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**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ SEP 13 2005 ★  
BROOKLYN OFFICE  
*[Handwritten initials and "SI" in a circle]*

*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**CV - 05 - 4323** Civ. No.

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JUAN VALDEZ #1-10, individually and on behalf of those  
similarly situated; and the WORKPLACE PROJECT, INC. )

**SEYBERT, J.**

Plaintiffs, )

**LINDSAY, M.J.**

v. )

**COMPLAINT**  
**AND JURY DEMAND**

TOWN OF BROOKHAVEN; JOHN JAY LAVALLE,  
Individually and as the Supervisor of the Town of  
Brookhaven; COUNTY OF SUFFOLK; STEVE LEVY,  
Individually and as the County Executive of the County of  
Suffolk. )

Defendants. )  
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**PRELIMINARY STATEMENT**

1. This action challenges defendants' unconstitutional and discriminatory eviction of hundreds of Latino tenants from their homes without providing them any prior notice or process and without the presence of exigent circumstances.

2. Ignoring pre-existing and established administrative code enforcement mechanisms, defendants have moved to summarily evict these tenants on grounds that the tenants are in immediate danger even though defendants had waited to do so for months after first becoming aware of these allegedly dangerous conditions.
3. Defendants have failed to promulgate any procedures or substantive standards as to when to seek these summary evictions and have moved to evict many of these tenants without even alleging that the tenants were in imminent danger. By this program of "no notice, no standards" evictions, defendants have already evicted over one hundred tenants in eleven residences, all of them Latino, most of whom have either since moved into worse housing conditions or live outdoors without running water or adequate sanitation.
4. Plaintiffs, Latino residents of Brookhaven who have been or may be evicted under this program, bring this class action suit pursuant to 42 U.S.C. § 1983 and § 1988 on behalf of themselves and all others similarly situated to challenge defendants' actions as violative of the due process and equal protection clauses of the United States Constitution as well as the Fair Housing Act. They seek injunctive and declaratory relief prohibiting these unlawful acts, damages for those injured by defendants' illegal acts, and attorney fees and costs.

**JURISDICTION AND VENUE**

5. This court has jurisdiction pursuant to 28 U.S.C. §1331, §1343(3) for claims brought under the United States Constitution and federal laws , under 42

U.S.C. sec. 3613(a) for claims under the federal Fair Housing Act. Venue is proper in this district under 28 U.S.C. §1391(b) in that all claims arose in this district.

**PARTIES**

**Plaintiffs**

6. Plaintiffs Juan Valdez Nos. 1 – 10 are Latino day laborers who are residents of and tenants within the Town of Brookhaven.
7. The Workplace Project is a non-profit corporation organized and registered in New York State whose mission is to end the exploitation of immigrant laborers on Long Island and to achieve social justice by promoting the full political, economic and cultural participation of those workers in the communities in which they live.

**Defendants**

8. The Town of Brookhaven is a municipality within the County of Suffolk. Its principal place of business is One Independence Hill, Farmingville, New York. It is governed by a Town Board.
9. John Jay LaValle is the Town Supervisor of the Town of Brookhaven.
10. Suffolk County is a county within the State of New York headed by a County Executive, currently, Steve Levy. Its primary office is located at H. Lee Dennison Building 100 Veterans Memorial Highway Hauppauge, New York.
11. Steve Levy is the chief executive officer of the County of Suffolk.

**CLASS ACTION ALLEGATIONS**

12. Plaintiffs bring this action pursuant to Rule 23(a) and (b) (1) and (2) of the Federal Rules of Civil Procedure, on their own behalf and on behalf of a class defined as: all Latino persons living in Brookhaven Township, New York.

13. This class is so numerous that joinder of all its members herein is impracticable. The number of members of the class is not known with precision but consists of at least several thousand.
14. There are questions of law and questions of fact common to the class; the claims of the plaintiffs are typical of the claims of the class and they will fairly and adequately protect the interests of the class. Defendants have acted on grounds generally applicable to the class, thereby making appropriate injunctive relief with respect to the class as a whole.
15. A class action is superior to other available methods for a fair and efficient adjudication of this matter in that prosecution of separate actions by individual members of the class would unduly burden the Court. Separate actions would also create a risk of inconsistent adjudications with respect to individual members of the class, which would establish incompatible standards of conduct for the defendants.
16. This action is maintainable under Rule 23 (b) (1) and (2) of the Federal Rules of Civil Procedure.
17. The plaintiffs will fairly and adequately protect the interests of the class. The Puerto Rican Legal Defense and Education Fund has litigated constitutional and civil rights cases and served as class counsel and will adequately represent the class.
18. Plaintiffs know of no conflicts of interest among members of the class with regard to the issues in this case.
19. The questions of fact common to the class relate to the use by defendants of

“no notice, no standards” evictions and other acts of discrimination and harassment against Latinos in their enforcement of housing and safety codes in Brookhaven Township, New York.

