

**IN THE CIRCUIT COURT  
FOR ANNE ARUNDEL COUNTY**

**ESTHER SHARPS**, 1819 Bowman Drive,  
Annapolis, MD 21401,

**GLEND A SMITH**, 816 B Brooke Court,  
Annapolis, MD 21401, individually and as great  
grandmother and Next Friend of **RICO  
JOHNSON**, a minor, 816 B Brooke Court,  
Annapolis, MD 21401,

**DELRAY FOWLKES, SR.**, 2928 Buckthorn  
Court, Glenarden, MD 20706, individually and as  
Parent and Next Friend of **DELRAY  
FOWLKES, JR.**, a minor, 1012 President Street,  
Annapolis, MD 21403,

**WAYNE BLAIR**, 20 L Ironstone Court,  
Annapolis, MD 21403,

**BRITTANY JANEY**, 111 Clay Street,  
Annapolis, MD 21401,

**DALANDA MOSES**, 9 E Bens Drive, Annapolis,  
MD 21403,

**JAMES ALEXANDER**, 1801 Poplar Avenue,  
Annapolis, MD 21401,

**JUAN PERRY**, 24 E Bens Drive, Annapolis, MD  
21401,

**TERRELL DOWNS**, 1002 Timber Creek Drive,  
Annapolis, MD 21403,

**JAMES CHASE**, 111 Clay Street, Annapolis,  
MD 21401,

**ISAAC WATKINS**, 546 Greenblades Court,  
Arnold, MD 21012,

Plaintiffs,

Civil Case No. \_\_\_\_\_

v.

**THE HOUSING AUTHORITY OF THE CITY OF ANNAPOLIS**, 1217 Madison Street, Annapolis, MD 21403,

**ERIC BROWN**, individually, and in his official capacity as Executive Director, The Housing Authority Of The City Of Annapolis, 1217 Madison Street, Annapolis, MD 21403,

**ANITA JONES**, f/k/a ANITA JACKSON, individually, and in her official capacity as Director of Community Safety, The Housing Authority Of The City Of Annapolis, 1217 Madison Street, Annapolis, MD 21403,

**CITY OF ANNAPOLIS**, 160 Duke of Gloucester Street, Annapolis, MD 21401,

**MICHAEL A. PRISTOOP**, individually, and in his official capacity as Chief, Annapolis Police Department, 199 Taylor Avenue, Annapolis, MD 21401,

Defendants.

## **COMPLAINT AND JURY DEMAND**

### **I. INTRODUCTION**

1. Plaintiffs, residents of public housing in Annapolis, Maryland, and families and friends of residents, bring this action seeking declaratory, injunctive, and monetary relief, for violations of their rights under the First, Fourth, and Fourteenth Amendments to the Constitution of the United States; Articles 24 and 26 of the Maryland Declaration of Rights; the United States Housing Act; and Maryland common law.

2. Defendant Housing Authority of the City of Annapolis (“HACA”) has

enacted a policy, directed and enforced by all Defendants working in collaboration, that bans certain individuals from being on or near HACA property, and subjects banned persons to arrest on criminal trespass charges (the “Banning Policy”), even if they are family or friends invited as guests of HACA tenants. The Banning Policy, on its face and as applied, violates fundamental constitutional rights held by the Plaintiffs, including the freedom to associate with their friends and family, and the rights to privacy and quiet enjoyment in their homes. The policy has prevented Plaintiffs from visiting and participating in raising and caring for their children, parents, grandchildren, grandparents, and other relatives, including at those relatives’ invitations, socializing with their friends, and otherwise exercising the basic liberty of fostering close personal relationships without unjustified governmental interference.

3. Under the policy, anyone who is arrested or stopped by the Annapolis Police Department on or “near” HACA property, or otherwise “found [by HACA] to be detrimental to the overall quality of life for public housing residents” can be banned from entering HACA property under any circumstances for at least three years, and in some cases, for the rest of his or her life.<sup>1</sup>

4. HACA bans individuals for three years to life even if they are never convicted – nor sometimes even prosecuted – for a crime. Indeed, HACA bans individuals for three years to life even if they are acquitted of criminal charges after a trial. HACA maintains a list of individuals who have been banned under the Banning Policy (the “Banned List”), but the methods by which a person can seek to be removed from the

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<sup>1</sup> A copy of the Banning Policy is attached as Exhibit A.

Banned List are not clearly defined in the policy, are not clearly communicated to individuals on the Banned List, and are inconsistently applied by Defendants. The Banning Policy provides that an individual who wishes to be removed from the Banned List “may apply in writing to the Director of Community Safety,” but it does not state what must be in the written request. The Banning Policy provides that the Director of Community Safety “will review [an individual’s] record of abiding by the list,” but it does not provide criteria by which a request for removal will be evaluated, nor does it tell individuals seeking removal from the Banned List whether or within what time period they will receive a response from the Director of Community Safety. Under the Banning Policy, there is no mechanism for review of or appeal from the Director of Community Safety’s decision.

5. Individuals who have been banned cannot be on or “near” HACA property for any reason, even for limited purposes such as seeing or picking up their children or visiting ill family members. The Banning Policy provides that any resident who is “known to associate with a banned individual,” even if the banned individual is a family member and invited by the resident, will receive a letter from the Director of Community Safety, notifying the resident that the banned individual has been banned. The Banning Policy does not describe how it is determined that a resident is “known to associate” with a banned individual. The notice that is supposed to be provided to the resident also prohibits the resident from inviting the banned individual to be a guest in the resident’s home. If a banned person comes onto or near HACA property with a resident, the resident may be charged with a lease violation. In practice, the notice requirement is inconsistently applied; some residents have never received any notice that individuals whom they have invited into

their homes are on the Banned List, and only learn of the banning when the guest is criminally charged or when they are informed they have violated their lease.

6. HACA pays the APD \$100,000 a year to enforce the Banning Policy.

This enforcement includes serving banning notices, arresting people on the Banned List for trespassing, and participating in any prosecution of those charged.

7. HACA's Banning Policy, as written and as applied, permits and is regularly enforced to ban the invited guests of tenants. This conflicts with rulings of the Maryland courts in *In re. Jason Allen D.*, 127 Md. App. 456, 722 A.2d 351 (1999), and *Diggs v. Housing Authority of the City of Frederick*, 67 F. Supp. 2d 522, 532 (D. Md. 1999), and violates the fundamental rights of public housing residents and their guests.

8. Defendants knowingly and illegally have interfered, and continue to interfere, with the rights of those Plaintiffs who are residents of public housing (the "Resident Plaintiffs") by threatening the Resident Plaintiffs with eviction, and in some cases actually commencing eviction proceedings against Resident Plaintiffs, for no other reason than that these Plaintiffs have had family and friends who are on the Banned List in their homes. In at least one instance, the resident was not provided notice that a guest was on the Banned List before eviction proceedings were commenced, and had to remove a family member from the lease to remain in her home. This violates Resident Plaintiffs' associational, due process, and statutory rights.

9. Defendants knowingly and illegally have interfered, and continue to interfere, with the rights of those Plaintiffs who are invited guests of residents of public housing (the "Guest Plaintiffs") by threatening the Guest Plaintiffs with criminal trespass

charges, and in many cases actually charging the Guest Plaintiffs with criminal trespass, for no other reason than that these Plaintiffs have walked on or near public housing property, at the express invitation of their family and/or friends. This violates Guest Plaintiffs' associational and due process rights, as well as their rights to be free from unreasonable searches and seizures.

## **II. JURISDICTION AND VENUE**

10. This Circuit Court has subject matter jurisdiction over this case because each individual Plaintiff claims damages in excess of \$25,000.

11. This Court has personal jurisdiction over Defendants Housing Authority of the City of Annapolis and City of Annapolis because they are entities consisting of or located within Maryland.

12. This Court has personal jurisdiction over Defendants Brown, Pristoop and Jones. Upon information and belief, Brown, Pristoop and Jones maintain domiciles within the state of Maryland. In addition, this Court has personal jurisdiction over Brown, Pristoop and Jones because (a) their tortious actions occurred and caused injury within Maryland and (b) they are employed within Maryland, thus performing a character of work or service within Maryland.

## **III. PRE-SUIT REQUIREMENTS**

13. Plaintiffs have satisfied the necessary pre-suit prerequisites under the Local Government Tort Claims Act for the causes of action and claims pled below.

14. Plaintiffs Esther Sharps, Glenda Smith, Rico Johnson, Delray Fowlkes, Sr., Delray Fowlkes, Jr., Wayne Blair, Brittany Janey, Dalanda Moses, James Alexander,

Juan Perry, and Isaac Watkins submitted notice of their claims to the Anne Arundel County Attorney, the Annapolis City Attorney, and the Annapolis Police Department via certified mail, return receipt requested, on July 7, 2009. Plaintiffs Terrell Downs and James Chase submitted notice of their claims to the Anne Arundel County Attorney, the Annapolis City Attorney, and the Annapolis Police Department via certified mail, return receipt requested, on July 22, 2009. As of the date of this complaint, none of the plaintiffs have received any response to their notices.

15. All Plaintiffs were injured within 180 days of submitting notice of their claims as described herein. Plaintiffs injuries are ongoing and continuous as a result of Defendant's Banning Policy, as written and as applied to them.

16. Nothing in the Local Government Tort Claims Act prevents Plaintiffs from filing this complaint while the Anne Arundel County Attorney and the Annapolis City Attorney are reviewing Plaintiffs' notices. Moreover, Defendant Pristoop has been aware of the illegality of the Banning Policy since July 2008, when the Annapolis Police Department sought advice from the ACLU of Maryland regarding the Banning Policy. Defendants Brown and Pristoop were also contacted by counsel to Plaintiffs in early January 2009, and advised that the Banning Policy violates state and federal law. Because Defendants have been aware of the illegality of the Banning Policy since at least January 2009, and because Defendants have failed to respond to prior attempts to address the illegality of the Banning Policy, Plaintiffs bring suit now.

