

# CIVIL COVER SHEET CV 405-136

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

DELLA STEELE, et al.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Chatham  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Fletcher Farrington  
P. O. Box 30276  
Savannah, GA 31410  
(912)233-0111

## DEFENDANTS

CITY OF PORT WENTWORTH, GEORGIA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN) (912)236-3311  
Patrick T. O'Connor  
Oliver, Maner & Gray LLP  
P. O. Box 10186  
Savannah, GA 31412-0386

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

42 U.S.C. §1982. Claim for declaratory and injunctive relief and damages for denial of municipal service, including housing.

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☒

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

## VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE William T. Moore

DOCKET NUMBER CV403-211

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

bn

Wed Aug 3 15:28:36 2005

UNITED STATES DISTRICT COURT

SAVANNAH

Receipt No. 400 407077  
Cashier mys

Check Number: 5126, 5127

DO Code Div No  
4621 4

Sub Acct	Type	Tender	Amount
1:510000	N	2	190.00
2:006900	N	2	60.00

Total Amount \$ 250.00

FLETCHER FARRINGTON, 149 HABERSHAM  
ST., SAVANNAH, GA 31401

CV405-135 FILING FEE

bn

ORIGINAL

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

FILED  
U.S. DISTRICT COURT  
SAVANNAH DIV.

2005 AUG -3 PM 3: 26

CLERK W. Prescott  
SO. DIST. OF GA.

DELLA STEELE, GEORGIA BENTON,  
CHARLES ROBERTS, JUDY ROBERTS,  
WILBERT HURST, and GLENN STEELE,  
on behalf of themselves and all others similarly  
situated; and the NORTH PORT WENTWORTH  
CITIZENS COUNCIL, INC.,

Plaintiffs,

v.

CITY OF PORT WENTWORTH, GEORGIA

Defendant.

**CV 405 - 135**

CIVIL ACTION NO. \_\_\_\_\_

**COMPLAINT - CLASS ACTION**

*Certificate Required by Southern District Local Rule 3.2*

Plaintiffs certify that the following is a full and complete list of the parties in this action:

Della Steele, Georgia Benton, Charles Roberts, Judy Roberts, Wilbert Hurst, Glenn  
Steele, and North Port Wentworth Citizens Council, Inc

Plaintiffs

City of Port Wentworth, Georgia

Defendant

The undersigned further certifies that the following is a full and complete list of officers, directors or trustees of the plaintiff North Port Wentworth Citizens Council, Inc: Julius Robinson, President; Glenn Steele, Vice-President; Della Steele, Secretary; Marthella Bryant, Treasurer; Mattie Childs, Financial Secretary, and Ella Robinson, Chaplin.

The undersigned further certifies that the list of other persons, firms, partnerships, corporations or organizations that have a financial interest in, or another interest which could be substantially affected by, the outcome of this case (including a relationship as a parent or holding company or similar relationship): None.

## **PRELIMINARY STATEMENT**

1. This is a class action against the City of Port Wentworth (the "City" or "Defendant") brought by its African-American residents seeking a declaratory judgment, injunctive relief, compensatory damages, attorneys' fees, and costs for on-going violations of the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*; the Thirteenth and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. §§ 1982, 1983; the Georgia Fair Housing Act, O.C.G.A. § 8-3-200, *et seq.*, and its implementing regulations, Ga. Comp. R. & Regs. 186-2-.02; and Article I, § I, Paragraph II of the Constitution of the State of Georgia.

2. This is a re-filed action pursuant to the Georgia Renewal Statute, O.C.G.A. §9-2-61, and pursuant to agreement of the parties. The previous action was S.D.Ga. No. CV 403-211.

3. The City, through its discriminatory conduct, has harmed and continues to harm its African-American residents by refusing to provide them with the same basic services, such as water and sewer service, that it provides to its white communities. The City also refuses to properly maintain rainwater drainage canals and roadside ditches in its African-American communities, while maintaining such canals and ditches in its predominately white neighborhoods. As set forth below, these actions are a part of a pattern of municipal behavior, culminating in the City's municipal planning decisions, which seeks to exclude and eliminate African-American communities from the City. The City's actions further subject its African-American residents to different terms and conditions related to housing on the basis of race.

