

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

Evonne Bryant,)	
)	
Sylvia Givens,)	
)	
Brandon Sprately,)	
)	
Conswayla Simmons,)	
)	
Residents of St. Paul’s Quadrant Tenant Group,)	
)	
New Virginia Majority,)	
)	
Plaintiffs,)	Civil Action No. _____
)	
v.)	
)	COMPLAINT
City of Norfolk, Virginia,)	
)	
Norfolk Redevelopment and Housing Authority,)	
)	
U.S. Department of Housing and Urban Development, and)	
)	
Ben Carson, Secretary of Housing and Urban Development, in his official capacity,)	
)	
)	
Defendants.)	
)	

INTRODUCTION

1. The City of Norfolk (the “City” or “Norfolk”) has a long and indisputable history of racial segregation in housing, intentionally created and maintained by the actions of the City, the Norfolk Redevelopment and Housing Authority (“NRHA”), and various housing agencies of the federal government. That history includes a series of City redevelopment projects, often

approved and funded by the federal government, that have perpetuated racial segregation in the city and/or driven Black residents out of the city altogether. As a result of this segregation, Norfolk's Black residents have had and continue to have to suffer with deprivations such as economic disinvestment and inequity in education and employment. This complaint challenges the most recent federally funded redevelopment project, called the St. Paul's Quadrant Redevelopment Plan (the "Redevelopment Plan"), which, without intervention by this Court, will once again force Black residents of that area into segregated housing within Norfolk or out of the city, at least temporarily but also potentially forever. The Redevelopment Plan will also significantly reduce the amount of affordable housing available for all Black residents of the city in need of such housing. Further, the Redevelopment Plan will deprive the city's Black residents of the benefit of a significant investment of federal funds, all of this in violation of the Fair Housing Act and the Administrative Procedure Act.

2. In May 2019, the U.S. Department of Housing and Urban Development ("HUD") awarded the NRHA and the City a Thirty Million Dollar (\$30,000,000) Choice Neighborhoods Initiatives ("CNI") Implementation Grant (the "Grant") for redevelopment efforts in an area known as the St. Paul's Quadrant, which lies immediately to the east of downtown Norfolk. Three public housing projects are located in the St. Paul's Quadrant: Tidewater Gardens, Young Terrace, and Calvert Square (collectively the "St. Paul's Public Housing"), collectively comprising 1,674 housing units and housing approximately 4,200 residents, including 2,000 children, virtually all of whom are Black. The Grant will be used to fund the demolition of all 618 units at Tidewater Gardens and replace them with mixed-income housing, which for the most part will be unaffordable to the Black residents of the St. Paul's Public Housing. The City and NRHA have approved the demolition and redevelopment of all three projects; however, the

CNI Grant only addresses Tidewater Gardens. However, in future years the City and the NRHA plan to demolish Young Terrace and Calvert Square as well. Upon completion of the St. Paul's Public Housing redevelopment, 1,674 units of affordable housing will have been demolished and replaced with only 600 units of new housing reserved for the current residents.

3. Rather than building replacement units for the St. Paul's Public Housing residents before demolishing their homes, the NRHA and the City, with HUD approval, have embarked on a scheme to force out tenants of Tidewater Gardens before any replacement housing is built. Thus, the City and the NRHA will force every resident of Tidewater Gardens to move out of their homes, and many out of the area. While some of these residents may not be forced to leave Norfolk forever, others will be forced to move out of the city permanently. What little affordable housing that exists in Norfolk today is for the most part located in highly segregated, high poverty areas of the city, and residents will be forced to find housing in these parts of the city or outside of the city altogether in similarly segregated, high poverty outlying areas. Additionally, Tidewater Gardens residents who attempt to exercise their right to return to the redeveloped Tidewater Gardens are likely to have to wait years to return. Further, the thousands of residents of Norfolk on the waiting lists for any type of affordable housing in the City, the overwhelming majority of whom are Black, will face a dramatically reduced pool of such housing as a result of the demolition of the three public housing communities. In short, Norfolk has planned a redevelopment project that will deny thousands of its Black residents affordable housing opportunities and access to integrated communities.

4. This action—brought by and on behalf of the Black residents of the St. Paul's Public Housing, as well as the Black households currently on the waiting list for public housing or for Section 8 vouchers in Norfolk and a community organizing group that has diverted

resources to counteract the effects of Defendants' unlawful actions—challenges the planning and implementation of the St. Paul's Redevelopment Plan because of the disproportionate adverse impact it will have (and is already having) on Black residents. Not only will the St. Paul's Redevelopment Plan harm more than a thousand of the predominantly Black families currently residing in the St. Paul's Public Housing, it also will adversely affect the predominantly Black households currently on the waiting list for public housing, including those seeking Section 8 vouchers, and for other subsidized housing in Norfolk as the displaced residents from St. Paul's Public Housing are afforded priority in their search for alternative housing under the Redevelopment Plan and the NRHA's Administrative Plan, Admissions and Continued Occupancy manual, and Annual Plan. Residents of the St. Paul's Public Housing are already feeling the effects of the Redevelopment Plan. The NRHA is pressuring these residents to move out of their homes without full and/or accurate information regarding their rights, including their rights to decent affordable housing in non-segregated or non-high-poverty areas of the city under the CNI Grant requirements and other federal laws and regulations. The harm resulting from the current plans for the Redevelopment Plan will not only adversely affect these Black residents but also the entire Norfolk community since the Redevelopment Plan will perpetuate segregation in an already highly segregated city.

5. Plaintiffs oppose the Redevelopment Plan as currently configured and seek through this action declaratory, injunctive, and other relief as to all Defendants to stop the implementation of the St. Paul's Redevelopment Plan, including any planned demolition of the St. Paul's Public Housing and any efforts (including the ongoing efforts) to displace St. Paul's Public Housing residents until the defendants have made modifications to the Redevelopment

Plan that comply with CNI Grant requirements and federal law, including the Fair Housing Act, 42 U.S.C. § 3601 (1988), et seq. and the Administrative Procedure Act, 5 U.S.C. § 701, et seq.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter under 42 U.S.C. § 3613, 28 U.S.C. § 1331, and 5 U.S.C. § 702.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 (b) and 5 U.S.C. § 703 because the events or omissions giving rise to the claims herein occurred in this District, and the property at issue is situated in this judicial district.

PARTIES

8. Plaintiff Evonne Bryant is a Black woman who works full time as a cleaner at a local hotel. She resides in Tidewater Gardens at 1163 Holt Street. Her unit is scheduled to be demolished as part of Phase 1 of the Redevelopment Plan.

9. Plaintiff Sylvia Givens is a Black woman who works as a cafeteria worker at a local hospital. She resides in Calvert Square at 847 Bagnall Road, Norfolk. She previously resided in Tidewater Gardens at 447 Chapel Street in Norfolk, Virginia, but NRHA relocated her due to hazardous mold levels in her home. This unit is scheduled to be demolished as part of Phase 1 of the Redevelopment Plan.

10. Plaintiff Brandon Spratley is a disabled Black man who attends a community college and resides in Tidewater Gardens at 1007 Charlotte Street with his son. His unit is scheduled to be demolished as part of Phase 2 of the Redevelopment Plan.

11. Plaintiff Conswayla Simmons is a Black woman who currently resides at 3215 Kimball Terrace in Grandy Village, a public housing community in Norfolk. She has 5 children and works as a cleaner in commercial buildings in Norfolk. She has been on the housing choice

voucher waiting list for approximately eleven years. She has a serious roach infestation in her current apartment as well as on-going mold issues. She has complained of a hole in her kitchen pantry but has been told by the maintenance staff that they don't have plaster with which to cover the hole.

12. Plaintiff Residents of the St. Paul's Quadrant Tenant Group is an unincorporated association of residents of all three public housing communities of the St. Paul's Quadrant who meet regularly to advocate for the rights of residents and encourage the City and the NRHA to develop adequate and affordable replacement housing within the St Paul's Quadrant or high opportunity areas in Norfolk.

13. Plaintiff New Virginia Majority is a nonprofit organization incorporated in the Commonwealth of Virginia that has offices in Alexandria and Richmond, as well as remote staff in the City of Norfolk. New Virginia Majority works to create a powerful multi-issue, multi-racial movement to transform Virginia through large scale civic engagement, issue advocacy, strategic communications, and community organizing. Prior to the City and the NRHA proposing the Redevelopment Plan, New Virginia Majority was heavily engaged in organizing in Norfolk's Lambert's Point neighborhood, located approximately three miles from the St. Paul's Quadrant, to protect the health and safety of Black residents affected by uncovered coal ash containers. This work required extensive door-to-door outreach to and education of residents of predominantly Black, low income neighborhoods throughout the city. The Redevelopment Plan's threat of mass displacement of St. Paul's public housing residents began to make it much more difficult for New Virginia Majority to build the long-term relationships with residents necessary to effectively advocate around the issue of coal ash storage. As a result, New Virginia Majority diverted staff time and resources to respond to the discriminatory Redevelopment Plan

beginning in 2018. As the details of the Redevelopment Plan have changed and the City and the NRHA have started implementing the Redevelopment Plan since then, New Virginia Majority has engaged in extensive door-to-door outreach, community education efforts, and advocacy before various public bodies to empower residents of the St. Paul's Quadrant to advocate for equitable redevelopment. This has come at the expense of New Virginia Majority's work in Lambert's Point. The haphazard implementation of the Redevelopment Plan has also made New Virginia Majority's activities in opposing the Redevelopment Plan more difficult as the unpredictable relocation of residents out of Tidewater Gardens has made it harder to maintain relationships with those residents. The Redevelopment Plan is starkly at odds with New Virginia Majority's commitment to advancing racial justice in Norfolk and throughout Virginia.