#### **IV. PARTIES**

17. Plaintiff Esther Sharps lives at 1819 Bowman Drive in the Annapolis

Gardens public housing community, and has resided there for 12 years. Before living in Annapolis Gardens, Ms. Sharps lived in the Bowman Court public housing community for 16 years and in the Obery Court public housing community for four years. Eight of Ms. Sharps' grandsons are or have been on HACA's Banned List, including Plaintiffs Delray Fowlkes, Sr., and Wayne Blair. Three of Ms. Sharps' sons are also on the Banned List.

18. Plaintiff Glenda Smith and her great-grandson, four-year-old plaintiff Rico Johnson, live at 816 B Brooke Court in the Newtowne 20 public housing community with Ms. Smith's daughter, Keona Ireland, and Ms. Ireland's son, Cameron Stevens. Ms. Smith has resided in Newtowne 20 for the past five years, and Rico Johnson has resided there his entire life. Ms. Smith's granddaughter, Rico's mother Kierra Green, is on HACA's Banned List. Rico Johnson brings this action by and through Ms. Smith, his legal guardian.

19. Plaintiff Delray Fowlkes, Jr., a three-year-old minor, lives at 1012 President Street in the Eastport Terrace public housing community with his mother, LaTashia Cain, and his sister. Delray Jr. has resided in Eastport Terrace since November 6, 2007, when he was two years old. Delray Jr.'s father, plaintiff Delray Fowlkes, Sr., is on HACA's Banned List. Delray Jr. brings this action by and through his father, Delray Fowlkes, Sr., who has joint custody of Delray Jr.

20. Plaintiff Brittany Janey lives in Annapolis. Ms. Janey grew up in the Eastport Terrace public housing community, and has stayed with friends and relatives in the Obery Court and College Creek Terrace communities. Ms. Janey has a one-year-old daughter, Serenity, whose father is plaintiff James Chase. Ms. Janey relied on Mr. Chase to care for Serenity while she was at work, but because Mr. Chase is on HACA's Banned



List, he could not care for Serenity in Ms. Janey's home, as she and Mr. Chase wished, nor could he move from where he lived with his grandmother in Lothian, Maryland into a HACA community to be near his daughter, nor could he even come onto HACA property to pick up Serenity. As a result, in or around February 2009 Ms. Janey lived in a hotel for nearly a month so Mr. Chase could take care of his daughter and be a part of her life while Ms. Janey worked full time. Because Mr. Chase is banned, Ms. Janey has not been able to move back into affordable HACA housing as she otherwise would.

21. Plaintiff Dalanda Moses lives in Annapolis. Ms. Moses previously lived in the Bowman Court public housing community with her family. In or around late April 2009, Ms. Moses moved off HACA property, where she had lived since second grade, with her then two-month-old daughter, Mariah Alexander. Mariah's father and Ms. Moses' boyfriend, James Alexander, is on HACA's Banned List, and in order to have Mr. Alexander involved in the parenting of his child, Ms. Moses had to move off of HACA property. Ms. Moses' mother and sister continue to reside in Bowman Court.

22. Plaintiffs Esther Sharps, Glenda Smith, Rico Johnson, Delray Fowlkes, Jr., Brittany Janey, and Dalanda Moses are collectively referred to herein as the "Resident Plaintiffs." While Ms. Janey and Ms. Moses are not current residents of HACA, they left HACA housing as a result of the illegal policies and practices complained of herein, and suffered damages as residents, for which they seek recovery through this action.

23. Plaintiff James Alexander lives in Annapolis. Until very recently, his girlfriend, Dalanda Moses, and their infant daughter, Mariah Alexander, lived in the Bowman Court public housing community. Mr. Alexander was not able to care for Ms.

Moses in her home during her pregnancy, or to visit newborn Mariah at Ms. Moses' home, until April 2009, when Ms. Moses moved off HACA property with her infant daughter, so that Mr. Alexander would be able to participate in the raising of his child. Mr. Alexander is on HACA's Banned List.

24. Plaintiff Juan Perry lives in and is employed by the City of Annapolis. He grew up in the Robinwood public housing community, where he lived with his mother for 34 years. His two sisters, April Simms and Dora Lynn, and five minor nephews (three of April Simms' sons and two of Dora Lynn's sons), as well as many of his childhood friends continue to reside in Robinwood. Mr. Perry is on HACA's Banned List.

25. Plaintiff Terrell Downs lives in Annapolis. He was raised by his grandmother, Violet Ewell, in the Robinwood public housing community, and has many friends and relatives that live on HACA property. Mr. Downs' grandmother still lives in the Robinwood public housing community, and her age and poor health inhibit her mobility. Mr. Downs has been told that he was put on HACA's Banned List as early as 2007, but on or about January 8, 2008 was served with a ban notice dating his banning to January 7, 2008.

26. Plaintiff Wayne Blair lives in and is employed by the City of Annapolis. He was born and raised in the Robinwood public housing community, and has many friends and relatives that live on HACA property. Mr. Blair's son, Anyian Blair, a minor, lives in the Robinwood public housing community, and his grandmother, Esther Sharps, lives in the Annapolis Gardens public housing community. Mr. Blair was on HACA's Banned List for over eight years, since February 2001, and after numerous efforts, was

finally removed in June of this year.

27. Plaintiff Delray Fowlkes, Sr. lives in the City of Annapolis. He grew up in the Bowman Court public housing community, and has many friends and relatives that live on HACA property. Mr. Fowlkes' three-year-old son, Delray Fowlkes, Jr., lives in the Eastport Terrace public housing community, and his grandmother, Esther Sharps, lives in the Annapolis Gardens public housing community. Mr. Fowlkes has been on HACA's Banned List for over five years, since May 2004, despite efforts to be removed.

28. Plaintiff James Chase lives in Annapolis. Mr. Chase grew up in the Newtowne 20 public housing community. Mr. Chase's four-year-old son, Omillio, lives in Newtowne 20, and his mother, grandmother, aunt, several cousins, and many friends all live on HACA property. Mr. Chase's one-year-old daughter, Serenity, lived on HACA property until recently with her mother, Ms. Janey. Mr. Chase was unable to care for his daughter while her mother worked full-time, nor could he be involved in raising Serenity as both he and Ms. Janey desired, while Ms. Janey lived on HACA property. Mr. Chase is on HACA's Banned List.

29. Plaintiff Isaac Watkins lives in Arnold, Maryland. Mr. Watkins' sister, aunts, niece, and nephew, and many of Mr. Watkins' friends live on HACA property. Mr. Watkins is on HACA's Banned List.

30. Plaintiffs James Alexander, Juan Perry, Terrell Downs, Wayne Blair, Delray Fowlkes, Sr., James Chase and Isaac Watkins are collectively referred to herein as the "Guest Plaintiffs."

31. Defendant Housing Authority of the City of Annapolis ("HACA") is the

local governmental entity charged with the operation of public housing programs within the City of Annapolis, Maryland. HACA is a public body corporate and politic, constituted under the Annotated Code of Maryland, Housing and Community Development Article, §§ 12-101 and 13-101 *et seq.* HACA receives federal funds from the United States Department of Housing and Urban Development (“HUD”). Defendant HACA has acted under color of law at all times relevant herein.

32. Defendant Eric Brown is the Executive Director of HACA. Defendant Brown is involved in the continued promulgation of the Banning Policy and participates in its enforcement. Defendant Brown has acted within the scope of his employment and under color of law at all times relevant herein. Defendant Brown is sued in both his official and individual capacities.

33. Defendant Anita Jones, f/k/a Anita Jackson, is the Director of Community Safety of HACA. Defendant Jones is involved in the continued promulgation of the Banning Policy and directs its enforcement for HACA. Defendant Jones has acted within the scope of her employment and under color of law at all times relevant herein. Defendant Jones is sued in both her official and individual capacities.

34. Defendant City of Annapolis, a municipal corporation, is a governmental entity within the meaning of the federal and state constitutions. The City of Annapolis, through the City Council, authorizes officers and other personnel of the Annapolis Police Department (“APD”) to enforce the Banning Policy.

35. Defendant Michael A. Pristoop is the Chief of the APD. The APD has been retained by HACA, pursuant to a Memorandum of Understanding and in exchange for

payments of \$100,000 a year, to act as HACA's agent for the purpose of enforcing HACA's Banning Policy. APD officers and employees, acting under the supervision of Defendant Pristoop, enforce the Banning Policy. Defendant Pristoop personally entered into the Memorandum of Understanding with HACA involving his department in the Banning Policy – even after inquiring of the American Civil Liberties Union of Maryland about the policy's legality and being told that the policy as enforced against tenants' invited guests is illegal and unconstitutional – and he directs its enforcement for the APD. Defendant Pristoop has acted within the scope of his employment and under color of law at all times relevant herein. Defendant Pristoop is sued in both his official and individual capacities.

## **V. FACTS**

### **A. The Banning Policy**

36. HACA owns and operates ten public housing communities in the City of Annapolis: Annapolis Gardens, Bloomsbury Square, Bowman Court, College Creek Terrace, Eastport Terrace, Glenwood Highrise, Harbor House, Newtowne 20, Obery Court, and Robinwood (collectively, "HACA property"). Approximately 3,000 people live on HACA property, or nearly eight percent of the population of the City of Annapolis.

37. HACA promulgated the Banning Policy in 1994. The Banning Policy currently states, "it is the policy of the Housing Authority to acquire information from residents, local agencies, the press, the court system and the local police department that verifies the presence of and information describing activity that adversely affects the quality of life of our residents." Individuals "who are found to be detrimental to the overall

quality of life for public housing residents may be banned.”

38. HACA established and maintains a list of individuals prohibited from entering public housing property. As of May 2009, 522 persons were on the Banned List – up from 440 in March 2008. At least 28 of the currently banned individuals were placed on the list as juveniles – some as young as 14 years old at the time of banning. More than 80 of those currently banned were placed on the Banned List *after July 2008*, when plaintiffs’ counsel first gave written notice to the defendants of the banning policy’s illegality.

