

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

<p>■■■■■ ■■■■■ ■■■■■</p> <p>Plaintiff,</p> <p>v.</p> <p>NORFOLK REDEVELOPMENT AND HOUSING AUTHORITY, a political subdivision of the Commonwealth,</p> <p>Defendant.</p>

Civil No.:
JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Ms. ■■■■■ ■■■■■ (“Ms. ■■■■■” by counsel, hereby pleads as follows against Defendant, Norfolk Redevelopment and Housing Authority (“NRHA”):

PRELIMINARY STATEMENT

1. Ms. ■■■■■ is a public housing resident at a unit owned by NRHA.
2. NRHA was created to help address the acute shortage of decent, affordable, and safe dwellings for low-income families.
3. Under federal law, NRHA is authorized to charge a minimum monthly rent of \$50, but if a family is experiencing “financial hardship,” the family is entitled to an exemption from the minimum rent requirement.
4. Ms. ■■■■■ brings this suit under 42 U.S.C. § 1983 to challenge NRHA’s custom, practice, or policy of (1) failing to properly and timely process requests for hardship exemptions or suspensions from the minimum rent policy; (2) depriving residents of meaningful and timely notice of their right to request a hardship exemption to the minimum rent requirement and the process for doing so; and (3) failing to grant residents a hardship

suspension or exemption, notwithstanding the lack of a formal request, when the facts that would justify the exemption or suspension are known to NRHA.

5. NRHA's custom, practice, or policy has deprived, and continues to deprive, eligible residents such as Ms. [REDACTED] of financial hardship exemptions and have resulted in an unwarranted financial benefit for the agency.

6. As a result of NRHA's custom, practice, or policy, NRHA has charged or collected from Ms. [REDACTED] minimum rent payments for which it was not entitled. This has caused severe financial strain, stress, and undue hardship for Ms. [REDACTED]

7. Ms. [REDACTED] seeks to impose liability against NRHA and also seeks injunctive and declaratory relief.

JURISDICTION AND VENUE

8. Ms. [REDACTED] brings this action under 42 U.S.C. § 1983, alleging violations of the United States Housing Act of 1937 and the Due Process under the Fourteenth Amendment to the United States Constitution. Thus, this Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3).

9. The Court has supplemental jurisdiction over Ms. [REDACTED] breach of contract claim pursuant to 28 U.S.C. § 1367.

10. Ms. [REDACTED] seeks declaratory and injunctive relief pursuant to 28 U.S.C. §§ 1343, 2201, and 2202 and 42 U.S.C. § 1983.

11. Because the events or omissions giving rise to Ms. [REDACTED] claims occurred in this judicial district, venue is proper under 28 U.S.C. § 1391(b)(2).

12. This action is filed in the proper division under local civil rule 3, because the events or omissions giving rise to [REDACTED] claims occurred in Norfolk, which is encompassed by this division.

PARTIES

13. NRHA is a political subdivision of the Commonwealth of Virginia under Va. Code § 36-4 and a public housing agency within the meaning of 42 U.S.C. § 1437a(b)(6)(A). As a public housing agency, NRHA receives federal funds to operate the public housing program in Norfolk, Virginia, and is required to operate the program in compliance with applicable federal laws.

14. The [REDACTED] community is a public housing development owned and managed by NRHA.

15. Ms. [REDACTED] has been a low-income public housing resident at [REDACTED] [REDACTED] [REDACTED] since June 29, 2022. Since moving into [REDACTED] Ms. [REDACTED] has been charged the minimum rent of \$50.

LEGAL BACKGROUND

I. Public Housing Residents' Right to a Properly Calculated Rent Subsidy

16. Under the National Housing Act of 1937 ("Housing Act"), local public housing agencies ("PHAs") receive federal financial assistance from the United States Department of Housing and Urban Development ("HUD") to provide public housing for low-income families. 42 U.S.C. § 1437 *et seq.*

17. In 1969, Congress enacted the "Brooke Amendment," which limited each public housing resident's rent payment to no more than 25% of the household's monthly adjusted income. Housing and Urban Development Act of 1969, Pub. L. No. 91-152, § 213(a), 83 Stat. 389.

