1 2 3 4 5 6	David M. Levin SB #193801 Jesús M. Vargas SB #229955 Monique K. Doryland SB #208371 BAY AREA LEGAL AID 1025 MacDonald Avenue P.O. Box 2289 Richmond CA 94802 Telephone: (510) 233-9954 Facsimile: (510) 236-6846 Email: dlevin@baylegal.org	ORIGINAL FILED UCT 2 1 2005 RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA CARLAND
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14	FAYE RIVERS	
15	UNITED STATES DISTRICT COURT	
16	NORTHERN DISTRIC	CT OF CALIFORNIA
17		PAE-14777
18	FAYE RIVERS,	Case No. $5 - 042$
19)) COMPLAINT FOR INJUNCTIVE
20	Plaintiff,	RELIEF AND DAMAGES, AND
21	VS) JURY DEMAND)
22	HOUSING AUTHORITY OF THE COUNTY OF CONTRA COSTA,) (Violation of Federal Housing and) Federal Civil Rights Laws)
23	ELIZABETH CAMPBELL, in her official	
24	capacity as Acting Director of Housing Assistance Programs for the Housing)
25	Authority of Contra Costa County,)
26	TERRI LOCKETT, in her official capacity as Housing Assistance Manager for the	,)
27	Housing Authority of Contra Costa County, and DOES 1-10,))
28)
	Defendants.)

Complaint for Injunctive Relief, Damages, and Jury Demand - 1 -

INTRODUCTORY STATEMENT

Plaintiff, a former recipient of a Section 8 housing subsidy, sues Defendants

Housing Authority of the County of Contra Costa ("HACCC"); Elizabeth Campbell,

Acting Director of Housing Assistance Programs for HACCC, in her official capacity;

Terri Lockett, Housing Assistance Manager for HACCC, in her official capacity; and Does

1-10. Defendants terminated Plaintiff's Section 8 housing subsidy by using the release of information purportedly relating to her son's juvenile criminal record, but this use of his juvenile file was not authorized under federal or California law. Defendants also denied Plaintiff's right of due process, adequate notice, and a meaningful opportunity to be heard

Plaintiff requests that this Court issue an order directing defendants to reinstate her Section 8 housing subsidy, compensate her for damages suffered as a result of the improper denial of housing assistance payments, cease the improper use of juvenile records, and that this Court award her any and all relief that it deems proper and just.

JURISDICTION AND VENUE

- 1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because it arises under 42 U.S.C. § 1437d and 42 U.S.C. § 1983, and for redress of violations of Plaintiff's rights under Federal Housing and Federal Civil Rights Laws.
- 2. Venue is proper in this Court under 28 U.S.C. § 1391 because the events at issue occurred in this judicial district.
- 3 A number of claims asserted herein allege violations of state law, and arise out of the same transaction or series of transactions on which the federal claims are based, and therefore this Court has supplemental jurisdiction over these state law claims.

PARTIES

4. Plaintiff Faye Rivers, at all times relevant herein, resided in Contra Costa County.

- 5 Defendant Housing Authority of the County of Contra Costa ("HACCC") is a public corporation under California law, and responsible for providing rental subsidies to low income families, seniors and persons with disabilities in Contra Costa County
- 6. Defendant Elizabeth Campbell, at all times relevant herein, was the Acting Director of Housing Assistance Programs for HACCC.
- 7. Defendant Terri Lockett, at all times relevant herein, was a Housing Assistance Manager for HACCC.
- Plaintiff is ignorant of the true names and capacities of the defendants named herein as Does 1 through 10, and Plaintiff therefore sues these defendants by their fictitious names. Plaintiff will amend her complaint to allege the true names and capacities of these Doe defendants when they have been ascertained.
- 9 Plaintiff is informed and believes, and on that basis alleges, that each of the defendants, including the Doe defendants, is responsible for the occurrences herein alleged, and that Plaintiff's damages were proximately caused thereby
- 10. Each of the acts of the defendants complained of herein was done by the defendants under color of the statutes, regulations, customs, usages, and laws of the State of California and County of Contra Costa.

