

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

01-3766

MARY REESE, VELMA BAILEY,)
HERBERT JONES, PATRICIA SANDERS)
and L.I.F.F.T., an unincorporated)
association)

Plaintiffs,)

vs.)

MIAMI-DADE COUNTY,)
RENE RODRIGUEZ, Director of the)
Miami-Dade Housing Agency, MEL R.)
MARTINEZ, Secretary of United States)
Department of Housing and Urban)
Development, UNITED STATES)
DEPARTMENT OF HOUSING AND)
URBAN DEVELOPMENT)

Defendants.)

CIV-HIGHSMITH

MAGISTRATE JUDGE
GARBER

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CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. PRELIMINARY STATEMENT

1. Plaintiffs, on behalf of themselves and classes consisting of all African-American residents of the James E. Scott Homes public housing development and all African-American individuals on the waiting list for Miami-Dade County public housing, challenge the defendants Miami-Dade County and the director of its Housing Agency, the United States Department of Housing and Urban Development (HUD) and its Secretary with respect to their planning, and implementation of a multi-million dollar HOPE VI grant from HUD to Miami-Dade County. The HOPE VI plan will involuntarily displace hundreds of African-American families currently residing in James E. Scott Homes public housing development (hereafter Scott Homes). This

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displacement process is imminent. The HOPE VI Grant will then result in the demolition of residents' homes, the seven hundred and fifty four units of the Scott Homes public housing project as well as the ninety five units in the adjoining Carver Homes public housing project. The HOPE VI Grant will finance replacement housing that will be, by design, inaccessible and unaffordable to the current residents and families on the waiting list for public housing.

2. Plaintiffs oppose the HOPE VI Grant project as currently configured. This project has been consciously designed for the purpose of discouraging African-Americans from living in the Scott Homes neighborhood and will result: (1) in the destruction of desperately needed affordable housing for very poor families in the Scott Homes community, who are overwhelmingly African-American; (2) in the forced displacement of the predominantly African-American residents of the Scott Homes community; (3) in a dramatic reduction in the amount of the affordable housing available for the displaced African-American residents of Scott Homes; (4) a significant reduction in the amount of housing affordable to poor residents of Miami-Dade County, who are predominantly African-American and (5) a dramatic reduction in the amount of housing affordable and available to large families who will be among those most severely affected by the project. These families will not only be effectively excluded from the new Scott Homes community but will also find little or no alternative housing in the larger Miami-Dade area.

3. Despite the mandates of federal law, plaintiffs and the classes they represent, their fellow tenants and waiting list families, have been effectively excluded from any opportunity to participate meaningfully in the planning of this "revitalized" community. The defendants have developed plans that ensure that plaintiffs, and the other families currently living in Scott Homes

or eligible to live in the development, will be expelled from their homes and effectively barred from living in the newly revitalized community.

4. Plaintiffs seek through this action declaratory and injunctive relief as to all defendants to halt the further implementation of the HOPE VI plan, including but not limited to, the forced or voluntary relocation of the current residents, until the defendants have fully complied with the HOPE VI statute and guidelines, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq., the Fair Housing Act, 42 U.S.C. § 3601, et seq. and the other statutes alleged herein. Specifically, plaintiffs request this Court to order defendants to halt all relocation or demolition activities related to the Scott Homes Housing project, and to fully maintain and operate Scott Homes as decent, safe and sound affordable public housing and to present to the Court a Revitalization Plan, including a Relocation Plan, Community and Supportive Services Plan and replacement housing plan, that meets the requirements of the fair housing statutes and regulations, the Uniform Relocation Act, the Community Development Block Grant relocation and replacement housing requirements as set forth in the Housing and Community Development Act and implementing regulations, the National Environmental Policy Act and implementing regulations.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction over the claims presented in this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) because this action arises under the Constitution and laws of the United States. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

6. Venue in the Southern District of Florida is proper pursuant to Title 28 U.S.C. § 1391(e) in that Defendants Miami-Dade County and Rene Rodriguez are residents of the Southern District of

Florida, a substantial part of the activities complained of occurred in the Southern District of Florida and all of the named plaintiffs reside in this judicial district.

7. The plaintiffs' claims for relief against the defendants Miami-Dade County and Rene Rodriguez (hereafter County defendants) are predicated upon 42 U.S.C. § 1983 which authorizes actions to redress the deprivation, under color of state law, of rights, privileges, and immunities secured by the Constitution and laws of the United States, upon Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d and its implementing regulations, the Fair Housing Act, 42 U.S.C. §§ 3601 et seq. and its implementing regulations, and upon 42 U.S.C. § 1988, which authorizes the award of attorneys' fees and costs to prevailing plaintiffs in actions brought pursuant to 42 U.S.C. § 1983.

8. Plaintiffs' claims for relief against the United States Department of Housing and Urban Development (HUD) and its Secretary, Mel Martinez (hereafter federal defendants) are authorized under 5 U.S.C. § 701, et seq., the Administrative Procedure Act.

9. Plaintiffs seek preliminary and permanent injunctive relief pursuant to Rule 65, Federal Rules of Civil Procedure.

III. PARTIES

A. PLAINTIFFS

10. Plaintiff Mary Reese is a resident of Scott Homes and Miami-Dade County, Florida. Plaintiff Reese, who is African American, is a single mother of two children. She and her children currently live in a two bedroom apartment in Scott Homes. She has lived in Scott Homes for eighteen years and desires to remain in the Scott Homes community and the Scott Homes neighborhood.

11. Plaintiff Velma Bailey is a resident of Scott Homes and Miami-Dade County, Florida.

Plaintiff Bailey, who is African-American lives in a five bedroom apartment with her seven children, her sister's four children and one grandchild. She has lived at that address for over thirteen years.

12. Plaintiff Herbert Jones is a resident of the Beckham Hall Homeless Shelter and Miami-Dade County, Florida. He is African American and a single, unemployed father of two children who is desperately seeking housing for himself and his children. On or about March 2001 Mr. Jones applied for public housing for himself and his family and is currently on the Miami-Dade County public housing waiting list.

13. Plaintiff Patricia Sanders is a resident of Miami Dade County. She is African American and is currently the head of a household consisting of herself and two of her children, five grandchildren of her deceased daughter and a nephew. Her family is currently living in a dilapidated, over crowded three bedroom house in Liberty City. She needs decent safe and affordable housing for her family and her self. In March 2001 she applied for public housing and was put on the public housing waiting list. In 1999 Ms. Sanders had been provided with a Section 8 voucher by County defendants but was unable to rent an available unit within the time permitted and consequently lost the voucher.

