

# **Bond Case Briefs**

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## **MUNICIPAL ORDINANCE - PENNSYLVANIA**

### **Apartment Association of Metropolitan Pittsburgh, Inc. v. City of Pittsburgh**

**Supreme Court of Pennsylvania - October 21, 2021 - A.3d - 2021 WL 4901913**

Landlord association brought action against city, a home rule municipality and city of the second class, for injunctive relief and declaratory judgment that city lacked authority to enact ordinance generally prohibiting denial of access to housing based on a tenant's source of income.

City filed motion for judgment on the pleadings, and association filed motion for summary judgment. The Court of Common Pleas denied city's motion, granted association's motion, and declared ordinance invalid and unenforceable under Home Rule Law. City appealed. The Commonwealth Court affirmed. Supreme Court granted city's petition for allowance of appeal, vacated order of Commonwealth Court, and remanded for reconsideration with instructions. On remand the Commonwealth Court affirmed.

The Supreme Court held that:

General police powers provision of Second Class City Code (SCCC) did not expressly authorize home rule municipality to enact ordinance prohibiting residential landlords from discriminating against tenants based on source of income, and

Provision of Pennsylvania Human Relations Act (PHRA) authorizing municipalities to establish their own human relations commissions to combat discriminatory practices did not explicitly authorize home rule municipality to enact ordinance prohibiting residential landlords from discriminating based on tenants' source of income.

General police powers provision of Second Class City Code (SCCC) did not expressly authorize home rule municipality to enact ordinance prohibiting residential landlords from discriminating against tenants based on source of income, including federal housing vouchers, and, thus, did not protect ordinance from Business Exclusion to municipality's broad home rule powers; police powers provision did not expressly permit city to enact legislation requiring residential landlords to affirmatively participate in otherwise voluntary federal housing subsidy program.

Provision of Pennsylvania Human Relations Act (PHRA) authorizing municipalities to establish their own human relations commissions to combat discriminatory practices, including housing discrimination, did not explicitly authorize home rule municipality to enact ordinance prohibiting residential landlords from discriminating based on tenants' source of income, including federal Section 8 housing vouchers, and, thus, ordinance was subject to Business Exclusion on home rule powers; PHRA did not identify "source of income" as protected class, and by expressly defining "source of income" to include Section 8 vouchers, ordinance required landlords to comply with burdensome Section 8 Program regulations, which had previously been voluntary, going far beyond scope of PHRA.

City waived its appellate argument alleging that by enacting the nondiscrimination ordinance, which

prohibited residential landlords from discriminating based on tenants' source of income, including federal Section 8 housing vouchers, the city was enabling the implementation of federal housing policy as evinced by the United States Housing Act of 1937 and the Fair Housing Act of 1968 (FHA) to eradicate discriminatory practices within a sector of the nation's economy, and thus Business Exclusion exception did not apply to invalidate ordinance, where the city did not raise the argument before the Commonwealth Court either of the times it briefed the case in that court.