39. By the terms of the Banning Policy, three criteria must be met for an individual to be placed on the Banned List: (1) “the individual must not be a resident,” (2) “the individual must have completed the associated incidents on or near public housing property,” and (3) “the individual must have completed the criminal activity within the area described in section 2 that has been verified by the appropriate law enforcement agency.” The “events that may cause a person to be banned” are listed as: “a. Any misdemeanor or infraction which disturbs the peaceful enjoyment of the development, including without limitation, illegal drug activity or violent criminal activity; b. Destruction of either Housing Authority or private property; c. After warning, continue to interfere with the job responsibilities of a Housing Authority employee or vendor; and/or d. After warning, continue to disturb other residents’ peaceful enjoyment of the complex.”

40. The policy defines on or “near” public housing property to mean “apartment units,” “public areas within the community,” “community centers and offices,” “recreation areas,” “streets and parking lots” that lie within and “adjacent to” property

lines, “spaces dedicated to other agencies within communities,” “playgrounds,” “fields,” “woods” and “easements” that “lead to and from” the communities, and other city owned property “adjacent to” public housing, as “reviewed by the Director of Community Safety.” The policy does not define any of the foregoing areas, nor does it define what is meant by “adjacent to” property lines.

41. The policy further states, “should each of the above three items be met, the Banning Notice will be prepared by the Director of Community Safety after verifying all information and a file created on the specific individual.” This notice “must be hand-delivered...by a Housing Authority Staff or Secondary Employment Police Officer,” and “the bottom section of the Banning Notice must be completed detailing the date, time and location of the delivery of the Notice, as well as signature [sic] of the individual delivering the notice.” The Banned List “is distributed to all Housing Authority officials, Parole and Probation and law enforcement as appropriate.”

42. In practice, individuals are forced to sign ban notices, upon penalty of arrest or threat of not being released from police custody. The Banning Policy does not require that an individual be convicted of an offense to be banned, and in fact permits individuals to be banned for being arrested, or for simply being present on or “near” HACA property. Likewise, the policy does not require that an individual who is not convicted, or who is acquitted at trial, be removed from the Banned List. Upon information and belief, no effort is made to find out the results of a banned individual’s criminal proceedings. If a banned individual is subsequently seen on or near HACA property, irrespective of his acquittal of all criminal charges, he is arrested for and charged with trespassing.

43. The Banning Policy provides that a resident “known to associate with a banned non-resident shall receive notice that the person is banned from Housing Authority property in the form of a letter from the Director of Community Safety.” This letter “will also state that pursuant to the resident’s lease agreement, the resident member of the resident’s household, shall not allow the person who has been excluded to be a guest of the resident in the Housing Authority development.” If the resident has not received notice that his guest is banned, the resident “will be provided notice and warned about future activities with the banned non-resident.” The policy further provides, “pursuant to the Banning Policies and Procedures, a resident receiving a lease violation for violating this regulation will have his or her historical file reviewed to determine the subsequent course of action.”

44. In practice, any individual whose name is on the Banned List who is found on public housing property is subject to arrest, and any public housing resident who permits persons whose names are on the Banned List to visit is subject to the threat of eviction, even where the resident has not received the requisite notice.

45. The Banning Policy does not describe how the Banned List is updated or maintained, other than stating that the Director of Community Safety “keeps all original Banning Notices and Banning notices with pictures of the offenders in three ring binders in alphabetical order.” Approximately once a month, the HACA community newsletter includes a one-page insert containing photographs of some, but not all, recently banned individuals. A typical one-page insert contains photographs of six people; there are currently hundreds of people on the Banned List, association with any one of whom on or



“near” HACA property could put a resident in jeopardy of a lease violation or eviction.

46. As a result, residents have no reliable and up-to-date means of determining who is on the Banned List, and therefore whether inviting individuals to their homes would put them in jeopardy of receiving a lease violation, or would put their guests in jeopardy of a trespass charge.

47. There is no mention of the Banning Policy in the Residential Lease Agreement used by HACA. The Residential Lease Agreement does not indicate that inviting a guest who is on the Banned List may subject the resident to lease termination. The Residential Lease Agreement does not even inform residents that HACA has promulgated a Banning Policy, or that inviting guests who are on the Banned List can put residents in jeopardy of receiving a lease violation or of being evicted. The Residential Lease Agreement does not list the Banning Policy as one of several “attachments” that may be provided to a resident upon signing a lease, such as a lead paint notification.

48. To the extent that the Banning Policy *is* considered part of the Residential Lease Agreement, on its face and as applied, the Banning Policy contains unreasonable terms and conditions in violation of federal law. A single instance of associating with a banned individual on HACA property, whether or not the individual was charged with or convicted of any criminal wrongdoing, can subject a resident to a review of his or her “historical file to determine a subsequent course of action,” which in practice means the threat of eviction.

49. On or about October 26, 2008, HACA signed a Memorandum of Understanding (“MOU”) with the APD, retaining the latter to act as its agent to enforce the

Banning Policy by patrolling in and around public housing property. According to the MOU, the Director of Community Safety “will manage the HACA banning list and APD will assist to the extent possible. HACA management, in its discretion and determination, will identify and report to APD the names of individuals ‘to be banned,’” and will “update banning lists regularly to provide accurate information to police, HACA employees and residents.”

50. The MOU further provides that the Director of Community Safety “will assist the Police Department by a) providing APD with intelligence and relevant information involving HACA property, including but not limited to crime and community concerns, b) helping outline deployment priorities, c) attending roll call for the purpose of disseminating information regarding HACA properties and suspected criminal activity and work [sic] closely with Community Relations and other units for public safety purposes, d) coordinating with APD personnel regarding appearing in court for eviction proceedings, e) performing 'ride-alongs' with field units to aid in identifying concerns, criminal activity and banned individuals, f) managing and updating banning lists and pursuing all relevant processes. Further, APD will inform and involve DCS [Director of Community Safety] in matters of public safety, mutual concern and criminal intelligence to the extent able under law and policy.”

51. For APD’s services under the MOU, “HACA will provide APD with funding in the amount of \$100,000.00 during the current fiscal year and for successive fiscal years unless parties agree otherwise.” According to the MOU, “funding is for ‘special’ law enforcement deployment, police initiatives, and/or technology or other crime

control measures, at the determination of APD. Such police services are in addition to baseline public service provided to any community or citizen of Annapolis. HACA will disburse said funding to APD on a monthly basis.”

52. In advance of signing the MOU, Major Scott Baker of the APD contacted the American Civil Liberties Union of Maryland for advice regarding the legality of the Banning Policy. On or about July 16, 2008, the ACLU of Maryland provided the APD with a detailed legal analysis outlining the ways in which the Banning Policy, as drafted and as applied, failed to comply with relevant law and unjustly infringed on the rights of residents and their guests. The APD did not contact the ACLU of Maryland after receiving this advice, and upon inquiry by the ACLU responded that they were considering the matter.

53. According to the Banning Policy, an individual who wishes to be removed from the Banned List “may apply in writing to the Director of Community Safety,” (a position filled, at all relevant times, by Defendant Anita Jones). The individual must have been banned for *three years* before he is eligible to request removal, and if he has been charged with trespassing or another crime during that time period, or has been incarcerated, he must “reapply at a later date.” The policy provides that the Director of Community Safety “will review [an individual’s] record of abiding by the list,” and “they will be considered for removal.” The policy does not state what must be in the written request for removal, nor does it provide criteria by which a request for removal will be evaluated. The policy does not state when or in what form the banned individual will be informed of the decision of the Director of Community Safety, nor whether or how the Director of

Community Safety's decision is reviewable.

54. The Banning Policy contains no provision for residents to request removal of their guests from the Banned List.

55. Some residents are not aware their friends and relatives are banned until notified by the Director of Community Safety that they are being evicted for allowing banned individuals in their homes.

56. No part of the removal procedure appears on the "banning notice," which in practice is shown but not given to an individual at the time he is banned.

57. According to the Banning Policy, once an individual has been removed from the Banned List "and they engage in any criminal activity that would place them back on the Banned List they are considered banned for life."

58. The Banning Policy, as written and in practice, is an official policy of HACA and the City of Annapolis, was authorized by officials with final policy-making authority, is the result of inadequate training or supervision of HACA and City of Annapolis officials and/or employees, including Defendants Brown, Jones and Pristoop, and/ or is the result of a custom of tolerance or acquiescence of unlawful behavior.

**B. The Banning Policy Applied**

59. In practice, Defendant HACA's placement of individuals on the Banned List, and its review of requests for removal in the person of its employee the Director of Community Safety, is arbitrary, discriminatory, and not subject to objective review. Individuals are placed on the Banned List for "events" including public nuisance and "loitering."

60. When HACA discovers that a tenant has had a visitor whose name is on the Banned List, it threatens, and in some cases actually commences, eviction proceedings against the tenant, in at least one instance without issuing prior notice and a warning as specified in the written policy.

61. Any non-resident who is arrested, or even stopped, by the APD on or “near” HACA property can be placed on the Banned List. As Defendant Jones told the Annapolis Capital earlier this year, “We base our bannings on charges. We don’t wait to see if they’re convicted.” Beisel, L., “Annapolis Trespassing Arrests Triple,” *The Capital*, February 26, 2009.

62. Once banned, an individual remains on the Banned List whether or not he is charged with or convicted of a crime, and even if he is acquitted. Even individuals who have been charged by HACA with trespass and acquitted on grounds that they were not trespassing remain on the Banned List and subject to additional arrests.

63. Some individuals do not find out they are on the Banned List until they are arrested for trespassing on HACA property in violation of the ban.

64. Residents do not receive adequate notice of whose presence in their home can lead to their eviction, nor is there any mechanism, as a practical matter, for residents to clear their guests or to contest the banning of one of their guests.

65. Whether or not an individual is removed from the Banned List is subject to the sole, un-reviewable discretion of Defendant Jones. Some individuals denied removal are not told why they have been denied, nor whether or when they might be removed in the future.

66. Banned individuals have been arrested or threatened with arrest for delivering a Christmas card, visiting a parent at an apartment complex across the street from HACA property, exercising court-ordered child visitation rights, and responding to the medical emergency of a family member on the street abutting HACA property.

