

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Case Type: Discrimination

Kimberly Lowry, on behalf of herself
and the Proposed Rule 23 Classes,

Case No.

Plaintiff,

v.

**CLASS ACTION COMPLAINT
JURY TRIAL DEMANDED**

CITY OF MINNEAPOLIS, a municipal
corporation, MINNEAPOLIS PUBLIC
HOUSING AUTHORITY, in and for the
City of Minneapolis, a body corporate and
politic, COMMUNITY HOUSING
RESOURCES, a non-profit corporation,

Defendants.

This civil rights class action challenges longstanding and egregious discriminatory practices that have forced public housing tenants in Minneapolis to live in substandard and dangerous conditions. One of those tenants, Kimberly Lowry, on behalf of herself and the proposed classes of tenants described below, brings this action against the City of Minneapolis, Minneapolis Public Housing Authority, and Community Housing Resources, seeking damages; required licensing, inspections, and maintenance; and all other relief allowed by law. Plaintiff states:

PRELIMINARY STATEMENT

1. Plaintiff Kimberly Lowry and the other public housing tenants in Minneapolis, have been forced to endure substandard, hazardous, and non-code compliant housing conditions because of Defendants' failure to provide the public health, welfare, and safety services the law requires.
2. Specifically, Defendants City of Minneapolis, Minneapolis Public Housing

Authority, and Community Housing Resources (collectively, “Defendants”) have failed to provide public housing tenants the inspection, licensing, maintenance, and related services required by law. In contrast, the City of Minneapolis provides those services to tenants in privately-owned rental dwellings. This is blatant discrimination on the basis of public assistance in violation of the Minnesota Human Rights Act. Defendants’ conduct also violates state and local housing law, as well as Minnesota consumer protection statutes. And the failure to obtain inspections and licenses and maintain the residences is a breach of the lease agreements Minneapolis Public Housing Authority and Community Housing Resources have with public housing tenants.

3. As a result, Plaintiff Kimberly Lowry and the other public housing tenants have been forced to pay rent despite Defendants not providing the housing required under contract and law, and they have been forced to endure a multitude of substandard, dangerous, and non-code compliant conditions, negatively impacting their physical and mental health and safety.

4. Plaintiff, like other Minneapolis housing public tenants, takes great pride in how she has managed her house despite Defendants’ failures. Her house is her home, and she wants to remain there. On behalf of herself and the proposed classes, she is simply seeking the legal protections they must be afforded to live in their homes safely.

PARTIES

5. Plaintiff Kimberly Lowry (“Plaintiff,” “Plaintiff Lowry,” or “Ms. Lowry”) is an adult resident of the County of Hennepin and has lived in the same MPHA property on 26th Avenue South since approximately 2009.

6. Defendant City of Minneapolis (the “City”) is a municipal corporation.

7. Defendant Minneapolis Public Housing Authority (“MPHA”) is a body corporate and politic.

8. MPHA is an independent authority created by resolution of the City of Minneapolis under the Minnesota Housing and Redevelopment Act of 1947, and subject to the housing-related ordinances of Minneapolis.

9. MPHA headquarters is located at 1001 Washington Avenue North, Minneapolis, Minnesota.

10. The City has legal power and responsibility to oversee MPHA's actions under Chapter 420 of the Minneapolis Code of Ordinances.

11. Defendant Community Housing Resources ("CHR") is a Minnesota non-profit corporation and is wholly owned by MPHA.¹

12. CHR's registered office address is 1001 Washington Avenue North, City of Minneapolis, Minnesota.

13. To the extent MPHA and CHR are referenced herein as "MPHA/CHR," those references are intended to apply to MPHA and CHR jointly and severally from on and after October 1, 2020 for those dwellings assigned to CHR, and only MPHA for all other dwellings and time periods.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction pursuant to Minn. Stat. § 484.01.

15. Venue is proper in the Fourth Judicial District because a substantial portion of the events giving rise to the Complaint occurred in Hennepin County.

¹ See <https://mphaonline.org/preserving-family-homes/> (last accessed July 25, 2021).

FACTUAL ALLEGATIONS

Minneapolis Public Housing Authority (MPHA)

16. MPHA is the largest public housing authority in Minnesota.²
17. MPHA owns and/or manages over 6,000 residential units located in Minnesota and provides housing to approximately 10,500 residents.³
18. The residential units are comprised of approximately 5,005 high rise units, 736 single-family homes (also known as scattered sites), 306 public housing units outside of Minneapolis, 200 townhome and multiple-unit homes, and 12 lease-to-own homes.⁴
19. With the exception of 306 public housing units outside of Minneapolis, all of the units are located in Minneapolis.
20. Approximately 96% of the family properties (this includes the scattered sites, townhomes, and multi-unit homes) are comprised of people of color.⁵
21. Most families receiving assistance from MPHA earn less than 30 percent of the area median income, and as of 2018, 30 percent of area median income was approximately \$28,300 for a family of four.⁶
22. MPHA/CHR tenants contribute approximately 30 percent of their income for rent and utilities.⁷
23. MPHA is governed by a nine-member Board of Commissioners appointed by the

² MPHA Fact Sheet (May 2016) at p. 1, <http://mphaonline.org/wp-content/uploads/2017/03/MPHA-Fact-Sheet-Final-5-2016.pdf> (last accessed on July 25, 2021).

³ MPHA Agency Overview, <http://mphaonline.org/about/agency-overview/> (last accessed on July 26, 2021).

⁴ Id.

⁵ Id.

⁶ Id.

⁷ See id.

