
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
PENNSYLVANIA – CIVIL DIVISION

JOHN DOE, et al., individually and : CIVIL ACTION NO. 121203785
on behalf of all persons similarly situated, :
Plaintiffs : Class Action
v. :
: CASE IS SEALED BY COURT ORDER
CITY OF PHILADELPHIA, et al., :
Defendants. :

SETTLEMENT AGREEMENT

Plaintiffs, John Doe, et al. (the “Representative Plaintiffs”), individually and on behalf of all persons similarly situated (collectively, “Plaintiffs”), and Defendants, City of Philadelphia (the “City”), Mayor Michael A. Nutter (“Mayor Nutter”), the Philadelphia Police Department (“PPD”), the Gun Permit Unit of the Philadelphia Police Department (“GPU”), the Philadelphia License and Inspection Board of Review (“L&I Board”), and the Philadelphia Office of Innovation & Technology (“OIT”) (collectively, the “Defendants”) (Plaintiffs and Defendants are hereinafter collectively referred to as the “Parties”), hereby enter into this Settlement Agreement providing, subject to the approval of the Court, for certification of this action as a class action for settlement purposes only and settlement of the claims herein described against Defendants.

WHEREAS, Plaintiffs filed the above-captioned class action lawsuit (the “Litigation,” “Lawsuit” or “Action”) against Defendants, alleging that Defendants improperly disclosed, through the use of an Internet website (the “Web Application”) confidential information (“LTCF Information”) about Philadelphia residents who appealed the denial or revocation of their License to Carry Firearms (“LTCF”) to the L&I Board in alleged violation of 18 Pa.C.S. § 6111(i).

WHEREAS, by the time the Litigation was filed, the City had removed public access to the Web Application.

WHEREAS, the Defendants have denied and continue to deny Plaintiffs' claims, deny that the LTCF Information is confidential, and deny any wrongdoing or liability of any kind to Plaintiffs or to any members of the Settlement Class (as defined hereinafter).

WHEREAS, the Parties have conducted a thorough examination and investigation of the facts and law relating to the matters in this Litigation and that such examination included documentary and deposition discovery in the course of the Litigation.

WHEREAS, the Defendants have concluded that settlement is desirable in order to avoid the time, expense, and inherent uncertainties of defending protracted litigation and to resolve finally and completely all pending and potential claims of the Plaintiffs and all Settlement Class Members relating to alleged conduct involved in this Litigation.

WHEREAS, Plaintiffs and Class Counsel recognize the costs and risks of prosecuting this Litigation, and believe that it is in their interest, and the interest of all Settlement Class Members, to resolve this Litigation, and any and all claims against the Defendants.

WHEREAS, substantial, adversarial settlement negotiations have taken place between the Parties, including mediation conducted by former United States Magistrate Diane M. Welsh, and, as a result, this Settlement Agreement has been reached, subject to Court approval.

WHEREAS, the Parties and their counsel believe that this Settlement Agreement offers significant benefits to Class Members and is fair, reasonable, adequate and in the best interest of the Settlement Class Members.

WHEREAS, this Settlement Agreement is made and entered into by and among the Defendants and the Plaintiffs, individually and on behalf of a class (the "Settlement Class") of similarly situated persons (the "Settlement Class Members") defined as set forth below.

NOW, THEREFORE, it is hereby stipulated and agreed, by and between the undersigned as follows:

I. DEFINITIONS.

As used in this Settlement Agreement, the following terms shall have the meaning set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

A. City - shall mean the City of Philadelphia and all of its departments, boards, agencies, sub-divisions, employees, agents, attorneys, and representatives.

B. Class Counsel - shall mean: Joshua Prince, Esquire of Prince Law Offices, P.C., Benjamin R. Picker, Esquire of McCausland Keen & Buckman, Jonathan Goldstein, Esquire of McNelly & Goldstein, LLC, and Jon S. Mirowitz, Esquire.

C. Class Notices - shall mean the Court-approved form of notice in substantially the same forms as Exhibits "D-1" or "D-2" (depending on which Subclass the Settlement Class Member is in) wherein the Settlement Class is informed of the certification of this Litigation as a class action pursuant to Pa.R.C.P. Nos. 1701 et seq. and the preliminary approval of this settlement by the Court, and is provided with the opportunity to object to the Settlement and/or opt out of the Litigation and Settlement.

D. Class Representatives - shall mean the Representative Plaintiffs named in the Complaint.

E. Complaint – shall mean the Second Amended Class Action Complaint to be filed by Plaintiffs and described in Section II(A) herein below.

F. Court - shall mean the Court of Common Pleas of Philadelphia County, Pennsylvania, The Honorable Jacqueline F. Allen presiding, or her duly appointed or designated successor.

G. Defendants - shall mean those individuals and entities as defined hereinabove.

H. Defendants' Counsel – shall mean Craig M. Straw, Esquire and Amanda C. Shoffel, Esquire, Civil Rights Unit, City of Philadelphia Law Department.

