

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Northern Division)

ANDRESIA DIGGS, *et al.*,

\*

Plaintiffs,

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v.

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Civil Action No. CCB 98-1605

THE HOUSING AUTHORITY OF  
THE CITY OF FREDERICK, *et al.*,

\*

\*

Defendants.

\* \* \* \* \*

CONSENT DECREE

By agreement of the parties, the following Consent Decree is submitted for approval by the Court:

A. On May 20, 1998, various tenants of the public housing communities owned by the Housing Authority of the City of Frederick ("Housing Authority") and their guests filed a lawsuit against the Housing Authority; Teresa Ham, Executive Director of the Housing Authority; the City of Frederick; the Frederick City Police Department ("Police Department"); Major R.R. Raffensberger, Chief of Police; Watkins Security, Inc. and certain individual officers of the Police Department.

B. In an Opinion and Order dated July 15, 1999, District Court Judge Catherine Blake granted Plaintiffs' motion for a preliminary injunction. In her Opinion and Order, the Court preliminarily enjoined the Defendants from continuing the current trespass policy with respect to all

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persons, except for those placed on the Defendants' trespass log as a result of violent or drug-related activity occurring on Housing Authority property.

C. After extensive negotiations, discussions and several mediation sessions with Judge Beth Gesner, the parties have jointly developed a proposed revised trespass policy with exhibits, attached hereto as Exhibit A and incorporated herein by reference (hereinafter referred to as the ("Trespass Policy")). The purpose of the Trespass Policy is to protect the peace and safety of public housing for the tenants. The purpose is not to impose penalties or invade the privacy of tenants and their guests.

IT IS THEREFORE HEREBY ORDERED:

THAT the provisions of this Consent Decree and the attached Trespass Policy, once adopted, shall apply to and be binding upon the Plaintiffs and upon their heirs, successors-in-interest and assigns;

THAT the provisions of this Consent Decree and the attached Trespass Policy, once adopted, shall apply to and be binding upon the Defendants and upon their agents, servants, employees, successors, and/or assignees.

THAT all provisions of this Consent Decree shall take effect immediately upon approval and entry of this Consent Decree by Order of this Court, unless otherwise provided in this Consent Decree, the Trespass Policy or applicable HUD regulations;

THAT before a party may petition this Court with respect to any issue arising under this Consent Decree, including any alleged noncompliance therewith, the parties shall confer in person and attempt to resolve the problem; AND

THAT any petition filed in this Court shall certify that good faith efforts have been made to resolve the dispute and describe such efforts, including the time and place of the in-person meeting, the parties present at the meeting, the issues discussed and the resolution of the issues, if any.

AND IT IS FURTHER HEREBY ORDERED AND DECREED THAT Defendants shall be and hereby are permanently enjoined as follows:

The Defendants shall cease and desist from enforcing the trespass policy followed prior to July 15, 1999;

The Defendants shall abolish in its entirety the trespass log that was in effect prior to December 31, 1999;

Within thirty (30) days of the date of this Consent Decree, the Defendants shall provide individual written notice in the manner prescribed herein to all persons in the previous trespass log. The notice shall be mailed by the Frederick City Police Department by first-class mail. The notice shall advise that the individual has been removed from the trespass log, that a new trespass policy has been proposed (as set forth in Exhibit A) and that the prior log has been abolished. The notice shall also contain an address at which the individual may inquire about and obtain a copy of the Trespass Policy. The Frederick City Police Department shall request the addresses of all individuals named in the prior log from the Motor Vehicle Administration. If the Motor Vehicle Administration has no current address for one or more individuals on the prior log, then the defendants shall use any known last address in their possession. In the event that notices are returned or no address is available, the defendants shall post notice to those

individuals for thirty days at the office of the Housing Authority and all Community Policing Stations;

The parties agree that the Trespass Policy, attached hereto as Exhibit A, does not, on its face, infringe upon the rights of public housing tenants and their guests under federal and state law, including the right of public housing tenants to have guests under the United States Housing Act and Maryland common law. The parties further agree that the Trespass Policy contains clearly articulated and fair standards and, as written, complies with federal and state constitutional standards, including the First, Fifth, Ninth and Fourteenth Amendments of the United States Constitution and Articles 9, 19, 24, 26 and 45 of the Maryland Declaration of Rights;

The Court finds that this Consent Decree and the attached Trespass Policy comport with the findings set forth in the Court's July 15, 1999, Preliminary Injunction, Memorandum and accompanying Order;

Upon entry of this Consent Decree, the Housing Authority shall submit the proposed Trespass Policy, attached hereto as Exhibit A, to its tenants for notice and comment pursuant to 24 C.F.R. § 966.3;

The parties shall support in good faith the adoption of the Trespass Policy by the Housing Authority;

The Housing Authority shall provide all counsel who execute this Consent Decree with copies of any comments received about the Trespass Policy during the notice and comment period. The Housing Authority shall discuss any proposed amendments arising from those

comments with Plaintiffs' counsel, prior to making any amendments to the Trespass Policy. The Trespass Policy shall not be adopted and implemented unless all parties, other than Watkins Security, Inc., agree to any revisions. The Housing Authority shall not amend or modify the Trespass Policy for the next three years without first filing a notice with the Court of the proposed revisions to the Policy;

After adoption of the Trespass Policy, it may be enforced by all parties;

The Defendants shall not ban any person from public housing property simply because he or she is a non-resident. Defendants shall not prohibit or prevent any person from visiting public housing tenants, except in accordance with the Trespass Policy, as adopted, or as authorized by Maryland law and in accordance with HUD regulations;

The "No Trespassing" signs currently posted in the public housing communities shall be removed. If the Housing Authority posts any new "No Trespassing" signs, those signs shall state: "Private Property—No Trespassing, Unauthorized Persons Shall Be Prosecuted" and shall indicate where a plat can be viewed which sets forth the boundaries of public housing property.