Mayor and City Council of Minneapolis.⁸

24. MPHA receives most of its funding from the United States Department of Housing and Urban Development (“HUD”).⁹

25. Federal regulations thus apply and dictate some minimum standards for public housing, requiring the properties be “decent, safe, sanitary and in good repair.” 24 C.F.R. § 5.703.

26. Federal regulations also require local public housing programs, including MPHA, to “comply” with and “adhere” to state and local housing and maintenance codes. 24 C.F.R. § 5.703(g); see Marable v. City of Minneapolis et al., No. A19-1558, 2020 WL 2312940, at *5 (Minn. Ct. App. May 11, 2020).

27. Minnesota statute provides that all redevelopment authority projects, including those owned by MPHA/CHR and at issue here, “shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.” Minn. Stat. § 469.012, subd. 4.

Community Housing Resources (CHR)

28. In or about 2019, MPHA applied for HUD’s Section 18 public housing disposition program to convert certain of MPHA’s dwelling units to Section 8 project-based funded rental dwellings.¹⁰

⁸ MPHA Board of Commissioners, <https://mphaonline.org/about/leadership/board-of-commissioners/#:~:text=The%20Minneapolis%20Public%20Housing%20Authority,Mayor%20and%20City%20Council%20members> (last visited July 25, 2021).

⁹ MPHA’s Funding and Finances, <http://mphaonline.org/wp-content/uploads/2017/10/MPHA-Funding-Summary.pdf> (last accessed on July 25, 2021).

¹⁰ MPHA, Preserving MPHA’s Family Homes, <https://mphaonline.org/preserving-family-homes/> (last accessed on August 30, 2021). In some circumstances, Section 18 has been used to privatize public housing properties, resulting in the displacement of public tenants. Similarly, Section 8 housing is not the same as the public housing at issue here and may be unaffordable for some tenants in public housing.

29. MPHA acknowledged that its dwelling units were substandard but claimed that private funding was necessary for renovation of the public housing units.¹¹

30. On or about October 1, 2020, as part of the Section 18 public housing disposition, MPHA transferred approximately 640 scattered site rental homes to CHR.¹²

31. MPHA provided CHR an option to purchase approximately 707 scattered site properties for \$1.00 each.

32. As of October 1, 2020, CHR became an owner of approximately 640 MPHA scattered site rental homes in Minneapolis.

33. CHR is “100% controlled” by MPHA.¹³

34. MPHA/CHR had public housing tenants acknowledge CHR’s ownership through a Family Unit Lease Addendum.

35. The Family Unit Lease Addendum provides in part:

Once the Conversion is complete, Tenant’s Unit will have a new owner, Community Housing Resources (CHR). CHR is owned and controlled by MPHA. CHR will be the successor in interest of MPHA and will assume the obligations of MPHA as landlord under the Lease. However, MPHA is under a long-term contract with CHR and will continue to manage the Unit as CHR’s Agent. Tenant’s tenancy is not terminated or interrupted by virtue of the Conversion. All of Tenant’s rights and obligations under his or her current Lease shall continue after the Conversion excepted as listed below. The references to “Management” or MPHA in the following paragraphs are hereby replaced with CHR: 6.A, 6.B, 10 (Title and first sentence), 10.B, 10.E, 11.D, and 20.

36. MPHA is still owner of the homes transferred to CHR, but CHR is the taxpayer.¹⁴

¹¹ Id.

¹² Id.

¹³ MPHA, Preserving MPHA’s Family Homes, <https://mphaonline.org/preserving-family-homes/> (last accessed on August 30, 2021).

¹⁴ See generally <http://apps.ci.minneapolis.mn.us/AddressPortalApp/> (last accessed August 11, 2021).

37. Following transfer of title of the 640 homes to CHR, MPHA continued and continues to manage the CHR owned rental homes.¹⁵

38. The stated mission of CHR is “[t]o support the functions of, and assist in carrying out the purpose of the Minneapolis Public Housing Authority in providing affordable housing to low-income families.”¹⁶

39. The governing body of the MPHA is the same governing body of CHR, MPHA’s Board of Commissioners appointed by the Minneapolis City Council and Mayor.¹⁷

40. CHR is subject to local housing codes and state landlord-tenant laws. *See* Chapter 244, Minneapolis Code of Ordinances (“MCO”); Minn. Stat. 504B.001, *et seq.*; and Minn. Stat. 469.001, *et seq.*

The City of Minneapolis

41. In 1960, the City of Minneapolis enacted its Housing Maintenance Code¹⁸ “to protect the public health, safety and welfare” of the people of Minneapolis. MCO § 244.20.

42. The City’s director of regulatory services or director’s designee is required by ordinance to enforce the municipal Housing Maintenance Code. MCO § 244.120.

43. The Housing Maintenance Code provides “the director of regulatory services shall make inspections to determine the condition of dwellings, dwelling units, ... and premises located

¹⁵ See <https://mk0mphaonlineorajvvy.kinstacdn.com/wp-content/uploads/2020/01/Section-18-Approval-Letter-to-Residents-Eng-Som.pdf>, p.2 (last accessed on July 26, 2021).

¹⁶ IRS Form 990, available at <https://mk0mphaonlineorajvvy.kinstacdn.com/wp-content/uploads/2021/05/COMMUNITY-HOUSING-RESOURCES-May-26-2021.pdf>, p. 13 (last visited July 26, 2021).

¹⁷ IRS Form 990, available at <https://mk0mphaonlineorajvvy.kinstacdn.com/wp-content/uploads/2021/05/COMMUNITY-HOUSING-RESOURCES-May-26-2021.pdf>, p. 32 (last visited July 26, 2021).