14. Defendant City of Norfolk, Virginia is a locality under Virginia law. *See* Va. Code Ann. §15.2-102. At all relevant times, the City operated under color of state law.

15. Defendant Norfolk Redevelopment and Housing Authority (NRHA) is a political subdivision of the Commonwealth of Virginia created by the City of Norfolk in 1940 under the laws of Virginia. It is run by a seven-member Board of Commissioners appointed by the Norfolk City Council. The Board of Commissioners is responsible for hiring an Executive Director to oversee the NRHA's day-to-day operations. The NRHA's stated mission is to "[p]rovide quality housing opportunities that foster sustainable mixed-income communities." NORFOLK REDEVELOPMENT HOUSING AUTHORITY, nrha.us/about (last visited January 7, 2020). NRHA is and was at all times relevant to this action as a Public Housing Agency ("PHA") as that term is defined by 24 C.F.R. § 982.4. At all relevant times, the City operated under color of state law.

16. Defendant U.S. Department of Housing and Urban Development (HUD) is an executive branch agency of the United States government. It is charged with administering a variety of federal housing programs, including the programs at issue in this Complaint.

17. Defendant Ben Carson is sued in his official capacity as the Secretary of HUD.

FACTUAL BACKGROUND

I. Both the City and the St Paul's Quadrant are Highly Segregated by Race

18. According to 2010 census figures, the city of Norfolk is occupied by 242,803 residents, of which 44.3% of the population is white, 42.2% is Black and 6.6% is Latino. (Throughout this Complaint, data from the U.S. Census and the American Community Survey referring to white individuals includes individuals who are white alone and not Latino. Data referring to Black or African American individuals likewise refers to individuals who are Black or African alone and not Latino).

19. According to the American Community Survey (an annual survey published by the Census Bureau), as of 2013-17, those numbers have changed slightly: 43.6% of the population is white, 41.2% is Black and 7.6% is Latino.

20. The city's poverty rate is high compared to nearby cities. The City's 2014 Affordability Study noted: "Poverty remains a challenge in Norfolk, with a higher share of households falling below the poverty level than neighboring cities." This high poverty level creates additional pressure for the limited affordable housing within the city. According to the 2013-17 American Community Survey, 29.4% of Black Norfolk residents had incomes below the poverty line which the U.S. Department of Health and Human Services defined for 2019 as \$12,490 for a single individual, \$16,910 for a family of two, and \$25,750 for a family of four. Just 13.3% of non-Hispanic white Norfolk residents had incomes below the poverty line.

21. Annually, HUD sets income limits for all rental housing markets in the United States in order to determine eligibility for government assistance. The income limits are calculated as a percentage of the Area Median Income (“AMI”) adjusted for family size. HUD’s AMI for Norfolk is \$79,300. The extremely low income limit is set at 30% of AMI, the very low income limit is set at 50% of AMI, and the low income limit is set at 80% of AMI.

22. The extremely low income limit established by HUD for two person families is \$19,050. 23.4% of Black families in Norfolk have incomes at or below \$19,050 as compared with 7.1% of white families. The extremely low income limit for four person families is \$25,750. 31.9% of African-American families in Norfolk have incomes at or below \$25,750 as compared with 10.5% of white families.

23. The very low income limit established by HUD for two person families is \$31,750. 39.8% of African-American families in Norfolk have incomes at or below \$31,750 as compared with 14.1% of white families. The very low income limit for four person families is \$39,650. 51.9% of African American families in Norfolk have incomes at or below \$39,650 as compared with 19.8% of white families.

24. The low income limit established by HUD for two-person families is \$50,800. 61.5% of African American families have incomes at or below \$50,800 as compared to 29.8% of white families. The low income limit for four person families is \$63,450. 72.3% of African American families have incomes at or below \$63,450 as compared with 39.3% of white families.

25. The city of Norfolk is highly segregated by race. The Dissimilarity Index is the most widely used measure of racial residential segregation. The Dissimilarity Index is calculated as the percentage of a minority group (in this case, African Americans) that would have to move to achieve an “even” racial/ethnic distribution in relation to another group (for example, whites),

where every block would have the same racial distribution as the entire city. Using Census 2010 data for whites and African Americans, the Dissimilarity Index for Norfolk is 62.5. In other words, 62.5% of the African American population would have to move to achieve a balanced distribution between white and African American residents in Norfolk. A Dissimilarity Index value over 60 reflects a high level of segregation. By this standard, Norfolk has a high level of residential segregation for whites and African Americans. In 2000, the Dissimilarity Index for Norfolk was 63.7.

26. In 2014, forty properties provided subsidized housing in Norfolk, some restricted to the elderly and persons with disabilities and some open to any income-eligible family. Of the forty subsidized housing developments in Norfolk, only nine were in majority-white neighborhoods (as measured by the racial and ethnic composition of their census tract), and five of these nine properties in white neighborhoods were restricted to the elderly and/or persons with disabilities. Over 75% of all subsidized housing developments were in majority-minority neighborhoods. Sixty percent of all subsidized housing developments in Norfolk were in neighborhoods where at least 75% of residents are African American. Almost a third of all subsidized housing developments in Norfolk are in neighborhoods where at least 90% of residents are African American. On information and belief, subsidized housing in Norfolk continues to be highly segregated.

27. Households in Norfolk that use Housing Choice Vouchers are similarly segregated. According to data from HUD's Affirmatively Furthering Fair Housing Data & Mapping Tool (AFFH-T) and the 2013-2017 American Community Survey, of the 13 census tracts that have the highest concentrations of households using Housing Choice Vouchers, all are majority-minority. Nine of the 13 are more than 75% non-white. In four census tracts, African

Americans comprise more than 75% of the population. In these highly concentrated census tracts, over 10% of households use Housing Choice Vouchers. At the same time, several majority-white census tracts in Norfolk have no residents with Housing Choice Vouchers. On information and belief, the only majority-Black census tracts in Norfolk with no voucher holders are those with significant public housing developments for which vouchers are unnecessary.

28. The St. Paul's Quadrant in Norfolk is defined as the area from St. Paul's Boulevard on the west, Virginia Beach Boulevard on the north, Tidewater Drive on the east, and City Hall Avenue on the south. The St. Paul's Quadrant is within the much larger area covered by the CNI implementation grant (the "CNI area"). The CNI covers 500 acres. It is generally bounded by St. Paul's Boulevard on the west, Tidewater Drive on the east, I-264 and City Hall Avenue on the south and the Norfolk-Southern Railroad tracks to the north.

29. The St. Paul's Quadrant is directly east of the city's downtown and Arts District, which are areas comprised of predominantly white residents. These are some of the most expensive neighborhoods in the city. The City's 2016 Affordable Housing Study noted: "Downtown Norfolk is the strongest residential submarket in Norfolk, representing over a third of its growth and development." HR&A ADVISORS, INC., NORFOLK AFFORDABLE HOUSING STUDY 13 (2016). While HUD's Small Area Fair Market Rent for Zip Code 23504, which includes most of the St. Paul's Quadrant, is just \$1,000 for a two-bedroom apartment, that figure is \$1,350 in the neighboring Zip Code 23510, which includes most of downtown Norfolk. Zip Code 23510 is the second highest rent zip code in the entire city.

30. The St. Paul's Public Housing communities "provide housing for disadvantaged families, mostly with extremely low household incomes." RECOMMENDATION TO ADOPT ORDINANCE FOR THE REDEVELOPMENT OF THE ST. PAUL'S AREA 2 (2017).

31. Tidewater Gardens is a 618-unit housing development. It is owned and managed by the NRHA and relies primarily upon HUD subsidies and tenant rents to fund its operating and capital costs. According to the City and the NRHA, approximately 1,600 people live within this community. Of these 618 units, 98 have one bedroom, 281 have two bedrooms, 174 have three bedrooms, 64 have four bedrooms, and one has five bedrooms. 98% of its residents are Black, and 74% of its residents live below the poverty line. The average household income is \$9,252, and, of the 520 households in Tidewater Gardens as of November 2019, 428 were classified as extremely low income, 71 as very low income, 15 as low income, and six as above low income.

32. Young Terrace is a 746-unit housing development. It is owned and managed by the NRHA and relies primarily upon HUD subsidies and tenant rents to fund its operating and capital costs. According to the City and the NRHA, approximately 1,800 people live within this community. 97% of its residents are Black, and 77% of its residents live below the poverty line. Of the 717 households occupied as of November 2019, 596 were classified as extremely low income, 95 as very low income, 22 as low income, and four as above low income.

33. Calvert Square is a 310-unit housing development. It is owned and managed by the NRHA and relies primarily upon HUD subsidies and tenant rents to fund its operating and capital costs. According to the City and the NRHA, approximately 750 people live within this community. 98% of its residents are Black, and 72% live below the poverty line. Of the 296 households occupied as of November 2019, 233 were classified as extremely low income, 48 as very low income, 11 as low income, and four as above low income.

34. The residents within the St. Paul's Public Housing make up almost 90% of the CNI area's population. The CNI area is 92.5% Black. Given that each of the developments constituting the St. Paul's Public Housing is at least 97% Black, this means that residents of

other housing in the CNI area are less likely to be Black than are the St. Paul's Public Housing residents.

35. Residents of the St. Paul's Public Housing, including Tidewater Gardens, who are being harmed by Defendants' actions are also significantly more likely to be Black than residents of the city of Norfolk as a whole or residents of the broader metropolitan region.