Upon the adoption of the Trespass Policy, the Housing Authority and the Police Department shall provide a training session or sessions to their employees and agents prior to the first date of its use. The Trespass Policy and this Consent Decree shall be reviewed and explained as part of the training. The training shall also include explanations that (1) public housing tenants have the right to the exclusive use and occupancy of their rented premises, including use of the common areas for accommodation of guests of their choosing, as long as

they are not unauthorized persons as defined by the Trespass Policy; and (2) no action by the Housing Authority or its designees may impair the tenants' rights set forth in (1) above. Plaintiffs' counsel or their designee shall have a meaningful opportunity to review and comment on the training materials seasonably in advance of their use, and to submit any additional proposed training materials. Plaintiffs' counsel or their designee shall discuss those materials with a representative of the Frederick City Attorney's Office. The training session(s) shall be mandatory for all persons expected to enforce the revised trespass policy on public housing property. The Housing Authority and the Police Department shall provide a follow-up training session or sessions to their employees and agents on an annual basis. The Trespass Policy shall not be enforced until after the first training session is completed.

AND IT IS FURTHER ORDERED THAT

For a period of three years, on a quarterly basis, the Housing Authority or the Police Department or the City of Frederick shall submit the following information to this Court with copies to counsel signing this Consent Decree: 1. a copy of the most recent Unauthorized Persons Log as described in the Trespass Policy; 2. a description of the training session or sessions provided to their employees and agents about the Trespass Policy; 3. the number of persons arrested for trespassing on public housing property year-to-date; 4. the number of trespass arrests on public housing property that resulted in convictions; 5. the number of tenants evicted as a result of the Trespass Policy; and 6. the number of total arrests on public housing property year-to-date.

AND IT IS FURTHER ORDERED THAT, in this case, this Consent Decree and the Trespass Policy shall be deemed to fall within the protection afforded compromises and offers to compromise by Rule 408 of the Federal Rules of Evidence.

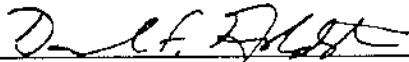
AND IT IS FURTHER ORDERED THAT the Court shall retain jurisdiction over this case for three years.

IT IS SO ORDERED this 16<sup>th</sup> day of November, 2000.




Catherine C. Blake  
United States District Judge

AGREED TO ABOVE CONSENT DECREE IN  
FORM AND CONTENT:



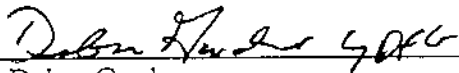
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## TRESPASS POLICY

### 1. Purpose.

The purpose of this policy is to set forth the rules and regulations which shall be the exclusive method by which the Housing Authority of the City of Frederick shall enforce Art. 27, §577(a)(2) of the Maryland Annotated Code on Public Housing Property. It is the intention of this policy to secure the peace and safety of tenants in Frederick public housing.

### 2. Establishment of an Unauthorized Persons Log.

2.1 Upon the adoption of this Trespass Policy as amended after notice and comment by the tenants in accordance with 24 C.F.R. §966.3, an Unauthorized Persons Log ("Log") will be established.

2.1.1 The Log may contain, as of the effective date of this policy, the names of those who satisfy the definition of Unauthorized Persons set forth in this policy.

2.1.2 The Log shall set forth the Unauthorized Person's name, any known aliases, and the address listed on the Notice issued pursuant to Section 4.3; the date and manner of notice (e.g. "by mail" or "by hand"), the person or entity who placed the person on the Log, the reason for placing the person on the Log, the Public Housing Communities from which the person is prohibited, and the identity of Exempted Residences, if any.

2.2 This Trespass Policy shall be made part of the tenants' leases with the Housing Authority of the City of Frederick after notice and comments are provided in accordance with 24 C.F.R. §966.3.

### 3. Definitions.

#### 3.1 Authority

The Housing Authority of the City of Frederick.

### 3.2 Public Housing Community

One or more of the six (6) public housing developments owned and operated by the Authority; specifically, Taney Apartments, Lincoln Apartments, Carver Apartments, John Hanson Apartments, the Sagner Housing Development, and Catoclin View Apartments.

### 3.3 Public Housing Property

That real property which is owned by the Authority, as defined per the property boundaries on the plats attached as Exhibit A, including all streets, parking spaces and walkways within the property boundaries of each Public Housing Community. Public Housing Property does not include Klinehart's Alley or Shipley Lane.

Nothing in this Policy shall limit the right of any person to visit the office of the Authority.

### 3.4 Unauthorized Person

An Unauthorized Person is:

1) A person who has been convicted or has received a probation before judgment, other than a probation before judgment without conditions, of a Drug-Related Crime or Other Proscribed Crime which occurred on or within the area shown and described in Exhibit B to this Trespass Policy, and who is listed on the Log and has been given notice pursuant to Section 4.3. and who has not completed his/her sentence as set forth in Section 6.1.2.1; or

2) A person who has been proven, in a criminal proceeding, to have an intent to commit a Drug-Related or Other Proscribed Crime on or within the area shown and described in the plats of each Public Housing Community as set forth in Exhibit B to this Trespass Policy, and who is listed on the Log and has been given notice pursuant to Section 4.3, and who has not completed his/her sentence as set forth in section 6.1.2.1; or

3) A person who has a charge pending, other than a stet without conditions or a stet for which

the conditions have been performed, for a Drug-Related Crime or Other Proscribed Crime which occurred on or within the area shown and described in the plats of each Public Housing Community as set forth in Exhibit B to this Trespass Policy and who is listed on the Log and has been given notice pursuant to Section 4.3.