¹⁸ Chapters 242 and 244 of the MCO are known as the “Housing Maintenance Code.” MCO § 244.10.

within the city for the purpose of enforcing the provisions of the housing maintenance code. The director of regulatory services or the director's designee, may enter, examine and survey at all reasonable times all dwellings, dwelling units, ... and premises ..." MCO § 244.130.

44. Rental dwellings must be licensed by the City:

No person shall allow any dwelling unit to be occupied, or let or offer to let to another any dwelling unit for occupancy, or charge, accept or retain rent for any dwelling unit unless the owner has a valid license, administrative registration, short term rental registration or provisional license under the terms of this article.

MCO § 244.1810.

45. The City rental dwelling licensure requirement applies to:

all rental dwellings and dwelling units, including rented single-family dwellings and rented dwelling units in owner-occupied dwellings, as well as to rented condominiums, rented townhouses and leasehold cooperative dwelling units, as those terms are defined in Minn. Statutes Section 273.124, Subd. 6, Minnesota Statutes, Chapter 515A, Minnesota law and this Code.

MCO § 244.1820.

46. The Housing Maintenance Code defines "dwelling unit" as "[a]ny habitable room located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating." MCO § 244.40.

47. MPHA/CHR are not exempt from the rental dwelling license requirements of the housing maintenance code. *See generally* MCO § 244.1820.

48. All rental dwelling licenses issued pursuant to the Housing Maintenance Code expire annually. MCO § 244.1860.

49. Importantly, the City may only issue a rental dwelling license after a City code enforcement inspector has completed an inspection of the dwelling and "the director of regulatory services finds that the minimum standards for licensing set forth in this article have been met."

MCO § 244.1900.

50. Operation of a rental dwelling without a license is a misdemeanor. MCO § 244.1980.

51. The Minneapolis City Council has determined that one authorized representative of the director of regulatory services is the director of inspections. See MCO § 28.10 (establishing the department of inspections).

52. The director of inspections is required to appoint and remove “duly appointed and qualified inspectors” and assistants as provided by the City Council. MCO §§ 28.20-30.

53. While the director of inspections is authorized to delegate his or her power to enforce municipal codes, this authorization is limited to “assistants.” MCO § 28.60.

54. An “assistant” is defined as someone who is explicitly authorized “[t]o assist in the administration of the department,” and is appointed by “the director of inspections ... as shall be provided by the city council.” MCO § 28.30.

55. Assistants to the director of inspections “perform such duties as shall be assigned by the director of inspections,” and thus are limited to Minneapolis employees who report to the director of inspections. MCO § 28.30.

56. The director of regulatory services is not authorized to delegate enforcement authority outside of the department of inspections. See Marable v. City of Minneapolis, No. A19-1558, 2020 WL 2312940, at *5 (Minn. Ct. App. May 11, 2020).

57. Contrary to the express requirements set forth in the Housing Maintenance Code, the City permits MPHA/CHR to operate rental dwelling operations in Minneapolis without the mandatory licenses and related inspections, while requiring all other non-MPHA/CHR rental units (i.e., privately owned rental dwellings) to comply with said requirements.

58. The sole basis for the City’s unlawful conduct has and continues to be tenants’

“status with regard to public assistance.”

59. MPHA/CHR tenants, including Plaintiff, receive public rental assistance and occupy MPHA/CHR rental dwellings solely based upon that public assistance and qualified need for such assistance.

The “Minneapolis 311” System

60. The “Minneapolis 311” system was first implemented by the City in 2006.¹⁹

61. The “Minneapolis 311” system serves “as the single point of contact for City information and service” and is for Minneapolis residents, businesses, and visitors.²⁰

62. The City’s “311 System” includes a public service whereby tenants in the City can contact the City to submit housing condition complaints and request the City conduct inspections.²¹

63. The City, through the “Minneapolis 311” system claims that upon the City’s receipt of a tenant’s housing complaint, “311 and Regulatory Services” will dispatch a City housing inspector to inspect the rental unit in question and issue orders if code deficiencies are discovered.²²

64. MPHA/CHR tenants, including Plaintiff Lowry, have been denied City annual licensing inspections described above and also services through 311—both to which all residential tenants are entitled—because Minneapolis will not provide inspection services at MPHA/CHR

¹⁹ <https://www.southwestjournal.com/news/2007/09/behind-the-scenes-at-the-311-call-center/> (last accessed on August 25, 2021).

²⁰ <https://www.minneapolismn.gov/government/departments/311/> (last accessed on July 26, 2021).

²¹ City of Minneapolis, Resource for Renters, <https://www2.minneapolismn.gov/resident-services/property-housing/renters/renter-resources/> (last accessed on August 25, 2021).

²² City of Minneapolis, Rental Unit Issue, <https://www.minneapolismn.gov/report-an-issue/rental-unit-issue/> (last accessed on August 25, 2021).

rental dwellings.

65. On information and belief, the City has 311 operators follow a script that routes tenant complaints involving MPHA/CHR properties to MPHA, and only recently, may have begun responding to some 311 requests but has made no official policy or practice changes with respect to MPHA/CHR tenants as a whole.

Plaintiff Kimberly Lowry

66. Plaintiff Lowry has rented and lived in the same MPHA property on 26th Avenue South since approximately 2009.

67. Throughout her tenancy, Lowry has paid (and continues to pay) monthly rent to MPHA/CHR in accordance with her annual lease. Likewise, members of the proposed classes have also paid rent to MPHA/CHR.

68. Due to Lowry's public assistance status, she has not had other rental housing options other than low-income, public housing rental homes.

