

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRENDA MCNEILL, *et al.*,

Plaintiffs,

88 Civ. 5870 (RJW)

-against-

NEW YORK CITY HOUSING AUTHORITY, *et al.*,

**STIPULATION
OF SETTLEMENT**

Defendants.

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WHEREAS, an amended complaint in this action dated November 25, 1988 sought declaratory and injunctive relief, and alleged that the New York City Housing Authority (the "Housing Authority") has policies and procedures which: (1) fail to advise or assist tenants regarding corrections of Housing Quality Standards ("HQS") violations; (2) provide false and misleading notices to tenants; and (3) provide tenants with insufficient assistance in locating alternative Section 8 housing when subsidies are suspended because of HQS violations, in violation of federal law and regulations; and

WHEREAS, by decision dated August 15, 1989, the Court (Walker, D.J.) certified a plaintiff class consisting of "all tenants participating in the Section 8 'Existing Housing' assistance program whose assistance has been or will be terminated by NYCHA because of the landlord's failure to make repairs to an apartment." McNeill, et al. v. NYCHA et al., 719 F. Supp. 233 (S.D.N.Y. 1989); and

WHEREAS, the Housing Authority denies plaintiffs' allegations and maintains

that its policies, practices, and notices comply with applicable law and regulations; and

WHEREAS the parties wish to resolve this dispute amicably; and

WHEREAS the parties have agreed to the entry of this Stipulation without any admission of liability and without an adjudication on the merits;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the plaintiffs and the Housing Authority, that:

1. The Housing Authority does not currently, and subject to the terms of paragraph 16 of this Stipulation, will not, terminate a Housing Assistance Payment (“HAP”) contract between the Housing Authority and a landlord because of the landlord’s failure to maintain a Section 8 apartment in accordance with HQS.
2. The Housing Authority currently extends, and subject to the terms of paragraph 16 of this Stipulation, will continue to extend, the term of a transfer Housing Choice Voucher (“voucher”) from 120 to 180 days if a voucher holder requests such an extension prior to the expiration of the voucher. The Housing Authority will notify voucher holders in writing, in English and Spanish, of the option to request such an extension. A copy of such written notice is attached as Exhibit A.
3. The Housing Authority currently issues, and subject to the terms of paragraph 16 of this Stipulation, will continue to issue a new voucher to transfer voucher holders (“transferors”) upon request prior to the expiration of the 180 day term of the voucher. The Housing Authority will

advise voucher recipients in writing that the issuance of a new transfer voucher is available, and that the tenant must contact Housing Authority staff to request the new voucher.

4. The Housing Authority will distribute a broker referral list to transferors whose

landlords fail to remedy HQS violations and will furnish payments equal to one month of contract rent to brokers on behalf of such transferors, provided that the broker meets the requirements in applicable Leased Housing Department memoranda and procedures. The Housing Authority will provide written notification, when a transfer voucher is issued, to inform transferors whose landlords fail to remedy HQS violations of the availability of, and requirements for, payment of broker's fees.

5. Within 90 days from the date this settlement agreement is approved by the

Court, the Housing Authority will implement the following process: (a) When the Housing Authority learns of any HQS violations designated by the Housing Authority as "life threatening" existing in a Section 8 unit, Housing Authority staff will send written notification to the New York City Department of Housing Preservation and Development ("HPD"), and request that HPD contact the Housing Authority when repairs have been completed; (b) If the Housing Authority thereafter receives notification from HPD that repairs have been completed, the Housing Authority will conduct a reinspection of the premises.

6. Within 90 days from the date this settlement agreement is approved by the

Court, the Housing Authority will designate one staff member in each borough office ("Housing Court Contact Assistant") to respond to inquiries by the Housing Court concerning a Section 8 tenancy. If requested, the Housing Court Contact Assistant will communicate the following information to the Housing Court, to the extent available via computer: (a) whether the tenant is a participant in the Section 8 program; (b) the tenant's contract rent; (c) the tenant's share of rent; (d) the tenant's current suspension status and dates and results of each inspection; and (e) the name, address, and telephone number of the tenant's landlord. The Housing Authority will provide the name and telephone number of the Housing Court Contact Assistant in each borough office to the Administrative Judge of the New York City Civil Court for distribution.

7. Where a Housing Authority inspection reveals that an apartment contains HQS

violations, and the Housing Authority provides notification to the landlord, in writing, that he must make necessary repairs to the apartment ("NE-1 letter"), the Housing Authority will also send a letter to the tenant, in English and Spanish, notifying the tenant that: (a) if the rent subsidy to the landlord is suspended, the tenant will only be responsible for the tenant's portion of the rent, not the portion covered by the housing assistance payment under the HAP contract between the owner and the Housing Authority ("subsidy portion of the rent"); and (b) if the landlord commences an action in Housing Court, the tenant should bring the notice to Court. A copy of this letter is annexed as Exhibit B. The notification to the tenant will also include an information sheet, prepared by the City-Wide Task Force on Housing Court, Inc., a copy of which is annexed as Exhibit C.

