

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

PAUL LAMBERT, MARY HOLDER,)
BARBARA HOLDER, PAMELA)
PURDIMAN, SHAMEKA NELSON,)
KIMBERLY SIMELTON, CHENA BRAZIL,)
KIMBERLY MCALLISTER, DENIESHIA)
CHILDRESS, KELSEY LOWE, ANGELA)
MITCHELL, LATONYA LEE, DESHAWNA)
WASHAM, CARLOS TRENTON,)
CHARMAINE LAMBERT, AARON HALL,)
CORETTA CORNELIUS, TANISHA)
JOHNSON, AUDREY TABOR, BEVERLY)
DAVIS, MYRA RAYFORD, SHENUNITH)
ELLIS, LENECA BALDWIN, SHAWNYA)
WILLIAMS, CHAUNCEY DAVIS, LILLIE)
JONES, TIARRA BEDFORD, JEANETTE)
DAVIS, JACQUELINE VAUGHN, DANIELLE)
LOWE, ELISHA LEE, CHARLOTTE VIEL,)
THERAS HEARD, and MONICA WOODSON,)
on behalf of themselves and all others)
similarly situated,)

Case No. 3:16-cv-513-MJR-RJD

Plaintiffs,

Judge Michael Reagan

v.

ALEXANDER COUNTY HOUSING)
AUTHORITY, JAMES WILSON,)
and MARTHA FRANKLIN,)
an Illinois municipal corporation,)
Defendants.)

Magistrate Judge Reona J. Daly

THIRD AMENDED CLASS ACTION COMPLAINT

INTRODUCTION

1. This lawsuit is brought on behalf of Paul Lambert, Mary Holder, Barbara Holder, Pamela Purdiman, Shameka Nelson, Kimberly Simelton, Chena Brazil, Kimberly McAllister, Kelsey Lowe, Angela Mitchell, LaTonya Lee, DeShawna Washam, Carlos Trenton, Charmaine

Lambert, Aaron Hall, Coretta Cornelius, Tanisha Johnson, Audrey Tabor, Beverly Davis, Myra Rayford, Shenunith Ellis, Leneca Baldwin, Shawnya Williams, Chauncey Davis, Lillie Jones, Tiarra Bedford, Jeanette Davis, Deniesha Childress, Jacqueline Vaughn, Danielle Lowe, Elisha Lee, Charlotte Viel, Theras Heard, and Monica Woodson, who are current and former residents of the Alexander County Housing Authority (“ACHA”) to remedy rampant race discrimination and family status discrimination. For years, ACHA and its agents have discriminated against residents of its McBride and Elmwood family housing developments based on their race and familial status, in violation of the Fair Housing Act, 42 U.S.C. § 3604, Title VI of the Civil Rights Act of 1964, and the Illinois Civil Rights Act of 2003.

2. ACHA has engaged in a pattern and practice of segregating its public housing developments by race, even though the United States Department of Justice previously found that it engaged in the same conduct more than 40 years ago.

3. ACHA also has engaged in a pattern and practice of not maintaining the Elmwood and McBride developments – which are occupied almost exclusively by African-American tenants such as the Plaintiffs – so that they have deteriorated to the point that they are nearly uninhabitable. McBride and Elmwood apartments, which are located in Cairo, Illinois, are infested with mice, roaches, and bedbugs. For years, Elmwood and McBride residents made request for repairs, and ACHA ignored them or repaired them in a substandard manner. Both developments also have long suffered from serious security problems. Despite these safety issues, ACHA failed to provide security guards or cameras.

4. Meanwhile, ACHA has adequately maintained its Connell Smith development in satisfactory condition and provided both security cameras and security guards. Until very

recently, approximately half of Connell Smith residents were white, and almost all were over the age of fifty.

5. ACHA has refused to place families with children in certain public housing developments, such as Connell Smith, in order to prevent African American families from living in majority white public housing developments.

JURISDICTION AND VENUE

6. This Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 (federal question), 1343 (color of state law), 3613 (Fair Housing Act), and 1367 (supplemental jurisdiction).

7. Plaintiffs seek declaratory and injunctive relief against the ACHA, pursuant to 28 U.S.C. §§ 2201 and 2202.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because ACHA violated federal law in this judicial district.

PARTIES

9. Paul Lambert is an African-American man who has lived in ACHA's Elmwood development since approximately 1978. He lives in a three-bedroom unit with his wife, and adult disabled son. The family has experienced terrible housing conditions, including bedbugs and mice. The heat is frequently out, forcing the family to heat their home with their oven.

10. Mary Holder is an African-American woman who has lived in ACHA's McBride development since approximately 1992. She lives alone in a two-bedroom unit. She has experienced terrible housing conditions, including bedbugs and mice, a cracked porch, doors that do not close fully, and problems with her heat. A pipe under the kitchen sink frequently falls off

and floods the kitchen. The bathroom sink has separated from the wall. Rather than replace the sink, ACHA employees used several tubes of caulk to adhere it to the wall.