69. Throughout the last six years and continuing today, MPHA/CHR tenants have been subject to the same or substantially similar lease agreement.²³

70. Lowry has been listed as head of household on every lease with MPHA, and remains head of household today.

71. MPHA/CHR's Family Unit Lease, to which Lowry is subject, provides a detailed list of MPHA's management obligations, including to:

- a. Maintain the Unit, building, facilities, grounds, Common Areas and Management's appliances, not otherwise assigned to Tenant for maintenance in a decent, safe and sanitary condition. However, MPHA cannot guarantee a pest free environment.

²³ See MPHA Family Unit Lease and MPHA Highrise Lease, <https://mphaonline.org/about/policies-and-publications/> (last accessed on July 26, 2021).

- b. Comply with applicable building codes, housing codes and HUD regulations materially affecting health and safety.
- c. Make necessary repairs to the Unit. MPHA may abate the Rent in proportion to the seriousness of the damage to the Unit and loss in use of the Unit if necessary repairs are not made in a reasonable time and a replacement Unit is not offered. There will be no abatement in the Rent, if the Tenant Family refuses the replacement Unit or if the damage is caused by the fault or negligence of the Tenant Family, Other Person Under Tenant Family's control or Tenant Family's Guest.
- d. Maintain in good and safe working condition all electrical, plumbing, heating, ventilation, sanitary and other facilities, appliances and elevators supplied or required to be supplied by Management.
- e. Supply running water, reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year, in compliance with applicable law and ordinance.
- f. Offer a replacement Unit, if available, to the Tenant when the condition of the Unit is uninhabitable and Management does not repair the condition within a reasonable time. However, Management will not offer a replacement Unit, when the condition is caused by the fault or negligence of the Tenant Family, Other Person Under Tenant Family's Control or Tenant Family's Guest.

72. Each lease agreement references MPHA's most recent "Statement of Policies," and incorporates by reference any Addendum to the Lease and Management's Statement of Policies except for select sections and appendices that are not at issue here.

73. The 2021 MPHA Statement of Policies provides in relevant part that:

- "MPHA will not discriminate against any application or Tenant because of ...status with regard to public assistance."²⁴
- "The Units are leased in very good condition, free of defects and deficiencies."²⁵
- The lease will comply with MPHA policies and applicable regulation,

²⁴ MPHA Low-Income Public Housing Statement of Policies (2021), <https://mk0mphaonlineorajvvy.kinstacdn.com/wp-content/uploads/2021/02/MPHA-LIPH-SOP-2021.pdf> , p. 4(last accessed on July 26, 2021).

²⁵ Id. at p. 131.

law and ordinances.²⁶

74. Lowry has been and continues to be subject to and in compliance with her lease obligations, including those incorporated into the Statement of Policies and Family Unit Lease Addendum, and MPHA/CHR, with the exception of the failures at issue in this lawsuit, has held themselves and Lowry subject to the those obligations.

75. Despite MPHA/CHR's obligations and their representations and promises, Lowry's home has not been safe, decent, or sanitary during her occupancy.

76. Lowry has experienced a multitude of substandard, hazardous and non-code compliant conditions within her rental home through no fault of her family or of her own, including but not limited to:

- Dirt and water intrusion into the basement where the original gas supply pipe was.
- Sewage backing up into the basement through the floor drain, where the cleanout plug was not installed and the floor drain was not cleaned. The sewer line was not cleaned from the house to the sewer line in the street and the sewer line was not checked for damage.
- Damaged and loose vinyl asbestos floor tile.
- The washing machine is installed in front of the electrical service box. There is not a 20-amp circuit for the laundry.
- The laundry tub is not secured to the floor.
- No smoke detector in basement.
- Peeling paint.
- Deterioration of garage overhead door and peeling paint.
- Decayed window trim.
- No backflow preventor for the outside faucet.

²⁶ Id. at p. 55.

77. These conditions obviously do not comply with the City's minimum housing standards set out in the Housing Maintenance Code.

78. Plaintiff Lowry takes pride in her home. As such, her practice is to report issues to the MPHA work order line as provided for her in her lease.

79. However, MPHA/CHR have been slow to address repairs, if at all.

80. By way of example, Plaintiff Lowry's basement has flooded multiple times since she moved into her rental home.

81. Though Plaintiff Lowry has consistently reported this issue to MPHA/CHR, Defendants have failed to remedy it. In turn, Ms. Lowry is left with a wet basement, filled with debris, and the smell of feces.

82. After Plaintiff Lowry reported the most recent basement flooding to MPHA in approximately April 2021, an MPHA repair worker merely told Ms. Lowry she should not be in the basement when it is wet because of asbestos.

83. Notably, like several other MPHA tenants, Plaintiff Lowry's washer and dryer is in the basement, meaning she needs to be in the basement to do the basic household chore of laundry.

84. Throughout MPHA/CHR dwelling units, there are other circumstances like Ms. Lowry's that have resulted in substandard and hazardous housing for other tenants.

85. Plaintiff Lowry contacted the City of Minneapolis 311 system in approximately 2010, 2011, and 2012 regarding her housing condition complaints but was informed by City officials the City could not help her because she lived in an MPHA property.

86. To her knowledge, the City has never inspected her home.

87. Given the City's universal script that routes all 311 calls to MPHA and the City's practice of not licensing MPHA/CHR dwelling units, the City has never inspected any

MPHA/CHR dwelling unit at the request of a tenant or as part of an annual inspection and licensing process.

