

9/28/93

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

ALAN BROOKS, et al.

v.

PHILADELPHIA HOUSING AUTHORITY

CIVIL ACTION

FILED SEP 28 1993

NO. 93-0232

ORDER

AND NOW, this 28<sup>th</sup> day of September, 1993, this matter having come before the Court for approval of a settlement in this action, and for award of attorneys' fees, and the Court, having considered all papers filed and proceedings held in connection with said motion, having held a hearing on September 28, 1993, and good cause appearing therefore, it is hereby ORDERED:

1. This Court has jurisdiction over the subject matter of this action and over all parties to this action, including all members of the class as that term is defined in the Stipulation attached to this Court's Order of May 7, 1993.

2. The Stipulation attached to this court's Order of May 7, 1993, and the Stipulations dated August 17, 1993 and September 10, 1993, are incorporated herein by reference and approved and entered as an Order of this Court.

3. This Court hereby finds and concludes that the notice given to the Class was the best practicable under the circumstances and fully satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.

4. This Court hereby dismisses, on the merits and with prejudice, without costs to any party, this action against Philadelphia Housing Authority, Elton Jolly, Dennis Glancey and John Varallo and their successors.

5. This Court hereby awards plaintiffs' counsel for services performed in this litigation, attorneys' fees in the amount of \$6,624.00.

6. Without affecting the finality of this judgment, the Court hereby reserves and retains continuing jurisdiction over all matters relating to the administration and effectuation of the Stipulations hereby approved.

BY THE COURT:

Glancey Bartle J.

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FILED SEP 10 1993 SEP 7 1993  
MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

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

ALAN BROOKS, et al.

Plaintiffs

vs.

C.A. #93-0232

PHILADELPHIA HOUSING AUTHORITY,  
et al.

Defendants

ENTERED

9/13/93

STIPULATION

It is hereby stipulated by and between the parties that the  
stipulation of May 7, 1993, shall be amended as follows:

1. In order to insure that no class members have been  
inadvertently left out, PHA shall, as time and funds permit,  
inspect all of the multi-unit scattered site buildings in order  
to determine the following:

a) Whether the units have been properly wired with PHA  
meters for the common areas

b) Whether the buildings have been crosswired such that a  
unit other than apartment A has become responsible for the  
electric service to the common areas.

RECEIVED  
SEP 8 1993

c) Whether other unit(s) have become responsible for the electric service to the common areas due to a vacancy in apartment A.

2. PHA shall provide counsel for defendants with the results of the inspections as they occur.

3. If, after investigation, the parties discover any PHA scattered site tenants who have been or who are responsible for paying for utility service to the common area of a PHA unit and who have not yet been identified as a class member, the defendants shall treat them as class members and accord them full relief as provided in the stipulation of May 7, 1993, and the stipulation that was filed in the clerk's office on August 13, 1993.

4. The parties anticipate that the unidentified class members will include, but are not limited to, those tenants living in scattered site buildings that have been improperly wired and those tenants who are living in scattered site buildings where apartment A has been vacant for some or all of the time.

5. The parties shall otherwise comply with all other terms and provisions of the May 7, 1993, stipulation and the

stipulation that was docketed on August 18, 1993.



Michael Donahue, Esquire  
George D. Gould, Esquire  
Community Legal Services, Inc.  
1324 Locust Street  
Phila., PA 19107  
215-893-5306  
Counsel for Plaintiffs



Mark C. Reilly, Esquire  
Phila Housing Authority  
2012 Chestnut Street  
Phila., PA 19103  
215-684-4054  
Counsel for Defendants

APPROVED BY THE COURT:

  
U.S. DISTRICT COURT JUDGE

DATE: September 10, 1993

4-13/11

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

ALAN BROOKS, et al.

Plaintiff

vs.

PHILADELPHIA HOUSING AUTHORITY,  
et al.

Defendants

FILED AUG 17 1993

CIVIL ACTION NO. 93-0232

8/18/93

CLERK OF COURT  
STIPULATION

It is hereby stipulated by and between the parties that the stipulation of May 7, 1993, shall be amended as follows:

1. PHA shall treat all current or former apartment A tenants in scattered site buildings that have a separate PHA meter for common area electric usage as class members.

2. PHA may cause to have a foreign load investigation for scattered site buildings that have a separate PHA meter for common area electric usage. Should that investigation reveal that a building has been correctly rewired and remetered, PHA may then discontinue the utility allowance increase, starting with the month after the investigation has been completed.