36. The residents within the St. Paul's Quadrant are significantly poorer in comparison to those residing in the larger Norfolk area. According to a City and NRHA presentation, while the median household income in the city is \$44,000, it is \$12,000 in the St. Paul's Quadrant. NORFOLK'S ST. PAUL COMMUNITY: A TRANSFORMATION OF PEOPLE AND PLACE 14 (2018).

II. The Fact that the St. Paul's Quadrant is Highly Segregated, Poor and Isolated is no Mistake but a Result of Governmental Action by the City, the NRHA, and HUD

A. 1914-1940 – Racial Segregation Required by Law and Reinforced by Redlining.

37. Norfolk has a long history of racial segregation which has been perpetuated by law and practice.

38. In 1914, the City of Norfolk enacted a zoning ordinance mandating racial segregation in housing, making it illegal for whites to live in designated "colored" street blocks and for African Americans to live in designated "white" street blocks. The City continued to enforce that ordinance through 1925, despite the fact that eight years earlier the U.S. Supreme Court found such ordinances unconstitutional. *See Buchanan v. Warley*, 245 U.S. 60 (1917).

39. Furthermore, the provision of City services remained unequal. Consequently, Black neighborhoods, including the area now encompassing the St. Paul's Quadrant, lacked sidewalks, streetlights, gutters, and adequate sanitation, creating slum conditions. By 1940,

upwards of 50% of the dwelling units in the St. Paul's Quadrant were substandard according a map created from 1940 Census data. *See* NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY, THIS IS IT 5 (1946). Similarly, according to a report which also analyzed 1940 Census data, nearly 80% of housing units occupied by Black homeowners or tenants in Norfolk were either unfit or deficient (i.e., substandard), compared to just under 25% for white Norfolk homeowners and tenants. CHARLES AGLE, REDEVELOPMENT AND HOUSING PROGRAM, NORFOLK, VIRGINIA 30 (1949) (on file at Old Dominion University) (hereinafter "AGLE REPORT"). These conditions within the then-existing St. Paul's area caused substantially higher mortality rates among Black residents in Norfolk than their white counterparts.

40. By then, Norfolk's Black slums were nationally infamous, and Nathan Strauss, then head of the newly created United States Housing Authority ("USHA") (a predecessor agency of HUD's) committed to assisting Norfolk. However, during World War II, local officials used federal funds to create defense housing rather than for the development of affordable housing for Norfolk's Black community despite the influx of Black families to Norfolk at that time. Indeed, because priority was given to the creation of defense housing for white service members and their families, the already crowded conditions in the Black neighborhoods of the city were compounded by an influx of Blacks into Norfolk as members of the armed forces or seeking civilian employment with the military.

41. The "Residential Security" maps created by the Federal Homeowner's Association and the federal Home Owners' Loan Corporation (hereinafter, "HOLC") established a process that came to be called "redlining," due to the red color used on maps to identify areas considered as high risk and hazardous. In 1940 HOLC issued its Norfolk "Residential Security" map in which it categorized every Black neighborhood in the city of Norfolk as being of the

highest risk. That designation created barriers for Black homeowners in accessing both credit and the equity in their homes because these maps were used by both public and private lenders to assess the risk of loan default.

B. 1940-1957 – Project One: Slum Clearance and Redevelopment of the St. Paul’s Area Re-enforced Racial Segregation of the City.

42. On July 23, 1940, the City created the Norfolk Housing Authority, the predecessor to the NRHA, with the immediate purpose of creating additional defense housing for service members and their families.

43. With the end of World War II and the passage of the United States Housing Act of 1949, the Norfolk Housing Authority, with the assistance of the federal Housing and Home Finance Agency (another predecessor agency of HUD’s), finally turned to the issue of Norfolk’s Black slums in what was to be the first large scale slum clearance and redevelopment project in the United States. Known as “Project One,” this project involved the demolition of Black slums in the St. Paul’s area and the construction of three Black public housing communities in the same area: Young Terrace, Tidewater Gardens, and Calvert Square.

44. Project One was supposed to eliminate the worst Black slums located near the downtown and replace those slums with segregated Black public housing communities. Project One included the restructuring of roadways into downtown Norfolk both to improve traffic flow and also to intentionally concretize the boundaries of the Black area of St. Paul’s and prevent its further expansion into white areas of Norfolk. *See* maps and discussion, AGLE REPORT, Map 15 (Young Terrace), Map 18 (Calvert Square) and Map 21 (Tidewater Gardens); *See also* FOREST WHITE, BLACK, WHITE AND BROWN; THE BATTLE FOR PROGRESS IN 1950S NORFOLK 19 (2018).

45. Ground was broken in 1951 on the site of what is now Young Terrace, and construction was finished in 1953. Following up on Project One, Tidewater Gardens was

completed in 1955, and Calvert Square finished in 1957. The Black slums of St. Paul's had been transformed into public housing designated for Black residents only.

C. **1950's-1960's – The City's and NRHA's Use of Redevelopment as Tool to Prevent School Integration.**

46. The next major residential redevelopment projects undertaken by the City, under the leadership of the segregationist Mayor W. Fred Duckworth and the NRHA, were designed to prevent the integration of Norfolk public schools: the Atlantic City Project and the Old Dominion Project, known as Project Two.

47. Even before Project Two began, Schools in the Project One area were either constructed or repurposed as schools for use by Black students only. For example, Ruffner Junior High School was converted from a Whites only school to a Blacks only school. AGLE REPORT, at 37. Ruffner Junior High School is located across from Tidewater Gardens.

48. Through both the Atlantic City Project and the Old Dominion Project, undertaken at then-Mayor Duckworth's behest, he and the NRHA acted to simultaneously eliminate racially mixed areas of Norfolk and re-designate public schools from White to Black and as a result, destroyed residential Black communities without building replacement housing.

49. When Atlantic City was slated for demolition, it was an integrated neighborhood with Black students living closer to the white Patrick Henry Elementary School than to any other school. In anticipation of the mandatory integration of Patrick Henry Elementary School, the NRHA demolished Atlantic City, and the City closed the school. The project was publicly announced on December 7, 1956, just after discovery was concluding in *Beckett v. School Bd. of City of Norfolk*, a suit filed by the N.A.A.C.P. to require integration in Norfolk's public schools. *Beckett v. School Bd. of City of Norfolk*, 185 F. Supp 459 (E.D. Va. 1959). Demolition of the

neighborhood began in the summer of 1957. Thirteen of the original plaintiffs in *Beckett* lived in Atlantic City, and their claims were rendered moot by the demolition.

50. The geographic proximity of sections of the Black neighborhood of Lambert's Point also threatened the white Larchmont School and Madison Elementary School with court-ordered integration. The Old Dominion project cleared those sections of land and deeded that land to Old Dominion University for its campus. As a result, enough distance was created between Black Lambert's Point and the white Larchmont School and Madison Elementary School that the Black students in what remained of Lambert's Point after the Old Dominion project were geographically closer to the Black Smallwood Elementary School. Six of the original *Beckett* plaintiffs lived in Lambert's Point, and their claims were rendered moot by its demolition.

51. At the same time that the NRHA and the City were destroying Black homes and neighborhoods in Atlantic City and Lambert's Point, they annexed an area called Broad Creek and demolished Board Creek Village, which consisted of wartime defense housing occupied by Black families.

52. In sum, during the 1950's and 1960's, the City and the NRHA used governmental power to enforce both residential and school segregation and to displace residents of the city's Black community.

D. 1961-1974 – The Clearance of East Ghent and the Massive Displacement of a Black Community.

53. Ghent was a planned neighborhood in Norfolk, built in 1890 by John Graham, Jr. and the Norfolk Company, and expanded in the late 1890's into what was known as East Ghent. Over time Historic Ghent and West Ghent remained white while East Ghent transitioned into a

Black community. East Ghent is defined as the area bound by Olney Road on the South, Colonial Avenue on the West, Granby Street on the East, and 21st Street on the North.

54. By 1961, East Ghent was a predominantly Black neighborhood and was being characterized by City officials as blighted and a threat to the rest of Ghent. In response, the City and the NRHA developed a “conservation plan” that included a program of rezoning and strict housing code enforcement.

55. With the advent of HUD’s Model Cities Program, the NRHA, the City, and HUD partnered to clear East Ghent completely and rebuild, bulldozing the entirety of East Ghent by 1974. But the replacement housing, called Ghent Square, was all high-end housing with the exception of the John Knox Towers, a subsidized high rise reserved exclusively for the elderly.

56. Black residents of East Ghent were promised a right to return by the City and the NRHA, but the City and the NRHA broke that promise when they built virtually no low-income replacement housing.

57. In sum, the redevelopment of East Ghent changed the neighborhood from a predominately low income Black community to a high income white community. Although the City kept no records of where the Black residents of East Ghent ended up, anecdotal evidence indicates that virtually all moved to segregated, low income areas of the city or out of the city altogether.

E. **2000-2018 – Recent Redevelopment in Norfolk Has Also Had Discriminatory Impact and Effect on Norfolk’s Low-Income Black Community’s Access to Subsidized Housing**

58. Originally developed as defense housing for African Americans during World War II, Roberts Park, later renamed Roberts Village, was a 418-unit public housing community

owned and operated by the NRHA in what is now Broad Creek. It is located in a historically Black section of Norfolk adjacent to Norfolk State University.

59. Bowling Green, a public housing project of approximately 349 units, was also located in the Broad Creek area.

60. Both Roberts Village and Bowling Green were located in Census Tracts 43 and 44, which in the 2000 Census, were 96.4% and 98.2% Black.

61. The NRHA sought and obtained a Housing Opportunities for People Everywhere (“HOPE VI,” explained in more detail below) grant from HUD, pursuant to which the NRHA proposed to demolish 767 units of public housing, Roberts Village and Bowling Green collectively, and replace those units with 400 low income rental units.