14. Low Income Families Fighting Together (L.I.F.F.T.) is an unincorporated membership association organized to assist low income families. The membership consists of residents of public housing in the Liberty City neighborhood of Miami including Scott Homes public housing project. L.I.F.F.T. was organized specifically to assist these families to advocate for themselves with respect to public agencies such as Miami Dade Housing Agency and the Department of Children and Families. L.I.F.F.T. and its members have participated in HOPE VI meetings at

both Scott Homes Public Housing Project and Liberty Square Public Housing Project and attempted to have input into the HOPE VI process in order to assist L.I.F.F.T. members and other public housing residents.

B. DEFENDANTS

15. Miami-Dade County is a political subdivision of the State of Florida which owns and operates federally subsidized public housing projects including Scott Homes and Carver Homes. The County is a Public Housing Agency ("PHA") within the meaning of 42 U.S.C. § 1437 and administers the federally subsidized and assisted public housing within its jurisdiction as authorized by the United States Housing Act and implementing federal regulations. Miami-Dade County is the recipient of a HOPE VI Grant from the federal defendants which will result in the demolition of Scott Homes and is the agency responsible for the implementation of the grant. Miami-Dade Housing Agency is the department within Miami-Dade County directly responsible for the administration and operation of the County's public housing, including the administration and operation of the HOPE VI Grant.

16. Rene Rodriguez is the Director of the Miami-Dade Housing Agency. He is charged with establishing and administering the policies of the Agency including those relating to the daily operation, administration and maintenance of all public housing and the administration of the HOPE VI Grant. He is sued herein in his official capacity as Director of the Miami-Dade Housing Agency.

17. At all times relevant to this Complaint each County defendant was acting under color of state law.

18. Defendant United States Department of Housing and Urban Development ("HUD") is the

federal agency charged with administering the public housing programs and all the federal statutes, regulations, and procedures relating thereto, including the HOPE VI program.

19. Defendant Mel R. Martinez is Secretary of the United States Department of Housing and Urban Development (“HUD”) and, as such, is charged with the administration and enforcement of all functions, powers and duties of HUD, including those relating to the public housing program, the HOPE VI program and the Fair Housing Act. Defendant Martinez is sued herein in his official capacity. County defendants and federal defendants will collectively be referred to herein as “defendants.”

IV. CLASS ACTION ALLEGATIONS

20. Plaintiffs bring this action on their own behalf and on behalf of all those similarly situated pursuant to Fed. R. Civ. P. 23(a) and 23(b)(1), (b)(2). Plaintiffs seek to represent two classes defined as the following:

1. All African-American individuals residing in Scott Homes Public Housing Project as of September 17, 1999; and
2. All African-American families who currently are, or will in the future be, on the Miami-Dade Housing Agency public housing waiting list.

Plaintiffs Reese and Bailey seek to represent the class of all African-American individuals residing in Scott Homes Public Housing Project as of September 17, 1999. Plaintiffs Herbert and Sanders seek to represent the class of all African American families who currently are, or will in the future be, on the Miami-Dade Housing Agency public housing waiting list.

21. Each of the requirements of the Federal Rule of Civil Procedure 23(a) is met. Members of the classes are so numerous that joinder is impracticable and individual litigation by each

would unnecessarily and substantially burden the operation of the judicial system.

22. The interest of the classes members are typified by the interest of the named plaintiffs, all of whom share a common right to relief and a common interest in the case. The named plaintiffs will adequately and fairly represent and protect the interests of the classes in that each named plaintiff has suffered the same or similar harm in terms of deprivation of rights to fair housing and/or relocation benefits under federal housing and fair housing law and the United States Constitution. The attorneys representing plaintiffs and the legal services organizations which employ them, Florida Legal Services, Inc. and Florida Justice Institute, Inc. are experienced and capable litigators possessed of sufficient resources to adequately protect and represent the interests of the plaintiff classes.

23. The defendants have acted on grounds generally applicable to each plaintiff and to the classes the plaintiffs represent, thereby making appropriate injunctive relief with respect to the classes as a whole. Specifically, defendants have utilized the policies and practices described herein to deny plaintiffs and the members of the plaintiff classes their rights under federal law and the United States Constitution.

24. Questions of law and fact common to the members of the putative classes predominate over questions affecting only individual members, and a class action is superior to individual lawsuits for resolving this controversy.

25. The questions of fact common to all members of the classes are as follows:

- a. Whether the defendants' actions with respect to the HOPE VI plan will have a disproportionate adverse impact on the members of the classes on the basis of race and on the basis of familial status;

- b. Whether the defendants' actions targeted the Scott Homes public housing development for demolition and redevelopment because of the racial composition of its residents and have expressed a racial preference in their public presentations and written materials;
- c. Whether the federal defendants failed to consider the racial and socio-economic effects of the County defendants' application for a HOPE VI grant and funded the County HOPE VI application despite the fact that it contained an express racial preference;
- d. Whether the County defendants failed to consider the racial and socio-economic effects of their HOPE VI plan;
- e. Whether the County defendants are failing to provide within the same community comparable replacement dwellings for the same number of occupants as those units demolished;
- f. Whether the defendants are proceeding with relocation despite not having developed a relocation plan that conforms to the requirements of the Uniform Relocation Act and the implementing regulations and in the absence of an adequate residential anti-displacement and relocation assistance plan;
- g. Whether County defendants are proceeding without having conducted any environmental assessment of the impact of the HOPE VI grant.

26. The questions of law common to all members of the classes are as follows:

- a. Whether the County defendants' actions with respect to the HOPE VI redevelopment plan violate the class members' rights guaranteed under the Equal

Protection Clause of the Fourteenth Amendment to the United States Constitution; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3604(a), (b), and (c); Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; the Quality Housing and Work Responsibility Act of 1998, 42 U.S.C. §§ 1437c-1, 1437v; the Housing and Community Development Act, 42 U.S.C. § 5304(d); the Uniform Relocation Assistance And Real Property Acquisition Act of 1970, as amended, 42 U.S.C. § 4601, et seq.; and the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.; and 42 U.S.C. § 1983;

b. Whether the federal defendants' actions with respect to the HOPE VI redevelopment plan and application violate the class members rights guaranteed pursuant to the Fifth Amendment to the U.S. Constitution; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3608(e)(5), and 5 U.S.C. §§ 701 et seq.

V. STATUTORY AND REGULATORY SCHEME

A. The HOPE VI Requirements

27. In October 1992, Congress created the Urban Revitalization Demonstration Program ("URD"), otherwise known as HOPE VI, which provides grants of up to \$50 million "to carry out an urban revitalization demonstration program involving major reconstruction of severely distressed or obsolete public housing projects to be administered by public housing agencies. . . ." Pub. L. 102-389, Title II, 106 Stat. 1579, reprinted at 42 U.S.C. § 1437l, note.