18. In 1981, Congress modified the Brooke Amendment and raised public housing rent to the higher of 30% of the household's monthly adjusted income, 10% of its unadjusted monthly income, or the portion of the household's welfare assistance payment, if any, that is

specifically designated for housing costs. Housing and Community Development Amendments of 1981, Pub. L. No. 97-35, § 322, 95 Stat. 400 (codified at 42 U.S.C. § 1437a(a)).

19. Congress subsequently enacted the Quality Housing and Work Responsibility Act of 1998 (“QHWRA”). Pub. L. No. 105-276, § 501 *et seq.*, 112 Stat. 2518 *et seq.* QHWRA slightly modified the framework set forth in 42 U.S.C. § 1437a(a) for calculating income-based rent. In particular, QHWRA directed PHAs to impose monthly minimum rents of no more than \$50 but required that PHAs grant “immediate” exemptions to that minimum rent in cases of “financial hardship.” *Id.*, § 507, 112 Stat. 2524-2525 (codified at 42 U.S.C. §1437a(a)(3)); *see also* 24 C.F.R. §§ 5.628(a) and 5.630.

20. Presently, then, public housing residents must pay a reduced rent typically equal to 30% of their adjusted monthly household income, 10% of their unadjusted monthly household income, or a standard minimum rental amount, whichever is higher. *See* 42 U.S.C. § 42 U.S.C. § 1437a(a).

21. QHWRA defines “financial hardship” to include but not be limited to situations in which: (1) “the family has lost eligibility or is awaiting an eligibility determination for” governmental assistance; (2) “the family would be evicted as a result of the imposition of the minimum rent requirement”; (3) the family’s income has “decreased because of changed circumstances, including loss of employment”; or (4) there has been a death in the family. Pub. L. No. 105-276, § 507, 112 Stat. 2525 (codified at 42 U.S.C. §1437a(a)(3)(B)(i)).

22. These requirements are codified in the Housing Act’s implementing regulations. 24 C.F.R. § 5.630.

23. If a financial hardship is temporary in nature, the Housing Act requires PHAs to observe a 90-day period during which PHAs may not evict residents for nonpayment of rent.

42 U.S.C. § 1437a(a)(3)(B)(ii). If the hardship is initially or subsequently determined to be long-term, however, the PHA must “retroactively exempt” the resident from the minimum rent requirement for such 90-day period. *Id.* And the implementing regulations expressly state what the statute clearly implies: in the event the hardship is long-term, the exemption continues “so long as such hardship continues.” 24 C.F.R. § 5.630(b)(2)(iii)(B).

24. SNAP benefits (previously known as “food stamps”) are excluded from the definition of annual income for purposes of determining a public housing resident’s monthly rental obligation. *See* Federally Mandated Exclusions from Income—Updated Listing, 89 Fed. Reg. 6126, 6127 (Jan. 31, 2024) (stating that the “value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b))” is excluded from income and assets); 24 C.F.R. § 5.609(b)(22) (noting HUD publishes notices in Federal Register to identify amounts HUD is required by federal statute to exclude from income determinations).

25. In response to the COVID-19 pandemic, HUD recommended that PHAs make timely rent adjustments, including minimum rent hardship exemptions, when tenants lose their income. HUD urged PHAs to “[s]pread the [w]ord” and “[e]nsure all tenants, property management staff and service coordinators are aware of current interim reexamination and minimum rent hardship exemption policies.” HUD Exchange, *Assisting Housing Choice Voucher and Public Housing Tenants in Reducing Accrual of Rent Owed* (last revised January 15, 2021), <https://perma.cc/PPJ2-X3WX>. HUD recommended that PHAs “[e]ncourage property management staff and service coordinators to include [minimum rent hardship exemption policies] in information routinely sent to and discussed with residents, for example with rent reminder notices.” *Id.* HUD also urged PHAs to proactively identify renters behind on rent and “engage in direct outreach to those families” to prevent further accrual of rent owed. *Id.*

