

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

DOROTHY JONES, and IRENE BROWN,)	
)	
Plaintiffs,)	
vs.)	
)	
THE UNITED STATES DEPARTMENT)	
OF HOUSING AND URBAN)	No.
DEVELOPMENT (HUD), ALPHONSO)	
JACKSON, in his Official Capacity as)	
Secretary of HUD, and the)	
ROCKFORD HOUSING AUTHORITY)	
(RHA), an Illinois Municipal Corporation,)	
)	
Defendants.)	

COMPLAINT

INTRODUCTORY STATEMENT

1. This is an action by Dorothy Jones and Irene Brown, low-income public housing tenants who live in the Jane Addams Village, a public housing development owned and managed by the Rockford Housing Authority (RHA). Jane Addams Village enables plaintiffs and their families to live in decent, habitable, and affordable housing in the City of Rockford (Rockford). The RHA receives federal dollars to maintain and provide public housing for these low-income tenants.

2. Without intervention by this court, Jane Addams Village will soon become a mere footnote in the City of Rockford's history. With approval from the United States Department of Housing and Urban Development (HUD), the RHA intends to demolish all 84 units of public housing comprising Jane Addams Village. Plaintiffs

will be displaced from their homes in this gentrifying community and moved into principally poverty concentrated and racially segregated parts of Rockford.

3. HUD's approval of the RHA's application to demolish Jane Addams contravenes federal law, by allowing the RHA to ignore federally mandated statutory and regulatory requirements that must be met before a local housing authority may demolish federal public housing. (Hereinafter HUD and the RHA may be collectively referred to as "defendants.")
4. Defendants' actions violate their statutory and regulatory duties, including Section 18 of the United States Housing Act of 1937 (Section 18) and its implementing regulations, Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), its executive orders and implementing regulations, the Quality Housing and Work Responsibility Act of 1998, and the Administrative Procedure Act.
5. Plaintiffs are faced with an imminent threat of irreparable harm. Plaintiffs seek declaratory and injunctive relief from this Court to end defendants' unlawful demolition of Jane Addams Village.

JURISDICTION

6. This court has jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1331 (2007) (federal question), 42 U.S.C. § 3613 (2005) (fair housing), and 5 U.S.C. § 704 (2005) (authorizing judicial review of final agency actions.)
7. Plaintiffs seek declaratory and injunctive relief against the defendants, pursuant to 28 U.S.C. §§ 2201, 2202. (2007).

PARTIES

A. The Plaintiffs.

8. Plaintiff Irene Brown is a 58 year-old African-American woman who currently lives at 315 College Avenue, Rockford, Illinois, in Jane Addams Village, with one daughter and six young grandchildren. She has lived at Jane Addams Village for at least 11 years and wishes to remain there with her family because the neighborhood is safe, the children enjoy their schools, and her Jane Addams apartment affords her family stable, affordable, and suitable housing. The RHA did not provide Ms. Brown with housing mobility counseling to help her identify housing in integrated neighborhoods. Rather, the RHA notified Ms. Brown that she and her family will be involuntarily displaced on July 31, 2007 to another RHA development which she believes to be unsafe and a less desirable environment than Jane Addams. Ms. Brown wants to stay in Jane Addams Village.
9. Plaintiff Dorothy Jones is a 51 year-old African-American woman who currently lives at 353 College Avenue, Rockford, Illinois, in the Jane Addams Village. She has lived at Jane Addams for 22 years. She wishes to remain at Jane Addams because it is close to public transportation, the neighborhood is safe, and Jane Addams Village provides stable, reliable, and affordable housing. The RHA did not offer Ms. Jones housing mobility counseling to help her identify housing in integrated neighborhoods. Rather, the RHA has notified Ms. Jones that she will be involuntarily displaced on July 31, 2007 to either private rental housing with a Housing Choice Voucher, or to other public housing, which she believes is unsafe and a less desirable environment. Ms. Jones would like to stay in Jane Addams Village.