28. In 1998 the HOPE VI Program was codified at 42 U.S.C. § 1437v and provides, in

relevant part, that a major purpose of the program is:

(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

29. HUD has issued interpretive policies requiring public housing agencies that receive HOPE VI funds to involve all affected tenants in the redevelopment process:

Residents are to be included in all phases of the application preparation, planning, implementation and operation of the HOPE VI development ... [Public Housing Authorities or "PHAs"] are responsible for communicating and disseminating information to all affected residents and ensuring that all affected residents have opportunities to participate Resident involvement often starts with the duly elected resident council, but the PHA must make sure that the resident council is truly representative. PHAs must give all affected residents reasonable notice of meetings about HOPE VI planning and implementation, and provide them with opportunities to provide input. Such meetings should be open to all affected residents and their representatives.

HUD's FY 1998 HOPE VI Guidebook at 1.

30. The HOPE VI Grant application is accompanied by a very general, proposed Revitalization Plan, describing the community to be developed. After approval of the HOPE VI Grant application by federal defendants, the Grantee Housing Authority and federal defendants enter into a Grant Agreement which requires that a specific revitalization plan must be approved by federal defendants prior to the release of grant funds. The Grant Agreement also mandates that there be significant local community input to the HOPE VI process including the convening of a Community Task Force.

31. The 1999 HUD Notice of Funding Availability for the HOPE VI Program, 64 Fed. Reg. 9618, 9627-8 (Feb.26 1999) states that successful applicants "will have a duty to affirmatively further fair housing."

B. The Uniform Relocation Act Requirements

32. Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act (the "Uniform Relocation Act" or "URA"), 42 U.S.C. § 4601 et seq., in order to ensure that persons displaced from their homes as a result of government action are resettled into new homes following certain procedures and are not materially disadvantaged by their forced relocation.

33. In particular, the URA and its implementing regulations specify that:

a. "A displacing agency, before approving a project, must assess the characteristics and needs of the households to be displaced (42 U.S.C. § 4625(c), 49 C.F.R. § 24.205 (c)(2)(i)), and determine whether qualified replacement housing is available to meet those needs." 49 C.F.R. § 24.205(a)(2), 24 C.F.R. § 970.8(d)(3).

b. A displacing agency must "[a]ssure that a person not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling. . ." 42 U.S.C. § 4625(c)(3). The URA defines the term "comparable replacement dwelling" as a "dwelling that is (1) decent, safe and sanitary; (2) adequate in size to accommodate the occupants; (3) within the financial means of the displaced person; (4) functionally equivalent; (5) in an area not subject to unreasonable adverse environmental conditions; and (6) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment." 42 U.S.C. § 4601(10).

c. "Wherever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe and sanitary replacement dwellings, not located in an area of minority

concentration, that are within their financial means." 49 C.F.R. § 24.205(c)(2).

C. Community Development Block Grant Requirements

34. The Community Development Block Grant ("CDBG") Program was created pursuant to Title I of the Housing and Community Development Act ("HCDA"), as amended, codified at 42 U.S.C. § 5301 et seq. The primary objective of the HCDA is "the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." 42 U.S.C. § 5301(a). For purposes of the HCDA, "low income" is defined as 0% to 50% of area median income, and "moderate income" is defined as 50% to 80% of area median income. 24 C.F.R. § 570.3.

35. In any development project assisted under the CDBG Program, there must be a residential anti-displacement and relocation assistance plan in place that provides, among other things, that:

a. governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 1437f of this title. 42 U.S.C. § 5304(d)(2)(A)(i);

b. such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy. 42 U.S.C. § 5304(d)(2)(A)(ii);

c. in the case of displaced persons of low and moderate income, provide . . . compensation

sufficient to insure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent. 42 U.S.C. § 5304(d)(2)(A)(iii)(I);

d. Persons displaced shall be relocated into comparable replacement housing that is – decent, safe and sanitary; adequate in size to accommodate the occupants; functionally equivalent; and in an area not subject to unreasonably adverse environmental conditions. 42 U.S.C. § 5304(d)(2)(A)(iv).

D. Fair Housing Act Requirements

36. The Fair Housing Act provides that "it shall be unlawful":

a. "To . . . make unavailable or deny [] a dwelling to any person because of race, color, . . . sex, [or] familial status . . ." 42 U.S.C. § 3604(a); or

b. "To discriminate against any person in the terms, conditions, or privileges of . . . rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex [or] familial status. . ." 42 U.S.C. § 3604(b); or

c. "To make, print or publish or cause to be made, printed or published any notice [or] statement...with respect to the sale or rental of a dwelling that indicates any preference...based on race, color,...or national origin, or an intention to make such preference..." 42 U.S.C. § 3604(c).

37. The Fair Housing Act, 42 U.S.C. § 3608(e)(5), further provides the "Secretary of Housing and Urban Development shall...administer the programs and activities relating to housing and urban development in a manner to affirmatively further the policies of [the Fair Housing Act].

E. Quality Housing and Work Responsibility Act Requirements

38. The Quality Housing and Work Responsibility Act of 1988, 42 U.S.C. § 1437c-1(b), requires every public housing authority to prepare and submit for HUD approval an "annual

public housing agency plan" detailing the PHA's policies in the administration of its programs.

The Act further requires the PHA to certify in that plan that it will "carry out the public housing agency plan in conformity with...the Fair Housing Act...and will affirmatively further fair housing.

F. Title VI of the Civil Rights Act Requirements

39. Title VI of the Civil Rights Act of 1964 provides that "[n]o person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

G. National Environmental Policy Act

40. The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq., requires that every "major Federal action significantly affecting the quality of the human environment" must be accompanied by a detailed analysis of the environmental impacts of the project.

41. HUD has issued regulations implementing NEPA at 24 C.F.R. Parts 50 & 58. Those regulations provide that either an Environmental Assessment and a Finding of No Significant Impact or a full Environmental Impact Statement shall be completed "prior to the approval action" unless the action is considered exempt. 24 C.F.R. § 50.16. Exempt activities are listed at 24 C.F.R. § 50.19 and at 24 C.F.R. § 58.34 and do not include the types of activities included in a HOPE VI Revitalization Grant. The regulations further provide that in certain circumstances, including Public Housing programs such as HOPE VI, the recipient of the federal funds assumes all of the environmental responsibilities of HUD. In the present case as part of the HOPE VI process, Miami-Dade County is required, as a condition of funding, to assume all

environmental responsibilities for the project as set forth in 24 C.F.R. § 58.1 et seq.

42. The regulations further provide that an initial environmental assessment must be performed in all non-exempt cases. The regulations further provide for a process of public notice and input into the environmental assessment process. 24 C.F.R. § 50.23 and 24 C.F.R. § 58.43 et seq.

