

STATE OF RHODE ISLAND  
PROVIDENCE, S.C.

SUPERIOR COURT

FEDERAL HILL CAPITAL, LLC, )  
CHRISTOPHER MUSACCHIO, ALEJANDRO )  
AMAYA, WILLIAM SMITH, AND )  
COREY KOSSIN, )

Plaintiffs, )

v. )

C.A. No. PC-2016-\_\_\_\_\_

CITY OF PROVIDENCE by and through its )  
Treasurer, James Lombardi, JORGE ELORZA, )  
in his official capacity as Mayor of Providence, )  
and JEFFREY L. LYKINS, in his official )  
capacity as Director of the Providence )  
Department of Inspection and Standards, )

Defendants. )

**COMPLAINT**

**Introductory Statement**

1. This lawsuit arises from a new Providence zoning ordinance that prohibits more than three university students from living together in a single-family home in neighborhoods that are zoned primarily for single-family homes. The City Council enacted the ordinance in response to complaints of loud parties and rowdy behavior in the areas around Providence College and Rhode Island College, yet there is absolutely no reason to believe that restricting the number of student tenants in a small subset of available rental housing (i.e., single-family homes) will make the affected neighborhoods any quieter, safer or cleaner. On the contrary, the ordinance is an unconstitutional intrusion into the rights of college and graduate students to choose with whom they wish to live, and the rights of property owners to rent their homes to tenants of their choice. This Court should invalidate the ordinance.

## 2. Parties, Jurisdiction, and Venue

3. Plaintiff Federal Hill Capital, LLC (“FHC”) is a Rhode Island limited liability company with its principal place of business in Providence, Rhode Island. FHC owns a single family home located at 15 Oakdale Street in Providence, Rhode Island (the “Oakdale House”).

4. Plaintiff Christopher Musacchio (“Musacchio”) is a junior Hotel Management major at Johnson & Wales University in Providence, Rhode Island. Musacchio resides at the Oakdale House.

5. Plaintiff Alejandro Amaya (“Amaya”) is a junior Food Service Management major at Johnson & Wales University in Providence, Rhode Island. Amaya resides at the Oakdale House.

6. Plaintiff William Smith (“Smith”) is a junior Business Management major at Johnson & Wales University in Providence, Rhode Island. Smith resides at the Oakdale House.

7. Plaintiff Corey Kossin (“Kossin”) is a junior Business Management major at Johnson & Wales University in Providence, Rhode Island. Kossin resides in Providence, Rhode Island.

8. Musacchio, Amaya and Smith are parties to a lease with FHC dated February 5, 2015 through which they and one other tenant rented the Oakdale House from June 1, 2015 through May 24, 2016.

9. Musacchio, Amaya, Smith and Kossin (together, the “Student Plaintiffs”) are parties to a lease with FHC dated January 12, 2016 through which they have rented the Oakdale House from June 1, 2016 through May 24, 2017.

10. Defendant City of Providence (“Providence” or the “City”) is a Municipal Corporation and political subdivision of the State of Rhode Island.

11. Defendant Jorge O. Elorza (“Mayor Elorza”) is the Mayor of Providence. As chief executive of the City, Mayor Elorza has ultimate authority over the Department of Inspection and Standards, which is charged with enforcement of the zoning ordinance at issue in this case.

12. Defendant Jeffrey L. Lykins (“Lykins”) is the Director of the Department of Inspection and Standards for the City of Providence.

13. This Court has jurisdiction over the subject matter pursuant to RIGL § 8-2-13, § 8-2-14 and § 8-2-17.

14. Venue is proper in this County pursuant to RIGL § 9-4-3.

### **The Student Housing Ordinance**

15. Prior to September 17, 2015, the Providence Zoning Ordinance did not purport to regulate the number of college students permitted to reside in a single-family dwelling in Providence.

16. On or about September 17, 2015, the Providence City Council voted for the second time to approve an amendment to the Providence Zoning Ordinance that prohibits more than three “College Students” from living together in a non-owner-occupied single-family dwelling in an area zoned R-1 or R-1A (the “Student Housing Ordinance”). The Student Housing Ordinance is attached hereto as Exhibit A.

17. Prior to passage of the Student Housing Ordinance, the term “College Student” was not defined in the Providence Zoning Ordinance. The Student Housing Ordinance defines “College Student” as “[A]n individual enrolled in, or attending academic courses at, any college, university or other post-secondary education institution for academic credit, whether in an undergraduate or graduate capacity.” Significantly, the Student Housing Ordinance does not

distinguish between graduate, undergraduate, full-time and part-time students. All are merely “College Students” for the purposes of the ordinance.

18. A press release issued by the Providence City Council on or about September 17, 2015, explains the rationale behind the new law according to Councilwoman Jo-Ann Ryan, its sponsor:

Ryan introduced the legislation in response to concerns from residents in the Elmhurst and Mount Pleasant neighborhoods she represents, who are frustrated that single-family homes were being purchased and rented to numerous college students. Ryan, whose ward borders the Providence College campus, said that, “The change in intended use of single-family homes is undermining the character of our neighborhoods, diminishing the quality of life, and creating health and public safety concerns.” She said, “The new zoning ordinance will give the City a critical tool in addressing the negative impacts of student housing in single-family districts.”