#### 3.4A Persons Who Have Completed Sentence And Not Requested Removal

A person who has completed his/her sentence and who is, therefore, otherwise authorized to enter upon public housing property pursuant to this Trespass Policy, risks arrest until he/she requests removal from the Log pursuant to Section 6.1.2 of this Policy.

#### 3.5 Drug-Related Crimes

The illegal manufacture, sale, distribution, use, possession, or possession with intent to manufacture, sell, distribute or use a controlled substance, as currently defined in Section 102 of the Controlled Substances Act, 21 U.S.C. §802, and/or those sections of Article 27, Sections 286 and 287 of the Annotated Code of Maryland which are listed as currently codified by section in Exhibit C, Appendix to Section 3.5, attached hereto.

#### 3.6 Other Proscribed Crimes

Assault, battery, arson, robbery, vandalism, malicious destruction of property, disturbing the peace, murder, manslaughter, unlawful possession, concealment or use of a deadly weapon, rape, sexual assault, prostitution and solicitation thereof, abduction, kidnapping, gambling, harassment, stalking, criminal violation of stay-away, protective, restraining, or peace order, attempt to commit any of the above-listed crimes, public urination and public nuisance, all as currently codified in the Annotated Code of Maryland or the Frederick City Code and as listed by section in Exhibit C, Appendix to Section 3.6, attached hereto.

### 3.7 Interested Public Housing Resident

A resident of a Public Housing Community who seeks to have an Unauthorized Person as a guest.

### 3.8 Exempted Residence

Any residence of an Interested Public Housing Resident to which an Unauthorized Person may be permitted to visit pursuant to a decision rendered in accordance with section 6.4.5 below.

### 3.9 Log

The Unauthorized Persons Log developed in accordance with this Trespass Policy.

## 4. Placement on the Unauthorized Persons Log.

4.1 The Log shall be maintained on a computer system and shall be accessible by both the Authority and the Frederick City Police Department. The published version of the Log, as described in Section 5.1 below, shall be maintained by the Authority.

4.2 The Housing Authority shall be the custodian of the Log, have the authority to place Unauthorized Persons on the Log and shall maintain the Log and update it within a reasonable time after receiving information to be placed on the Log.

4.2.1 For those crimes for which the maximum sentence which may be imposed is six (6) months or less, the Unauthorized Person shall be prohibited from the particular Public Housing Community where the crime occurred, unless and until otherwise permitted to return pursuant to Section 6 below. The maximum sentences of the crimes described in Section 3.5 and 3.6 are set forth in Exhibit C attached hereto and are incorporated herein by reference. For all other Unauthorized Persons placed on the Log, the person shall be prohibited from all Public Housing Communities, unless and until otherwise permitted to return pursuant to Section 6 below.

4.3 Each Unauthorized Person shall be provided with a written notice of the prohibition to which he/she

is subject and the procedures by which the prohibition may be modified or terminated.

4.3.1 The written notice shall be in the form set forth in Exhibit D hereto.

4.3.1.1 Written notice may be provided to an Unauthorized Person by any employee, officer or authorized independent contractor of the Authority, any sworn officer of the Police Department, or any judge, commissioner, or an attorney employed with the State's Attorney's office.

4.3.2 The Police Department or the Authority shall endeavor to provide the written notice to the Unauthorized Person at the time he/she is charged and/or convicted. Notice shall be made by either the personal delivery or mailing of written notice to the Unauthorized Person. If notice is mailed to the Unauthorized Person's last known address, then the legal presumption of receipt three business days after mailing shall apply.

4.4 The State's Attorney may request, as a condition of an Unauthorized Person's release on his or her own recognizance or after bail has been set, that he/she shall not be allowed to return to one or more of the Public Housing Communities unless and until the Unauthorized Person's name is purged from the Log.

4.5 An Unauthorized Person who enters upon any Public Housing Property from which he/she is prohibited shall be considered for the purposes of this policy in violation of Md. Ann. Code Art. 27, §577(a)(2).

4.5.1 If the Executive Director of the Housing Authority, or any officer of the Frederick Police Department receives information and verifies that a person is no longer an Unauthorized Person as defined by this Trespass Policy, then the person's name shall be removed from the Log. The Executive Director of the Housing Authority or officer of the Frederick Police Department shall advise the State's Attorney that any such person with a trespass

charge pending was not an Unauthorized Person as defined in this Trespass Policy at the time of the charge.

4.5.2 The Frederick Police Department and its officers may rely in good faith upon the existence of a person's name on the Log in determining whether there is probable cause to believe that such person is in violation of Md. Ann. Code Art. 27, §577 (a)(2).

5. Publication of a Modified Version of the Unauthorized Persons Log.

5.1 The Authority shall post a hard copy of the Log, modified as described in section 5.1.1 below, at the Authority's Management Office. The posted modified version of the Log shall be updated on the 1<sup>st</sup> business day of each month and shall be available to the public for inspection during business hours. The Police Department shall post the same modified version of the Log, as updated, at all community police substations and at its main headquarters, which shall be available to the public for inspection during business hours.

5.1.1 The modified version of the Log posted by the Housing Authority and the Police Department for public inspection shall exclude the reason the person was placed on the Log. The posted Log shall clearly state the following:

"NOTICE: This posted Log is updated only on the first business day of each month. If you would like to find out whether any person has been placed on or removed from the Unauthorized Persons Log since the last update, please contact the Housing Authority.