43. The regulations mandate that the environmental assessment be performed "at the earliest possible time so that potential conflicts" can be identified at an early stage. 24 C.F.R. § 50.3. In all cases, the environmental assessment must be completed prior to any "choice limiting activities." 24 C.F.R. § 58.22.

V. STATEMENT OF FACTS

A. The James E. Scott Homes Public Housing Development

44. Scott Homes Public Housing Project is a 754-unit public housing project located in the Liberty City neighborhood of north central Miami-Dade County. The Scott Homes project was constructed in 1953 and is one of the largest public housing communities in Florida.

45. Collectively, Scott Homes and the neighboring Carver Homes public housing development contain a total of 850 conventional public housing rental units consisting of: 8 one-bedroom units, 312 two-bedroom units, 400 three-bedroom units, 75 four-bedroom units, 53 five-bedroom units, and 2 six-bedroom units.

46. Scott Homes has always housed an African American population and nearly all (99%) of the residents are African American. The population of Scott homes is also very poor. According to the County defendants' 1999 HOPE VI application, the average household income of Scott Homes residents households is \$7,238 a year (17% of the area median income).

47. The population of the Scott-Carver complex consists of many large households residing in units with four or more bedrooms. It is the plaintiffs' informed belief that all or nearly all of these large households include minor children. Overall, according to data published by federal defendants, 84 percent of households in Scott Homes and the neighboring Carver Homes (which will also be demolished) are families with children.

48. Despite the poverty of the community, there are many attractive aspects to the neighborhood. As stated in the County's HOPE VI application, it is located near numerous retail stores, including the Northside Shopping Center, which is slated for a \$25 million redevelopment and expansion by the Urban League of Greater Miami. A neighborhood family health center is used by over 100 Scott and Carver Homes residents daily. Nearby are also two public parks, a \$3.2 million Youth Education Town Center providing recreation and education programs to neighborhood families. The three elementary schools that serve the Scott Homes neighborhood are currently undergoing a \$5 million capital improvements program. The Scott Homes neighborhood has convenient access to Metrobus and Metrorail public transportation services. Moreover, many of the residents of Scott Homes have lived in this neighborhood for decades and have strongly rooted ties and commitments to this area.

B. The Federal Housing Programs Administered by the County defendants

49. The Miami-Dade County Commission, acting through the Miami Dade Housing Agency, is the principal provider of housing affordable to very low income families in Miami-Dade County. According to data published by HUD, the Miami-Dade Housing Agency administers approximately 11,000 units of conventional public housing in both elderly and family public housing developments. Of these, half, approximately 5,500, of the units are family units and the

remaining are for occupancy by elderly persons only.

50. In general, rents for conventional public housing units are set at 30 percent of the income of the household that resides in the unit. As such, conventional public housing provide some of the only housing guaranteed to be affordable to very low income and extremely low income¹ households.

51. The Miami-Dade Housing Agency has a waiting list for its public housing. According to data published by the defendant HUD, the average household spends 1.5 years on the County's public housing waiting list before being admitted to a dwelling unit.

52. In March 2001, the Housing Agency opened up its public housing waiting list for the first time in many years. The list remained open for approximately 10 days and the Housing Agency received over 63,000 applications for assistance. The larger families who applied for assistance, those who needed four, five and six bedroom units, were overwhelmingly African American.

53. The Miami-Dade Housing Agency also administers a federal Housing Choice Voucher Program (formerly known as the "Section 8 Voucher Program"). The Housing Agency has authority to administer these portable tenant-based subsidies that families are supposed to be able to use to rent housing on the private rental market. Private landlords in Miami-Dade County are not required to participate in the Housing Choice Voucher Program.

54. The Miami metropolitan area was identified by the federal defendants in September 2000

¹ Following the usual HUD classifications, "low income" households have incomes higher than 50 but not more than 80 percent of area median income, "very low income" households have incomes higher than 30 but not more than 50 percent of area median income, "extremely low income" households have incomes at or below 30 percent of area median income.

as an area with severe geographic concentrations of Housing Choice voucher families. According to the federal defendants, 25 percent or more of the families renting housing in the Miami metropolitan area with vouchers are concentrated in 5 percent of the area's census tracts.

C. The Affordable Housing Crisis in Miami-Dade County

55. Miami-Dade County is in the midst of an affordable housing crisis, particularly for very poor African American families. In 1998, as a requirement of receiving federal Community Development Block Grant ("CDBG") funding Miami-Dade County developed a Five-Year Consolidated Plan ("Consolidated Plan") to assess the County's housing needs and to plan for addressing these needs.

56. The 1998 Consolidated Plan singled out the exact type of families living in Scott Homes as suffering the worst housing needs. The Plan identified very poor large families, with incomes less than 30 percent of area median income, equal to \$12,600 per year, as the group with the most critical housing needs. Of this group, 93% lacked adequate affordable housing. Almost 70 percent of this group were paying over 50 percent of their monthly income in rent.

57. Indeed the Consolidated Plan identified this group as "threatened with homelessness," stating, "For these households, the loss of a job, an injury that interrupts a paycheck, a slight increase in rent, or some other sudden change in income will result in a missed rent payment and the loss of shelter."

58. Moreover, according to the Consolidated Plan, the impact of this crisis is borne to a disproportionate degree by African American households. While African American households make up 20% of the population of Miami-Dade County, they compose 32% of the extremely low income renters.

59. Finally, the Consolidated Plan also documents that this affordable housing crisis for large extremely low income families will only get worse. The Consolidated Plan estimates a need for an additional 4,000 units of rental housing affordable to low income renters just to maintain the current status quo.

D. The County Defendants' Application and Plans for the HOPE VI Redevelopment of Scott Homes

60. The County defendants initially applied for a HOPE VI grant for Scott Homes in 1996. That proposal provided for the selective demolition of only 149 units and resulted in a community with over 500 units of rehabilitated public housing and 100 market rate rental units combined with an extensive home ownership program. The stated goal of the plan was that none of the current residents would be relocated. That application was not funded by federal defendants.

61. The County defendants again applied unsuccessfully for HOPE VI grants for Scott Homes in 1997 and 1998.

62. Finally, on May 17, 1999, the County defendants submitted their current HOPE VI application to federal defendants. In September 1999, the federal defendant announced that the County defendants were awarded a \$35 million dollar HOPE VI grant to "revitalize" the Scott Homes and Carver Homes developments.

63. The 1999 application provides for the demolition of 850 units of public housing and the replacement of these units with 80 units of conventional rental public housing, 135 units of "rent to own" public housing, and 247 units of other home ownership housing on the Scott-Carver site and in the surrounding neighborhood.

64. The conventional rental public housing planned as part of the 1999 application consists of 2 one-bedroom units, 25 two-bedroom units, 43 three-bedroom units, 8 four-bedroom units, 2 five-bedroom units, and zero six-bedroom units. The "rent to own" public housing will consist of 1 one-bedroom units, 53 two-bedroom units, 68 three-bedroom units, 12 four-bedroom units, 1 five-bedroom units, and zero six-bedroom units.

