

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PA  
CIVIL ACTION

DOROTHY RIVERA, an Individual, : NO. 2017-04992  
EDDY OMAR RIVERA, an Individual, :  
KATHLEEN O’CONNOR, an Individual, :  
ROSEMARIE O’CONNOR, an individual, :  
THE ESTATE OF THOMAS O’CONNOR, :  
an Individual and STEVEN CAMBURN, :  
an Individual :

v. :

BOROUGH OF POTTSTOWN and :  
KEITH A. PLACE, in his official capacity as :  
Pottstown Director of Licensing and :  
Inspections :

**ORDER**

**AND NOW**, this 24th day of January, 2024, upon consideration of Defendants’ Motion for Summary Judgment (Seq. #205), Plaintiffs’ Motion for Summary Judgment (Seq. #206), Plaintiffs’ Response in Opposition to Defendants’ Motion for Summary Judgment (Seq. #209), Defendants’ Response to Plaintiffs’ Motion for Summary Judgment (Seq. #210), Plaintiffs’ Reply in Support of their Motion for Summary Judgment (Seq. #220), and oral argument on December 18, 2023, it is **ORDERED** and **DECREED** as follows:

- 1) Defendants’ motions for summary judgment are **DENIED**.
- 2) Plaintiffs’ motion for summary judgment seeking a declaration that the Borough’s inspection ordinances are facially unconstitutional because warrants are issued based upon less than individualized probable cause of code violations is **DENIED**.
- 3) Plaintiffs’ request that the Borough’s application of its Ordinances be enjoined as unconstitutional under Article I, Section 8 of the Pennsylvania Constitution (“as applied challenge”) is **GRANTED**.


It is further **ORDERED** that the Defendants are **ENJOINED** from conducting non-consensual, suspicionless searches to inspect for housing code violations pursuant to Pottstown Borough Ordinances Section 5-801 to 5-809 and 11-201 to 11-206 unless and until the Borough enacts amendments to its Ordinances to provide the following:

- a) at least seven days advance written notice to both owners and occupants of rental units of the date, time and location of application to a magistrate for an administrative search warrant including notice of the right to be heard; and
- b) at least seven days advance written notice to both owners and occupants of the date and time the search warrant will be executed; and
- c) judicial consideration of reasonable restrictions on the inspection.

BY THE COURT:

  
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RICHARD P. HAAZ, J.

E-filed on 1/24/24  
Copies sent via Prothonotary  
Emailed to Court Administration

  
\_\_\_\_\_  
Judicial Secretary