Any person on the Unauthorized Persons Log, or any public housing resident who would like to have a person listed on the Log as a guest may contact The Housing Authority to find out why the person was placed on the Log, the procedure to request removal from the Log or modification of the prohibition to allow a person to visit a certain resident."

5.2 Any person may request a copy of the Log, or information set forth in Section 2.1.2 about an

Unauthorized Person from the Housing Authority or the Police Department and shall be provided with a copy of the Log, upon written request or upon signing a receipt provided by the Housing Authority or the Police Department. The Housing Authority and the Police Department may charge reasonable copying expenses.

6. Removal from the Unauthorized Persons Log.

6.1 Mandatory Removal After Request and Verification

6.1.1 Unauthorized Persons who have been found not guilty, whose cases have been nol prossed, or who have received a stet or probation before judgment without conditions or with conditions that have been satisfied with respect to the Drug-Related Crime or Other Proscribed Crime which led to his/her placement on the Log, or an Interested Public Housing Resident, may submit a written request to the Executive Director to have the Unauthorized Person removed from the Log. The written request must specify the reason for the request, i.e.: the disposition of the charge. If the Housing Authority verifies the disposition, then the Housing Authority shall remove the person from the Log and send notice to the person that his/her name has been removed from the Log.

6.1.2 Upon written request to the Executive Director under Section 6.2, an Unauthorized Person's name shall be removed from the Log by the Authority if all of the following conditions have been satisfied:

6.1.2.1 The Unauthorized Person has completed all prison and/or jail sentences for all Drug-Related Crimes and Other Proscribed Crimes and/or all probation periods assigned in conjunction with said crime(s) and has fully performed all community service assigned by a court in conjunction with said crime(s) and has satisfied any other non-monetary conditions imposed by his/her sentence.

6.1.2.2 The Unauthorized Person has no other pending charge for any Drug-Related Crime or Other Proscribed Crime.

6.1.2.3 The Unauthorized Person or Interested Public Housing Resident provides satisfactory proof to the Executive director that each of the foregoing conditions for removal from the Log has been satisfied.

6.2 Procedure for Requests for Removal to the Executive Director

6.2.1 An Unauthorized Person or an Interested Public Housing Resident may submit a written request to the Executive Director of the Housing Authority of the City of Frederick at the Management Office, 209 Madison Street, Frederick, Maryland, to have the Unauthorized Person's name removed from the Log. A sample form that may be used by an Unauthorized Person or an Interested Public Housing Resident is attached hereto as Exhibit E and shall be made available to any person upon request. Copies shall also be made available to the State's Attorney's Office, Frederick County Circuit and District Court Clerks' Offices and Frederick Police Department.

6.2.2 The Executive Director shall make a determination within 30 days from the date of the request, and shall provide a written decision either granting the removal or explaining the reasons for the denial of any request. The written decision shall include notification that a person whose request is denied has the right within fourteen (14) days of the date of the mailing of the written decision, to request a hearing.

6.2.3 If an Unauthorized Person's name has been removed from the Log, his/her name will be removed from the posted modified version of the Log by the 1<sup>st</sup> business day of the month after the name has been removed from the Log.

6.3 Modification of Prohibition

6.3.1 If the request to remove an Unauthorized Person's name from the Log under Section 6.2 is made or joined in by an Interested Public Housing Resident and the Unauthorized Person

has had no convictions or pending charges for a Drug-Related Crime or Other Proscribed Crime within the last year, then the Housing Authority shall remove the Unauthorized Person's name from the Log only with respect to the Public Housing Community in which the Interested Resident resides, unless the Executive Director of the Authority, based upon written complaints or incident reports, determines that it is more likely than not that the Unauthorized Person continues to be a threat to the peace or safety of public housing tenants or property.

6.3.2 The Executive Director shall respond to any request for modification within 30 days and provide a written decision explaining the reasons for any denial of a request for modification. The written decision shall notify the person who requested the modification that he/she has the right, within 14 days of the date of the written decision, to request a hearing.

#### 6.4 Hearing Procedures

6.4.1 Any person who is denied removal or modification pursuant to section 6.1, 6.2, or 6.3, or any person otherwise seeking removal from the Log, may request a hearing. The hearing procedures set forth in the Housing Authority's Grievance Procedures, except for the procedure concerning the informal conference, shall govern the hearing procedures for this policy.

6.4.2 A hearing officer shall be selected from the list prepared by the Authority, as specified in paragraph VI of the Grievance Procedure between the Authority and tenants which is presently incorporated in the Authority's leases with tenants. If the hearing is brought by a non-resident, the non-resident has the same right to strike prospective hearing officers as does the tenant under paragraph VI of the Grievance Procedure.

6.4.3 If the hearing officer determines that it is more likely than not that the Unauthorized Person continues to be a threat to the peace or

safety of persons or property on public housing that outweighs the need for a continuing relationship between the Unauthorized Person and an Interested Resident and the hearing officer further determines that the Unauthorized Person has provided no other grounds to be removed from the Log, the Unauthorized Person's name shall remain on the Log.

6.4.4 If the hearing officer decides to remove the Unauthorized Person from the Log, the Authority shall promptly remove the person's name from the Log. The Authority or the hearing officer shall provide notice to the Police Department if a person has been removed from the Log. Thereafter, those persons who are removed from the Log shall be removed from the posted modified version of the Log by the 1<sup>st</sup> business day of the month after receiving the decision of the hearing officer.

