

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is entered into by and between the Brady Center to Prevent Gun Violence ("Brady" or "Plaintiff"), on the one side, and the City of Nelson, Georgia ("Nelson" or the "City"), Mr. Jonathan Bishop, in his official capacity as Mayor Pro Tempore of the City of Nelson, Georgia, Mr. Duane Cronic, Mr. Jackie Jarrett, Mrs. Edith Portillo, and Mrs. Martha Tipton, in their official capacities as members of the City Council of Nelson, Georgia ("the City Council"), on the other (together, the "Defendants").

WHEREAS, Brady is a not-for-profit organization organized under the laws of the District of Columbia and with its principal place of business within the District of Columbia and the stated mission of the Brady Center is to reduce gun violence; and

WHEREAS, the City is a self-governing municipality located within the State of Georgia; and

WHEREAS, on April 1, 2013, the City Council adopted the Family Protection Ordinance (the "Ordinance"), codified at Section 38-6, Chapter 38, Article I of the Code of the City of Nelson, which requires that all heads of household residing within the city limits own or maintain a firearm with ammunition therefore; and

WHEREAS, the Ordinance exempts from its requirement those who (1) "suffer from a physical or mental disability," (2) are "paupers," (3) "conscientiously oppose maintaining firearms as a result of beliefs or religious doctrine," or (4) have been "convicted of a felony"; and

WHEREAS, Brady asserts that the Ordinance violates the rights of its members under the First, Second, and Fourteenth Amendments to the United States Constitution, and has initiated a civil action in the United States District Court for the Northern District of Georgia (the "Court") titled *Brady Center to Prevent Gun Violence v. City of Nelson* (the "Litigation"); and

WHEREAS, the United States Supreme Court has recognized the Second Amendment rights of law-abiding, responsible citizens to possess a firearm in the home to defend their families and homes; and

WHEREAS, many members of the City Council believe that possessing a firearm in the home is an effective means to defend residents and the community; and

WHEREAS, the City Council also recognizes that there are other means available to defend families and homes, and the Constitution protects the rights of Americans to choose not to possess a firearm or bring one into the home; and

WHEREAS, the Parties wish to fully and finally resolve this dispute and prevent its recurrence;

NOW THEREFORE, in consideration of the mutual promises and covenants made herein, Brady and the Defendants agree as follows:

1. Amendment of the Ordinance.

(a) No later than 90 days after the execution in full of this Agreement, the City Council shall amend the Ordinance to include the language contained in Exhibit A. Any further amendments to the Code of the City of Nelson requiring mandatory firearm(s) possession shall likewise include the language contained in Exhibit A.

(b) During the period between the execution of this Agreement and the Amendment of the Ordinance (the "Interim Period"), Defendants shall not enforce the Ordinance or permit it to be enforced. Nor, during the Interim Period, shall Defendants seek, levy, or permit to be levied, any penalty, disability or adverse consequence for the violation of the Ordinance.

2. Publication of Amended Ordinance. No later than 30 days after the amendment of the Ordinance pursuant to Section 1 above, the City shall revise or cause to be revised all materials under the control of the City in which the Ordinance has been published to reflect the updated language of the amended Ordinance, including but not limited to the City website and any physical signs under the City's control. All such revised materials shall publish the amending provisions of the Ordinance in the same font and font size as the original language.

3. Stipulation of Dismissal. Within 30 days after the amendment of the Ordinance pursuant to Section 1 above, the Parties shall jointly cause to be filed with the Court a Stipulation of Dismissal dismissing all claims asserted in the Litigation with prejudice. Such Stipulation of Dismissal shall include and incorporate this Agreement, and notwithstanding the dismissal with prejudice or any other provision of this Agreement, the Parties specifically agree that the Court shall have and retain jurisdiction over this matter and the parties to enforce the terms and conditions of this Agreement, including without limitation, the rights of Brady set forth in Section 5 below.

4. Mutual Releases.

(a) Subject to and conditioned upon Defendants' performance of their obligations under this Agreement and effective upon the amendment of the Ordinance pursuant to Section 1 above, Plaintiff hereby releases Defendants and covenants not to sue Defendants for any and all claims it has against Defendants including without limitation any claims for attorney fees related to the Litigation.

(b) Defendants hereby release Plaintiff from and covenant not to sue Plaintiff for any and all claims they have against Plaintiff including without limitation any claims for attorney fees related to the Litigation.

(c) As used in this section, the term "Defendants" shall mean Defendants collectively and individually and the term "Plaintiff" shall include any member of

Plaintiff identified in the Litigation, and the terms "Plaintiff" and "Defendants" shall be interpreted to effect the Parties' purpose of providing broad mutual releases.

(d) Notwithstanding any provision to the contrary, the releases set forth above do not include, and shall not be interpreted to include, any legal or equitable remedies, including attorney's fees, that a Party may have for the breach of this Agreement or the failure of a Party to comply with any obligation hereunder.

