

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

VERNITA COLEMAN and
JAYDA JAMES, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

RICHMOND REDEVELOPMENT AND
HOUSING AUTHORITY,

Defendant.

Civil Action No. 3:25-cv-00133

**DEFENDANT RICHMOND REDEVELOPMENT AND HOUSING AUTHORITY’S
REPLY IN SUPPORT OF ITS MOTION TO DISMISS**

Defendant, Richmond Redevelopment and Housing Authority (hereinafter, “RRHA” or “Defendant”), by undersigned counsel, and pursuant to Local Civil Rule 7(F)(1), hereby files its Reply in Support of its Motion to Dismiss Plaintiffs’ Amended Complaint for Failure to State a Claim. In support thereof, Defendant states as follows:

I. Plaintiffs seek to impose obligations on RRHA which are not supported by applicable law.

Plaintiffs’ Opposition, ECF 30, is a simple rehashing of their Amended Complaint. Even more, their Opposition reads more like Second Amended Complaint, attempting to fill the deficiencies highlighted by Defendant’s Motion to Dismiss. Indeed, the Opposition fails entirely to address the merits of Defendant’s Rule 12(b)(6) and 12(b)(1) motion. Instead of taking up the Rule 12(b) standard and showing how a motion to dismiss would be improper – which it is not – Plaintiffs repeatedly seek to impose a higher standard onto Defendant than what is required by the United States Housing Act and the U.S. Constitution.

Specifically, Plaintiffs again allege that RRHA had an affirmative duty to remind Plaintiffs of their ability to obtain the Hardship Exemption. However, this supposed “duty” is not supported by federal law in effect at the time complained of in the Amended Complaint¹. Indeed, the clear language of 42 U.S.C. § 1437a as well as the corresponding regulations make clear that although a Hardship Exemption should be “immediately granted” when requested, it must nonetheless be requested by the tenant. *See generally* 42 U.S.C. § 1437a; *see also*, 24 C.F.R. § 5.630 (b)(2)(i)(A) (“If a family *requests* a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the month *following the family’s request for a hardship exemption*, and continuing until the PHA determines whether there is a qualifying financial hardship and whether it is temporary or long term”) (emphasis added)². By contrast, the proposition set forth in Plaintiffs’ Amended Complaint requiring RRHA to intuit or surmise that a tenant is seeking a Hardship Exemption is untenable and runs afoul of the stated purpose of the Housing Act’s rental policy, namely that “[t]he rental policy developed by each public housing agency *shall encourage and reward employment and economic self-sufficiency*.” 42 U.S.C. § 1437a(a)(2)(D). Such a proposition would likely result in increased litigation by residents mistakenly inferred to be requesting Hardship Exemptions, and then, required to pay back the minimum rent if said resident is not seeking a Hardship Exemption. Regardless, as the plain language of the Housing Act requires that a resident request a Hardship Exemption, Plaintiff’s Amended Complaint seeks to impose a higher duty on RRHA than required.

¹ While RRHA acknowledges that Congress revised § 1437a effective January 1, 2025, to require *additional* notice of the Hardship Exemption in a notice of termination, Plaintiffs have not alleged that any notices of termination served after January 1, 2025 failed to contain notice of the Hardship Exemption.

² At least one federal court confirmed that 24 C.F.R. 5.630, “states that once a family applies for a financial hardship exemption, that family may not be evicted for nonpayment of rent during the 90-day period beginning the month following the family’s request for the hardship exemption.” *Jamison v. Hart Realty*, No. 2:04-cv-535, 2005 U.S. Dist. LEXIS 20503, at *5 (S.D. Ohio Sep. 20, 2005) (summary judgment granted on other grounds).

Accordingly, because that duty does not exist at law, the Amended Complaint fails. Regardless, even if one accepts the well-pleaded facts of the Amended Complaint as true, there is no *affirmative* duty to remind tenants of the Hardship Exemption, thus there is no breach. Because Plaintiffs cannot show that RRHA violated any duty that it does owe, Plaintiffs seek to argue that RRHA owes this higher duty. Therefore, Defendant's Motion to Dismiss should be granted.

II. Plaintiffs admit that RRHA complied with federal law to inform tenants of their right to request a Hardship Exemption.