11. Barbara Holder is an African-American woman who has lived in ACHA's McBride development since approximately 1970. She lives alone in a three-bedroom unit. She has experienced terrible housing conditions, including bedbugs and mice, a hole under the sink in the kitchen, and insufficient heat. A bedroom door is off the hinges. When the upstairs bathtub is used, water leaks into the downstairs kitchen.

12. Pamela Purdiman is an African-American woman who has lived in ACHA's Elmwood development since approximately September 2015. Before that, she lived in ACHA's McBride Development between April 2001 and August of 2012 or 2013. She lives alone in a two-bedroom unit. When she lived in McBride, she lived with her minor children. Ms. Purdiman has experienced terrible housing conditions, including mice and roaches, inadequate heat, mold, a rusted bathtub, and plumbing problems.

13. Kimberly Simelton is a Caucasian woman who has lived in ACHA's Elmwood development on and off since approximately 1994. She has been in her current unit since approximately 2008. She lives in a three-bedroom unit with her African-American husband, Kenneth Simelton, and her daughter. The family has experienced terrible housing conditions, including bedbugs, roaches, mice, rats, plumbing problems, and chipping paint. There is mold in the bathroom and pieces of the floor are coming up. The heat is frequently inoperable. In 2016, the family was moved to their current unit after the previous unit was infested with rats.

14. Shameka Nelson is an African-American woman who lives with her seven children, ages one to twelve, in a six-bedroom unit in ACHA's McBride development. The

family has experienced terrible housing conditions, including roaches, mice, peeling paint, mold, and bedbugs. Roaches pore out of the family's kitchen cabinets.

15. Chena Brazil is an African-American woman who lives with her three children, ages five, eleven, and twelve in ACHA's McBride development. She has lived at McBride for approximately twelve years. The family's unit is so infested with roaches and mice that her five-year-old daughter is afraid to get out of bed.

16. Kimberly McAllister is an African-American woman who lives with her three children, ages one, two, and eight, in ACHA's McBride development. She has lived at McBride for approximately seven years. The family has experienced terrible housing conditions, including roaches, mice, spiders, and mold. Even though mice come through the drain in the bathtub ACHA has only provided the family with glue traps. The children cannot take baths in the tub. The family's heat only works on the second floor, forcing them to heat the first floor of their home with their oven. The children have been diagnosed with asthma, which has been attributed to the family's housing conditions.

17. Denieshia Childress is an African-American woman who lives with her four children, ages nine months, one, five, and eight, in ACHA's McBride development. She has lived at McBride for approximately three years. Ms. Childress' unit is infested with roaches, bed bugs and mice. There are serious plumbing issues, resulting in frequently clogged toilets and sinks. The plumbing problems have also caused mold in the bathroom and one of her children's rooms. The kitchen ceiling is falling down. Electrical outlets either do not work or the fuse will blow when they are used. Ms. Childress' son has asthma, which is exacerbated by the housing conditions, resulting in him being frequently sick.

18. Kelsey Lowe is an African-American woman who lived with her two children, ages nine and fourteen, in ACHA's McBride development. She lived at McBride from 2002 until she moved out voluntarily in July 2016. Ms. Lowe's unit was infested with mice and roaches, and mold covered her bathroom. There was no heat on the first floor, forcing her to use her oven to stay warm.

19. Angela Mitchell is an African-American woman who lives with her child, age sixteen, in ACHA's Elmwood development. She has lived at Elmwood for approximately seventeen years. At one point, Ms. Mitchell's unit was so infested with mice her daughter could not sleep in her own bed. When Ms. Mitchell's heat went out, ACHA instructed her to use her oven for heat. Ms. Mitchell became ill as a result. When Ms. Mitchell's refrigerator stopped working, ACHA provided her with a replacement refrigerator that was full of roaches. Ms. Mitchell's unit also has serious problems with rats.

20. LaTonya Lee is an African-American woman who lives with her two children, ages three and four, in ACHA's Elmwood development. She has lived at Elmwood for approximately four years. Ms. Lee's unit is infested with roaches, bed bugs, and rats. The unit is covered in mold and peeling paint. ACHA has only offered Tilex to treat the mold. The fuse blows out when the family uses the electrical outlets. The heat only works on the second floor of the home. Both children have asthma, which is attributed by the unit's conditions.

21. Deshawna Washam is an African-American woman who lives with two of her children, ages sixteen and nine, in ACHA's Elmwood development. She has lived at Elmwood for approximately nineteen years in four different units. While living at Elmwood, Ms. Washam has dealt with serious mold and rat infestation issues. Ms. Washam suffers from a lung disease, which is exacerbated by the mold. When Ms. Washam's physician notified ACHA that Ms.

Washam should not live in a mold-infested unit due to her lung condition, ACHA refused to move her.

