharge.

- (1) Application; notice.
  - (a) A landlord may apply for a capital improvement surcharge or for a surcharge for major additional services not formerly provided to the tenants of units of housing space in the affected dwelling. The landlord shall make written application to the Board upon forms adopted by the Board for these purposes. Simultaneously with filing of a capital improvement application, the landlord shall serve notice upon each affected tenant. The landlord shall submit with its application a letter of code compliance from the Union City Building Department.
  - (b) The Board shall promulgate rules, regulations, forms to be utilized and notice procedures to the tenant. At a minimum, a landlord seeking a capital improvement surcharge shall notify tenants, in writing, by certified mail and provide tenants with a summary of the application and state the increase sought.
- (2) Nature and cost of improvement. A landlord shall submit a detailed contract or proposal and proof of payment as to each improvement.
- (3) Amortization of cost. The cost for a capital improvement shall be amortized over the useful life of such capital improvement as determined by the Rent Stabilization Board and the Rent Stabilization Board's accountant.
- (4) Notice of hearing. Within 30 days from receipt of all required application forms, the Board shall notify the landlord, in writing, of the time and place of the hearing. The landlord shall immediately, upon receipt of such notification of hearing, serve notice thereof upon each affected tenant. Prior to any hearing on this application,

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the landlord shall present the Board with proof of service of notice of the hearing upon each affected tenant.

- (5) Time for application. No capital improvement application shall be considered or granted by the Board for work completed more than one year before the date of filing of a request for a letter of code compliance from the Building Department.
- (6) Finding of improvement; apportionment of surcharge. Upon determination that the proposed improvement is a capital improvement that the proposed service is a major additional service not formerly provided to the affected tenant or tenants, the Board may grant a surcharge based upon the cost of the capital improvement or major addition service. These costs shall include reasonable interest thereon. Any surcharge granted by the Board shall be fairly apportioned among the affected units based on the size of the units and the benefit of the improvement by each unit. If any such surcharge is granted, it shall not be considered a part of base rent and shall not be included in calculating the rent increases allowable under § 334-2.
- (7) Notice of decision. The Board shall notify the landlord, in writing, of its determination under this subsection, and the landlord shall forthwith deliver a copy of the determination by certified mail to each affected tenant, to become effective upon thirty-day notice.
- (8) Protected tenancy status.
  - (a) No capital improvement surcharge shall be imposed upon any tenant who has been granted protected tenant status pursuant to N.J.S.A. 2A:18-61.22 or 2A:18-61.40.
  - (b) Any capital improvement surcharge awarded within two years prior to the date of notice to the municipal administrative officer required by N.J.S.A. 2A:18-61.27 or 2A:18-40 shall immediately become null and void upon the grant of protected tenancy status. The protected tenant's rent shall be recalculated and reduced accordingly; however, no rebate of previously paid surcharge shall be granted.
- (9) Compliance with codes. Permits, as required by law, are to be secured from all agencies having control and jurisdiction for alterations, repairs, replacements, extensions and new buildings. All work done shall adhere to appropriate code standards and shall be inspected by any agency having control and jurisdiction, and their approval obtained. Copies of such permits shall accompany the capital improvement application.<sup>2</sup>

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2. Editor's Note: Original Section 14-10.5, Tax Surcharges; Section 14-10.6, Sewerage Utility Pass Along Charges; and Section 14-10.7, Agreements for Additional Services, were repealed 4-5-2005.

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- E. Maximum annual increase. The maximum annual increase from all sources listed under this § 334-10, Permitted increases, shall not exceed 15% unless an efficient landlord cannot meet operation expenses or make a fair return on his/her investment. A tenant shall not receive an aggregate increase from all sources of more than 15% any twelve-month period.
- F. Compliance with housing and building codes. Any landlord seeking an increase under this section must file, with its application, a letter from the Building Department that the building and grounds are in code compliance with City building and housing codes.
- G. Applicability of Consumer Fraud Act.
  - (1) In addition to the rights conferred on a tenant herein, a tenant may seek redress against a landlord for reasonable attorneys' fees and damages pursuant to the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.
  - (2) The Consumer Fraud Act shall act as an enforcement mechanism to an individual tenant who may seek redress by an award of attorneys' fees for a successful suit against a landlord for overcharging of rent. Therefore, tenants who successfully bring an action against a landlord for overcharging of rent may be awarded attorneys' fees pursuant to the Consumer Fraud Act.

**§ 334-11. (Reserved)<sup>3</sup>**

**§ 334-12. Rental dwelling rehabilitation program.**

- A. A landlord of any dwelling in full compliance with this chapter that is participating in a complete rehabilitation program of the United States Department of Housing and Urban Development (HUD) shall be permitted, upon approval by the Rent Stabilization Board, to place a minimum of 20% of the units in the dwelling into the rental rehabilitation program. The base rent and all subsequent increases for all units that are placed in the rental rehabilitation program shall be the rent or increase allowed by the program of the Department of Housing and Urban Development in which the landlord is enrolled.
- B. Prerehabilitation application.
  - (1) A prerehabilitation application shall be filed prior to the commencement of the work which shall contain the following information and any other information deemed relevant by the Rent Stabilization Board:
    - (a) Photographs of each room of the apartment unit within the dwelling which that is vacant and is the subject of the

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**3. Editor's Note: Former § 344-11, Rental unit renovation allowance, as amended, was repealed 6-17-2014.**

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application. A dwelling will only be eligible for the rental rehabilitation program if it is at least 50% vacant at the time the preapplication is filed. Additionally, the application must provide satisfactory proof that the landlord will relocate the tenants that are living in the building, at the landlord's cost, to a suitable apartment during the rehabilitation, and will return the tenants to the dwelling, at the landlord's cost, upon the conclusion of the rehabilitation. A suitable apartment shall include an apartment of a similar size, including number of bedrooms, and at the same rent, during the rehabilitation time period.