62. By 2008, the NRHA reduced the number of low-income units being built by 46, for a total number of 354 low income units replacing what was once 767 units of low income public housing.

63. Rather than build more low income units, the NRHA returned \$1 million of the HOPE VI grant to HUD. The NRHA’s then-Chairman of its Board of Commissioners, Sheppard Miller III, stated of the decision to reduce the number of low-income units being built, “[w]e did that willingly and purposefully...” The vote by the NRHA Board of Commissioners to reduce the number of low income units being built in Broad Creek as replacement housing was split along racial lines, with its Black board members voting against the reduction of units. Editorial, *NRHA Took the Easy Way Out in Broad Creek*, VIRGINIAN-PILOT, March 24, 2008.

64. 246 families received vouchers when Bowling Green and Roberts Village were demolished under NRHA’s Hope VI grant. By 2016, only 81 (or less one-third) of those families remained in the Housing Choice Voucher program or had successfully returned to the

redeveloped Broad Creek. NRHA DOCUMENT, BOWLING AND ROBERTS OUTCOMES FOR THOSE WHO RECEIVED HCV 2004-2006 (2016).

65. Moton Circle was a 138-unit public housing project adjacent to Broad Creek (the former site of Bowling Green and Roberts Village). It was demolished in 2011 pursuant to a Section 18 application approved by HUD with the NRHA stating it planned to redevelop the area into a mixed-income community. Under HUD regulations, a public housing authority must submit an application for HUD approval of the demolition or disposition of public housing units to ensure that demolition or disposition would comply with Section 18(f) of the U.S. Housing Act of 1937. The Moton Circle site was never redeveloped, with only 50 replacement units built by the NRHA off-site. The NRHA currently has plans to sell the land to a private developer for market-rate housing that would be inaccessible to displaced former public housing residents. NRHA APPROVED PUBLIC HOUSING AUTHORITY PLAN 2019 21 (2019).

66. Thus, between 2000-2018, the NRHA, with HUD's approval, significantly reduced the supply of public housing units through a combination of projects funded by HOPE VI and through demolition applications approved by HUD.

III. HUD's Creation of Federal Programs to Address Severely Distressed Public Housing and Breaking Patterns of Housing Segregation in the U.S.

A. Hope VI and its Failures

67. In 1992, Congress approved HUD's HOPE VI program with the stated purpose of transforming severely distressed public housing.

68. In many places, including Norfolk, HOPE VI enabled gentrification through the guise of redevelopment and led to the permanent displacement of tens of thousands of disproportionately Black low-income households.

69. Demolition funded by grants under HOPE VI led to a substantial net loss of affordable housing because the program did not require one-for-one unit replacement when pre-existing public housing was demolished. Public housing authorities were encouraged to offer vouchers to move families out of problematic public housing complexes without being required to replace each demolished unit with a newly constructed unit. Public housing authorities also did not adequately track former residents displaced by the HOPE VI-funded demolition, which meant that even as to the affordable units that were built, few households from demolished units ultimately returned.

70. Over the life of the program, there was a significant decrease in the number of available public housing units. Moreover, of the units that have been produced and occupied; only approximately 20% of such units have been occupied by original tenants at each development. Approximately 43,274 units of public housing were lost as a result of the HOPE VI program.

B. HUD's Creation of the Choice Neighborhoods Initiative to Address the Failures of HOPE VI

71. In 2009, HUD created the Choice Neighborhoods Initiative in response to the failures of HOPE VI. Congress first provided funding for the CNI program in that same year through the Consolidated Appropriations Act, 2010. Pub. L. 111-117, 123 Stat. 3034, 3081 (2009). Through that law, Congress required HUD to “develop and publish a Notice of Funding Availability for the allocation and use of such competitive funds in this [CNI] demonstration, including but not limited to eligible activities, program requirements, protections and services for affected residents, and performance metrics.” According to HUD's Notice of Funding Availability (“NOFA”), dated September 17, 2018 and under which HUD awarded funds for the demolition and redevelopment of Tidewater Gardens, the goals of the CNI are to leverage

“public and private dollars to support locally driven strategies that address struggling neighborhoods with distressed public . . . housing through a comprehensive approach to neighborhood transformation.” U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CHOICE NEIGHBORHOODS IMPLEMENTATION GRANT PROGRAM NOTICE OF FUNDING AVAILABILITY, FISCAL YEAR 2018 1 (2018). As set forth below, Norfolk and the NRHA applied for funding for its proposed redevelopment of the St. Paul’s Quadrant in response to this NOFA.

72. The CNI is not a poverty dispersal program. Rather it intends to transform target neighborhoods, bringing in retail, commercial and residential development, attracting higher income residents, and creating mixed-income neighborhoods with better schools and economic opportunity for the low income residents of the area while ensuring that any replacement housing constructed outside of the neighborhood broadens access to high opportunity areas which are not areas of concentration of people of color.

73. Consistent with that purpose, the CNI NOFA provides a “right of return” for tenants of the demolished units. The grantee is generally required to provide a one-for-one replacement of public housing units in properties that are redeveloped using CNI grant funds. Specifically, CNI requires a grantee to construct housing that provides for one-for-one replacement of demolished units (1) on-site in the target area or (2) up to 25 miles away from that area in places that have access to economic opportunities and public transportation; are accessible to social, recreational, educational, commercial, and health facilities and services and other municipal services and facilities comparable to those expected in the improved CNI neighborhood; and are not areas of minority concentration and/or areas with a poverty rate of over 40%. NOFA at 24. An area of minority concentration is one in which the percentage of racial or ethnic minorities is at least 20 percentage points higher than the minority population in

the Metropolitan Statistical Area as a whole. NOFA at 24-25. The Transformation Plan of the entity that receives CNI funds “must provide for the same number of bedrooms” as were occupied by residents of the redeveloped community. NOFA at 23-24. This means that a CNI grantee would not comply with the program’s one-for-one replacement by, for example, replacing 100 units that consist of 25 one-bedroom units, 25 two-bedroom units, 25 three-bedroom units, and 25 four-bedroom units with 100 one-bedroom units.

74. There is a narrow exception to this one-to-one hard unit replacement requirement, which allows the limited use of portable, tenant-based Housing Choice Vouchers in place of physical unit replacement where approved by HUD. Tenant-based Housing Choice Vouchers can be used as replacement housing for up to half of the public housing units that are demolished in housing markets where there is an adequate supply of affordable rental housing to voucher holders in areas of low poverty. NOFA at 25-26.

75. For this exception to apply, however, the area of the CNI-funded development must be (i) in a county with a currently and historically soft (high vacancy) rental housing market for low income renters and (ii) located in an area where housing vouchers currently in use are primarily in low poverty neighborhoods that have a twenty percent poverty rate (or extremely low income rate) or less. NOFA at 25-26.

76. The types of vouchers that might be used in connection with a CNI funded development are the following: 1) Portable, tenant-based Housing Choice Vouchers, which allow the voucher holder to rent an available apartment from a private landlord with HUD making up the difference between 30% of the eligible individual’s monthly adjusted gross income and the lease rate so long as that lease rate meets HUD’s payment standards and the unit passes a Housing Quality Standards inspection; 2) Project-Based Vouchers, which are connected to

particular physical units via a long term contract between a housing authority and a landlord; and

3) Tenant Protection Vouchers, which are allocated by HUD in response to a particular event such as the demolition of a particular public housing project such as Tidewater Gardens. Tenant Protection Vouchers give the resident the right to occupy a designated replacement unit in a redeveloped project such as one of the 221 units currently planned as replacement units for Tidewater Gardens. They also give voucher holders the right to go to the top of the list for public housing vacancies. While awaiting the completion of replacement units, Tenant Protection Vouchers function similarly to Housing Choice Vouchers. It is important to understand that Housing Choice and Project-Based Vouchers are intended to give residents in the CNI area housing choices roughly equivalent to the replacement housing they would have in the new, redeveloped CNI area. That has not happened here.

77. As documented in more detail below, each of the types of vouchers, all of them a type of Section 8 voucher, have significant disadvantages in contrast to the provision of hard units of replacement housing, particularly as connected to the St. Paul's Redevelopment. First, for all Tidewater Gardens residents (HUD has reportedly just issued 80 Tenant Protection Vouchers to the NRHA, and issued those vouchers subsequent to the move-out of 107 households have left Tidewater Gardens since the announcement of the CNI grant), there are only 221 replacement units planned in the St. Paul's redevelopment project. Thus, no more than approximately than 1/3 of the households residing in Tidewater Gardens would be able to exercise a right to return to the developed property. Second, Housing Choice and Tenant Protection Vouchers are only useful if a tenant can find a landlord willing to rent a vacant apartment that is appropriate both in terms of bedroom size and accessibility for a household with a disabled member. Finally, a Project-Based Voucher is attached to a specific unit that is

vacant and available. Further, in Norfolk, as is shown in more detail below, Project-Based Vouchers are concentrated in areas that are already highly segregated and have high levels of poverty. Similarly, few opportunities exist to use Housing Choice Vouchers outside of such areas. Just as important, Norfolk is by no means a “soft” market for affordable housing, particularly for people that are extremely or very low income. There are few vacancies in public housing, few vacancies in units assisted with Project-Based Vouchers, and few vacancies in properties that accept Housing Choice Vouchers. There are even fewer such vacancies for Tidewater households with a disabled family member.