67. Longtime residents have been subject to or threatened with eviction proceedings for receiving a visit from a family member without notice that the family member was on the Banned List, for a minor child inviting his father to her house after school, or for calling a banned child for help during a medical or family emergency.

68. By virtue of being banned from HACA property, an individual may also be banned from visitation at other public housing in the state of Maryland, as well as being ineligible for tenancy in public housing.

**C. Facts Pertaining to Particular Plaintiffs**

**i. Facts Pertaining to Esther Sharps**

69. Esther Sharps, 71 years old, has lived in various communities on HACA property for over 30 years. Ms. Sharps raised her children in the Bowman Court public housing community, and currently lives in Annapolis Gardens.

70. Seven of Ms. Sharps' grandsons are currently on HACA's Banned List, including plaintiff Delray Fowlkes, Sr.

71. On or about November 16, 2008, Ms. Sharps' grandson, Pedro Green was approached by police. The officers presented Mr. Green with a ban notice and told him that he had to sign it or he would be arrested. When Mr. Green asked why he was being banned, the officer told him to call Defendant Jones. Ms. Sharps was also asked to sign the

ban notice because Mr. Green was a minor.

72. On or about November 17, 2008, Ms. Sharps called Defendant Jones to find out why her grandson was banned. Defendant Jones informed Ms. Sharps that Mr. Green was banned for a gambling charge made against him in June 2007, and that his ban had been “pending” since that time. Neither Ms. Sharps nor Mr. Green was aware that Mr. Green had been banned for that charge until Mr. Green was approached by police on November 16, 2008. Contrary to the Banning Policy, Ms. Sharps never received a letter stating that her grandson was banned.

73. In November of 2008, Ms. Sharps’ sister passed away. Ms. Sharps wanted to be able to have her family, including her banned relatives, to her home to grieve with her, but feared eviction if she did so. Ms. Sharps called Defendant Jones to ask permission to have her two oldest grandsons, DeMario Green and Wayne Blair, over for the funeral gathering. Defendant Jones granted this permission for one day only, but informed Ms. Sharps that her grandsons could not be on or around the street, or outside.

74. Ms. Sharps' health is poor, and she does not own a car. She relies on her grandson, Wayne Blair, to get her to the store and to appointments. Because, until very recently, Mr. Blair was on HACA’s Banned List, Ms. Sharps had to walk down the street and off of HACA property so Mr. Blair could pick her up, and often to walk back to her house alone in the dark after he dropped her off.

75. In December of 2008, Ms. Sharps had to meet Mr. Blair on the street off HACA property to pick up his Christmas card to her, because he was told by Defendant Jones that he would be trespassing in violation of the Banning Policy if he placed it in her

mailbox. Ms. Sharps waited for her grandson at the bus stop in the rain.

76. In 2008, Ms. Sharps was told that it was a violation of the Banning Policy to receive her grandsons' mail at her home, even though her grandsons themselves did not live with her, and had no other permanent address to which their mail could be sent.

77. On or about May 10, 2009, Ms. Sharps had to gather with her family at another relative's house for Mother's Day, because the ban prevented most of her relatives from coming to her house.

78. On or about July 1, 2009, Samuel Fowlkes, father of Ms. Sharps' grandson Delray Fowlkes, Sr., was murdered in his girlfriend's Annapolis home. On or about July 8, 2009, Ms. Sharps had to receive special permission from Defendant Jones for her grandson to come and be with her, his mother, and his son on the day of the funeral.

79. The banning of Ms. Sharps' sons and grandsons and their inability to visit and assist her have caused Ms. Sharps loss of contact with family, fear, emotional distress, invasion of privacy, and loss of quiet enjoyment in her home. Ms. Sharps would like her sons, grandsons and other banned friends and relatives to be able to visit and assist her at her home in the Annapolis Gardens community.

**ii. Facts Pertaining to Glenda Smith and Rico Johnson**

80. Glenda Smith, 55 years old, and her four-year-old great-grandson, Rico Johnson, live on HACA property with Ms. Smith's daughter, Keona Ireland; Ms. Ireland's son, Cameron Stevens; and, formerly, with Ms. Smith's granddaughter, Rico's mother Kierra Green.

81. On or about October 25, 2007, Ms. Smith's granddaughter, Ms. Green,



then a 17-year-old HACA tenant, was arrested. At the time, Ms. Green was living with Ms. Smith and was on the housing lease. When Ms. Green was arrested, her young son Rico was left in Ms. Smith's care and custody.

82. On or about November 5, 2007, Ms. Smith received a letter from Defendant Jones informing her that she had 30 days to vacate her apartment because her granddaughter had been arrested. This was the first and only notice Ms. Smith received that she was being evicted for her granddaughter's arrest.

83. On or about November 6, 2007, Ms. Smith responded to the letter and asked for a meeting with the director of HACA regarding the decision to evict her from her home. A hearing was held with Ms. Smith, Defendant Jones, and others to discuss the issue. On or about December 14, 2007, Ms. Smith received a letter stating that she could remain in her home with the understanding that when her granddaughter Ms. Green was released from the Juvenile Justice system after turning 18, Ms. Green would be banned from HACA property. Because at the time Ms. Smith was caring for her sister who was dying of cancer, and because Ms. Green was then participating in a program for juveniles in Pennsylvania, Ms. Smith did not press the issue of her granddaughter's return.

84. Earlier this year, Ms. Green, now 18 years old, successfully completed the rehabilitation program in Pennsylvania. Because Ms. Green is banned from entering HACA property, Rico now only sees his mother sporadically. This is very difficult for Rico and for Ms. Smith, who is deeply upset by the inability to have a closer relationship with her granddaughter and by the separation between mother and child.

85. The threat of being evicted from her home if she allows Rico's mother to

visit him to participate actively in his upbringing, and the banning of her granddaughter who needs guidance and supervision have caused Ms. Smith loss of contact with family, fear, emotional distress, invasion of privacy and loss of quiet enjoyment in her home. For Rico, the Banning Policy inflicts a heartbreaking loss of the opportunity to be with his mother. Ms. Smith would like her granddaughter and other banned friends and relatives to be able to visit her at her home in the Newtowne 20 community. Ms. Smith believes it is particularly important for Ms. Green to be able to spend time with Rico and participate in rearing him in Ms. Smith's home.

**iii. Facts Pertaining to Delray Fowlkes, Sr.**

86. Delray Fowlkes, Sr., 25 years old, lives in Annapolis. Mr. Fowlkes grew up in the Bowman Court public housing community, and lived there from the age of four until he was banned from HACA property in 2004. Mr. Fowlkes' grandmother, Esther Sharps, his mother, Colleen Sharps, his three-year-old son, Delray Fowlkes, Jr., and his son's mother, LaTashia Cain, all live on HACA property.

87. On or about April 29, 2004, Mr. Fowlkes was visiting a friend in Bowman Court when the friend's house was raided by the APD. The APD officers found drugs in the friend's house, and arrested all nine people present, including Mr. Fowlkes. He was released by the APD on his own recognizance early the next morning.

88. Several hours later, at approximately ten o'clock in the morning, APD officers met Mr. Fowlkes at his mother's home in Bowman Court, informed him that he had been banned from HACA property, and forced him to sign a banning notice. The APD officers told Mr. Fowlkes that he had two or three hours to leave Bowman Court. At this

time, Mr. Fowlkes had not been formally charged.

89. When Mr. Fowlkes did appear in court on the charges on October 23, 2004, the charges were deferred. However, Mr. Fowlkes remained on the Banned List.

90. In November, 2006, Mr. Fowlkes' toddler son, Delray, Jr., moved with his mother, Ms. Cain, into HACA housing, making it difficult for Mr. Fowlkes to spend time with his son and provide the caretaking both Mr. Fowlkes and Ms. Cain desire.

91. On or about December 4, 2008, Mr. Fowlkes wrote a letter to Defendant Jones asking to be removed from Banned List. Mr. Fowlkes informed Defendant Jones that the arrest that led to him being placed on the Banned List did not result in a conviction, and that he had not been in any trouble in the past four years. Mr. Fowlkes wrote that he wanted to be eligible to apply for a home on HACA property, as he was working full time and in the process of being granted full custody of his son, which both he and Delray Jr.'s mother desired. Mr. Fowlkes wrote: "I am simply a young father trying to make a difference in my child's life, and give him all of the love, time, attention and affection that he deserves. Please consider my request, as it will serve a purpose that not many young fathers try to make a reality. Thank you so much for your time, it is greatly appreciated."

92. Defendant Jones never responded to Mr. Fowlkes' letter, despite the contact information Mr. Fowlkes provided. Mr. Fowlkes remains on the Banned List.

93. Being banned has made it difficult for Mr. Fowlkes to spend time with his grandmother, Ms. Esther Sharps, who is in poor health and relies on the care of her relatives. Because he cannot enter the homes of most of his relatives and friends, and because he will not be considered for public housing residency as a banned individual, Mr.

Fowlkes does not have a permanent home.

94. Since he was banned in 2004, Mr. Fowlkes has been arrested for trespassing twice, once in August 2004 and once in February 2009. Both times, he was attempting to visit his family members who live on HACA property. When he was arrested in February 2009, he informed the arresting officers that he had written a letter to Defendant Jones, and the APD officers told him to “keep bugging her,” to bring the letter he had written to court when he appeared on the trespassing charge, and to not get arrested again before the court date.

95. Mr. Fowlkes is unable to pick his son up from the Head Start program on HACA property in Bowman Court. He cannot attend parent/ teacher conferences with the Head Start program on HACA property. And he cannot go on school field trips with his son because the students meet at the school on HACA property.

96. On or about July 1, 2009, Mr. Fowlkes’ father, Samuel Marshall Fowlkes, was murdered in his girlfriend’s Annapolis home. On or about July 8, 2009, Mr. Fowlkes had to receive special permission from Defendant Jones to be with his mother, grandmother and son on the day of the funeral.