22. Carlos Trenton is an African-American man who lives by himself in ACHA's McBride development. He was born and raised at McBride but received his own unit approximately five years ago. Mr. Trenton's unit is infested with roaches and bedbugs. For two years, his heat did not work, so he had to heat his unit with his stove. The doorframe is broken to his front door. There is mold in his bathroom, and the ceiling lights leak water when it rains. The locks on the windows are broken, and his bathtub leaks because of missing grout and caulk. Sewer water often backs up into his bathtub.

23. Charmaine Lambert is an African-American woman who, until very recently, lived by herself in ACHA's Elmwood development. She lived with her family at Elmwood as a child and then moved into her own unit at Elmwood approximately six years ago. Her unit was infested with bedbugs, mice, and rats. The kitchen cabinets were not secured to the wall and there was mold throughout her bathroom.

24. Aaron Hall is an African-American man who lives by himself in ACHA's Elmwood development. He has lived at Elmwood for approximately four years. Mr. Hall's unit is infested with roaches and rats that eat his food. His heat has not worked for a long time and only after repeated complaints did ACHA provide him with space heaters. He has mold in a closet and the sinks frequently overflow.

25. Coretta Cornelius is an African-American woman who lives with her three-year-old child at ACHA's McBride development. She has lived at McBride, first with her sister and then in her own units, for approximately eleven years. While residing at McBride, Ms. Cornelius has experienced terrible housing conditions, including mice, roach, and mold infestation, backed

up toilets, and electrical outlets that catch on fire. Her repeated complaints to ACHA about her housing conditions only resulted in her moving to other units with similar or worse housing conditions.

26. Tanisha Johnson is an African-American woman who lives with her three children, ages three, seven, and eight, at ACHA's Elmwood development. She has lived at Elmwood for approximately eight years. Ms. Johnson has experienced terrible housing conditions, including roaches, bedbugs, rats, and mold. The upstairs toilet is not bolted to the floor, causing toilet water to leak into the family's kitchen. As a result of these conditions, Ms. Johnson and her children suffer from breathing problems that require the use of oxygen, nebulizers, and inhalers.

27. Audrey Tabor is an African-American woman who lives in ACHA's Elmwood development. She lived with her family at Elmwood as a child and then returned to Elmwood as an adult nine years ago. Ms. Tabor has experienced terrible housing conditions, including roaches, bedbugs, mice, and mold. The thermostat no longer works and water is leaking through the ceiling. As a result of these conditions, Ms. Tabor has experienced breathing problems and is frequently seeking medical attention.

28. Beverly Davis is an African-American woman who lives with her four children, ages nineteen, fourteen, eleven, and eleven, at ACHA's Elmwood development for the last eighteen years. Ms. Davis has experienced terrible housing conditions, including no or limited heat, mold, rats, mice, and roaches. The upstairs shower leaks into the downstairs kitchen. As a result of the terrible housing conditions, the family has faced a series of medical problems. Two of her children have asthma that is aggravated by the mold, and she faces mental health issues from living in the deplorable conditions.

29. Myra Rayford is an African-American woman who lives in McBride with three children, ages, thirteen, eleven, and three. She has lived at McBride for approximately 9 years.. Her previous unit was filled with mice and roaches, and there were serious problems with mold. In addition, the power went out on the second floor for two weeks, and she had to heat her unit with the oven. Her new apartment also has serious problems with mice and roaches, and the bathroom plumbing leaks onto her kitchen stove.

30. Shenunith Ellis is an African-American woman who lives in McBride with three children, ages, eighteen, ten, and six. She has lived at McBride for approximately four years. Her furnace had not worked for the past three to four years until ACHA very recently fixed it. She spends 60-70 dollars per month on pest control products to keep mice and roaches under control. Her unit has terrible problems with mold, which exacerbate her son's asthma. The outside of her apartment reeks of sewer gas.

31. Leneca Baldwin is an African-American woman who lived at ACHA's McBride and Elmwood development with her six-year-old son until earlier this year. Ms. Baldwin first moved to Elmwood in 2006 and then moved to McBride in 2013. Ms. Baldwin dealt with serious housing issues at both developments, including roaches, mice, and a lack of heat at McBride and severe mold and water damage at Elmwood.

32. Lillie Jones is an African-American woman who lives by herself at ACHA's Elmwood development. She has lived at Elmwood for the last 20 years. Ms. Jones has experienced a myriad of housing conditions, including pests, broken toilet, mold in the bathroom and bathtub, and a broken back door.

33. Monica Woodson is an African-American woman who lives with her adult daughter and two-year-old granddaughter at ACHA's Elmwood development. She first moved to

McBride in 1992, left at some point for the military, and then returned to live at Elmwood in 2005. One of the toilets in Ms. Woodson's unit is inoperable, and she is frequently dealing with rats and insufficient heat.