3. PHA shall provide counsel for plaintiffs with copies of the results of each and every foreign load investigation as the investigations are made.

AUG 18 1993



4. In the event that the foreign load investigation reveals that a building has been correctly wired and metered such that there is a separate PHA meter for common area electric usage, PHA shall not seek to recoup any funds paid, pursuant to this class action, from class members.

5. Paragraphs 1 through 5 of this stipulation amend paragraph 11 of the May 7, 1993, stipulation.

6. PHA shall provide notice of the proposed settlement by mailing the notice attached to the May 7, 1993, stipulation, as Exhibit "II" by first class mail, postage prepaid, to all class members who are current PHA tenants.

7. PHA shall provide notice of the proposed settlement by mailing the notice attached to the May 7, 1993, stipulation, as Exhibit "II", by first class mail, postage prepaid, and by certified mail, postage prepaid, to the last known address of all class members who are not currently PHA tenants.

8. Notice to all class members shall be mailed out by August 9, 1993.


9. Paragraphs 7 through 9 of this stipulation amend paragraph 12 of the May 7, 1993, stipulation.

10. In the event that a scattered site building is correctly rewired and remetered, PHA shall provide advance written notice to the class member prior to stopping the payment of the additional utility allowance increase. The notice shall indicate the amount of the change and the reason for the change.

11. The parties shall otherwise comply with all other terms and provisions of the May 7, 1993, stipulation.



MICHAEL DONAHUE, ESQUIRE  
GEORGE D. GOULD, ESQUIRE  
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215-893-5306  
Counsel for Plaintiffs



MARK C. REILLY, ESQUIRE  
Philadelphia Housing Authority  
2012 Chestnut Street  
Philadelphia, PA 19103  
Counsel for Defendants

APPROVED BY THE COURT:

  
U.S. DISTRICT COURT JUDGE

8/17/93



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

ALAN BROOKS, et al.	:
Plaintiffs	:
vs.	: C.A. #93-0232
PHILADELPHIA HOUSING AUTHORITY,	:
et al.	:
Defendants	:

STIPULATION

1. The parties have been advised of and have consented to the terms and provisions of this stipulation.

2. The class shall be certified pursuant to F.R.C.P. 23(b)(2) and the class shall consist of all past, present and future PHA scattered site tenants who have been, or will be, billed, at any time, for electric service to the common areas of their current or former scattered site unit, at any time, since November of 1981.

3. PHA shall be responsible for payment for electric service for all common areas.

4. PHA shall rewire and remeter all multi-unit scattered sites buildings, that are currently inhabited in whole or in part, to install a separate PHA electric meter, obligating PHA for payment for electric service for the common areas.

5. Commencing with August of 1993, PHA shall increase the utility allowance by \$9.00 per month for all PHA scattered site tenants who are being billed for electric utility service to a common area.

6. The \$9.00 increase in the utility allowance shall be adjusted, in the future, pursuant to 24 C.F.R. §965.478 and any

other applicable federal regulation(s).

7. The additional \$9.00 increase in the utility allowance, and any adjustments pursuant to paragraph 6, shall cease starting with the month after the unit is rewired and remetered to install a separate PHA meter for all electric service for the common areas.

8. All current or future PHA scattered site units that are not currently inhabited in whole or in part shall be appropriately rewired and remetered in order to install a separate PHA meter for all electric service to the common areas prior to rental, in whole or in part, to any PHA tenant.

9. By September 1, 1993, PHA shall pay \$9.00 per month for the period of time from November of 1981, through June of 1993, to all class members for the months that they were tenant of record in a unit where they were billed for electric service to the common area. The payment shall be made by check and shall not be subject to any claimed set off by PHA. These payments shall be made to all class members for whom PHA has a current address. PHA shall make the payment to all class members who are not currently PHA tenants within 30 days of receiving a current address for that class member. The payment shall be accompanied with the notice attached hereto as Exhibit "V".

10. Where a tenant of record became head of household due to the death or incapacity of the immediately preceding head(s) of household, PHA shall pay the tenant of record for the time when the tenant of record was head of household and shall also pay the tenant of record for the tenure of the immediately

preceding head of household. Under these circumstances, no payment shall be made to the immediately preceding head of household.