88. Because of MPHA/CHR's non-code compliant and substandard rental dwellings, and the City's denial of public services, Plaintiff Lowry and other public housing tenants have been forced to live in rental housing that is not safe, decent, sanitary, or compliant with State law and local housing codes.

89. Adding insult to injury, MPHA has repeatedly charged Ms. Lowry for submitting work orders for repairs (which were incomplete or never made) in violation of MPHA's Statement of Policies, which provides "[t]here is usually no charge for repairs unless you caused the damage."²⁷

CLASS ACTION ALLEGATIONS

90. Plaintiff brings this lawsuit individually and as a class action under Minnesota Rules of Civil Procedure 23.01 and 23.02 on behalf of the following proposed classes:

Injunctive Relief Class: Any person who is currently a tenant in an MPHA and/or CHR rental dwelling unit in Minneapolis and listed as a head of household on the lease.

Minnesota Human Rights Act Damages Class: Any person who is or has been a tenant in an MPHA and/or CHR rental dwelling unit in Minneapolis and listed as a head of household on the lease at any time within one year immediately preceding the filing of the initial complaint in this action.

Breach of Contract Damages Class: Any person who is or has been a tenant in an MPHA and/or CHR rental dwelling unit in Minneapolis and listed as a head of household on the lease at any time within six years immediately preceding the filing of the initial complaint in this action.

Minnesota Consumer Fraud Act Damages Class: Any person who is or has been a tenant in an MPHA and/or CHR rental dwelling unit in Minneapolis and listed as a head of household on the lease at any time within six years immediately preceding the filing of the initial complaint in this action.

²⁷ Id. at p. 131 (last visited on July 27, 2021).

Covenant of Habitability Damages Class: Any person who is or has been a tenant in an MPHA and/or CHR rental dwelling unit in Minneapolis and listed as a head of household on the lease at any time within six years immediately preceding the filing of the initial complaint in this action.

91. None of the classes defined above shall include any employees or independent contractors of Defendants.

92. These classes are maintainable under Minnesota Rule of Civil Procedure 23.01. The Injunctive Relief Class is further maintainable as a class under Minnesota Rule of Civil Procedure 23.02(b). The Damages Classes are further maintainable as classes under Minnesota Rule of Civil Procedure 23.02(c).

93. Each class defined above is so numerous that joinder of all members would be impracticable.

94. At least approximately 8,000 tenant families have lived in MPHA/CHR rental dwellings in Minneapolis over the past six years, including at least approximately 5,900 current tenants.

95. With respect to the Injunctive Relief Class, Plaintiff intends to seek certification pursuant to Minn. R. Civ. P. 23.02(b) because Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as whole.

96. Specifically, Defendants have failed to require, obtain, and/or conduct inspections and licensing and respond to repair requests. The questions around whether Defendants are obligated to do so or have done so are common to Plaintiff and the Injunctive Relief Class. Plaintiff intends to seek relief in the form of Defendants requiring, obtaining, and/or conducting inspections and licensing and responding to requests as a matter of course for all MPHA/CHR tenants in

Minneapolis, i.e., the Injunctive Relief Class, and related fees and costs.

97. With respect to the Damages Classes, Plaintiff intends to seek certification pursuant to Minn. R. Civ. P. 23.02(c) because there are common questions of law and fact that predominate over any questions solely affecting individual members of the Damages Classes, including but not limited to:

- a) Whether the City has or had a policy and/or practice not to inspect MPHA/CHR rental dwelling units for compliance with all applicable state laws and the municipal Housing Maintenance Code;
- b) Whether the City has or had a policy and/or practice of failing to enforce the municipal housing maintenance code violations at MPHA/CHR dwellings on the same basis as similar violations at non-MPHA/CHR rental dwellings;
- c) Whether the City has or had a policy and/or practice of discriminating against MPHA/CHR tenants based on their receipt of public assistance;
- d) Whether MPHA/CHR allowed any dwelling unit to be occupied, or let any dwelling unit for occupancy, or charged, accepted or retained any rent for any rental dwelling, without having a valid City rental dwelling license;
- e) Whether MPHA/CHR are in violation of the Housing Maintenance Code, Section 244.1980, prohibiting the renting of a dwelling without a City rental license;
- f) Whether MPHA/CHR breached their tenant lease agreements by failing to comply with the municipal Housing Maintenance Code, and;
- g) Whether Defendants denied public housing tenants the right to city code inspection and inspection reports as provided by Minnesota Statutes §

504B.185.

98. On behalf of herself and the Damages Classes, Plaintiff intends to seek monetary damages including but not limited to damages associated with paying rent despite Defendants' not fulfilling their legal, including contractual, obligations any other economic and compensatory damages, and associated fees and costs.

99. Plaintiff's claims are typical of those of the members of all the above classes. Plaintiff, like the class members, has lived in MPHA/CHR homes and has been subject to Defendants' failure and refusal to comply with the law.

100. Plaintiff will fairly and adequately protect the interests of all class members and has retained counsel experienced in complex class action and civil rights litigation.

101. A class action is superior to other methods of adjudicating the claims of individual class members because: (a) separate actions risk inconsistent adjudications with respect to individual class members, and thus, likewise risk incompatible standards of conduct for Defendants; (b) individuals lack the financial resources and incentives to vigorously prosecute separate lawsuits against corporate defendants; and (c) there does not appear to be any difficulty in managing this case as a class action.

102. The members of the classes are known to Defendants and should be readily identifiable through Defendants' records.

103. Plaintiff intends to send notice to all class members to the extent required by Rule 23 of the Minnesota Rules of Civil Procedure.