6.4.5 If the hearing officer determines that the Unauthorized Person should be permitted to visit only certain Interested Public Housing Residents, then it may cause the Log to be modified to specify that the person is authorized to enter one or more Public Housing communities solely for the purpose of visiting the interested Resident(s) at the Exempted Residence(s). The Log shall be annotated so as to place next to the Public Housing Communities from which the person is prohibited the particular address(es) within the prohibited Public Housing Communities which the person may visit.

6.4.5.1 The Executive Director shall notify the Unauthorized Person and, if applicable, the Interested Public Housing Resident that any Unauthorized Person who enters a Public Housing community from which he/she is prohibited for the purpose of going to an Exempted Residence must take the most direct route between public property and the Exempted Resident. Any Unauthorized Person present on Public Housing Property who is neither in the presence of the Interested Resident of the Exempted Residence, nor in a place which

reasonably appears to be a direct route to or from the Exempted Residence, shall be considered for the purposes of this policy to be in violation of Md. Code Ann. Art. 27, §577(a)(2).

6.4.6 Decisions of the hearing officer shall be final and binding on the Housing Authority. If, after the hearing, either party discovers information that could not have been obtained with reasonable efforts before the hearing that demonstrates that the other side presented false information at the hearing, then that party may request the hearing officer to reopen the hearing. Decisions of the hearing officer shall be made orally at the hearing and notice of the final decision shall be provided in writing to the Unauthorized Person and/or Interested Resident.

6.5 A request to remove a person's name from the Log may be submitted at any time, but not more frequently than once every six months after the last hearing held by the hearing officer.

#### 6.6 Other Authority - Emergency Exemptions

6.6.1 Notwithstanding any other provision herein, the Authority shall have the right to purge the names of Unauthorized Persons from the Log. In the event that names are purged, the Authority shall so notify in writing those persons whose names have been purged from the Log and any known Interested Public Housing Resident at their last known addresses.

6.6.2 The Executive Director of the Housing Authority, or his/her designee, shall have the sole and unfettered discretion, not subject to challenge or review, to grant emergency exemptions.

#### 7. Notices to Residents.

7.1 A copy of this Trespass Policy shall be submitted to lease holders in each of the Public Housing Communities for comment in accordance with 24 C.F.R. §966.3.

8. Miscellaneous.

8.1 Upon adoption, this Trespass Policy shall be included in the next publication of the Authority to residents of the Public Housing Communities and shall be attached to each new lease entered into between the Authority and its tenants.

8.1.1 Nothing in this Trespass Policy shall abrogate any rights which tenants may have under the law or under their leases, including the grievance procedures incorporated as part of the tenants' leases.

8.1.2 If the Housing Authority has evidence that a tenant, after notice that an Unauthorized Person is on the Log, invited such Unauthorized Person onto the prohibited portion of Public Housing Property, and as a result the Housing Authority takes action against that tenant, the tenant shall be entitled to the Grievance Procedure.

8.2 A copy of this Trespass Policy shall be made, without charge, for any person who requests it from the Housing Authority, either in writing or by signing his or her name to an acknowledgment that he or she received a copy of the Trespass Policy.

APPENDIX TO SECTION 3.5**Drug – Related Crimes**

- Article 27 Section 286.** Unlawful manufacture, distribution, etc.; counterfeiting, etc.; manufacture, possession, etc.; of certain equipment for illegal use; keeping common nuisance. Maximum Penalty \$50,000 fine or 25 years imprisonment for violation of subsection (a)(1).
- Article 27 Section 286A** Bringing into State in excess of certain amounts. Maximum Penalty \$10,000 or 10 years for violation of subsection (A)(2).
- Article 27 Section 286B** Distribution of noncontrolled substance as controlled dangerous substance. Maximum Penalty 5 years or \$15,000.
- Article 27 Section 286C** Using minors for manufacture, delivery or distribution of controlled dangerous substances. Maximum Penalty 20 years or \$20,000.
- Article 27 Section 286D** Manufacture, distribution, etc., of controlled dangerous substances near schools or on school vehicles. Maximum Penalty 20 years or \$20,000 for first offense. 40 years or \$40,000 for second offense.
- Article 27 Section 286E** Use of a minor. Maximum Penalty 20 years or \$20,000.
- Article 27 Section 287** Unlawful possession or administering to another, obtaining, etc., substance or paraphernalia by fraud, forgery, misrepresentation, etc., affixing forged label; altering, etc., label; unlawful possession or distribution of controlled paraphernalia; penalties. Maximum Penalty 1 year or \$1,000.
- Article 27 Section 287A** Drug paraphernalia. Maximum Penalty \$500.00 fine. 2 years or \$2,000 fine for conviction of a subsequent violation.
- Article 27 Section 287B** Possession or purchase of noncontrolled substances believed to be controlled dangerous substances. Maximum Penalty \$500 or 1 year.

