

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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FAIR HOUSING IN HUNTINGTON :  
COMMITTEE, HUNTINGTON BRANCH, :  
NAACP, ATHENA HAWKINS, LYNDA :  
JOHN, IAN JOHN, JASMINE CURTIS, :  
SHAVONDA BELTON and SERENA :  
CAMARDI, :

Plaintiffs, :

v. :

TOWN OF HUNTINGTON, NEW YORK, :  
TOWN BOARD OF THE TOWN OF :  
HUNTINGTON and TOWN OF :  
HUNTINGTON PLANNING BOARD, :

Defendants. :

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**COMPLAINT FOR DECLARATORY  
JUDGMENT, INJUNCTIVE RELIEF,  
AND DAMAGES**

**JURY TRIAL DEMANDED**

**COMPLAINT**

**I. NATURE OF ACTION**

1. This is a housing discrimination action for declaratory judgment, injunctive relief, and damages for ongoing exclusionary housing practices on the basis of race, national origin and familial status by the Town of Huntington, New York (the "Town" or "Huntington"), the Town Board of the Town of Huntington (the "Town Board"), the Town of Huntington Planning Board (the "Planning Board") and others acting on behalf of the Town (collectively, "Defendants"). This action specifically challenges the exclusion of racial minorities and families with children from the land known as Sanctuary at Ruland Road ("Ruland Road"). The action arises under the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*; the Civil Rights Act of 1866, 42 U.S.C. §§ 1982 and 1983; and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

## II. INTRODUCTION

2. This action brings before this Court Defendants for their incessant rejection and obstruction of repeated efforts to create affordable<sup>1</sup> multi-bedroom housing in Huntington's overwhelmingly white neighborhoods (the "White Areas").

3. Defendants have an extended and well-documented history of concentrating minorities in the least desirable areas of Huntington in violation of the Fair Housing Act. In 1988, the Second Circuit Court of Appeals found that the Town was in violation of the Fair Housing Act and directed the United States District Court for the Eastern District of New York to compel the Town to amend its zoning laws to allow a nonprofit, multi-family housing development to be built in a White Area. *See Huntington Branch, NAACP v. Huntington*, 844 F.2d 926 (2d Cir.), *aff'd per curiam*, 488 U.S. 15 (1988) ("*Huntington I*"). The Town had refused to allow affordable multi-bedroom family housing to be built in the White Areas and instead concentrated affordable multi-bedroom family housing in the disproportionately minority, low-income areas around Huntington's railroad station (the "Racially Impacted Areas").

4. The need for affordable housing for families with children in Huntington is longstanding. Consistent with that need, in July 1999, SBJ Associates, LLC (together with Ruland Road LLC, the "Developer") submitted to the Town a change of zone application in order to permit the construction of 92 two-bedroom and 30 three-bedroom affordable rental units at the Ruland Road site. Such units were supposed to, among other things, mitigate the lack of affordable multi-bedroom housing at the development known as the Greens at Half Hollow (the

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<sup>1</sup> The term "affordable" as used in this Complaint refers to the financial means of those with lower incomes.

"Greens"), where the Developer planned to construct (and has now constructed) 1,300 age-restricted senior citizen housing units and 75 non-age restricted four- and five-bedroom single family luxury homes.

5. The two- and three-bedroom plan for Ruland Road was never formally acted upon by Defendants. Instead, the Town directed the Developer to withdraw the two- and three-bedroom plan and to replace it with a plan for all one-bedroom units which, as a representative of the Developer has admitted, are "not really desirable" and are "much more difficult to sell." Consistent with such direction, in June 2000, the Developer withdrew its plan to construct affordable multi-bedroom housing at the Ruland Road site and, on September 11, 2000, submitted a new application calling for the construction of all one-bedroom units. The very next day, the Town Board passed a resolution amending its zoning laws to allow for the development of the Greens site. Such approval was made contingent upon the Developer's submission of the all one-bedroom plan for Ruland Road.

6. After several years of inaction by Defendants, on February 5, 2008, the Developer submitted a revised site plan application for Ruland Road, which provided for the construction of 94 one-bedroom units and 28 two-bedroom units. The revised site plan application was never formally acted upon by Defendants. In or about October 2008, the Developer privately met with representatives of the Town, including the Town Supervisor, regarding the Ruland Road development. At that meeting, the Town made clear that the Ruland Road development would not move forward unless it was limited to all one-bedroom units. As a result, at the Town's insistence, the plans were changed back to include only one-bedroom units.

7. On March 10, 2010, the Planning Board approved site plans for Ruland Road consisting of all one-bedroom units. The Planning Board's approval of the Ruland Road site plans paves the way for the issuance of building permits and immediate construction at the Ruland Road site.