STATEMENT OF FACTS

- Faye Rivers is 56 years old, and suffers from several serious health problems, including asthma, gout, a heart condition and arthritis. She is married to Lonnie Rivers; he is also 56 years old, and suffers from severe health problems, including a heart ailment and asthma.
- The only source of income for Faye and Lonnie Rivers is Supplemental Security Income ("SSI"), and they each receive SSI payments of approximately \$718 per month.
- 13. From approximately 1990 through August 2005, Faye Rivers received a rental subsidy provided by Defendant HACCC under the federally-financed Housing Choice Voucher Program known as "Section 8," and codified at 42 U.S.C. § 1437f

- 14. Until April 2005, Faye Rivers' son lived with Faye and Lonnie Rivers at their apartment in Contra Costa County. The Rivers paid \$439 in rent per month, and Defendant HACCC paid \$611 per month to the landlord (total rent was \$1050 per month).
- Faye Rivers' son, who is 18 years old, has been charged with involvement in a capital crime that occurred on April 23, 2005 in a neighboring city in Contra Costa County. The Contra Costa County District Attorney's Office has stated that to its knowledge Faye and Lonnie Rivers had no involvement in the April 23 incident.
- On or about May 9, 2005, and purportedly based on the April 23 Incident, HACCC notified Faye Rivers that it would seek to terminate her Section 8 rental subsidy.
- 17. On May 12, 2005, Faye Rivers requested in writing that HACCC provide her with an administrative hearing to determine whether HACCC properly proposed termination of her Section 8 rental subsidy.
- Hearing Officer Laurel Weil. At this hearing, Defendant Terri Lockett introduced a newspaper article as evidence of the April 23 Incident. At this hearing, Ms. Lockett also introduced a letter from Deputy District Attorney Hal Jewett dated June 9, 2005. Counsel for Rivers objected to both the newspaper article and the letter as hearsay. The Deputy District Attorney's letter stated that, to his knowledge, Faye and Lonnie Rivers had no involvement in the April 23 Incident. The Deputy District Attorney's letter also made two specific allegations regarding the juvenile record of Faye Rivers' son.
- 19. Defendants at no time provided Faye Rivers with access to any portion of the juvenile records of her son.
- Defendants at no time before the administrative hearing on June 14, 2005 provided Faye Rivers with notice that any aspect of her son's juvenile record would be at issue or potentially become a basis for termination of her housing subsidy.
- 21 The Hearing Officer ruled in favor of HACCC, relying on and specifically citing the juvenile allegations against Faye Rivers' son as they were detailed in the Deputy District Attorney's letter dated June 9, 2005, and upheld the termination of Faye Rivers'

Section 8 rental subsidy because the alleged juvenile offenses described in the Deputy District Attorney's letter had not been reported to HACCC.

- By letter dated July 28, 2005, Defendant Elizabeth Campbell provided Faye Rivers with a copy of the administrative hearing decision upholding the termination of Section 8 housing assistance payments
- 23. Faye and Lonnie Rivers moved to a less expensive apartment, but their housing costs have increased due to the loss of Section 8 housing assistance payments

FIRST CAUSE OF ACTION

(Violation of Federal Housing Law: Unauthorized Release of Juvenile Records)

- 24. Plaintiff realleges and incorporates by reference paragraphs 1 through 23 of her Complaint as though fully set forth herein.
- 25. This Cause of Action is brought pursuant to 42 U.S.C. §§ 1437d(q)(1)(c) and 1437(q)(7).
- The above-described acts and omissions of defendants, and each of them, violated Plaintiff's rights pursuant to 42 U S.C. § 1437d(q)(1)(c) because defendants terminated Faye Rivers' housing subsidy by using the release of information purportedly relating to a juvenile's criminal conviction that was not authorized under California law
- As a direct and proximate result of the acts, omissions, and violations alleged above, Plaintiff suffered damages in an amount to be proven at trial.
- Plaintiff also seeks injunctive and declaratory relief to remedy her loss of a housing subsidy that was wrongfully terminated as a result of defendants' unlawful acts

SECOND CAUSE OF ACTION

(Violation of Federal Housing Law: Failure to Provide Juvenile Records)

- 29. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 of her Complaint as though fully set forth herein.
- This Cause of Action is brought pursuant to 42 U.S.C §§ 1437d(q)(2) and 1437d(q)(7)

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- 31 The above-described acts and omissions of defendants, and each of them, violated Plaintiff's rights pursuant to 42 U.S.C. § 1437d(q)(2) because defendants did not provide Plaintiff with a copy of the criminal record at issue before taking an adverse action against Plaintiff by terminating her rental subsidy.
- As a direct and proximate result of the acts, omissions, and violations alleged above, Plaintiff suffered damages in an amount to be proven at trial.
- Plaintiff also seeks injunctive and declaratory relief to remedy her loss of a housing subsidy that was wrongfully terminated as a result of defendants' unlawful acts.