## Appendix to Section 3.6

## Other Proscribed Crimes or Violation of Court Orders

Article 27 Section 12A.	Second degree assault. Maximum Penalty \$2,500 or 10 years.
Article 27 Section 12A-1.	First degree assault. Maximum Penalty 25 years.
Article 27 Section 6.	Arson and Burning – Dwelling or occupied structure. Maximum Penalty \$50,000 or 30 years.
Article 27 Section 7.	Arson and Burning – Other structure. Maximum Penalty \$30,000 or 20 years.
Article 27 Section 8.	Burning personal property; burning with intent to defraud. Maximum Penalty \$5,000 or 5 years.
Article 27 Section 9.	Threats of arson. Maximum Penalty \$10,000 or 10 years.
Article 27 Section 9A.	Burning trash container. Maximum Penalty \$500 or 30 days.
Article 27 Section 9B.	Attempt to burn structure or property. Maximum Penalty 10 years or \$10,000.
Article 27 Section 486.	Robbery – In general. Maximum Penalty restitution and 3 to 10 years.
Article 27 Section 486A.	Robbery – Bonds, notes, checks, etc.; wills. Maximum Penalty restitution and 20 years.
Article 27 Section 488.	Robbery with deadly weapon. Maximum Penalty restitution and 20 years.
Article 27 Section 111.	Destroying, injuring, etc., property of another. Maximum Penalty \$2,500 or 3 years.
Article 27 Section 111B.	Throwing, etc., missiles into occupied vehicle or instrumentality of public transportation. Maximum Penalty \$500 or 1 year.
Article 27 Section 407.	First degree murder – Generally. Maximum Penalty life (but death penalty provided in sec. 413).
Article 27 Section 408.	Same – Murder committed in perpetration of arson. Maximum Penalty life.

Article 27 Section 409.	Same – Murder committed in burning barn, tobacco house, etc. Maximum Penalty life.
Article 27 Section 410.	Same – Murder committed in perpetration of rape, sodomy, mayhem, robbery, burglary, kidnapping, storehouse breaking, daytime house-breaking or escape. Maximum Penalty life.
Article 27 Section 411.	Second degree murder. Maximum Penalty 30 years.
Article 27 Section 411A.	Attempted murder. Maximum Penalty 30 years to life.
Article 27 Section 387.	Manslaughter generally. Maximum Penalty \$500 fine to 10 years.
Article 27 Section 388.	Manslaughter by automobile, vessel, etc.; charging documents. Maximum Penalty \$5,000 to 10 years.
Article 27 Section 36.	Carrying or wearing concealed weapon; carrying openly with intent to injure; carrying by person under eighteen at night in certain counties. Maximum Penalty \$1,000 fine to 3 years
Article 27 Section 36A-1.	Removing firearm from possession of law enforcement officer. Maximum Penalty \$10,000 fine to 10 years.
Article 27 Section 36B.	Wearing carrying or transporting handgun; unlawful use in commission of crime. Maximum penalty \$250 fine to 3 years.
Article 27 Section 462.	First degree rape. Maximum Penalty life imprisonment.
Article 27 Section 463.	Second degree rape. Maximum Penalty 20 years.
Article 27 Section 464.	First degree sexual offense. Maximum Penalty life imprisonment.
Article 27 Section 464A.	Second degree sexual offense. Maximum Penalty 20 years.
Article 27 Section 464B.	Third degree sexual offense. Maximum Penalty 10 years.
Article 27 Section 464C.	Fourth degree sexual offense. Maximum Penalty \$1,000 to 1 year.
Article 27 Section 464F.	Attempted rape or sexual offense. Maximum Penalty 20 years to life.
Article 27 Section 1.	Abduction – Individual under 16. Maximum Penalty 8 years.

Article 27 Section 2.	Abduction – Child under twelve. Maximum penalty 20 years.
Article 27 Section 337.	Kidnapping – Generally. Maximum Penalty 30 years.
Article 27 Section 245.	Gambling – Playing “thimbles”, “little joker”, “craps”, etc. Maximum Penalty \$500 fine to 2 years.
Article 27 Section 123.	Harassment. Maximum Penalty \$500 to 90 days.
Article 27 Section 124B.	Stalking. Maximum Penalty \$5,000 fine to 5 years.
Common Law	Disorderly house. Maximum Penalty not specified.
Article 27 Section 122.	Keeping a disorderly house. Maximum Penalty 10 days to 6 months.
Article 27 Section 121.	Disturbance the public peace and disorderly conduct. Maximum Penalty \$500 fine to 6 months.
Article 27 Section 15.	Prostitution, lewdness and assignation. Maximum Penalty \$500 to 1 year.
Courts and Judicial Proceedings Article 3-1508.	Failure to comply with Peace Order. Maximum Penalty \$1,000 fine to 90 days.
Family Article 4-501, 504, 505, 506, 507, 509.	Protection from domestic violence Violation of Ex-Parte’s, etc. Maximum Penalty \$1,000 fine to 1 year.
Frederick City Code Section 15-20	Urinating on street, etc. Maximum Penalty \$35.00 fine.
Frederick City Code Section 15-17	Firearms-Discharge within city limits. Maximum Penalty arrestable but not specified further.

NOTICE

[HOUSING AUTHORITY LETTERHEAD]

TO: \_\_\_\_\_ [Name] \_\_\_\_\_

\_\_\_\_\_ [Address] \_\_\_\_\_

You have been charged on \_\_\_ [date] \_\_\_, with Drug-Related Crime or Other Proscribed Crime, specifically, \_\_\_\_\_ [charge] \_\_\_\_\_, which occurred on or near Public Housing Property, specifically [state address]. As a result, you are prohibited from returning to the Communities indicated below:

\_\_\_\_\_ All Public Housing Communities Listed Below

_____ Taney Apartments	_____ Catoctin View Apartments
_____ Lincoln Apartments	_____ John Hanson Apartments
_____ Sagner Housing Development	_____ Carver Apartments

You will continue to be prohibited from returning to these Communities so long as the charge is pending. If you are convicted, you will be prohibited from returning to these communities until your sentence is completed.

A copy of the maps identifying the boundaries for the Public Housing Communities is available for your review at the Management Office of the Housing Authority for the City of Frederick, 209 Madison Street, Frederick, Maryland 21701.

If you return to the Public Housing Community or Communities checked above during the time that you are an Unauthorized Person, you will be subject to arrest for trespassing pursuant to Article 27, Section 577 of the Annotated Code of Maryland, and may be punished by a fine of up to \$500.00 and/or three months in jail.