26. In 2021, the HUD Exchange issued a “Public Housing Minimum Rent and Hardship Requirements Toolkit,” to guide PHAs on how to properly implement the hardship exemption. HUD Exchange, *Public Housing Minimum Rent and Hardship Requirements Toolkit* (last visited Sept. 9, 2024), <https://perma.cc/39G7-MSSA>. The toolkit includes fact sheets about the hardship exemption and suggested outreach templates such as doorhangers and postcards to inform tenants of their right to receive a hardship exemption. The HUD Exchange “Tip Sheet for PHAs on Using the Minimum Rent Toolkit Resources” states that PHAs are not required to adopt a form nor is a household required to complete a form in order to request the hardship exemption. HUD Exchange, *Tip Sheet for PHAs on Using the Minimum Rent Toolkit Resources* (last revised Dec. 16, 2021), <https://perma.cc/EJ3C-3CGM>. In other instances, the HUD Exchange recommended that PHAs inform tenants of their right to minimum rent upon admission, each re-examination, and through direct conversations with tenants. HUD Exchange, *Public Housing Minimum Rent and Hardship Exemption: Instructional Video*, YOUTUBE (Dec. 22, 2021) (Timestamp: 4:20–6:10), <https://perma.cc/5VVC-4C73>.

27. In 2023, as part of a proposed rulemaking regarding a minimum 30-day notice requirement under the CARES Act, HUD reminded covered housing providers, including PHAs, that “HUD-assisted households can also request a hardship exemption,” and that the PHA must “[allow] the household to pay as little as zero dollars in rent if the household has experienced a qualifying financial hardship.” 30-Day Notification Requirement Prior to Termination of Lease for Nonpayment of Rent, 88 Fed. Reg. 83877, 83880 (Dec. 1, 2023). The rulemaking process is ongoing, but HUD indicated that it intends to amend its regulations to require that 30-day nonpayment of rent notices “include[s] information on how tenants can

recertify their income and how tenants can request a minimum rent hardship exemption if applicable.” *Id.* at 83881.

28. HUD’s Public Housing Occupancy Book states that it is “necessary that PHAs advise any family who pays minimum rent of the right to request the exemption.” HUD, *Public Housing Occupancy Guidebook* 159, <https://perma.cc/79K4-X5MD>.

II. NRHA’s Minimum Rent Policy and Procedure

29. Every PHA, including NRHA, must have a public housing agency plan. *See generally* 42 U.S.C. § 1437c-1. It must address, among other topics, the PHA’s rent determination policies. 24 C.F.R. § 903.7(d).

30. NRHA’s public housing agency plan is often referred to as its “Admissions and Continued Occupancy Policy” (“ACOP”). Such plans must be consistent with applicable federal statutes and regulations. 24 C.F.R. § 903.23(a)(4).

31. NRHA’s minimum rent is set at \$50.00 per month. NRHA’s minimum rent and hardship exemption policy, which is set forth in the ACOP, is attached as **Exhibit A**.

32. NRHA’s public housing residential lease with Ms. [REDACTED] states that rent determinations “will be made in accordance with [NRHA’s ACOP],” Ex. A, ¶ 6, and that NRHA will comply with “applicable regulations of [HUD],” *id.* at ¶ 7. The public housing residential lease agreement is attached as **Exhibit B**.

33. The ACOP states that NRHA will purportedly (a) “notify all participant families subject to a minimum rent of their right to request a minimum rent hardship exception under the law, Ex. A, at 1, (b) notify “the family that hardship exception determinations are subject to NRHA grievance procedures, *id.*, and (c) “grant the minimum rent exception immediately upon request by the family prior to further investigation,” *id.* at 2.

34. The hardship exemptions provided for in NRHA's ACOP mirrors those set forth in the Housing Act and implementing regulations.

35. The ACOP further states that NRHA will only assess the applicability of the hardship exemption if a request is made in writing. Ex. A, at 1–2.

FACTS

I. NRHA's "Only On Request" Custom, Practice, or Policy

36. On information and belief, notwithstanding NRHA's written policy in the ACOP that residents on minimum rent will be informed of their right to request a minimum rent hardship exemption, NRHA has a custom or practice of not notifying such residents of their right to request a hardship exemption, the applicable exemptions, and the process for doing so. Thus, NRHA's custom or practice fails to ensure that the hardship exemptions are properly granted when tenants charged the minimum rent are experiencing financial hardships.

37. On information and belief, NRHA has a custom or practice of not taking reasonable, adequate, or timely steps to ensure that residents on minimum rent are notified of the availability of hardship exemptions when they encounter a "financial hardship" covered by the applicable statute and regulations.