5. Failure to Comply.

(a) In the event that the City Council fails to comply with Section 1 above or fails to revise all materials publishing the Ordinance pursuant to Section 2 above, Defendants shall be deemed in Default.

(b) In the event of a Default under subsection 5(a), the Plaintiff may in its sole discretion cause to be filed with the Court a Consent Decree, in the form attached as Exhibit B, entering a permanent injunction barring enforcement of the Ordinance or any other City measure purporting to mandate the possession of firearms and requiring at the same time and place of any publication of such Ordinance or other measure plain and conspicuous notice, in the same font and size as the rest of the publication, of the fact of the bar to enforcement. Each Defendant specifically agrees to the entry of said Consent Decree in the event of a Default. In the event of a Default, no Defendant shall either (1) cause or permit to be filed with the Court any opposition to the entry of said Consent Decree, or (2) cooperate with any person, party or entity seeking to oppose the entry of said Consent Decree.

(c) In the event of a Default, each Defendant shall (1) cooperate fully with Plaintiff in obtaining the entry of said Consent Decree, including without limitation, providing any signatures necessary to effect entry of said Consent Decree, and (2) shall be deemed to have waived any and all defenses to the entry of said Consent Decree and any right to appeal from the entry of said Consent Decree.

(d) The Parties agree that money damages would be insufficient to remedy or cure a Default and that equitable relief would be necessary to do so.

7. Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and any permitted assigns.

7. Waiver. No term, condition or breach of this Agreement can be waived except in a writing signed by the waiving party. Waiver of any term, condition, or breach of this Agreement shall not be deemed a waiver of any other or similar term, condition, or breach of this Agreement. Delaying entry of a Consent Decree, pursuant to section 5 above shall not waive, or be deemed to waive, Plaintiff's right to do so at a later time.

10. Entire Agreement. This Agreement constitutes the entire Agreement between Brady and Defendants with respect to the subject matter hereof and supersedes all prior

discussions, agreements, and understandings, both written and oral, between Brady and Defendants with respect thereto. Brady and Defendants acknowledge and agree that each and every term contained in this Agreement, including any term contained in any "WHEREAS" clause, constitutes an essential term of the Agreement.

11. Warranties and Representations.

(a) The Parties hereto acknowledge and agree that each has been given the opportunity to review independently this Agreement and agree to the particular language of the provisions hereof. All Parties shall be deemed to have equally participated in the negotiation and drafting of this Agreement, and no rule or principle of interpretation based on draftsmanship shall apply.

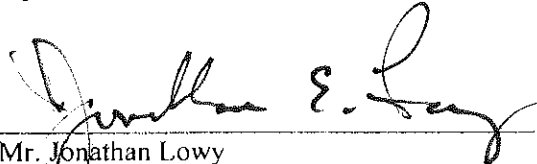
(b) Each Party warrants that it has received legal advice from its attorneys with respect to the advisability of entering into this Agreement and that it has made, or caused to be made, such legal and factual investigation as it deems necessary with respect to the advisability of entering into this Agreement, and that it or a responsible officer or agent has read this Agreement and understand the contents thereof, and that each of the individuals executing this Agreement on behalf of the respective Parties possess the power and authority to do so and thereby binds his or her respective Party.

(c) Jonathan Bishop, in his capacity as Mayor Pro Tempore of the City of Nelson warrants and represents that he has the right, power and authority to bind the City of Nelson to this Agreement, and to bind the members of the City Council in their official capacities to this Agreement.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument. This Agreement shall become effect upon execution by all Parties.

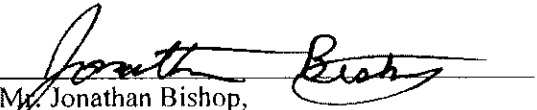
IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Release.

Agreed to:



Mr. Jonathan Lowy
On behalf of
The Brady Center to Prevent Gun Violence

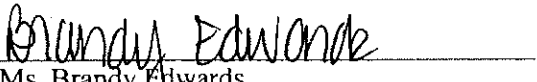
8-21-13
Date



Mr. Jonathan Bishop,
In his official capacity as Mayor Pro Tempore
of the City of Nelson, Georgia

8-20-13
Date

Attest by:



Ms. Brandy Edwards
Clerk, City of Nelson, Georgia

8-20-13
Date

EXHIBIT A

WHEREAS, the United States Supreme Court has recognized the Second Amendment rights of law-abiding, responsible citizens to possess a firearm in the home to defend their families and homes; and

WHEREAS, many members of the City Council believe that possessing a firearm in the home is an effective means to defend residents and the community; and

WHEREAS, the City Council also recognizes that there are other means available to defend families and homes, and the United States Constitution protects the rights of Americans who choose not to possess a firearm in the home;

NOW THEREFORE, the Council of the City of Nelson hereby ordains that Chapter 38 of the Code of the City of Nelson be amended as follows to add subsection (c) to Section 38-6 to Article I of said Chapter:

(c) Because the United States Constitution protects the rights of Americans to choose not to own or maintain a gun in their homes, subsections (a) and (b) of the Family Protection Ordinance are not enforceable and shall never be enforced and no disability, penalty or adverse consequence shall attach to any violation thereof.