I. Distribution Amount - shall mean the amount available from the Settlement Fund after payment of attorneys' fees and expenses, and incentive awards to the Representative Plaintiffs.

J. Effective Date - shall mean forty (40) days from the date on which the Settlement has been finally approved by the Court, and/or the date on which any appeals from the Final Approval Order are resolved, whichever is later.

K. Final Approval Hearing - shall mean the hearing at which the Court will consider and finally decide whether to enter the Final Approval Order.

L. Final Approval Order - shall mean that Court order that finally approves this Settlement Agreement, approves payment of attorneys' fees and expenses, and makes such other final rulings as are contemplated by this Settlement Agreement.

M. Litigation - shall mean the above-captioned lawsuit pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, Case No. 121203785, filed under seal to protect the identities of the Settlement Class Members.

N. LTCF – shall mean a Pennsylvania License to Carry Firearms.

O. LTCF Information - shall mean information that is allegedly confidential pursuant to 18 Pa.C.S. 6111(i), including any and all information provided by the applicant for an LTCF, a person who appeals from the denial or revocation of an LTCF, and any information received by the City of Philadelphia in connection with an LTCF application or appeal, including but not limited to name and address of the applicant or appellant, and/or the reason for appeal.

P. Notice Program - shall mean the program for disseminating the Class Notices to Settlement Class Members in accordance with the terms herein.

Q. Notice Date - shall mean the date upon which Class Notices are first mailed to known Settlement Class Members in accordance with the terms herein, which date shall be set forth on the Class Notices.

R. Objection Date - shall mean the date agreed upon by the Parties or otherwise ordered by the Court by which Settlement Class Members must submit any objection to the Settlement Agreement's terms or provisions and submit any required statements, proof, or other materials and/or argument.

S. Opt-Out Deadline - shall mean the date agreed upon by the Parties or otherwise ordered by the Court by which any Settlement Class Members who do not wish to be included in the Settlement Class and participate in the Settlement must complete the acts necessary to properly effect such election to opt out.

T. Opt-Out List - shall mean a written list prepared by the Settlement Administrator of the names of all Settlement Class Members who submit a timely Request for Exclusion.

U. Parties - shall mean those individuals and entities defined hereinabove as the "Parties."

V. Preliminary Approval Order - shall mean the Order of the Court preliminarily approving this Settlement Agreement and certifying the Settlement Class for settlement purposes only, and described in Section II(B)(1) herein below.

W. Policy Changes – means the changes in internal policy of the Defendants, which are agreed to by and between the Parties, and which are set forth in Section III(A) herein.

X. Release - shall mean the release described in Section VII herein.

Y. Released Claims - shall mean and include any and all claims or causes of action by or on behalf of any and all Settlement Class Members (and their predecessors, successors, heirs, administrators, executors, agents, trustees, representatives, and assigns) that are released by the Release described in Section VII herein.

Z. Released Parties - shall mean all persons or entities against whom Released Claims will be released pursuant to the Release described in Section VII herein.

AA. Request for Exclusion - shall mean a request by any Settlement Class Member for exclusion from (to opt out of) the Settlement Class in compliance with Section V herein.

BB. Settlement - shall mean the agreement between the Parties to resolve the Litigation, the terms of which have been memorialized in this Settlement Agreement.

CC. Settlement Administrator - shall mean the qualified party selected by Defendants and designated in the Preliminary Approval Order to administer the Settlement, including implementing the Notice Program and maintaining the Settlement website and call center. Plaintiffs, Defendants and their respective counsel shall not have any responsibility for any acts or omissions of the Settlement Administrator.

DD. Settlement Agreement - shall mean this Settlement Agreement, including any valid amendment hereto, and all the Exhibits attached hereto.

EE. Settlement Amount - shall mean the sum of One Million Four Hundred Twenty-Five Thousand Dollars (\$1,425,000.00) to be paid by or on behalf of the Defendants.

FF. Settlement Class - shall mean "The 3,165 persons who appealed the denial or revocation of their License to Carry Firearms to the Philadelphia Board of Licenses and Inspections Review, and whose allegedly confidential information, including name, address and reason for appeal ("LTCF Information"), appears in the City of Philadelphia's "Hansen" database and may have been disclosed to individuals and/or entities not entitled to access in alleged violation of 18 Pa.C.S. §6111(i). Excluded from the Settlement Class are the council members, officers and employees of the Defendants."

GG. Settlement Class Members - shall mean all persons in the Settlement Class who do not exclude themselves (opt out) pursuant to Section V herein.

HH. Settlement Fund - shall mean a fund or funds, governed by terms to be agreed to between Class Counsel and Defendant's Counsel which shall be earmarked specifically for this case and remain in the City of Philadelphia Law Department's General Indemnities Fund until such time as to be utilized to administer the monetary requirements of the Settlement. Defendant shall provide documentation verifying that the Settlement Amount is available, has been earmarked for the sole purpose of this case, and will not be utilized for any other payments or purposes. Defendant will not allow the General Indemnities Fund to ever have less than the Settlement Amount in it, except to the extent payments are properly distributed to Settlement Class Members and/or court-approved attorneys' fees and expenses are properly distributed to Class Counsel.