The Amended Complaint cites to the provisions of RRHA's ACOP, in effect at the time of the alleged violations, which specifically set forth a tenant's right to seek a hardship exemption. Amend. Compl. at ¶¶ 47-51. However, the Amended Complaint is completely devoid of any factual allegations that RRHA's ACOP violates federal law. Rather, the Amended Complaint, despite citing RRHA's ACOP verbatim which provides the necessary instructions on how tenants may seek a Hardship Exemption, speculates that RRHA breached obligations under 42 U.S.C. § 1437a and the ACOP because RRHA has an "unwritten policy" to deny Hardship Exemptions where *not requested*. Amend. Compl. at ¶¶ 13, 53. However, such speculation should not be considered by the Court and fails to save the Amended Complaint. *See Vitol, S.A. v. Primerose Shipping Co.*, 708 F.3d 527, 543 (4th Cir. 2013) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)) (holding that the complaint must contain sufficient factual allegations "to raise a right to relief above the speculative level" and "nudge [the] claims across the line from conceivable to plausible."). Because there is no non-speculative allegation that the ACOP failed to comply with Section 1437a(a), the Amended Complaint fails, as a matter of law. Accordingly, RRHA respectfully requests this Honorable Court dismiss Plaintiff's Amended Complaint with prejudice.

III. Plaintiffs admit that Plaintiffs never requested Hardship Exemptions, but, nonetheless, alleges RRHA violated federal law by failing to interpret that a tenant is seeking a Hardship Exemption, in contravention of federal law.

Plaintiffs continue to assert—without any basis—that requiring tenants to formally request a Hardship Exemption violates their due process rights, and that RRHA should infer or interpret that tenants are seeking Hardship Exemptions where no such request is actually made. Instead, Plaintiffs repeatedly argue that tenants should not have to use some “magic words” in order request a Hardship Exemption. However, Plaintiffs admit that they never formally requested Hardship Exemptions in the first place but allege that RRHA knew or should have known that Plaintiffs were seeking a Hardship Exemption. *See* Amend. Compl. at ¶¶ 97; 113 (“Ms. Coleman put RRHA on notice of her potential eligibility for the Hardship Exemption. Though she may not have used the ‘magic words,’ she effectively requested the Hardship Exemption.”; “Ms. James thus informed RRHA of her potential eligibility for the Hardship Exemption. Though she may not have used the ‘magic words,’ she effectively requested the Hardship Exemption.”).

As stated in the Amended Complaint, Plaintiffs’ lease agreements incorporate the ACOP (Amend. Compl. at ¶ 50), and in turn, the ACOP requires “[a]ll requests for minimum rent exemption[s] . . . to be made in writing.” Amend. Compl. at ¶ 48. Further, Plaintiffs’ Amended Complaint does not contend that Plaintiffs were not provided with the information regarding the Hardship Exemption. Nonetheless, despite having received the information and failing to follow the outlined procedure for requesting a Hardship Exemption, Plaintiffs again seek to impose a higher obligation on RRHA than is required, as without such a higher obligation the Amended Complaint fails as a matter of law. Indeed, it cannot be alleged that Defendant violated Plaintiffs’ due process rights for failing to grant an exemption where no such Hardship Exemption was formally requested. *See Alston v. Hous. Auth. of the City of Pittsburgh*, No. 2:24-cv-01326, 2025

U.S. Dist. LEXIS 123463, at *2 (W.D. Pa. June 30, 2025) (Indeed, “a request must be made to be eligible for the financial hardship exemption.”).³

Moreover, Plaintiffs’ argument that Defendant should have to infer or interpret whether tenants are requesting Hardship Exemptions without each such person formally requesting such an exemption pursuant to the procedures outlined in the lease and ACOP is not supported by law nor has it been adopted by any court. As mentioned in Defendant’s Motion to Dismiss, the U.S. District Court for the Western District of Pennsylvania recently found that “requiring a tenant to request the hardship exemption does not violate Section 1437a(a)(3), and is not otherwise unconstitutional.” *Alston*, 2025 U.S. Dist. LEXIS 123463, at *3. In other words, Plaintiffs’ proposition has been expressly rejected by at least one federal court.

Plaintiffs attempt to separate and distinguish themselves from the *Alston* case. Their attempts, however, are unpersuasive. Plaintiffs argue that the *Alston* case, which stands for the proposition that requiring a tenant to request a Hardship Exemption does not violate Section 1437a(a)(3), does not apply because *Alston* argued he should not be required to make a request for a Hardship Exemption, whereas Plaintiffs here alleged they did request such an exemption when they notified RRHA they were unable to pay rent. Plaintiffs misunderstand and misstate *Alston*. The plaintiff in *Alston* argued that the defendant-housing authority should have granted a never-requested Hardship Exemption “based exclusively on him apparently verbally informing [defendant], without any additional substantiation, of his loss of income.” *Alston v. Housing Auth.*, Case. No. 2:24-cv-01326, ECF 11 at 5. Similarly, Ms. Coleman and Ms. James argue in this case that RRHA should have granted them Hardship Exemptions that were never formally requested

