UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FAIR HOUSING JUSTICE CENTER, INC.,

Plaintiff,

v.

TOWN OF EASTCHESTER,

Defendant.

No. 16-9038 (VB) (JCM)

AMENDED COMPLAINT

Plaintiff Fair Housing Justice Center, Inc. ("FHJC"), by its attorneys, Emery Celli Brinckerhoff & Abady, LLP, for its Amended Complaint against Defendant Town of Eastchester (the "Town") alleges as follows:

INTRODUCTION

1. This action seeks to enjoin the Town of Eastchester from discriminating on the basis of race and national origin in its Section 8 housing voucher program and zoning code.

2. The Town of Eastchester has two programs designed to provide low-income families and seniors with decent and affordable housing. Through a system of preferences, the Town has designed those programs to benefit its own overwhelmingly white residents and their relatives at the expense of even the neediest applicants from other parts of more racially diverse Westchester County and beyond.

3. The Town operates its federally funded rental-assistance Section 8 Housing Choice Voucher Program in a way that ensures these results. Town residents are given preference in the distribution of vouchers, and, because the Town is 87% white and non-Hispanic, that residency preference leads to the exclusion of most African American and

Hispanic renters. As a result, although white non-Hispanic people make up only about 26% of the applicants on Eastchester's waitlist for a voucher, they comprise more than 70% of the people who have received vouchers.

4. The preference results in *ten- to fifteen-year* waits for non-residents, who are more likely to be African American or Hispanic. Over the last 40 years, fewer than 10 people who did not have the residency preference were able to obtain housing vouchers from the Town.

5. The Town has imported similar residency preferences into its zoning code, which allows a special use permit for senior housing developments that include low-income units. The disparate results that plague the voucher program will inevitably be the same for low-income seniors when a senior housing development, currently under construction, is completed.

6. The Town has created and maintained these residency preference schemes at least in part because of their racially disparate impact. Its housing programs suppress minority participation, deny housing opportunities to African Americans and Hispanics, and perpetuate residential racial segregation.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over the federal claims pursuant to 28 U.S.C. §§ 1331 and 1343, 28 U.S.C. §§ 2201 and 2202, and 42 U.S.C. § 3613. This Court has supplemental jurisdiction over the New York State law claims pursuant to 28 U.S.C. § 1367.

8. The acts complained of occurred in the Southern District of New York, and venue is lodged in this Court pursuant to 28 U.S.C. § 1391(b).

THE PARTIES

Fair Housing Justice Center, Inc.

9. Plaintiff Fair Housing Justice Center, Inc. is a private non-profit organization dedicated to ensuring that all people have equal access to housing opportunities in the greater New York City region by eliminating housing discrimination and creating open, accessible, and inclusive communities. It is organized under the laws of New York and operates within the Southern and Eastern Districts of New York, including Westchester County.

10. Among other things, FHJC (a) provides information to the public and other non-profit organizations in the New York City regional area about fair housing laws; (b) provides intake counseling to individuals and organizations with allegations of housing discrimination; (c) conducts testing and other investigations of allegations of housing discrimination; (d) makes legal referrals to cooperating attorneys; (e) assists with the preparation and filing of administrative housing discrimination complaints; and (f) provides post-referral litigation support services. FHJC provides these services free of charge and without regard to income.

11. FHJC also conducts testing investigations for government law enforcement agencies, provides technical assistance to non-profit organizations engaging in fair housing enforcement activities, and engages in policy initiatives that further FHJC's mission, including the publication and dissemination of reports and educational materials.

12. FHJC recruits, trains, and utilizes individuals as "testers," persons who pose as renters or homebuyers for the purpose of obtaining information about the conduct of local governments, landlords, real estate companies, agents, and others to determine

whether illegal housing discrimination is taking place.

Town of Eastchester

13. Defendant Town of Eastchester is a municipal corporation organized under the laws of the State of New York, with its principal offices at 40 Mill Road, Eastchester, New York. The Town is located in southern Westchester County within the Southern District of New York. The town includes the Villages of Bronxville and Tuckahoe.

14. The Town is governed by a Town Board and has a Planning Board with authority to enact and enforce the Town's zoning code. All references to Defendant Town include any individual acting on behalf of, or under the authority derived from, the Town.