- (b) The preapplication shall explain the need for rehabilitation, spelling out in detail the work that the landlord intends to perform, the estimated costs.
- (c) The preapplication shall also include proof of enrollment and acceptance by HUD, or the governmental entity selected by HUD, of the rehabilitation program the landlord is receiving assistance by way of a grant, subsidized loan, or insured mortgage, for the complete rehabilitation of the dwelling.
- (d) The Rent Regulation Officer in his discretion may require an inspection of the dwelling prior to the commencement of the work by the Community Development Agency or the Building Department of Union City. The Rent Regulation Officer may inquire as to the circumstances under which any unit became vacant and reject the application if the Officer finds that the landlord was engaged in harassing conduct in violation of § 334-13 of this chapter of any tenant for the three-year period prior to the filing of the preapplication. The prerehabilitation inspection and determination by the Rent Regulation Officer shall ensure that the proposed renovations will meet the criteria set forth in Subsection D. Cosmetic and ordinary repair-type work shall not generally qualify for approval under this section. Upon approval of the prerehabilitation application, the landlord may proceed with the rehabilitation and may file a final application for approval.

C. Final application procedure.

- (1) Upon completion of the rehabilitation of the dwelling, the landlord shall file a final application for approval by the Rent Stabilization Board and acceptance into the rental dwelling rehabilitation program. The application shall contain the following information and any other information deemed relevant by the Rent Stabilization Board:
  - (a) A copy of the rent for each unit in the dwelling that has been approved by HUD or the governmental agency administering the rehabilitation program for HUD.



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- (b) A series of photographs which show the condition of the dwelling after the improvements.
  - (c) A copy of all bills, building permits, invoices and canceled checks associated with the renovation work.
  - (d) A copy of the certificate of approval issued by the Building Department.
  - (e) Documents to be filed.
    - [1] The landlord shall file with its final application a certificate of code compliance issued by the Building Department. The Building Department shall inspect the subject apartment and the common areas to certify to the Rent Stabilization Board that the apartments in the dwelling to be rented and the common areas and facade are in compliance with the appropriate housing inspection codes and all applicable federal, state, county or local laws or regulations.
    - [2] The landlord shall also file with its application a inspection performed by the Community Development Agency after work has been completed which will certify that the proposed work set forth in the prerenovation application have been performed in a good and workmanlike manner.
  - (f) The landlord shall file a certificate with the final application stating that he has agreed to maintain and preserve the dwelling as rental housing for a period of five years from the commencement of any rental increase granted pursuant to this section and has, prior to the application being submitted hereunder, withdrawn, canceled, dismissed, vacated or otherwise repudiated all notices to quit, dispossess actions, and judgments pursuant to N.J.S.A. 2A:18-61.1(k) and has further agreed not to commence any actions under N.J.S.A. 2A:18-61.1(k).
  - (g) The application for approval shall be filed by the landlord with the Rent Stabilization Board not later than 20 days of the tenant taking occupancy of the apartment.
- D. Criteria for reviewing application. In reviewing said application, the Rent Stabilization Board shall consider but not be limited to the following factors:
- (1) Whether the landlord has made a complete rehabilitation of the dwelling which has improved the living conditions of the tenants living in the dwelling. The requirements of HUD or the governmental entity administering the rehabilitation for HUD shall

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be considered by the Board in determining the appropriateness of the rehabilitation;

- (2) The amount of the increase, with the general policy that no increase should be approved which is unconscionable in relation to the prior approved base rent. The rent that is allowed by HUD or the governmental entity administering the rehabilitation program shall be considered an acceptable new base rent, provided that the landlord has provided proof to the Board that the landlord has complied with all the requirements of this chapter and HUD in obtaining the new rent, including notifications to the tenant. Upon proof that the landlord is in compliance with the regulations of the governmental rehabilitation program and this chapter, the landlord shall be required to use the governmental approved rent as the base rent, and for all subsequent rent increases the landlord shall be required to use the rent increase approved by the governmental entity. In the event a rent increase is allowed by the governmental entity and the landlord fails to notify the tenants of the increase, the landlord shall be considered to have waived the rent increase for the year in question. If the governmental rehabilitation program in question does not govern future rental increases and only establishes the initial base rent after a complete rehabilitation of a dwelling has occurred, then all increases shall be governed by § 334-10 of this chapter;
  - (3) In the event the governmental rehabilitation program in which the landlord is enrolled contains tenant qualification guidelines and the tenant does not qualify pursuant to these regulations, the initial base rent after the complete rehabilitation has occurred will be the maximum base rent established by the governmental program, and each subsequent increase shall be governed by § 334-10 of this chapter; and
  - (4) That the landlord or its agents, employees or contractors have not engaged in any harassment, provocation, retaliation of the previous tenants of the subject unit or the new tenant to occupy the renovated space and other conduct more specifically set forth in § 334-13 of the chapter.
- E. Notification procedures. The landlord shall serve a copy of the final application on each tenant by personal service or certified mail, return receipt requested, at least 15 days before any hearing thereon, and the landlord shall be required to file a proof of service with the Rent Stabilization Board. Upon receipt of a complete application and proof of service of same upon the tenant, the Rent Regulation Officer shall schedule a hearing before the Rent Stabilization Board, and the landlord shall serve upon each tenant, personally or by certified mail, return receipt requested, at least 10 days in advance of said hearings, a second notice advising the tenants that the final application for approval previously served upon the tenant would be heard by the

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Board on that date. Said notice shall also advise the tenants that any objection to the proposed rental agreement will be heard on that date.

- F. Filing fees. The prerenovation application shall be accompanied by the fees as set forth in Chapter 155, Fees. Inspection fees required under this section performed by the Building Department shall be billed by the Building Department.

**§ 334-13. Anti-harassment provisions.**

- A. Harassment; reduction of services prohibited. Any tenants desiring to remain in their units may do so without provocation or retaliation from landlords. For the purposes of this section, harassment of tenants shall mean conduct, whether direct or indirect, committed intentionally or negligently by a landlord, or anyone acting on his/her behalf. These actions include, but are not limited to:
- (1) A reduction in the quality of basic services necessary to the health safety and welfare of the tenants.
  - (2) Heat, hot water.
  - (3) Adequate security.
  - (4) Intermittent failures.
  - (5) Bothersome telephone calls or letters.
  - (6) Frivolous eviction threats or legal proceedings.
  - (7) Actions which would cause a reasonable person of like age and physical condition of a tenant to fear for his/her life, limb, property or home.
- B. Investigation/prosecution of harassment complaints. The City shall assign one of its municipal prosecutors to investigate and/or prosecute complaints involving harassment filed by either tenants or landlords.