34. Jeanette Davis is an African-American woman who has lived by herself at ACHA's McBride development since 2000. Ms. Davis' unit is infested with roaches and mice and she frequently smells gas in her unit. She has mold in her bathroom and an odor emanating from her toilet. Ms. Davis also experiences insufficient heat and electrical problems.,

35. Elisha Lee is an African-American woman who has lived by herself at ACHA's McBride development by herself since 2002. Ms. Lee's unit is infested with roaches, spiders, and mice. Her unit is always cold, with leaking windows and doors. Mold covers her tub and closets and the use of her electrical outlets often result in a blown fuse. Her unit has serious water damage, which has caused peeling paint and constantly wet bathroom floors.

36. Danielle Lowe is an African-American woman who lives with her two children, ages one and two, at ACHA's McBride development. She has lived at McBride and Elmwood for most of her life, and she has lived in her most recent unit since 2014. Ms. Lowe's unit is infested with roaches and mice. There are holes and mold in her bathroom and the bathtub used to leak continuously. The windows and doors to her unit are not sealed properly, causing heat to leak out. When she turns on the outside porch lights, she often gets an electrical shock when she touches the kitchen sink. The housing conditions have caused her children to have breathing problems.

37. Theras Heard is an African-American man who has lived at ACHA's McBride development since 2013. Mr. Heard's unit is infested with roaches and bedbugs. The refrigerator issued to him by ACHA at one point had maggots. After ACHA refused to get rid of the rats and

mice in his unit, Mr. Heard took steps to fill the holes in his unit where the rodents were gaining entry. The kitchen sink is leaking, causing mold and mildew. Due to the terrible housing conditions, Mr. Heard sent his daughter to live with her mother. The housing conditions have also exacerbated Mr. Heard's sickle cell disease and caused breathing problems.

38. Jacqueline Vaughn is an African-American woman who has lived on and off with her two children, ages six and two, at ACHA's Elmwood's development since 2001. Ms. Vaughn's unit is infested with roaches, rats, and mold. Her heat does not work, forcing her to heat her home with her oven. She is frequently shocked by the electrical outlets. As a result of the housing conditions, the family suffers from asthma and sinus problems.

39. Charlotte Viel is an African-American woman who has lived by herself at ACHA's McBride development since 2009. Her unit is infested with roaches, rats, and mold. Her heat and electrical outlets do not work. There is water damage throughout the walls. As a result of her housing conditions, Ms. Viel has experienced sinus problems and headaches.

40. Tiarra Bedford is an African-American woman who has lived at ACHA's Elmwood development with her two children, ages nine and five, since 2011. Ms. Bedford's unit has water bugs and mice. The thermostat does not work, causing the unit to become too hot. The shower leaks into the downstairs kitchen cabinets, causing mold and mildew.

41. Chauncey Davis is an African-American woman who has lived at ACHA's McBride development with her three children, ages eleven and two, since 2003. Her unit is infested with roaches and mice. The heat does not work in one room of her house. There is black mold in her bathroom and some of the electrical outlets do not work. Her bathtub leaks into the first floor. The kitchen cabinets are falling off the wall and the paint is peeling.

42. Shawyna Williams is an African-American woman who has lived on and off at ACHA's Elmwood development with her five children, ages nineteen, seventeen, fifteen, fourteen, and seven, since 2000. Her unit is infested with mold, roaches, bedbugs, and mice. The heat does not work and the playground is too torn up for the children to play there. The front door frame is coming off the wall and the gutters are falling off the unit's exterior. The bathtub backs up when the family tries to take a bath. Two of her children developed asthma as a result of the terrible housing conditions.

43. Defendant Alexander County Housing Authority is an Illinois municipal corporation, created and existing under the Illinois Housing Authorities Act, 310 Ill. Comp. Stat. 10/1 *et seq.* ACHA is a public housing agency within the meaning of 42 U.S.C. § 1437. ACHA is a recipient of federal financial assistance and is considered to be a program or activity with operations subject to Title VI. 24 C.F.R. § 1.2(f). ACHA operates 478 public housing units within Alexander County.

44. Defendant James Wilson was ACHA's Executive Director from 1989 to 2013. He continued working for ACHA on a part-time consultant basis from 2013 to 2015. He returned to the Executive Director position for an 11-day period in early 2015.

45. Defendant Martha Franklin worked as ACHA's Executive Director from April 2013 to January 2015. She worked as ACHA's Finance Director for part of 2015.

46. In February 2016, the U.S. Department of Housing and Urban Development ("HUD") took over the operations of ACHA pursuant to 24 C.F.R. § 907.

**FACTUAL ALLEGATIONS
HISTORY OF RACE DISCRIMINATION AT ACHA**

47. ACHA has had a long history of discriminating against African-American residents based on their race.

48. In 1974, the U.S. Department of Justice filed a lawsuit against ACHA for intentionally segregating its two main public housing complexes by race. At the time, Elmwood was reserved for white residents, and Pyramid Courts (now McBride) was reserved for African-American residents.

