

No. 05-4174

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**UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

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CHICAGO ACORN, WYVONIA PICKETT, CALLIE DAVIS, FLORIDA  
WASHINGTON, and JOAN BANKS, on Behalf of Themselves and all Others  
Similarly Situated,

Plaintiffs-Appellants,

v.

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT ("HUD"), and ALPHONSO JACKSON, in His Official Capacity  
as Secretary of HUD,

Defendants-Appellees.

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Appeal From The United States District Court  
For The Northern District of Illinois  
Case No. 05 C 3049  
The Honorable Judge Blanche Manning

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SEPARATE APPENDIX OF PLAINTIFFS-APPELLANTS

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Gary S. Caplan  
*Counsel of Record*  
James A. Rolfes  
Casey L. Westover  
Max A. Stein  
SACHNOFF & WEAVER, LTD.  
10 S. Wacker Drive, 40<sup>th</sup> Floor  
Chicago, IL 60606-7507  
Tel: (312) 207-1000  
Fax: (312) 207-6400

John M. Bouman  
Katherine E. Walz  
SARGENT SHRIVER NATIONAL  
CENTER ON POVERTY LAW  
50 East Washington, Suite 500  
Chicago, IL 60602  
Tel: (312) 263-3830

Counsel for Plaintiffs-Appellants

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**TAB 1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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MICHAEL W. DOBBINS  
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CHICAGO ACORN,  
WYVONIA PICKETT, CALLIE DAVIS,  
FLORIDA WASHINGTON, and  
JOAN BANKS,  
On Behalf of Themselves and All Others  
Similarly Situated,

Plaintiffs,

vs.

THE UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT  
("HUD"), and ALPHONSO JACKSON, In His  
Official Capacity as Secretary of HUD,

Defendants.

No. 05 C 3049

The Honorable  
Judge Blanche M. Manning

AMENDED COMPLAINT

I. PRELIMINARY STATEMENT

1. This class action suit is brought by current residents of the Lawndale Restoration, a Project-Based Section 8 property located in the burgeoning west side Chicago communities of Lawndale and Garfield Park and by Chicago ACORN representing both residents of the Lawndale Restoration and low-income Chicago residents in need of affordable housing. This action is brought to prevent the United States Department of Housing and Urban Development ("HUD") from illegally terminating the project-based Section 8 contract on 1,240 housing units comprising the Lawndale Restoration property, following HUD's foreclosure on the HUD mortgages on this property. If not stopped, these actions will result in the permanent loss of these scarce subsidized housing resources and threaten the illegal displacement of the residents from their homes and their historic communities.

2. Applicable federal law requires HUD to provide the same level of project-based Section 8 assistance after HUD forecloses as existed prior to foreclosure and to offer that foreclosed property to the City of Chicago with the pre-existing Section 8 contract intact. HUD is also required by federal statute to administer its programs so as to affirmatively further fair housing, to provide a decent home and suitable living environment to the Lawndale families, and to dispose of subsidized properties in a manner that maintains and preserves multi-family, low-income housing. In violation of these statutory duties, HUD has illegally, arbitrarily and capriciously instituted a new unwritten, uncodified HUD "policy" that all project-based Section 8 contracts are to be terminated upon foreclosure.

3. After years of neglectful oversight of the Lawndale Restoration property, HUD will now punish the families who have lived in Lawndale's indecent, unsafe, and unsanitary conditions for generations for its own sins and that of the property's owner. Relying on this new "policy", HUD will offer the residents wholly inadequate tenant-based Housing Choice ("Section 8") Vouchers ("vouchers"). But for HUD's new, and illegal policy, the project-based Section 8 contract on these units promised these families the opportunity to live in affordable housing in this gentrifying neighborhood for years to come. Instead, these families, the overwhelming majority of whom are very low-income African Americans, will now most likely follow the relocation patterns of thousands of other Chicago families with vouchers having no choice but to move to racially segregated, poverty-concentrated areas of the city. Furthermore, their reliable project-based assistance will be replaced by tenant-based vouchers that have a less certain future.