B. The Defendants.

10. Defendant HUD is the federal agency charged with administration and enforcement of all federal laws and regulations relating to the demolition of federal public housing, including compliance with the Fair Housing Act, 42 U.S.C. §§ 3601 (2007) *et seq.*
11. Defendant Alphonso Jackson is the Secretary of HUD, and, as such, is charged with the administration and enforcement of all functions, powers and duties of HUD, including those related to the demolition of federal public housing and the Fair Housing Act. Defendant Jackson is sued in his official capacity. Hereinafter, Defendants HUD and Jackson are referred to collectively as “HUD.”
12. Defendant Rockford Housing Authority (RHA) is an Illinois municipal corporation, created and existing under the Illinois Housing Authorities Act, 310 Ill. Comp. Stat. 10/1 (2007) *et seq.* The RHA is a Public Housing Agency within the meaning of 42 U.S.C. § 1437 (2007).
13. At all times pertinent hereto the Defendant RHA has acted in its official capacity and under color of state law.

STATUTORY AND REGULATORY FRAMEWORK

14. The United States Housing Act of 1937 declares that it is “the policy of the United States to promote the general welfare of the Nation by employing its funds and credit ... to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families...” *Id.*
15. The national housing goal is the realization as soon as feasible of “a decent home and a suitable living environment for every American family.” 42 U.S.C. § 1441 (2007).

16. The demolition and disposition of public housing is authorized under Section 18 of the United States Housing Act of 1937 (Section 18), as amended in its entirety by the Quality Housing and Work Responsibility Act (QHWRA) of 1998.
17. HUD has promulgated regulations, starting at 24 C.F.R. § 970 (2007), detailing the administrative steps required to perform demolition/disposition activity in accordance with Section 18. 24 C.F.R. § 970 was recently revised and the updated regulation went into effect November 24, 2006. Demolition or Disposition of Public Housing Projects, 71 Fed. Reg. 62,354 (Oct. 24, 2006)(to be codified at 24 C.F.R. pt. 970).
18. Before demolishing all or part of a public housing development, Section 18 and 24 C.F.R. § 970 require the local public housing authority (PHA) to submit a demolition application, commonly referred to as a “Section 18 demolition application” to HUD for its approval. *See* 42 U.S.C. § 1437p(a), (b).
19. Section 1437p(a)(1)-(6) details the certification requirements a PHA must meet in its Section 18 application order to gain the HUD Secretary’s approval for demolition.
20. The HUD Special Applications Center (SAC), located in Chicago, and the affected HUD local field office, are vested with the responsibility of evaluating the submitted application’s compliance with Section 18 and the other relevant federal laws. Based on that review, SAC and the local field office approve or deny the demolition application.
21. The threshold question under Sec. 18 for any demolition application is whether the property to demolish is physically obsolete. A property is physically obsolete if:
 - (i) the portion of the public housing development to be demolished is obsolete as to physical condition, location, or other factors, making it unsuitable for housing

purposes; and (ii) no reasonable program of modifications is cost-effective to return the development or portion thereof to useful life. (obsolescence requirement) 42

U.S.C.A. § 1437p(a)(1)(A). *See also* 24 C.F.R. § 970.15(a)(1).

22. Furthermore, if the application is for **partial demolition**, such as here, rather than total demolition of a project, the PHA must meet the threshold obsolescence requirement as stated above **and** an additional viability requirement: that the demolition will help to ensure the viability of the remaining portion of the project. 42 U.S.C. § 1437p(a)(1)(B) (viability requirement).
23. The viability requirement is met if the PHA can show that the demolition of a portion of a public housing development will help ensure the viability of the rest of the development by reducing density to improve access to “emergency, fire, or rescue services, or improve marketability by reducing the density to that of the neighborhood or other developments in the PHA’s inventory.” 24 C.F.R. § 970.15(c).
24. In short, a PHA seeking to demolish a portion of a public housing development must meet **both the two-part obsolescence test and the additional viability requirements**. 42 U.S.C. § 1437p(a)(1)(A), (B); 24 C.F.R. § 970.15.
25. In addition to those initial requirements, the PHA must meet a myriad of other consultation and certification requirements before submitting its Section 18 demolition application.
26. For example, before submitting its specific application, the PHA must also consult with the residents affected by the demolition, each affected resident advisory board or PHA-wide resident organization, and the appropriate government officials, and

provide evidence of these consultations in its application. 24 C.F.R. §§ 970.7(a)(14), 970.9(a).

