

Accumulating Accountability: Commonwealth Court Reviews Constitutional Limits on Cumulative Municipal Fines

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Pennsylvania municipalities are empowered not only to adopt ordinances and enforce them but to establish fines and penalties for violations of the same. However, municipalities are creatures of statute and authorized only to act within the bounds of the powers granted to them by the General Assembly. The various municipal enabling statutes, such as the First Class Township Code, as well as other statutes such as the Pennsylvania Municipalities Planning Code, all include express authorizations for municipalities to prescribe fines and penalties for violations of municipal ordinances and also establish restrictions on the upper limits of those fines or civil penalties per violation. Typically, these statutes also expressly establish that a municipality may, by ordinance, provide that a separate violation shall arise for each day of violation and for each applicable section of the ordinance. Consequently, municipalities, generally, are permitted to seek cumulative fines which grow each day a violation persists. Both the Pennsylvania State Constitution, article I, section 13, PA. CONST. art. I §13, and the Eighth Amendment of the United States Constitution, U.S. CONST. amend. VIII, (as made applicable to the states through the Fourteenth Amendment, U.S. CONST. amend. XIV) prohibit excessive fines, providing in relevant part that “[e]xcessive bail shall not be required, nor excessive fines imposed...” On April 2, 2025, the Commonwealth Court explored whether a cumulative municipal fine imposed under the Philadelphia Code, as authorized by the First Class City Home Rule Act, 53 P.S. §13101 *et seq.*, was unconstitutionally excessive.

In *City of Philadelphia v. Epstein*, No. 515 C.D. 2024, 2025 WL 981892 (Pa. Cmwlth. April 2, 2025)[\[1\]](#) the Court reviewed the outcome of a longstanding enforcement action by the City of Philadelphia originating from a 2018 enforcement notice and 2019 complaint seeking a permanent injunction and fines regarding violations of the City Code. An order of the Court of Common Pleas of Philadelphia County directed remedial action and indicated that a \$2,300 daily fine would be imposed if the defendant did not comply with the order, beginning to accumulate on April 7, 2020. During the course of proceedings prolonged due to the COVID-19 pandemic, defendant failed to remedy the violations originally cited by the City. On February 6, 2023, the common pleas court issued a final order which assessed a statutory fine of \$65,333.33 but noted that the total statutory amount of accrued fines to which the City was entitled (as of November 8, 2022) was \$3,456,900.00. The defendant filed a post-trial motion seeking a reduction of the statutory fine, in part, on the grounds that it was excessive and punitive in violation of the First Class City Home Rule Act, the Pennsylvania State Constitution, and the Eighth Amendment of the U.S. Constitution. The common pleas court denied the motion, and the defendant appealed to the Commonwealth Court.

Section 17 of the Home Rule Act and the City Home Rule Charter both authorized the city to impose fines and penalties for violation of City ordinances “not exceeding ... \$2,300...”. The Home Rule Act further provides that “a city of the first class may increase any fine... or penalty... provided that the increase does not exceed... \$400... in any calendar year and the total amount of the fine...or penalty does not exceed two thousand dollars.” The defendant alleged that the City could only seek a maximum fine of \$2,300 for each of the violations issued against the property plus a \$400 increase per year, amounting to a total of \$7,800 maximum. She also argued that regardless, the fine imposed was excessive and punitive, in part because she had trusted her now estranged husband to bring the property into compliance. The City countered that the Court had already rejected the argument that the Home Rule Act and City’s Home Rule Charter capped fines at \$2,300 per violation plus \$400 per year in *City of Philadelphia v. Neely*, No. 480 C.D. 2022 (Pa. Cmwlth. Mar. 25, 2024), and that the City was statutorily authorized to impose daily fines. It further argued that the \$65,000 fine at issue was not violative of the constitutional restrictions on excessive fines.

The Court first reviewed the relevant statutory authority applicable to Philadelphia, as well as the City Code, noting that it expressly states that “[e]ach day that a violation continues after issuance of a notice or order shall be deemed

a separate offense.” The defendant argued that this provision conflicts with the Home Rule Act and Home Rule Charter, but the Court disagreed. It concluded the plain language of the Act and Charter did not prohibit the imposition of a fine or penalty for each offense as defined by the Code. Further, while Section 17 of the Act limited the penalty the City may impose for each individual violation, it did not limit the City’s ability to define what constitutes a violation or offense through an ordinance. As the Court stated, the objective behind cumulative fines for each day a property remains in violation is to encourage property owners to expeditiously remedy ongoing violations, and for those reasons, the Court has generally upheld cumulative or aggregate assessments for continuing violations that remain uncorrected for extended periods. It therefore refused to overturn the imposition of the fine by the common pleas court on those grounds, noting the 1,503 day period over which the defendant had failed to correct the relevant violations.

The Court then turned to the topic of more interest to the remainder of the state – the impact of the Excessive Fines Clauses of the Pennsylvania and U.S. Constitution, which limits the government’s powers to extract payments as punishment for an offense. The Court noted that since fines serve not only as a punishment but as a deterrent, the amount of a fine can be raised to whatever sum is necessary to discourage future or continued violations, subject to any restriction imposed on the amount of the fine by the enabling statute or the Constitution. There need not be strict proportionality between the harm resulting from the offense and the penalty imposed, but a fine may be deemed unconstitutionally excessive where the amount is so great as itself to be confiscatory and beyond the bounds of all reason and justice. Defendant argued that the fine was grossly excessive and disproportionate to the wrong committed as well as to the value of the property, and that the property owner would be unable to pay the fine. The Court rejected these arguments, noting that neither the value of the noncompliant property nor the inability to pay are factors in determining if a fine is unconstitutionally excessive. The Court reasoned that the fine imposed was the result of ongoing violations for a 1,503-day period and fell within the statutory parameters of the Code. Finally, comparing the statutory maximum (\$3,345,900) to the fine imposed, the Court noted that the common pleas court had provided a 98% reduction which it found to be a “lenient sum” in comparison. The Court therefore agreed with the court of common pleas that the fine was not unconstitutionally excessive.

As with any other authority, the power of a municipality to seek fines and penalties is not only limited by the state statute that authorizes it but confined by the protections of the state and U.S. Constitution. The Court’s decision in *Epstein* suggests that constitutional limits will not automatically serve to disrupt cumulative fines that are otherwise levied within the boundaries of state law and perceived to be in furtherance of the dual goals of punishment and deterrence.

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[1] Opinion reported and pending official citation.