COUNT I**DENIAL OF PUBLIC SERVICES
MINNESOTA HUMAN RIGHTS ACT, MINN. STAT. § 363A.12***against***Defendant City of Minneapolis***on behalf of***Plaintiff, the Injunctive Relief Class, and the MHRA Damages Class**

104. The Minnesota Human Rights Act (MHRA), Minn. Stat. § 363A.02, subdivision 1(a)(4), provides that “It is the public policy of this state to secure for persons in this state, freedom from discrimination ... in public services because of race, color, creed, religion, national origin, sex, marital status, disability, sexual orientation, and status with regard to public assistance.”

105. Plaintiff, the proposed Injunctive Relief Class members, and the proposed MHRA Damages Class members are protected under the MHRA, as defined by Minn. Stat. § 363A.03, subd. 47, which states “[s]tatus with regard to public assistance” as “the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.”

106. Minneapolis Regulatory Services Department, Minneapolis Housing Inspection Services (which includes licensing), and “Minneapolis 311,” are “public services” as defined by the MHRA, Minn. Stat. § 363A.03, subd. 35:

Subd. 35. Public service. "Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

107. Minnesota law expressly provides that “public services” provided by a municipality shall not be denied on the basis of a citizen’s status with regard to public assistance. Minn. Stat. § 363A.12, Subdivision 1 provides in pertinent part that:

Access to public service. It is an unfair discriminatory practice to discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex, sexual orientation, or status with regard to public assistance or to fail to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation.

108. The City discriminated against Plaintiff, the proposed Injunctive Relief Class members, and the proposed MHRA Damages Class members by failing to properly inspect and license properties owned and managed by MPHA/CHR as required by the City's Housing Maintenance Code. See MCO §§ 244.1810-1820, et seq.

109. The City, however, provides these services and the benefits from these services to tenants in privately-owned rental dwellings in Minneapolis.

110. Additionally, Minn. Stat. § 504B.185, creates and mandates a “public service” within the meaning of Sections 363A.01, 363A.03, subd. 35 and 363A.12 for all Minnesota tenants living in privately and publicly owned and subsidized rental dwellings, without exception. Section 504B.185, titled “Inspection; Notice,” provides in part:

Subd. 1. Who may request. If requested by a residential tenant, a housing-related neighborhood organization with the written permission of a residential tenant, or, if a residential building is unoccupied, by a housing-related neighborhood organization, an inspection shall be made by the local authority charged with enforcing a code claimed to be violated.

Subd. 2. Notice. (a) After the local authority has inspected the residential building under subdivision 1, the inspector shall inform the landlord or the landlord's agent and the residential tenant or housing-related neighborhood organization in writing of any code violations discovered.

111. “Residential tenant” includes “a person who is occupying a dwelling in a residential building under a lease or contract, whether oral or written, that requires the payment of money or exchange of services, all other regular occupants of that dwelling unit, or a resident of a manufactured home park.” Minn. Stat. § 504B.001.

112. Minn. Stat. § 504B.185, Subd. 1, mandates that the “local authority charged with enforcing a code claimed to be violated” shall provide a specific public service, namely, an inspection of a rental dwelling, to a tenant who has made a request of the local authority for an inspection, and a copy of the inspection report if code deficiencies are discovered.

113. The City is the local authority and has not delegated such authority to MPHA/CHR. Marable, 2020 WL 2312940, at *5-6.

114. Minn. Stat. § 504B.001, Subd. 14 (1) defines a “[v]iolation” to include “a violation of any state, county or city health, safety, housing, building, fire prevention, or housing maintenance code applicable to the building.”

115. Plaintiff Lowry is a “residential tenant” within the meaning of Minnesota Stat. § 504B.001, as are the proposed Injunctive Relief Class members and proposed MHRA Damages Class members.

116. The City, through its website, provides notice to tenants of residential rental dwellings in Minneapolis of their right to file a complaint about their landlord with the City.

117. The City, through its website, provides notice to tenants of residential rental dwellings in Minneapolis of their right to have a City code inspection of their rental dwelling.

118. During the relevant time period, the City has provided and continues to provide, City inspection services and inspection reports created by Sections 504B.185 and 363A.12 and by City policy and practice through its “Minneapolis 311” system, to tenants living in privately owned rental dwellings in Minneapolis in response to those private tenants’ requests for the City to inspect their rental dwellings.

119. On information and belief, the City has 311 operators follow a script that routes tenant complaints involving MPHA/CHR properties to MPHA, and only recently, may have begun

responding to some 311 requests but has made no official policy or practice changes with respect to MPHA/CHR tenants as a whole.

120. The City has discriminated against Plaintiff Lowry and members of the proposed classes “in the access to, admission to, full utilization of or benefit from ... public service[s] because of” their status with regard to public assistance.

121. The City’s denial of its inspection and enforcement services to Plaintiff Lowry, the proposed Injunctive Relief Class members, and the proposed MHRA Damages Class members constitutes an unfair discriminatory practice in violation of Section 363A.12 of the MHRA.

122. Plaintiff Lowry, the proposed Injunctive Relief Class members, and the proposed MHRA Damages Class members have been damaged by the City’s repeated denials of public services to them.

123. As a result of the City’s unlawful conduct, Plaintiff, the proposed Injunctive Relief Class members, and the proposed MHRA Damages Class members have suffered and will continue to suffer damages, including an amount equal to rent paid, as well as other economic and personal losses, personal humiliation, mental anguish and suffering. Accordingly, Plaintiff, on behalf of herself and the proposed MHRA Damages Class, seeks all such damages, along with treble damages and punitive damages given that the City committed the above acts with deliberate disregard for public housing tenants’ rights and safety.