49. The lawsuit was eventually settled, and ACHA agreed to stop segregating its housing based on race. ACHA agreed to prioritize occupancy such that Pyramid Courts would have 71 white residents (out of 237), and Elmwood would have 39 African-American tenants (out of 159).

**Defendants Have Segregated Residents on the Basis of Race
And Perpetuated Racial Segregation**

50. Today, ACHA has returned to its discriminatory past by engaging in a pattern and practice of segregating residents on the basis of race. Approximately 97% of the residents living in McBride and Elmwood are African-American, while white households predominate in the developments of Meadows, Johnson, Sunset Terrace, King, and Connell Smith. This is true even though African-Americans make up just 36% of the residents within Alexander County, ACHA's service area.

**Defendants Fail to Maintain McBride and Elmwood,
Forcing The Residents To Live In Squalor**

51. ACHA, through its Board and Executive Directors, have engaged in a pattern and practice of allowing the McBride and Elmwood developments to deteriorate, while preserving and maintaining the Connell Smith and Thebes developments in satisfactory condition. Defendants have engaged in a pattern and practice of allowing the housing conditions at McBride and Elmwood to deteriorate because of the residents' race, African-American.

52. For several years, units located at McBride and Elmwood – including those occupied by Plaintiffs – have been infested with roaches, mice, and bedbugs. Despite residents’ complaints, ACHA has done little to nothing to address the problem.

53. Many of the units at McBride and Elmwood have mold as well as plumbing, heating, and electrical deficiencies. Defendants have been aware of these problems for years, yet they have failed to meaningfully address them.

54. There is significant gun violence and other crime at McBride and Elmwood, yet ACHA has done very little to increase security at these developments. At the same time, ACHA has devoted security resources to Connell Smith and Shoemaker, where there is far less crime and no gun violence.

55. While ACHA was under the control of Defendants Wilson and Franklin, ACHA wasted resources on excessive employee retirement bonuses, unnecessary post retirement contracts, and unjustified travel expenses. These unjustified expenses are chronicled in an August 23, 2015 article entitled, “Chaos in Cairo” published by the newspaper, *The Southern Illinoisan*.

56. In part because of these unjustified payouts to current and former employees, ACHA has been unable to address the serious pest and rodent infestations or other conditions problems at McBride and Elmwood.

57. Wilson and Franklin both worked as ACHA Executive Director during relevant time periods. Neither of them took action to meaningfully alleviate the pest and rodent problems at McBride and Elmwood, nor did they take action to meaningfully alleviate the crime, mold, and plumbing problems.

HUD Finds That ACHA Discriminated Against Residents Based On Race

58. On September 30, 2014, HUD issued a letter to ACHA finding that it had violated Title VI of the Civil Rights Act (“Title VI”), 42 U.S.C. § 2000d. *See* Exhibit A (HUD letter to ACHA). HUD determined that ACHA violated Title VI by engaging in intentional racial segregation in McBride and Elmwood. *Id.*

59. HUD also found that ACHA was well aware of the security and conditions issues at McBride and Elmwood, but failed to provide adequate maintenance and security resources to either development.

60. HUD concluded that ACHA’s segregation of the developments by race and its corresponding failure to maintain McBride and Elmwood resulted in an adverse impact on African-American families and residents.

61. Despite these findings, ACHA, Wilson, and Franklin continued their pattern and practice of segregating families based on race and familial status and continued to allow the conditions at McBride and Elmwood to deteriorate because of the residents’ race.

ACHA’s Enforces A Rule That Discriminates Against Families With Children

62. All of ACHA’s 478 units are designated as family public housing.

63. However, for at least the past ten years, ACHA, through its Board and Executive Directors, have implemented a rule prohibiting families with children from living in Connell Smith, Shoemaker, and several of the scattered site developments and improperly reserved them for seniors and people with disabilities.

64. Neither Connell Smith nor Shoemaker nor the scattered-site programs satisfy the Fair Housing Act’s definition of “housing for older persons” as defined at 42 U.S.C. § 3607(b)(2).

65. ACHA never sought to re-designate Connell Smith, Shoemaker, or the scattered site programs under PIH Notice 2005-2 prior to implementing this rule barring families with minor children and designating certain buildings as senior/disabled housing.

66. Wilson and Franklin worked as ACHA Executive Director during relevant time periods. They both enforced the rule prohibiting families with children from living in Connell Smith, Shoemaker and the scattered site developments

ACHA Breaches Its Residential Lease

67. On information and belief, during each year that they lived in a ACHA unit, Plaintiffs signed a lease with ACHA that provided as follows:

PHA Obligations [966.4(e): The PHA shall be obligated:

- a) To maintain the dwelling unit and the project in decent, safe, and sanitary condition.
- b) To comply with the requirement of applicable building codes, housing codes, and HUD regulations materially affecting health and safety;
- c) To make necessary repairs to the dwelling unit.

