

**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

JANE DOE and CHARLES BOONE,

Plaintiffs,

v.

WILMINGTON HOUSING AUTHORITY and  
FREDERICK S. PURNELL, SR., in his official  
capacity as executive director of the Wilmington  
Housing Authority,

Defendants.

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: **C.A. No. 10-0473-LPS**  
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**APPLICATION OF BRADY CENTER TO PREVENT GUN VIOLENCE TO  
FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF DEFENDANTS**

Through undersigned counsel, the Brady Center to Prevent Gun Violence applies to the Court for leave to file a brief as *amicus curiae* in this case for the facts and reasons stated below. The proposed brief is attached hereto as Exhibit A for the convenience of the Court and counsel.

The Brady Center to Prevent Gun Violence is the nation’s largest non-partisan, non-profit organization dedicated to reducing gun violence through education, research, and legal advocacy. Through its Legal Action Project, the Brady Center has filed numerous briefs *amicus curiae* in cases involving both state and federal gun laws, including cases involving public carry regulations. *See, e.g., McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010); *United States v. Hayes*, 129 S. Ct. 1079, 1087 (2009) (citing amicus brief of Brady Center to Prevent Gun Violence); *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008); *Bateman v. Perdue*, No. 5:10-CV-265-H (D.N.C. Jan. 20, 2011) (order granting application as “timely and useful”).

District courts have inherent power to grant third parties leave to file briefs as *amicus curiae*, particularly where they provide “additional views [that] . . . may aid the Court’s review.” *Getty Oil Co. v. Dept. of Energy*, 117 F.R.D. 540, 550 (D. Del. 1987). Here, *amicus* brings a broad and deep perspective to the issues raised by this case and has a compelling interest in the

federal courts' interpretation of Second Amendment issues. *Amicus* thus respectfully submits the attached brief to assist the Court with the constitutional issues in this case, including important matters of first impression under the Second Amendment.

The proposed brief provides an overview of recent and longstanding Supreme Court Second Amendment jurisprudence, the policy implications of recognizing a broad right to carry firearms in public housing facilities, and addresses an open question that has resulted from this jurisprudence—namely, what the appropriate standard of review for Second Amendment claims should be, and shows how lower courts have answered that question thus far. The brief also discusses the emerging trend in lower courts towards using a two-pronged approach to Second Amendment claims that asks (1) whether the law or regulation at issue implicates protected Second Amendment activity, and if so, (2) whether it passes the appropriate standard of review. The brief then applies this two-pronged approach to Second Amendment issues in the case at hand, employing case law, sociological data, and legal commentary to place the Wilmington Housing Authority (“WHA”) firearms and weapons regulations in the larger context of Second Amendment issues. The brief concludes that (1) the WHA regulations do not implicate protected Second Amendment activity because the Supreme Court has only recognized a Second Amendment right to possess and carry guns for self-defense in the home, and (2) that even if the regulations did implicate protected Second Amendment activity, they would survive the appropriate level of review – the reasonable regulation test that over forty states have adopted – because they are a valid exercise of the state’s police powers to enact legislation designed to protect public safety.

*Amicus*, therefore, respectfully submits the attached brief to assist the Court in deciding the complex and significant issues raised in this matter.

Dated: February 21, 2011

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

/s/ Suzanne Hill Holly

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**CERTIFICATE OF SERVICE**

I, Suzanne Hill Holly, Jr., do hereby certify that on this 21st day of February, 2011, the attached document was electronically mailed and filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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