27. The PHA must also seek approval of the specific demolition application from the PHA Board of Commissioners. 24 C.F.R. § 970.7(a)(13). The authorizing resolution should be dated and signed after the resident and local government consultation is complete. *Id.*
28. The PHA must also certify compliance with the Section 18 and 24 C.F.R. § 970 relocation requirements, including offering comparable replacement housing located in an area not generally less desirable than the location of the displaced person's housing, housing counseling for displaced residents, and the payment of actual and reasonable relocation expenses. 42 U.S.C. §§ 1437p(a)(4); 24 C.F.R. § 970.21 (2006); Dep't of Hous. and Urban Dev. Office of Pub. and Indian Hous., Demolition/Disposition Processing Requirements under the 1998 Act. Notice PIH 2005-32 (HA), Aug. 31, 2005).
29. Finally, the PHA must certify compliance with the applicable civil rights laws, including the duty not to discriminate or perpetuate racial residential segregation, and the duty to affirmatively further fair housing. 42 U.S.C. § 1437p; 24 C.F.R. § 970.21.
30. HUD has a duty to disapprove an application if it determines that any PHA certification is clearly inconsistent with the PHA Annual Plan, any information or data available to HUD relevant to the regulatory and statutory requirements, "such as failure to meet the requirements for the justification for demolition" under 24 C.F.R. § 970.15, or any information requested by HUD. 42 U.S.C. § 1437p(b)(1); 24 C.F.R. § 970.29(a).

31. HUD also has a duty to disapprove the application if it was not developed in consultation with the affected residents, resident advisory boards or resident-wide organizations, or the appropriate local government officials. 42 U.S.C § 1437p(b)(2); 24 C.F.R. § 970.29(b).

STATEMENT OF FACTS

32. On June 30, 2006, the RHA submitted its initial application to partially demolish Jane Addams Village/Brewington Oaks development by demolishing the 84 units at Jane Addams. See June 30, 2006 RHA Application to HUD, attached as Exhibit A.
33. The RHA intended to convert the land upon which Jane Addams Village sits to green space. August 1, 2006 Letter from Sherri Tracy to Diane Lombardo, attached as Exhibit B.
34. According to the RHA, Jane Addams Village was nearly 40 years old, the units had not had major improvement since the development was built, some of the units contained mold, and there was evidence of foundation erosion around many of the buildings. Ex. A, at 36-38. In addition, RHA claimed that the roofing, electrical and plumbing systems were outdated, that the site was an “eyesore” to the community, and that the site serves as a “magnet for gang activity, drugs and crime.” *Id.*
35. The RHA further stated that it estimated that the cost of rehabilitation was \$14,265,261, which was 92.27 percent of the total development cost limit. Ex. A, at 42. Total development cost is a means for determining the cost limits for the construction of public housing. 42 U.S.C. § 1437d(b)(2). Under HUD regulations in effect at the time, HUD did not consider a program of modifications to be cost-effective if the

costs of such program exceeded 90 percent of total development cost (“TDC”). 24 C.F.R. § 970.6 (2006).