As well, pursuant to 24 C.F.R. § 966.4(h), the lease:

... [sets] forth the rights and obligations of the tenant and the PHA if the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and shall provide that:

- (1) The tenant shall immediately notify the project management of the damage;
- (2) The PHA shall be responsible for repair of the unit within a reasonable time: *Provided*, That if the damage was caused by the tenant, tenant's household or guests, the reasonable cost of the repairs shall be charged to the tenant;
- (3) The PHA shall offer standard alternative accommodations, if available where necessary repairs cannot be made within a reasonable time; and

(4) Provisions shall be made for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made accordance with paragraph (h)(2) of this section or alternative accommodations not provided in accordance with paragraph (h)(3) of this section, except that no abatement of rent shall occur if the tenants rejects the alternative accommodation or if the damage was caused by the tenant, tenant's household or guests.

See Exhibit B (Copy of Sample Residential Lease Agreement).

68. ACHA breached its leases with Plaintiffs by allowing their units to fall into such a state of disrepair that the conditions are hazardous to the life, health, and safety of the occupants. Plaintiffs repeatedly notified ACHA of their terrible housing conditions. ACHA did not repair or address the conditions in a reasonable time and manner and did not offer standard alternative accommodations. ACHA also failed to abate the rent in proportion to the seriousness of the conditions and loss in value of the unit because the repairs were not made.

69. ACHA's breach caused Plaintiffs to suffer out of pocket costs associated with paying the rent as well as substantial monetary injury.

70. Plaintiffs substantially performed their obligations under their residential leases with ACHA.

71. In failing to maintain Plaintiffs' units in a decent, safe, and sanitary condition, Defendants demonstrated a conscious disregard for Plaintiffs' welfare.

CLASS ACTION ALLEGATIONS FOR INJUNCTIVE RELIEF PURPOSES ONLY

72. Plaintiffs bring the claims described in Counts I - VI on behalf of themselves and all others similarly situated pursuant to Rules 23(b)(2) of the Federal Rules of Civil Procedure.

73. All Plaintiffs bring their claims described in Counts I - VI on behalf of a proposed "McBride Elmwood Race Discrimination Subclass" defined as, "All current and former

African-American ACHA public housing residents who lived in McBride or Elmwood in the two years prior to the filing of Plaintiffs' original complaint."

74. Plaintiffs Simelton, Brazil, Purdiman, Heard, Lowe, Vaughn, McAllister, Lee, Mitchell, Cornelius, and Baldwin bring the claims described in Counts VII and VIII on behalf of themselves and all others similarly situated pursuant to Rules 23(b)(2) of the Federal Rules of Civil Procedure.

75. Simelton, Brazil, Purdiman, Heard, Lowe, Vaughn, McAllister, Lee, Mitchell, Cornelius, and Baldwin bring the claims described in Counts VII and VIII on behalf of a proposed "**McBride Elmwood Familial Status Discrimination Subclass**" defined as, "All current and former ACHA public housing residents who lived in McBride or Elmwood with minor children in the two years prior to the filing of Plaintiffs' original complaint."

76. All Plaintiffs bring the claim described in Count IX on behalf of themselves and all others similarly situated pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure.

77. Plaintiffs bring the claim described in Count IX on behalf of a proposed "**McBride Elmwood Residential Lease Subclass**" defined as, "All current and former ACHA public housing residents who lived in McBride or Elmwood in the two years prior to the filing of Plaintiffs' original complaint."

78. **Numerosity.** The classes are so numerous that joinder of all of their members is impracticable. Upon information and belief, each subclass is comprised of hundreds of individuals. The putative class members are unlikely to press their claims on an individual basis because as residents of public housing, all putative class members have limited incomes, and the value of their individual claims is modest.

79. **Commonality and Predominance.** There are questions of fact and law common to the class, including:

- a) whether ACHA discriminated against residents in McBride and Elmwood based on their race by refusing to maintain those developments and by prohibiting them from living in Connell Smith and certain scattered site developments.
- b) whether ACHA discriminated against residents in McBride and Elmwood based on their familial status by refusing to allow families with children to live in Connell Smith and Shoemaker and certain scattered site developments.
- c) whether ACHA breached its public housing lease by not maintaining the units in a decent, safe, and sanitary condition and by not complying with all HUD regulations affecting health and safety.

80. **Typicality and Adequacy.** Plaintiffs' claims are typical of the classes as a whole.

All of the Plaintiffs' claims for injunctive relief arise from the same unlawful practices: discriminating against residents in McBride and Elmwood based on their race and familial status and allowing the residential units to deteriorate. Proposed class representatives and class counsel will fairly and adequately protect the interests of the classes as a whole. Plaintiffs do not have any interests antagonistic to those of other class members. By filing this action, Plaintiffs have displayed an interest in vindicating their rights, as well as the claims of others who are similarly situated. Plaintiffs are represented by experienced counsel.