8. Defendants knew or should have known that multi-bedroom units at the Ruland Road site would increase the population of minorities and families with children who eventually will live there and that one-bedroom units are far less likely to attract minorities and families with children because, among other things, families with children in Huntington comprise a disproportionately greater percentage of racial minorities. Defendants' actions in preventing the construction of affordable multi-bedroom units at Ruland Road constitute both intentional and disparate impact discrimination as well as independent and continuing violations of fair housing laws and the United States Constitution.

9. Plaintiffs seek damages, as well as declaratory and injunctive relief compelling Defendants to, among other things, (i) withdraw approval of the current all one-bedroom site plan for Ruland Road and (ii) approve an affordable housing plan for Ruland Road comprised of units of two or more bedrooms that are suitable for families with children.

### **III. JURISDICTION**

10. Jurisdiction is conferred on this Court by 42 U.S.C. § 3613 and by 28 U.S.C. §§ 1343 and 2201.

### **IV. PARTIES**

11. Plaintiff, the NAACP Huntington Branch, with its principal place of business in Huntington, New York, is a membership-based, non-profit association, whose parent body was

organized under the laws of the State of New York in 1911. The NAACP Huntington Branch (the "Huntington Branch") is affiliated and chartered by the National Association for the Advancement of Colored People, Inc. ("NAACP"). Like its parent organization, the Huntington Branch was established with the objective of ensuring the political, housing, educational, social and economic equality of minority groups. Members of the Huntington Branch live in and around Huntington, New York and desire to live in a more racially integrated community and to have more affordable housing made available for families with children, especially in the White Areas of Huntington. The unlawful discriminatory actions of the Defendants have injured the Huntington Branch of the NAACP by: (a) interfering with efforts and programs of the Huntington Branch intended to bring about equality of minority groups and the elimination of race discrimination; (b) requiring the Huntington Branch to commit scarce finite resources, including substantial staff time, to counsel complainants, investigate complaints through extensive monitoring, and otherwise investigate and counteract the Defendants' discriminatory acts; (c) frustrating the Huntington Branch's mission and purpose of promoting integration and equality of opportunity in housing and all other aspects of people's social and economic lives and (d) preventing its members from being able to live in a more racially integrated community.

12. Defendants' discrimination, with its attendant disparate impact, upon African-American families and other racial minorities, as described above, has injured NAACP members, including members of the Huntington Branch who have sought affordable housing in Huntington. Defendants have denied African-Americans, other minorities and whites the right to live and work in an integrated community welcoming to families with children. Defendants'

conduct also encourages similar conduct by other governmental and non-governmental entities, thereby amplifying the harm of the discrimination.

13. Plaintiff Fair Housing in Huntington Committee, Inc. ("FHHC"), is a local nonprofit organization consisting of concerned residents of Huntington and the surrounding areas, located at Post Office Box 20221, Huntington Station, New York 11746. FHHC's goals include the elimination of unlawful discriminatory housing practices and housing segregation that cause injury to its members, to all persons who seek to rent or buy housing units in Huntington, and to all persons who reside in Huntington. FHHC has been injured because the Town's discriminatory housing practices deprive its members of the opportunity to live in an integrated and otherwise non-discriminatory community and require the FHHC to expend its resources seeking redress for the Defendants' illegal conduct.

14. Plaintiff Athena Hawkins is an African-American woman who resides in Huntington Station, New York, with her 16 year-old son and newly born daughter. She seeks for herself and her children affordable, multi-bedroom housing in a racially integrated community and has been denied that opportunity by Defendants' discriminatory practices.

15. Plaintiffs Ian John and Lynda John are an African-American married couple and reside in Huntington, New York. Mr. and Mrs. John seek affordable, multi-bedroom housing in a racially integrated community and have been denied that opportunity by Defendants' discriminatory practices.

16. Plaintiff Jasmine Curtis is an African-American mother of four children, including twin one-year olds, a two-year old and a four-year old. Ms. Curtis seeks affordable, multi-

bedroom housing in a racially integrated community and has been denied that opportunity by Defendants' discriminatory practices.

17. Plaintiff Shavonda Belton is African-American and is in a household consisting of herself, her husband and her son. Ms. Belton seeks affordable, multi-bedroom housing in a racially integrated community and has been denied that opportunity by Defendants' discriminatory practices.

18. Plaintiff Serena Camardi is a white mother of two 12-year old twin boys who resides in Huntington, New York. Ms. Camardi seeks for herself and her children affordable, multi-bedroom housing in a racially integrated community and has been denied that opportunity by Defendants' discriminatory practices.