8. Within 90 days from the date this settlement agreement is approved

by the

Court, the Housing Authority will send a letter, in English and Spanish, annexed as Exhibit D, offering new vouchers to tenants meeting all of the following criteria: (1) the tenants have remained in their Section 8 apartments; (2) their subsidies were suspended due to their current landlord's failure to maintain their apartments in accordance with HQS; and (3) their vouchers expired prior to July 11, 2001. The Housing Authority will provide plaintiffs' counsel with a list of the names and addresses of all persons to whom this Exhibit is sent.

9. The Housing Authority's NE-1 letter currently includes, and subject to paragraph 16, will continue to include: (a) a statement that if serious HQS violations are not corrected, the Housing Authority will offer the family a voucher to enable them to seek other housing and will terminate the HAP contract without further notice if the family is successful in that search; (b) a statement that under federal law, the owner may not commence an eviction proceeding against a tenant on the grounds of non-receipt of the Housing Authority's share of the rent; and (c) a statement that until non-hazardous violations are corrected, a lease renewal approval cannot be granted, nor can any contract rent increase be approved.

10. The Housing Authority will notify each new and existing Section 8 landlord

that, as per applicable law, the landlord may not maintain against a Section 8 tenant a proceeding that seeks a judgment against the tenant for the subsidy portion of the rent. A copy of this letter

is annexed as Exhibit E.

11. From time to time as appears necessary after consultation with the Administrative Judge of the New York City Civil Court, counsel for plaintiffs and defendants will coordinate with the Administrative Judge to provide training regarding the requirements and obligations of the Second Partial Consent Judgment in Williams v. New York City Housing Authority, 81 Civ. 1801 (RJW) (“Williams Consent Judgment”) and this stipulation.

12. Within 90 days from the date this settlement agreement is approved by the Court, the Housing Authority will notify all Leased Housing Department management housing assistants of the terms of this settlement and direct them that, when they learn that a Section 8 landlord has commenced an eviction proceeding against a Section 8 tenant, and are also aware that the tenant is currently in suspension status, they will refer the matter to appropriate Housing Authority personnel to determine what, if any, action is appropriate under the Williams Consent Judgment.

13. Where notices are to be provided to plaintiffs’ counsel under the terms of this

Stipulation, they will be sent to the address indicated below, or any updated address provided by plaintiffs’ counsel:

Adriene L. Holder, Esq.
The Legal Aid Society
Civil Appeals and Law Reform Unit
Temporary Address: 166 Montague Street
Brooklyn, New York 11201

14. Plaintiffs and their counsel waive attorneys’ fees in connection

with this

action, and the Housing Authority agrees to pay plaintiffs' counsel documented expert fees of Richard Faust, and transportation expenses incurred for witnesses in connection with the trial in this matter and \$500 to cover copying expenses.

15. Any and all rights, duties, and obligations created by this Stipulation will expire

three years after the date this Stipulation is approved by the Court pursuant to Federal Rule of Civil Procedure 23 (e) (the "Stipulation Period").

16. The following provisions shall apply during the Stipulation Period: sixty (60) days prior to implementing any changes to the policies, procedures and notices set forth in this Stipulation, the Housing Authority shall give written notice of the proposed change to plaintiffs' counsel. Within thirty (30) days of the receipt of such notice, plaintiffs' counsel shall give written notice to the Housing Authority's counsel whether or not they object to the proposed change. If plaintiffs' counsel do not object to the proposed change, the Housing Authority may then promptly implement the change. Any application for a temporary restraining order shall be filed at least 15 days prior to the scheduled implementation date of the proposed change. The duration of any temporary restraining order shall not exceed twenty (20) days without the consent of the parties or further order of the Court.

17. This action is discontinued with prejudice, except that the Court

retains

jurisdiction during the Stipulation Period to enforce the obligations created under this

Stipulation.

DATED: _____ 4/29/02 _____

DATED: _____ 4/29/02 _____

_____/s/_____
The Legal Aid Society
Helaine Barnett, Attorney in Charge
Scott A. Rosenberg, Director of Litigation (SR5579)
Civil Appeals and Law Reform Unit
Judith A. Goldiner, Of Counsel
Adriene L. Holder, Of Counsel
Marlen S. Bodden, Of Counsel
Temporary address: 166 Montague St.
Brooklyn, N.Y. 11201
(212) 577-3300
Attorneys for Plaintiffs

_____/s/_____
Ricardo Elias Morales
General Counsel
New York City Housing Authority
250 Broadway, 9th Floor
New York, N.Y. 10007
Henry Schoenfeld, Of Counsel
Steven J. Rappaport, Of Counsel (SR7666)
Rosanne R. Pisem, Of Counsel
Elissa M. Krell, Of Counsel
(212) 776-5152
Attorneys for Defendant New York
City
Housing Authority

SO ORDERED: 5/17/02

Robert J. Ward, U.S.D.J.