

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIGAR ASSOCIATION OF AMERICA <i>et al.</i> ,	:	
<i>Plaintiffs</i>	:	CIVIL ACTION
	:	
v.	:	
	:	
CITY OF PHILADELPHIA <i>et al.</i> ,	:	No. 20-3220
<i>Defendants</i>	:	

ORDER

AND NOW, this 3rd day of March 2022, upon consideration of the June 18, 2020 Verified Complaint of Plaintiffs Cigar Association of America, Inc., ITG Cigars Inc., Swedish Match North America, LLC, and Swisher International, Inc. (collectively, “Plaintiffs”), this Court’s Memorandum Opinion and Order dated November 13, 2020 (ECF 26, 27), and the United States Court of Appeals for the Third Circuit’s decision dated November 24, 2021 (Appeal No. 20-3519);

IT APPEARING that on December 18, 2019, Defendant City of Philadelphia (“City”) enacted Bill No. 180457, *codified at* Phila. Code § 9-639,¹ titled “Sale of Flavored Tobacco Products” (“Bill No. 180457” or “the Ordinance”), which restricts the sale of Flavored Cigars and Flavored Roll-Your-Own Tobacco to licensed “Tobacco Products Distribution Businesses”;

IT FURTHER APPEARING that Plaintiffs challenged Bill No. 180457 as preempted by Section 301 of the General Local Government Code, 53 Pa. C.S. § 301 (“Section 301”), and Section 2 of Act 42 of 2018, Act of June 22, 2018, P.L. 281 (“Act 42”), 72 P.S. § 232-A(a);

¹ The Philadelphia Code can be found at <https://codelibrary.amlegal.com/codes/philadelphia/latest/overview>. Note that Bill No. 180457 numbers this Section as 9-637, but the Code Editor renumbered it as 9-639 in the online publication of The Philadelphia Code.

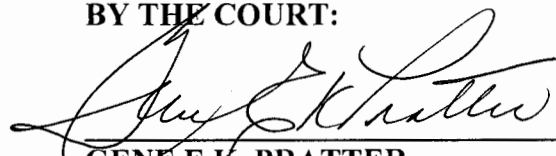
IT FURTHER APPEARING that by Order dated November 13, 2020, this Court entered a preliminary injunction which was affirmed by the Third Circuit Court of Appeals, wherein both Courts concluded, among other things, (a) Plaintiffs are likely to succeed on the merits of their claim that Bill No. 180457 is preempted by the current version of 53 Pa. C.S. § 301; (b) the Courts not need address Plaintiffs' alternative claim that the Ordinance is preempted by Act 42; and (c) Plaintiffs would be irreparably harmed if the requested injunction were not entered;

IT FURTHER APPEARING that all parties consent to the form and entry of the Stipulated Consent Order attached as Exhibit A to their Settlement Agreement and Mutual Release;

IT IS HEREBY **ORDERED** that:

1. Defendants and their departments, agencies, directors, officers, agents, affiliates, subsidiaries, servants, employees, predecessors, successors, and all other persons or entities in active concert or privity or participation with them are permanently enjoined and prohibited under current law from enforcing or seeking to enforce Bill No. 180457 against Plaintiffs and all other persons and entities; and
2. Defendants and their departments, agencies, directors, officers, agents, affiliates, subsidiaries, servants, employees, predecessors, successors, and all other persons or entities in active concert or privity or participation with them shall void and withdraw any and all regulations regarding the Ordinance.

BY THE COURT:



GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE