

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

CHICAGO ACORN, et. al,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 05 C 3049
	)	
THE UNITED STATES DEPARTMENT	)	The Honorable Judge Blanche Manning
OF HOUSING AND URBAN	)	
DEVELOPMENT (“HUD”), et. al,	)	
	)	
Defendants.	)	

**PLAINTIFFS’ UNOPPOSED MOTION  
FOR LEAVE TO FILE A SUPPLEMENTAL COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15(d), Plaintiffs in this action respectfully seek leave to file a Supplemental Complaint. In support of their motion, Plaintiffs state as follows:

1. The Plaintiffs in this matter consist of four residents of Lawndale Restoration, a project-based subsidized housing development on Chicago’s west side, and Chicago ACORN, a non-profit community organization (collectively referred to as “Plaintiffs”). Plaintiffs initiated this action, on behalf of themselves and a class of similarly situated residents of Lawndale Restoration, seeking to prevent Defendants, the United States Department of Housing and Urban Development and its Secretary Alphonso Jackson (collectively “HUD” or “Defendants”), from unilaterally terminating the project-based, federal housing subsidies currently in place at Lawndale Restoration.

2. After Plaintiffs filed an Amended Complaint, HUD moved to dismiss, arguing that certain statutory provisions granted it unfettered discretion in disposing of properties like Lawndale Restoration and that this Court has no power to review those decisions. The Court

granted HUD's motion, entered judgment in HUD's favor and closed the matter. Plaintiffs appealed to the United State Court of Appeals for the Seventh Circuit.

3. While the appeal was pending before the Court of Appeals, Congress passed the fiscal-year-2006 appropriations package for HUD. That package included a new provision, § 311, which states:

Notwithstanding any other provision of law, in fiscal year 2006, in managing and disposing of any multifamily property that is owned or held by the Secretary of Housing and Urban Development, the Secretary shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 that are attached to any dwelling units in the property. To the extent the Secretary determines that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8, based on consideration of the costs of maintaining such payments for that property or other factors, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance.

Transportation, Treasury, Housing And Urban Development, The Judiciary, The District Of Columbia, And Independent Agencies Appropriations Act of 2006, Pub. L. No. 109-115, 119 Stat. 2396.

4. As the result of this new Congressional statement dealing directly with the issues presented in this litigation, HUD filed its Emergency Motion To Remand In Light Of Intervening Law ("Emergency Motion"). In that motion, HUD stated that "because H.R. 3058 has become law before the Secretary disposed of Lawndale Restoration, Section 311 of H.R. 3058 provides the basis for the Secretary's authority to dispose of the property, not Section 204." (Emergency Motion at ¶ 6.) As a result, HUD urged the Court of Appeals to remand the matter so that this Court "in the first instance, may consider the Secretary's planned disposition in light of the new authority provided by Section 311." (Emergency Motion at ¶ 7.) The Court of Appeals granted

HUD's Emergency Motion and remanded this matter to this Court for further proceedings in light of a change in law.

5. Given this change in the applicable law, Plaintiffs now seek leave to file a supplemental complaint which will set forth events occurring since the filing of the Amended Complaint and an additional claim under the now applicable § 311.

6. Counsel representing HUD before this Court have indicated that they do not oppose leave being granted to allow Plaintiffs to file a supplemental complaint.

WHEREFORE, based on the change in applicable law and the occurrence of these events since Plaintiffs' filed their Amended Complaint, Plaintiffs now respectfully request that this Court grant them leave to file a supplemental complaint.

Dated: December 14, 2005

Respectfully submitted,

s/Max A. Stein

One of the Attorneys for Plaintiffs

John M. Bouman, Bar No. 0260983  
Katherine E. Walz, Bar No. 6238318  
SARGENT SHRIVER NATIONAL CENTER ON  
POVERTY LAW  
50 East Washington, Suite 500  
Chicago, IL 60602  
Tel: (312) 263-3830

John "Jack" Cann  
HOUSING PRESERVATION PROJECT  
570 Asbury Street, Suite 105  
St. Paul, MN 55104  
Tel: (651) 642-0102

Gary S. Caplan, Bar No. 6198263  
James A. Rolfes, Bar No. 6200271  
Max A. Stein, Bar No. 6275993  
Casey L. Westover, Bar No. 6276161  
SACHNOFF & WEAVER, LTD.  
10 S. Wacker Drive  
Chicago, IL 60606-7507  
Tel: (312) 207-1000  
[mstein@sachnoff.com](mailto:mstein@sachnoff.com)

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Max A. Stein, state that on December 14, 2005, I electronically filed the foregoing **Plaintiffs' Unopposed Motion For Leave To File A Supplemental Complaint** with the Clerk of the Court using the ECF system which will send notification of such filings to the following:

Clare Harrigan  
Office of the General Counsel  
United States Department of Housing  
and Urban Development  
451 7th Street, SW  
Washington, DC 20410  
[clare\\_harrigan@hud.gov](mailto:clare_harrigan@hud.gov)

LaShonda A. Hunt  
Gina Brock  
Assistant United States Attorney  
219 South Dearborn, 5th Floor  
Chicago, IL 60604  
[LaShonda.Hunt@usdoj.gov](mailto:LaShonda.Hunt@usdoj.gov)  
[Gina.Brock@usdoj.gov](mailto:Gina.Brock@usdoj.gov)

s/Max A. Stein

Gary S. Caplan, Bar No. 6198263  
James A. Rolfes, Bar No. 6200271  
Max A. Stein, Bar No. 6275993  
Casey L. Westover, Bar No. 6276161  
SACHNOFF & WEAVER, LTD.  
10 S. Wacker Drive  
Chicago, IL 60606-7507  
Tel: (312) 207-1000  
[mstein@sachnoff.com](mailto:mstein@sachnoff.com)

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