IV. The St. Paul’s Redevelopment Plan Will Not Serve its Intended Purpose and Will Only Perpetuate and Exacerbate Housing Segregation in Norfolk to the Detriment of Both the Black Residents of the St. Paul’s Quadrant and Other Black Residents of the City in Need of Affordable Housing

78. In January 2018, the City passed a resolution authorizing the NRHA to redevelop the St. Paul’s Quadrant. By that September, the City and the NRHA jointly applied to HUD for the Grant advertised in HUD’s NOFA. The Redevelopment Plan called for the demolition of all three public housing communities in the Quadrant—1,674 units of affordable housing in all.

79. In May 2019, the NRHA received a \$30 million CNI Grant to demolish and begin redeveloping Tidewater Gardens, the first of the three public housing communities in the St. Paul’s Quadrant that the City and the NRHA plan to demolish as part of the St. Paul’s Quadrant Redevelopment Plan.

80. The redevelopment of the St. Paul’s Quadrant presents significant economic opportunities for the City and potentially for residents of the area, including the St. Paul’s Public Housing residents currently located there, but only if those residents are protected from displacement. Despite being adjacent to the revitalized downtown area of the City, much of the Quadrant is under-developed and utilized for parking lots. And while the residential sections of

the Quadrant are currently highly segregated and very poor, because of its location near downtown, its residents still benefit from access to jobs and transportation that do not exist in other segregated sections of the city. In sum, the St. Paul's Quadrant has the potential to be developed as a vibrant mixed-income community while still providing affordable housing for its more than four thousand current residents. The City and the NRHA continue to ignore this potential as they move forward with the Redevelopment Plan.

81. The Tidewater Gardens grant agreement with HUD provides that "Choice Neighborhoods ensures that current residents benefit from [neighborhood] transformation by preserving affordable housing in the neighborhood or providing the choice to move to affordable housing in another neighborhood of opportunity." FY2018 CHOICE NEIGHBORHOODS IMPLEMENTATION GRANT AGREEMENT 3 (2019). As shown below, unless, the St. Paul's Redevelopment Project is substantially reconfigured, that statement is patently false.

A. Failure to Produce Adequate Replacement Housing

82. As described above, a key requirement of the CNI program is the one-for-one replacement of demolished units.

83. The NRHA is also receiving \$1,500,000.00 in Community Development Block Grant (CDBG) funds from the City of Norfolk as set forth in the CNI Implementation Grant. Federal law also requires one-for-one unit replacement when receiving funding from the federal CDBG program. 24 CFR § 42.375; 42 U.S.C. § 5304(d) (2004).

84. As stated in Paragraphs 73-77 above, off-site housing can only count as replacement housing under HUD rules if it is located in neighborhoods that provide economic, transportation, education, and other social opportunities and are not areas of minority

concentration or that are high poverty. In short, the off-site neighborhoods must be comparable to the newly redeveloped target area. CNI Grant at 12, ¶ O.3.

85. The CNI Grant requires the Grantee to “provide suitable, decent, safe, and sanitary housing for each family required to relocate because of transformation activities under the Transformation Plan.” *Id.* at 8, ¶ J.1.

86. The Grant provides that every tenant who wishes to return to the on-site or off-site replacement housing may return if the tenant was lease-compliant at the time of departure from the housing prior to relocation and continued to remain lease-compliant during the relocation period. A returning tenant shall be provided a preference for occupancy of on-site or off-site replacement units before such units are made available to any other eligible households. Accordingly, the City and the NRHA’s Redevelopment Plan must provide an adequate number of replacement units for residents displaced by the demolition. Tenants also have the option not to occupy a replacement unit and may retain tenant-based voucher assistance provided under section 8(o) of the United States Housing Act of 1937 for relocation from the properties revitalized under the CNI Grant. 42 U.S.C § 1437f.

87. Despite the one-for-one replacement requirement, the latest proposal for a mixed-income development to replace Tidewater Gardens will have 710 new units, including unsubsidized market-rate units, with only 221 replacement units on-site to replace the 618 public housing units that must be replaced under the terms of the NOFA.

88. Norfolk has stated that when all 1,674 units in the public housing communities will have been demolished, only 600 units will be replaced on site, requiring the City and the NRHA, according to their Norfolk Multifamily Absorption Study, to “address the balance of those households’ needs with vouchers.” REAL PROPERTY RESEARCH GROUP, NORFOLK

MULTIFAMILY ABSORPTION STUDY v. (2017). Despite the fact that a total of 1,800-2,200 units will be built in the St. Paul’s Quadrant, all but 600 units are currently planned to be rented at either market or other monthly lease rates beyond the means of the current occupants of the public housing communities. This represents a significant reduction from the more than 1,674 affordable housing units currently comprising the St. Paul’s Public Housing, which are all slated for demolition.

89. The Defendants have no plan to complete construction of any replacement housing for the majority of Tidewater Gardens residents before they are displaced. Tidewater Gardens has been divided into four phases for the purposes of demolition. NRHA will demolish 187 units in Phase I of the Plan, 262 units in Phase II, 116 units in Phase III, and 53 units in Phase IV. And in each phase, every tenant is slated to be displaced. The earliest construction of replacement units will not be completed and leased up before the fall of 2022, and, even then, only 94 replacement units are scheduled to be available by this date. With respect to the 187 households in Phase I, according to the NRHA, it began sending notices to vacate within 180 days in November and expects to be finished with what are effectively evictions by March 2020.

90. In their CNI application, the City and the NRHA reported that Tidewater Gardens had 610 occupied units. The breakdown of units is as follows:

	1-Bed	2-Bed	3-Bed	4-Bed	5-Bed	Total
Occupied Units	98	273	174	64	1	610

91. But as to bedroom breakdown, despite HUD’s one-to-one requirement, according to an October 31, 2019 PowerPoint presentation provided by the NRHA in response to a FOIA request and containing different unit counts from those in the Redevelopment Plan, of the 710 total units planned for the CNI area (which includes the 221 replacement units and the rest either

“affordable” but not for current Tidewater Gardens residents or market rate units), only 175 are planned as three or four-bedroom units, just 63 of which will be replacement public housing units. Tidewater Garden currently contains 239 three to five bedroom units. Thus, if allowed to go forward, Defendants will create a shortfall of 176 public housing units for large families.

92. That shortfall will not be made up by available units outside the CNI area. According to HUD’s “Assisted Housing: Nation and Local, Picture of Subsidized Households,” more than 1/3 of Norfolk’s subsidized households were in units of 3 or more bedrooms. And the availability rate in Norfolk for families requiring 2 or more bedrooms was 0.5% (38 units in the entire city).

93. For residents who desire to return to the new housing in the CNI, the Housing Plan for the CNI is not in compliance with the “one-for-one” replacement requirement.

94. The City and the NRHA claim that the reason for the limited number of replacement units in the development site is in part “a predominant desire by residents to receive a voucher for permanent relocation...” U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, CHOICE NEIGHBORHOODS IMPLEMENTATION GRANT Att. 32 1 (2018). That “desire” if it exists at all, is based on Defendants providing incomplete and misleading information to tenants about their options and the Redevelopment Plan. And as shown in Paragraphs 131-137 below, although approving the plan for the CNI, even HUD has questioned whether the City and the NRHA have properly gauged the interest in residents to return.

B. Vouchers Will Perpetuate and Exacerbate Segregation in Norfolk

95. For those Tidewater Gardens residents who are displaced and not able to obtain one of the 221 units of on-site replacement housing currently planned by NRHA, the NRHA has stated that Tidewater Gardens residents will be eligible for one of 309 Housing Choice Vouchers

or 88 units assisted with Project-Based Vouchers to be developed at some undisclosed location(s) at some future date as yet unnamed. In the meantime, the City and the NRHA would force displaced tenants to use Housing Choice Vouchers to secure whatever housing they can find on the limited market in Norfolk or outside the city.

96. Pursuant to HUD's NOFA, "[t]o satisfy the housing replacement requirement through acquisition, the replacement unit must not already be public or assisted housing prior to submitting the application." NOFA at 10. The purpose of this requirement is to avoid a net reduction in the availability of subsidized units.

97. Yet the only project-based vouchers that Defendants have identified to date for Tidewater Gardens residents are 13 Project-Based Vouchers at the St. Paul's Apartments, located at 531 Posey Lane, Norfolk, Virginia 23510. St. Paul's Apartments is a mixed-income rental community of 126 units.

98. These attempts to fit the Redevelopment Plan into exceptions to the one-for-one replacement requirement are totally inadequate and violate HUD policies because there is not enough affordable housing in the city or the broader region to allow use of the vouchers in areas of higher opportunity. Many of the rental units in the city, particularly those that are affordable, are in predominantly Black neighborhoods and thus are unacceptable for replacement housing under HUD's requirements under the CNI program. Residents of Tidewater Gardens will be forced into highly segregated, often also high poverty, areas either within Norfolk or outside of the city altogether.

99. In fact, during a January meeting of the St. Paul Advisory Board, John Kownack, Executive Director of the NRHA, admitted, "[w]e know there is a shortage of affordable and acceptable housing in Norfolk and the region." Murphy, Ryan, *Residents Want More Homes to*

Replace Demolished Norfolk Public Housing. Here's Why That's Unlikely, VIRGINIAN-PILOT, March 1, 2019. Mr. Kownack's words understate the problem. In fact, he also stated that the vacancy rate for units that are affordable to voucher holders in Norfolk is less than 1%. And a 2017 "absorption study" prepared for the NRHA found a vacancy rate for subsidized housing of .5%. Upon information and belief, the rental vacancy rate has not increased since Mr. Kownack made his statement about vacancy rate in Norfolk. In their own CNI application, the NRHA and the City represented that the vacancy rate in Norfolk was 3.53%. CNI Application at Att. 6. A vacancy rate at that level is too low for Norfolk to qualify as part of a loose rental market. NOFA at 25.