³ Plaintiffs’ reliance on ADA case law to support its argument is misplaced and has no applicability here. The legislative framework of the ADA and that of the U.S. Housing Act are entirely inapposite. Accordingly, the Court need not consider such case law cited in Plaintiffs’ Opposition.

pursuant to the procedures set forth in the lease and ACOP, based on: (1) Ms. Coleman’s communication of “her financial hardship to RRHA by providing information on her Zero Income Worksheet and in other communications with RRHA”; and (2) Ms. James’ telling “RRHA that paying out of pocket for solutions to these unfixed issues (on top of her monthly rental payment) was causing her financial hardship).” Amend. Compl. at ¶¶ 95, 112.

In both the *Alston* case and the present case, the tenant-plaintiffs argue that the housing authorities should grant Hardship Exemptions that were never formally requested pursuant to the applicable lease and ACOP procedures because the housing authorities should have inferred that such an exemption was owed based on the financial hardship information available to them. The *Alston* court explicitly rejected this conclusion and called it unworkable.

Moreover, the *Alston* court denied that the housing authority-defendant violated the tenant’s due process rights because the steps for requesting a Hardship Exemption were laid out in the lease and ACOP. So too were such steps laid out in RRHA’s lease and ACOP. The Amended Complaint alleges as much.

Even if one accepted Plaintiffs’ legal conclusion as fact, the language of the 42 U.S.C. § 1437a, read together with the Congressional intent of self-sufficiency, does not require RRHA to independently determine whether each tenant is entitled to a Hardship Exemption where *no such request is made*. Accordingly, Plaintiffs’ allegations that RRHA violated Section 1437a(a)(3)(B)(i) by missing or ignoring verbal suggestions by tenants that they are purportedly requesting a Hardship Exemption without using those words or putting the request in writing is misplaced. *Id.* at ¶¶ 68, 97, 113, 126, 142; *see Alston*, 2025 U.S. Dist. LEXIS 123463, at *3 (“It would be an entirely unworkable standard for any housing authority with thousands of low-income tenants to

have to independently determine which tenants *might* be eligible for a financial hardship exemption *without the tenant ever making such a request.*”) (emphasis in the original).

Plaintiffs’ argument that RRHA deprived them of their property interests in the Hardship Exemption, their right to be considered for one, and the money they overpaid in rent, is similarly unpersuasive since Plaintiffs never sought Hardship Exemptions. Accordingly, where no request for a Hardship Exemption is made, Plaintiffs cannot be deprived of a property interest in such an Exemption⁴.

IV. This Court lacks subject matter jurisdiction over the state law claims.

Because Plaintiffs’ federal claims fail as a matter of law, this Court lacks a federal anchor to which it can exercise supplemental jurisdiction over Plaintiffs’ state law claims for breach of contract and unjust enrichment. Therefore, this Court lacks subject matter jurisdiction over Plaintiffs’ remaining state law claims (which also fail because Plaintiffs provide no facts that RRHA breached the lease terms). Although Plaintiffs urge the Court to exercise supplemental jurisdiction, a district court ‘may decline to exercise supplemental jurisdiction’ when it ‘has dismissed all claims over which it has original jurisdiction.’” *See Henderson v. Harmon*, 102 F.4th 242, 251 (4th Cir. 2024) (citing 28 U.S.C. § 1367(c)).

CONCLUSION

For the reasons set forth herein, in Defendant’s Motion to Dismiss and Memorandum in Support, and those which may be discussed with the Court at oral argument, Plaintiffs’ Amended Complaint wholly fails to state a claim upon which relief can be granted.

⁴ Plaintiffs’ reliance on *Page v. RRHA* for its property interest argument is misplaced as the *Page* case dealt with a tenant’s entitlement to vouchers, not an exemption from minimum rent that RRHA is *required* to implement. *See generally* 42 U.S.C. § 1437a.

WHEREFORE, Defendant Richmond Redevelopment and Housing Authority respectfully requests that this Honorable Court grant its Motion to Dismiss, dismiss Plaintiff's Amended Complaint with prejudice, and provide such further relief as this Court deems appropriate.

Dated: October 16, 2025

Respectfully submitted,

RICHMOND REDEVELOPMENT AND
HOUSING AUTHORITY

/s/ Giovanna R. Bonafede

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of October, 2025 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

/s/ Giovanna R. Bonafede

Giovanna R. Bonafede