15. The Town receives federal housing funds from the United States Department of Housing and Urban Development ("HUD") which it uses to operate a Section 8 Housing Choice Voucher Program. As a recipient of federal housing funds, the Town is required to administer its housing programs in a manner that affirmatively furthers fair housing consistent with 42 U.S.C. § 3608.

16. The Town's population as of the 2010 Census was approximately 32,000. The Town's population was 87% white and 5.8% black as of the 2010 Census. At that time, the Town's population was 5.48% Hispanic or Latino of any race.

FACTUAL ALLEGATIONS

The Town's Discriminatory Section 8 Residency Preferences

17. Congress established the Section 8 Existing Housing Program, now known as the Housing Choice Voucher Program, which is the largest rent subsidy funding source of the federal government, as part of the Housing and Community Development Act of 1974, P.L. 93-383, Title II, § 201(a), 88 Stat. 663, 662-66, now codified at 42 U.S.C.

§ 1437f and Housing Community and Development Act of 1987, Pub. L. Number 100-242 § 143, 101 Stat. 1814, 1850 (1988), codified as amended at 42 U.S.C. § 1437f(o). Its purpose is to aid low-income families to obtain a decent place to live through the use of vouchers to subsidize their rent in the private housing market.

18. Low-income families and individuals may apply for Section 8 vouchers at any authorized housing agency in New York when the waiting lists are open. Each Housing Choice Voucher program is open to all applicants, not just local residents.

19. With rental assistance, renters pay approximately one-third of their incomes for rent, and federal funding provided by HUD pays the remaining amount of rent to landlords. Local housing agencies operating Housing Choice Voucher programs must administer their programs in accordance with rules prescribed by HUD.

20. Local housing agencies, such as the Town of Eastchester, have limited discretion to develop local "preferences," including residency preferences, based on local housing needs and priorities, for rental voucher applicants. All preferences, however, must comply with the non-discrimination and equal opportunity obligations of federal housing laws, federal civil rights laws, and the United States Constitution. As required by 24 C.F.R. § 982.207(b)(1)(iii), the Town is prohibited from using a residency preference that has the purpose or effect of delaying or otherwise denying admission to its Section 8 voucher program on the basis of race or national origin.

21. HUD regulations also prohibit the Town from using a residency preference that is based on how long an applicant has resided or worked in the residency preference area. *See* 24 C.F.R. § 982.207(b)(1)(iv).

22. Local housing agencies, such as the Town of Eastchester, must adopt a

written administrative plan that establishes local policies for operation of the Town's housing voucher program in accordance with HUD requirements. The administrative plan sets forth the policies for the selection of applicants from the waiting list, as well as the Town's procedures for closing and reopening the waiting list. The Town is required to administer its program in accordance with its administrative plan and must advise HUD of any revisions to its plan.

23. Since at least 2014, the Town's Housing Choice Voucher Program Administrative Plan has included two types of local preferences: a general preference and a residency preference. A general preference is given to households that have been involuntarily displaced, are paying more than half of their income in rent, or are living in substandard housing or are homeless. A residency preference is given to households that already live in the Town or include members who work or have been hired to work in the Town.

24. Under the Administrative Plan, the residency preference trumps the general preference: first priority goes to applicants claiming both preferences; second priority to applicants claiming a residency preference only; third priority to applicants claiming a general preference only; and final preference to applicants not claiming either preference.

25. As a result, applicants who do not already live or work in the Town will remain on a waiting list until *all* applicants with sufficient pre-existing ties to the Town have been admitted, regardless of the respective urgency of the applicants' needs.

26. To enforce its preferences, the Town maintains waiting lists from which families are selected for participation in the voucher program by preference and time and date of their applications.

27. The resulting difference between residents' and non-residents' prospects for participating in the program is dramatic. As part of its investigation, FHJC sent a tester to the Town to inquire about its program waiting lists on February 10, 2016. A Town employee told the FHJC tester that residents have a several-months to two-years wait, while nonresidents wait for *ten or fifteen years*.