36. The RHA also certified that it consulted with the residents affected by the demolition, the affected resident advisory boards, and the appropriate local government officials. Ex. A, at 62, 63 (Section 8, Lines 1, 2); and Ex. A, at 1. The RHA also certified that it received proper authorization for the demolition from the RHA Board of Commissioners. Ex. A at 1.
37. Finally, the RHA certified that its relocation activities and its plan would be in conformance with the Fair Housing Act and “also certifies that it will affirmatively further fair housing.” Ex. A at 2. The RHA stated that the families residing in the 81 occupied units, including the plaintiffs, would be relocated into another RHA property or the private housing market with “Section 8” Housing Choice Vouchers and provided appropriate relocation assistance. Ex. A, at (Section 7, Line 3) at 54.
38. On information and belief, the RHA’s relocation policies and practices had the effect of discouraging the plaintiffs from inspecting or renting housing units in predominately white or racially integrated neighborhoods in Rockford. On information and belief, the RHA failed to inform the plaintiffs of the desirable features of such neighborhoods. On information and belief, the RHA failed to provide any housing counseling services to plaintiffs, beyond distributing lists of potential rental units and those lists were of units in predominately poor, minority areas of Rockford. On information and belief, the RHA failed to effectively take affirmative steps such as outreach to landlords in predominately white or racially integrated

neighborhoods, or the creation of incentives for its agents to relocate plaintiffs to such neighborhoods.

39. On October 13, 2006, HUD approved the RHA's partial demolition application for Jane Addams Village. Memorandum of Ainars Rodins to Steven E. Meiss, October 13, 2006, attached as Exhibit C. HUD found that the RHA met the obsolescence and viability requirements for partial demolition, submitted a satisfactory relocation plan, and otherwise provided the proper certifications. *Id.*
40. At the time the RHA submitted its initial demolition application for Jane Addams, the surrounding community, comprised of historic Rockford Victorian homes, was beginning to revitalize and gentrify.

A. Plaintiffs Dispute HUD's Initial Demolition Approval

41. On May 16, 2007, the plaintiffs, through their legal counsel, demanded that HUD rescind its approval of the RHA's demolition application and the RHA cease all relocation activities and rescind its demolition application. Letter from Catherine Ritts and William P. Wilen to Joseph P. Galvan, May 16, 2007, attached as Exhibit D. Letter from Jeremy P. Bergstrom to Steven C. Anderson, May 16, 2007, attached as Exhibit E. Based on the inspection of the development by plaintiffs' consulting structural engineer, Donald Kimball Jr., Principal, K2N Crest, P.C., (Mr. Kimball) plaintiffs alleged that there was no evidence that Jane Addams Village was obsolete as to physical condition, location or other factors. Ex. D, at 1.
42. Mr. Kimball found that the development was not physically obsolete but rather a typical multifamily residential townhouse development with recent building and site

improvements, highly integrated into the larger community. Review of Proposed Demolition, Apr. 18, 2007, attached as Exhibit F, at 4.

43. Mr. Kimball also determined that RHA's estimated costs of rehabilitation were grossly inflated and that there was "a range of reasonable programs of modifications that would cost-effectively extend the useful life of Jane Addams Village." Ex. F, at 12.
44. Finally, plaintiffs challenged the relocation of Jane Addams residents, the majority of whom are African-American women with children, into the Housing Choice Voucher program, arguing that the relocation plan offered no housing mobility counseling to plaintiffs and other tenants, or any help in exploring their full range of housing choices, including moving to integrated areas of Rockford. Ex. D, at 3; Ex. E, at 2.
45. The plaintiffs argued that the RHA's principal housing relocation assistance tool, a document containing the addresses of potential rental units in Rockford, was composed of units overwhelmingly located in racially and poverty concentrated areas of Rockford. *Id.*

B. HUD's Investigation into Plaintiffs' Allegations

46. In June 1, 2007 letters to plaintiffs and the RHA, HUD advised the parties it would conduct an on-site review of the Jane Addams development the week of June 11-15, 2007 to determine if the Jane Addams Village met the obsolescence requirement. Letter from Ainars Rodins to Jeremy P. Bergstrom, June 1, 2007, attached as Exhibit G, at 1. HUD further determined it would investigate plaintiffs' allegations that the relocation of the Jane Addams residents violated Title VIII and Section 18. Ex. G at 2.