A copy of the press release, obtained from the City Council’s website, is attached hereto as Exhibit B.

19. Upon information and belief, permitting more than three College Students to live together in a single-family home in a neighborhood zoned R-1 or R-1A is not “undermining the character of [the City’s] neighborhoods, diminishing the quality of life, and creating health and public safety concerns.”

20. Prior to enactment of the Student Housing Ordinance, there were laws in effect to address the legitimate concerns of City residents regarding noise, parties and traffic in residential neighborhoods. Those laws remain in effect following the passage of the Student Housing Ordinance. Upon information and belief, the Student Housing Ordinance will not have any additional impact on these issues.

21. The Student Housing Ordinance was signed by Mayor Elorza in or about September 2015, following its second passage by the City Council, and is presently in effect.

**The Oakdale House**

22. FHC purchased the Oakdale House on or about June 18, 2013.

23. Upon information and belief, the Oakdale House was vacant and abandoned for more than one year before FHC purchased it.

24. The Oakdale House is zoned R-1, which the Providence Zoning Ordinance defines as a residential district “intended for detached single-family dwellings of low density residential development.” The Student Housing Ordinance purports to restrict the right of FHC to rent the Oakdale House to more than three College Students.

25. On or about February 5, 2015, before the Student Housing Ordinance took effect, plaintiffs Musacchio, Amaya and Smith entered into a lease with FHC for the Oakdale House, along with one other tenant (the “2015 Lease”). A copy of the 2015 Lease is attached hereto as Exhibit C. The 2015 lease term runs from June 1, 2015 through May 24, 2016. All four of the tenants on the 2015 Lease are College Students as defined in the Student Housing Ordinance.

26. On or about January 12, 2016, after the Student Housing Ordinance took effect, the four Student Plaintiffs entered into a lease with FHC for the Oakdale House, the “2016 Lease”). A copy of the 2016 Lease is attached hereto as Exhibit D. The 2016 lease term runs from June 1, 2016 through May 24, 2017. All four of the tenants on the 2016 Lease are College Students as defined in the Student Housing Ordinance.

**COUNT I  
(Due Process)**

27. Plaintiffs repeat and incorporate Paragraphs 1 through 26 as fully stated above.

28. Enforcement of the Student Housing Ordinance would interfere with FHC’s right to lease the Oakdale House to the Student Plaintiffs, as well as the Student Plaintiffs’ right to choose with whom they may live, and where they may live. Enforcement of the Student Housing

Ordinance would therefore deprive all Plaintiffs of their right to due process of law in contravention of Article 1, Section 2 of the Rhode Island Constitution.

29. Enforcement of the Student Housing Ordinance would also deprive all Plaintiffs of a protected property right without due process of law in contravention of Article 1, Section 2 of the Rhode Island Constitution.

**COUNT II**  
**(Equal Protection – All Plaintiffs)**

30. Plaintiffs repeat and incorporate Paragraphs 1 through 29 as fully stated above.

31. The Student Housing Ordinance denies FHC and the other Providence property owners who choose to rent single family homes zoned R-1 or R-1A to more than three College Students the equal protection of the law in contravention of Article 1, Section 2 of the Rhode Island Constitution.

32. The Student Housing Ordinance deprives the Student Plaintiffs of equal protection of the law in contravention of Article 1, Section 2 of the Rhode Island Constitution, by discriminating against them based solely on their occupation and/or educational status, and attempting to restrict with whom they may live, and where they may live.

**COUNT III**  
**(Declaratory Judgment)**

33. Plaintiffs repeat and incorporate Paragraphs 1 through 32 as fully stated above.

34. There exists at the current time a dispute and controversy between the parties sufficient for a declaratory judgment.

35. Accordingly, Plaintiffs request that the Court issue a judgment for declaratory relief concerning the Constitutionality of the Student Housing Ordinance pursuant to R.I. Gen. Law § 9-30-1.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment as follows:

1. Declaring the Student Housing Ordinance unconstitutional pursuant to Article 1, Section 2 of the Rhode Island Constitution.
2. Entering an order enjoining the Defendants from enforcing or attempting to enforce the Student Housing ordinance.
3. Awarding Plaintiffs compensatory and exemplary damages in an amount to be proven at trial.
4. Awarding Plaintiffs their costs and reasonable attorneys' fees.
5. Awarding Plaintiffs such other and further relief as the Court finds just and equitable.

**PLAINTIFFS DEMAND A TRIAL BY JURY**

FEDERAL HILL CAPITAL, LLC,  
CHRISTOPHER MUSACCHIO,  
ALEJANDRO AMAYA, WILLIAM  
SMITH, AND COREY COSSIN,

By their attorneys,

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Cooperating Attorneys, American  
Civil Liberties Union Foundation  
Of Rhode Island

Dated: February \_\_\_\_, 2016.