28. As of June 2017, the resident waiting list had only 25 active names, while the non-resident waiting list had 616 active names. Because the Town awards an average of only about 20 vouchers per year, the Town knew that those on the non-resident waiting list had almost no chance of receiving a voucher while those on the resident waiting list would receive vouchers within a year if otherwise eligible. In fact, based on data stretching back to 1976, fewer than 10 people who did not receive a residency preference were able to obtain housing vouchers from the Town.

29. Although the Town's administrative plan states that it will advertise its voucher program in newspapers, minority media, and on local cable broadcasts, in practice the Town does not advertise or make any specific outreach efforts at all.

30. Although the Town's administrative plan defines "residents" to include those who work in the Town, the Town does not disclose this fact on its website, on the voucher application, anywhere in the Town's Section 8 office, or in letters sent annually to applicants on the Town's waiting list. When an FHJC tester called the Section 8 office in July 2008 to ask how the Town's voucher program was administered, she was told that she would "have to be on a non-resident preference list, which is eight to ten years minimum, for a voucher." By contrast, residents faced a wait of "a year max." When the tester asked how she could get on the resident list, the person in the office told her she

had to submit proof of residency, like a lease; he never said that the residency preference was available to those who are employed in the Town. A second tester had a similar experience upon visiting the Town's Section 8 office in February 2016: He was never told that he could qualify for a residency preference if he worked in the Town. While the administrative plan states that those who work in the town may qualify for a preference, the plan is available only through a Freedom of Information Law request to the Town Clerk. Thus, applicants are not made aware that they may qualify for a residency preference even if they do not reside in the Town.

31. By using residency preferences, by warning non-resident prospective applicants of a ten- to fifteen-year wait, and by failing to advertise the availability of the residency preference to those who work in the Town, Defendant discourages non-residents, who are more likely to be African American and Hispanic, from applying to its voucher program. By its policies and conduct, Defendant suppresses minority participation in the Town's Housing Choice Voucher Program, denies housing opportunities to African Americans and Hispanics, and perpetuates the residential racial segregation that characterizes the Town.

The Town's Residency Preferences Favor White Section 8 Applicants and Perpetuate Racial Segregation

32. The impact of the Town's preferences on minority participation in its voucher program is striking.

33. Public records—including data in the "Picture of Subsidized Households," annually compiled and produced by HUD, and the tabulations created by the U.S. Census from the 2014 American Community Survey—allow for estimates showing that Eastchester's population of voucher-eligible individuals is considerably whiter than the

voucher-eligible populations of Westchester County, where Eastchester is located.

34. Based on these estimates, in Eastchester, fully 87% of income-eligible households are white, compared to 46% in Westchester as a whole. Correspondingly, in Eastchester, approximately 5% of eligible households are African American compared to 20% in Westchester; and approximately 4% are Hispanic, compared to 30% in Westchester.

35. As a result, the Town's residency preference is also a de facto racial preference. The results are unsurprising: Compared to a policy that would allow equal access to all applicants regardless of residency or would prioritize Westchester County residents, the Town's preference system reduces the number of African American and Hispanic households receiving vouchers.

36. Data from the Town confirm this result. Since 2002, 66% of applicants for Town vouchers have identified as non-white, but only 27% of those who received Town vouchers were non-white. By contrast, 26% of applicants identified as white non-Hispanic, but that group makes up 73% of those who have received Town vouchers. This stands in stark contrast to voucher-holders in Westchester County as a whole, where only 18% are white non-Hispanic, while 81% are non-white.

37. The Town administers its Section 8 program in full knowledge of the disparate impact that the residency preference levels on non-white applicants. Those on the residents' waitlist from 2002-2017 were 63% white non-Hispanic, 15% black, and 9% Hispanic. Those on the non-residents' waitlist during the same period were 13% white non-Hispanic, 46% black, and 27% Hispanic.

38. As a result of these policies and practices, a white applicant for a Town

voucher has a chance of receiving a voucher that is 8 times higher than the chance of a non-white applicant.

39. As an example, one African American applicant remained on the Town's waitlist for 12 years before receiving a voucher in 2017. A white applicant who was a Town resident waited less than *one month* before receiving a voucher in 2016.