81. **Superiority.** A class action for injunctive relief is superior to other available methods for the fair and efficient adjudication of this controversy.

82. **Injunctive and Declaratory Relief.** ACHA has acted or refused to act on grounds that apply generally to the Rule 23(b)(2) class as a whole, so that final injunctive or declaratory relief is appropriate respecting the class as a whole. For years, ACHA has discriminated against the residents of McBride and Elmwood based on their race and familial status, in violation of the Fair Housing Act, Title VI, and the Illinois Civil Rights Act.

INJURY TO THE PLAINTIFFS

83. Defendants' actions threaten Plaintiffs with imminent and irreparable injury, including deteriorating housing, crime, discrimination, and segregation.

84. Defendants' actions have the purpose and effect of limiting housing opportunities for racial minorities and families with children.

85. Defendants' actions disproportionately deny housing opportunities in Alexander County to racial minorities and families with children.

86. According to the 2014 American Community Survey, Alexander County contains an estimated total of 7,821 people, of whom 59.7% are non-Hispanic white and 35.9% are African-American. African-Americans in Alexander County are disproportionately poor. 53.8% of African-American households in Alexander County earn incomes below the federal poverty line, compared to 19.7% of non-Hispanic white households. In 2014, 85.7% of African-American households in Alexander County were income eligible for federally assisted housing, compared to 59.8% of non-Hispanic white households in Alexander County. While African-Americans comprise 35.9% of Alexander County's population, approximately 45.2% of Alexander County households who are eligible for federally assisted housing are African-American.

87. According to the 2014 American Community Survey, Alexander County contains 2,826 households, of which 25.7% include children under the age of 18. Families with children under the age of 18 in Alexander County are disproportionately poor. 60.3% of such households earn incomes below the federal poverty line, compared to 30.3% of households overall. In 2014, 80.3% of Alexander County households with children under the age of 18 were income eligible

for federally assisted housing, compared with 46.1% of Alexander County households with no children under the age of 18 in the household.

88. African-Americans also disproportionately reside in ACHA's public housing. Almost 80% of ACHA's units contain a head of household who is African-American.

89. Through their actions described above, Defendants have acted negligently, intentionally, maliciously, and with willful, malicious, wanton, and reckless disregard for federal and state fair housing and non-discrimination laws.

90. Through their actions of allowing units at McBride and Elmwood to fall into a state of disrepair as further described above, Defendants have acted negligently, intentionally, maliciously, and with willful, malicious, wanton, and reckless disregard for the rights of the Plaintiffs.

91. Defendants' actions have caused and will continue to create a severe hardship for Plaintiffs.

92. Plaintiffs have no adequate remedy at law.

LEGAL CLAIMS

COUNT I – FAIR HOUSING ACT CLAIM DISPARATE TREATMENT BASED ON RACE (Against All Defendants)

93. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

94. Defendants, through their actions and the actions of their agents, intentionally discriminated against African-Americans living at McBride and Elmwood based on their race, in violation of 42 U.S.C. § 3604.

COUNT II – FAIR HOUSING ACT CLAIM DISPARATE IMPACT BASED ON RACE

(Against All Defendants)

95. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

96. Defendants' actions as described above have had an adverse disparate impact upon Plaintiffs as African-Americans, without any legitimate justification and therefore, constitute a violation of the Fair Housing Act, 42 U.S.C. §§ 3604.

**COUNT III – FAIR HOUSING ACT CLAIM
PERPETUATION OF RACIAL SEGREGATION
(Against All Defendants)**

97. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

98. Defendants' actions as described above perpetrate segregation on the basis of race in violation of the Fair Housing Act § 3604.

**COUNT IV – FAIR HOUSING ACT CLAIM
FAILURE TO AFFIRMATIVELY FURTHER FAIR HOUSING
(Against ACHA)**

99. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

100. ACHA is a "person" within the meaning of 42 U.S.C. § 1983, and its actions described herein were taken under color of state law.

101. By engaging in the actions and omissions described above, and failing to take meaningful action to remedy these egregious civil rights violations, ACHA has violated its duty to affirmatively further fair housing, in violation of 42 U.S.C. § 3608(e)(5). By breaching its duty to affirmatively further fair housing, ACHA deprived Plaintiffs of rights secured to them by federal law, in violation of 42 U.S.C. § 1983.

**COUNT V – TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
(Against ACHA)**

102. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

103. ACHA, through its actions and the actions of its agents, are liable for the violation of Plaintiffs' rights under Title VI of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000d *et seq.*, under which, “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

**COUNT VI – ILLINOIS CIVIL RIGHTS ACT OF 2003 CLAIM
(Against ACHA)**

104. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

105. ACHA, through its actions and the actions of its agents, are liable for the violation of Plaintiffs' rights under the Illinois Civil Rights Act of 2003, 740 Ill. Comp. Stat. Ann. 23/5, under which, “[n]o unit of State, county, or local government in Illinois shall: (1) exclude a person from participation in, deny a person the benefits of, or subject a person to discrimination under any program or activity on the grounds of that person's race, color, national origin, or gender; or (2) utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, national origin, or gender.”