II. Settlement Subclasses - shall mean the following two subclasses:

1. Subclass I shall mean: “The 2,190 members of the Settlement Class whose LTCF Information was available for public viewing on the City of Philadelphia owned and operated website <http://www.phila.gov/map> during the time period of August 11, 2012 through August 15, 2012.”

2. Subclass II shall mean: “The 1,077 members of the Settlement Class who are not members of Subclass I.”

JJ. Settlement Website – shall mean a publicly accessible website established by the Settlement Administrator to provide information about the Settlement with a World Wide Web address of www.phillyltcfclassaction.com to provide information and answer questions about the Settlement.

KK. Web Application – shall mean the Internet website/database, which was available for viewing at <http://www.phila.gov/map>, or any similar applications maintained by the City of Philadelphia, which allowed the public access to LTCF Information.

II. REQUIRED EVENTS.

A. Amendment of Complaint.

1. The Parties hereby stipulate and agree that Plaintiffs shall be permitted leave to file a Second Amended Complaint (which shall thereafter be known as the “Complaint”) immediately upon execution of this Settlement Agreement, in substantially the same form as Exhibit “A” hereto, to:

a. Change, add or remove Class Representatives so that not more than three individuals are named as Class Representatives for each Subclass;

b. Modify the description of the Class to match the description of the Class, and the Subclasses, set forth herein;

- c. Remove all “Doe” defendants from the Complaint;
- d. Add a claim for declaratory and injunctive relief regarding the Policy Changes; and
- e. Make any other modifications or amendments to the First Amended Complaint that are necessary to effectuate and/or comply with this Settlement Agreement.

2. The Defendants shall not be required to file a responsive pleading to the Complaint unless it appears that the Court will not approve this Settlement Agreement, but they may do so if they so desire. The Defendants agree not to file Preliminary Objections to the Complaint.

B. Promptly after execution of this Settlement Agreement by all Parties and the filing of the Complaint:

1. Plaintiffs shall file, and Defendants agree not to contest, a Motion for Class Certification for Settlement Purposes Only and for Preliminary Approval of the Settlement and Notice Program (the “Preliminary Approval Motion”), with Memorandum of Law, in substantially the same form as Exhibit “B” hereto, which shall move for the entry of a Preliminary Approval Order in substantially the same form as Exhibit “C” hereto, and which by its terms shall:

- a. Preliminarily approve the terms of the Settlement Agreement, including the certification of the Settlement Class for purposes of this Settlement Agreement only, as within the range of fair, reasonable and adequate Settlement for purposes of issuing notice;

b. Approve the contents of the Class Notices, in substantially the same form as Exhibits “D-1” and “D-2” hereto, and methods in the Notice Plan set forth herein;

c. Set deadlines for the mailing of the Class Notices, the filing of objections to the settlement, the filing of Requests for Exclusion, and the filing of a Motion for Final Approval of Settlement and for an Award of Attorneys’ Fees and Expenses (“Motion for Final Approval”);

d. Schedule a Final Approval Hearing to review comments regarding the proposed Class Settlement and to consider the fairness, reasonableness, and adequacy of the proposed Class Settlement and the application for an award of attorneys' fees and reimbursement of expenses, and to consider whether the Court should issue the Final Approval Order finally approving the Class Settlement, granting Class Counsel's application for attorneys’ fees and expenses, granting the incentive awards application by the Class Representatives, and dismissing the Litigation except to the extent the Court retains jurisdiction to enforce this Settlement Agreement and the Policy Changes.

2. Class Counsel and Defendants’ Counsel will use their best efforts, consistent with the terms of this Settlement Agreement, to promptly obtain the Preliminary Approval Order and the Final Approval Order.

3. In the event that the Court fails to issue the Preliminary Approval Order or fails to issue the Final Approval Order, Class Counsel and Defendants’ Counsel agree to use their best efforts, consistent with this Settlement Agreement, to cure any defect identified by the Court; provided, however, that in no event shall Defendants be required

to agree to any such cure that would increase the cost of the Settlement Agreement to the Defendant.

4. The Parties acknowledge that prompt approval, consummation, and implementation of the Settlement set forth in this Settlement Agreement are essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement, shall promptly perform their respective obligations hereunder, and shall promptly take any and all actions and execute and deliver any and all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement Agreement and the transactions contemplated hereby. Any disputes regarding the Parties' obligations under this paragraph shall be submitted for decision by the Court and shall be binding on the Parties.

III. SETTLEMENT TERMS.

A. Policy Changes and Training.

The Defendants hereby agree and consent to the following relief:

1. The City shall not make available to the public the Web Application, which previously disclosed LTCF Information.

2. The City shall not disclose LTCF Information to anyone or any entity in any manner, including, but not limited to, in-person or electronically. However, nothing shall prohibit the City and its employees from disclosing such information to the LTCF applicant, the applicant's attorney, or any law enforcement and judicial personnel who are permitted by law to receive such information.