20. The questions of law common to the class relate to the lawfulness of the defendants’ use of “no notice, no standards” evictions against Latinos in Brookhaven Township and the right of Latinos to be treated similarly to other persons residing in Brookhaven and to be free from harassment.

#### **FACTUAL ALLEGATIONS**

21. The Latino day laborer community has been a presence in the Town of Brookhaven since the mid-1990’s.
22. Latino day laborers have come to Brookhaven to work mostly in construction, restaurant, landscaping and other industries. These laborers look for work on the street, standing on street corners waiting to be picked up for work by contractors. The laborers are known for working hard, six or seven days a week, sometimes for less than minimum wage and rarely know whether they will have a job from day to day. They face exploitative employers, unsafe working conditions, and exploitative landlords.
23. There is a severe shortage of affordable housing available to Latinos in Brookhaven. Based upon the proportion of a household’s average income that housing costs consume, Long Island ranks amongst as having one of the least affordable housing markets in the United States and experienced one of the greatest increases in housing costs. Adding to the problems faced by Latinos searching for housing is that Long Island, by some studies, has most segregated housing in the country as well as a lengthy history of animus to racial minorities.

24. Because of the lack of affordable housing available to them, Latino laborers in Brookhaven are often forced to live in the only place they can afford that is available to them: non-owner occupied overcrowded rental housing.
25. After a long and controversial campaign on its behalf in which its supporters appealed to anti-immigrant and race-based sentiments, the Neighborhood Preservation Act (NPA) was passed in 1999 that imposed new substantial new criteria that non-owner occupied rental housing must satisfy and created significant new enforcement mechanisms when landlords failed to comply.
26. Under the NPA the Town investigates possible violations, contacts landlords if alleged violations were found, and gives them an opportunity to either cure or to contest the alleged violation. The Town can then impose fines against non-compliant landlords as well as institute district court actions against them. The schedule of notice and fines is part of the existing Town Code as is the enforcement mechanisms for applicable state code violations.
27. At some point in late 2004 or early 2005 defendants decided to largely abandon or sidestep the pre-existent enforcement mechanisms established by the NPA and the other administrative procedures. Instead, they decided to establish a new enforcement program under Operation Firestorm whereby they would solicit and investigate complaints from neighboring residents and employ "no notice, no standards" evictions that would throw tenants out on the street without providing any prior notice or sufficient time to find somewhere else to live.
28. Instead of seeking the enforcement of the various housing and safety code provisions by a schedule of hearings and fines against landlords, the Town now enforces these same codes by evicting tenants without notice.
29. Defendants are not acting pursuant to any statute or regulations that specifically authorize these evictions, establishes any procedural or

substantive standards for when and how to seek this remedy, or provides for notice, or the lack of notice, to the tenants prior to their eviction.

30. Town officials so far solicited and compiled a list of about 117 homes based upon complaints from neighboring homes. Town officials have begun visiting these houses, sometimes in the presence of Suffolk County police, to create a list of alleged violations of relevant housing and safety codes. No Town or County official has provided notice—written or verbal—to any of the tenants of these houses that they might be evicted for these violations.
31. On June 19, 2005 Defendants, by this “no notice, no standards” evictions, began obtaining *ex parte* injunctions enjoining the tenants from occupying their homes, which has lead to a series of mass evictions of tenants from these residences. Town officials, with the assistance of Suffolk County police, have so far evicted tenants from eleven houses, all Latinos, leaving hundreds of them homeless. In contrast, only 8% of the residents of Brookhaven are Latino.
32. So far, hundreds of Latinos have been evicted from their homes.
33. The tenants only know that they are being evicted from their homes when they arrive and find that their homes have been shuttered and closed or when they return home from work and greeted by Town officials and Suffolk police with retraining orders.
34. Unlike nearby Riverhead or Nassau County, neither the Town of Brookhaven nor Suffolk County has given the tenants sufficient notice and relocations assistance to allow these displaced tenants find new homes. In Riverhead and Nassau County, no tenants have become homeless when evicted due to unsafe conditions.
35. Although the Town has acted as if an emergency has existed necessitating the lack of notice to tenants; in fact the Town would take months from the time

they began their investigations of houses and discovered possible overcrowded conditions to the time they actually apply for a temporary retraining order.

36. Upon information and belief, on or about the first week in August, 2005, Defendant Steve Levy asked the Suffolk County Police Department to detain and question a Latino laborer who had been featured in the newspaper New York Newsday discussing the homelessness problem created by the “no notice” evictions.
37. The Suffolk County Police Department did locate, detain, and question the laborer about his account to the newspaper.
38. Upon information and belief, on or about August 25, 2005, a board member of the United Day Laborers Union of Long Island—Farmingville Chapter, received notice that Town officials were trying to close a house on Lynwood Avenue.
39. When the Board member arrived the landlord, Town officials, and tenants were present. The Town was trying to convince the tenants to leave.
40. The Board member, a Latino, tried to explain their rights to the tenants. After an exchange of words, one of the Town investigators, Patrick Campbell, became quite angry and called the Board member a “fucking spic”.
41. When Irma Solis, an organizer with the Workplace Project arrived at the scene also to speak to the tenants so as to assure them that they had a right to prior notice and a pre-eviction hearing and that they could not just be told to leave their homes.
42. Mr. Campbell again grew angry and threatened her with arrest for speaking to the tenants.
43. Later that evening, Sgt. Matero of the Suffolk County Police Department arrived at 196 Berkshire Drive and spoke to Ms. Solis about the incident.

After doing so, he told her that he had sufficient evidence to arrest her for interfering with functions of a Town official.

44. Ms. Solis subsequently spoke to the officer that night and he again stated that he had sufficient evidence to arrest her for interfering with functions of a Town official. She then explained why she did not believe she had committed any crime.
45. Ms. Solis has yet to receive any notice of having been charged with any crime.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION**

##### **Violation of Plaintiffs' Right to Due Process under the United States Constitution**

46. Defendants' policy and practice of utilizing "no notice, no standards" evictions violate plaintiffs' right to due process under the Fourteenth Amendment of the United States Constitution.

#### **SECOND CAUSE OF ACTION**

##### **Violation of Fair Housing Act**

47. Defendants' discriminatory enforcement of health, safety, zoning, and property preservation and maintenance codes as described above has made housing unavailable because of national origin, race, or color and also constitutes discrimination in terms, conditions, or privileges of sale or rental of dwellings or in the provision of services because of national origin, race, or

color in violation of Section 804(a) and Section 804(b) of the Fair Housing Act, 42 U.S.C. § 3604(a) and 42 U.S.C. § 3604(b).

### **THIRD CAUSE OF ACTION**

#### **Violation of Plaintiffs' Right to Equal Protection Under the United States Constitution**

48. Defendants' discriminatory enforcement of its health, safety, zoning, and property preservation and maintenance codes on the basis of national origin, race, or color violates plaintiffs' right to equal protection of the laws under the Fourteenth Amendment to the United States Constitution.

WHEREFORE, plaintiffs and the class they represent request the following relief, jointly and severally, against all defendants:

1. Permanent injunctive relief for plaintiffs and the class they represent enjoining defendants from seeking to evict residential tenants unless and until defendants promulgate a narrowly drawn statute establishing standards governing said eviction process, including a requirement that tenants be provided prior notice and an opportunity to challenge their eviction unless they are living in housing which presents such an imminent and dire danger to them that they must immediately be evicted prior to the provision of notice;

2. Permanent injunctive relief for plaintiffs and the class they represent enjoining defendants from conducting any further activity pursuant to Operation Firestorm unless and until defendants promulgate a narrowly drawn statute establishing standards governing it;

3. Permanent injunctive relief for plaintiffs and the class they represent enjoining

defendants from harassing or otherwise treating differently from other persons the plaintiffs and the class members;

4. A declaration that the defendants' actions pursuant to Operation Firestorm and their policy and practice of "no notice, no standards" evictions to be violative of the due process rights of the plaintiffs' and class members' due process and equal protection rights protected by the Fourteenth Amendment to the United States Constitution.

5. Compensatory damages for individual plaintiffs;

6. Punitive damages for individual plaintiffs;

7. Reasonable attorney fees and costs;

8. Such other and further relief as appears reasonable and just.

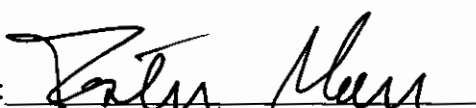
A jury trial is hereby demanded.

Dated: New York, New York  
September 9, 2005

Respectfully submitted,

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By:

  
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