65. Taking into account the smaller number of multi-bedroom replacement units, the defendants' HOPE VI plan will result in shortfall of over 400 "comparable replacement dwellings" as defined under the Housing and Community Development Act.

66. The defendants' HOPE VI plan will result in the net loss of 770 conventional public housing rental units, an over 90 percent reduction in the number of such units in the Scott-Carver complex. Access to these units will be restricted, as the defendants plan to impose additional undisclosed eligibility criteria which could exclude many current Scott Homes residents and waiting list families. Plaintiffs and other residents have repeatedly requested that any proposed eligibility criteria be disclosed prior to relocation so that current residents can participate in their development and implementation. Defendants have consistently refused to do so.

67. The 135 units of "rent to own" public housing in the "revitalized Scott Homes community" may or may not be affordable to the families currently residing in Scott Homes, depending on the eligibility criteria and the program requirements. The defendants currently have no "rent to own" public housing program, and they have not developed any criteria or procedures for implementing such a program. The defendants have consistently refused to disclose their plans for any "rent to own" public housing program, despite repeated requests by the plaintiffs and other residents that they do so.

68. According to the defendants' HOPE VI application, very few of the families who currently reside at Scott Homes will be able to qualify for, or afford, one of the 247 home ownership units which comprise the remainder of the replacement housing planned in the County's HOPE VI application. The County's application states that the minimum "qualifying income" for a one-bedroom home ownership dwelling is \$12,126, fully two-thirds more than the average annual income of a Scott Homes or Carver Homes family. The situation is even worse for multi-bedroom home ownership units needed by large families. The application identifies the minimum qualifying income for a four-bedroom home ownership dwelling as being between \$23,596 and \$24,330, over three times the average annual income of a Scott Homes or Carver Homes family.

E. Miami-Dade County Commission Resolution No. 011002

69. On May 8, 2001, in response to advocacy by residents, the Miami-Dade County Commission passed Resolution 011002, which authorized the construction of an additional 175 units of project-based Section 8 housing in the area surrounding the Scott Homes/Carver Homes HOPE VI site for use by displaced tenants. The Commission explicitly stated that this additional housing was not part of the HOPE VI process and that the resolution in no way modified the HOPE VI proposal to federal defendants. This additional housing was not included in the HOPE VI Relocation Plan approved by federal defendants. Thus, the Commission has reserved the right to modify or repeal the resolution at any time.

70. After the enactment of Resolution, the County defendants stated that the 175 project-based Section 8 units would be limited to occupancy by elderly and disabled persons. While there has been no commitment to the bedroom size of these additional units, it is the plaintiffs'

informed belief that this unilaterally imposed elderly and disabled occupancy limitation will effectively result in units with few bedrooms.

71. Apart from describing this new occupancy restriction, as of the date of the filing of this complaint, the County defendants have taken no steps to implement Resolution 011002. The relocation of residents is commencing prior to any attempts to site or construct this additional housing. The County defendants have made no commitment that construction will be completed in a timely manner so that the housing can actually be used by any displaced Scott Homes residents.

F. The County Defendants' Racial Motives for Their HOPE VI Plan

72. The County defendants held presentations for the residents of Scott Homes and the surrounding community just prior to the submission of their 1999 application. At these presentations, the County defendants stated that one of the reasons that they targeted Scott Homes for a HOPE VI application was the their belief that the large concentration of "minority" families in Liberty City would make their application more attractive.

73. In their presentation to the residents, the County defendants stated that one of the significant elements of a "winning application" is "discouraging concentrations of minorities." Thus, Scott Homes residents began to learn that their community was chosen for demolition and that they were to be displaced from their neighborhood and excluded from millions of dollars in planned "replacement" housing, because of their race.

74. The County defendants included materials describing their goal of "discouraging concentrations of minorities" in their 1999 HOPE VI application to federal defendants.

G. The Displacement and Relocation of Scott Homes Families

75. Because the defendants' plan to rebuild only a small fraction of the conventional public housing units that will be demolished as part of the HOPE VI redevelopment, the families currently residing in Scott Homes will be forced to relocate to other public housing developments or to private rental housing using Housing Choice vouchers (formerly known as "Section 8" vouchers). This will create significant hardships and potential homelessness for many Scott Homes families, and will exacerbate the County's affordable housing crisis.

76. The use of public housing as relocation housing for displaced families will strain an already scarce affordable housing resource. According to data published by the federal defendants, the average household spends 1.5 years on the County's public housing waiting list before being admitted to a dwelling unit.

77. The only other type of relocation subsidy being proposed for Scott Homes families is tenant-based Housing Choice vouchers (formerly known as "Section 8 vouchers") administered by the defendants with federal funding. The Housing Choice voucher program is a federal housing subsidy program which pays subsidies on behalf of individual households to allow them to rent private units in the local housing market.

78. However, the ability of very poor African American families, particularly large families, to use Housing Choice vouchers in Miami-Dade County is greatly limited by the nature of the program and the County's tight housing market. It is extremely difficult for families in Miami-Dade County to secure housing with Housing Choice vouchers on the private market and virtually impossible for large families to locate units with a sufficient number of bedrooms. In addition, many landlords simply will not accept vouchers for reasons ranging from fear of bureaucracy to bias against poor families to racism.

79. In Miami-Dade County, subsidy payment standards for Housing Choice vouchers are based on HUD-calculated Fair Market Rent ("FMR") figures set at the 50th percentile of rents in the local housing market. The FMRs are intended to reflect the lower half of total rental housing markets in particular areas. However, rents for newly constructed units are excluded from the calculation of this 50th percentile figure, which means that FMR levels are probably lower than the 50th percentile.

80. Public housing authorities have authority to set voucher payment standards at levels between 90 and 110 percent of the HUD-calculated FMR. The Miami-Dade Housing Agency ("MDHA") has set payment standards for its vouchers at 100 percent of the FMR for Miami-Dade County.

81. If a family is able to find a unit renting at the payment standard or less, the family pays 30 percent of its income towards housing costs and the subsidy covers the rest. If a family finds a unit renting at an amount higher than the payment standard, the family must pay 30 percent of its income plus 100 percent of the difference between the rent for the unit and the payment standard, which can add up to substantially more than 30 percent of its income. However, families are prohibited from moving into a new unit with a voucher if the family would stand to pay more than 40 percent of its income for housing costs.

82. Tenants who obtain a voucher must find a suitable unit on their own, negotiate an agreement with the landlord, and receive approval from MDHA, ordinarily within 60 days.