100. And, if it is difficult to find market rate housing in the current market, it is next to impossible for those that need government assistance to find affordable rental housing. In fact, in its 2016 Affordable Housing Study, the NRHA acknowledged that the shortage of affordable housing, particularly for very low income households, stating that the number of such units was "insufficient for Norfolk's population." HR&A ADVISORS, NORFOLK AFFORDABLE HOUSING STUDY 50 (2016).

101. Although Tidewater Gardens residents will be prioritized on the NRHA's Housing Choice Voucher waiting list, a list that was recently expanded by 11,279 applicants to almost 13,000 households, and a list that is predominantly Black and extremely low income, that means that displaced residents will have to find housing that will accept such vouchers. Additionally, the disproportionately Black households that are currently on the waiting list for these vouchers will have to wait much longer to get assistance.

102. Finding housing in high opportunity areas with Housing Choice Vouchers is unlikely. As a practical matter, Housing Choice Vouchers are accepted either in communities

that were financed using tax incentives under the Low Income Housing Tax Credit (LIHTC) program which are required by law to accept Section 8 vouchers, most of which are in segregated areas of the city, or, given the dearth of LIHTC communities in Norfolk with vacancies, in already deteriorating, segregated, high poverty communities inside and outside Norfolk where the landlord will accept such vouchers. Indeed, while the City and the NRHA have stated that one of the goals of the redevelopment is to “[i]mprove outcomes of households living in the target housing related to employment and income, health, and children education,” at least one member of the Advisory Board has admitted that it is “not realistic” to believe that all of the current residents from the St. Paul’s Public Housing will be able to stay in Norfolk. Murphy, Ryan, *Residents Want More Homes to Replace Demolished Norfolk Public Housing. Here’s Why That’s Unlikely*, VIRGINIAN-PILOT, March 1, 2019. (“Angelia Williams Graves, the councilwoman who co-chairs the advisory board, said recently that it’s not realistic that all 4,200 St. Paul’s residents will be able to stay in Norfolk.”).

103. Studies demonstrate that, in the absence of policy interventions that are not in place in Norfolk, people who must use Housing Choice Vouchers to find affordable housing are almost always unable to move into “high opportunity neighborhoods” and are left to search for housing in equally or even more segregated and poorer neighborhoods from where they lived. Murphy, Ryan, *Residents Want More Homes to Replace Demolished Norfolk Public Housing. Here’s Why That’s Unlikely*, VIRGINIAN-PILOT, March 1, 2019; MAZZARA, ALICIA AND KNUDSEN, BRIAN, *WHERE FAMILIES WITH CHILDREN USE HOUSING VOUCHERS*, CENTER ON BUDGET AND POLICY PRIORITIES (Jan. 3, 2019). According to HUD, high opportunity neighborhoods are ones characterized by access to proficient schools, frequent and low-cost public transportation, employment, environmental health, and low poverty concentration. This

problem is particularly acute in Virginia, where there are no source of income non-discrimination protections for renters, meaning landlords can legally refuse to rent to people with vouchers. In fact, one City Council Member who is a Member of the Mayor's St. Paul's Advisory Committee said that "some neighborhoods may be developing efforts to minimize the relocations into their neighborhoods which may impact where people can go." Another Advisory Committee Member said that he had heard that other neighborhoods have said that "we don't want them in our neighborhood." *Mayor's St. Paul's Advisory Committee Minutes*, June 18, 2018. As a result, when people are actually able to find affordable housing in Norfolk, they are located "almost exclusively in high poverty areas" as reflected in HUD data on where Housing Choice Vouchers are used in the city. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AFFIRMATIVELY FURTHERING FAIR HOUSING, NORFOLK, VA (2019), <https://egis.hud.gov/affht/>.

104. Indeed, residents of Tidewater Gardens whom the NRHA told that they must leave have been unable to find housing in any but segregated areas of the city, with high poverty rates and often with fewer services available than in the St. Paul's Quadrant, including public transportation. For example, in response to a Freedom of Information Act request by counsel for Plaintiffs, the NRHA reported that since January and through October 2019, 78 households have left Tidewater Gardens. Two of those households were reported as deceased, and another 18 were reported as "unknown/ported out," meaning the NRHA is not even keeping adequate track of those residents that left Tidewater Gardens. But of the 48 households for which the NRHA had information, 42 went to housing areas of high minority concentration (more than 50% and usually 80 or 90% Black). Moreover, 15 ended up in areas where the poverty rate exceeded 40%.

105. The difficulty of finding housing using Housing Choice Vouchers is again illustrated by the experience of Tidewater Gardens residents told that they must move. According to information provided by the NRHA, again in response to a Freedom of Information Act request by counsel for Plaintiffs, as of the date of the response, November 19, 2019, 56 Housing Choice Vouchers had been issued to households residing in Tidewater Gardens. Those Housing Choice Vouchers allow 90 days to find new housing, after which a 30 day extension must be requested. The NRHA has the discretion to grant or deny initial extension requests. Additional 30 day extensions are also available at the discretion of the NRHA. Of the 21 vouchers that had passed the 90 day limit at the date that the NRHA provided this information (November 19, 2019), six households had to request an extension, and four had requested a second extension.

106. Despite these difficulties, Tidewater Gardens residents told to move in the face of threatened demolition have increasingly vacated their apartments starting in the late summer and through the fall of this year. Vacancies ranged from two to eight through July, then went to twenty in August, fifteen in September, and fourteen in October, the last month for which the NRHA has provided information.

107. The Redevelopment Plan's segregative impact is illustrated by a Housing Choice Survey that went to residents of Tidewater Gardens and was produced on November 19, 2019 in response to a FOIA request by counsel for Plaintiffs. In that survey, the NRHA listed the choices for Tidewater residents: Option 1, three named public housing communities including Young Terrace and Calvert Square as well as a third development, Oakleaf Terrace, who residents are 94% Black; Option 2, NRHA Project-Based Vouchers in five named communities; Option 3, four named "NRHA midrise communities," all limited to seniors; and Option 4 a

Tenant Protection Voucher (Housing Choice Voucher). Residents were required to check off which of these options they selected. Every one of the communities available through the first three options are in areas of high minority concentration and at least 80% minority. Households that use Tenant Protection Vouchers or Housing Choice Vouchers are also unlikely to be able to access housing outside of areas of high minority concentration. According to the 2013-2017 American Community Survey, of the ten census tracts in which these 12 developments are located, only one has a poverty rate of less than 20%, and only two have poverty rates of less than 30%.

108. Prioritizing former Tidewater Gardens residents for Project-Based Voucher units will perpetuate housing instability and cost burden among households who do not live in the St. Paul's Quadrant and are on the waiting list for vouchers. About 1,388 households are on the waiting list for Project-Based Vouchers, and those households are 85.1% Black with some 70% that are classified as extremely low income. Further, Project-Based Voucher units are almost always in segregated, high poverty areas of the city with numerous disadvantages, including poor housing, transportation, and educational opportunities.

109. Finally, to the extent that the City and the NRHA rely upon displaced residents of Tidewater Gardens, Young Terrace, and Calvert Square seeking to move into public housing, they will perpetuate the same issues. There are 1,084 households on NRHA's waiting list for public housing units. These households are 87.6% Black. The average waiting time for public housing units is 583 days (nearly 1.6 years). Almost all of those on the public housing waiting list qualify as extremely low-income.

110. The NRHA owns 17 public housing communities in the city, five of which are privately managed. All but one of these communities are located in highly segregated, high

poverty areas. This is the result of Defendants' long history of intentional segregative siting of public housing in the city.

111. The NRHA also manages Rental Assistance Demonstration ("RAD") units, former public housing units that have been refurbished through HUD's RAD program. There are almost 1,500 households on NRHA's RAD waiting list, with an average waiting time of three-fourths of a year. Again, approximately 90% of those on the RAD waiting list are Black, and almost 80% are extremely low-income. For the most part, these units are also located in highly segregated, high poverty areas of the city as a result of the NRHA and the City's history of intentional segregation.

112. The waiting lists described above are constrained even further by the fact that, at times, one or more of them will be closed by the NRHA whenever the NRHA concludes that there are more people on the waiting list than can be accommodated in the near future.

113. Further, at its October 2019 Board of Commissioners meeting, the NRHA reported that it intends to demolish rather than rehabilitate another 100 units in Diggs Town, a public housing community located at 1619 Vernon Drive located in the Campostella section of Norfolk. That is in addition to another 100 units already slated to be demolished for a total of 200 units soon to be demolished. None of these units are to be replaced. Diggs Town is currently occupied by 422 households, 98.0% of whom are Black. The demolition of Diggs Town will further reduce affordable housing in Norfolk.

114. Prioritizing Tidewater Gardens residents on waiting lists for public housing, Housing Choice Vouchers, Project-Based Voucher units, and RAD units will have the effect of de-prioritizing those already on those waiting lists. Wait times for these lists, populated almost

totally by African American residents of the city in need of decent housing, will therefore increase without additional affordable housing units built.

115. Putting aside issues of racial and source of income discrimination, the private rental market will not make up for the serious lack of government assisted housing and address the needs of households on the various waiting lists. According to the Zillow Rent Index, the average rent for market rate housing in Norfolk requires an income more than three times then the rent affordable (less than 30% of income) to those on NRHA's Housing Choice Voucher waiting list.

116. In sum, thousands of Black residents of Norfolk, both residents of the St. Paul's Quadrant and those in other segregated areas of the city on various waiting lists, will have dramatically fewer housing opportunities in the city as a result of the City and the NRHA's plans. And even if the displaced residents of the St. Paul's Public Housing could find a way to stay in Norfolk, the St. Paul's Redevelopment Plan will perpetuate or exacerbate segregation in Norfolk. As shown above, almost all available, affordable housing is in highly segregated, high poverty areas of the city.