**§ 334-14. Certificates of continuing occupancy.**

- A. Required. No person shall occupy or use any residential unit after such unit has been vacated or sold or where there has been a change in occupancy until the landlord has applied for and secured a certificate of continuing occupancy. Upon receipt by the enforcement officer of an application for a certificate of continuing occupancy and payment of the required fee, an inspection of the premises shall take place. The inspection shall ensure compliance with all applicable building, health, safety and fire codes, regulations, ordinances and statutes of the City of Union City.
- B. Criteria and standards for certificates of occupancy.

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- (1) Criteria for buildings with more than 50 units. The inspection shall focus on the habitability of the apartment itself and only health and safety standards will be applied to the common areas.
  - (2) Criteria in cooperatives and condominiums of more than 100 units. An inspection shall be conducted of the premises to ensure compliance with all applicable building, health, safety and fire codes, regulations, ordinances and statutes of the City of Union City. As to common area inspections, the inspection shall focus on the habitability of the apartment itself. The health and safety standard shall be applied to the common areas. Rent freezes shall only be applied to those violations related to fire and safety code violations. However, rent freezes shall not be applied to common area violations except for those endangering the health and safety of the occupants such as uninterrupted elevator service, emergency lighting, fire and smoke alarms and other items outlined in all applicable federal, state, county or local laws or regulations. However, all other remedies promulgated by state and municipal statutes, rules and regulations or those adopted by the Board of Directors remain in place.
- C. Failure to obtain certificate. A landlord who fails to obtain a certificate of continuing occupancy shall be subject to any one or a combination of the penalties listed in § 334-21. Any fines shall be payable to the City of Union City.
- D. Upon receipt by the enforcement officer of an application for a certificate of continuing occupancy and fee, an inspection of the premises shall take place. The inspection shall ensure compliance with all applicable building, health, safety and fire codes, regulations, ordinances and statutes of the City of Union City.

**§ 334-15. Maintenance of services.**

- A. Continuation of services. During the term of this chapter, the landlord shall maintain the same standards of service, maintenance, furniture, furnishings and equipment in the housing space and dwelling as required under the lease or otherwise mandated by law.
- B. Decline in services. When services, care or maintenance, or when the standards of service, maintenance, furniture, furnishings and equipment in the housing space or dwelling are not substantially maintained as specified above, any tenant may apply to the Board for a decrease in rent. A copy of such application shall be served upon the landlord setting forth, in detail, the reasons for the application.
- C. Applicability to parking spaces. The provisions of this section shall also apply to any on-site parking or garage space occupied by the tenant in conjunction with rental and occupancy of housing space. If it is determined, after a hearing of the Board, as described in § 334-15, that

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the parking was a previously provided service, then the rent shall be decreased by 25% of the current monthly rent. **[Amended 1-6-2015]**

- D. Hearing notice procedure. Upon receipt of the application by the Rent Regulation Officer, the Rent Regulation Officer shall schedule a hearing on the application and shall notify both landlord and tenant of the date, time and place of the hearing.
- E. Maintenance of services. During a tenant's occupancy of a unit in which the landlord provides utilities to the units of the building, the landlord will be prohibited from constructing a separate apartment unit meter and billing for any utility service previously provided by the landlord as part of the services to the building, including but not limited to heat, hot water, water and sewerage.
- F. Violation and penalties. A first violation of § 334-15E of this chapter shall be punishable by a fine of not more than \$2,000 for each unit in violation. Subsequent violations shall be punishable by a fine of not less than \$2,000 for each unit. Each day during which an owner is in violation of § 334-15E of this chapter shall constitute a separate violation.

#### **§ 334-16. Registration requirement.**

- A. Registration information; fee.
  - (1) All landlords of units governed by this chapter must file a registration statement with the Board in a manner and at a time prescribed by the Board. Any such statement shall include at least the following:
    - (a) The name of each tenant and the apartment number.
    - (b) The number of rooms for each apartment.
    - (c) The current rent for each apartment.
    - (d) The amount of the last increase for each apartment unit.
    - (e) The date of the last increase for each apartment unit.
    - (f) If applicable, the services provided to the building and the telephone number.
    - (g) If applicable, the superintendent's name, address and telephone number.
  - (2) This annual registration statement shall be filed with the Rent Regulation Officer once every 12 months on the anniversary date that the landlord may file for a permitted increase pursuant to § 334-10B. The Board shall establish a schedule of fees for the filing of said registration statement. Failure to register or the filing of

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false registrations shall be punishable pursuant to § 334-21 of this chapter.

- (3) A landlord who shall fail to file the required annual rent registration statement shall not be entitled to file any application for a permitted increase under § 334-10 of this chapter. In addition, in the event a landlord or a prior property owner for the same property has not filed an annual registration statement the Rent Regulation Officer in determining a legal rent calculation and the Board upon any review of that determination shall be permitted to disallow any increase related to a rise in the consumer price index pursuant to § 334-10B for that year that the landlord or prior landlord failed to file a rent registration statement.
  - (4) This section shall be applied to any rent calculation made by the Rent Regulation Officer or the Rent Stabilization Board to any determination that comes before it subsequent to the adoption of this section. In addition, the Officer and the Board shall also have the authority to disallow a rent increase a landlord is otherwise entitled to under this chapter for any year that a landlord has failed to file a rent registration statement prior to the effective date of the adoption of this section.
- B. Public document. For the purpose of disclosure, the registration statement shall be considered a public document which shall be made available for inspection pursuant to reasonable regulations established by the City Clerk.

### **§ 334-17. Compliance with housing and building codes.**

- A. Compliance required prior to granting increase.
- (1) Any landlord who seeks a hardship or major capital improvement increase under § 334-10 shall file with an application a certification from the office of the Building Department to the effect that the building and grounds are in substantial compliance with City building and housing codes, which certification shall be based on an application made by the landlord to the Building Department not more than one month before the filing of his/her application with the Board. No such increase may be granted until such certification had been filed and, if a tenant contests the accuracy of such certification, until the Board has determined that there is substantial compliance.
  - (2) The Board shall deny the application until there has been such compliance.
- B. Assistance of Board in obtaining certificate of code compliance. Whenever a party who is seeking a certificate regarding code compliance from the office of the Building Department notifies the Board that the party seeks the assistance of the Board in expediting

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that Department's inspection, then the Board shall utilize its best efforts to have the office of the Building Department expedite such inspection. Nothing contained in this section shall prevent the Rent Stabilization Board from considering testimony by the landlord and tenants as to the condition of the property.