40. The Town takes further affirmative steps to maintain racial segregation. Before a voucher is issued to an applicant, the Town provides the applicant with a map of the "impacted areas" of Westchester County. The map is based on 1990 Census data, and purports to show areas of the County where 40% or more people live below the poverty line and areas with more than 40% minority population. The Town discourages applicants from leasing units in any "impacted area." The Town tells applicants that the "impacted areas" show areas with high crime, but in fact no crime statistics are included in the map. Given that the vast majority of recipients of vouchers from the Town are white, the Town's practices effectively steer white residents away from minority neighborhoods and perpetuate racial segregation.

41. There is no legitimate non-discriminatory reason for using residency preferences in the way the Town defines and applies them.

42. The Town implements the residency preferences in its voucher program at least in part because of their racially disparate impact.

The Town's Discriminatory Preferences - Zoning Ordinance

43. In 2000, the Town adopted a zoning ordinance that authorizes a special use permit for Senior Housing Development in the Town's General Business District. *See* Zoning Law § 12(H)(27).

44. Under the ordinance, a Senior Housing Development may offer occupancy

only to "senior households"—households in which all members must be at least 55 years old, with two exceptions. A household member can be under 55 only if he or she is the spouse of someone who is at least 55 years old or is over 18 years old and is the physician-certified caretaker of someone who is at least 55 years old.

45. Households are limited to two persons in efficiency and one-bedroom units and three persons in two-bedroom units.

46. All Senior Housing Developments must also offer a minimum of 15% of their units as affordable housing to senior citizens earning less than 80% of the Area Median Income for Westchester County, a number defined each year by HUD.

47. As with its voucher program, the Town has adopted a residency-based preference system for its permitted Senior Housing Developments. The owner or manager of any such development is required to establish a waiting list for prospective tenants or purchasers and to select tenants or owners based on the following preferences.

48. First preference is granted to Town residents. Applicants within this group are internally ranked by the cumulative length of their residency. Priority is given to those who have lived in the Town longest.

49. Second preference for Senior Housing Development occupancy is granted to immediate-family members of current and former Town residents—their parents, children, and siblings. These applicants are also internally ranked, with relatives of current town residents given priority. They, in turn, are ranked based on the cumulative length of their family members' Town residency. Relatives of former Town residents are given next priority, also ranked based on the cumulative length of their relatives' residency.

50. Third preference for Senior Housing Development residency is given to all other Westchester County residents, but even these applicants are given priority based on the cumulative length of any former residency within the Town. Only after all Westchester County residents who have formerly lived in the Town have received housing are other Westchester residents considered, with priority given based on the cumulative length of their residency in the county.

51. The fourth preference goes to all other applicants, but former residents of the Town are favored in this group too, and they are ranked based on the cumulative length of their former Town residency. Finally, all other applicants are offered housing based on the cumulative length of their residency in New York State.

52. The Town's zoning ordinance ensures enforcement of these preferences in perpetuity. Any developer who applies for a Senior Housing Development permit must file and record a covenant, running with the land and binding upon all successive owners, ensuring that the project will be maintained as a Senior Housing Development, and that both the priority system and the minimum number of affordable units will always be maintained.

53. The ordinance also ensures the Town's ability to police developments' adherence to the preference scheme. The owner or manager of a Special Housing Development is required to provide to the Town all waiting lists, lists of available units, notices of rental or sale, and quarterly certified rent rolls. The ordinance further authorizes the Town's Housing Choice Voucher Program Officer and Building Inspector to review these records and visit and inspect the premises and books, records, and accounts of any Senior Housing Development to verify compliance with the ordinance,

including the preference system. Violations are punishable by fine and imprisonment.

54. When the Town was considering amending its zoning ordinance to permit multi-family housing in 2009, some town residents expressed various concerns about its effects to elected Town officials. At a Town Board meeting in 2009, a white resident and president of the North Eastchester Civic Association stated his concern that the proposed zoning ordinance could allow an "H.U.D. project" in the Town. Town Supervisor Anthony Colavita responded that the senior housing permitted by the zoning code would be for "Eastchester, Tuckahoe, and Bronxville residents only." He also promised that the Town would not "borrow" any HUD money for senior housing, and said that if a developer "took HUD money, they therefore couldn't comply with our zoning code, therefore they couldn't build a building and wouldn't get permission."