4. The City's discriminatory and unequal conduct has harmed, and continues to harm, individual Plaintiffs and class members. Among other things, the individual Plaintiffs, the class members, and their communities have been stigmatized because they have been deprived of valuable municipal services, their property values have been substantially eroded, and they have

been deprived of the full use and enjoyment of their homes and property.

5. Della Steele, Georgia Benton, Charles Roberts, Judy Roberts, Wilbert Hurst, and Glenn Steele (collectively, the "Class Representatives") and the North Port Wentworth Citizens Council, Inc., (collectively, along with the Class Representatives, referred to as "Plaintiffs"), bring this action as a class action on behalf of themselves and all others similarly situated for declaratory and injunctive relief and for monetary damages incidental thereto.

### **PARTIES**

6. Class Representatives are African-Americans, who are current or former homeowners, property owners, and/or residents in Defendant's Berrien/Saussy Roads and Monteith neighborhoods, which are both almost exclusively African-American.

7. The North Port Wentworth Citizens Council, Inc. ("NPWCC") is a Georgia nonprofit organization that seeks to promote the general welfare of its members and the residents of the African-American communities of Port Wentworth. Among other things, NPWCC advocates for the civil rights of the African-American residents of Port Wentworth and seeks to combat discrimination against Defendant's African-American communities in city planning, zoning, and the provision of municipal services. As a result of the City's discriminatory conduct, NPWCC's resources have been diverted and its mission has been frustrated. NPWCC is a membership organization, whose members include all of the Class Representatives, who each have standing to bring this lawsuit in their own right.

8. Defendant City of Port Wentworth is a municipal corporation in Chatham County, Georgia, incorporated under the laws of the State of Georgia. Plaintiffs have given notice to the City of Port Wentworth for the claims set forth herein as required by O.C.G.A. §36-33-5.

## **JURISDICTION AND VENUE**

9. This Court has jurisdiction pursuant to (a) 42 U.S.C. § 3613, for violations of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*; (b) 42 U.S.C. § 1331(c), because this action arises under the Constitution and laws of the United States,; and (c) 28 U.S.C. § 1343(a)(3), for deprivation of Plaintiffs' constitutional rights under color of state law.

10. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a), because this action involves claims under the Georgia Fair Housing Act, GA. CODE ANN. § 8-3-200, *et seq.*, its implementing regulations, GA. COMP. R. & REGS. 186-2-.02, and the Constitution of the State of Georgia, which are so related to the federal claims as to form part of the same case or controversy.

11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because (a) Defendant is a municipality located in this jurisdiction and (b) the events giving rise to this complaint occurred in this jurisdiction.

## **CLASS ACTION ALLEGATIONS**

12. The Class Representatives bring this action as a class action pursuant to Rule 23(b)(2) and/or Rule 23(b)(3) of the Federal Rules of Civil Procedure on their own behalf and on behalf of a class consisting of all former, current, and future residents of Defendant's African-American communities who were, are, or will be subjected to Defendant's continuing discriminatory treatment ("the Class").

13. The members of the Class are so numerous that joinder of all members is impractical. *See* Fed.R.Civ.P. 23(a)(1). Although the exact number of Class members is unknown at this time and may be ascertained through appropriate discovery, Plaintiffs believe that there are at least 100 individuals who were or continue to be subjected to the discriminatory

practices alleged herein. Moreover, the number of future Class members cannot be discerned with any precision.

14. There are questions of law and fact common to the Class, consistent with Rule 23(a)(2) of the Federal Rules of Civil Procedure. The common questions include whether the City's conduct as alleged herein violates the Class's rights under (a) the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*; (b) the Thirteenth and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. §§ 1982, 1983; (c) the Georgia Fair Housing Act, O.C.G.A. § 8-3-200, *et seq.*, and its implementing regulations, Ga. Comp. R. & Regs. 186-2-.02; and (d) Article I, § I, Paragraph II of the Constitution of the State of Georgia.