- C. Tenant's right to return to premises rehabilitated after a fire.
- (1) Repair of fire-damaged building. Whenever any building or buildings which contain residential units leased to tenants shall be injured or damaged by fire, the landlord shall repair same as speedily as possible.
  - (2) Tenant's right to return. In the event, as the result of injury or damage to the residential leased premises as a result of fire, a tenant is displaced, the tenant who is displaced shall have the right to return to his/her unit as soon as the building is in complete repair and has been approved for occupancy by the Construction Code Official of the City pursuant to the usual procedures for occupancy under applicable law.
  - (3) Rent.
    - (a) During the period of time that the tenant is displaced from the building, the tenant shall have no obligation to pay rent for his/her unit.
    - (b) In the event that the residential building is subject to rent stabilization, the tenant shall return to his/her unit upon its complete repair at the legal rent existing at the time of his/her vacation of the unit.
  - (4) Exception. The above provisions, which must be liberally construed in favor of tenants, shall not apply to any tenant whose fault caused the fire which resulted in the displacement of tenants.
  - (5) Violations and penalties.
    - (a) Any person found guilty of violating any part of this subsection shall be subject to a penalty existing of a fine not exceeding \$1,000 or imprisonment not exceeding 90 days, or both, subject to the discretion of a court of competent jurisdiction.
    - (b) In the event of any continuing violation, which shall include each day a landlord prevents a former tenant from reoccupying the premises after those premises have been repaired and are ready for occupancy, each day shall constitute a separate offense for the purposes of the imposition of a fine and/or imprisonment.
- D. Tenant's right to return to premises after abatement of UCC and Building Code violations.

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- (1) Abatement of UCC and Building Code violations. Whenever any building or buildings which contain residential units leased to tenants shall require the completion of work in order to abate UCC and/or Building Code violations, the landlord shall repair same as speedily as possible.
- (2) Tenant's right to return. In the event, as the result of the need to abate UCC and/or Building Code violations, a tenant is displaced, the tenant who is displaced shall have the right to return to his/her unit as soon as the building is in complete repair and has been approved for occupancy by the Construction Code Official of the City pursuant to the usual procedures for occupancy under applicable law.
- (3) Rent. During the period of time that the tenant is displaced from the building pursuant to this subsection, the provisions of § 334-17C(3)(a) and (b) herein shall apply.
- (4) Exception. The above provisions, which must be liberally construed in favor of tenants, shall not apply to any tenant whose fault caused the need for the completion of work to abate UCC and/or Building Code violations which resulted in the displacement of tenants.
- (5) Violations and penalties. The provisions of § 334-17C(5)(a) and (b) herein shall apply to violations of this subsection.

**§ 334-18. Fees.**

There is hereby established a schedule of fees for applications to the Rent Stabilization Board, which fees shall be as set forth in Chapter 155, Fees, and payable to the City of Union City.

**§ 334-19. Alternate service of notice.**

Personal service or service by certified mail that is either refused or uncalled for may be remailed by ordinary mail and shall be effective as though personal service or notice by certified mail had been accepted.

**§ 334-20. Anti-warehousing rules and regulations.****A. Obligation to register vacant apartments.**

- (1) Owners of multifamily structures of five or more units shall report any vacancy or unrented apartment to the Rent Stabilization Board office if the vacancy or nonrental continues for 90 continuous days.
- (2) Owners shall report the rental of the unit to the Rent Stabilization Board office within 90 days of the date of the new rental. The rental report shall include a copy of the inspection approval certificate issued by the Union City Community Development Office, address of building, date of rental, rent charged, name of new tenant, date of move-in by the new tenant.



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- B. Exempt structure or structure or units. The following are exempt from the provisions of this chapter:
- (1) Units in owner-occupied structures where there are six units or fewer and one of the units is owner-occupied.
  - (2) Units in newly constructed buildings which have complied with N.J.S.A. 2A:42-84.2.
  - (3) Units in hotels or motels that have been duly licensed by the City and the State of New Jersey.
  - (4) When owner has filed for and been preapproved for a rental unit restoration allowance (RURA).
- C. Requirements. All such units shall be rented and occupied by a tenant within 90 days after the end of the preceding tenancy, which shall be defined as the last day of occupancy by the preceding tenant(s), except where an extension has been granted by the Rent Stabilization Board under the provisions of § 334-20D(4) below, in which event the unit shall be rented and occupied within the time period specified in the extension. Failure to comply with the requirements of this Subsection C shall be considered a violation of this section and subject the owner to the penalties set forth herein.
- D. Extension of time period.
- (1) An owner may apply for an extension of the time period set forth in § 334-20C where the condition of the structure or unit or other special circumstances make rental within such time period impossible. In order to obtain an extension, the owner must submit an application in writing to the Rent Stabilization Board within 90 days or less from the date the preceding tenancy ended, setting forth with specificity:
    - (a) The reasons that the structure or unit cannot be rented within such time period;
    - (b) The steps the owner shall take to remedy the conditions that make it impossible to rent the structure or unit; and
    - (c) The date by which the structure or unit shall be rented and occupied.
  - (2) The owner shall provide the Rent Stabilization Board with all documentation necessary to support the application, including but not limited to code violation reports, engineering or inspection reports, copies of advertisements, etc.
  - (3) Any extension granted by the Rent Stabilization Board shall specify the date by which the structure or unit must be rented and occupied. Additional extensions may be sought by the owner, but

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the total extension permitted in the aggregate shall not extend beyond six months from the date the previous tenancy ended.

