

## SETTLEMENT AGREEMENT

Following mediation with the assistance of Michael Marks, Esq., the Parties signing below have reached the following settlement agreement in reference to all of the issues arising out of or related to the following dispute: *Joseph Montagno v. City of Burlington*, Docket No. 2:16-cv-00232 (“Lawsuit”). The Parties shall exchange the documents and the payment required to implement the following by the deadlines set forth in this Agreement.

1. Payment. Within thirty days of the date of this Agreement, the City of Burlington (“Defendant” or “City”) shall pay Montagno (“Plaintiff”) Thirty Thousand Dollars (\$30,000.00) in full settlement of the Lawsuit in a check made payable to the Lawyer’s Trust Account of counsel for the Plaintiff. In addition, Defendant shall pay the full mediation fee.

2. Principles for Revised Ordinance. The Parties have discussed the Principles that will inform a revised Burlington City Code Section 18-20 (the “Ordinance”) for consideration by the Burlington City Council under its established processes for considering Code revisions. The Principles are: A) The City should provide written notice to affected tenants at the time that the City communicates with a landlord that remedial action must be taken to avoid the suspension or revocation of the landlord’s certificate of compliance under the Ordinance. The purpose of the notice will be to inform the affected tenants of the nature of the issues so that the tenants may understand and address the issues. B) There should be a reasonable period of time between the initial notice to tenants and the imposition of a suspension or revocation. The parties agree that a seven-day period is insufficient, but have not agreed on another time period. C) If the suspension or revocation is directed toward a specific unit, the City should provide a written notice to the affected unit. If the suspension or revocation is directed to multiple units, the City should provide written notice to each affected unit or require the landlord to provide such notice. Notice in all cases should be reasonably calculated to inform the recipient of the nature of the issues that may lead to suspension or revocation. D) With reference to part (a)(4) of the Ordinance, the City Attorney has provided a draft that could premise suspension or revocation on violations of Chapter 21 of the Burlington City Code or Title 13 of Vermont Statutes Annotated. The Plaintiff contends that any suspension or revocation should be based



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upon violations that adversely impact other tenants or neighboring properties. The City agrees in principle with this contention. The Parties will consider language that will implement this principle. The Parties will also consider language that will avoid adversely affecting victims of crime. E) With reference to part (a)(4) of the Ordinance, the City agrees that it will not encourage eviction by a landlord except as a last resort and only if other remedies would be ineffective to remedy the underlying problem. F) With reference to part (a)(4) of the Ordinance, the last sentence of this subsection needs to be revised, as there may not be a need to apply a suspension or revocation to an entire property.

3. Process for Revised Ordinance. The Parties acknowledge the good faith of each other and their mutual desire to work in a collaborative process to present a revised Ordinance, based on the Principles described in the preceding paragraph and any other relevant considerations. To achieve this goal, the Plaintiff shall submit to the City Attorney a specific proposal for a revised Ordinance no later than November 17, 2017. The City shall provide a response no later than December 8, 2017. If the Parties have not reached agreement, they shall meet no later than December 22, 2017 to discuss their differences and explore common ground. The City Attorney is under no obligation to reach agreement with the Plaintiff. The City Attorney, however, shall submit a revised Ordinance to Burlington City Council no later than February 1, 2017. Plaintiff and its representatives are free to advocate for their own view points within the process for reviewing City Ordinances. The Payment, Dismissal and Release provided by this Agreement shall be completed without regard to the completion of the Process described in this paragraph.

4. Dismissal of Lawsuit. Prior to delivery of payment, the Parties shall dismiss the Lawsuit with prejudice. Each side shall bear its own costs and attorney's fees.

5. Release and Hold Harmless. Prior to delivery of payment, Plaintiff shall execute a General Release and hold harmless agreement to Defendant and insurers in a form reasonably acceptable to all counsel. Without limiting the foregoing, the General Release shall cover all claims that were or could have been raised by Plaintiff against Defendant and insurer for any reason including, but not limited to, claims for medical payments, and a hold harmless agreement indemnity agreement extending to all liens. The General Release shall further extinguish

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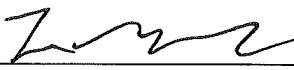
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any unknown, undiscovered, and undiscoverable claims, and all persons who could in any way be subjected to these claims, including affiliates, principals, members, employees, agents, officers, and shareholders.


6. Miscellaneous. This Agreement represents a compromise to avoid litigation. By making this Agreement, no Party makes any admission concerning liability and/or the strength or weakness of any claim or defense. This Agreement is a comprehensive agreement; all prior understandings and discussions are merged into this Agreement. This Agreement may only be amended by a written instrument signed by all Parties. The Parties shall execute such additional documents as are reasonably requested to implement this Agreement. This Agreement shall be interpreted under the laws of the State of Vermont. All Parties are represented in this action and have reviewed this Agreement with counsel. The presumption against the drafter shall not apply to the construction of this Agreement. Photocopies of this Agreement shall be as effective as the original. This Agreement shall be binding and enforceable against the successors, heirs and assigns of the Parties. All Parties were represented by counsel in the negotiation and drafting of this Agreement. The mediator does not provide legal advice to any party. Any participation by the mediator in the drafting of this agreement was in his capacity as mediator in recording mutually agreeable settlement terms, and does not constitute legal advice to any of the Parties.

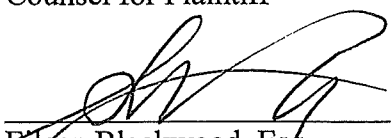
Dated at Burlington, Vermont, this 31<sup>st</sup> day of October, 2017.

  
\_\_\_\_\_  
Joseph Montagno

  
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Agent for City of Burlington

Approved as to form:

  
\_\_\_\_\_  
Jay Diaz, Esq.  
Lia Ernst, Esq.  
Counsel for Plaintiff

  
\_\_\_\_\_  
~~Eileen Blackwood, Esq.~~  
Sean Toohey, Esq.  
Counsel for Defendant

Eugene M Bergman, Esq