38. Even when NRHA possesses information confirming that a public housing resident is eligible for a suspension or an exemption from the minimum rent requirement because of a qualifying financial hardship, NRHA has a policy of not granting a suspension or exemption if the resident has not formally requested one in writing.

39. On information and belief, even if the resident *does* request a hardship exemption or suspension from the minimum rent requirement, NRHA has a custom or practice of failing to "immediately" grant the exemption or suspension request and instead continuing to charge

the resident minimum rent and, in some cases, initiating an eviction action against them based on their failure to pay the minimum rent.

40. NRHA's lease for [REDACTED] does not address NRHA's minimum rent policy at all, including the application or review process for a hardship suspension or exemption and the forms or documents required to initiate the process. *See generally* Ex. B. To be sure, the eleven-page, single space lease states that rent determinations "will be made in accordance with [NRHA's ACOP] . . . [which is] available in the Community Management Office." *Id.* at ¶ 6. But that passing reference does nothing to inform residents of their right to request a hardship exemption or suspension from the minimum rent policy and the like.

41. Even if a resident reads between the lines and goes to the [REDACTED] Management Office to read the ACOP, the ACOP is a dense, single-spaced legal document that is 213 pages long. It neither addresses nor references the minimum rent policy or the process for requesting hardship suspensions or exemptions until page 59. And although the ACOP goes into greater detail than the lease agreement, it still does not explain the application or review process for a hardship suspension or exemption and does not advise tenants of any NRHA-required forms. In other words, it does not adequately notify tenants of the "what," the "how," or the "when" related to financial hardship exemptions.

42. On information and belief, all NRHA public housing leases contain the same language concerning rent determinations and the minimum rent policy.

II. Although Ms. [REDACTED] Years-Long Effort to Obtain Affordable Housing Came to Fruition in June 2022, Since 2019 Her Health Has Continued to Decline, Causing Her to Finally Submit an Application for SSDI Benefits in December 2023.

43. As stated above, Ms. [REDACTED] has been a low-income public housing resident at [REDACTED] [REDACTED] since June 29, 2022. And since

moving into [REDACTED] Ms. [REDACTED] has been charged the minimum rent of \$50. When executing her lease and other documents, no NRHA representative or employee explained the hardship exemption or suspension policy and process to Ms. [REDACTED] Nor has any NRHA employee or representative explained the same to [REDACTED] during the duration of her tenancy.

44. Like many applicants for public or subsidized housing, Ms. [REDACTED] application for subsidized or public housing through NRHA had been pending for several years.

45. Prior to moving into her unit at [REDACTED] Ms. [REDACTED] was unable to afford housing on the private market by herself. For a while, she resided with her then-partner, but she fled because of domestic violence. Shortly after, family members allowed Ms. [REDACTED] to reside with them, but when that arrangement fell through, she was homeless for two months before she moved into [REDACTED]

46. Ms. [REDACTED] did not complete high school as she dropped out after the eighth grade. As such, she at times has difficulty with processing written information, especially legal documents like leases or termination notices.

47. From around January 2008 through around December 2019, Ms. [REDACTED] worked part-time as a caregiver for her aunt. In early 2020, she stopped working as a result of the COVID-19 pandemic.

48. Since September 2021 or so, Ms. [REDACTED] health substantially worsened and she has been unable to work due to the following diagnosed conditions and symptoms: chronic obstructive pulmonary disease (“COPD”); asthma; bronchitis; anxiety attacks; and pain in her lower extremities.

49. Ms. [REDACTED] takes a variety of prescribed medications, including Cetapin, to control her blood sugar levels; Omeprazole, to address her stomach ulcer(s); Primidone, to treat

seizures and tremors; Hydroxyzine, for her anxiety, nausea, and the like; and a Spiriva Respimat Mist Inhaler and Albuterol Pump, both of which treat symptoms associated with her COPD and asthma. Ms. [REDACTED] also utilizes a nebulizer on a daily basis every four or so hours. And at night, Ms. [REDACTED] uses a CPAP—that is, a continuous positive airway pressure machine—to ensure she receives adequate oxygen.

50. Due to her diagnosed conditions, Ms. [REDACTED] regularly sees a primary care physician.

51. Because of her medical conditions, it has become difficult for Ms. [REDACTED] to move around and when doing so she often encounters problems with breathing. Even walking across a room can cause her to lose her breath.