97. The foregoing banning, arrests, and inability to visit his son, grandmother, other relatives and friends, have caused Mr. Fowlkes loss of liberty, loss of contact with friends and family, fear, humiliation, emotional distress, and economic loss. They have also caused Mr. Fowlkes to be deprived of his right to participate in raising his son in accordance with his wishes and the wishes of his son’s mother by participating in school activities and spending time with his son at his son’s home.

**iv. Facts Pertaining to Delray Fowlkes, Jr.**

98. Delray Fowlkes, Jr., three years old, has lived in the Eastport Terrace public housing community with his mother, LaTashia Cain, and his sister, since November 6, 2007.

99. Delray wants his father to be able to pick him up from Head Start in Bowman Court and to go with him on Head Start field trips. He wants his dad to come to parent/ teacher conferences at his school and he wants to be able see his dad in his home. The banning of his father has caused Delray Jr. loss of contact with family and emotional distress. Delray Jr.'s mother, Ms. Cain, would like Delray Sr. to be able to visit his son in his home, and to play an active role in Delray Jr.'s upbringing.

**v. Facts Pertaining to Wayne Blair**

100. Wayne Blair, 30 years old, lives in Annapolis. He was born and raised in the Robinwood public housing community, and many of his friends and relatives live in HACA communities. For example, Mr. Blair's aunts, Colleen Sharps and Kandi Parker, and his grandmother, Esther Sharps, reside in HACA communities, and Mr. Blair's son Anyian, a minor, lives with his mother in Robinwood.

101. Mr. Blair's grandmother, Ms. Sharps, is like a mother to him, and he tries to visit her frequently. Because she is in poor health, he tries to help her by driving her to the store and to appointments.

102. In or about February 2001, Mr. Blair received a letter from Defendant Jones telling him he was banned from HACA property.

103. Since that time, Mr. Blair has been arrested several times for trespassing.

One of these arrests occurred in July of 2008. Mr. Blair challenged these charges as unjustified, and in April 2009 was acquitted by the Circuit Court.

104. In or about December 2007, Mr. Blair wrote Defendant Jones a letter asking to be removed from the Banned List or to be allowed access to see his child. Because of the ban, Mr. Blair was unable to become involved with his son in the local youth sports league, or to pick his son up from the HACA recreation center where Anyian does his homework. In the letter, he explained that he had court-ordered visitation rights with his child. He received no response.

105. In or about July 2008, a Detective for the APD who is a friend of Mr. Blair personally handed Defendant Jones another copy of Mr. Blair's letter, and asked that she remove him from the Banned List. Again, Mr. Blair received no response.

106. On or about February 26, 2009, Defendant Jones finally responded to Mr. Blair's letter, after he had again been arrested for trying to visit his son. Referencing this trespass arrest, she stated that she could not remove him "because of a pending charge." However, she granted Mr. Blair limited visitation with his son on HACA property, stating in a letter that he could visit in the Robinwood and Annapolis Gardens communities between four o'clock and eleven o'clock in the evening until June 30, 2009. The letter further stated that after Mr. Blair's court actions were resolved HACA would "reconsider removing" Mr. Blair from the Banned List permanently, but did not indicate under what circumstances Mr. Blair would in fact be removed.

107. On April 28, 2009, Defendants' charge that Mr. Blair was trespassing when visiting his son on HACA property in July of 2008 was dismissed and Mr. Blair was

acquitted. Immediately following his acquittal, Mr. Blair contacted Defendant Jones and asked that, in view of his acquittal, he be removed from the Banned List.

108. On or about June 12, 2009, after repeated requests and with the help of legal counsel, Mr. Blair was finally removed from the Banned List.

109. Mr. Blair has been employed by the City of Annapolis in the Department of Public Works for over two years – a position which requires driving near HACA property. Mr. Blair's employer was aware that Mr. Blair was banned from HACA property and nevertheless hired Mr. Blair.

110. The foregoing banning, arrests, and difficulties in visiting his son, grandmother, relatives and friends, have caused Mr. Blair loss of liberty, loss of contact with friends and family, fear, humiliation, emotional distress, and economic loss. Because he was banned from HACA property, Mr. Blair faced obstacles to seeing his son that prevented full involvement in his son's life, and denied him the ability to participate in raising his son in accordance with his wishes as a parent and in accordance with his court-ordered visitation rights. Mr. Blair also faced obstacles to visiting and assisting his elderly grandmother, Ms. Sharps. Mr. Blair has suffered emotional distress at being unable to be more involved in the lives of his son, grandmother, relatives, and friends, despite his hard work and successful efforts to turn his life around.

**vi. Facts Pertaining to Brittany Janey**

111. Brittany Janey, 21 years old, lives in Annapolis. Ms. Janey grew up in the Eastport Terrace public housing community, and has stayed with friends and family in the Obery Court and College Creek Terrace communities. Ms. Janey has a one-year-old

daughter, Serenity, whose father is plaintiff James Chase. After Serenity was born Ms. Janey relied on Mr. Chase to care for Serenity while she was at work, but because Mr. Chase is on HACA's Banned List, he could not care for Serenity in Ms. Janey's home, as she and Mr. Chase wished, nor could he move from where he lived with his grandmother in Lothian, Maryland into a HACA community to be near his daughter, nor could he even come onto HACA property to pick up Serenity.

112. As a result, in or around February 4, 2009 Ms. Janey was forced to move away from HACA property, and spent nearly a month living in a hotel so Mr. Chase could watch their daughter while she worked full time. During this difficult period, Ms. Janey applied to area homeless shelters and subsidized housing facilities so the family could move out of the hotel. She considered moving back onto HACA property, and re-applied for housing in a HACA community, but ultimately withdrew her application because of the extreme hardship that she and Serenity would suffer if Mr. Chase were unable to participate in caring for Serenity because of his banned status.

113. These facts have caused Ms. Janey emotional distress and mental anguish, as well as economic loss.

**vii. Facts Pertaining to James Chase**

114. James Chase, 28 years old, lives in Annapolis. Mr. Chase grew up in the Newtowne 20 public housing community. Mr. Chase's four-year-old son, Omillio, lives in Newtowne 20, and his mother, grandmother, aunt, several cousins, and many friends all live on HACA property. Mr. Chase's one-year-old daughter, Serenity, and Serenity's mother, Ms. Janey, lived on HACA property until recently.



115. In 2006, Mr. Chase was arrested in Eastport Terrace and charged with possession of a controlled substance. He pled guilty to that charge.

116. Subsequently, Mr. Chase was visiting his cousin on HACA property when the house was raided by APD officers. During the raid, Mr. Chase asked the APD officers whether they had a warrant, at which point they looked for his name on the Banned List and arrested him for trespassing. Mr. Chase was never provided with notice that he was on the Banned List. The trespassing charge was subsequently dropped.

117. Mr. Chase has been arrested several times for trespassing while visiting his daughter or her mother, and was sentenced to serve time in jail on three or four of those charges.

118. Being on the Banned List made it very difficult for Mr. Chase to participate in the first months of his daughter's life. He was ineligible for HACA housing as a banned individual, unable to care for Serenity in her home on HACA property, and unable come onto HACA property to pick her up and take her to the home of his closest relative who does not live on HACA property, his grandmother in Lothian. If Ms. Janey moves back onto HACA property because she cannot afford market housing, he will once again be separated from his daughter.

119. Mr. Chase is a member of the semi-professional football team Annapolis Thunder. The Annapolis Thunder sponsors community outreach programs with youth in Annapolis. Because he is on the Banned List, Mr. Chase is unable to participate in these community programs with the football team. In an effort to get the requisite permission from HACA officials, Mr. Chase got a letter from the team stating he needs access to

HACA property to participate in the outreach programs. Mr. Chase gave this letter to Defendant Jones, who instructed him to call to set up an appointment to get a pass to come onto HACA property. Mr. Chase called Defendant Jones as instructed, but she has never returned his call, nor has she provided him with a pass.

120. As a result of being on the Banned List, Mr. Chase is unable to join in family gatherings at holidays, and was unable to visit his mother when his aunt passed away. He has been unable to see his son in his son's home and to have the meaningful and involved role in Omillio's life he would like, and he was unable to be fully involved in the first months of his young daughter's life. The foregoing banning, arrests, incarceration, and inability to visit his son, daughter, mother, grandmother, other relatives and friends, have caused Mr. Chase loss of liberty, loss of contact with friends and family, fear, humiliation, emotional distress, and economic loss.

#### **viii. Facts Pertaining to Dalanda Moses**

121. Dalanda Moses, 19 years of age, lives in Annapolis. From the time she was in second grade until late April 2009, she lived on HACA property. Her mother Jacqueline Taylor and her sister Tettianna Moses continue to live in the Bowman Court community, and her sister Roberta Moses lives in the Eastport Terrace community.

122. Ms. Moses' daughter, Mariah Alexander, is five months old. Mariah's father is plaintiff James Alexander. During her pregnancy, Ms. Moses suffered from health problems including high blood pressure, a potentially dangerous pregnancy complication. Because Mr. Alexander is on HACA's Banned List, he was not permitted to visit her, either while she was pregnant or after Mariah was born. When Ms. Moses was six months

pregnant, Defendant Jones told her mother that Ms. Moses and her mother would be put out of HACA property if Defendant Jones caught James at the house.

123. Mr. Alexander took Ms. Moses to all but two of her doctor's appointments, but had to pick her up from school because the ban prevented him from picking her up at her home.

124. In order to spend time with Mr. Alexander during her pregnancy and in the early months of Mariah's life, Ms. Moses had to travel back and forth to James' grandmother's home in addition to working and going to school. This put great strain on Ms. Moses, and also burdened Mr. Alexander's grandmother, who helped drive Ms. Moses to and from her house, and who took her into her home almost entirely when Mariah was born, so the family could be together. As a result of Ms. Moses staying with Mr. Alexander's grandmother, Ms. Moses' own mother was not able to see much of her granddaughter. This was very upsetting for Ms. Moses, who felt forced to choose between having her mother or Mr. Alexander play a significant role in Mariah's life.

125. To enable Mr. Alexander to spend time with her and their daughter and participate actively in raising Mariah, in or about late April 2009, Ms. Moses moved out of Bowman Court when Mariah was barely two months old. She currently resides in Bay Ridge Apartments in Annapolis.

