

2018 AUG -7 PM 4:07

SUPERIOR COURT

FILED

AUG 07 2018

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.

SUPERIOR COURT OF WASHINGTON
IN AND FOR SNOHOMISH COUNTY

18 2 07049 31

BRETT BASS, an individual; SWAN SEABERG, an individual; THE SECOND AMENDMENT FOUNDATION, INC., a Washington non-profit corporation; and NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.; a New York non-profit association;

Plaintiffs,

v.

CITY OF EDMONDS, a municipality; DAVE EARLING, Mayor of the City of Edmonds, in his official capacity; EDMONDS POLICE DEPARTMENT, a department of the City of Edmonds; and AL COMPAAN, Chief of Police, in his official capacity,

Defendants.

No.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by and through their attorneys, allege the following Complaint for declaratory and injunctive relief against Defendants City of Edmonds, Mayor Dave Earling, the Edmonds Police Department and Chief of Police Al Compaan:

I. NATURE OF THE CASE

The City of Edmonds has passed an ordinance regulating the possession of firearms by mandating how firearms must be stored within the city. However, the ordinance's mandates are

COPY

1 illegal and legally unenforceable. The state of Washington has the exclusive right to regulate the
2 possession of firearms by occupation of the field of regulation because the right to possess
3 firearms is a constitutional matter of general concern within the state. Wash. Const. art. 11, § 11
4 (cities may regulate using police powers unless such regulation conflicts with state law). The state
5 legislature enacted express statutory preemption to make it clear cities may not enact local laws
6 or regulations related to the possession of firearms. RCW 9.41.290. Indeed, when considering
7 the Ordinance, the Edmonds City Council explicitly acknowledged the limits the preemption
8 statute places upon municipalities like Edmonds, but nevertheless passed the Ordinance knowing
9 that it undoubtedly violated the exclusive jurisdiction of the state's legislature and the preemption
10 statute and would be reversed in litigation. The rule of preemption could not be clearer: the City
11 of Edmonds (like any municipality in the state of Washington) is not permitted to pass laws that
12 target the possession of firearms through any means. Accordingly, Plaintiffs bring this action for
13 injunctive and declaratory relief, and ask this Court for an order that would require the Defendants
14 to follow the law.

15 **II. PARTIES**

16 1. Plaintiff Brett Bass is an individual residing in Edmonds, Washington. Mr. Bass
17 is a Sergeant in the Military Police Field in the Individual Ready Reserve of the United States
18 Marine Corps. Mr. Bass is credentialed as a Chief Range Safety Officer. Mr. Bass currently owns
19 a firearm that he keeps unlocked in his home for self-defense. Mr. Bass has a strong desire to
20 continue having his firearm in an unlocked and usable state in his home as his training and
21 experience tell him that a person cannot be reasonably expected to access a locked firearm under
22 the time and pressure imposed by a home invasion. Mr. Bass fears enforcement of the Ordinance
23 were he to continue his possession of an unlocked firearm.

24 2. Plaintiff Swan Seaberg is an individual residing in Edmonds, Washington. Mr.
25

1 Seaberg is a United States Marine Corps and Coast Guard veteran and was qualified as an expert
2 rifleman in the Marine Corps. Mr. Seaberg currently owns a firearm that he keeps unlocked in
3 his home for self-defense and defense of his family. Mr. Seaberg has a strong desire to continue
4 having his firearm in an unlocked and usable state in his home as his training and experience tell
5 him that a person cannot be reasonably expected to access a locked firearm under the time and
6 pressure imposed by a home invasion. Mr. Seaberg fears enforcement of the Ordinance were he
7 to continue his possession of an unlocked firearm.

8 3. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a non-profit membership
9 organization incorporated under the laws of Washington with its principal place of business in
10 Bellevue, Washington. SAF has over 600,000 members and supporters nationwide, including
11 thousands in the state of Washington. The purposes of SAF include education, research,
12 publishing, and legal action focusing on the constitutional right to own and possess firearms. SAF
13 brings this action on behalf of itself and its members.

14 4. Plaintiff National Rifle Association of America, Inc. (“NRA”) is a non-profit
15 association incorporated under the laws of New York, with its principal place of business in
16 Fairfax, Virginia. NRA has over five million members, including members in the state of
17 Washington. NRA's purposes include protection of the right of citizens to have firearms for lawful
18 defense, hunting, and sporting use, and to promote public safety. NRA brings this action on behalf
19 of itself and its members.

20 5. Defendant City of Edmonds (“Edmonds” or “the City”) is a municipal corporation
21 and optional municipal code city organized under the laws of the state of Washington.

22 6. Defendant Dave Earling (“Mayor Earling”) is the Mayor of the City of Edmonds.
23 Mayor Earling is the head of the Executive Department, and in that capacity directs and controls
24 all City offices and departments, except where that authority is granted to another office by the
25

1 Edmonds City Charter.

2 7. Defendant Edmonds Police Department is an agency of the City of Edmonds,
3 which oversees the enforcement of Edmonds's laws and promulgation of relevant regulations.

4 8. Defendant Al Compaan is the Chief of Police. Chief Compaan oversees the
5 enforcement of Edmonds' laws.

6 **III. JURISDICTION AND VENUE**

7 9. This Court has jurisdiction under RCW 2.08.010, RCW 7.24.010, and RCW
8 7.40.010.

9 10. Venue is properly in this Court under RCW 4.12.020(2) and RCW 4.12.025(1).