THIRD CAUSE OF ACTION

(Violation of Federal Housing Law: Failure to Provide Notice and Fair Hearing)

- 34. Plaintiff realleges and incorporates by reference paragraphs 1 through 33 of her Complaint as though fully set forth herein.
- 35. This Cause of Action is brought pursuant to 42 U.S.C. § 1983, and 42 U.S.C. §§ 1437d(k)(1) and 1437d(k)(3).
- The above-described acts and omissions of defendants, and each of them, violated Plaintiff's rights pursuant to 42 U.S.C. §§ 1437d(k)(1) and 1437d(k)(3) because defendants terminated Plaintiff's housing assistance payments without first advising her of the specific grounds allegedly supporting this action, and defendants did not provide Plaintiff with an opportunity to examine any documents or records related to the juvenile records at issue
- As a direct and proximate result of the acts, omissions, and violations alleged above, Plaintiff suffered damages in an amount to be proven at trial.
- Plaintiff also seeks injunctive and declaratory relief to remedy her loss of a housing subsidy that was wrongfully terminated as a result of defendants' unlawful acts.

FOURTH CAUSE OF ACTION

(Violation of Federal Civil Rights: Denial of Due Process)

39. Plaintiff realleges and incorporates by reference paragraphs 1 through 38 of her Complaint as though fully set forth herein.

- 40. This Cause of Action is brought pursuant to 42 U.S.C. § 1983 and the United States Constitution, in particular but not limited to, the Fifth and Fourteenth Amendment thereto.
- The above-described acts and omissions of defendants, and each of them, violated Plaintiff's rights pursuant to 42 U.S.C. § 1983 because defendants terminated Plaintiff's housing assistance payments without providing her with due process, and denied her adequate notice or a meaningful opportunity to be heard.
- As a direct and proximate result of the acts, omissions, and violations alleged above, Plaintiff suffered damages in an amount to be proven at trial.
- Plaintiff also seeks injunctive and declaratory relief to remedy her loss of a housing subsidy that was wrongfully terminated as a result of defendants' unlawful acts.

FIFTH CAUSE OF ACTION

(Supplemental Claim: Appeal From Administrative Hearing Decision Pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6)

- Plaintiff realleges and incorporates by reference paragraphs 1 through 43 of her Complaint as though fully set forth herein.
- California Code of Civil Procedure §§ 1094.5 and 1094.6 provide a procedure for setting aside administrative decisions issued in proceedings where by law an administrative hearing is required to be held, evidence taken, and discretion in the determination of facts is vested in the agency holding the hearing.
- 46. Plaintiff has a clear, present, and beneficial interest in, and right to, defendants' performance of the duties mandated by the due process clause of the fifth and fourteenth amendments to the United States Constitution, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the federal regulations and handbooks promulgated pursuant thereto with respect to defendants' operation of the Section 8 program.
- Notwithstanding the plain duties imposed upon them by law, defendants have failed and refused, and continue to fail and refuse, to carry out their obligations in the manner required by law. Specifically, by terminating Plaintiff's Section 8 housing subsidy

based on the release of information purportedly relating to her son's juvenile criminal record that was not authorized under federal or California law, and by denying Plaintiff her rights to due process, adequate notice, and a meaningful opportunity to be heard, defendants abused their discretion

Plaintiff has exhausted all available administrative remedies, and has no plain, speedy, or adequate remedy at law

<u>PRAYER</u>

WHEREFORE, Plaintiff prays for judgment as follows:

- That Plaintiff be awarded damages according to proof, under Plaintiff's first cause of action caused by defendants' violation of Plaintiff's federal housing rights pursuant to 42 U.S.C. §§ 1437d(q)(1)(c) and 1437(q)(7);
- 2. That Plaintiff be awarded damages according to proof, under Plaintiff's second cause of action caused by defendants' violation of Plaintiff's federal housing rights pursuant to 42 U.S.C. §§ 1437d(q)(2) and 1437d(q)(7);
- That Plaintiff be awarded damages according to proof, under Plaintiff's third cause of action caused by defendants' violation of Plaintiff's federal housing rights pursuant to 42 U.S.C. § 1983, and 42 U.S.C. §§ 1437d(k)(1) and 1437d(k)(3);
- That Plaintiff be awarded damages according to proof, under Plaintiff's fourth cause of action caused by defendants' violation of Plaintiff's federal civil rights pursuant to 42 U.S.C. § 1983, and the United States Constitution, in particular but not limited to, the Fifth and Fourteenth Amendment thereto;
- 5 That Plaintiff be awarded damages according to proof, under Plaintiff's fifth cause of action pursuant to California Code of Civil Procedure §§ 1094.5 and 1094.6;
- 6 That the Court order defendants to reinstate Plaintiff's housing choice voucher payments under the program known as "Section 8";
- 7. That the Court permanently enjoin defendants from using juvenile records in violation of 42 U.S.C. § 1437d;