55. With these assurances, the Town Board approved the zoning ordinance.

56. In or around January 2011, a developer sought a special use permit from the Town to construct a 103-unit senior rental housing development called Summerfield Gardens.

57. While the proposal was pending approval, Town Supervisor Colavita sent a letter in October 2013 to Town residents to respond to, as he put it, "numerous phone calls and inquiries" regarding the Summerfield Gardens proposal. Specifically, he wrote, Town residents told him of rumors that the Town "is building 'low income housing' for a federal/state funded 'low income housing project' or that the Town of Eastchester is supporting the owner's sale of the property to the County as part of its HUD Affordable Housing settlement with the federal government." Other rumors, he wrote, have circulated that the development would be "a housing project for non residents or all age

groups." He continued: "ALL OF THE ABOVE IS COMPLETELY FALSE."

58. The letter continued: "[T]he application is for a brand new fair market value rental apartment building for our Eastchester, Bronxville and Tuckahoe senior citizens . . . . No part of the application is in any way related to any low income housing, nor any federal or state funded housing nor does it have anything to do with Westchester County HUD Affordable Housing settlement conditions. These rumors are simply false. There are no proposed 'housing projects' being considered." Colavita noted the residency preferences in the zoning code. "Eastchester, Tuckahoe and Bronxville seniors have priority over all others. Though it is extremely unlikely, in the event there are no Eastchester, Tuckahoe and Bronxville seniors in need of an apartment, then immediate family members of our town residents (i.e. mother or father who want to relocate to our Town to be closer to their families) have the next priority."

59. The letter continued: "Lastly, in an effort to keep our seniors who may be struggling financially in the town, the law provided for fifteen percent of the apartments to be rented at affordable rates. Another rumor concerned Section 8 housing vouchers being issued to our seniors for this proposed building. There are currently more than one hundred housing vouchers issued to our seniors in almost every apartment building located throughout the entire town. Section 8 vouchers may be available for Summerfield Gardens senior tenants from our town if the landlord and tenant both agree to participate."

60. A month prior to Supervisor Colavita's letter, during a September 2013 Town Planning Board meeting to discuss the Summerfield Gardens application, a resident expressed concern that the development would turn the area into "a Bronx

neighborhood." Another resident worried that "more Section 8 people [will] come in, [and] we're going to have the first project in Eastchester. That's what it looks like to me, it looks like a housing project." He warned the Planning Board that "these people" would move in "and there goes our neighborhood." He asked another resident present at the meeting, who used to live in the Bronx, "Do you want this to become the Bronx again?" He continued: "This is not New Rochelle. This is not Yonkers. We don't want this. If we wanted that, we would live there where it's much cheaper. . . . I work two jobs to get my house, why does someone else live in our neighborhood that can't afford it. I don't understand it."

61. According to Census data from 2015, the population of Bronx County is 29% black, 55% Hispanic or Latino, and 10% white; the population of Yonkers is 15% black, 35.5% Hispanic or Latino, and 41% white; and the population of New Rochelle is 18% black, 28% Hispanic or Latino, and 47% white. Unlike Eastchester, all three places have majority non-white populations.

62. In November 2014, the Planning Board approved the variances for Summerfield Gardens with a requirement that the zoning code's residency preferences be utilized at the site. Since then, the developer for Summerfield Gardens has not applied to the Town for a building permit.

63. In or around April 2013, another developer sought a special use permit to construct a 117-unit senior rental development called Elide Manor.

64. While reviewing the Elide Manor application, the Westchester County Planning Board wrote a letter in December 2013 to the Town's Planning Department. The letter encouraged the Town to support setting aside affordable units at Elide Manor

as affirmatively furthering fair housing ("AFFH") units as defined by the County. The letter further encouraged the Town "to consider amending local regulations so as to be consisted with the County's 'Model Zoning Ordinance Provisions.'"

65. At the time, the County's AFFH units and the Model Zoning Ordinance Provisions prohibited residency preferences.

66. The Town did not respond to the letter, nor did it consider reserving any units as AFFH units or adopting the Model Zoning Ordinance Provisions.