C. The NRHA Forces Relocation By Allowing Tidewater Gardens to Dangerously Degrade

117. Further, the NRHA is creating an impetus for relocation by allowing Tidewater Gardens to dangerously degrade while awaiting demolition. Indeed, HUD's own inspection reports reveal the significant degradation of the physical infrastructure of Tidewater Gardens. HUD's Real Estate Assessment Center completes an inspection of public housing communities that HUD finances, typically every two years. The highest score is 100 while below 60 is considered to be a failing grade. When Tidewater Gardens was inspected in 2016, it received an 88c (the c is given where one or more life threatening health and safety deficiencies are found).

118. HUD's May 2018 inspection revealed serious deficiencies in NRHA's maintenance of Tidewater Garden, and it received a failing grade of 50c. HUD inspected only a sampling of units (26 out of 617) but found 57 health and safety deficiencies in their sample of units inspected. HUD's REAC report concluded that it "projected that 1,089 health and safety deficiencies would apply" if it inspected all of the units in Tidewater Gardens.

119. Further, the inspection found eight instances of life-threatening deficiencies, which it projected to 114 such instances if all units had been inspected. Deficiencies included accessibility issues, tripping hazards, lead hazards, damaged or missing doors, peeling paint, damaged plumbing, blocked storm drainage, and rampant mold and mildew, a well-known cause of childhood asthma. The combination of peeling paint and lead hazards is correlated with learning disabilities and other serious negative health outcomes for children.

120. This marked a serious and rapid decline in physical conditions at Tidewater Gardens in a short period of time.

121. Further, residents have reported toilets that do not work and raw sewage flowing into the ground and groundwater in the common areas where children walk and play.

122. In the meantime, residents are struggling to find housing and those that have, have found housing in either highly segregated, high poverty areas in Norfolk or out of the city altogether.

D. Like So Many Times Before, the NRHA with City and HUD Approval, has Implemented an Unlawful, Discriminatory "Urban Renewal" Plan

123. In summary, the Redevelopment Plan will adversely impact both the residents of the St. Paul's Quadrant and those outside this area who are currently residents of the city in need of affordable housing in Norfolk, both groups being predominantly Black.

124. Defendants' Redevelopment Plan will result in a net loss of some 1,100 public housing units in Norfolk.

125. As a result of Defendants' Redevelopment Plan, the more than 4,200 residents of Tidewater Gardens, Young Terrace, and Calvert Square (almost all of whom are Black) will be displaced from their homes, all but a small minority with little hope of being able to live in integrated housing in Norfolk. Their homes will be demolished, and they will be forced to look for housing in a city where affordable housing is extremely hard to find, especially in neighborhoods of high opportunity as HUD requires.

126. While the Redevelopment Plan claims deconcentrating poverty as one of its main goals, it will as constituted likely force the current residents of the St. Paul's Public Housing to move into similarly segregated areas within the city or out of the city completely. Displaced residents will lose access to an area of the city that is located near Norfolk's predominantly white areas, including downtown and the Arts District.

127. And for those in need of affordable housing already living in the city but outside the St. Paul's Quadrant and on waiting lists for public housing and federal vouchers, again a group that is predominantly Black, they will suffer the consequences of drastically reduced affordable housing opportunities.

V. The July 2019 HUD Site Visit

128. As stated, the NRHA's grant agreement with HUD requires that the Redevelopment Plan preserve affordable housing in the transformed St. Paul's Quadrant neighborhood and provide residents of that neighborhood the choice to move to neighborhoods of opportunity. It does not permit a resident dispersal program or to put it bluntly, a mechanism to move poor, Black residents out of a neighborhood to make way for gentrification. But

dispersal is exactly what the NRHA and the City's Redevelopment Plan will accomplish; the Plan disperses the residents of these three public housing communities into segregated parts of the city and, due to the dearth of affordable housing in Norfolk, out of the city altogether. To date, HUD has approved and agreed to finance this plan despite the fact that it has recognized that the plan does not meet its requirements and will perpetuate segregation. HUD has not required the NRHA and the City to correct these issues.

129. On July 16-17, 2019, staff from HUD conducted a site visit in connection with the Grant and "the transformation of Tidewater Gardens and the surrounding St. Paul's Area," meeting with the City and the NRHA, among others involved in the St. Paul's Redevelopment Plan.

130. On October 2, 2019, it provided a report summarizing its findings. HUD acknowledged "the community's vocal response to this redevelopment effort" and urged the City to employ a communications plan that focuses on transparency and resident engagement. *Letter from Mindy Turbov, Director, Choice Neighborhoods Program, to John Kownack and Doug Smith* 3 (October 2, 2019).

131. HUD reminded the City and the NRHA that "in accordance with section III.E.2.a of the NOFA, Housing Opportunities for Returning Tenants, 'Grantees must provide each tenant who occupies a unit at the target housing under a valid lease or occupancy on the date the of grant award the opportunity to return to a replacement unit if the tenant was lease-compliant at the time of departure from the housing prior to relocation and continued to remain lease-compliant during the relocation period...'" *Id.* at 4.

132. HUD also articulated its concerns with how the City and the NRHA were planning to satisfy this obligation through the use of 309 Housing Choice Vouchers and 104

(now reduced to 88) Project-Based Voucher units through NRHA's existing Project-Based Voucher program. *Id.*

133. With respect to the 309 vouchers intended to discharge the one-to-one unit replacement, HUD indicated that the City and the NRHA would be obligated to provide "case management and mobility services" to these residents to support their permanent relocation. *Id.*

134. HUD also indicated that Project-Based Vouchers for 109 (now 88) units could count towards the City's required replacement units, if actually developed. The City and the NRHA would be responsible for developing them in order to "meet the Choice Neighborhoods replacement requirement." It further clarified that these units would need to be "in eligible Choice Neighborhoods replacement locations," meaning they had to be "mixed-income and located in areas of opportunity if outside of the St. Paul's Area." HUD further clarified that "[f]or these units to count toward the one-to-one unit replacement requirement, original Tidewater Gardens residents must be offered the first right of refusal to these housing units." *Id.* at 5.

135. HUD also specifically questioned why "the reduction of onsite units attributable to the flood plain issues" was so significant and encouraged the City, the NRHA, and its team to "not only consider the feasibility of increasing the total number of replacement units to address community concerns, but also consider if the Tidewater Gardens site or Transit Center site could successfully amass additional units." *Id.*

136. Additionally, HUD raised concerns with the plans for relocating residents during the early years of the Grant. It noted the City and the NRHA's plans to begin the first phase of relocation "within the year" and expressed concern "that this timeline will not enable your team to establish and provide the appropriate supports needed to ensure residents succeed with their tenant-based vouchers and the relocation process." It recognized based on past experiences with

other grantees, that “[t]his process has traditionally taken a year or more.” *Id.* at 6. HUD then specifically encouraged the City and the NRHA to “consider slowing the timeline for Tidewater Gardens resident relocation, to ensure the necessary supports and services are in place for residents to succeed in using their HCVs and, when desired, in relocating to neighborhoods of opportunity.” *Id.* at 7.

137. HUD also made clear that all changes to the Redevelopment Plan are subject to HUD approval, including changes to “the number of housing units to be developed, unit mix, site location, design, or any other changes that materially affect the Transformation Plan.” *Id.* at 5.

138. Despite these warnings from HUD, the City and the NRHA, as of the date of the filing of this Complaint, have not taken steps to ensure adequate replacement housing and have continued to pressure residents to leave.

139. Further, as of the date of the filing of this Complaint, HUD has not required the City and the NRHA to guarantee adequate replacement housing for the residents of Tidewater Gardens.

140. Additionally, as of the date of the filing of this Complaint, Tidewater Gardens residents who have received Housing Choice Vouchers to facilitate their relocations have not received meaningful mobility counseling services from the NRHA, the City, or any of their contractors to assist them in utilizing their vouchers in higher opportunity areas.

141. Thus, once again Norfolk has repeated its long history of evicting public housing residents with insufficient replacement housing, such that 1) most moved to segregated, substandard housing, 2) many moved to other jurisdictions, 3) most did not return to redeveloped property, and 4) there was a net loss in publicly-assisted affordable housing in the city.

VI. HUD's Failure to Consider the Disparate Impact of the Redevelopment Plan on Blacks as Well as Its Segregative Effect in its Decision to Fund the CNI Grant.

142. Pursuant to its July 27, 2019 Choice Neighborhoods Initiative Implementation Grant Agreement with the NRHA and the City (the "Grant Agreement"), HUD accepted the obligation of providing \$30 million in funds to the NRHA and the City to carry out the activities specified in a September 17, 2018 grant application submitted to HUD by the NRHA and the City.

143. 42 U.S.C. § 3608(e)(5) requires the Secretary of HUD to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies" of the Fair Housing Act. The administration of "programs and activities relating to housing and urban development" encompasses decision by HUD as to whether to award grant funds to public housing authorities and municipalities like the NRHA and the City.

144. In 24 C.F.R. § 5.152, HUD defined "affirmatively furthering fair housing," in relevant part, as "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws."

145. Pursuant to this obligation, HUD incorporated several provisions into the FY2018 Choice Neighborhoods Initiative Implementation Grant Notice of Funding Availability (the "NOFA"), which Congress required HUD to develop and publish, that, if enforced, have the

purpose and effect of ensuring that HUD complies with its own definition of its statutory obligation to affirmatively further fair housing.