19. Plaintiffs Hawkins, the Johns, Curtis, Belton and Camardi are collectively referred to herein as the "Individual Plaintiffs" (with Huntington Branch and FHHC, the "Plaintiffs").

20. Defendants' conduct has deprived the Individual Plaintiffs of their constitutionally and statutorily protected right to live free of racial discrimination in a racially integrated community and free of discrimination against families with children.

21. Defendant Town of Huntington, New York, is a municipal corporation organized under the laws of the State of New York. All references to the Town include any individual or entity acting on behalf of, or under the authority derived from, the Town.

22. Defendant Town Board of the Town of Huntington is an elected governing body in the Town of Huntington from which the Town offices responsible for all development in

Huntington derive their authority. All references to the Town Board include any individual or entity acting on behalf of, or under authority derived from, the Town Board.

23. Defendant Planning Board of the Town of Huntington is a quasi-independent board whose members are appointed by the Huntington Town Board. All references to the Planning Board include any individual or entity acting on behalf of, or under authority derived from, the Planning Board. The Town, the Town Board, and the Planning Board are collectively referred to herein as "Defendants."

## V. SUBSTANTIVE ALLEGATIONS

### **Huntington's History of Unlawful Discriminatory Housing Practices Has Resulted in Widespread Housing Segregation.**

24. The Town's long history of preventing minorities from moving into the White Areas was recognized by the Second Circuit in *Huntington I*.

25. The Second Circuit found that Huntington had a shortage of affordable rental housing for low and moderate income households and that a disproportionate number of African-Americans in Huntington, as compared to white residents, need low-cost housing. As a result, the Second Circuit held that the Town's housing practices disproportionately harmed African-Americans, and "significantly perpetuated segregation in the Town." *Huntington I*, 844 F.2d at 938. In so holding, the Second Circuit explained that "the Town has demonstrated little good faith in assisting the development of low-income housing." *Id.* at 941. Moreover, the court emphasized that the Town's conduct "clearly demonstrates a pattern of stalling efforts to build low-income housing." *Id.* at 942.



26. In its 2000 Consolidated Plan, the Town recognized that the need for affordable family housing in Huntington exceeded the need for all other types of housing, including senior housing. Significantly, this need for affordable housing for families with children has not abated. Despite recognition of this need, the Town proceeded to amend the zoning for the largest parcel of land available for residential development in the White Areas of the Town – the 382-acre Greens – to allow the construction of approximately 1,375 new homes, not one of which was an affordable multi-bedroom housing unit.

27. The Town's Consolidated Plan for 2010-2014 also explicitly states that increasing affordable housing for families is a "housing priority" for the Town and that "[l]arge families . . . are experiencing the most difficulty with suitable and affordable housing." Yet, at the same time it drafted this plan, the Town approved plans for Ruland Road that only included one-bedroom units, a limitation that disproportionately excludes racial minorities and families with children from badly needed affordable housing.

**The Town's Policy and Practice of Repeatedly and Continuously Acting to Prevent Any Affordable Multi-Bedroom Housing from Being Built at Ruland Road.**

**The Developer Submits a Multi-Bedroom Plan for Ruland Road.**

28. The power to grant "density bonuses" – allowances for more homes per acre than existing zoning would ordinarily allow – gives the Town Board and the Planning Board considerable power to dictate what groups of residents a developer will serve.

29. The Town's Comprehensive Plan provides that in exchange for density bonuses, the Town expects property owners to develop some percentage of their property as affordable housing.

30. On or about July 19, 1999, SBJ requested a density bonus for the Greens. This density bonus would effectively change the zoning for the Greens to allow an approximately 1,375-unit development plan. Without a density bonus, the zoning for the Greens would have permitted only approximately 125 housing units.

31. The Greens includes a combination of market rate units and affordable but age-restricted housing, but does not include a single unit of non-age-restricted, affordable multi-bedroom housing, the housing most likely to attract minorities and families with children. As a result, the Developer, the benefactor of the density bonus, was required to develop "affordable, multi-unit family housing" at Ruland Road. This was recognized by the Second Circuit in its 2003 decision in *Fair Hous. in Huntington Comm. v. Town of Huntington* ("*Huntington II*"), in which the court noted that the Town was to require "[a]s a condition to the change of zoning [for the Greens], and as a prerequisite to permitting of the final phase of The Greens project, [that the Developer] must develop another site it owns within the Town – referred to by the parties as the Ruland Rd. site – with affordable, *multi-unit family housing*." 316 F.3d 357, 367 (2d Cir. 2003) (emphasis added).