83. MDHA approval is conditioned on, among other things, units passing an exacting Housing Quality Standards ("HQS") inspection, which often eliminates units renting at an affordable price. Additionally, few landlords renting these lower priced units are willing to hold

them off the market for the week or two while this inspection is accomplished and paperwork process is completed.

84. In fact, because of delays involved in the HQS process, MDHA's public housing agency plan specifically authorizes extensions to the usual 60-day deadline where units are undergoing HQS inspection.

85. As a result, plaintiffs are informed and believe that more than 25 percent of the Housing Choice vouchers issued in Miami-Dade County are returned unused and, as a result, forfeited by the initial voucher holder and reissued by MDHA to the next eligible family on the waiting list.

86. In addition, most voucher holders who successfully locate a rental unit end up living in neighborhoods with high concentrations of voucher assisted households. The Miami metropolitan area was identified by federal defendants in September 2000 as an area with severe geographic concentrations of Housing Choice voucher families, with at least 25 percent of voucher families residing in only 5 percent of the area's census tracts.

87. Finally, unlike public housing, a landlord can cancel its voucher Housing Assistance Payments ("HAP") contract with MDHA at the end of the family's initial lease terms (which can be less than one year) or at the end of any month after the initial lease term for any reason. At that time, because families are unable to afford private units without voucher subsidies, they must once again search for new housing and suffer the substantial risk that they will forfeit their vouchers if they are unable to do so within MDHA's 60-day deadline.

H. The Disparate Impact of the Defendants' HOPE VI Plans

88. The defendants' HOPE VI plan will have a disproportionate adverse impact on African Americans living in the Scott Carver complex.

89. As a result of the defendants' HOPE VI plan, the over 600 families remaining in the Scott Homes and Carver Homes developments will be expelled from their community. Their homes will be demolished and nearly all of these families will be excluded from the new housing the defendants plan to construct due to the small number of affordable public housing units included in the 1999 HOPE VI plan.

90. Over 99 percent of the families residing in the Scott-Carver complex are African American. In contrast, African American households comprise only 64 percent of the total households residing in MDHA public housing and only 20 percent of the total population of Miami-Dade County.

91. Families with children make up 83 percent of the Scott Homes households. However, they comprise only 39 percent of the total households in MDHA public housing and only 33.8 percent of the total Miami-Dade County population.

92. The defendants' HOPE VI plans will result in a net loss of hundreds of public housing units in Miami-Dade County. A total of 770 units of guaranteed affordable rental housing will be lost at a time when the County is in the middle of an affordable housing crisis.

93. Forty one percent of the households on the County's public housing waiting list are identified by the County defendants as African Americans. This figure is twice the percentage of African Americans in the Miami-Dade County total.

94. The defendants' HOPE VI plan will cause especially severe harm to large families residing in Scott Homes and on the MDHA public housing waiting list. This harm will in turn fall most heavily on African Americans and families with children.

95. Large families will be almost completely excluded from the new housing the defendants' plan to construct due to the dramatic reduction in the number of four- and five-bedroom public housing rental units. There are currently 125 units with four or more bedrooms in Scott Homes and Carver Homes. Of these, 52 are five- or six-bedroom units. After the HOPE VI redevelopment, there will be only 8 four-bedroom, 2 five-bedroom, and zero six-bedroom units available as traditional rental public housing. In addition, 12 four bedroom units and 1 five bedroom unit will be constructed as "rent to own" public housing. This represents an 84 percent reduction in the number of public housing units with four or more bedrooms.

96. It is the plaintiffs' further informed belief that Section 8 Housing Choice vouchers will be a largely useless form of relocation assistance for large Scott-Carver families because there are extremely few units with four or more bedrooms in the Miami-Dade County rental market.

I. The Failure of Defendants to Analyze the Racial and Socioeconomic Effects of Their HOPE VI Decisions and Federal Defendants's Decision to Fund the Defendants' Racially Motivated Plan

97. Plaintiffs are informed and believe that, apart from targeting Scott Homes and Carver Homes based on the race of the families residing in these developments, the defendants performed no analysis of the racial and socioeconomic effects of their HOPE VI plan.

J. The Defendants' Failure to Assess the Environmental Impact of their HOPE VI Plan

98. No environmental assessment has been completed by County defendants. Despite the absence of an environmental assessment the defendants are expending funds with respect to the project, specifically including preparations for the relocation of the residents.

K. The Defendants' Exclusion of Scott Homes Residents from the HOPE VI Process

99. The impact of the HOPE VI grant has been greatly exacerbated by the failure of the County defendants to permit the residents to be involved in the HOPE VI revitalization process. Despite the express requirements of the HOPE VI statute and guidelines the residents have not been meaningfully involved in the development or implementation of the HOPE VI plan.

Indeed, as described above, despite repeated pleas of the plaintiffs and other residents, many crucial elements of the plan have yet to be developed. All of the County defendants' energies have been focused on the prompt relocation of the residents and the demolition of their homes.

100. As a result of the County defendants' failure to proceed with respect to any of the supportive services or programmatic portions of the HOPE VI process, while at the same time proceeding with the relocation of the residents, many residents, including the plaintiffs, are now faced with being relocated prior to having any input into the development of the revitalization plan and from participating in any of the services or opportunities which were proposed to be provided by the Community and Supportive Services portion of the application.

VI. IRREPARABLE INJURY

101. These actions have caused and will cause irreparable injury to the plaintiffs. The defendants are in the process of destroying the community where the plaintiffs live and have established personal ties. As a result of the defendants' actions, the plaintiffs have lost or will lose their homes, have suffered or will suffer displacement from their community, and most of them will be denied the opportunity to reside in the revitalized housing that is currently proposed by the defendants. The defendants have engaged in purposeful or knowing conduct that violates the plaintiffs' civil rights.

CLAIMS FOR RELIEF

FAIR HOUSING/CIVIL RIGHTS CLAIMS

FIRST CLAIM FOR RELIEF

(Against County Defendants)

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

102. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
103. The County defendants' plans as described above will have a disproportionately adverse impact upon African-Americans and therefore violate the Fair Housing Act, which provides in part 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 County Defendants)

Violation of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3604(a) (Disparate Impact on the Basis of Familial Status)

104. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
105. The County defendants' plans as described above will have a disproportionately adverse impact upon families with children and therefore violate the Fair Housing Act, which provides in part that "it shall be unlawful . . . [t]o make unavailable or deny . . . a dwelling to any person because of . . . familial status . . ." 42 U.S.C. § 3604(a).

THIRD CLAIM FOR RELIEF

(Against County Defendants)

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

106. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
107. As is set out above Scott Homes was chosen for this HOPE VI project, and this particular

development proposal was structured, based on the racial classification of the residents.

Defendants specifically designed this proposal to eliminate a "significant concentration of minorities" in the Liberty City area.