126. The fact that Mr. Alexander was not permitted to visit and care for her while she was pregnant or visit and care for Mariah during her first months of life caused Ms. Moses emotional distress. Being forced to move away from her mother and sister in order to enable her child's father to spend time with her and the baby has caused Ms.

Moses emotional distress and mental anguish, and has imposed the financial costs of moving on Ms. Moses.

**ix. Facts Pertaining to James Alexander**

127. James Alexander, who recently turned 18, lives in Annapolis. Mr. Alexander is the father of five-month-old Mariah Alexander, whose mother, Ms. Moses, lived in the Bowman Court public housing community while she was pregnant and in the months immediately following Mariah's birth. Ms. Moses suffered from health problems including high blood pressure during her pregnancy, and Mr. Alexander was unable to care for her at her home because he is on the Banned List. Mr. Alexander was also unable to visit, care for, or meaningfully participate in raising Mariah after she was born until Ms. Moses began staying with Mr. Alexander's grandmother, and ultimately moved off HACA property. Mr. Alexander also has numerous friends who live on HACA property.

128. Approximately one year ago, when he was 16 years old, Mr. Alexander was arrested on a drug charge. When the APD officers brought him to the police station, they told Mr. Alexander that he must sign the HACA ban notice they gave him or else he would not be released to his parents' custody. Mr. Alexander signed the notice in order to be released by the police.

129. After this, Mr. Alexander's grandfather, a retired Army officer who served three tours of duty in Vietnam, sent a letter to Defendant Jones and talked with Defendants Brown and Jones, asking for permission for Mr. Alexander to visit Ms. Moses in Bowman Court to help her while she was pregnant and after the birth – to be a part of his baby's life. Defendant Brown promised Mr. Alexander's grandfather a response. However, neither Mr.

Alexander nor his grandfather ever received a response.

130. Mr. Alexander has been arrested for trespassing at least five times. He has never been sentenced to serve time in jail on any of these charges. Most recently, on May 4, 2009, Mr. Alexander appeared in Circuit Court on a HACA ban-related trespassing charge and the judge deferred the charge because of the good progress Mr. Alexander is making in the drug court program.

131. In or about April of 2009, Ms. Moses moved out of HACA property so that Mr. Alexander would be able to participate in raising their daughter Mariah. Nonetheless, Mr. Alexander remains banned from visiting Ms. Moses' mother and Mariah's grandmother, Jacqueline Taylor; Ms. Moses' sisters; and friends who continue to live on HACA property. The foregoing banning, arrests, and inability to visit Mariah's grandmother, Ms. Moses' sisters, and his friends, have caused Mr. Alexander loss of liberty, loss of contact with friends and family, fear, humiliation, emotional distress, and economic loss.

**x. Facts Pertaining to Juan Perry**

132. Juan Perry, 43 years old, lives in Annapolis. He was raised in the Robinwood public housing community where he lived with his mother, Victoria Powell (now deceased), for 34 years. Mr. Perry's two sisters, April Simms and Dora Lynn, and his five nephews, all minors, have lived in the Robinwood community all their lives. Most of Mr. Perry's childhood friends still live in HACA communities.

133. On or about March or April of 2001, Mr. Perry was approached by Defendant Jones in the Annapolis courthouse. Defendant Jones told Mr. Perry that he was

banned from HACA property because of a 2001 charge. This was the first Mr. Perry learned that he was banned from HACA property. Mr. Perry spent time in prison for the 2001 charge and has now successfully completed his sentence and his probation.

134. Because of the ban, in the past 18 months, Mr. Perry has been arrested for trespassing several times, including once during a visit to a friend in Eastport Terrace, and three times while visiting his sisters and nephews in Robinwood. For these visits to friends and relatives, Mr. Perry has served 180 days in jail. While Mr. Perry had a number of drug-related convictions prior to 2002, he has since overcome his substance addiction, and is currently gainfully employed by the City of Annapolis.

135. In early 2008, having completed his sentences and probation, Mr. Perry wrote to Defendant Jones requesting removal from the Banned List. On or about March 25, 2008, Defendant Jones replied, indicating to Mr. Perry that he would not be removed, and should try again at another time. Defendant Jones did not indicate when Mr. Perry could request removal again, or under what conditions he would be successful.

136. The foregoing banning, arrests and incarceration have caused Mr. Perry loss of liberty, loss of contact with friends and family, fear, humiliation, emotional distress and economic loss. Mr. Perry would like, but is unable, to attend church and prayer services with his family and nephews in the HACA recreation center, as well as Bible study at the home of his sister April Simms at her invitation. Because of the ban, Mr. Perry cannot help his sisters, both single-parents, to raise his nephews, as they would like him to do. Mr. Perry would also like to visit with his other nieces and nephews, Ms. Simms' and Ms. Lynn's older children who visit their mothers frequently in Robinwood, but he is

prevented from doing so by the ban. Mr. Perry has suffered emotional distress at being unable to be a positive model of change to his family and friends, and to move on with his life now that he has conquered his substance addiction and served his criminal sentences.

137. Mr. Perry has been employed by the City of Annapolis in the Department of Refuse since November of 2008. While his employer is aware that Mr. Perry is banned from HACA property, Mr. Perry worries that being banned will interfere with his employment, which requires driving near HACA property, and he is fearful he will be arrested for being in proximity to HACA property and lose his job.

**xi. Facts Pertaining to Terrell Downs**

138. Terrell Downs, 24 years old, lives in Annapolis. Mr. Downs grew up in the Robinwood public housing community, and many of his friends and nearly all of his relatives live in public housing communities in and around Annapolis. For example, Mr. Downs has two grandmothers and two cousins in the Robinwood community, four relatives in Eastport Terrace, and three in Annapolis Gardens.

139. While Mr. Downs was first served with a ban notice in early 2008, and has been told he was banned as early as 2007, he has been arrested for visiting friends and relatives in HACA several times since 2006. On or about January 19, 2009, Mr. Downs was arrested for trespassing in violation of the ban, which violated his probation for a previous HACA trespassing arrest. Mr. Downs was incarcerated in Anne Arundel County Detention Center, where he served nearly four months. He was released on or about May 14, 2009, and served the remainder of his sentence on house arrest.

140. Before he was banned, Mr. Downs lived with his mother in Bay Ridge

Apartments, a subsidized housing complex that is not a part of HACA property. In or about August of 2007, Mr. Downs was arrested at Bay Ridge Apartments for trespassing, and informed by the arresting officer that because he was banned from HACA property, he was banned from Bay Ridge. Because his identification card listed Bay Ridge as his home address, Mr. Downs' mother, Karen Dorsey, was threatened with eviction.

141. Mr. Downs had never been served with a HACA ban notice prior to his August 2007 arrest. The officers told Mr. Downs at the time of his arrest that he was on the Banned List because of his charge for possession of controlled dangerous substances ("CDS"). Mr. Downs had never been convicted of CDS.

142. On or about January 8, 2008, when Mr. Downs appeared in court for the August 2007 trespassing charge, Defendant Jones approached him and presented him with a ban notice dated January 7, 2008. She told him he had been banned from HACA property since that time for a CDS charge and for a public nuisance charge, and instructed him to sign the notice reflecting these charges. Mr. Downs asserted that he had never been convicted of CDS and refused to sign the ban notice. Defendant Jones then crossed out the CDS charge, stated that she would not remove the nuisance charge, and asked Mr. Downs if he would now sign the notice. Mr. Downs refused.

143. Since he has been banned and incarcerated for visiting his mother and grandmother, Mr. Downs has slept at the home of his only relative who does not live in public housing, his aunt, Patricia Brown. Mr. Downs tries not to impose on Mrs. Brown, so he does not go to her house during the day and does not have a house key. Because Mr. Downs does not have any other home, however, he has to have all of his mail sent to



his aunt's house.

144. On or about July 4, 2008, Mr. Downs' grandmother Violet Ewell had a stroke. As Mr. Downs was accompanying his grandmother into an ambulance on the street outside her Robinwood home, an APD officer approached and made Mr. Downs get out of the emergency vehicle. Mr. Downs was handcuffed, walked down the street, and then released with a citation for trespassing on HACA property.

145. On Christmas day, 2008, Mr. Downs ate alone at McDonald's, because he could not join his relatives at his grandmother's Robinwood home to celebrate the holiday.

146. Mr. Downs would like to be able to visit and assist his grandmother Ms. Ewell without fear of being arrested for trespassing, and he would like to be able to bring his young daughter, Ty-relle Downs, to visit her great-grandmother. Because he is banned from visiting his mother in Bay Ridge and his grandmother in Robinwood, and because he does not want to impose on his aunt, Mr. Downs has no home to which he can take his daughter. Mr. Downs is even prevented from visiting with his daughter at a relative's home in Glen Burnie public housing, because, upon information and belief, Defendant Jones shares the Banned List with that housing development, causing Mr. Downs to be banned there as well.

147. The foregoing banning, arrests, and incarceration have caused Mr. Downs loss of liberty, loss of contact with friends and family, fear, humiliation, emotional distress, and economic loss. Mr. Downs is unable to have the close, involved relationship with his daughter he and her mother would like, and he is unable to care for his mother

and his grandmother, who are both in poor health with limited mobility, because the ban prevents him from seeing them. Mr. Downs has suffered emotional distress at being unable to be involved in the lives of his family members, at having to burden his aunt by sleeping in her home, and by having no home himself.

**xii. Facts Pertaining to Isaac Watkins**

148. Isaac Watkins, 24 years old, lives in Arnold, Maryland. Mr. Watkins' sister, aunts, niece, nephew, and friends live in HACA communities.

149. In June of 2000, Mr. Watkins was visiting a friend with Mr. Fowlkes, Sr. in Bowman Court when the house was raided by the APD. The APD found drugs in the home, and arrested all nine people present, including Mr. Watkins.

150. A short time after his arrest, an officer of the APD met Mr. Watkins at his home, informed him that he was banned from HACA property, and made him sign a ban notice.