3. To the extent that the Pennsylvania Uniform Firearms Act allows or otherwise permits the disclosure of LTCF applicant information to contractors or

developers for data management or data location services, which is not admitted by Plaintiffs, the City shall provide a copy of this Settlement Agreement and the Final Approval Order to the contractor or developer and explain to the contractor or developer that the information is confidential, not subject to disclosure and is subject to penalty of law (civil and criminal). The City shall obtain written confirmation from the contractor or developer acknowledging such confidentiality.

4. The City shall train, on at least an annual basis, members of the Philadelphia Police Department and Philadelphia License and Inspection Board of Review by appropriate means and manner regarding the confidentiality of LTCF Information pursuant to 18 Pa.C.S. § 6111.

5. The City shall provide appropriate customer service training for members of the Gun Permits Unit of the Philadelphia Police Department. The City shall include in the above-mentioned training that the confidentiality of 18 Pa.C.S. § 6111 requires that LTCF Information not be shared with or disclosed to the public, although such information may be shared among law enforcement personnel as necessary and as provided for by Pennsylvania's Uniform Firearms Act.

6. The City shall post a downloadable .pdf version of Exhibit "E" hereto, this Settlement Agreement, and the Final Approval Order, on its main website, www.phila.gov, for a period of at least five (5) years from the Effective Date.

7. The City shall post, for a period of at least five (5) years, a downloadable .pdf version of Exhibit "E" hereto on any City-owned or operated Internet webpage where documents or information relating to an application for an LTCF or an appeal from the denial or revocation of an LTCF are available.

8. The City shall conspicuously post, for a period of at least five (5) years from the Effective Date, a printed copy of Exhibit “E” hereto and the Final Approval Order at every City owned or operated location where an LTCF application or LTCF appeal can be submitted or filed.

9. The City shall include a copy of Exhibit “E” with any notice provided to an LTCF applicant regarding the granting, denial or revocation of an applicant’s LTCF.

10. The City shall not require an applicant for an LTCF to provide any references on the LTCF Application or from denying such application because of any failure or refusal to provide such references.

11. The City shall not require any lawful immigrant or United States citizen who possess a valid United States Passport, to provide any naturalization papers or other documentation proving citizenship, unless there exists a legitimate question as to the validity of such Passport.

12. The City shall not deny or revoke any LTCF on the basis that the applicant answered in the negative or “no” to any question relating to whether the applicant had been charged and/or convicted of any crime where the applicant obtained an expungement of or pardon from the charge or conviction.

13. If an LTCF is not renewed within six (6) years from the date of its issuance or previous renewal, the City shall, within thirty (30) days thereafter, destroy and expunge all documents, other than the LTCF application on the form prescribed by the Pennsylvania State Police and any related Denial or Revocation letters, in its possession or under its control, which documentation to be destroyed and expunged shall

include, but is not limited to, all military discharge papers, fingerprints, and reference forms.

14. The City shall process all LTCF applications, and issue an approval or denial, within 45 calendar days from the date of application, as required by 18 Pa.C.S. § 6109 and as calculated pursuant to Pa.R.C.P. 106.

15. The City shall remit to the applicant the fee paid by the applicant, less five dollars (\$5.00), which constitutes an administrative fee, as specified by 18 PA.C.S. § 6109, within twenty (20) days after the date that the applicant's LTCF application is denied.

16. The City shall not advise LTCF applicants or LTCF holders that they must disclose to a law enforcement officer, during an encounter or interaction with a law enforcement officer, that they have an LTCF, that they own or are carrying a firearm, or that they have a firearm in their vehicle. However, the City shall not be prohibited from advising LTCF applicants or LTCF holders that it is strongly recommended but not mandatory that they immediately disclose to a law enforcement officer, during an encounter or interaction with a law enforcement officer, that they are carrying a firearm or have a firearm in their vehicle.

17. The City shall not confiscate any LTCF unless there is probable cause to believe that the LTCF is evidence of a crime. In the event an LTCF is confiscated, the City shall immediately provide a completed property receipt to the LTCF holder as required by Philadelphia Police Department Directive 91, which property receipt shall set forth the LTCF number, the date, time and location of the confiscation, the reason for confiscation, and the confiscating officer's name and badge number.

18. The City shall not confiscate a firearm unless there is probable cause to believe that the firearm is evidence of a crime or a person is otherwise arrested while carrying a firearm. In the event a firearm is confiscated, the City shall immediately provide a completed property receipt to the person carrying the firearm pursuant to 18 Pa.C.S. § 6105(f)(4) and as required by Philadelphia Police Department Directive 91, which property receipt shall set forth the make, model and serial number of the firearm, the date, time and location of the confiscation, the reason for the confiscation, and the confiscating officer's name and badge number.

19. The City shall not require any person to disclose whether such person owns or possesses any firearms or ammunition during the LTCF application process.