10 **IV. FACTUAL ALLEGATIONS**

11 11. Washington law states in no uncertain terms that the authority to regulate firearms
12 rests exclusively with the State. Washington law expressly states:

13 The state of Washington hereby fully occupies and preempts the entire field of
14 firearms regulation within the boundaries of the state, including the registration,
15 licensing, possession, purchase, sale, acquisition, transfer, discharge, and
16 transportation of firearms, or any other element relating to firearms or parts thereof,
17 including ammunition and reloader components. Cities, towns, and counties or
18 other municipalities may enact only those laws and ordinances relating to firearms
19 that are specifically authorized by state law, as in RCW 9.41.300, and are consistent
20 with this chapter.

21 RCW 9.41.290 ("Preemption Clause").

22 12. The State of Washington has fully occupied the field of firearms regulation.
23 Neither the Washington State Constitution nor any controlling statutory provisions authorizes
24 cities, towns, counties, or other municipalities to enact laws and ordinances relating to the
25 possession, transportation, or regulation of firearms, unless specifically authorized under RCW
9.41.300.¹ Cities, towns, counties, or other municipalities have no constitutional authority to

¹ RCW 9.41.300, which is referenced in the Preemption Clause, permits cities, towns, counties, and other municipalities to enact laws and ordinances restricting the discharge of firearms in certain locations and restricting

1 regulate in fields that the State has fully occupied. *Brown v. City of Yakima*, 116 Wn.2d 556, 559,
2 807 P.2d 353, 354 (1991).

3 13. On July 24, 2018, the Edmonds City Council passed Ordinance 4120, titled “An
4 Ordinance relating to the safe storage of and access to firearms.” On July 29, 2018, Mayor Earling
5 approved and signed the Ordinance, making the Ordinance effective on August 23, 2018. The
6 Ordinance states that enforcement shall begin 180 days from the date of final passage.²

7 14. The Ordinance added Chapter 5.26 to the Edmonds City Code, which states, in
8 part:

9 **5.26.020 Safe storage of firearms**

10 It shall be a civil infraction for any person to store or keep any firearm in any
11 premises unless such weapon is secured by a locking device, properly engaged so
12 as to render such weapon inaccessible or unusable to any person other than the
13 owner or other lawfully authorized user. Notwithstanding the foregoing, for
14 purposes of this Section 5.26.020, such weapon shall be deemed lawfully stored or
15 lawfully kept if carried by or under the control of the owner or other lawfully
16 authorized user.

17 **5.26.030 Unauthorized access prevention**

18 It shall be a civil infraction if any person knows or reasonably should know that a
19 minor, an at-risk person, or a prohibited person is likely to gain access to a firearm
20 belonging to or under the control of that person, and a minor, an at-risk person, or
21 a prohibited person obtains the firearm.

22 15. The Ordinance makes a violation of these provisions a civil infraction subject to a
23 penalty of up to \$10,000 per offense. Any “peace officer” is authorized to issue a notice of
24 infraction imposing the penalty.

25 16. Defendants have enacted and are required to enforce this regulation despite the fact
that the State of Washington has fully occupied the field of firearms regulation.

the possession of firearms in a municipality-owned stadium or convention center. RCW 9.41.300(2). This statutory
provision is inapplicable to the present case, which concerns city restrictions that have nothing to do with the
discharge of firearms or the possession of firearms in stadiums or convention centers.

² Final passage of the Ordinance occurred on July 24, 2018. Enforcement will therefore begin on January 20, 2019.

1 b. Defendants lack legal authority to enact any ordinance, law, or rule that regulates
2 the manner in which firearms are stored; and

3 c. Defendants may not enforce the Ordinance.

4 23. Such declaration will conclusively terminate the controversy giving rise to this
5 proceeding.

6 **SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF**

7 **- Against All Defendants -**

8 24. Plaintiffs repeat and reallege paragraphs 1 through 23 as if fully set forth herein.

9 25. The Plaintiffs' statutory rights to be free from local interference with the
10 possession of firearms is in jeopardy of immediate invasion, causing actual and substantial injuries
11 without any adequate remedy at law.

12 26. The Plaintiffs' right to be free from local regulation due to the State of Washington
13 fully occupying the field of firearms regulation is in jeopardy of immediate invasion, causing
14 actual and substantial injuries without any adequate remedy at law.

15 27. In addition, the individual Plaintiffs' and the organizational Plaintiffs' Edmonds
16 members' rights to possess firearms in Edmonds is in jeopardy of immediate invasion, causing
17 actual and substantial injuries without any adequate remedy at law.

18 28. Plaintiffs are entitled, under RCW 7.40 and CR 65, to an injunction as enjoining
19 Defendants from enforcing the Ordinance.

20 **VI. REQUEST FOR RELIEF**

21 WHEREFORE, Plaintiffs request that judgment be entered against Defendants as follows:

22 a. Declaring that Defendants' actions in enacting and enforcing the Ordinance
23 were contrary to law and the Ordinance is null and void;


24 b. Awarding Plaintiffs' fees, costs, and disbursements incurred in this action
25

1 as the Court deems just and equitable; and

2 c. Awarding any additional or further relief which the Court finds appropriate,
3 equitable, or just.

4 DATED this 7th day of August, 2018.

5 CORR CRONIN LLP

6
7 
8 ~~Steven W. Fogg, WSBA No. 23528~~
9 Eric A. Lindberg, WSBA No. 43596
10 1001 Fourth Avenue, Suite 3900
11 Seattle, Washington 98154
12 (206) 625-8600 (Phone)
13 sfogg@corrchronin.com
14 elindberg@corrchronin.com
15 *Attorneys for Plaintiffs*