124. Plaintiff, on behalf of herself that the proposed Injunctive Relief Class, also seeks injunctive relief to enforce compliance with the law requiring the provision of the services and benefits described above regardless of public assistance status.

COUNT II
BREACH OF CONTRACT
against
Defendants MPHA and CHR
on behalf of

Plaintiff, the Injunctive Relief Class, and the Breach of Contract Damages Class

125. Plaintiff Lowry, the proposed Injunctive Relief Class members, and the proposed Breach of Contract Damages Class members each entered into the annual lease agreement with MPHA/CHR as explained above in exchange for renting a dwelling unit over the relevant time period.

126. As part of each lease agreement, MPHA/CHR agreed, among other things, to:

- maintain the unit;
- comply with the requirements of the applicable building, housing codes, and HUD regulations materially affecting health and safety;
- make necessary repairs to the unit, and;
- maintain in good working condition all electrical, plumbing, heating, ventilation, sanitary, and other facilities, appliances, and elevators supplied or required to be supplied by Defendants.

127. Throughout Plaintiff Lowry's tenancy, MPHA/CHR have never received the requisite dwelling unit license or related licensing inspection as necessitated by the municipal housing maintenance ordinance.

128. Because of MPHA/CHR's conduct and failures, Plaintiff, the proposed Injunctive Relief Class members, and the proposed Breach of Contract Damages Class members have been forced to pay for and live in rental housing that is not code-complaint.

129. And MPHA/CHR, have charged and continue to charge for work orders in direct contravention to their SOP, which provides "[t]here is usually no charge for repairs unless [tenants] caused the damage."

130. Plaintiff Lowry, the proposed Injunctive Relief Class members, and the proposed Breach of Contract Damages Class members have been damaged by Defendants' breach of contract.

131. Plaintiff Lowry, on behalf of herself and the proposed Breach of Contract Damages Class, seeks compensatory damages including but not limited to an amount equal to rent paid, rent abatement until the breach is cured, and all other relief that this Court deems necessary and appropriate.

132. Plaintiff Lowry, on behalf of herself and the proposed Injunctive Relief Class, seeks an order from this Court requiring MPHA/CHR to comply with the terms of the lease, including but not limited to, obtaining city inspections and licensure and all other forms of compliance with the Housing Maintenance Codes, including making all necessary repairs.

COUNT III

ENFORCEMENT OF HOUSING MAINTENANCE CODE MINNEAPOLIS CODE OF ORDINANCES, § 244.80

against

All Defendants

on Behalf of

Plaintiff and the Injunctive Relief Class

133. The Minneapolis Housing Maintenance Code establishes minimum public health, safety and welfare standards for all dwellings in the City, and allows for private enforcement through suit to enjoin any continued violations and compel obedience. MCO § 244.80.

134. The City has failed and refused to enforce these standards for all dwellings in the City, by failing to complete the requisite licensure and related inspection for MPHA/CHR homes, including the dwellings occupied by Plaintiff and the proposed Injunctive Relief Class members, even though Plaintiff Lowry and others have provided the City with reasonable grounds to believe that such rental dwellings are in continued violation of the MCO.

135. The MPHA/CHR rental home that Plaintiff currently occupies under lease with MPHA/CHR is unlicensed by the City and continues in a substandard and hazardous condition with multiple existing violations of the Housing Maintenance Code.

136. Plaintiff Lowry, on behalf of herself and the proposed Injunctive Relief Class, seeks enforcement of the Housing Maintenance Code to the all current MPHA/CHR dwellings in Minneapolis.

COUNT IV

BREACH OF COVENANT OF HABITABILITY

MINN. STAT. § 504B.161

against

Defendant MPHA and Defendant CHR

on behalf of

Plaintiff and the Covenant of Habitability Damages Classes

137. MPHA/CHR have repeatedly breached the statutory landlord covenant in Minn. Stat. § 504B.161, which provides in part that in every lease or license of residential premises, the landlord or licensor covenants:

to maintain the premises in compliance with the applicable health and safety laws of the state, and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee.

138. MPHA/CHR have breached this statutory covenant to maintain their rental properties in compliance with the applicable health and safety laws of Minnesota and Minneapolis by, among other things, unlawfully operating a rental business in violation of the MCO because MPHA/CHR are neither licensed nor in compliance with the health, safety, and maintenance provisions of the Code.

139. MPHA/CHR's breach injured Plaintiff and the proposed Covenant of Habitability

Damages Class members, including but not limited to injury in the form of paying rent for unlicensed rental properties.

140. Accordingly, Plaintiff, on behalf of herself and the proposed Covenant of Habitability Damages Class, seeks damages in the amount of rent paid, as well as abatement of rent until MPHA/CHR are in compliance with the Housing Maintenance Code.

COUNT V

MINNESOTA CONSUMER FRAUD ACT, MINN. STAT. § 325F.68, *et. seq.*

against

Defendant MPHA and Defendant CHR

on behalf of

Plaintiff, the Injunctive Relief Class, and the Minnesota Consumer Fraud Damages Class

141. The Minnesota Consumer Fraud Act (“CFA”) applies to residential leases and deceptive landlord practices. Love v. Amsler, 441 N.W.2d 555, 558-59 (Minn. Ct. App. 1989).

142. Minn. Stat. § 325F.69, subd. 1 provides:

The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in section 325F.70.