151. Mr. Watkins' charge was placed on the Stet docket, and he was ordered to attend drug classes, which he successfully completed.

152. Subsequently, Mr. Watkins was arrested in front of his sister's home, for trespassing on HACA property. He was unrepresented in court and received probation before judgment. Mr. Watkins has no criminal convictions.

153. Mr. Watkins has been employed at Annapolis Painting Service for the past two years, and is currently working on his Graduate Educational Development degree. He is involved in his niece and nephew's lives, and picks up his niece from school to help his sister.

154. The foregoing banning, arrest and inability to visit his sister, aunts, niece and nephew, and friends, have caused Mr. Watkins loss of liberty, loss of contact with friends and family, fear, humiliation, emotional distress, and economic loss.

## **VI. CLAIMS FOR RELIEF**

### **COUNT I**

(Against All Defendants)

(Violation of All Plaintiffs' Rights to Freedom of Association and Assembly Under the First and Fourteenth Amendments to the United States Constitution)

155. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

156. Defendants' Banning Policy, as written and as applied, violates the First and Fourteenth Amendments to the United States Constitution. Defendants, in the course of performing governmental functions for the City of Annapolis, and pursuant to the Banning Policy, have engaged in a pattern and practice of unconstitutionally depriving Plaintiffs of their fundamental rights to freedom of association and assembly, and have unconstitutionally suspended the First and Fourteenth Amendments to the Constitution of the United States from applicability in and around public housing in the City of Annapolis.

157. By banning guests of public housing residents, monitoring the visiting patterns of public housing residents and their guests, maintaining a Banned List with the names of guests of public housing residents, restricting residents' rights to have guests, threatening and charging residents' guests with criminal trespass, and threatening residents with eviction and other adverse actions for having unapproved guests, Defendants, intentionally and under color of law, have violated and intend in the future to violate Plaintiffs' clearly established rights to freedom of association and assembly, guaranteed by

the First and Fourteenth Amendments to the United States Constitution, including but not limited to interfering with the Plaintiffs' rights to associate with their parents, grandparents, children and/or grandchildren.

158. As a direct and proximate result of Defendants' policies, practices, acts and omissions, Plaintiffs have been and will in the future be denied their constitutional rights to associate freely with their family and friends. Defendants' actions and policies further have subjected and may in the future subject Plaintiffs to criminal or eviction proceedings and sanctions, merely on the basis of their exercise of constitutional rights. This has caused Plaintiffs loss of property, liberty, pain and suffering, emotional distress, fear, and humiliation.

159. Defendants' violations of the First and Fourteenth Amendments to the United States Constitution establish a cause of action, pursuant to 42 U.S.C. § 1983, for declaratory, injunctive, and monetary relief, including compensatory damages, attorneys' fees, and costs.

## **COUNT II**

(Against All Defendants)

(Violation of All Plaintiffs' Procedural Due Process Rights  
Under the Fourteenth Amendment to the United States Constitution)

160. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

161. Defendants' Banning Policy, as written and as applied, violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution, in that it permits the Defendants, in the course of performing governmental functions for the City of Annapolis, and pursuant to the Banning Policy, to engage in a pattern and practice of

depriving individuals of basic liberty and property interests without due process of law.

162. By providing no meaningful process for appealing the determination that an individual is banned from HACA property, no standards under which an appeal would be evaluated, no recourse from the determination of a sole employee, and little or no information to individuals on the Banned List or their resident friends and family regarding who is on the Banned List or how a resident may petition to remove a guest from the list, Defendants, intentionally and under color of law, have deprived and will continue to deprive Plaintiffs, without adequate notice and in some cases with no notice whatsoever, of basic liberty and property interests without due process and for no legitimate purpose in violation of the Fourteenth Amendment.

163. As a direct and proximate result of Defendants' acts and omissions, all Plaintiffs have been and in the future will be denied their liberty interests in associating with their friends and family, without due process of law. As a direct and proximate result of Defendants' acts and omissions, all Resident Plaintiffs have been and in the future will be denied their property interests in their homes without due process of law. This has caused and will cause Plaintiffs loss of property and liberty, pain and suffering, emotional distress, fear and humiliation.

164. Defendants' violations of Plaintiffs' rights under the Fourteenth Amendment to the United States Constitution establish a cause of action, pursuant to 42 U.S.C. § 1983, for declaratory, injunctive, and monetary relief, including compensatory damages, attorneys' fees, and costs.

**COUNT III**  
(Against All Defendants)

(Violation of All Plaintiffs' Substantive Due Process Right to Intimate Association Under the Fourteenth Amendment to the United States Constitution)

165. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

166. Defendants' Banning Policy, as written and as applied, violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution, in that it permits the Defendants, in the course of performing governmental functions for the City of Annapolis, and pursuant to the Banning Policy, to engage in a pattern and practice of interfering with individuals' fundamental rights of intimate association, and does so in a manner that is not narrowly tailored to serve a compelling state interest.

167. By monitoring Plaintiffs' activities, the identities of guests and the frequency and duration of their visits, banning certain guests, prohibiting residents from having certain guests in their homes, on some occasions failing even to inform residents that they are prohibited from having certain guests in their homes, charging guests with trespassing, threatening residents with eviction if they allow banned guests into their homes, and making no exceptions for visiting intimates, including residents' parents and children, Defendants, intentionally and under color of law, have deprived and will continue to deprive Plaintiffs of their fundamental rights of intimate association with family members and other intimates through policies and practices that are not narrowly tailored to serve a compelling state interest. Defendants' acts and omissions have also thereby deprived Plaintiffs of their constitutional rights to direct and govern the care, custody and control of children, grandchildren, and other minor relatives as they see fit, and to care for their elderly parents and other aging relatives. This has caused and will cause Plaintiffs

loss of property and liberty, pain and suffering, emotional distress, fear and humiliation.

168. Defendants' violations of Plaintiffs' rights under the Fourteenth Amendment to the United States Constitution establish a cause of action, pursuant to 42 U.S.C. § 1983, for declaratory, injunctive, and monetary relief, including compensatory damages, attorneys' fees, and costs.

**COUNT IV**

(Against All Defendants)

(Violation of Guest Plaintiffs' Rights to Due Process

Under the Fourteenth Amendment to the United States Constitution)

169. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

170. Defendants' Banning Policy, as written and as applied, violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution, in that it authorizes and causes Defendants to stop, arrest, and detain individuals for the mere exercise of their constitutional rights to freedom of association and assembly and their constitutional rights to intimate association, in the absence of constitutionally required procedural protections.

171. By enforcing the unconstitutional banning policy through the initiation and pursuit of criminal charges against certain Guest Plaintiffs, which charges have directly resulted in arrest and detention of certain Guest Plaintiffs, Defendants intentionally and under color of law have denied these Guest Plaintiffs their right to due process of law, in violation of the Fourteenth Amendment to the United States Constitution.

172. Defendants' violations of Guest Plaintiffs' rights under the Fourteenth Amendment to the United States Constitution establish a cause of action, pursuant to 42

U.S.C. § 1983, for declaratory, injunctive, and monetary relief, including compensatory damages, attorneys' fees, and costs.

**COUNT V**

(Against All Defendants)

(Violation of All Plaintiffs' Rights to Due Process  
Under Article 24 of the Maryland Declaration of Rights)

173. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

174. Defendants' Banning Policy, as written and as applied, violates Article 24 of the Maryland Declaration of Rights. Defendants, in the course of performing governmental functions for the City of Annapolis, and pursuant to the Banning Policy, have engaged in a pattern and practice of depriving citizens of their fundamental rights to liberty and property without judgment of their peers or by the Law of the land.

175. By monitoring Plaintiffs' activities, the identities of guests and the frequency and duration of their visits, banning certain guests, prohibiting residents from having certain guests in their homes, failing to inform some residents that they are prohibited from having certain guests in their homes, charging guests with trespassing, threatening residents with eviction if they allow banned guests into their homes, and otherwise interfering with Resident Plaintiffs' property interests in their homes, Defendants, intentionally and under color of law, have deprived and will continue to deprive Plaintiffs, without adequate notice and in some cases with no notice whatsoever, of basic liberty and property interests without due process of law and for no legitimate purpose.

176. By providing no meaningful process for appealing the determination that an individual is banned from HACA property, no standards under which an appeal would



be evaluated, no recourse from the determination of a sole employee, and little or no information to individuals on the Banned List or their resident friends and family regarding who is on the ban list or how a resident may petition to remove a guest from the list, Defendants, intentionally and under color of law, have deprived and will continue to deprive Plaintiffs, without adequate notice and in some cases with no notice whatsoever, of basic liberty and property interests without due process of law and for no legitimate purpose.

177. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs have been and in the future will be denied their fundamental rights to associate freely with their friends and family and to rear and educate their children as part of their fundamental right to personal autonomy, without due process of law and in the absence of any compelling governmental interest in support of such a policy and practice. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs have been deprived of their rights to direct and govern the care, custody and control of their children, grandchildren, and other minor relatives as they see fit, and to care for their elderly parents and other aging relatives.

178. Defendants' Banning Policy, as written and as applied, authorizes and causes Defendants to stop, arrest, and detain individuals for the mere exercise of their constitutional rights to freedom of association and assembly and their constitutional rights to intimate association, in the absence of constitutionally required procedural protections. By enforcing the unconstitutional banning policy through the initiation and pursuit of criminal charges against certain Guest Plaintiffs, which charges have directly resulted in

arrest and detention of certain Guest Plaintiffs, Defendants intentionally and under color of law have denied these Guest Plaintiffs their right to due process of law, in violation of the Maryland Declaration of Rights.

179. Defendants' unconstitutional acts have directly and proximately caused Plaintiffs loss of property and liberty, pain and suffering, emotional distress, fear and humiliation.

180. Defendants' violations of Article 24 of the Maryland Declaration of Rights establishe a cause of action for declaratory, injunctive, and monetary relief, including compensatory damages.