15. The claims of the Class Representatives are typical of the claims of the other members of the Class, as specified under Rule 23(a)(3) of the Federal Rules of Civil Procedure. In addition, injuries sustained by the Class Representatives are typical of the injuries sustained by all members of the Class arising out of the City's wrongful conduct complained of herein.

16. The Class Representatives will fairly and adequately protect the interests of the members of the Class, as provided by Rule 23(a)(4) of the Federal Rules of Civil Procedure, and are represented by counsel who are qualified, experienced, and able to vigorously prosecute this action.

17. This class action is maintainable under Rule 23(b)(2) of the Federal Rules of Civil Procedure because the City has acted or refused to act on grounds generally applicable to the Class by pursuing racially discriminatory patterns or practices in the provision of municipal services that treat its African-American residents of the Berrien/Saussy Roads and Monteith neighborhoods less favorably than its white residents, and by pursuing actions that have an adverse impact on its African-American residents, thereby making appropriate final injunctive

relief and corresponding declaratory relief appropriate with respect to the Class as a whole.

18. In the alternative, this class action is maintainable under Rule 23(b)(3) of the Federal Rules of Civil Procedure because questions of law and fact common to Class members predominate over questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. For example, one predominant question is whether, as alleged, the City is liable for pursuing racially discriminatory patterns or practices in the provision of municipal services that treat its African-American residents of the Berrien/Saussy Roads and Monteith neighborhoods less favorably than its white residents.

### **BACKGROUND AND FACTS**

#### **The City Discriminates Against Its African-American Communities In The Provision Of Municipal Water And Sewer Services**

19. The City has been and continues to be segregated along racial lines.

20. Historically, African-American residents within Port Wentworth were concentrated in the Grange Road neighborhood until they were displaced in the mid-1990s.

21. The historically African-American Berrien/Saussy Roads and Monteith neighborhoods originally were excluded from the boundaries of Port Wentworth.

22. In 1989, the City annexed the Berrien/Saussy Roads and Monteith neighborhoods, which lie north of the Port Wentworth city center, as well as other nearby lands, which were primarily uninhabited, with the stated purpose of extending basic city services, such as water and sewerage, to the residents in those areas.

23. In contravention of that stated purpose, however, the City deliberately annexed those neighborhoods in such a manner as to avoid triggering any state law requirement that it provide those services.



24. From the time of annexation through May, 2001, the City did not offer water or sewer service to the African-American Berrien/Saussy Roads and Monteith neighborhoods.

25. By contrast, during this time the City provided water and sewer service to virtually all of its white residents. In addition, the City continued to extend its water and sewer service to similarly situated white residents, including a virtually all-white neighborhood, Pine Forest, which was located across the street from the Berrien/Saussy Roads neighborhood.

26. Further, the City began to extend its water and sewer service lines to the undeveloped and uninhabited area north of the Berrien/Saussy Roads and Monteith neighborhoods. While not providing water and sewer service to those neighborhoods, the City ran water and sewer lines through areas immediately adjacent to the African-American neighborhoods.

27. In May, 2001, for the first time, the City made an offer to provide water and sewer services to the Berrien/Saussy Roads neighborhood.

28. The City did not make that offer on the same terms that it provided water and sewer services to its white residents. Instead, the terms the City offered those residents were significantly more onerous than those offered to white residents and insured that they would be rejected.

29. For example, as a condition of its offer, the City demanded that the African-American residents of the Berrien/Saussy Roads communities deed away sixty feet of their properties for a right-of-way for the service lines. The City's proposed right-of-way is more than twice what it has requested for recent water and sewer extension the City has provided for white residents. Moreover, the right-of-way would have required some residents to deed away land that would damage their physical residence or come dangerously close to those residences.

30. The City further refused to consider or even respond to reasonable alternative proposals for water and sewer service made in or about June, 2001 on behalf of the Berrien/Saussy Roads neighborhood.

31. Since that time, the City has not offered or extended water and sewer service to the African-American residents of the Berrien/Saussy Roads neighborhood.

32. In or about March, 2003, the City made a similar offer to provide water service to some residents in the Monteith neighborhood. The City did not make that offer on the same terms that it provided water and sewer service to its white residents. Instead, the terms the City offered those residents were significantly more onerous than those offered to white residents, including significantly higher tap-in fees and right-of-way requirements, which insured that the City's offer would be rejected.