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

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BRADY CENTER TO PREVENT GUN))
VIOLENCE))
))
Plaintiff,))
))
versus)	Civil Action 2:13-cv-00104-WCO
))
CITY OF NELSON, GEORGIA,))
))
MR. JONATHAN BISHOP, in his official))
capacity as Mayor Pro Tempore of the))
City of Nelson, Georgia,))
))
MR. DUANE CRONIC,))
MR. JACKIE JARRETT,))
MRS. EDITH PORTILLO,))
MRS. MARTHA TIPTON, in their))
official capacities as members of the))
City Council of Nelson, Georgia))
))
Defendants.))
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CONSENT DECREE

I. INTRODUCTION

This action was filed by the Brady Center to Prevent Gun Violence (“Brady”) against the City of Nelson, Georgia (“Nelson” or the “City”), Mr. Jonathan Bishop, in his official capacity as Mayor Pro Tempore of the City of Nelson, Georgia, Mr. Duane Cronic, Mr. Jackie Jarrett, Mrs. Edith Portillo, and

Mrs. Martha Tipton, in their official capacities as members of the City Council of Nelson, Georgia (“the Council”), on the other (together, the “Defendants”). On April 1, 2013, the Council adopted the Family Protection Ordinance (the “Ordinance”), codified at Section 38-6, Chapter 38, Article I of the Code of the City of Nelson, which requires that all heads of household residing within the city limits maintain a firearm with ammunition therefore. Brady asserts that the Ordinance violates the rights of its members under the First, Second, and Fourteenth Amendments to the United States Constitution.

On [date of execution] Brady and Defendants entered into a Settlement Agreement and Release (“Agreement”). The Agreement provides, *inter alia*, that (1) no later than 90 days after the execution in full of the Agreement, the City shall amend the Ordinance to include the language contained in Exhibit A of the Agreement, and (2) no later than 30 days after the amendment of the Ordinance pursuant to Section 1 of the Agreement, the City shall revise or cause to be revised all materials under the control of the City in which the Ordinance has been published to reflect the updated language of the amended Ordinance, including but not limited to the City website and any physical signs under the City’s control.

The Agreement further provides that if the City fails to amend the Ordinance as contemplated by the Agreement or otherwise seeks to reinstate a

mandatory firearm requirement, Brady may file with the Court a Consent Decree, in the form attached as Exhibit B to the Agreement. The Consent Decree enters a permanent injunction barring enforcement of the Ordinance (or any other City measure purporting to mandate the possession of firearms) and requiring at the time of any publication of the Ordinance plain and conspicuous notice, in the same font and size as the rest of the publication, of the fact of the bar to the Ordinance's enforcement. The Agreement further provides that the Defendants shall not oppose the entry of the Consent Decree and shall cooperate fully with Brady in securing the entry of the Consent Decree.

II. NELSON'S FAILURE TO AMEND THE ORDINANCE

Defendants have failed to comply with their obligations under the Agreement. In particular, [FURTHER DESCRIPTION TO BE INSERTED HERE AS DEEMED NECESSARY BY BRADY'S COUNSEL]

III. JURISDICTION AND SCOPE OF DECREE

The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3). Defendants have waived all defenses to the entry of this Decree. All provisions of this Consent Decree shall apply to Defendant City of Nelson, Georgia, and its officers, employees, agents, and

assigns. This Consent Decree shall be effective immediately upon its approval by the Court.

IV. PERMANENT INJUNCTION

The Court hereby PERMANENTLY ENJOINS Defendants from enforcing the Ordinance or any other City measure purporting to mandate the possession of firearms. The Court further ORDERS that no disability, penalty or adverse consequence shall attach to any violation of the Ordinance or any other City measure purporting to mandate the possession of firearms. The Court further PERMANENTLY ENJOINS Defendants from publicizing the Ordinance or any other City measure purporting to mandate the possession of firearms without simultaneously publicizing in a plain and conspicuous manner this Court's bar to its enforcement. The Clerk is directed to enter JUDGMENT in favor of Plaintiff.

* * *

WE, THE UNDERSIGNED PARTIES TO THIS CONSENT DECREE, desire to be legally and permanently bound by its terms.

Representative of Brady Center to
Prevent Gun Violence

Representative of City of Nelson, Georgia

WILLIAM C. O'KELLY
UNITED STATES DISTRICT JUDGE