143. MPHA/CHR have continuously engaged in fraud, false and misleading statements, and deceptive practices as set forth above, including but not limited to, continuing to operate unlicensed rental properties in Minneapolis in violation of the MCO, while representing to Plaintiff and all of their other tenants that they will comply with applicable building codes, housing codes and HUD regulations materially affecting health and safety and to maintain their dwelling units in “decent, safe and sanitary condition.”

144. MPHA/CHR has also repeatedly charged for submitting work orders for repairs in direct contravention to MPHA’s SOP, which provides “[t]here is usually no charge for repairs unless you caused the damage.”

145. MPHA/CHR made such representations with the intent that the Plaintiff and all other tenants would rely on such misrepresentations and false promises in connection with rental of their dwelling units.

146. Litigation and judgment on this count will benefit the public at large. There is a significant public interest in discouraging false, deceptive, and misleading representations. Plaintiff as well as thousands more Minnesota residents have fallen and/or may continue to fall victim to MPHA/CHR's deception and misleading representations.

147. Plaintiff, the proposed Injunctive Relief class members, and the proposed Minnesota Consumer Fraud Damages Class members were injured by Defendants' unlawful actions.

148. Pursuant to Minn. Stat. § 8.31, subd. 3, Plaintiff, on behalf of herself, and proposed Injunctive Relief class members, and the proposed Minnesota Consumer Fraud Damages Class members may pursue all available relief.

149. Plaintiff, on behalf of herself and the proposed Minnesota Consumer Fraud Damages Class, seeks economic damages, including but not limited to damages in the amount of rent paid.

150. Plaintiff, on behalf of herself and the proposed Injunctive Relief Class, seeks an injunction directing Defendants to comply with state law and all other equitable relief as determined by the Court.

COUNT VI
MINNESOTA DECEPTIVE TRADE PRACTICES ACT, MINN. STAT. § 325D.43, *et seq.*
against
All Defendants
on Behalf of
Plaintiff and the Injunctive Relief Class

151. The Minnesota Deceptive Trade Practices Act ("DTPA"), § 325D.44, *et seq.*

applies to residential leasing. Flores v. Zorbalas, No. 27-CV-16-14225, 2017 WL 11621562, at *20 (Minn. Dist. Ct. May 11, 2017).

152. The DTPA, at Minn. Stat. § 325D.44, subd. 1, provides, in relevant part:

A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person... (2) causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services; (3) causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;...(5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;... [or] (13) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

153. “A person likely to be damaged by a deceptive trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable.” Minn. Stat. Ann. § 325D.45, subd. 1.

154. MPHA/CHR violated the DTPA by, including but not limited to, renting and collecting rent for unlicensed rental properties in Minneapolis in violation of MCO, while representing to Plaintiff and their other tenants that they will comply with applicable building codes, housing codes and HUD regulations materially affecting health and safety and to maintain their dwelling units in “decent, safe and sanitary condition.”

155. Additionally, MPHA/CHR have repeatedly charged Plaintiff their other tenants for submitting work orders for repairs in direct contravention to MPHA’s SOP, which provides “[t]here is usually to charge for repairs unless you cause the damage.”

156. The City has similarly engaged in conduct that creates confusion or misunderstanding, in violation of the DTPA.

157. Specifically, in response to 311 communications from MPHA/CHR tenants, the

City's public website states that if "you're a renter and there's an issue inside or outside your rental unit, contact Minneapolis 311", and thereafter, "[a]n inspector will visit to see if the issue violates housing code." Despite this representation, the City of Minneapolis has a policy and practice to not consistently provide this service to MPHA/CHR tenants, thereby denying MPHA/CHR tenants' their statutory right to an inspection and inspection report if code violations are found.

158. As a result, Plaintiff Lowry and the other tenants continue to live in non-code compliant conditions, negatively impacting their physical and mental health and safety.

159. Plaintiff and the proposed Injunctive Relief Class members have been and continue to be injured by Defendants' unlawful actions

160. Plaintiff, on behalf of herself and the proposed Injunctive Relief Class, seeks compliance with all applicable law, as described above.

161. For Counts I through VI listed above, Plaintiff, on behalf of herself and the classes, also seeks reasonable attorneys' fees and costs where so allowed and any and all other relief the Court deems appropriate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lowry, on behalf of herself and the proposed classes, seeks the following relief:

- A. Certification of the proposed classes pursuant to Minnesota Rule of Civil Procedure 23;
- B. Appointment of Plaintiff as Class Representative for the proposed classes;
- C. Appointment of Plaintiff's counsel as Class Counsel;
- D. Judgment that Defendants have violated the rights guaranteed to Plaintiff and the proposed classes under common law breach of contract, the MHRA, the Housing Maintenance Code (§ 244.80), Covenant of Habitability, the Minnesota Consumer Fraud Act, and the Minnesota Deceptive Trade Practices Act;
- E. Judgment for all damages available for breach of contract, violation of the MHRA the Housing Maintenance Code (§ 244.80), Covenant of Habitability, the Minnesota Consumer Fraud Act, and the Minnesota Deceptive Trade Practices Act;
- F. An order for injunctive relief as appropriate on all claims;
- G. Allowance for leave to amend the Complaint to include a claim for punitive damages as necessary on claims so allowed;
- H. Judgment for attorney's fees and costs allowed by law; and
- I. An order granting all other and further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Respectfully Submitted:

Date: September 7, 2021

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PUTATIVE CLASSES

**ACKNOWLEDGMENT REQUIRED BY
MINN. STAT. § 549.211**

I hereby acknowledge that, pursuant to Minn. Stat. § 549.211, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find I acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings, or to harass, or committed a fraud upon, the Court.

By: Apurakash

MINNESOTA
JUDICIAL
BRANCH