33. The City further refused to consider or even respond to reasonable alternative proposals for water or sewer service made in or about March, 2003 on behalf of the African-American residents of the Monteith neighborhood.

34. Since that time, the City has not offered water and sewer service to these African-American residents.

35. The City's refusal to provide water and sewer service undermines property values in these neighborhoods. Moreover, the City's deprivation of water and sewer services undermines the long-term stability of residences in these neighborhoods, as wells run dry and septic tanks fill. Further, the City's decision to deprive the African-American residents of more convenient modern services, on the basis of their race, further alienates and stigmatizes these residents.

**The City Also Has Discriminated Against Its African-American Communities  
In The Provision Of Water Run-Off And Drainage Services**

36. The City also has discriminated against its African-American residents on the basis of race in the maintenance services it provides for its water drainage systems.

37. Virtually every residential street and highway within the city limits of Port Wentworth has a roadside ditch for water drainage. In addition, a number of larger drainage canals run through residential areas in Port Wentworth, conveying water run-off away from residential property.

38. In the white residential areas of Port Wentworth, the City provides ongoing maintenance of both roadside ditches and drainage canals, performing such tasks as clearing debris and removing unwanted vegetation that block drainage.

39. In addition, in those areas, the City also responds to individual requests to clean particular portions of the drainage system.

40. In contrast, the City provides substantially inferior services to the African-American neighborhoods of Berrien/Saussy Roads and Monteith.

41. For example, the City will mow and manicure the grass embankments surrounding roadside ditches and canals in white-owned residential areas. By contrast, the City does not remove debris or vegetation in drainage canals in the Berrien/Saussy Roads neighborhood, allowing the canal to become clogged and overgrown.

42. The City's refusal properly to maintain drainage canals and ditches in the African-American communities undermines the livability and quality of these neighborhoods by allowing standing water and debris to accumulate. Not only does the City's neglect render these drainage facilities unsightly and smelly, but it attracts nuisances and pests, such as snakes and mosquitoes, to these residential areas. The City's intentional withholding of maintenance services further

stigmatizes these neighborhoods, publicly marking them as neglected areas.

**The City Also Has Allowed White Residents To Close Public Roads Used By Its African-American Residents**

43. Without following the procedures required under Georgia law for the abandoning of public roads, the City has permitted its white residents to close or otherwise restrict the use of public roads used primarily by residents of its African-American communities.

44. For example, the City has purported to abandon Coldbrook Road, a public thoroughfare used by African-American residents of the Berrien/Saussy Roads neighborhood to reach portions of their property.

45. Despite the fact that the road was public at the time the City annexed it in 1989, the City nonetheless has erected a sign designating Coldbrook Road as a private road. In addition, the City has not taken any action to prevent a white property owner from blocking the road with debris and a gate from time to time over the past five years.

46. On information and belief, the white homeowner blocked Coldbrook Road out of animus towards the African-American residents seeking to use it — animus that the City has adopted by refusing to prevent the blockage of that road.

47. Another white property owner similarly has used a gate to block Rice Hope Road, also a public road located in north Port Wentworth, which is used by African-American residents to access their properties.

48. On information and belief, the second white property owner has blocked Rice Hope Road out of animus towards the African-American residents seeking to use it - an animus that the City has adopted by refusing to prevent the blockage of that road.

49. On information and belief, the City has not tolerated or permitted any other closings of public roads within the boundaries of Port Wentworth since at least the 1989 annexation of the affected African-American neighborhoods.

50. The City's discriminatory abandonment of these roads interferes with the ability of African-American homeowners and residents to use and enjoy their property. In particular, Coldbrook Road and Rice Hope Road are the only public access to certain lands owned by these residents and property owners. When the City permits white property owners to block the road, Class members cannot access and enjoy the very lands they own.

**The City's Discriminatory Intent Is Demonstrated By Its On-Going  
Efforts To Eliminate Its African-American Residents.**

51. Over the same period in which it intentionally was denying water and sewer service to the Class, the City was engaged in a decade-long planning process for the expansion northwards of Port Wentworth.