4. Further, HUD's new policy creates the following impossible dilemma for the City of Chicago ("City"), and for the residents of Lawndale: either (a) the City gives up its request that HUD transfer the Lawndale Restoration to the City with the project-based Section 8 contracts

intact for reconveyance to developers who will adequately rehabilitate the properties and operate them as Section 8 properties for the long term, or (b) HUD will turn over the property at foreclosure to large numbers of private buyers, without Section 8 contracts, and without approximately \$20 million in rehabilitation grants which HUD has offered to the City only upon the condition that the City acquiesce to HUD's illegal demand that all project-based Section 8 assistance be terminated. Thus, HUD threatens to continue its decades long-pattern of inadequately funding rehabilitation of these housing units unless the City gives up its plans to assure that the housing units remain permanently affordable to the current residents and available to families in Chicago in need of affordable housing.

5. This suit has been filed because all reasonable steps short of litigation have failed. HUD is fully capable of preserving the project-based Section 8 contract here and elsewhere but shamefully has chosen not to do so. Instead, HUD has conceived a plan nationally of terminating project-based Section 8 contracts by whatever means necessary. Faced with an imminent threat of irreparable harm, Plaintiffs seek preliminary and permanent injunctive relief.

## **II. JURISDICTION AND VENUE**

6. This court has jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1331 (2005) (federal question), 42 U.S.C. § 3613 (2005) (fair housing), and 5 U.S.C. § 704 (2005) (authorizing judicial review of final agency actions.) Plaintiffs seek declaratory relief against Defendants, pursuant to 28 U.S.C. § 2202 (2005). Venue is proper in this judicial district under 28 U.S.C. § 1391(b) (2005) and § 1391(e) (2005).

### **III. PARTIES**

#### **A. The Plaintiffs**

##### **1. Chicago ACORN**

7. Chicago ACORN (the Association of Community Organizations for Reform Now) is a twenty-two-year-old multi-issue not-for-profit community organization, with chapters in the North Lawndale, Englewood, and Little Village communities of Chicago. Chicago ACORN's goal is to gain a seat at the table where decisions are made so that low and moderate-income people are involved in the fashioning and implementing of the solutions to the problems their communities encounter. One of the principal problems Chicago ACORN focuses on is the lack of affordable housing for low-income families in Chicago and the increasing loss of existing affordable housing. Since its inception, Chicago ACORN has worked to preserve expiring federally subsidized housing in Chicago.

8. For the past twenty years, Chicago ACORN has been working with low-income families in the Lawndale community and throughout the City of Chicago to campaign for an increase in affordable housing and the preservation of existing affordable housing. In particular, since the Fall of 2004, Chicago ACORN has diverted a significant amount of its resources to work with the residents of the Lawndale Restoration to organize them and develop solutions for preserving the property's project-based Section 8 contract for those residents and other Chicago families in need of affordable housing. In late 2004, Chicago ACORN and Lawndale residents formed ACORN Tenants United, a coalition of Lawndale Restoration residents committed to preserving the Section 8 contract and rehabbing the property.

9. Chicago ACORN seeks to represent the best interests of all Lawndale Restoration residents and residents in Chicago in need of affordable housing. All residents of Chicago are

eligible to join Chicago ACORN and to participate in Chicago ACORN activities. Chicago ACORN's membership includes many residents of Lawndale Restoration and many persons in need of affordable housing in Chicago.