146. As described above in Paragraphs 73-77, the NOFA contains requirements related to the one-for-one replacement of demolished public housing, the location of units of replacement housing, the circumstances under which a public housing authority can rely upon tenant-based Housing Choice Vouchers to relocate displaced households, and the right of displaced tenants to return to the redeveloped property. These requirements all have the purpose and effect of ensuring that grantees use HUD funds in a way that affirmatively furthers fair housing by increasing integration and access to opportunity while decreasing disparities in housing cost burden and other housing problems.

147. Additionally, the NOFA reiterates that grantees must affirmatively further fair housing.

148. Despite HUD's clear duty to affirmatively further fair housing and the manifold ways in which it designed the NOFA in order to restrict eligibility to grantees whose proposed projects would adhere to the duty to affirmatively furthering fair housing in both broad and very specific ways, HUD entered into the Grant Agreement with the full knowledge that what the NRHA and the City were proposing represented a 180° departure from the duty to affirmatively further fair housing.

149. First, as described above in Paragraphs 82-94, the NRHA and the City proposed a steep reduction from the current number of public housing units affordable to extremely low income households at Tidewater Gardens. This means that if the activities that HUD has committed to fund are carried out, there will be a net loss of 309 units of deeply subsidized housing thus significantly increasing housing instability for the almost exclusively African

American residents of Tidewater Gardens who would not be able to return to the redeveloped Tidewater Gardens and who would be reliant on tenant-based vouchers. This would also reduce housing options for the many low-income, disproportionately African American Norfolk residents who do not currently benefit from housing subsidies and are on waiting lists for various types of assistance.

150. Second, by entering into the Grant Agreement, HUD is funding the NRHA and the City's demolition of Tidewater Gardens despite the fact that their application does not plan for sufficient replacement housing in high opportunity areas within Norfolk where such housing would foster residential racial integration and increase access to opportunity for African Americans.

151. Third, both the rental vacancy rate and prevailing patterns of Housing Choice Voucher concentration as described in Paragraphs 95-116 above also show that the plan of the NRHA and the City to replace half of the units to be demolished at Tidewater Gardens with Housing Choice Vouchers is inconsistent with the NOFA. A predictable consequence of these facts is that displaced residents using Housing Choice Vouchers are almost certain to relocate to areas of minority and poverty concentration outside of the St. Paul's Quadrant.

152. These neighborhoods have similar concentrations of African American residents as well as similar poverty rates to those of the St. Paul's Quadrant but lack the St. Paul's Quadrant's proximity to areas of economic opportunity like Downtown Norfolk. Transportation and job access are both more limited in the neighborhoods, located both within Norfolk and in nearby cities in Hampton Roads, to which displaced residents are likely to move.

153. Through its execution of the Grant Agreement, HUD has committed itself to fund activities that will clearly and predictably perpetuate the segregation of African Americans in

Norfolk and the region in light of the lack of rental vacancies among properties with rents that are within Housing Choice Voucher payment standards and for which landlords will accept Housing Choice Vouchers.

154. Fourth, the plan of the NRHA and the City, as set forth in their application for grant funds, cannot possibly provide residents of Tidewater Gardens with a meaningful right to return to the redeveloped St. Paul's Quadrant, as required by the NOFA. If more than 221 of the households residing at Tidewater Gardens could assert their right to return to brand new housing in a vibrant neighborhood with better schools, transportation, and access to jobs, how many residents would not want to do so? Clearly, only a few. Two hundred and twenty-one replacement units are clearly insufficient.

155. The almost exclusively African American households who will be denied their right to return the redeveloped St. Paul's Quadrant will experience a disproportionate harm on the basis of their race.

156. HUD approved the application and entered into the Grant Agreement despite this fact.

157. Lastly, although HUD's duty to affirmatively further fair housing entails a requirement on HUD's part to analyze the effects of its program-related investments on issues like residential racial segregation, racial disparities in housing cost burden and homelessness, and racial disparities in access to opportunity and community amenities, there is no evidence to suggest that it did so and that it acted on the basis of that analysis prior to entering into the Grant Agreement.

158. Indeed, as described in Paragraphs 130-137 above, HUD's belated analysis, as reflected in HUD's October 2, 2019 letter to NRHA and the City summarizing the findings of its

July 16 and 17, 2019 site visit, illustrates the flaws of HUD's own prior decision to enter into the Grant Agreement.

159. With regard to the redevelopment of Tidewater Gardens through HUD's approval of the Choice Neighborhoods Initiative Implementation Grant, HUD has violated its statutory obligation to affirmatively further fair housing.

VII. THE DISCRIMINATORY EFFECTS OF THE ST. PAUL'S REDEVELOPMENT PLAN CAN BE AVOIDED BY USING A LESS DISCRIMINATORY ALTERNATIVE THAT WOULD ACCOMPLISH THE LEGITIMATE INTERESTS OF PROTECTING RESIDENTS FROM FLOOD ZONES

160. Plaintiffs do not oppose the redevelopment of the St. Paul's Quadrant which can and should be a vibrant, revitalized community. But that redevelopment should not take place on the backs of its Black residents.

161. As stated, the St. Paul's Quadrant consists of approximately 150 acres and the CNI itself 500 acres. There is enough room for the City and the NRHA to build housing to create a mixed-income community including all current residents of the Quadrant in the current public housing communities by simply building more and/or higher buildings. This would not require huge towers, only slightly larger and higher structures.

162. And to the extent that the City, which owns land throughout its boundaries, cannot accommodate all necessary replacement housing within the Quadrant, it should build new public housing in high opportunity areas rather than forcing people to live in highly segregated areas of the city.

163. It should also enact an inclusionary zoning ordinance so that all residential development throughout the city contains enough affordable housing for Norfolk's residents in need of such housing.

164. And rather than accepting a plan of Black segregation and removal, HUD must be ordered to require the City and the NRHA to take steps to affirmatively further fair housing as it is statutorily compelled to do.

165. Finally, the current plan of mass eviction and dispersal of every single resident of the public housing communities while new housing is being built, like the other aspects of the Redevelopment Plan previously addressed, has a disparate impact on the Black residents of the St. Paul's Quadrant and the City of Norfolk generally. The Redevelopment Plan can and should be modified so as to ensure that there are no evictions until either new housing is constructed or there is enough housing in areas of the city that are not areas of Black population concentration and high poverty to accommodate the evicted residents while new affordable housing is being built.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Against Defendants City of Norfolk and NRHA)

Violation of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §3604(a)

166. Plaintiffs repeat and reallege Paragraphs 1 through 165 as if set out here in full.

167. Defendants' Redevelopment Plan as described above will have a disproportionate adverse impact upon Blacks and therefore violate the Fair Housing Act, which provides that "it shall be unlawful ... [t]o make unavailable or deny ... a dwelling to any person because of race ..." 42 U.S.C. § 3604(a).

SECOND CLAIM FOR RELIEF

(Against Defendants U.S. Department of Housing and Urban Development and Secretary Ben Carson)

Violation of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3608(e)(5) and APA, 5 U.S.C. §§ 701 et seq.

168. Plaintiffs repeat and reallege Paragraphs 1 through 167 as if set out here in full.

169. The federal Defendants failed to consider the disparate impact of the City and the NRHA's CNI application on Blacks and its segregative effect prior to its decision to approve and fund the application. As a result, they violated the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) through action that was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law. Specifically, the federal Defendants' actions were not in accordance with the Fair Housing Act, 42 U.S.C. § 3608(e)(5) and specifically their duty to affirmatively further fair housing.

REQUESTS FOR RELIEF

WHEREFORE, plaintiffs respectfully request this Court to:

1. Issue a preliminary and permanent injunction enjoining all defendants from taking any action with respect to the implementation of the St. Paul's Redevelopment Plan, including specifically, but not limited to, the following:

- a. Relocating, suggesting, encouraging or soliciting the relocation of any residents of Tidewater Gardens, Young Terrace and Calvert Square public housing projects or the preparation or planning for that relocation;
- b. Demolition or destruction of any structures at Tidewater Gardens, Young Terrace and/or Calvert Square;
- c. Withdrawal of any grant funds allocated to the project;

2. Issue an affirmative order requiring all defendants within a time specified by the court to:

- a. Develop a plan for the revitalization of the St. Paul's Quadrant utilizing the CNI Grant that:
 - (i) does not have a disparate impact upon Black families; and

(ii) does not result in the forced permanent displacement of the minority families currently residing in the St. Paul's Quadrant.

b. Develop a Revitalization Plan for the St. Paul's Quadrant that provides comparable replacement dwellings within the St. Paul's Quadrant for the same number of occupants as could have been housed in the public housing units demolished or converted to a use other than for public housing by the St. Paul's Redevelopment Plan;

c. Develop a Residential Anti-Displacement and Relocation Assistance Plan that conforms to the requirements of Section 104(d) of the Housing and Community Development Act, 42 U.S.C. § 5304(d).

d. Develop a Relocation Plan which conforms to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601 et seq.

And to further order that pending the completion of the above, Defendants shall fully maintain and operate Tidewater Gardens, Young Terrace, and Calvert Square as decent, safe and sound affordable public housing.

3. Issue a declaratory judgment, pursuant to 28 U.S.C. § 2201, declaring that:

a. In developing and implementing the St. Paul's Redevelopment plan, the federal and City Defendants have violated the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3604(a)-(c);

b. In funding the City Defendants' St. Paul's Redevelopment CNI application, the federal Defendants have violated the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) and the Fair Housing Act, 42 U.S.C. § 3608(e)(5);

4. Award compensatory damages;
5. Award costs of suit and reasonable attorneys' fees; and
6. Grant other relief as this court may deem just and proper.

Dated: January 13, 2019

Respectfully submitted,

By: /s/ Stanley J. Brown

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