47. On information and belief, the RHA provided HUD copies of the documents given to the Plaintiffs containing the addresses of potential rental units in Rockford. On information and belief, the RHA also gave HUD the current addresses of all of the relocated Jane Addams residents. On information and belief, those addresses show that the majority of tenants relocated from Jane Addams moved to racially segregated, poverty concentrated areas of Rockford.
48. On June 12, 2007, HUD conducted an on-site inspection of the Jane Addams development, along with RHA staff, plaintiffs' counsel, and Mr. Kimball.
49. On July 10, 2007, HUD sent plaintiffs a letter stating that, based on the June 12, 2007 inspection and Mr. Kimball's April 8, 2007 report, HUD had determined that the "RHA failed to show that the development met the 2-part obsolescence test of 24 C.F.R. 970.15(a)(1)." Letter from Ainars Rodins to Jeremy P. Bergstrom, July 10, 2007, attached as Exhibit H, at 1.
50. On June 29, 2007, prior to sending the July 10, 2007 letter to plaintiffs, HUD met with the RHA to explain its decision. *Id.* At this meeting, HUD and the RHA apparently also discussed other options available to the RHA, including "partial demolition based on density reduction/viability." Ex. H at 2.
51. As a result of this meeting, on July 5, 2007, the RHA submitted to HUD a revised application for partial demolition. July 5, 2007 Application, attached as Exhibit I. RHA's revised application was based solely on Section 18(a)(1)(B) of the United States Housing Act, 42 U.S.C. § 1437p(a)(1)(B) and 24 CFR 970.15(a)(2)—that the demolition will help insure the viability of the remaining portion of the project. *Id.*

52. In the revised portion of the partial demolition application, the RHA argued that demolishing Jane Addams would improve the marketability and ensure the long-term viability of the 418 high rise units at Brewington Oaks and reduce the gang and crime activity in the community. Ex. I, at 3-4.
53. The RHA made no other changes in its revised partial demolition application, nor did it add data regarding Jane Addams' obsolescence. *Id.* at 1.
54. On information and belief, prior to submitting its July 5, 2007 revised partial demolition application, the RHA did not consult with the residents or resident advisory boards to discuss the revised partial demolition application.
55. On information and belief, prior to submitting its July 5, 2007 revised partial demolition application, the RHA did not convene a meeting of the RHA Board of Commissioners to discuss and pass a resolution authorizing the revised partial demolition application.
56. Regardless, on July 10, 2007, HUD approved the RHA's revised application for demolition, finding that the RHA met HUD's described "partial demolition test of 24 CFR 970.15(a)(2)." Letter from Ainars Rodins to Steven C. Anderson, July 10, 2007, attached as Exhibit J. HUD approved the revised application even though it had determined RHA failed to meet the Section 18 threshold requirement of obsolescence.
57. In its decision, HUD determined that the RHA must work with HUD during the ongoing investigation of the fair housing issues concerning RHA's relocation activities for residents of Jane Addams Village. *Id.*
58. On July 11, 2007, plaintiffs wrote to HUD to point out that, under the federal statute and regulations, HUD could not approve an application for partial demolition if the

two part test for obsolescence had not been met, as HUD had already determined, even if it thought the viability requirement had been met. Plaintiffs asked HUD to respond to them by July 13, 2007. Letter from Jeremy P. Bergstrom to Ainars Rodins, July 11, 2007, attached as Exhibit K.

59. On July 19, 2006, HUD responded to plaintiffs' July 11, 2007 letter, stating that HUD's decision to approve the revised partial demolition application was final and not subject to any subsequent administrative appeal or review. Letter from Ainars Rodins to Jeremy P. Bergstrom, July 19, 2007, attached as Exhibit L.