11. PHA shall cause to have a foreign load investigation in all scattered site buildings, currently inhabited in whole or in part, that have a separate PHA meter for common area electric usage. By December 31, 1993, the results of the investigations shall be made available to counsel for plaintiffs. Where the results of the investigation reveal that PHA has not paid for the entire electric service to the common areas, PHA shall:

a) Rewire and remeter the building as required by paragraph 4 above.

b) Increase the utility allowance, retroactive to July of 1993, as provided in paragraphs 5 through 7 above.

c) Make the retroactive payments as required by paragraphs 9 and 10 above, as appropriate.

d) Provide notice pursuant to paragraph 12 to all tenants of record in these buildings whose electric bills included billing for common area electric usage since November of 1981.

e) Provide counsel for plaintiffs with information pursuant to paragraph 14 about the affected tenants of record in these buildings.

12. PHA shall provide notice of this proposed settlement by mailing the notice attached hereto as Exhibit "II" by first class mail, postage prepaid and by certified mail, postage prepaid to the last known address of all class members.

13. Named plaintiff Brooks shall receive the same relief as

all class members.

14. PHA shall pay Community Legal Services, Inc., \$6,624.00 in attorneys fees for the prosecution of this action.

15. PHA shall provide the following information to counsel for plaintiffs by August 1, 1993:

- a) A list of all PHA multi-unit scattered site buildings.
- b) A list of all PHA multi-unit scattered site buildings that are currently inhabited, in whole or in part.
- c) A list of all PHA multi-unit scattered site buildings that will be rewired and remetered pursuant to this stipulation and consent decree.
- ☒ d) A list of all PHA multi-unit scattered site buildings that PHA believes have already been rewired and remetered and the date of the rewiring and remetering.
- e) A list of all class members, including the following:
  - (1) Their names.
  - (2) The dates when they were tenant of record in a unit where they were billed for common area electric utility service.
  - (3) The address of the unit where they were tenant of record in a unit where they were billed for common area electric utility service.
  - (4) If they are currently PHA tenants, the current PHA address.
  - (5) If they are not currently PHA tenants, the date when they ceased being a PHA tenant.
  - (6) Whether they became the tenant of record because



they were a remaining member of a tenant family.

(7) The amount that each class member will receive.

16. Within 30 days of the Court's entry of the final order, incorporating this stipulation as the order of the Court, PHA shall provide notice to the class members who are not currently PHA residents as follows:

a) By publication of the notice attached hereto as Exhibit "III" in a prominent section of the the Philadelphia Inquirer, Dailey News, Tribune and Community Focus. Publication in the Inquirer, Dailey News, and Tribune shall be on successive days for a one week period. Publication in Community Focus shall be for three successive weeks.

b) For class members who have not responded to the newspaper notice within three weeks of the final published notice, as provided in paragraph 16a, PHA shall employ a locator service to provide an address to which Exhibit "IV" can be mailed by first class mail, postage prepaid and, by certified mail, postage prepaid.

18. PHA shall provide counsel for plaintiffs with the following information on a monthly basis:

a) The names and addresses of those class members who respond to the newspaper notice.

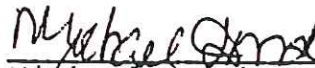
b) The names and addresses of the class members found by the locator service.

c) The names and addresses of the class members who respond to Exhibit "IV".

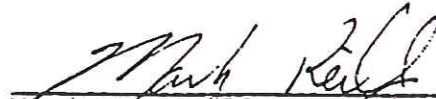
19. The parties expressly understand and agree that the

terms and conditions of this stipulation are in compromise and full accord and satisfaction of a disputed claim and that the defendants admit no liability and settle this claim solely for the purpose of terminating this dispute and litigation between the parties.

20. The Court shall retain continuing jurisdiction over compliance with this stipulation.



Michael Donahue, Esquire  
George D. Gould, Esquire  
Community Legal Services, Inc.  
1324 Locust Street  
Phila., PA 19107  
Counsel for Plaintiffs



Mark C. Reilly, Esquire  
Philadelphia Housing Authority  
2012 Chestnut Street  
Phila., PA 19107  
Counsel for Defendants



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

ALAN BROOKS, et al.

Plaintiff

vs.

PHILADELPHIA HOUSING AUTHORITY,  
et al.

Defendants

C.A. NO. 93-0232

NOTICE TO PHA CURRENT OR FORMER SCATTERED SITE  
TENANTS ABOUT PAYMENT FOR UTILITY SERVICE TO THE COMMON AREAS

There is a class action pending in this court seeking that PHA pay for the electric service to the common areas in your building. The common areas are the areas in your building that are outside of your unit. This usually includes the basement, the stairway outside your unit and the outside light. The electric service for these areas has been, customarily, wired to the meter for apartment A. This means that the tenant in apartment A has had to pay for the electric utility service for these areas.