**COUNT VII – FAIR HOUSING ACT CLAIM
DISPARATE TREATMENT BASED ON FAMILIAL STATUS
(Against All Defendants)**

106. Plaintiffs Simelton, Purdiman, Brazil, Heard, Lowe, Vaughn, McAllister, Lee, Mitchell, Cornelius, and Baldwin re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

107. Defendants, through their actions and the actions of their agents, intentionally discriminated against families with minor children, in violation of 42 U.S.C. § 3604.

**COUNT VIII – FAIR HOUSING ACT CLAIM
DISPARATE IMPACT BASED ON FAMILIAL STATUS
(Against All Defendants)**

108. Plaintiffs Simelton, Purdiman, Brazil, Lowe, Heard, Vaughn, McAllister, Lee, Mitchell, Cornelius, and Baldwin re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

109. Defendants' actions as described above will have an adverse disparate impact upon plaintiffs as families with minor children, without any legitimate justification and therefore, constitute a violation of the Fair Housing Act, 42 U.S.C. §§ 3604.

**COUNT IX – BREACH OF ACHA'S RESIDENTIAL LEASE
STATE LAW BREACH OF CONTRACT CLAIM
(Against ACHA)**

110. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

111. Defendant ACHA breached its duties under its respective leases with the Plaintiffs in that ACHA failed to maintain their dwelling unit and the project in decent, safe, and sanitary condition as required by ACHA's standard residential lease.

112. Defendant ACHA breached its duties under its respective leases with the Plaintiffs in that ACHA failed to comply with the requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety.

113. ACHA's breach of the residential leases have caused damage to the Plaintiffs.

**COUNT X – NEGLIGENCE
(Against ACHA)**

114. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

115. Under its residential leases with the Plaintiffs, ACHA undertook a duty to maintain the dwelling units in a decent, safe, and sanitary condition and to comply with all HUD regulations materially affecting health and safety.

116. Defendant ACHA breached its duty to the Plaintiffs in that ACHA allowed the dwelling units to become infested with mice, roaches, bedbugs, and mold and allowed the units' plumbing systems to fall into disrepair.

**COUNT XI – WILLFUL AND WANTON CONDUCT
(Against ACHA)**

117. Plaintiffs re-allege paragraphs 1 to 71 of this Complaint and incorporate them herein.

118. Under its residential leases with the Plaintiffs, ACHA undertook a duty of care to maintain the dwelling units in a decent, safe, and sanitary condition, to comply with all HUD regulations materially affecting health and safety, and to refrain from willful and wanton misconduct.

119. Defendant ACHA breached its duty of care and duty to refrain from willful and wanton misconduct to the Plaintiffs in that ACHA allowed the dwelling units to become infested with mice, roaches, bedbugs, and mold and allowed the units' plumbing and heating systems to fall into disrepair.

120. In breaching its duty to the Plaintiffs, ACHA actually and deliberately intended to cause harm to the Plaintiffs or demonstrated a conscious disregard for the Plaintiffs' welfare.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. Declare that the acts and omissions of the Defendants, as set forth above, violate the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601 *et seq.*, Title VI of the Civil Rights Act, 42 U.S.C.A. § 2000d *et seq.*, and the Illinois Civil Rights Act of 2003, 740 Ill. Comp. Stat. Ann. 23/5;
- b. Find that the Defendants' conduct was tortuous and the proximate cause of damages to the Plaintiffs;
- c. Enter a preliminary and permanent injunction, without bond or upon a nominal bond, enjoining ACHA from discriminating against the Plaintiffs and members of the McBride and Elmwood subclass based on their race or familial status and directing ACHA to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;
- d. Find that the Defendants violated the residential lease;
- e. Award monetary relief to the Plaintiffs in the amount of compensatory damages, abatement of rent, punitive damages, and prejudgment interest in an amount to be proven at trial;
- f. Enter an order requiring Defendants to pay Plaintiffs' reasonable costs and attorneys' fees for the prosecution of this action, pursuant to 42 U.S.C. § 3613(c)(2), 740 Ill. Comp. Stat. Ann. 23/5(c), and 42 U.S.C. § 1988;
- g. Certify the McBride Elmwood Familial Status Discrimination Subclass, the McBride Elmwood Race Discrimination Subclass, and the McBride Elmwood Residential Lease

Subclass, and the McBride Elmwood Negligence Subclass defined above and appoint the undersigned attorneys as Class Counsel; and

h. Grant Plaintiffs such further relief as this Court deems just and proper.

Jury Demand

Plaintiffs demand trial by jury on all issues as to which a jury trial is available.

DATED: February 13, 2017

By: /s/ Christopher J. Wilmes
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