## **2. Individual Residents of Lawndale Restoration**

10. Wyvonia Pickett is an African-American female who lives at 3210 W. Douglas, Apt. 2A, in the Lawndale Restoration with her three minor children. She moved to the Lawndale Restoration as a young child with her mother in 1987 and would like to stay there. Her share of the monthly rent is \$39. Ms. Pickett is a member of ACORN Tenants United.
11. Callie Davis is a disabled, African-American female who lives with her two minor foster children at 3223 W. Douglas, Apt. 1A, in the Lawndale Restoration. Ms. Davis has lived in the Lawndale Restoration for almost 20 years and would like to stay there. Her share of the monthly rent is \$104. Ms. Davis is a member of ACORN Tenants United.
12. Florida Washington is an elderly, African-American female who lives with her son and two of her grandchildren at 1302 S. Spaulding, Apt. 2, in the Lawndale Restoration. Ms. Washington has lived in the Lawndale Restoration for 32 years and would like to stay there. Her share of the monthly rent is \$481. Ms. Washington is a member of ACORN Tenants United.
13. Joan Banks is an African-American female who lives at 1217 S. Independence, Apt. 3A, in the Lawndale Restoration. She currently lives with her two daughters, two sons, and two grandchildren. Ms. Banks has lived in the Lawndale Restoration for the better part of the last 35 years and would like to stay there. Her share of the monthly rent is \$116. Ms. Banks is a member of ACORN Tenants United.

**B. The Defendants**

14. Defendant HUD is the federal agency charged with administration and enforcement of all federal laws and contracts relating to the operation, administration, maintenance, rehabilitation and disposition of multifamily properties.

15. Defendant Alphonso Jackson is the Secretary of HUD, and, as such, is charged with the administration and enforcement of all functions, powers and duties of HUD, including those related to the disposition of multifamily properties.

**IV. Class Action Allegations**

16. Plaintiffs Wyvonnia Pickett, Callie Davis, Florida Washington, and Joan Banks bring this action on behalf of themselves and, pursuant to Fed. R. Civ. P. 23(a) and (b)(2), on behalf of all persons similarly situated. The Plaintiff class is defined as:

All persons who are or have been residents at the Lawndale Restoration property, as that 1240-unit property is defined and specified by the following: HUD Real Estate Management System Identification #800006035; FHA Project Number 071-35622; or Section 8 Contract Number IL06E000105.

17. **Numerosity.** The class is so numerous that joinder of all members is impractical. Upon information and belief, it is comprised of approximately 1,240 Lawndale Restoration families.

18. **Commonality.** There are questions of law and fact common to the class as a whole.

19. The Defendants have acted and refused to act on grounds generally applicable to the Plaintiff class, thus making appropriate final injunctive and declaratory relief with respect to the class as a whole.

20. **Typicality and Adequacy.** The individual claims of Plaintiffs are typical of the claims of the class, and the class representatives and their counsel will fairly and adequately protect the interests of the class.

V. **STATEMENT OF FACTS**

A. **The Lawndale Restoration**

21. The Lawndale Restoration is a multi-family subsidized property comprised of approximately 25 city blocks, between Washington Street on the north, 18th Street on the south, Kedzie Avenue on the east, and Cicero Avenue on the west, on the West Side of Chicago. It is the largest privately owned subsidized apartment project in Chicago, consisting of 100 small and large buildings containing a total of 1,240 units. See Lawndale Restoration properties maps on the following pages 7A-F. The property is defined and specified by the following: HUD Real Estate Management System Identification #800006035; FHA Project Number 071-35622; or Section 8 Contract Number IL06E000105.

22. Approximately 99% of the residents at Lawndale are African-American and 80% are female-headed households with minor children. Approximately 10% of the residents are senior citizens and on information and belief, 10% are disabled. 93% of the families are considered very low income, making less than 30% of the Area Median Income (approximately \$22,600 for a family of four). Approximately 13% of the families live in four and five bedroom apartments, necessitated by family size.

23. The Lawndale Restoration receives rental assistance through the project-based Section 8 program and is, therefore, a "subsidized project" as that term is defined in the Multifamily Housing Property Disposition Reform Act of 1994 ("MHPDRA"), 12 U.S.C. § 1701z-11(b)(2)(D)(iv) (2005).

B. **The History of the Lawndale Restoration**

24. Starting in the late 1960s, HUD began its long history of grossly under funding the 100 buildings that make up the Lawndale Restoration. Around that time, HUD-insured mortgages