#### **COUNT VI**

(Against All Defendants)

(Violation of Guest Plaintiffs' Rights to be Free From Unreasonable Search and Seizure Under the Fourth and Fourteenth Amendments to the United States Constitution)

181. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

182. Defendants' Banning Policy, as written and as applied, violates the Fourth and Fourteenth Amendments to the United States Constitution, in that it authorizes and causes the Defendants to stop, arrest and detain individuals, without reasonable suspicion or probable cause to believe any crime has been committed, and for individuals' mere exercise of their constitutional rights.

183. By enforcing the Banning Policy through arbitrary, discriminatory, and unjustified initiation and pursuit of criminal charges against certain Guest Plaintiffs, without reasonable suspicion or probable cause to believe any crime has been committed,

which charges have directly resulted in arrest and detention of certain Guest Plaintiffs, Defendants intentionally and under color of law have unlawfully stopped, arrested, detained, searched and/ or seized certain Guest Plaintiffs, in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

184. Defendants' violations of the Fourth and Fourteenth Amendments to the United States Constitution establish a cause of action, pursuant to 42 U.S.C. § 1983, for declaratory, injunctive, and monetary relief, including compensatory damages, attorneys' fees, and costs.

#### **COUNT VII**

(Against All Defendants)

(Violation of Guest Plaintiffs' Rights to be Free From Unreasonable Search and Seizure Under Article 26 of the Maryland Declaration of Rights)

185. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

186. Defendants' Banning Policy, as written and as applied, violates Article 26 of the Maryland Declaration of Rights, in that it authorizes and causes the Defendants to stop, arrest and detain individuals, without reasonable suspicion or probable cause to believe any crime has been committed, and for individuals' mere exercise of their state constitutional rights.

187. By enforcing the Banning Policy through arbitrary, discriminatory, and unjustified initiation and pursuit of criminal charges against certain Guest Plaintiffs, without reasonable suspicion or probable cause to believe any crime has been committed, which charges have directly resulted in arrest and detention of certain Guest Plaintiffs, Defendants intentionally and under color of law have violated Article 26 of the Maryland

Declaration of Rights.

188. Defendants' violations of Article 26 of the Maryland Declaration of Rights establish a cause of action for declaratory, injunctive, and monetary relief, including compensatory damages.

**COUNT VIII**

(Against Defendants City of Annapolis and Pristoop)  
(Violation of Guest Plaintiffs' Rights Under Maryland Common Law)

189. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

190. Defendants' Banning Policy, as written and as applied, violates Maryland common law, in that it authorizes and causes the Defendants to stop, arrest and detain individuals, without reasonable suspicion or probable cause to believe any crime has been committed, and for individuals' mere exercise of their state constitutional rights.

191. By enforcing the trespass policy by intentionally stopping, arresting, restraining, and detaining certain of the Guest Plaintiffs without reasonable suspicion or probable cause to believe that they were engaging in criminal activity, depriving them of their liberty against their will and without their consent, Defendants have committed the common law torts of false arrest and false imprisonment.

192. As a direct and proximate result of Defendants' acts and omissions, the Guest Plaintiffs have suffered false arrest, unwarranted criminal detention, or the threat of arrest, and continue to face repetition of such unjust punishments in the future, should they again attempt to exercise their constitutional freedoms. This has caused and will in the future cause Guest Plaintiffs loss of property and liberty, pain and suffering, emotional

distress, fear, humiliation, and economic loss.

193. Defendants' violations of Maryland common law establish a cause of action for declaratory, injunctive, and monetary relief, including compensatory damages.

### **COUNT IX**

(Against Defendants Housing Authority of the City of Annapolis, Brown and Jones)  
(Violation of Resident Plaintiffs' Rights Under the United States Housing Act)

194. Plaintiffs repeat and reallege the facts contained in the previous paragraphs as though fully set forth herein.

195. Resident Plaintiffs are entitled to safe, decent, and sanitary housing within their financial reach. 42 U.S.C. § 1437 *et seq.* Leases used by a public housing agency may not contain unreasonable terms and conditions. *Id.* at § 1437d(l)(2). In addition, public housing agencies may not terminate a tenancy "except for serious or repeated violations of the terms or conditions of the lease or for other good cause." *Id.* at § 1437d(l)(4).

196. Defendants have denied Resident Plaintiffs' right to exclusive use and occupancy of their leased unit and to have guests in their homes as secured by applicable HUD regulations, 24 C.F.R. § 966.4(d), and the United States Constitution.

197. Defendants' conduct has violated the United States Housing Act as contrary to the Act and the regulations adopted thereunder in violation of Plaintiffs' constitutional rights. Defendants' violations of the United States Housing Act establish a cause of action, pursuant to 42 U.S.C. § 1983, for injunctive, declaratory and monetary relief, including attorneys' fees and costs.

### **VII. RELIEF**

WHEREFORE, Plaintiffs request that this Court:

(a) Declare that Defendants' Banning Policy, as written and as applied, is unconstitutional as violative of the free association, assembly, and due process guarantees of the First and Fourteenth Amendments to the United States Constitution, and of the Fourth Amendment to the United States Constitution;

(b) Declare that Defendants' Banning Policy, as written and as applied, violates the Maryland Declaration of Rights;

(c) Declare that Defendants' Banning Policy, as written and as applied, violates Maryland common law;

(d) Declare that Defendants' Banning Policy, as written and as applied, violates the United States Housing Act, 42 U.S.C. § 1437 *et seq.*

(e) Preliminarily and permanently enjoin Defendants from enforcing the existing Banning Policy and practices;

(f) Award compensatory damages against all Defendants, jointly and severally, in an amount to be determined by the jury;

(g) Award Plaintiffs their attorneys' fees and costs incurred in bringing this action, pursuant to 42 U.S.C. § 1988; and

(h) Grant such other and further relief as the Court may deem just and proper.

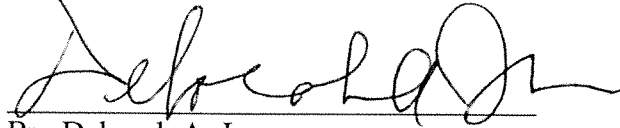
### **JURY DEMAND**

Plaintiffs demand a jury trial on the claims triable as of right by jury set forth herein.

Dated: August 12, 2009

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF MARYLAND



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*Counsel for Plaintiffs*

# **Exhibit A**



## BANNING REGULATION

### *Purpose:*

In order to maintain the level of quality in the lifestyles of residents within public housing communities served by the Housing Authority of the City Annapolis, procedures are necessary to ban and remove individuals who have been involved in or conduct criminal activity within or near public housing.

### *Policy:*

It is the policy of the Housing Authority of the City of Annapolis to acquire information from residents, local agencies, the press, the court system and the local police department that verifies the presence of and information describing activity that adversely affects the quality of life of our residents. The Housing Authority of the City of Annapolis is dedicated to providing communities that are safe, drug and crime free, and conducive to creating an environment pleasant to live in. Criminal behavior and lifestyles will not be tolerated.

### *Residents:*

Procedures for residents who engage in criminal activity are outlined in the procedures for lease termination and within the public housing lease. Residents cannot be banned until they are no longer housed (legally) within the community, i.e. through eviction, family removal or voluntary move.

- 1) Residents known to associate with a banned non-resident shall receive notice that the person is banned from Housing Authority property in the form of a letter from the Director of Community Safety. The letter will also state that pursuant to the resident's lease agreement, the resident member of the resident's household, shall not allow the person who has been excluded to be a guest of the resident in the Housing Authority Development.
- 2) If a banned non-resident comes on the Housing Authority Development with a resident who has received notice of the person's banned status, the resident will receive a lease violation. If the resident has not received notice, the resident will be provided notice and warned about future activities with the banned non-resident. Pursuant to the Banning Policies and Procedures, a resident receiving a lease violation for violating this regulation will have his or her historical file reviewed to determine the subsequent course of action.

## Non-Residents:

Non-residents who are found to be detrimental to the overall quality of life for public housing residents may be banned. There are specific items that must be confirmed prior to issuing a banning letter:

- 1) The individual must not be a resident.
- 2) The individual must have completed the associated incidents on or near public housing property. Specifically, apartment units, public areas within the community, community centers and offices, recreation areas, streets and parking lots that lie within and adjacent to property lines, spaces dedicated to other agencies within communities; playgrounds, fields, woods and easements that lead to and from the communities. Also, other city owned property that is adjacent to public housing may be considered as "off" and should be reviewed by the Director of Community Safety. The events that may cause a person to be banned are as follows:
  - a. Any misdemeanor or infraction which disturbs the peaceful enjoyment of the development, including without limitation, illegal drug activity or violent criminal activity;
  - b. Destruction of either Housing Authority property or private property;
  - c. After warning, continue to interfere with the job responsibilities of a Housing Authority employee or vendor; and/or
  - d. After warning, continue to disturb other residents' peaceful enjoyment of the complex.
- 3) The individual must have completed criminal activity within the area described in section 2 that has been verified by the appropriate law enforcement agency.
- 4) Should each of the above three items be met, the Banning Notice will be prepared by the Director of Community Safety after verifying all information and a file created on the specific individual.
- 5) The Banning Notice must be issued and the individual "Duly Notified", which means that the notice must be hand delivered. This may be done only by a Housing Authority staff or Secondary Employment Police Officer.
- 6) The bottom section of the Banning Notice must be completed detailing the date, time and location of the delivery of the Notice, as well as signature of the individual delivering the Notice.
- 7) The Director of Community Safety keeps all original Banning Notices and Banning notices with pictures of the offenders in three ring binders in alphabetical order.

- 8) A list of all banned persons is distributed to all Housing Authority officials, Parole and Probation and law enforcement as appropriate. Also, a ban list is posted in various Housing Authority offices.

#### *Removal from the Banning List*

After a person has been on the banning list for a period of three years they may apply in writing to the Director of Community Safety to be removed from the list. The Director of Community Safety will review their record of abiding by the list and if there have been no trespassing, CDS, weapons or violent charges placed against the person during the banning period they will be considered for removal from the banning list provided the person was not incarcerated during this time period. If a banned person has violated the ban they must reapply at a later date. Once a person has been removed from the ban list and they engage in any criminal activity that would place them back on the ban list they are considered banned for life.