52. Ms. [REDACTED] sometimes has food enter her lungs, experiences chest pains, and suffers from anxiety attacks. Ms. [REDACTED] is also expected to have surgery this year to remove all or part of her esophagus.

53. Over the past couple years, Ms. [REDACTED] has had several prolonged, unexpected stays at local emergency rooms. This year alone, [REDACTED] was admitted three times to Norfolk General Hospital for life-threatening or serious conditions. Her visits have lasted anywhere from a day to a week.

54. On December 18, 2023, [REDACTED] through her representative, submitted an application for social security benefits based on the medical conditions set forth above. The application is still pending.

III. From the Start of Her Tenancy, Ms. [REDACTED] has Struggled to Pay Minimum Rent.

55. Since becoming unemployed, Ms. [REDACTED] has been forced to rely on her SNAP benefits as her sole source of income, though she uses them to purchase food. As discussed

previously, SNAP benefits are excluded from a resident's income for purposes of calculating a public housing resident's monthly rent.

56. From the start of her tenancy, Ms. [REDACTED] inability to work and increasing health problems made it difficult for her to meet her monthly rental obligations, including the \$50 minimum rent. Ms. [REDACTED] was unaware of the fact that she could request an exemption or suspension from her minimum rent. To meet her ongoing obligations, she has often had to rely upon the sporadic assistance of family members and friends.

57. At the inception of her tenancy, one friend provided Ms. [REDACTED] with \$60 per month. Due to that friend's personal obligations, however, he stopped providing consistent assistance to Ms. [REDACTED] after two or three months. Shortly after, Ms. [REDACTED] informed NRHA that she no longer received \$60 per month from this friend, but NRHA did not bother to mention or apply the hardship exemption. Instead, Ms. [REDACTED] continued to proceed on the mistaken assumption that there was no exemption from the minimum rent policy.

58. When NRHA executed the lease with Ms. [REDACTED] in June 2022, NRHA knew Ms. [REDACTED] satisfied one of the criteria for a hardship exemption because she informed NRHA that she was seeking medical treatment, had been to the hospital multiple times for her medical conditions, and was unable to return to work as a result thereof. Ms. [REDACTED] also informed NRHA of the same during several subsequent interactions. Notwithstanding that knowledge, NRHA did not "immediately grant an exemption" from the minimum rent. 42 U.S.C. § 1437(a)(3)(B)(i). Nor did NRHA ever inform Ms. [REDACTED] of her right to request a hardship exemption.

IV. Ms. [REDACTED] Experience With NRHA's Implementation of the Minimum Rent Policy and Procedure.

59. Near the inception of her tenancy, Ms. [REDACTED] was given numerous documents to review that pertained to her household and income composition. Ms. [REDACTED] briefly visited the [REDACTED] community office to sign those documents, none of which were explained to her. The NRHA representative merely directed her where her signature was required. One of the several documents she signed was entitled, “Rental Payment Choice, which is attached as **Exhibit C**. Although the document states that the signor is “aware [that she is] entitled to request a hardship exemption based on the established criteria,” Ms. [REDACTED] did not read this cursory, generalized, and vague statement. Nor did the NRHA representative explain this qualifying statement—or anything else, for that matter—to her. Instead, an NRHA representative directed her to simply sign and date this and other documents, none of which she was provided copies of.

60. As stated above, Ms. [REDACTED] lease agreement does not discuss, much less mention, the hardship exemptions or the process for requesting them.

61. NRHA issues termination notices on the basis of nonpayment of rent to minimum-rent residents such as Ms. [REDACTED] each month for which there is an outstanding balance. Such notices do not contain any information about the right to request a hardship exemption and the process for doing so, even though the Housing Act expressly states that PHAs “shall immediately grant” a financial hardship exemption when “the family would be evicted as a result of the imposition of the minimum rent.” 42 U.S.C. § 1437a(a)(3)(B)(i); *see also* 24 C.F.R. § 5.630(b)(1)(ii). A selective sample of these termination notices, dated April 12, 2023; May 9, 2023; July 10, 2023; August 8, 2023; October 10, 2023; and November 8, 2023, are attached as **Exhibit D**.

