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June 14, 2018

VIA FAX (732-545-4579),
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Michael Baker, Esq.
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RE: Proposed Firearms Ordinance

Dear Mr. Baker:

We represent the Association of New Jersey Rifle & Pistol Clubs (“ANJRPC”). ANJRPC represents the interests of over one million gun owners in New Jersey, including residents of Piscataway.

It has come to our attention that the Piscataway Township Council will be hearing a proposed zoning ordinance tonight which will have the effect of regulating, severely restricting and/or effectively prohibiting the sale of firearms within the Township.

Be advised that such action by the Township would be illegal and unconstitutional under both state and federal law. In addition to being unconstitutional under the Second Amendment and applicable case law (see Ezell v. City of Chicago, 846 F.3d 888 (7th Cir 2017)), there is clear preemption of such local action under the State’s comprehensive firearms regulatory scheme. See Association of New Jersey Rifle & Pistol Clubs v. Jersey City, 402 N.J. Super. 650 (App. Div. 2008), vacated on other grounds, 201 N.J. 444 (2010).

Teixeira v. Alameda County, 873 F.3d 670 (9th Cir. 2017) does not support the Township’s position. Teixeira turned on the fact that there were 10 other gun stores in Alameda County, and therefore the Plaintiffs could not demonstrate an impairment of the ability to purchase firearms within the jurisdiction. Even the Ninth Circuit in Teixeira recognized that a jurisdiction cannot impair the ability of the law abiding to acquire firearms within the jurisdiction. As you are no doubt aware, Piscataway has no gun stores within the Township, and news reports have indicated that the goal of the proposed ordinance is to keep it that way. This is plainly unlawful under any existing case law.

Michael Baker, Township Attorney
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As such, the Township is not permitted to enact such an ordinance, and if it becomes necessary to bring litigation to enjoin any such ordinance, the Township will be liable for an award of counsel fees pursuant to 42 U.S.C. 1983 and/or N.J.S. 10:6-2.

Be guided accordingly.

Very Truly Yours,



DANIEL L. SCHMUTTER, ESQ.

DLS/srs
cc: Scott Bach, ANJRPC Executive Director
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