B. Settlement Fund.

1. Upon entry by the Court of the Preliminary Approval Order, the City of Philadelphia shall provide Class Counsel with documentation verifying that the Settlement Amount is available and sequestered within the City of Philadelphia's General Fund, and that the Settlement Amount has been earmarked for the sole purpose of this case, and will not be utilized for any other payments or purposes.

2. All administrative expenses, including the costs of Settlement administration, website administration and the provision of notice to class members, shall be separately and solely borne by the City and the cost thereof shall not be deducted from the Settlement Amount/Settlement Fund.

C. Attorneys Fees and Expenses.

1. As part of the Motion for Final Approval, Class Counsel will petition the Court for an award of attorneys' fees and expenses in an amount not to one-third of the Settlement Amount.

2. Defendants will not oppose Class Counsel's application for said award of fees and expenses, nor will they oppose any appeal filed by Class Counsel relative to their application for an award of attorneys' fees and expenses.

3. The amount of attorneys' fees and expenses approved by the Court shall, on the Effective Date (or earlier as permitted in Section III(E) below), be deducted from the Settlement Amount/Settlement Fund and shall be mailed and made payable to "Prince Law Offices, P.C."

D. Payments to Class Members.

1. The Settlement Amount/Settlement Fund, less Court-approved attorneys' fees and expenses and Court-approved incentive awards for the Representative Plaintiffs, will be divided into two amounts of money to compensate members of each Subclass.

2. Subclass I, which numbers 2,188 individuals, shall be allocated the Settlement Amount, less the \$26,925 allocated to Subclass II, less the attorneys' fees and expenses awarded, and less the Court-approved incentive awards to the Representative Plaintiffs, which will be distributed *pro rata* to Subclass I members who do not opt out. Although Class Members within Subclass I are also members of Subclass II, Class Members within Subclass I who do not opt out shall be entitled to only one payment in the foregoing sum. In the event that less than the full amount of attorneys' fees and expenses sought by Class Counsel and/or less than the full amount of the incentive

awards sought for Representative Plaintiffs, are approved by the Court, any difference between the amount requested and the amount approved shall be distributed *pro rata* to the members of Subclass I who do not opt out.

3. Subclass II, which numbers 1,077 individuals who are not members of Subclass I, shall receive a total of \$26,925 of the Settlement Fund. Each Class Member within Subclass II who is not also a member of Subclass I and who does not submit a timely Request for Exclusion will be entitled to receive the sum of \$25.00.

4. No portion of the Settlement Amount/Settlement Fund shall be disbursed before the Effective Date, except as set forth in Section III(E) below.

E. Partial Distribution Pending Appeal.

If an appeal is filed from the Final Approval Order, and if the payment of some portion of the Settlement Fund is not in dispute in such appeal, that undisputed portion of the Settlement Fund shall be distributed in accordance with this Settlement Agreement. In the event that Final Approval of the Settlement is overturned on appeal, any unpaid funds shall remain with the City of Philadelphia under further Order of the Court.

F. Other Disbursements from the Settlement Fund.

Any excess remaining in the Settlement Fund, and any sums payable to any Settlement Class Members who cannot be located after diligent effort, or who fail to cash or deposit their settlement check within ninety (90) days of the date it is mailed and not returned as undeliverable, shall be distributed as other Court-approved disbursements of funds as follows:

1. One-Third to the NRA Civil Rights Defense Fund;
2. One-Third to the Philadelphia NRA Eddie Eagle Program; and
3. One-Third to the School District of Philadelphia.

G. Residual.

Any sums remaining after distribution to the Class Members, Class Counsel, and pursuant to section III(F) above, shall be distributed residual funds as follows:

1. 50% to the Pennsylvania Interest on lawyers Trust Account Board as required by Pa.R.C.P. 1716; and
2. 50% to the NRA Civil Rights Defense Fund.

IV. NOTIFICATION TO CLASS MEMBERS.

A. Responsibilities of the Settlement Administrator.

1. The Settlement Administrator shall be selected and paid for by the City of Philadelphia and shall implement and administer the Notice Program.

2. The Settlement Administrator shall be responsible for, without limitation: (i) mailing the Class Notices; (ii) responding to requests for a copy of the Class Notices; (iii) maintaining the Settlement Website until the Effective Date; (iv) maintaining, until the day after the Final Approval Hearing, a toll free Settlement telephone number and call center through which a live and knowledgeable person may be reached Monday through Friday from 8:00 a.m. to 6:00 p.m. to provide information and answer questions about the Settlement; (v) otherwise administering the Notice Program and (vi) distributing payments to the Settlement Class Members. The Notice Program shall comply with all requirements of applicable law. The Settlement Administrator will maintain an appropriate insurance policy to protect against any violation of its fiduciary duties and other legal obligations to the Court, the Representative Plaintiffs, Settlement Class Members, Defendants, Defendants' Counsel and Class Counsel.