67. In October 2014, the Town Planning Board approved all variances for Elide Manor. The Town told the developer of Elide Manor that it was required to apply the zoning code's residency preferences to all units in the building, not just the affordable units. The project is currently under construction.

The Town's Residency Preferences Favor White Seniors and Perpetuate Racial Segregation

68. Only households with incomes below 80% of the Area Median Income for Westchester County as defined by HUD meet the Town's income eligibility criteria for affordable Senior units. Within this group of households, the Town's residency preferences favor non-Hispanic white households.

69. Again, data from the American Community Survey allow for the scope of the effect to be estimated. This data indicates that about 66% of income-eligible, one-, two-, and three-person 55-and-over households in Westchester County are white, 17% are African American, and 14% are Hispanic. By comparison, in Eastchester, 65-and-over households with comparable incomes and sizes are 95% white, only 2% African American, and less than 1% Hispanic. For families below the income threshold with a head-of-household between 45 and 64 years old, only about 4% are African American,

and 2% are Hispanic.

70. As with its voucher program, the Town's preference for overwhelmingly white resident applicants for Senior units over non-resident applicants who are more likely to be African American or Hispanic will reduce the number of African American and Hispanic households able to purchase or rent the affordable units and will perpetuate the Town's residential segregation.

71. Moreover, because the Town, in contravention to its zoning code, applies the residency preference to *all* Senior units, even those not designated as "affordable," white resident applicants are overwhelmingly more likely to be accepted for Senior units than African American or Hispanic applicants. Thus, the Town zoning code's residency preferences in practice deny housing opportunities to African American and Hispanic applicants.

The Town Knew of the Residency Preference's Racially Disparate Impact

72. The Town was aware that imposing residency preferences, in both its Section 8 voucher program and zoning code, has a racially disparate impact that discriminates against African American and Hispanic applicants for housing.

73. Currently, there is only one multi-family rental building in the unincorporated area of the Town of Eastchester (outside of the Villages of Bronxville and Tuckahoe): Sleepy Hollow Apartments. Sleepy Hollow is privately owned and has a total of 117 apartments. All the units at Sleepy Hollow are subsidized by HUD for rental to low-income seniors.

74. Prior to obtaining funding from HUD and prior to the commencement of construction, the Town entered into an agreement with Sleepy Hollow's owner in 1975 that first preference for apartments would be given to Eastchester "town-outside"

residents and second preference to residents of the Villages of Bronxville and Tuckahoe. The agreement mandated that the Town, not the owner, would determine the eligibility of applicants for occupancy at Sleepy Hollow.

75. From its opening in 1978 through 2005, the Town's Section 8 office maintained the waiting list for Sleepy Hollow. The Town also maintained all applications for Sleepy Hollow, applied the Town's residency preferences, and selected tenants for the building.

76. In a 2004 review of its contract with Sleepy Hollow, HUD found that the application of the residency preferences did not comply with HUD regulations and had a disparate impact on non-white applicants. The owner of Sleepy Hollow was instructed to, and did, suspend the use of the Town's residency preference until HUD could review it further. In 2005, HUD sent Sleepy Hollow's management a letter stating that the residency preference "could have a disparate impact on African-Americans and Hispanics as they have significantly lower representation in the preference areas when compared to the Housing Market Area."

77. In response, in 2005 the owner of Sleepy Hollow took over the waiting list and tenant selection process from the Town and stopped applying a residency preference. Sleepy Hollow's owner also informed the Town of the letter from HUD and specifically of its warning that the use of residency preferences may illegally discriminate.

78. Starting in at least 2004 and continuing to at least July 2008, the Town's website stated that the Town maintained the waiting list for Sleepy Hollow and that residency preferences were applied to the waiting list, even though during this time, Sleepy Hollow's owner had notified the Town of HUD's directive to stop using a

residency preference.

79. At the time, the Town did not suspend its own use of residency preferences in its Section 8 voucher program. In fact, four years later the Town created *new* residency preferences for multi-family housing when it enacted the special use permit for senior housing, even though it knew that Sleepy Hollow, a multi-family senior building, no longer applied such preferences at the instruction of HUD.

