

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

JOSEPH PEERY, on behalf of himself)	
and all persons similarly situated,)	
)	
Plaintiffs,)	
)	Case No. 13-cv-5819
v.)	
)	Judge _____
CHICAGO HOUSING AUTHORITY,)	
)	
Defendant.)	

CLASS ACTION COMPLAINT

Plaintiff Joseph Peery, on behalf of himself and all persons similarly situated, by his attorneys, for his complaint against defendant the Chicago Housing Authority (“the CHA”) alleges as follows:

I. NATURE OF THE CASE

1. Mr. Peery is a law-abiding person who does not use illegal drugs. He is a qualified CHA tenant, and lives in a mixed-income housing development in an apartment reserved for CHA tenants.

2. The CHA requires all adults seeking admission or continued occupancy to rental apartments reserved for CHA tenants in certain mixed-income developments, including the one where Mr. Peery resides, to take and pass a suspicionless drug test (urinalysis). Mr. Peery has repeatedly taken and passed this CHA drug test, and finds it humiliating, invasive, and stigmatizing.

3. This CHA policy violates the rights of Mr. Peery and the plaintiff class to be free from unreasonable searches, seizures, and invasions of privacy guaranteed by the Fourth Amendment of the United States Constitution and by Article 1, Section 6 of the

Illinois Constitution. Mr. Peery seeks declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 2201 *et seq.* and the Illinois Constitution.

II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 1367(a).

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

III. PARTIES

6. Plaintiff Joseph Peery lives at Parkside of Old Town (“Parkside”), a mixed-income housing development at 437 West Division Street in Chicago’s near north side, in an apartment reserved for CHA tenants.

7. Defendant the CHA is a municipal corporation governed by a Board of Commissioners appointed by the Mayor of the City of Chicago. Its statutory purposes include the provision of affordable housing. *See, e.g.*, 310 ILCS 10/2.

IV. CLASS ALLEGATIONS

8. Pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure, Mr. Peery brings this action for declaratory and injunctive relief on his own behalf, and on behalf of a plaintiff class consisting of all persons required by the CHA to take a suspicionless drug test as a condition of admission or continued occupancy in a rental apartment reserved for CHA tenants in a mixed-income housing development.

9. The plaintiff class satisfies the requirements of Rule 23(a):

(a) The class is so numerous that joinder of all members is impracticable. Every year, the CHA requires suspicionless drug testing of more than 1,000 adult residents of rental apartments reserved for CHA tenants in mixed-income

housing developments. The CHA also requires testing of many applicants for such housing. And the class includes people who will be required to take the test in the future.

(b) There are questions of law and fact common to the class. These include whether the CHA's policy violates the U.S. and Illinois Constitutions.

(c) The claims of Mr. Peery are typical of the claims of the class. He has repeatedly been subjected to the CHA's policy.

(d) Mr. Peery will fairly and adequately protect the interests of the class. He has no interests antagonistic to the class. He seeks declaratory and injunctive relief on behalf of the entire class to remedy injuries to all class members. His counsel are competent and experienced in class action and civil rights litigation.

10. The plaintiff class satisfies the requirements of Rule 23(b)(2), because defendant has acted on grounds that apply generally to the class, so final injunctive relief and corresponding declaratory relief is appropriate respecting the class.

V. FACTUAL ALLEGATIONS

A. The CHA's policy of suspicionless drug testing

11. Under the CHA's Plan for Transformation, many CHA-owned public housing developments were demolished, and replaced by new mixed-income housing developments. This CHA Plan displaced many thousands of CHA tenants. Under the CHA's Relocation Rights Contract, certain apartments at the new mixed-income housing developments are reserved for CHA tenants.

12. For example, the CHA demolished its Cabrini-Green public housing development on Chicago's near north side. The new Parkside mixed-income housing development (where Mr. Peery lives) was built on part of this site. Like many mixed-

income housing developments, Parkside includes units sold at market price, units rented at market price, units reserved for CHA tenants and rented below market price, and other units rented below market price.

13. The CHA requires all adults seeking admission or continued occupancy to rental apartments reserved for CHA tenants in certain mixed-income developments to take and pass a suspicionless drug test. On information and belief, these developments are Parkside (where Mr. Peery lives), Lake Park Crescent, Legends South, Hilliard Homes, North Town Village, Oakwood Shores, and Shops & Lofts. On information and belief, the CHA does not require drug testing in the other mixed-income developments.

14. The CHA has ultimate control over the tenant selection plans and leases at all mixed-income developments. The CHA has mandated the drug testing at certain mixed-income developments through these plans and leases. CHA tenants could not be required to take the test in the absence of the CHA's mandate and approval.

B. Application of the CHA's drug testing policy to Mr. Peery

15. Mr. Peery lived at the CHA's Cabrini-Green public housing development, from 1991 through the time of its demolition in 2005.

16. Under the CHA's Relocation Rights Contract, Mr. Peery is eligible for residency in mixed-income housing developments, in apartments reserved for CHA tenants. In 2010, Mr. Peery exercised this right and moved into his apartment at Parkside. He selected Parkside because of his long-standing ties to the neighborhood.

17. Pursuant to the challenged CHA policy, Mr. Peery has repeatedly taken and passed a suspicionless drug test, both at admission and upon lease renewal.

18. Mr. Peery is a law-abiding person, and does not use illegal drugs. He strongly objects to the CHA's suspicionless drug testing. He finds it humiliating and invasive, and it makes him feel stigmatized as a presumptive criminal and drug user.

19. In the past, Mr. Peery submitted to the disputed CHA drug tests only because, had he refused, he would have been evicted. In the future, Mr. Peery again will be subjected to the disputed CHA drug tests.

VI. CLAIMS FOR RELIEF

COUNT ONE:

20. The allegations of paragraphs 1 through 19 are realleged and incorporated by reference as if fully set forth herein.

21. The actions of the CHA described herein violate the rights of Mr. Peery and the plaintiff class to be free from unreasonable searches, seizures, and invasions of privacy guaranteed by the Fourth Amendment of the United States Constitution.

COUNT TWO:

22. The allegations of paragraphs 1 through 21 are realleged and incorporated by reference as if fully set forth herein.

23. The actions of the CHA described herein violate the rights of Mr. Peery and the plaintiff class to be free from unreasonable searches, seizures, and invasions of privacy guaranteed by Article 1, Section 6 of the Illinois Constitution.

VII. PRAYER FOR RELIEF

WHEREFORE, Mr. Peery, on behalf of himself and the plaintiff class, respectfully requests the following relief:

A. A declaratory judgment that the suspicionless drug testing required by the CHA as a condition of admission or continued occupancy in the rental apartments reserved for CHA tenants at certain mixed-income housing developments violates the rights of Mr. Peery and the plaintiff class to be free from unreasonable searches, seizures, and invasions of privacy guaranteed by the Fourth Amendment of the United States Constitution and Article 1, Section 6 of the Illinois Constitution.

B. A preliminary injunction, and then a permanent injunction, requiring the CHA to remove all suspicionless drug testing requirements from all tenant selection plans and leases at all mixed-income developments that require such testing as a condition of admission or continued occupancy in rental apartments reserved for CHA tenants.

C. Attorney's fees, costs, and expenses, pursuant to 42 U.S.C. § 1988 and 740 ILCS 23/5(c)(2).

D. Such other and further relief as this Court may deem just and proper.

DATED: August 15, 2013

Respectfully submitted:

/s/ Adam Schwartz
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