108. As a result, the County defendants have designed and begun to implement their HOPE VI plans with the purpose of denying housing opportunities to families of color and excluding families of color from the revitalized Scott Homes and Carver Homes neighborhood and therefore violate the Fair Housing Act, which provides in part 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).

FOURTH CLAIM FOR RELIEF

(Against County Defendants)

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

109. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.

110. The County defendants' HOPE VI application as well as presentations made to the residents, all public records, express a racial preference and therefore violate the Fair Housing Act, which provides in part that "it shall be unlawful . . . [t]o make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the ... rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, ... sex [or] familial status, ... or an intention to make any such preference, limitation, or discrimination." 42 U.S.C. § 3604(c).

FIFTH CLAIM FOR RELIEF

(Against Federal Defendants)

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..

111. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
112. The federal Defendants failed to consider the racial and socio-economic effects of The County defendants' application to the HOPE VI program, a program relating to housing and urban development, prior its decision to approve and fund this application, and therefore violated the Fair Housing Act, 42 U.S.C. § 3608(e)(5).

SIXTH CLAIM FOR RELIEF

(Against Federal Defendants)

Violation of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3604(e)(5) and APA, 5 U.S.C. §§ 701 et seq..

113. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
114. The federal Defendants funded the County HOPE VI application despite the fact that this application contained an express racial preference, and therefore violated the Fair Housing Act, 42 U.S.C. § 3608(e)(5).

SEVENTH CLAIM FOR RELIEF

(Against County Defendants)

Violation of the Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d and 42 U.S.C. § 1983

115. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
116. The County defendants have designed and begun to implement their HOPE VI plans with the intentional purpose of denying housing opportunities to families of color and excluding families of color from the Scott Homes and Carver Homes neighborhood and therefore violate Title VI of the Civil Rights Act of 1964, which provides in part that "[n]o person in the United

States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

EIGHTH CLAIM FOR RELIEF
(Against County Defendants)
Violation of the Equal Protection Clause of the Fourteenth Amendment
of the United States Constitution and 42 U.S.C. § 1983.

117. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.

118. The County defendants have designed and begun to implement their HOPE VI plans with the purpose of denying housing opportunities to families of color and excluding families of color from the revitalized Scott Homes and Carver Homes neighborhood. These actions therefore violate the plaintiffs' rights to "the equal protection of the laws" guaranteed by the Fourteenth Amendment to the U.S. Constitution. *Id.* at § 1.

NINTH CLAIM FOR RELIEF
(Against Federal Defendants)
Violation of Equal Protection Guaranteed by the Due Process
Clause of the Fifth Amendment to the United States Constitution

119. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.

120. The federal defendants have awarded a HOPE VI Grant which is explicitly designed with the purpose of denying housing opportunities to families of color and excluding families of color from the revitalized Scott Homes and Carver Homes neighborhood. These actions therefore violate the plaintiffs' rights to due process guaranteed by the Fifth Amendment to the U.S. Constitution.

TENTH CLAIM FOR RELIEF

(Against County Defendants)

Violation of the Quality Housing and Work Responsibility Act of 1998 and the HOPE VI Program Requirements, 42 U.S.C. § 1437v and 42 U.S.C. § 1983

121. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
122. The County defendants' plans, discussed above, violate their duty under the Quality Housing and Work Responsibility Act of 1998 and the HOPE VI Program to affirmatively further fair housing. *See* 64 Fed.Reg. 9618, 9628 and 9729 (February 26, 1999).

OTHER STATUTORY CLAIMS

ELEVENTH CLAIM FOR RELIEF

(Against County Defendants)

Violation of the Housing and Community Development Act, 42 U.S.C. § 5304(d)(2)(A)(i) and 42 U.S.C. § 1983 (One for One Replacement)

123. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.
124. Section 104(d) of the Housing and Community Development Act, 42 U.S.C. § 5304(d) provides that a governmental agency which demolishes units occupied by low and moderate income households in a project assisted with Community Development Block Grant funds must provide "within the same community comparable replacement dwellings for the same number of occupants." Moreover those replacement units must remain affordable for at least ten years.
125. The Scott Homes HOPE VI project is currently utilizing \$2,000,000 in Community Development Block Grant funds in the development of the project. As part of the project approximately 850 units of housing affordable to very low income households are being demolished. However, the County defendants are replacing no more than 521 units. Moreover, the County defendants have specifically failed to replace units for larger families. The failure of

the County defendants to fully replace the demolished units denies plaintiffs their rights under Section 104(d) of the Housing and Community Development Act.

TWELFTH CLAIM FOR RELIEF
(Against County Defendants)

Violation of the Housing and Community Development Act, 42 U.S.C. § 5304(d)(2)(A)(i) and 42 U.S.C. § 1983 (Anti-Displacement Plan)

126. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.

127. Section 104(d) of the Housing and Community Development Act, 42 U.S.C. § 5304(d) provides that in any development project assisted under the Community Development Block Grant Program, there must be a residential anti-displacement and relocation assistance plan in place that conforms to the requirements of the section.

128. The Scott Homes HOPE VI project is currently utilizing \$2,000,000 in Community Development Block Grant funds in the development of the project. However, at no time have County defendants developed a residential anti-displacement and relocation assistance plan that conforms to the requirements of the Housing and Community Development Act.

THIRTEENTH CLAIM FOR RELIEF
(Against Federal Defendants)

Violation of the Housing and Community Development Act, 42 U.S.C. § 5304(d) and 5 U.S.C. § 701.

129. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.

130. Federal defendants authorization of County defendants proceeding to relocate plaintiffs despite the failure of the County defendants to comply with the terms of the Housing and Community Development Act as set forth in ¶¶ 123 through 128 violates plaintiffs' rights under that Act.

FOURTEENTH CLAIM FOR RELIEF

(Against All Defendants)

Violation of the Uniform Relocation Assistance And Real Property Acquisition Act of 1970
and Implementing Regulations

131. Plaintiffs Reese, Bailey and L.I.F.F.T. repeat and reallege Paragraphs 1 through 101 as if set out in full.

132. The Uniform Relocation Assistance And Real Property Acquisition Act of 1970, as amended, 42 U.S.C. § 4601, et seq., and implementing HUD regulations provides that in any project assisted with federal funds no one may be displaced unless there is a comparable, affordable, decent, safe and sanitary unit available to serve as replacement housing. HUD has implemented the Act through regulations at 24 C.F.R. Part 42.

133. Plaintiffs, at the time of their displacement, will be "displaced persons" within the meaning of the Act in that they will be displaced as a direct result of a development financially assisted by HUD. Nevertheless, defendants have failed and refused to develop a relocation plan that conforms to the requirements of the Act and the implementing regulations.