Your name is being placed on an Unauthorized Persons Log (the Log), on which you are listed as a person who is prohibited from the Public Housing Community or Communities listed above. You may request that this letter be rescinded and that your name be removed from the Unauthorized Persons Log by submitting a written request to the Executive Director of the Housing Authority of the City of Frederick, 209 Madison Street, Frederick, Maryland 21701. The procedure for seeking removal from the Log and related provisions are attached to this Notice as Exhibit 1. A form which you may use to submit your request is attached to this letter as Exhibit 2. You may review the Unauthorized Persons Log and the Trespass Policy at the

Management Office of the Housing Authority. A copy of the Trespass Policy is available to you from the Management Office, upon written request or if you sign an acknowledgement that you received a copy.

THE FREDERICK POLICE DEPARTMENT AND ITS OFFICERS ARE PERMITTED TO RELY IN GOOD FAITH ON THE EXISTENCE OF YOUR NAME ON THE UNAUTHORIZED PERSONS LOG IN DETERMINING WHETHER THERE IS PROBABLE CAUSE TO BELIEVE YOU ARE IN VIOLATION OF ARTICLE 27, SECTION 577 (a) (2) (TRESPASSING). THEREFORE, TO AVOID THE POSSIBILITY OF ARREST FOR TRESPASS, IT IS IN YOUR INTEREST TO REQUEST THAT YOUR NAME BE REMOVED FROM THE LOG AS SOON AS YOU BELIEVE YOU ARE NO LONGER AN UNAUTHORIZED PERSON.

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Executive Director	Issuing Agent	Badge No.
Housing Authority of the City of Frederick		

Date of Issue: \_\_\_\_\_ Time: \_\_\_\_\_

Letter Was Delivered: \_\_\_\_\_ By Hand \_\_\_\_\_ By Mail

EXHIBIT 1 TO NOTICE

**6. Removal from the Unauthorized Persons Log.**

6.1 Mandatory Removal After Request and Verification

6.1.1 Unauthorized Persons who have been found not guilty, whose cases have been nol prossed, or who have received a stet or probation before judgment without conditions or with conditions that have been satisfied with respect to the Drug-Related Crime or Other Proscribed Crime which led to his/her placement on the Log, or an Interested Public Housing Resident, may submit a written request to the Executive Director to have the Unauthorized Person removed from the Log. The written request must specify the reason for the request, i.e.: the disposition of the charge. If the Housing Authority verifies the disposition, then the Housing Authority shall remove the person from the Log and send notice to the person that his/her name has been removed from the Log.

6.1.2 Upon written request to the Executive Director under Section 6.2, an Unauthorized Person's name shall be removed from the Log by the Authority if all of the following conditions have been satisfied:

6.1.2.1 The Unauthorized Person has completed all prison and/or jail sentences for all Drug-Related Crimes and Other Proscribed Crimes and/or all probation periods assigned in conjunction with said crime(s) and has fully performed all community service assigned by a court in conjunction with said crime(s) and has satisfied any other non-monetary conditions imposed by his/her sentence.

6.1.2.2 The Unauthorized Person has no other pending charge for any Drug-Related Crime or Other Proscribed Crime.

6.1.2.3 The Unauthorized Person or Interested Public Housing Resident provides satisfactory proof to the Executive director that each of

the foregoing conditions for removal from the Log has been satisfied.

## 6.2 Procedure for Requests for Removal to the Executive Director

6.2.1 An Unauthorized Person or an Interested Public Housing Resident may submit a written request to the Executive Director of the Housing Authority of the City of Frederick at the Management Office, 209 Madison Street, Frederick, Maryland, to have the Unauthorized Person's name removed from the Log. A sample form that may be used by an Unauthorized Person or an Interested Public Housing Resident is attached hereto as Exhibit E and shall be made available to any person upon request. Copies shall also be made available to the State's Attorney's Office, Frederick County Circuit and District Court Clerks' Offices and Frederick Police Department.

6.2.2 The Executive Director shall make a determination within 30 days from the date of the request, and shall provide a written decision either granting the removal or explaining the reasons for the denial of any request. The written decision shall include notification that a person whose request is denied has the right within fourteen (14) days of the date of the mailing of the written decision, to request a hearing.

6.2.3 If an Unauthorized Person's name has been removed from the Log, his/her name will be removed from the posted modified version of the Log by the 1<sup>st</sup> business day of the month after the name has been removed from the Log.

## 6.3 Modification of Prohibition

6.3.1 If the request to remove an Unauthorized Person's name from the Log under Section 6.2 is made or joined in by an Interested Public Housing Resident and the Unauthorized Person has had no convictions or pending charges for a Drug-Related Crime or Other Proscribed Crime within the last year, then the Housing Authority shall remove the Unauthorized Person's name from the Log only with respect to the Public Housing Community in which the

Interested Resident resides, unless the Executive Director of the Authority, based upon written complaints or incident reports, determines that it is more likely than not that the Unauthorized Person continues to be a threat to the peace or safety of public housing tenants or property.

6.3.2 The Executive Director shall respond to any request for modification within 30 days and provide a written decision explaining the reasons for any denial of a request for modification. The written decision shall notify the person who requested the modification that he/she has the right, within 14 days of the date of the written decision, to request a hearing.

#### 6.4 Hearing Procedures

6.4.1 Any person who is denied removal or modification pursuant to section 6.1, 6.2, or 6.3, or any person otherwise seeking removal from the Log, may request a hearing. The hearing procedures set forth in the Housing Authority's Grievance Procedures, except for the procedure concerning the informal conference, shall govern the hearing procedures for this policy.