80. Indeed, when the 2009 zoning code amendments were discussed at a Town Board meeting, a white resident raised "a major concern" that this project could turn into another Sleepy Hollow, "where we lose control of what we have."

81. The Town was aware that the vast majority of the recipients of its Section 8 vouchers were white even though the majority of families on the waiting list for vouchers were non-white.

82. The Town applies residency preferences in its Section 8 program and in its senior housing at least in part because of its disparate racial impact.

Town's Discriminatory Policies Have Injured FHJC

83. By reason of Defendant's conduct as described above, FHJC has suffered injury in the form of diversion of its resources. Plaintiff has expended staff time and funds to investigate and respond to Defendant's discriminatory policies and practices which diverted resources away from FHJC's other activities. As part of its investigative efforts, Plaintiff expended staff time and resources to conduct and review testing, to obtain and review public documents regarding the Town's zoning code and Section 8 program, and to analyze Census and HUD Section 8 data.

84. Furthermore, Defendant's discriminatory policies and practices as described

above have frustrated FHJC's mission to (a) ensure that all people have equal access to housing opportunities; (b) foster open, accessible and inclusive communities; and (c) eliminate housing discrimination throughout the New York City region, including in Westchester County, by making housing unavailable and imposing discriminatory terms and conditions because of race and national origin and by perpetuating residential racial segregation in the Town of Eastchester and Westchester County.

FIRST CAUSE OF ACTION
(Fair Housing Act, 42 U.S.C. § 3604(a))

85. Plaintiff repeats and re-alleges the foregoing paragraphs of its complaint as though fully set forth herein.

86. Defendant's conduct as described above makes dwellings unavailable because of race and national origin in violation of the Fair Housing Act, 42 U.S.C. § 3604(a).

87. Plaintiff is an aggrieved person as defined by 42 U.S.C. § 3602(i). Plaintiff has been injured by Defendant's discriminatory conduct, and it has suffered damages as a result.

88. Accordingly, under 42 U.S.C. § 3613(c), Plaintiff is entitled to actual damages, injunctive relief, and reasonable attorneys' fees and costs.

SECOND CAUSE OF ACTION
(Fair Housing Act, 42 U.S.C. § 3604(b))

89. Plaintiff repeats and re-alleges the foregoing paragraphs of its Complaint as though fully set forth herein.

90. Defendant's conduct as described above discriminates in the terms, conditions, or privileges of the rental of a dwelling because of race and national origin, in

violation of the Fair Housing Act, 42 U.S.C. § 3604(b).

91. Plaintiff is an aggrieved person as defined by 42 U.S.C. § 3602(i). Plaintiff has been injured by Defendant's discriminatory conduct, and it has suffered damages as a result.

92. Accordingly, under 42 U.S.C. § 3613(c), Plaintiff is entitled to actual damages, injunctive relief, and reasonable attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant as follows:

a. Declaring that Defendant's actions violate the Fair Housing Act;

b. Permanently enjoining Defendant from using, requiring, or enforcing residency preferences in the Town's Housing Choice Voucher Program

c. Permanently enjoining Defendant from using, requiring, or enforcing residency preferences in permitting Senior Housing Developments;

d. Enjoining Defendant to:

   i. Make all necessary modifications to its policies, practices and procedures to comply with fair housing laws, including amending the Town's Housing Choice Voucher Program Administrative Plan to remove residency preferences and amending the Town's zoning code to remove residency preferences from the senior housing development special use permit;

   ii. Make all necessary modifications to the Town's housing choice voucher waiting list to allocate future vouchers based on the original date of application and not based on residency in the Town;

iii. Train all Defendant's officials, personnel, and employees on fair housing laws;

iv. Adopt and implement an affirmative marketing plan for the Town's Housing Choice Voucher Program that prevents future housing discrimination and does not create or maintain residential segregation;

v. Modify restrictive covenants that currently apply to senior housing developments to remove residency preferences; and

vi. Remedy the unlawful discrimination caused by its actions and omissions.

e. Awarding damages to Plaintiff;

f. Awarding Plaintiff reasonable attorneys' fees and costs under 42 U.S.C. § 3613(c); and

g. Awarding such other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 16, 2018

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