3. The Settlement Administrator will maintain the Settlement Website,

www.phillyltcfclassaction.com, which will provide information about the Settlement to Class members, including, a downloadable copies of the Complaint (in redacted form so as to not reveal the identities of the Representative Plaintiffs or any of the Settlement Class Members), the Settlement Agreement, the Preliminary Approval Motion, the Preliminary Approval Order, the Class Notices, the Motion for Final Approval, and the Final Approval Order, all in .pdf format, as well as other pertinent information about the Litigation and the Settlement, including any upcoming hearings or other events and the general the status of the Litigation and Settlement. Class Counsel shall have the right and opportunity to approve the content of the Settlement Website.

B. Notice.

1. Notice will be provided to the Settlement Class by the Settlement Administrator by direct mailing of Class Notices to all Class Members at their last known or readily ascertainable address utilizing the records maintained by the City of Philadelphia, including, but not limited to, LTCF records, land records, tax records, and utility records. The City of Philadelphia will promptly search its records and provide the Settlement Administrator with the last known good address for each Class Member and will advise the Settlement Administrator as to the Subclass to which each Class Member belongs. The Class Notices will be provided in English, and will provide instructions in Spanish that a Spanish language version of the Class Notices will be provided upon request by calling the Settlement Administrator, and that it is also available on the Settlement Website. Class Notices will be initially mailed by the Settlement Administrator not later than twenty (20) days after entry of the Preliminary Approval Order.

2. The Settlement Administrator shall also provide a copy of the Class Notices to anyone who requests a copy through written communication to the Settlement Administrator or through the toll-free telephone number to be established by the Settlement Administrator.

3. If, after the initial mailing, any Class Notices are returned as undeliverable, the Settlement Administrator will diligently and promptly attempt to locate such Settlement Class Members by way of submission to the United States Postal Service of a "Request for Change of Address or Boxholder Information Needed for Service of Legal Process" form, and through the use a national locator database or service and, if another address is found, immediately re-mail the appropriate Class Notice to the new address.

4. Forty-five (45) days after the Class Notices are initially mailed out by the Settlement Administrator, the Settlement Administrator shall provide a report to the Court, with a copy to Class Counsel and Defendants' Counsel, setting forth the number of Class Notices that were returned, the reason each was returned, and the efforts taken to diligently locate the correct address of each such individual whose Class Notice was returned.

5. The contract between the City of Philadelphia and the Settlement Administrator shall contain a provision providing that the names, addresses and other information about the Settlement Class Members that is provided to it by Defendants, Defendants' Counsel, Class Counsel, or by individual Settlement Class Members, shall be treated as confidential, shall be disclosed only to employees and subcontractors of the Settlement Administrator that require access to such information to comply with and

implement this Settlement Agreement, and shall otherwise be used by the Settlement Administrator only as necessary to comply with and implement this Settlement Agreement.

6. The Settlement Administrator will employ an interpreter, at the cost of the City, to assist Settlement Class Members whose primary language is Spanish and who may have questions or concerns regarding the Litigation or Settlement.

V. REQUESTS FOR EXCLUSION BY SETTLEMENT CLASS MEMBERS.

A. Any Settlement Class Member may make a Request for Exclusion (also known as a request to “opt out”) by mailing or delivering such request in writing to the Settlement Administrator. Any Request for Exclusion must be postmarked no later than the Opt-Out Deadline. To be valid, a Request for Exclusion must contain the name, address and telephone number of the person requesting exclusion, such person must, in substance, state that he or she elects to be excluded from the Settlement, does not wish to be a Settlement Class Member, and elects to be excluded from any judgment entered pursuant to the Settlement, and it must be signed and dated by the person seeking to be excluded.

B. Any Settlement Class Member who submits a timely Request for Exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement Agreement.

C. Five (5) business days after the deadline for submission of Requests for Exclusion, the Settlement Administrator shall provide an Opt-Out List to Class Counsel and to Defendants’ Counsel together with copies of each Request for Exclusion. Class Counsel shall specify the number of individuals who opted out of the Settlement in their Motion for Final

Approval and shall provide the names of such individuals to the Court *in camera* or under seal if requested by the Court.

VI. OBJECTIONS BY SETTLEMENT CLASS MEMBERS.

A. The agreed-upon procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Settlement Class Members' objections to the Settlement Agreement, in accordance with such Settlement Class Members' due process rights.

B. The Preliminary Approval Order and Class Notices shall provide that any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, must file a Notice of Objection with the Prothonotary by the Objection Date. Such Notice of Objection, along with any supporting documentation, shall be filed under seal to preserve confidentiality under 18 Pa.C.S. § 6111(i), must be signed and dated by the objector, and shall contain the case caption, including case number, the name, address and telephone number of the person objecting, a statement that the objecting person is a member of the Settlement Class, and a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, and shall have appended to it any documents such person wishes to be considered in support of the objection. A copy of the Notice of Objection, along with any appended documentation, must, upon filing, be immediately provided the objector via mail or hand delivery to Class Counsel and to Defendants' Counsel.

C. The Preliminary Approval Order and Class Notices will further provide that objectors who fail to properly or timely file a Notice of Objection, along with the required information and documentation set forth above, or to serve them as provided above, shall not be heard during the Final Approval Hearing, nor shall their objections be considered by the Court.

