



Double Win for U.S. Constitution in Cortland, New York

The granting of [a permanent injunction](#) against a public housing authority in Cortland, New York, issued on Tuesday by a judge appointed by President George Bush in 2007, was a double win for the United States Constitution. It prohibits officials of the federally funded Cortland Housing Authority (CHA) from enforcing unconstitutional lease language infringing on the Second Amendment's guarantee of the right to keep and bear arms, and from interfering with the First Amendment's guarantee of freedom of speech on the government entity's Facebook page or other social media.



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Apparently, before filing suit in January this year, the three plaintiffs — Robert Hunter, Elmer Irwin, and Doug Merrin — used the CHA's Facebook page and other social media to castigate the authority for infringing on their rights under the Second Amendment. And apparently the authority shut down those disparaging comments.

The Injunction

According to the leases the plaintiffs signed, they were obligated

not to display, use, or possess, or allow members of Tenant's household or guest, to display, use, or possess, any firearms ... or other weapons ... anywhere on the property of the CHA.

According to Judge Glenn Suddaby of the U.S. District Court for the Northern District of New York, both plaintiffs and defendants

stipulate that the Court shall grant and issue a Permanent Injunction ... enjoining [the] Defendants ... from enforcing the Firearms Ban or other bans on firearms against the Plaintiffs and other CHA tenants.

The judge further stipulated that future changes in the lease agreement would also protect tenants' Second Amendment rights:

Defendants ... shall ensure that the CHA Lease ... and any future changes, edits, iterations, or versions of the CHA Lease, complies with the Second Amendment in all respects and does not violate the Second Amendment in any respect.

The injunction also forbids CHA from censoring its social media pages:

Defendants, and their respective employees, agents, representatives, service providers



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and/or contractors, are enjoined from prohibiting or restricting any person's access to any of CHA's social media pages or message forums, including but not limited to CHA's Facebook page, and Defendants are enjoined from censoring or deleting any person's comments, expressions, ideas, likes, messages, opinions, or posts on any of CHA's social media pages or message forums, so long as such content does not violate the terms of service of any social media entity, platform, or provider.

The settlement also requires the CHA to pay the plaintiffs' legal fees of \$150,000.

Suit Should Have Been Unnecessary

But those warring against the Second Amendment continue their game of Whac-A-Mole.

In 1995, the National Rifle Association (NRA) successfully sued a public housing authority in Portland, Maine for including such unconstitutional language in its leasing agreement.

In 2010, the Second Amendment Foundation [SAF], which supported the plaintiffs in Cortland, provided legal assistance in *McDonald v. City of Chicago*. The Supreme Court ruled then that "the right to keep and bear arms for self-defense in one's home is protected under the Second Amendment."

In 2012, the SAF successfully sued the Warren County Housing Authority in Warren County, Illinois. They had a similar ban included in their lease agreement.

In 2019, the SAF joined with the Illinois State Rifle Association in successfully suing the East St. Louis Housing Authority. That entity had similar unconstitutional language in its lease agreement.

And in 2022, the SAF supported Kinsley Braden in his suit against Columbia (Tennessee) Housing & Redevelopment for language that infringed on his Second Amendment right to possess a firearm in his public-housing apartment.

[The decision](#) in that case, written by Tennessee Court of Appeals Judge Frank Clement, should have put the issue to rest for all time:

In light of the Supreme Court's most recent decision in *Bruen* and keeping in mind the presumptively unconstitutional status of Columbia Housing's policy based on the Supreme Court's decision in *Heller*, we conclude that a total ban on the ability of law-abiding residents — like Mr. Braden — to possess a handgun within their public housing unit for the purpose of self-defense is unconstitutional under the Second Amendment.

How many more similar lawsuits must be filed?

SAF Director Adam Kraut [observed](#):

At some point, it should become abundantly clear to various public housing authorities that gun bans are not allowed. Residents do not leave their constitutional rights at the entrance, as each of our victories over the years have affirmed.

Don't count on it. The game of Whac-A-Mole is likely to continue as long as the communists' war on the private possession of firearms continues.



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