INJURIES SUFFERED BY THE PLAINTIFFS

60. Defendants' actions threaten plaintiffs Jones and Brown with imminent and irreparable injury, including involuntary displacement from their homes, the permanent loss of 84 units of public housing, the severing of personal, family and community ties, discrimination, the lack of access to public transportation, quality public education, and a gentrifying and revitalizing community.
61. According to U.S. Census data from 2000, African-Americans in Rockford disproportionately experience severe housing problems, such as cost burdens, a lack of basic facilities, and overcrowding. While African-Americans comprise 17.4% of the city's population, 20.1% of the households experiencing housing problems were African-American. Moreover, 26.4% of renters with housing problems were African-American, and 29.6% of extremely low-income renters with housing problems were African-American. Compared to white households, African-American households are over 2.5 times as likely to be extremely low-income renters with housing

problems in Rockford. *See* U.S. Census Data contained in Declaration by Alice Sverdlik, attached as Exhibit M, at ¶ 5, 9c, 10c, 11c, and 13c.

62. According to RHA's 2006 Annual Plan, there are 579 families on the public housing waiting list. RHA 2006 Annual Plan, attached as Exhibit N, at 8. Of these families, two-thirds were African-American and one-third was white. *Id.* Public housing applicants in Rockford are thus two times as likely to be African-American than to be white.
63. The Defendants' plans to demolish Jane Addams Village would have an adverse discriminatory impact on African-Americans because this group is disproportionately eligible for subsidized housing and disproportionately represented among Jane Addams Village residents and the public housing waiting list applicants.
64. Defendants' actions have caused and will continue to create a severe hardship for plaintiffs and their families.
65. The plaintiffs have no adequate remedy at law.

CLAIMS FOR RELIEF

CLAIMS AGAINST HUD

**VIOLATIONS OF THE UNITED STATES HOUSING ACT OF 1937
& 24 C.F.R. § 970**

**COUNT I: FAILURE TO ENSURE COMPLIANCE WITH SECTION 18
OBSOLESCENCE REQUIREMENTS**

66. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
67. Defendant HUD is an agency within the meaning of 5 U.S.C. § 701(b)(1) of the Administrative Procedure Act.
68. By approving the RHA's revised July 6, 2007 partial demolition application after it

determined that the defendant RHA did not meet the threshold obsolescence requirements for justification of the demolition, defendant HUD violated its duty not to approve the demolition of federal public housing without first requiring housing authority compliance with 42 U.S.C. § 1437p(a)(1)(A) and its implementing regulations at 24 C.F.R. § 970.29(a).

69. Pursuant to the Administrative Procedure Act, 5 U.S.C. § 706 (2007), plaintiffs are entitled to declaratory relief and judgment.

**COUNT II: FAILURE TO ENSURE COMPLIANCE WITH
THE SECTION 18 CONSULTATION REQUIREMENTS**

70. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
71. Defendant HUD is an agency within the meaning of 5 U.S.C. § 701(b)(1) of the Administrative Procedure Act.
72. By approving the July 6, 2007 revised partial demolition application even though the RHA failed to consult with the affected residents, resident advisory boards, or seek authorization from the RHA Board of Commissioners for that specific partial demolition application, defendant HUD violated its duty not to approve the demolition of federal public housing without first requiring housing authority compliance with 42 U.S.C. § 1437p(b)(2) and its implementing regulations at 24 C.F.R. § 970.29(b) et seq.
73. Pursuant to the Administrative Procedure Act, 5 U.S.C. § 706, plaintiffs are entitled to declaratory relief and judgment.

**COUNT III: FAILURE TO ENSURE COMPARABLE
REPLACEMENT DWELLING COMPLIANCE**

74. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.