The Preliminary Approval Order and Class Notices will also provide that by filing a Notice of Objection or by appearing at the Final Approval Hearing, objectors will not be considered to have waived any existing claim or right to confidentiality that may exist pursuant to 18 Pa.C.S. § 6111(i).

D. In accordance with the law, only Settlement Class Members who have objected to the Settlement pursuant to the terms immediately above may appeal from the Final Approval Order. The proposed Final Approval Order shall provide that any Settlement Class Member who wishes to appeal the Final Approval Order, which appeal will delay the distribution of the Settlement payments to the Settlement Class, shall post an appropriate bond with this Court in an amount to be determined by the Court as a condition of prosecuting such appeal and of sufficient amount to compensate the Settlement Class Members for the delay, including but not limited to, the loss of use of the Settlement funds during the pendency of the appeal.

VII. RELEASE, DISMISSAL OF ACTION, AND JURISDICTION OF COURT.

A. By this Settlement Agreement and specifically as provided in this paragraph, Defendants, and all of their respective predecessors, successors and assigns, officers, officials, agencies, departments, insurers, attorneys and employees (the “Released Parties”) are released from any and all claims or causes of action asserted in the Complaint.

B. This Settlement Agreement and the foregoing release paragraph do not affect the rights of Settlement Class Members who timely and properly exclude themselves from the Settlement.

C. This Settlement Agreement and the foregoing release paragraph do not affect the rights of Settlement Class Members whose LTCF Information or other information protected by 18 Pa.C.S. § 6111(i) that may be disclosed by any of the Defendants in the future.

D. This Settlement Agreement and the foregoing release paragraph do not affect the rights of Settlement Class Members who may have a claim or cause of action against any of the Defendants arising from or caused by any of the Defendants' policies that Defendants have agreed to change or modify pursuant to this Settlement Agreement.

E. The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court. The Parties agree that the Court shall retain jurisdiction to protect, preserve, supervise and implement the Settlement Agreement, including, but not limited to, the Release and the Policy Changes. Moreover, the Court shall retain jurisdiction in order to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement, including, but not limited to, orders enjoining Settlement Class Members from prosecuting claims that are released pursuant to the Settlement Agreement and orders directing the City of Philadelphia, or any of its agencies and departments, to comply with the Policy Changes. Notwithstanding the foregoing, the Court shall only retain jurisdiction to protect, preserve, implement and supervise the Policy Changes for a period of two (2) years from the Effective Date and, thereafter, the Policy Changes shall be enforceable by any aggrieved individual only through the filing of a new timely action.

F. Upon the Effective Date: (i) the Settlement Agreement shall be the exclusive remedy for any and all Released Claims of Settlement Class Members except as set forth herein; (ii) the Released Parties shall not be subject to liability or expense of any kind to any Settlement Class Members or their successors, predecessors or assigns except as set forth herein; and (iii) Settlement Class Members and their successors, predecessors and assigns shall be permanently barred from initiating, asserting, or prosecuting any and all Released Claims against any

Released Party in any federal or state court in the United States or any other tribunal except as set forth herein.

G. Defendants agree that any applicable statute of limitations or statute of repose is and has been tolled during the pendency of this Litigation. With respect to any claims asserted in the Litigation that are subsequently asserted by any member of the Settlement Class who has properly opted out of the Settlement, Defendants shall not assert any statute of limitations, repose, or laches defense unless such defense validly existed prior to the date this class action was filed. Further, in the event that the Court does not approve this Settlement Agreement, or an appellate court reverses the Court's order approving this Settlement Agreement, Defendants agree that, with respect to any claims asserted in the Litigation that are subsequently asserted or maintained by any member of the Settlement Class who opted out, Defendants shall not assert any statute of limitations, repose or laches defense that did not validly exist on the date this action was filed.

VIII. INCENTIVE AWARDS TO CLASS REPRESENTATIVES.

It is agreed between the Parties that the Representative Plaintiffs provided substantial assistance to Class Counsel in their prosecution of this action. Given the efforts of the Representative Plaintiffs on behalf of the Settlement Class, Defendants will not oppose an application for incentive awards in the additional sum of \$100.00 to each of the Representative Plaintiffs. To the extent any incentive awards are approved by the Court, the total amount of such incentive awards shall reduce *pro rata* the amounts to be paid to Subclass I members.

IX. REPRESENTATIONS, WARRANTIES AND COVENANTS.

A. Class Counsel represent and warrant that they have the authority, on behalf of Plaintiffs, to execute, deliver, and perform this Settlement Agreement and to consummate all of

the transactions contemplated hereby. When signed by Class Counsel, this Settlement Agreement has been duly and validly executed and delivered by Class Counsel and Plaintiffs and constitutes a legal valid and binding obligation.

B. Defendants, through City Solicitor Shelley R. Smith, represent and warrant that they have the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Defendants of this Settlement Agreement and the consummation by them of the actions contemplated hereby have been duly authorized by all necessary corporate action on the part of Defendants. This Settlement Agreement has been duly and validly executed and delivered by Defendants and constitutes their legal, valid, and binding obligation.