This lawsuit seeks to have PHA pay for the utility service to the common areas and to have PHA reimburse scattered site tenants who have been forced to pay for the electric service to the utility areas in the past.

DEFINITION OF THE CLASS

The class includes all PHA scattered site tenants who have been or who are being billed for common area utility usage.

### CLASS REPRESENTATIVE

The class representative is Alan Brooks. He is being represented by Community Legal Services, Inc., and Michael Donahue, Esquire, and George D. Gould, Esquire, whose names and addresses appear at the end of this Notice.

### BRIEF SUMMARY OF THE LAWSUIT

The named plaintiff, Alan Brooks, filed this lawsuit, seeking to have PHA assume responsibility for the electric utility service in the scattered site common areas.

By agreement of the parties, the case has been certified as a class action for all past, present or future PHA scattered site tenants who have been, or will be, billed, at any time, for electric service to the common areas of their current or former scattered site unit, at any time since November of 1981. The court has not ruled on any claims or defenses in this case.

### PROPOSED SETTLEMENT

The class representative has entered into a proposed settlement that would:

- a. Require PHA to rewire all scattered site units in order to put in a separate meter for common area electric service.
- b. Pay an additional \$9.00 per month in utility allowance from August of 1993, until the rewiring is completed, for all class members who are currently being billed for common area electric service.

c. Reimburse all class action members for past billing for electric usage in the common areas at the rate of \$9.00 per month for the months that they were billed for electric service to the common areas between November of 1981 and July of 1993.

d. Pay attorney's fees of \$6,624.00 , to Community Legal Services for the prosecution of this case.

#### RIGHT TO OBJECT

If you currently live or formerly lived in a PHA scattered site unit and if you currently or formerly paid, for utility service to the common areas, you will automatically become a class member. You have the right to object to this proposed settlement. Any objections must be made in writing and must be filed with the U.S. District Court Clerk's Office at 2609 U.S. Courthouse, 6th and Market Streets, Philadelphia, PA 19106. Any objection must be filed on or before , 1993. If you file an objection, a hearing will be held on **JUNE 30**, 1993, at **8:30 O'Clock, A.M.**, in Courtroom **5D** , at the U.S. Courthouse at Sixth and Market Streets, Philadelphia, Pennsylvania. You cannot attend the hearing unless you have filed an objection. If no objection is filed, the stipulation, settlement and consent decree shall become final and you will be bound by the terms of this settlement.

If you have any questions about this Notice, or the settlement, you may contact counsel for plaintiffs. Their names and addresses appear below. The pleadings and all other records in this case, including the proposed settlement agreement, may be

examined during regular business hours at the Office of the U.S.  
Clerk of the District Court.

Counsel for plaintiff:

Michael Donahue, Esquire  
George D. Gould, Esquire  
Community Legal Services, Inc.  
1324 Locust Street  
Philadelphia, PA 19107  
Tele: (215) 893-5306

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

**ARE YOU A FORMER PHA  
SCATTERED SITE TENANT?  
DID YOU PAY FOR THE ELECTRIC  
SERVICE  
TO THE AREAS OUTSIDE YOUR UNIT  
SUCH AS HALLWAYS AND  
BASEMENTS?**

If so, you can be repaid for the electric bill for the common area, for when you were head of household between November of 1981 and July of 1993. If you became head of household due to the death or incapacity of the former head of household, you can also be paid for the common area electric bill of the former head of household.

**IN ORDER TO GET THE MONEY** you must contact the person listed below. You must provide your name, current address and phone number in order to get the money. If you do not know if you paid for the electric service you should call.

**CONTACT:**

Mark C. Reilly, Esquire  
Philadelphia Housing Authority  
2012 Chestnut Street  
Philadelphia, PA 19103  
Telephone: 684-4117



NOTICE TO BE ON PHA LETTERHEAD

**IMPORTANT NOTICE**  
**YOU ARE ENTITLED TO EXTRA UTILITY ALLOWANCE MONEY**

According to our records you used to live in a PHA scattered site unit and you paid for the electric service to the common areas of that building. As a result of the settlement of a law suit, PHA will pay you an additional \$9.00 per month for each month that you were head of household at that address. In order to get the money, you must contact the following person:

Mark C. Reilly, Esquire  
Philadelphia Housing Authority  
2012 Chestnut Street  
Philadelphia, PA 19103  
Tele: (215) 684-4117