75. Defendant HUD is an agency within the meaning of 5 U.S.C. § 701(b)(1) of the Administrative Procedure Act.
76. By approving the July 6, 2007 partial demolition application which fails to provide plaintiffs with comparable replacement dwellings in areas generally not less desirable than Jane Addams Village, defendant HUD violated its duty not to approve the demolition of federal public housing without first requiring housing authority compliance with 42 U.S.C. § 1437p(a)(4)(A)(iii)(II) and its implementing regulations at 24 C.F.R. § 970.21(a).
77. Pursuant to the Administrative Procedure Act, 5 U.S.C. § 706, plaintiffs are entitled to declaratory relief and judgment.

COUNT IV: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

78. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
79. Defendant HUD is an agency within the meaning of 5 U.S.C. § 701(b)(1) of the Administrative Procedure Act.
80. Despite the violations alleged above and the information provided and available to them at the time, defendant HUD approved the defendant RHA's revised demolition application based on only one part of the demolition test set forth in Section 18 of the United States Housing Act and the implementing regulations, while ignoring all other requirements of public housing authorities prior to demolition, pursuant to 42 U.S.C. §1437p(a)(1)(A). Defendant HUD thus took actions that were arbitrary, capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and without observance of procedures required by law, within the meaning of 5 U.S.C. § 706(2)(A),(C),(D).

CLAIMS AGAINST THE RHA

VIOLATIONS OF THE UNITED STATES HOUSING ACT OF 1937
& 24 C.F.R. § 970

COUNT V: FAILURE TO MEET THE PARTIAL DEMOLITION TEST

81. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
82. Defendant RHA is a "person" within the meaning of 42 U.S.C. § 1983, and its actions described herein were taken under color of state law.
83. By submitting a revised demolition application that fails to certify that the portion of the public housing project it seeks to demolish: (i) is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and (ii) no reasonable program of modifications is cost-effective to return the development or portion thereof to useful life, defendant RHA violated its duty not to demolish federal public housing without first complying with 42 U.S.C. § 1437p(a)(1)(A) and its implementing regulations at 24 C.F.R. § 970.15(a)(1).

COUNT VII: FAILURE TO CONSULT AND RECEIVE PROPER AUTHORIZATION

84. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
85. Defendant RHA is a "person" within the meaning of 42 U.S.C. § 1983, and its actions described herein were taken under color of state law.
86. By submitting a revised demolition application without first consulting with the affected residents, resident advisory boards, or without receiving authorization from the RHA Board of Commissioners for the revised application, defendant RHA violated its duty not to demolish federal public housing without first complying with 42 U.S.C. § 1437p(b)(2) and its implementing regulations at 24 C.F.R. § 970.29(b).

COUNT VIII: FAILURE TO PROVIDE COMPARABLE REPLACEMENT DWELLINGS

87. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
88. Defendant RHA is a "person" within the meaning of 42 U.S.C. § 1983, and its actions described herein were taken under color of state law.
89. By failing to provide the plaintiffs with “comparable replacement dwellings” in areas “not generally less desirable...”, defendant RHA violated its duty not to demolish federal public housing without first complying with 42 U.S.C. § 1437p(a)(4)(A)(iii)(II) and its implementing regulations at 24 C.F.R. § 970.21(a).

CIVIL RIGHTS CLAIMS AGAINST BOTH DEFENDANTS

Claims under Title VIII of the Civil Rights Act of 1968 , Executive Orders 11063 and 12892, and the Quality Housing Work Responsibility Act of 1998

COUNT IX: ADVERSE DISPARATE IMPACT ON AFRICAN-AMERICANS, WOMEN, AND FAMILIES WITH CHILDREN

90. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
91. Defendant HUD is an agency within the meaning of 5 U.S.C. § 701(b)(1) of the Administrative Procedure Act.
92. Defendants’ actions as described above will have an adverse disparate impact upon plaintiffs as African-Americans, female-headed households, and families with children, and therefore, constitute a violation of the Fair Housing Act, 42 U.S.C. §§ 3604, 3613, as further elaborated by 24 C.F.R. §§ 100.50, 100.65, 100.70, 100.75, 100.80 and the Quality Housing Work Responsibility Act of 1998, 42 U.S.C. § 1437c-1(d)(15).
93. Pursuant to the Administrative Procedure Act, 5 U.S.C. § 706, Plaintiffs are entitled to declaratory relief and judgment.