62. NRHA reminds residents such as Ms. [REDACTED] of their obligation to pay the monthly minimum rent of \$50 (and any other fees) by issuing monthly written notices that summarize the amount that will be due on the first of the following month. Those notices do not contain any information about the right to request a hardship exemption and the process for doing so. A selective sample of these notices, dated August 1, 2022; May 2023; June 1, 2024; and July 1, 2024, is attached as **Exhibit E**.

63. NRHA also issues notices of rent adjustment to residents like Ms. [REDACTED] who are placed on minimum rent. Such notices do not notify them of their right to request a hardship exemption and the process for doing so. A sample of such a notice, which is dated September 21, 2022, is attached as **Exhibit F**.

64. A ledger that covers the months of November 2022, through May 2023, and August 2023, through October 2023, is attached as **Exhibit G**.

65. Without contemporaneously or previously informing Ms. [REDACTED] of her right to request a hardship exemption, on March 6, 2023; May 3, 2023; and August 22, 2023, NRHA filed an eviction action against Ms. [REDACTED] based on her failure to pay the monthly minimum rent. Each eviction action was ultimately dismissed without prejudice or nonsuited based on technical legal defects in NRHA's termination notices. These cases therefore did not adjudicate whether Ms. [REDACTED] owes the amounts NRHA has charged and continues to charge Ms. [REDACTED]

66. To date, Ms. [REDACTED] continues to receive termination notices on the basis of nonpayment of rent every month. Those notices state that if she does not pay the balance within 30 days, NRHA will file an eviction action against her. Ms. [REDACTED] thus fears that NRHA will soon refile an eviction action against her.

V. Although Ms. [REDACTED] Learns About the Right to Request a Hardship Exemption And Requests One Through Counsel, Her Requests Are Ignored.

67. Ms. [REDACTED] learned of her right to request a hardship exemption from the minimum rent in the spring of 2023 from her legal aid attorney.

68. On April 28, 2023, Ms. [REDACTED] by counsel, formally requested a hardship exemption to the minimum requirement via email to the [REDACTED] property manager. Ms. [REDACTED] counsel explained that Ms. [REDACTED] sole source of income was SNAP, that she suffered from anxiety disorder and COPD, that she was requesting a meeting to discuss the hardship exemption, and that she was gathering medical documentation to explore applying for disability benefits. This email is attached as **Exhibit H**. To date, NRHA has failed to immediately suspend Ms. [REDACTED] minimum rent in response to this request. Nor has NRHA formally denied or approved the request, or classified the hardship as long-term or short-term.

69. On February 12, 2024, Ms. [REDACTED] by counsel, submitted a written notice by mail and email to the [REDACTED] Property Manager and NRHA's counsel. That letter, and proof of service, is attached as **Exhibit I**. In that letter, counsel for Ms. [REDACTED] requested that Ms. [REDACTED] be immediately granted a hardship exemption from the minimum rent policy, and that the exemption be made retroactive. As grounds, Ms. [REDACTED] counsel pointed out that Ms. [REDACTED] suffers from a number of serious medical conditions and has spent time in the hospital, preventing her from being able to work and afford the minimum rent. Counsel for Ms. [REDACTED] also noted that Ms. [REDACTED] applied for disability benefits through Social Security in December 2023, and that the application was still pending.

70. The February 12, 2024, letter also demanded that any legal fees associated with the unlawful detainers that were previously dismissed or nonsuited be removed from Ms. [REDACTED] ledger because NRHA did not prevail in those eviction actions.

71. To date, neither Ms. [REDACTED] nor her counsel have received a response from NRHA or its counsel to Ms. [REDACTED] February 12, 2024, letter. Instead, NRHA continues to charge Ms. [REDACTED] the \$50.00 minimum rent and threatens to evict her if she does not pay the outstanding balance. Moreover, NRHA continues to send Ms. [REDACTED] multiple letters, demanding that she attend financial counseling sessions, despite Ms. [REDACTED] precarious health situation. These letters, along with the monthly termination notices, cause Ms. [REDACTED] great distress and anxiety.

72. On information and belief, to date NRHA still has not removed the legal fees that NRHA improperly assessed against Ms. [REDACTED]

73. Because Ms. [REDACTED] is terrified to lose the housing she worked so hard to secure, throughout her tenancy she has strived to make payments when able. To do so, however, she has had to sometimes resort to the sporadic assistance of family members and friends.