52. This process culminated in April, 2000 when the City made public its "Master Plan for Future Development for the City of Port Wentworth" ("The Master Plan"). The Master Plan created a zoning overlay district/development plan for the area in north Port Wentworth where the City intends to locate the new Port Wentworth city center. The area within the first phase of the Master Plan zoning overlay district is primarily uninhabited - the only inhabited area is the Berrien/Saussy Roads neighborhood, the residents of which are African-Americans.

53. Rather than incorporate the existing homes of the Berrien/Saussy Roads neighborhood into the Master Plan for the area, the City instead developed a plan that would eliminate this African-American community. The April, 2000 version of the Master Plan would eliminate African-American residents' homes and a hundred-year-old African-American church

to create frontage and access roads to the proposed new city center and designated other homes for elimination in order to create lagoons, wetlands, and commercial areas.

54. The Master Plan confirms both the City's intention to destroy this African-American community and the discriminatory animus behind the City's longstanding denial of equal municipal services to African-Americans in Port Wentworth.

55. With regard to all of the acts described above, the City intends to, and its conduct has the effect of, discriminating against Class members on the basis of their race by, among other things, providing inferior municipal services or facilities, eliminating their homes through creation of the new city center, and denying them equal protection of the law.

56. The City's discriminatory actions, which continue through the present, are purposeful and intentional and taken in willful and reckless disregard for the rights of Class members.

### **INJURY**

57. As a result of the City's discriminatory conduct and unequal services, Class members have suffered and continue to suffer actual damages, including the deprivation of valuable municipal services, erosion of their property values, and diminished ability to use and enjoy their property.

58. In addition, Class members have suffered emotional distress because of the City's conduct in that they have, among other things, been embarrassed, and humiliated by the stigmatization caused by the City's discriminatory conduct and their exclusion from full participation as residents of Port Wentworth.

59. As a result of the City's discriminatory conduct, NPWCC's resources have been diverted and its mission has been frustrated.

## **CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF**

#### **The Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.***

60. Plaintiffs repeat and re-allege the allegations in paragraphs 1 - 58 as if set forth fully herein.

61. The City has violated the Fair Housing Act, 42 U.S.C. § 3604(b), by engaging in a pattern of discrimination against Class members on the basis of race in the provision of services or facilities in connection with their ownership, use and enjoyment of residential property in Port Wentworth, including the provision of inferior services and the closure of certain public roads.

62. The City's actions, practices, and policies intentionally subject Plaintiffs and the Class to discriminatory, unequal and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth. In addition, the City's actions, practices, and policies unlawfully have the effect of subjecting Plaintiffs and the Class to discriminatory, unequal and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth.

63. As more fully described above, Plaintiffs and the Class have been and continue to be harmed as a result of the City's discriminatory conduct.

### **SECOND CLAIM FOR RELIEF**

#### **The Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983**

64. Plaintiffs repeat and re-allege the allegations in paragraphs 1 - 58 as if set forth fully herein.

65. The City has violated the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983, by denying equal protection of the laws on the basis of race to Class members by engaging in a pattern of discrimination against Class members on the basis of race in the

provision of services or facilities in connection with their ownership, use and enjoyment of residential property in Port Wentworth, including the provision of inferior services and the closure of certain public roads.

66. The City's actions, practices, and policies intentionally subject Plaintiffs and the Class to discriminatory, unequal, and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth. In addition, the City's actions, practices, and policies unlawfully have the effect of subjecting Plaintiffs and the Class to discriminatory, unequal, and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth.

67. The City's discriminatory actions were taken under the color of state law.

68. As more fully described above, Plaintiffs and the Class have been and continue to be harmed as a result of the City's discriminatory conduct.

### **THIRD CLAIM FOR RELIEF**

#### **The Thirteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1982**

69. Plaintiffs repeat and re-allege the allegations in paragraphs 1 - 58 as if set forth fully herein.

70. The City has violated the Thirteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1982, by depriving Class members of the same rights as are enjoyed by its white residents to sell, hold, and otherwise enjoy their real and personal property by engaging in a pattern of discrimination against Class members on the basis of race in the provision of services or facilities in connection with their ownership, use, and enjoyment of residential property in Port Wentworth, including the provision of inferior services and the closures of certain public roads.



