

Court Finds Part Of Brookhaven Rental Law Unconstitutional

By Barbara LaMonica, Suffolk Life, Wednesday, July 24, 2002

Property owners and tenants in the town of Brookhaven will no longer be required to admit town inspectors to search their premises without warrants.

In a state Supreme Court decision handed down by Judge Howard Berler, a component of Brookhaven's rental permit ordinance was deemed unconstitutional. Berler's order found that the town's requirement of a warrantless inspection of residential rental properties constitutes a deprivation of a citizen's right to derive economic benefit from a rental property.

Brookhaven Town Supervisor John Jay LaValle said he recommends that the town craft an amendment to the existing rental permit law rather than seek an appeal.

"We're not looking to spend any money on an appeal, so we will have to draft an amendment," LaValle said, noting that a public hearing will be held prior to any changes made to the existing law. The date of the hearing had not been announced as of press time.

The rental permit law was implemented in 1999 to keep property owners in compliance with town code, and to put a lid on overcrowded housing occupied by day laborers, Councilman Dominic Santoro explained.

"I don't think the law is effective at all, but I won't object to amending the law because these immigrants are being taken advantage of by landlords who put 20 or 30 of them in one house," Santoro said. "If (the law) alleviates (us of) even two or three landlords, then it is worth it. This is a massive problem and it's the state and federal governments who are the people who can make the real changes."

But the court's decision prohibiting searches, LaValle said, will "make it more difficult for the town to prove our case."

Brookhaven Councilman Edward Hennessey said a new state building code will "give us more tools to enforce procedures if we craft the law properly." Hennessey added, "We have a compromised piece of legislation that is not as effective as it could have been, and this will tighten gaps and fill in loopholes."

Paul Palmieri, president of the Coalition of Landlords, Homeowners & Merchants, heralded the court's decision on the law. "The section of the law (that pertains to searches) as it is written violates the Fourth Amendment of the Constitution," Palmieri said. "A lot of towns include in their codes that if you don't let someone in (to conduct a search or inspection), that town inspectors will continue fining until they are given consent to come in."

Fire Island, which Palmieri says is exempt from the existing rental permit law, must be included for the law to be deemed entirely constitutional. "Brookhaven exempted all of Fire Island because they are a richer class of people, and politicians who created the law either have properties or friends or landlords out there," Palmieri alleged.

"The town has made a lot of money on fines from this law, and we're going to look at how we can effectively get these people's money back, or else hold Brookhaven town accountable for the money, because they've made a lot on this," he added.

"Provisions of the code need to be applied to all properties in Brookhaven town so as not to target any certain area," Hennessey said. "This needs to be fixed to include all properties."