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~~On this day came to be considered Application for a Temporary Restraining Order and Preliminary Injunction and Brief in Support Thereof. For the reasons which follow, Plaintiff's Application for a Temporary Restraining Order is hereby GRANTED.~~

~~In order to issue a temporary restraining order, the Plaintiff must show (1) there is a substantial likelihood that she will succeed on the merits (2) there is a threat of irreparable~~

ORDER GRANTING PLAINTIFF'S APPLICATION FOR A TEMPORARY RESTRAINING ORDER

Disposed

Defendants

HENRY ALVAREZ,
 Individually, and in his Official
 Capacity as President and
 Chief Executive Officer
 of the Housing Authority
 of the City of San Antonio; and

DEBORAH A. FLACH,
 Individually, and in her Official
 Capacity as Vice President of
 Section 8 Housing Assistance Program

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HOUSING AUTHORITY OF THE
 CITY OF SAN ANTONIO;

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VS

JANET ANDERSON,
 DEPUTY CLERK
 Plaintiff

CLERK, U.S. DISTRICT COURT
 WESTERN DISTRICT OF TEXAS

NOV 24 2004

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IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

CIVIL ACTION
 NO. 04-01060
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~~injury, (3) the threatened injury to the Plaintiff outweighs the harm the Defendants will suffer, and (4) issuing the order will not disserve the public interests. *Justin Indus., Inc. v. Choctaw Sec., L.P.*, 920 F.2d 262, 268 n. 7 (5th Cir. 1990). In addition, if the Plaintiff seeks an ex parte TRQ, she must show that she is faced with irreparable injury or loss before the opposite side can be heard in opposition and that her attorney has made efforts to give notice and/or provided reasons why notice should not be required. Fed. R. Civ. P. 65 (b). A TRQ issued without notice must include the date and time of issuance and define the injury and state why it is irreparable. *Id.* The order must also explain why it was granted without notice. *Id.*~~

Upon review of the Plaintiff's Original Verified Complaint, and Application for a Temporary Restraining Order and Preliminary Injunction and Brief in Support Thereof, the Court finds that the Plaintiff's loss of subsidized housing benefits constitutes irreparable injury. The Court further finds that the Plaintiff's loss of her Section 8 housing benefits and the refusal of Defendants to reinstate such benefits have placed her and her family in extreme financial peril causing them imminent irreparable harm since Plaintiff's income is insufficient to pay market rent for her housing, plus pay for utilities and feed and clothe her children.

The Court further finds that Plaintiff has demonstrated a substantial likelihood that she will succeed on the merits of her claim. The harm to Defendant Housing Authority of the City of San Antonio and the other Defendants is minimal. Finally, the public's interest in not having families unfairly evicted is served by the issuance of a TRQ.

Moreover, the court finds that (1) Plaintiff's counsel represented in her motion that she did attempt to speak with SAHA's attorney prior to the request for a TRQ and provided SAHA with a copy of Plaintiff's Original Verified Complaint and Application for a Temporary

~~Restraint Order and Preliminary Injunction and Brief in Support Thereof, and (2) immediate~~

~~ex parte issuance of a TRO is necessary to ensure that Plaintiff's family remains housed free~~

~~from impending financial peril pending resolution of this case.~~

IT IS, THEREFORE, ORDERED that Defendants immediately reinstate Plaintiff's

Section 8 Housing benefits, effective December 1, 2004, so that Plaintiff is ensured a place to

live during the pendency of these proceedings.

IT IS ALSO ORDERED that Defendants are restrained from terminating Plaintiff's

Section 8 Housing benefits without providing adequate notice of the reasons for such termination pursuant to 24 C.F.R. §982.552 and 24 C.F.R. §982.555.

and that Defendants are restrained from subjecting Plaintiff to an informal hearing on a

termination notice that merely provides Plaintiff with the information "unreported family

income."

Further, Defendants are ORDERED to immediately notify the landlord that such

subsidies are forthcoming, so that eviction does not occur while the monies are being transferred.

Finally, it is ORDERED that the security required by Rule 65 may be, and is, WAIVED

by the Court. See *Corigan Dispatch Co. v. Casa Gunnan, S.A.*, 569 F.2d 300, 303 (5th

Cir. 1978)(trial court may, in its discretion, elect to require no security). Plaintiff is clearly unable

to offer security, and the Court finds that, should the Defendant prevail in this matter, it may seek

recovery of any unjustified payments from the Plaintiff. The parties will be advised of the date

and time of the hearing on Plaintiff's Motion for Preliminary Injunction.

This order shall be effective until the hearing on Plaintiff's Application for Preliminary Injunction.

IT IS SO ORDERED.

SIGNED on this _____ day of _____, 2004, at _____.

The entry of this Unopposed Temporary Restraining Order is without prejudice to the assertion by any defendant of any defense, claim or counterclaim to the allegations in Plaintiff's Verified Complaint or Plaintiff's Application for a Temporary Restraining Order and Preliminary Injunction and Brief in Support Thereof.

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UNITED STATES DISTRICT JUDGE

[Handwritten signature]

APPROVED AS TO FORM:

TEXAS RIOGRANDE LEGAL AID, INC

[Handwritten signature]

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ATTORNEYS FOR PLAINTIFF JANET ANDERSON

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BY:

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ATTORNEYS FOR DEFENDANT HOUSING AUTHORITY

OF THE CITY OF SAN ANTONIO; HENRY ALVAREZ,

Individually, and In His Official Capacity as President and

Chief Executive Officer of the Housing Authority of the City

of San Antonio and DEBORAH A. FLACH, Individually, and

In her Official Capacity as Vice President of Section 8 Housing

Assistance Program