71. The City's actions, practices, and policies intentionally subject Plaintiffs and the Class to discriminatory, unequal, and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth. In addition, the City's actions, practices, and policies unlawfully have the effect of subjecting Plaintiffs and the Class to discriminatory, unequal and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth.

72. As more fully described above, Plaintiffs and the Class have been and continue to be harmed as a result of the City's discriminatory conduct.

**FOURTH CLAIM FOR RELIEF**  
**Georgia Fair Housing Act, O.C.G.A. § 8-3-200, *et seq.*;**  
**Ga. Comp. R. & Regs. 186-2-.02**

73. Plaintiffs repeat and re-allege the allegations in paragraphs 1 - 58 as if set forth fully herein.

74. The City has violated the Georgia Fair Housing Act, GA. CODE ANN. § 8-3-202(a)(2), and its implementing regulations, GA. COMP. R. & REGS. 186-2-.02, by engaging in a pattern of discrimination against Class members on the basis of race in the provision of services or facilities in connection with their ownership, use and enjoyment of residential property in Port Wentworth, including the provision of inferior services and the closure of certain public roads.

75. The City's actions, practices, and policies intentionally subject Plaintiffs and the Class to discriminatory, unequal, and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth. In addition, the City's actions, practices, and policies unlawfully have the effect of subjecting Plaintiffs and the Class to discriminatory, unequal, and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth.

76. As more fully described above, Plaintiffs and the Class have been and continue to be harmed as a result of the City's discriminatory conduct.

**FIFTH CLAIM FOR RELIEF**  
**Article I, § I, Paragraph II of the Constitution of the State of Georgia**

77. Plaintiffs repeat and re-allege the allegations in paragraphs 1 - 58 as if set forth fully herein.

78. The City has violated Article I, § I, Paragraph II of the Constitution of the State of Georgia, by denying equal protection of the laws on the basis of race to Class members by engaging in a pattern of discrimination against Class members on the basis of race in the provision of services or facilities in connection with their ownership, use and enjoyment of residential property in Port Wentworth, including the provision of inferior services and the closure of certain public roads.

79. The City's actions, practices, and policies intentionally subject Plaintiffs and the Class to discriminatory, unequal, and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth. In addition, the City's actions, practices, and policies unlawfully have the effect of subjecting Plaintiffs and the Class to discriminatory, unequal and harmful conditions and services based on their race as compared to similarly situated whites in Port Wentworth.

80. As more fully described above, Plaintiffs and the Class have been and continue to be harmed as a result of the City's discriminatory conduct.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that the discriminatory housing practices of the City, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*; the Thirteenth and Fourteenth

Amendments to the U.S. Constitution and 42 U.S.C. §§ 1982, 1983; the Georgia Fair Housing Act, O.C.G.A. § 8-3-200, *et seq.*, and its implementing regulations, Ga. Comp. R. & Regs. 186-2-.02; and Article I, § I, Paragraph II of the Constitution of the State of Georgia.

2. Enjoin the City, its agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating on the basis of race against any person in any aspect of the provision of municipal services or the enforcement of statutes related to the ownership, use and enjoyment of real property.

3. Order the City to take affirmative steps, supervised by this Court, to overcome the effects of its continuing and past discriminatory practices, including (a) providing equal municipal services to Plaintiffs and all other African-Americans subjected to the City's discriminatory practices; (b) equally enforcing the laws protecting public roads from abandonment by municipalities; and (c) ensuring that the City's zoning and planning practices do not unfairly target for destruction, oppress, or otherwise threaten its African-American communities.

4. Award monetary damages incidental to injunctive and declaratory relief to each member of the Class.

5. Award such damages as will fully compensate Plaintiffs, Class members, and NPWCC for their injuries caused by the City's discriminatory conduct.

6. Award Plaintiffs their reasonable costs, including reasonable attorneys' fees and expenses in bringing this action, together with pre-judgment and post-judgment interest as provided by law.

7. Grant such other, further and different relief as may be just and proper.



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