- (4) The following circumstances shall constitute grounds for the granting of an extension pursuant to this § 334-20D by the Rent Stabilization Board:
  - (a) An owner wishes to reserve a vacant unit for a family member. The owner shall provide in the time extension application full documentation including the name of the future tenant, the family relationship and the date of occupancy.
  - (b) An owner desires to maintain a unit vacant in order to improve the conditions of said structure or unit. The owner shall provide full documentation in the application, including up-to-date building and housing inspection reports, improvement plans, all related required permits and the date by which the structure or unit shall be rented and occupied.
  - (c) An owner maintains a vacant structure or unit in order to correct code violations in said structure or unit. The owner shall provide in the application full documentation such as code violation reports, correction plans, permits and the date by which the structure or unit shall be rented and occupied.
- (5) Extension of the time period provided in Subsection C above beyond the maximum time prescribed by § 334-20D shall be only granted upon a clear and convincing showing by the owner that a good faith effort has been made to rent the structure or unit at the legal rent, and that no tenant can be found. In this circumstance, the maximum extension granted beyond the maximum time provided in this Subsection D shall be 60 days, renewable upon a new showing by the owner.

E. City to inspect vacant structure or units and buildings.

- (1) If a structure or unit is not rented within 90 days, or filed for an extension, the recording agency will notify the Building Department, Health Department, Fire Official and Northwest Regional Fire and Rescue, which currently provides fire related services to Union City. The above departments shall send inspectors to the building to inspect the entire building and the unrented structure or unit in particular to assure compliance with all applicable codes. If violations are found or if a dangerous or unsafe condition exists, proper measures are to be taken.
- (2) The above departments will continue to inspect both the building and the individual unrented structure or unit on a regular basis. The building and unrented structure or unit shall be inspected at least once every 10 business days until the structure or unit is rented and occupied.

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- F. Violations and penalties. A first violation of § 334-20A of this chapter or the conditions upon which a waiver has been granted by the Rent Stabilization Board shall be punishable by a fine of not more than \$500 for each unit in violation. Subsequent violations shall be punishable by a fine of not less than \$100 nor more than \$500. Each day during which an owner is in violation of Subsection A of this section or the conditions upon which a waiver has been granted shall constitute a separate violation.
- G. Vacancies upon effective date. Any landlord of any unit which has been vacant 30 days or more from the end of the preceding tenancy as of the effective date of this chapter shall be required to file the notifications required under § 334-20A of this chapter within 15 days of the effective date of this chapter.

**§ 334-21. Violation and penalties.**

A violation of any of the provisions of this chapter, including, but not limited to, the filing with the Rent Stabilization Board or Regulation Officer of any material or statement of facts, shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding 30 days, or both. A violation affecting more than one leasehold or tenancy shall be considered a separate violation as to each leasehold or tenancy.

**EXHIBIT B**

**EXECUTIVE ORDER NO. 106**

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, as of March 18, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 191,000 confirmed cases of COVID-19 worldwide, with over 7,800 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were more than 7,000 confirmed cases of COVID-19 in the United States, with at least 97 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were 427 positive cases of COVID-19 in New Jersey, spread across numerous counties; and

WHEREAS, the economic impacts of COVID-19 are significant, and pose a growing threat to the housing security of many New Jerseyans; and

WHEREAS, many New Jerseyans are or will be experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments; and

WHEREAS, housing security and stability are important to public health, particularly as homelessness can increase vulnerability to COVID-19; and

WHEREAS, removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents of contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health; and

WHEREAS, in recognition of this danger, the U.S. Department of Housing and Urban Development, Fannie Mae, and Freddie Mac announced the suspension of all evictions and foreclosures for the next 60 days; and

WHEREAS, Assemblymembers Angela McKnight, Holly Schepisi, and Benjie Wimberly and Senators Joseph Cryan and Nellie Pou have rapidly responded to these concerns by sponsoring Assembly Bill No. 3859 and Senate Bill No. 2276, which address this issue by explicitly providing that during a Public Health Emergency or State of Emergency, the Governor shall have the authority to issue an executive order declaring a moratorium on removing individuals from residential property as a result of an eviction or foreclosure proceeding; and

WHEREAS, the Administrative Office of the Courts also provided helpful guidance as the bill moved through the legislative process; and

WHEREAS, the swift action by the Legislature to pass Assembly Bill No. 3859 and Senate Bill No. 2276, working in collaboration with the Administrative Office of the Courts and my Administration, exemplifies the critical importance of effective coordination among all three branches of government in addressing emergency situations; and

WHEREAS, earlier today, I immediately signed the residential eviction and foreclosure moratorium legislation into law as soon as it passed both Houses of the Legislature, to exercise as

expeditiously as possible the authority provided by the Legislature to protect our residents in this critical time;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any lessee, tenant, homeowner or any other person shall not be removed from a residential property as the result of an eviction or foreclosure proceeding.

2. While eviction and foreclosure proceedings may be initiated or continued during the time this Order is in effect, enforcement of all judgments for possession, warrants of removal, and writs of possession shall be stayed while this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice. This Order does not affect any schedule of rent that is due.

3. Sheriffs, court officers, and their agents shall refrain from acting to remove individuals from residential properties through the eviction or foreclosure processes during the time this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice.

4. For the purpose of this Order, "residential property" means any property rented or owned for residential purposes, including, but not limited to, any house, building, mobile home or land in a mobile home park, or tenement leased for residential purposes, but shall not include any hotel, motel, or other guest house, or part thereof, rented to a transient guest or seasonal tenant, or a residential health care facility. The State Director

of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to these lists.

5. This Order shall take effect immediately and remain in effect for no longer than two months following the end of the Public Health Emergency or State of Emergency established by Executive Order No. 103 (2020), whichever ends later, unless this Order is first revoked or modified by the Governor in a subsequent executive order.