6.4.2 A hearing officer shall be selected from the list prepared by the Authority, as specified in paragraph VI of the Grievance Procedure between the Authority and tenants which is presently incorporated in the Authority's leases with tenants. If the hearing is brought by a non-resident, the non-resident has the same right to strike prospective hearing officers as does the tenant under paragraph VI of the Grievance Procedure.

6.4.3 If the hearing officer determines that it is more likely than not that the Unauthorized Person continues to be a threat to the peace or safety of persons or property on public housing that outweighs the need for a continuing relationship between the Unauthorized Person and an Interested Resident and the hearing officer further determines that the Unauthorized Person has provided no other grounds to be removed from the Log, the Unauthorized Person's name shall remain on the Log.

6.4.4 If the hearing officer decides to remove the Unauthorized Person from the Log, the Authority shall promptly remove the person's name from the Log. The Authority or the hearing officer shall provide notice to the Police Department if a person has been removed from the Log. Thereafter, those persons who are removed from the Log shall be removed from the posted modified version of the Log by the 1<sup>st</sup> business day of the month after receiving the decision of the hearing officer.

6.4.5 If the hearing officer determines that the Unauthorized Person should be permitted to visit only certain Interested Public Housing Residents, then it may cause the Log to be modified to specify that the person is authorized to enter one or more Public Housing communities solely for the purpose of visiting the interested Resident(s) at the Exempted Residence(s). The Log shall be annotated so as to place next to the Public Housing Communities from which the person is prohibited the particular address(es) within the prohibited Public Housing Communities which the person may visit.

6.4.5.1 The Executive Director shall notify the Unauthorized Person and, if applicable, the Interested Public Housing Resident that any Unauthorized Person who enters a Public Housing community from which he/she is prohibited for the purpose of going to an Exempted Residence must take the most direct route between public property and the Exempted Resident. Any Unauthorized Person present on Public Housing Property who is neither in the presence of the Interested Resident of the Exempted Residence, nor in a place which reasonably appears to be a direct route to or from the Exempted Residence, shall be considered for the purposes of this policy to be in violation of Md. Code Ann. Art. 27, §577(a)(2).

6.4.6 Decisions of the hearing officer shall be final and binding on the Housing Authority. If, after the hearing, either party discovers information that could not have been obtained with reasonable efforts before the hearing that demonstrates that the other side presented false information at the hearing,

then that party may request the hearing officer to reopen the hearing. Decisions of the hearing officer shall be made orally at the hearing and notice of the final decision shall be provided in writing to the Unauthorized Person and/or Interested Resident.

6.5 A request to remove a person's name from the Log may be submitted at any time, but not more frequently than once every six months after the last hearing held by the hearing officer.

#### 6.6 Other Authority - Emergency Exemptions

6.6.1 Notwithstanding any other provision herein, the Authority shall have the right to purge the names of Unauthorized Persons from the Log. In the event that names are purged, the Authority shall so notify in writing those persons whose names have been purged from the Log and any known Interested Public Housing Resident at their last known addresses.

6.6.2 The Executive Director of the Housing Authority, or his/her designee, shall have the sole and unfettered discretion, not subject to challenge or review, to grant emergency exemptions.

4.5.1 If the Executive Director of the Housing Authority, or any officer of the Frederick Police Department receives information and verifies that a person is no longer an Unauthorized Person as defined by this Trespass Policy, then the person's name shall be removed from the Log. The Executive Director of the Housing Authority or officer of the Frederick Police Department shall advise the State's Attorney that any such person with a trespass charge pending was not an Unauthorized Person as defined in this Trespass Policy at the time of the charge.

EXHIBIT 2 TO NOTICE

REQUEST FOR REMOVAL FROM OFFICIAL UNAUTHORIZED PERSONS LOG

Date: \_\_\_\_\_

Executive Director  
Housing Authority of the City of Frederick  
209 Madison Street  
Frederick, MD 21701

\_\_\_ I hereby request that \_\_\_\_\_ [name] \_\_\_\_\_ be removed from the Unauthorized Persons Log.

\_\_\_ I hereby request that the prohibition against \_\_\_\_\_ entering upon certain public housing property be modified to allow the person to go to \_\_\_\_\_ [name of Public Housing Community or specific public housing address].

Reason for Request for Modification or Removal:

\_\_\_\_\_ is no longer an Unauthorized Person as defined by the Trespass Policy.

\_\_\_\_\_ has friends or relatives (address) [unit address] \_\_\_\_\_

The disposition of the criminal charge or other reasons I request removal are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Public Housing Resident(s): OR Person on Log Requesting Removal

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Phone

EXHIBIT E

REQUEST FOR REMOVAL FROM OFFICIAL UNAUTHORIZED PERSONS LOG

Date: \_\_\_\_\_

Executive Director  
Housing Authority of the City of Frederick  
209 Madison Street  
Frederick, MD 21701

\_\_\_\_ I hereby request that \_\_\_\_\_ [name] \_\_\_\_\_ be removed from the Unauthorized Persons Log.

\_\_\_\_ I hereby request that the prohibition against \_\_\_\_\_ entering upon certain public housing property be modified to allow the person to go to \_\_\_\_\_ [name of Public Housing Community or specific public housing address].

Reason for Request for Modification or Removal:

\_\_\_\_\_ is no longer an Unauthorized Person as defined by the Trespass Policy.

\_\_\_\_\_ has friends or relatives who live at address) [unit address] and would like to visit them.

The disposition of the criminal charge or other reasons I request removal are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Public Housing Resident(s): OR Person on Log Requesting Removal

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Phone