74. Ms. [REDACTED] intends to maintain her tenancy with NRHA and must be able to rely on the minimum rent hardship exemption policy when she needs it now and, possibly, in the future. For the duration of her tenancy, NRHA's practices, policies, and customs regarding notice and implementation of the minimum rent hardship exemption have and will impact her rent payments and ability to maintain her leasehold interest.

75. Without the issuance of injunctive and declaratory relief, Ms. [REDACTED] will continue to be forced to pay or owe overdue rent she was not required to pay, or alternatively, she will be evicted for nonpayment of rent. No adequate remedy exists at law and Ms. [REDACTED] faces irreparable harm if she loses the subsidy she waited so long to obtain by being evicted. And if she is evicted, her already poor health will likely worsen significantly. Furthermore, the balance of the harms and the public interest favors the issuance of injunctive relief

CAUSES OF ACTION

COUNT I

42 U.S.C. § 1983

(Violation of the United States Housing Act, 42 U.S.C. § 1437a(a))

76. Ms. █████ realleges and incorporates by reference paragraphs 1 through 75 above.

77. NRHA is a “person” within the meaning of 42 U.S.C. § 1983.

78. Acting under color of state law and through its customs, practices, and policies, NRHA has violated, and continues to violate, Ms. █████ rights secured by 42 U.S.C. § 1437a(a)(3), which is actionable pursuant to 42 U.S.C. § 1983, and which affords Ms. █████ and other families the right to a properly calculated rent subsidy.

79. NRHA violated Ms. █████ right to a properly calculated rent subsidy by (1) failing to properly and timely process her April 28, 2023, and February 12, 2024, written request for a hardship exemption or suspension from the minimum rent; (2) depriving Ms. █████ of meaningful and timely notice of her right to request a hardship exemption to the minimum rent requirement and the process for doing so; and (3) failing to grant Ms. █████ a hardship suspension or exemption, notwithstanding the lack of a formal written request from Ms. █████ when the facts warranting mandatory suspension or exemption became known to NRHA, *i.e.*, NRHA’s “only on request” custom, practice, or policy.

80. As to NRHA’s “only on request” custom, practice, or policy, the facts warranting a mandatory suspension or exemption were known to NRHA at the inception of Ms. █████ tenancy, since NRHA knew that she had previously lost employment, that her source of income was SNAP benefits, and that her health was deteriorating. The facts warranting a mandatory suspension or exemption also became known to NRHA when NRHA issued monthly termination notices based on nonpayment of the minimum rent, and when NRHA filed three

successive eviction actions against Ms. [REDACTED] based on nonpayment of rent on August 22, 2023, March 6, 2023, and May 5, 2023.

81. As a result of NRHA's actions, Ms. [REDACTED] has been injured and suffers continuing injuries.

COUNT II
42 U.S.C. § 1983
(Violation of the Due Process Clause)

82. Ms. [REDACTED] realleges and incorporates by reference paragraphs 1 through 75 above.

83. NRHA is a "person" within the meaning of 42 U.S.C. § 1983.

84. The Due Process Clause of the Fourteenth Amendment prohibits a state from depriving "any person of life, liberty, or property, without due process of law[.]" U.S. Const. amend. XIV, § 1.

85. Ms. [REDACTED] has a property right in her leasehold interest, and in a system that produces a fair determination of her rent in times of financial hardship. As established by the Housing Act and its implementing regulations, 42 U.S.C. § 1437a(a)(3), 24 C.F.R. § 5.630, she has a legitimate claim of entitlement to consideration for a hardship exemption to the minimum rent requirement, and a legitimate claim of entitlement to a properly calculated rent subsidy.

86. Acting under color of state law, NRHA deprived Ms. [REDACTED] of these rights without proper notice and a right to be heard.

87. In particular, NRHA deprived Ms. [REDACTED] of her right to a fair determination of her eligibility for a hardship exemption and her right in her leasehold interest by failing to notify her in a meaningful and timely manner of her right to request such an exemption, and by failing

to maintain a system of rent calculation that fairly and lawfully determines rent in times of financial hardship.