GIVEN, under my hand and seal this  
19<sup>th</sup> day of March,  
Two Thousand and Twenty, and  
of the Independence of the  
United States, the Two  
Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor



**EXHIBIT C**

**CITY OF UNION CITY  
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**ORDINANCE NO. 2020-07**

**AN ORDINANCE AMENDING CHAPTER 334  
TO PLACE A MORATORIUM ON RENT INCREASES**

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, a municipality may amend ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

**WHEREAS**, the City of Union City (the “City”) is a municipality as defined by Title 40 of the New Jersey Statutes; and

**WHEREAS**, the City has a comprehensive rent control ordinance under Chapter 334 of the Code of the City of Union City; and

**WHEREAS**, Chapter 334 was enacted in order to regulate, control and stabilize rents under the police powers granted to the City and in order to protect the health, safety and welfare of the citizens of the City; and

**WHEREAS**, the Governor of the State of New Jersey declared a Public Health Emergency and State of Emergency in the State of New Jersey on March 9, 2020 due to the spread of the Coronavirus, a highly contagious and potentially fatal respiratory disease caused by SARS-CoV-2; and

**WHEREAS**, many citizens of New Jersey are or will be experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments; and

**WHEREAS**, housing security and stability are important to public health, particularly as homelessness can increase vulnerability to COVID-19; and

**WHEREAS**, removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents of contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health; and

**WHEREAS**, in recognition of this danger, the U.S. Department of Housing and Urban Development, Fannie Mae, and Freddie Mac announced the suspension of all evictions and foreclosures for 60 days; and

**WHEREAS**, On March 19, 2020, Governor Murphy signed the residential eviction and foreclosure moratorium legislation into law to protect New Jersey residents in this critical time; and

**WHEREAS**, on March 21, 2020, the Governor of the State of New Jersey issued Executive Order No. 107 requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions; and

**WHEREAS**, Executive Order No. 107 further required the closing of all non-essential business establishments; and

**WHEREAS**, the economic impacts of COVID-19 are significant, and pose a growing threat to the housing security of many New Jersey residents; and

**WHEREAS**, the City has declared a State of Emergency via resolution dated March 24, 2020; and

**WHEREAS**, pursuant to N.J.S.A. 40:41A-101 this ordinance will take effect immediately upon adoption as it is necessary to ensure the safety of the public; and

**WHEREAS**, in light of these financial hardships and moratorium on eviction proceedings, the City has determined that the regulation, control and stability of rents is best served by placing an immediate, temporary moratorium on all rent increases until no later than two (2) months following the end of the state of emergency.

**NOW, THEREFORE, BE IT ORDAINED as follows:**

#### **SECTION ONE**

A moratorium shall be effectuated to prevent any rent increases as set forth in Section 334-10, and remain in effect for no longer than two (2) months following the end of the State of Emergency due to the COVID-19 pandemic. The moratorium shall commence immediately and apply for the month of March 2020.

#### **SECTION TWO:**

**Severability.** The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand not withstanding the invalidity of any part.

#### **SECTION THREE:**

**Repealer.** All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION FOUR:**

This Ordinance shall take effect upon passage and publication as required by law.

**SECTION FIVE:**

This Ordinance shall take effect upon passage and publication as required by law.

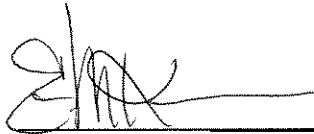
<b>Commissioners</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain/Present</b>	<b>Absent</b>
Lucio P. Fernandez	x			
Wendy A. Grullon	x			
Celin J. Valdivia	x			
Maryury A. Martinetti	x			
Mayor Brian P. Stack	x			

**I HEREBY CERTIFY** this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on March 24, 2020 and was further considered and adopted after a Public Hearing held on April 16, 2020.

INTRODUCED: March 24, 2020

ADOPTION: April 16, 2020

ATTEST:



Erin Knoedler  
City Clerk

April 16, 2020  
DATE

**EXHIBIT D**



# City of Union City

Rent Leveling Board  
3715 Palisade Avenue  
Union City, New Jersey 07087  
Phone: (201)348-5734 Fax: (201)865-9087

Brian P. Stack  
Mayor

Kennedy Ng  
Administrator

RECEIVED MAY 05 2020  
THIS WAS INSIDE #142  
WITH REJ ct #1462  
FOR 4505 #BAS

March 24, 2020

Re: MORATORIUM ON RENT INCREASES – COVID 19

Dear Tenant:

The Union City Rent Control Office, empowered by our Rent Control Ordinance **and with steadfast support from our Mayor Brian P. Stack and his administration**, provides assistance to tenants in all buildings that fall within its protections.

Union City, New Jersey, the United States and the World are going through an unprecedented time right now. Your safety and ability to care for yourselves and your families, is of extreme importance to us! Due to the current COVID-19 pandemic, we understand that you may be experiencing extreme financial hardship. It is necessary to provide stability to the extent possible at this trying time. For that reason, the City is adopting an Ordinance placing a Moratorium on rent increases beginning March 1, 2020 and continuing until further notice.

Thank you for taking the time to read this important letter. We will continue to advise you about Rent Control matters in the future. If you have any questions, or require additional information you can contact me at (201) 348-5734.

Very truly yours,

*Kennedy Ng*  
Kennedy Ng

CC: Mayor Brian P. Stack  
Board of Commissioners

RECEIVED

**EXHIBIT E**



CITY OF UNION CITY  
COUNTY OF HUDSON, STATE OF NEW JERSEY

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 2020-07 ENTITLED  
“AN ORDINANCE AMENDING CHAPTER 334 TO PLACE A MORATORIUM ON RENT  
INCREASES”

**Recitals.** The Union City Board of Commissioners incorporates by reference the recitals set forth in Ordinance No. 2020-07 and continues to find them to be true and correct.

**Purpose and Intent.** The purpose of this ordinance is to clarify the implementation of Ordinance No. 2020-07.

NOW, THEREFORE, BE IT ORDAINED, as follows:

**SECTION ONE.**

Section One of Ordinance No. 2020-07 is amended to read as follows:

1. A moratorium shall be effectuated to prohibit and stay any permitted rent increases otherwise allowable under §334-10 for the duration of the New Jersey Public Health Emergency and State of Emergency, declared in Executive Order No. 103 (2020) on March 9, 2020, any subsequent Executive Order, and any extension thereof, due to the pandemic caused by COVID-19, and remain in effect for no longer than two (2) months following the end of the Public Health Emergency and/or State of Emergency. The moratorium shall commence immediately and apply for the month of March 2020 and thereafter until the two (2) month period has expired.
2. Nothing in Paragraph 1. of this Section shall bar the property owner from serving a lawful NOTICE of increase upon the tenant effective March 1, 2020 or thereafter, but the increase in rent shall be stayed and not collected by the landlord nor shall the tenant be responsible for said increase at any time. After the moratorium imposed hereunder ends, landlord shall be entitled to and tenant shall pay any permitted rent increases for the period going forward, but in no event, for the period covered by the moratorium.
3. The NOTICE of increase that the Landlord serves upon the tenant in Paragraph 2. shall contain at least a 12 point in bold, capitalized and underlined statement which indicates as follows:

**“SPECIAL NOTICE OF UNION CITY’S MORATORIUM OF RENT INCREASE  
DURING COVID-19 STATE OF EMERGENCY”**

Any rent increase set forth in this notice is NOT to be paid by the tenant and shall be stayed and not collected by the landlord during the COVID-19 State of Emergency and for two (2) months after the State of Emergency has ended. You will only pay the increase in rent going forward from that date.”