134. The Relocation Plan developed by defendants fails to conform to the Act in numerous respects. Specifically, the Plan fails to provide the following:

- (1) That relocation housing must be in a location no less desirable than the displacement housing;
- (2) That relocation housing must be in a location accessible to the relocatees work, the relocatee's children's school, and other necessary facilities;
- (3) That relocation assistance can, at the option of the tenant, be provided in a lump sum for the purposes of purchasing a dwelling;

(4) That the tenant may, at their option, choose either a lump sum payment calculated as set forth in the regulations or reimbursement for actual moving expenses;

(5) That the tenant has a right to appeal any adverse determination first to the County and then to HUD and that notices will inform the tenant of this right;

(6) That the tenant has a right to additional financial assistance if a comparable replacement dwelling rented with the Section 8 voucher would require the tenant to pay more than 30% of their income in rent.

135. In addition to the foregoing, the reliance by defendants upon Section 8 vouchers in a housing market in which such vouchers are extremely difficult to use, violates the guarantee that the displaced person will be guaranteed adequate replacement housing for at least 42 months.

FIFTEENTH CLAIM FOR RELIEF

(Against All Defendants)

Violation of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and implementing regulations.

136. All plaintiffs repeat and reallege Paragraphs 1 through 101 as if set out in full.

137. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and the implementing regulations require a full environmental assessment prior to the funding of any significant federal action. The environmental assessment must be completed prior to any final determination as to whether to proceed with the project and before there is any irreparable impact.

138. In the present case no environmental assessment has been completed. Despite the absence of an environmental assessment the defendants are expending funds with respect to the project, specifically including preparations for the relocation of the residents. The failure of the

defendants to fully assess the environmental impact prior to the funding of this project violates the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and the implementing regulations.

REQUESTS FOR RELIEF

WHEREFORE, plaintiffs respectfully request this Court to:

1. Issue a preliminary and permanent injunction enjoining all defendants from taking any actions with respect to the implementation of the Scott Homes HOPE VI project, including specifically, but not limited to, the following:
 - a. Relocation of residents of Scott Homes public housing project or the preparation or planning for that relocation;
 - b. Demolition or destruction of any structures within Scott Homes public housing project,
 - c. Withdrawal of any grant funds allocated to the Scott/Carver Homes HOPE VI 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 Scott Homes utilizing the HOPE VI Grant that:
 - i. does not have a disparate impact upon African-American families
 - ii. does not have a disparate impact upon large families;
 - iii. does not result in the forced permanent displacement of the minority families currently residing in Scott Homes;
 - b. Complete an environmental assessment of the Revitalization Plan which conforms to the requirements of the National Environmental Policy Act and the implementing regulations;
 - c. Develop a Revitalization Plan for the Scott Homes project that provides within the Scott

Homes community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing low and moderate income persons by the Scott Homes HOPE VI project;

- d. 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).
- e. 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 2.a. through 2.e. defendants shall fully maintain and operate Scott Homes as decent, safe and sound affordable public housing.

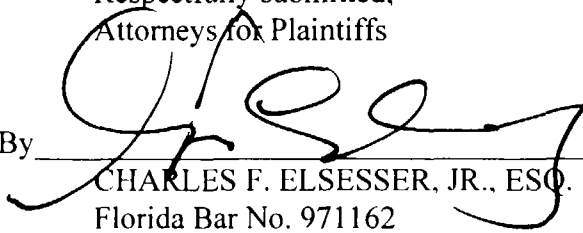
3. Issue a declaratory judgment, pursuant to 28 U.S.C. § 2201, declaring that:
 - a. In developing and implementing the Scott Homes HOPE VI plan, the federal and County defendants have violated the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3604(a)-(c).;
 - b. In developing and implementing the Scott Homes HOPE VI plan, the County defendants have violated the Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d and 24 C.F.R. § 1.4(b)(2) & (3);
 - c. In developing and implementing the Scott Homes HOPE VI plan, the County defendants have violated Equal Protection Clause of the Fourteenth Amendment to the United States

Constitution:

- d. In funding the County defendants' Scott Homes HOPE VI application, the federal defendants have violated the Equal Protection guaranteed under the Due Process Clause of the Fifth Amendment to the United States Constitution;
 - e. In funding the County defendants' Scott Homes HOPE VI application, the federal defendants have violated the Fair Housing Act, 42 U.S.C. § 3608(e)(5);
 - f. In developing and implementing the Scott Homes HOPE VI plan, the County defendants have violated the Quality Housing and Work Responsibility Act of 1998;
 - g. In developing and implementing the Scott Homes HOPE VI plan, the County defendants have violated the Housing and Community Development Act, 42 U.S.C. § 5304(d);
 - h. In developing and implementing the Scott Homes HOPE VI plan, the County defendants have violated Uniform Relocation Assistance And Real Property Acquisition Act of 1970 and Implementing Regulations;
 - i. In developing and implementing the Scott Homes HOPE VI plan, the County defendants have violated the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and implementing regulations.
- 4. Award costs of suit and reasonable attorneys' fees; and
 - 5. Grant other relief as this court may deem just and proper.

Respectfully submitted,
Attorneys for Plaintiffs

By



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Dated: _____

09/06/2001

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Federal Rules of Civil Procedure or the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of maintaining the civil case record. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I (a) PLAINTIFFS

Mary Reese, Velma Bailey,
Herbert Jones, Patricia Sanders and
L.I.F.F.T., an unincorporated
association

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Miami-Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Florida Legal Services
3000 Biscayne Blvd. Suite 450
Miami, FL 33137

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

ii. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

DEFENDANTS

Miami-Dade County, Rene Rodriguez, Director of the Miami-Dade Housing Agency, Mel R. Martinez, Secretary of the United States Department of Housing and Urban Development

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT: CIV-HIGH
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

MAGISTRATE JUDGE
GARBER

iii. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

- | | | | |
|---|---|--|---|
| Citizen of This State | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Office of Business in This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Office of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

42 U.S.C. Sec. 3601, 42 U.S.C. Sec. 1983

Iva. 7 days estimated (for both sides) to try entire case.

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	B RECOVERY/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Water Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark B LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Agmt. Relations <input type="checkbox"/> 730 Labor/Agmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Legislation <input type="checkbox"/> 791 Emp't Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arrest <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates, etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Reckless Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Free Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
A REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	A CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	B PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights	A FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendants) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 890 Other Statutory Actions

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Refiled
- 5 Transferred from another district (specify)
- 6 Misdistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER FR.C.P. 23 **DEMAND \$** Declaratory & Injunctive Relief **JURY DEMAND:** YES NO

VIII. RELATED CASE(S) IF ANY

JUDGE _____ DOCKET NUMBER _____

DATE: 09/05/2001 SIGNATURE OF ATTORNEY OF RECORD: *[Signature]*

FOR OFFICE USE ONLY: Receipt No. _____ Amount: _____