



IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GLEND A CAMPBELL, et al.,)
)
 Plaintiff)
)
 vs.)
)
 HOUSING AUTHORITY OF THE)
 CITY OF ATLANTA, et al.,)
)
 Defendant.)

CIVIL ACTION
FILE NO. C-89978

O R D E R

Upon full consideration of the entire record, the Plaintiffs' Motion for Class Certification is hereby GRANTED.

Plaintiffs seek class certification under O.C.G.A. § 9-11-23 (a). In order for a class to be certified under Section 23 (a), the class must meet the requirements of numerosity, common character of rights, and adequate representation.

1. Plaintiffs estimate each proposed class involved in the instant case to include 900 members. These estimates are based on information supplied to Plaintiffs by the defendant Atlanta Housing Authority (AHA). (See the reports attached to the letter from Debra A. Segal to this Court dated Feb. 2, 1984.) According to AHA's figures, there are 854 overcrowded units and 1,400 vacant units. These figures represent a significant portion of the 15,005 units owned and managed by AHA as of July, 1983. We would also point out that these figures are subject to change and that the Defendants have control of the number of persons in each proposed class at any given time.

A class action can proceed upon an estimate of the size of the proposed class. *Amicus International Corp. v. Hasklein*

ment of O.C.G.A. § 9-11-23 (a).

2. Plaintiffs seek to alleviate overcrowded conditions and to make secure the vacant units in proximity to their homes in AHA owned housing. Plaintiffs allege that Defendants have refused to transfer families from overcrowded units to units of an appropriate size and have refused to secure vacant units on grounds which are common to all members of the proposed classes. Although there may be minor variations in the factual situations upon which the members of each class depend to establish their right to prevail, the rights involved are of a common character. Such minor variations do not destroy the class where the rights are common. See Georgia Investment Co. v. Norman, 229 Ga. 160, 162 (1972) and Sta-Powers Industries, 134 Ga. App. at 954. Further, the common questions predominate over any minor variations in factual situations. Thus Plaintiffs' classes satisfy the common right requirement of O.C.G.A. § 9-11-23 (a).

3. Plaintiffs have also satisfied the requirement of O.C.G.A. § 23 (a) that they fairly and adequately represent the interests of the class. Accordingly, Plaintiffs' Motion for Class Certification is hereby GRANTED.

4. Defendants argue Plaintiffs are not entitled to the requested injunctive relief as O.C.G.A. § 41-2-5 provides an adequate remedy at law for the abatement of a nuisance within the limits of a city. However, this section does not provide an adequate remedy where there is a continuing nuisance.

Poultryland, Inc. v. Anderson, 200 Ga. 549 (1946); Rahn v. Pittman, 216 Ga. 523, 525 (1961); Atlanta v. Wolcott, 240 Ga.

in AHA owned and operated housing and (2) to secure all
vacant units in AHA owned and operated projects.

This 18th day of APRIL, 1984.


JUDGE FULTON SUPERIOR COURT, A.J.C.

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