4. Any Landlord who has served a rent increase notice at the time of the adoption of this ordinance, without the Special Notice set forth in Paragraph 3., shall within 14 days of the adoption of this ordinance, serve a written copy of this Special Notice, referencing the previous Notice of Rent Increase, by hand delivery or Certified Mail RRR.

**SECTION TWO.**

**Severability.** The provisions of this Ordinance are declared to be severable and, if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION THREE.**

**Repealer.** All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**EXHIBIT F**

**CITY OF UNION CITY  
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**ORDINANCE NO. 2020-010**

**AN ORDINANCE TO PREVENT EVICTIONS FOR NON-PAYMENT OF RENT  
RESULTING FROM THE CORONAVIRUS EMERGENCY**

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, a municipality may amend ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

**WHEREAS**, the City of Union City (the “City”) is a municipality as defined by Title 40 of the New Jersey Statutes; and

**WHEREAS**, the Governor of the State of New Jersey declared a Public Health Emergency and State of Emergency in the State of New Jersey on March 9, 2020 due to the spread of the Coronavirus, a highly contagious and potentially fatal respiratory disease caused by SARS-CoV-2; and

**WHEREAS**, many citizens of New Jersey are or will be experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments; and

**WHEREAS**, housing security and stability are important to public health, particularly as homelessness can increase vulnerability to COVID-19; and

**WHEREAS**, removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents of contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health; and

**WHEREAS**, in recognition of this danger, the federal government has passed legislation known as the CARES Act, which suspends foreclosures on all federally-funded mortgages for a minimum of 60 days, grants mortgage relief on such mortgages for six months to one year, and prohibits commencement of eviction proceedings for 120 days; and

**WHEREAS**, On March 19, 2020, Governor Murphy signed the residential eviction and foreclosure moratorium legislation into law to protect New Jersey residents in this critical time; and

**WHEREAS**, on March 21, 2020, the Governor of the State of New Jersey issued Executive Order No. 107 requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions; and

**WHEREAS**, Executive Order No. 107 further required the closing of all non-essential business establishments; and

**WHEREAS**, the economic impacts of COVID-19 are significant, and pose a growing threat to the housing security of many New Jersey residents; and

**WHEREAS**, pursuant to the U.S. Census Bureau, the median household income from 2014-2018 for the residents of the City was \$45,636 with a per capita income of \$22,741, which results in a percentage rate of 21.3% for persons in poverty; and

**WHEREAS**, the County of Hudson residents' median household income from 2014-2018 was \$66,289 with a per capita income of \$38,147 and a percentage rate of 14.3% for persons in poverty; and

**WHEREAS**, the State of New Jersey residents' median household income from 2014-2018 was \$79,363 with a per capita income of \$40,895 and a percentage rate of 9.5% for persons in poverty; and

**WHEREAS**, the City has a population density of 51,796.6 residents per square mile as of 2010, which makes it one of the most densely populated cities in the entire country; and

**WHEREAS**, the County of Hudson has a much lower population density of 13,731.4 residents per square mile as of 2010; and

**WHEREAS**, the State of New Jersey has an even lower population density of 1,195.5 residents per square mile as of 2010; and

**WHEREAS**, according to the U.S. Census Bureau data, the City of Union City is one of the most densely populated cities in the United States with a large percentage of low, and moderate-income residents; and

**WHEREAS**, the City has declared a State of Emergency via resolution dated March 24, 2020; and

**WHEREAS**, on March 24, 2020, the City introduced an ordinance to place a moratorium on rent increases during the State of Emergency to ensure the safety of the public by avoiding mass evictions for non-payment of rent; and

**WHEREAS**, in light of these unprecedented regulations which have resulted in financial hardships, the City seeks to further prevent displacement of tenants and reduce transmission of the novel Coronavirus (COVID-19) by prohibiting evictions for non-payment of rent during the State of Emergency; and

**WHEREAS**, a city's business community is an acknowledged life blood of a municipality in that it provides employment, goods and services and a tax base, all of which are

part of the municipality's public health, safety and welfare affecting all aspects of the society; and

**WHEREAS**, Union City's vibrant business community is primarily comprised of small businesses which are suffering from the effects of COVID-19 so that many of them will be unable to pay their rent during this time, which may in turn cause them to fail; and

**WHEREAS**, the loss of the City's business community would have a devastating impact, not only on the lives of those directly affected, but upon the City's tax base and the very nature of the community; and

**WHEREAS**, pursuant to N.J.S.A. 40:41A-101 this ordinance will take effect immediately upon adoption as it is necessary to ensure the safety of the public.

**NOW, THEREFORE, BE IT ORDAINED as follows:**

**SECTION ONE.**

**Recitals.** The Union City Board of Commissioners finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance.

**SECTION TWO.**

**Purpose and Intent.** The purpose and intent of this ordinance is to prevent displacement, reduce transmission of the novel Coronavirus (COVID-19), and promote the stability and the health and safety of the residents and businesses of Union City during the State of Emergency declared by the Mayor on March 24, 2020, in response to the COVID-19 pandemic (hereinafter, "State of Emergency").

**SECTION THREE.**

**Residential Eviction Moratorium.** Except when the tenant poses an imminent threat to the health or safety of other occupants of the property, and such threat is stated in the notice as the "good cause" grounds for the eviction, it shall be an absolute defense to any such eviction action that the notice or complaint were filed or served during the State of Emergency. Any notice served pursuant to the Anti-Eviction Act on a tenant during the State of Emergency shall include the following statement in bold underlined 12-point font: "**Except to protect the health and safety of other occupants of the property, you may not be evicted during the State of Emergency declared by the City of Union City and the State of New Jersey in response to the COVID-19 pandemic for any reason including non payment of rent.**" This does not relieve you of the obligation to pay back rent in the future." This section shall remain in effect until the expiration of emergency set forth in Governor Murphy's Executive order 106 dated March 24, 2020, unless extended.