X. MISCELLANEOUS PROVISIONS.

A. Neither Class Counsel nor Defendants' Counsel shall encourage or cause any Class Member to opt out of the Settlement, object to the Settlement, or appeal from the Final Approval Order, nor shall they encourage or cause any other person to do so.

B. This Settlement Agreement, and the exhibits and related documents hereto as well as any payment of moneys, or any other action taken, by the Defendants pursuant to any provision of this Settlement Agreement are not, and shall not at any time be construed or deemed to be, or to evidence, any admission against or concession by Defendants with respect to any wrongdoing, fault, or omission of any kind whatsoever, regardless of whether or not this Settlement Agreement results in entry of a Final Approval Order as contemplated herein. Defendants deny any liability to Plaintiffs and to all Settlement Class Members. This provision shall survive the expiration or voiding of the Settlement Agreement.

C. This Settlement Agreement is entered into only for purposes of Settlement. In the event that the Effective Date does not occur, or a Final Approval Order is not entered, for any reason other than the fault of the Defendants, then this Settlement Agreement, including any Releases or dismissals hereunder, is canceled, except to the extent otherwise set forth herein. In the event this Settlement Agreement is cancelled or deemed cancelled, no term or condition of this Settlement Agreement, or any draft thereof, or of the discussion, negotiation, documentation or other part or aspect of the Parties' settlement discussions shall have any effect, nor shall any such matter be admissible in evidence for any purpose, or used for any purposes whatsoever in the Litigation or in any other litigation, and all Parties shall be restored to their prior rights positions as if the Settlement Agreement had not been entered into.

D. The headings of the sections and paragraphs of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

E. This Settlement Agreement, including all exhibits attached hereto, may not be modified or amended except in writing signed by all of the Parties or their counsel.

F. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

G. This Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the Commonwealth of Pennsylvania, without giving effect to any choice or conflict of law provision, or rule that would cause the application of the laws of any other jurisdiction.

H. Except as otherwise provided in this Settlement Agreement, each party to this Settlement Agreement shall bear his or its own costs of the Litigation.

I. If any clause, provision or paragraph of this Settlement Agreement shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision or paragraph of this Settlement Agreement, and this Settlement Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable clause, paragraph, or other provisions had not been contained herein.

J. The Parties to this Settlement Agreement reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

K. The determination of the terms of, and the drafting of, this Settlement Agreement, including its exhibits, has been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. Each of the Parties was represented by competent and effective counsel throughout the course of Settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement. In entering into this Settlement Agreement, none of the Parties relied on advice received from any other Party or any other Party's counsel.

L. All of the exhibits to this Settlement Agreement are material and integral parts hereof, and are fully incorporated herein by reference. This Settlement Agreement and the exhibits thereto constitute the entire, fully integrated agreement among the Parties and cancel and

supersede all prior written and unwritten agreements and understandings pertaining to the Settlement of the Litigation.


M. Any notice, request or instruction or other document to be given by any party to this Settlement Agreement to any other party to this Settlement Agreement (other than class notification) shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid as follows:

1. If to Defendants or Defendants' Counsel to: Amanda C. Shoffel, Esquire, City of Philadelphia Law Department, One Parkway, 1515 Arch Street, 14th Floor, Philadelphia, PA 19102-1595.

2. If to Class Counsel or Plaintiffs to: Joshua Prince, Esquire, Prince Law Offices, P.C., 646 Lenape Road, Bechtelsville, PA 19505.

N. Dispute Resolution. The Parties agree that any disputes regarding the terms and conditions of this Settlement Agreement shall be submitted to the Court, who shall attempt to mediate such dispute, and if such dispute cannot be resolved via mediation, shall decide such dispute. The Court's decision shall be final, binding and not subject to appeal by either Party.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the date(s) indicated on the lines below.



Joshua Prince, Esquire
Prince Law Offices, P.C.
646 Lenape Rd
Bechtelsville, PA 19505
610-845-3803 (telephone)
610-845-3903 (facsimile)
Joshua@PrinceLaw.com

*On behalf of Plaintiffs
and the Putative Class*

Shelley R. Smith, Esquire
City Solicitor
City of Philadelphia Law Department
1515 Arch Street, 17th Floor
Philadelphia, PA 19102
(215) 683-5003 (telephone)
(215) 683-5068 (facsimile)
shelley.smith@phila.gov

On behalf of Defendants

supersede all prior written and unwritten agreements and understandings pertaining to the Settlement of the Litigation.

M. Any notice, request or instruction or other document to be given by any party to this Settlement Agreement to any other party to this Settlement Agreement (other than class notification) shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid as follows:

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610-845-3803 (telephone)
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Joshua@PrinceLaw.com

*On behalf of Plaintiffs
and the Putative Class*



Shelley R. Smith, Esquire
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(215) 683-5003 (telephone)
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shelley.smith@phila.gov

On behalf of Defendants