COUNT VIII: FAILURE TO AFFIRMATIVELY FURTHER FAIR HOUSING

94. Plaintiffs re-allege paragraphs 1 to 65 of this Complaint and incorporate them herein.
95. Defendant RHA is a “person” within the meaning of 42 U.S.C. § 1983, and its actions described herein were taken under color of state law.
96. By displacing plaintiffs from their homes in public housing and operating a relocation program that caused plaintiffs to likely become segregated into predominately African-American neighborhoods, defendant RHA violated its duty to affirmatively further fair housing pursuant to 42 U.S.C. § 3608(e)(5) (2007); 24 C.F.R. §§ 960.103(b), 107.20(a), 903.7(o), 982.53(b), (c); Exec. Order No. 11,063 (27 Fed. Reg. 11,527 (Nov. 20, 1962); Exec. Order No. 12,892, 59 Fed. Reg. 2,939 (Jan. 17, 1994); and the Quality Housing Work Responsibility Act of 1998, 42 U.S.C. § 1437c-1(d)(15).
97. By breaching their duty to affirmatively further fair housing, defendant RHA deprived plaintiffs of rights secured to them by federal law, in violation of 42 U.S.C. § 1983.
98. By approving the RHA’s June 30, 2006 and July 6, 2007 demolition applications which contained therein the RHA’s relocation services for the plaintiffs, defendant HUD violated its duty to administer HUD programs in a manner so as to affirmatively further fair housing, and have violated plaintiffs’ rights under 42 U.S.C. §3608(e)(5); 24 C.F.R. §§ 960.103(b), 107.20(a), 903.7(o), 982.53(b), (c); and Exec. Order No. 11,063, 27 Fed. Reg. 11,527 (Nov. 20, 1962); Exec. Order No. 12,892, 59 Fed. Reg. 2,939 (Jan. 17, 1994).

99. Plaintiffs are entitled to declaratory relief and judgment directly under the Administrative Procedure Act, 5 U.S.C. § 706.

RELIEF REQUESTED

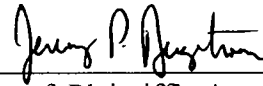
WHEREFORE, plaintiffs respectfully request that this Court:

- A. Declare that the acts and omissions of the defendants, as set forth above, violate Section 18 of the United States Housing Act of 1937, 42 U.S.C. § 1437p, and its implementing regulations;
- B. Declare that the acts and omissions of the defendants, as set forth above, violate the Fair Housing Act, 42 U.S.C. §3601 *et. seq.*, its implementing regulations, and Executive Orders 11063 and 12892; and the Quality Housing Work Responsibility Act of 1998, 42 U.S.C. § 1437c-1(d)(15).
- C. Declare that the actions of defendant HUD are arbitrary, capricious, and otherwise not in accordance with the law and without observance of procedure required by law in violation of the Administrative Procedure Act, 5 U.S.C. § 706.
- D. Enter a temporary restraining order and a preliminary and permanent injunction, without bond or upon a nominal bond, enjoining defendants from:
 - (1) Demolishing or otherwise rendering uninhabitable any portion or unit comprising Jane Addams Village;
 - (2) Involuntarily relocating plaintiffs from Jane Addams Village;
 - (3) Engaging in any relocation activities with respect to plaintiffs that fail to affirmatively further fair housing or have a disparate impact on African-Americans, women, and families with children;
- E. Enter an order requiring Defendants to pay plaintiffs' reasonable costs and the attorneys' fees of the Sargent Shriver National Center on Poverty Law for the prosecution of this action in accordance with 42 U.S.C. § 1988.

F. Grant plaintiffs such further relief as this Court deems just and proper.

Dated: July 27, 2007

Respectfully submitted,



One of Plaintiff's Attorneys

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