**SECTION FOUR.**

**Late Fee Moratorium.** Notwithstanding any lease provision to the contrary, for residential tenancies, no late fees may be imposed for rent that became due during the State of Emergency if the rent was late for reasons resulting from the COVID-19 pandemic. This includes, but is not limited to (1) the tenant was sick or incapacitated due to COVID-19, or was complying with a recommendation from a governmental agency to self-quarantine, (2) the tenant suffered a substantial reduction in household income because of a loss of employment or a reduction in hours, or because they were unable to work because they were caring for their child(ren) who were out of school, or a day care facility, or a household or family member who was sick with COVID-19, or because they were complying with a recommendation from a government agency to self-quarantine; and (3) the tenant incurred substantial out-of-pocket medical expenses caused by COVID-19. Any notice demanding late fees for rent that became due during the State of Emergency shall include the following statement in bold underlined 12-point font: **“You are not required to pay late fees for rent that became due during the State of Emergency declared by the City of Union City and the State of New Jersey in response to the COVID-19 pandemic if the rent was late for reasons related to the pandemic.”**

#### **SECTION FIVE.**

**No Residential Eviction for Nonpayment of Rent that Became Due During the State of Emergency.** In any action for eviction for non-payment of rent, it shall be a presumption and absolute defense that the unpaid rent which became due during the State of Emergency, was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic. Nothing in this subsection shall relieve the tenant of liability for the unpaid rent which the Landlord may pursue against the tenant pursuant to Section Seven of this ordinance.

#### **SECTION SIX.**

**Commercial Eviction Moratorium.** In any action for eviction of a commercial tenant based on non-payment of rent, it shall be an absolute defense if the failure to pay rent during the State of Emergency is the result of a substantial decrease in income (including but not limited to a decrease caused by a reduction in hours or consumer demand) and the decrease in income was caused by the COVID-19 pandemic or by any State of, state, or federal government response to COVID-19, and is documented. In addition, the commercial tenants proofs shall include any application filed with the appropriate agency or institution for loans pursuant to Federal Law including but not limited to the Paycheck Protection Act and that application has not been acted upon or has been rejected which would have allowed the commercial tenant to render current the outstanding rent that accrued during the COVID-19 pandemic. Any notice to a commercial tenant demanding rent shall include the following statement in bold underlined 12-point font: **“If you are a small business or a non-profit organization, you may not be evicted for failure to pay rent if the failure was due to a substantial decrease in income caused by the COVID-19 pandemic, or by any municipal, state, or federal government response to COVID-19, and is documented. This does not relieve you of your obligation to pay rent in the future.”** This section shall remain in effect until the expiration of emergency set forth in Governor Murphy’s Executive order 106 dated March 24, 2020, unless extended.

**SECTION SEVEN.**

**No Relief from Liability for Rent.** Nothing in this Ordinance shall relieve any tenant, whether commercial or residential, of liability for unpaid rent that became due during the State of Emergency. The rent shall become a debt and may be collected as any other debt in the Superior Court of New Jersey, Law Division, but such unpaid rent shall not form the basis of a non-payment proceeding in which a judgment of possession and warrant of eviction may result.

**SECTION EIGHT.**

**Severability.** The provisions of this Ordinance are declared to be severable and, if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION NINE.**

**Repealer.** All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION TEN:**

In order to avoid accidental repeal of existing provisions, the City Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

**SECTION ELEVEN:**

This Ordinance shall take effect upon passage and publication as required by law.

<b>Commissioners</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain/Present</b>	<b>Absent</b>
Lucio P. Fernandez	X			
Wendy Grullon	X			
Celin J. Valdivia	X			
Maryury A. Martinetti	X			
Mayor Brian P. Stack	X			




**I HEREBY CERTIFY** this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on April 16, 2020 and was further considered and adopted after a Public Hearing held on April 28, 2020.

INTRODUCED: April 16, 2020

ADOPTION: April 28, 2020

ATTEST:



Erin M. Knoedler, City Clerk

April 28, 2020

Date

**EXHIBIT G**

Ordinance 2020-101	Anti-Eviction Act, <u>N.J.S.A. 2A:18-61.1</u>
<p>Any notice served on a tenant under Anti-Eviction Act during the State of Emergency must contain the following:</p> <p>“Except to protect the health and safety of the other occupants of the property, you may not be evicted during the State of Emergency declared by the City of Union City and the State of New Jersey in response to the COVID-19 pandemic for any reason including the non-payment of rent.”</p>	<p>Notices to tenants under the Anti-Eviction Act do not require a separate notice related to a state of emergency or a public health emergency.</p>
<p>Any notice served on a tenant under Anti-Eviction Act during the State of Emergency demanding late fees must contain the following:</p> <p>“You are not required to pay late fees for rent that became due during the State of Emergency declared by the City of Union City and the State of New Jersey in response to the COVID-10 pandemic if the rent was late for reasons related to the pandemic.”</p>	<p>Notices to tenants under the Anti-Eviction Act do not a require a separate notice related to a state of emergency or a public health emergency.</p>
<p>No late fees may be imposed for rent that is late due to the COVID-19 pandemic</p>	<p>Late fees included in a lease agreement are collectable as rent.</p>
<p>No residential eviction for non-payment of rent that became due during the State of Emergency</p>	<p>Residential evictions are permitted for non-payment of rent and there is no qualification related to a state of emergency or public health emergency</p>
<p>In any action for unpaid rent, it shall be a presumption and absolute defense that unpaid rent which became due during the State of Emergency was unpaid because of the COVID-19 pandemic</p>	<p>No absolute defense for failure to pay rent during a state of emergency or public health emergency</p>
<p>Unpaid rent is <u>not</u> a basis for a non-payment proceeding in which a judgment of possession and warrant of eviction may result</p>	<p>Unpaid rent <u>is</u> a basis for a non-payment proceeding in which a judgment of possession and a warrant of eviction may result</p>