88. NRHA's action have violated and continue to violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

89. The deprivations of Ms. [REDACTED] rights are a consequence of NRHA's customs, practices, and policies.

COUNT III
Common Law Breach of Contract

90. Ms. [REDACTED] realleges and incorporates by reference paragraphs 1 through 75 above.

91. NRHA breached the lease by failing to calculate and charge rent in an amount that is in accordance with NRHA's ACOP and applicable federal implementing regulations for the United States Housing Act. Ex. B, at ¶¶ 6–7.

92. NRHA further breached the lease by charging Ms. [REDACTED] legal fees for unlawful detainers that were nonsuited or dismissed. Because NRHA did not “prevail[] or obtain[] judgment in th[ose] legal proceeding[s],” Ms. [REDACTED] was not responsible for any legal fees associated with the filing of the unlawful detainers. Ex. B, at ¶ 14.

93. NRHA's breaches have injured Ms. [REDACTED] by depriving her of hardship exemptions to which she is entitled and other financial harms. As such, she is entitled to damages and other relief to be ascertained at trial.

PRAYER FOR RELIEF

Ms. [REDACTED] respectfully requests that this Court award her the following relief:

1. As to Count I, declare that NRHA's failure to properly and timely process Ms. [REDACTED] hardship exemption requests violated the United States Housing Act of 1937, 42 U.S.C. § 1437a(a)(3)(b), and its implementing regulations;

2. As to Count I, declare that NRHA's failure to meaningfully and timely notify Ms. [REDACTED] of her right to request a hardship exemption from the minimum rent policy and the process for doing so violated the United States Housing Act of 1937, 42 U.S.C. § 1437a(a)(3)(b), and its implementing regulations;

3. As to Count I, declare that NRHA's "only on request" custom, practice, or policy violates the United States Housing Act of 1937, 42 U.S.C. § 1437a(a)(3)(b), and its implementing regulations;

4. As to Count II, declare that NRHA's failure to meaningfully and timely notify Ms. [REDACTED] of her right to request a hardship exemption from the minimum rent policy and the process for doing so violated the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

5. As to Count II, declare that NRHA's "only on request" custom, practice, or policy violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

6. As to Counts I and II, enter a preliminary and permanent injunction, without bond (or upon a nominal bond), ordering NRHA to (a) immediately suspend Ms. [REDACTED] minimum rent; (b) process Ms. [REDACTED] request for a hardship exemption in a timely manner; (c) classify Ms. [REDACTED] hardship exemption as long-term and grant her hardship exemption retroactive to when Ms. [REDACTED] first fell behind in her monthly rental obligations, or to such other date the Court deems appropriate; (d) refund or otherwise credit Ms. [REDACTED] the difference between the minimum rent and the lesser rent she owed; and (e) not terminate Ms. [REDACTED] lease or file an eviction against Ms. [REDACTED] based on her previous failure to pay the minimum rent and other improper fees assessed against her;

7. As to Counts I and II, enter a preliminary and permanent injunction, without bond (or upon a nominal bond), enjoining NRHA from (a) continuing to have in place its “only on request” custom, practice, or policy; (b) failing to suspend or grant exemption from the minimum rent when it knows of circumstances justifying the suspension or exemption; and (c) requiring any of their public housing residents to pay the minimum rent without first providing that resident with adequate and timely notice of the right to request, and the procedure for requesting, a hardship exemption to the minimum rent requirement;

8. As to Counts I and II, award nominal damages;

9. As to Count III, declare that NRHA has breached its duties under its residential lease agreement with Ms. [REDACTED] by (a) charging Ms. [REDACTED] court costs or attorney fees that were incurred as a result of eviction actions that were non-suited or dismissed, and (b) failing to calculate and charge rent in an amount that was in accordance with NRHA’s ACOP and applicable federal implementing regulations for the United States Housing Act;

10. As to Count III, award compensatory damages;

11. As to Counts I and II, enter an order requiring NRHA to pay reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988;

12. Award pre- and post-judgment interest; and

13. Grant such other relief as this Court deems just and proper.

JURY DEMAND

Ms. [REDACTED] demands a trial by jury on all issues so triable under Rule 38 of the Federal Rules of Civil Procedure.

Dated: September 12, 2024

Respectfully submitted,

By: /s/ Brandon L. Ballard

LEGAL AID SOCIETY OF EASTERN VIRGINIA

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