32. In July 1999, the Developer submitted a development proposal to the Town calling for the construction of 92 two-bedroom and 30 three-bedroom affordable, rental units at Ruland Road. No hearings or formal proceedings were ever conducted in connection with the Developer's application.

**The Town Directs the Developer to Withdraw Its Plan For Affordable Multi-Bedroom Housing at Ruland Road.**

33. The Town specifically conditioned its approval of the Developer's Greens application on the submission of an all one-bedroom plan for Ruland Road. As a result, in June 2000, the Developer withdrew its July 1999 application to construct two- and three-bedroom affordable rental units at the Ruland Road site, and indicated that it would submit a revised plan calling for the construction of all one-bedroom equity units.

**The Developer Submits a Rezoning Application to Permit the Construction of All One-Bedroom Units at Ruland Road.**

34. Consistent with the Town's direction, on September 11, 2000, the Developer filed with the Town its application to change the zoning of the Ruland Road site in order to permit the construction of 122 one-bedroom, affordable rental units. One day later, on September 12, 2000, the Town amended its zoning laws to allow the construction of 75 non-age restricted four- and five-bedroom luxury homes and 1,300 senior citizen age-restricted housing units at the Greens site and formally acknowledged the Developer's proposal to construct 120 one-bedroom affordable units at Ruland Road ("Resolution No. 2000-684").

35. In addition, in order to ensure that the units at Ruland Road actually got built, the Resolution mandated that "no building permit shall be issued for 200 of the market value condominium units at The Greens Project until such time as building permits are issued for all of the units at the Sanctuary Project at Ruland Road."

36. Approximately two months later, on November 21, 2000, the Town passed Resolution No. 2000-850, which amended its zoning laws to permit the development of 122 one-bedroom affordable housing units at Ruland Road.

### **The Town Grants Building Permits For All Market Rate Units At The Greens**

37. In direct violation of Resolution 2000-684, the Town granted building permits for all of the market value condominium units at the Greens prior to any building permits being issued for affordable housing units at Ruland Road.

### **The Town Rejects A Multi-Bedroom Site Plan for Ruland Road**

38. In or about 2002, the Developer submitted to the Town a site plan application calling for the construction of 120 one-bedroom units at the Ruland Road site. That site plan application was never voted upon or approved by the Town.

39. On February 5, 2008, the Developer submitted a revised site plan, this time calling for the construction of 94 one-bedroom units and 28 two-bedroom units.

40. Thereafter, the Developer met with representatives of the Town, including the Town Supervisor. At that meeting, the Developer was told that the Ruland Road application would only move forward as an all one-bedroom plan. As a result, in October 2008, at the Town's insistence, the plans for Ruland Road were changed back to include only one-bedroom units.

### **The Planning Board Approves A Site Plan For Ruland Road Consisting of All One-Bedroom Units**

41. On or about January 14, 2010, the Developer filed with the Town a revised site plan for Ruland Road, which called for the construction of 122 one-bedroom units at the site. At a March 10, 2010 meeting, the Planning Board voted to approve the all one-bedroom site plan (albeit for only 117 units).

42. The Planning Board's approval of the Ruland Road site plan paves the way for the issuance of building permits and immediate construction at the Ruland Road site.

43. Defendants' decision to limit Ruland Road to all one-bedroom units was made with discriminatory intent and has a discriminatory impact on families with children and racial and ethnic minorities. Defendants' actions constitute both independent and continuing violations of the fair housing laws and the United States Constitution.

44. Plaintiffs bring this action to, *inter alia*, enjoin Defendants from issuing any building permits or otherwise permitting construction of any housing complex at the Ruland Road site that does not consist entirely of affordable multi-bedroom units.

**COUNT ONE**  
**(Violation of the Fair Housing Act,**  
**42 U.S.C. § 3601 *et seq.*)**

45. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

46. The Defendants' discriminatory practices, motivated by malice and/or callous disregard for the rights of the Plaintiffs, deprive the Plaintiffs of their right of equal access to housing and otherwise make unavailable housing in the Town of Huntington on the basis of race, national origin and familial status in violation of the Fair Housing Act, 42 U.S.C. § 3604(a).

**COUNT TWO**  
**(Violation of the Civil Rights Act**  
**of 1866, 42 U.S.C. § 1982)**

47. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

48. The Defendants' discriminatory practices, motivated by malice and/or callous disregard for the rights of the Plaintiffs, deprive the Plaintiffs of their right to purchase, lease, or otherwise hold or convey property in the Town of Huntington on the basis of race and national origin in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1982.

**COUNT THREE**  
**(Violation of the Civil Rights Act**  
**of 1871, 42 U.S.C. § 1983)**

49. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

50. The Defendants' discriminatory practices, motivated by malice and/or callous disregard for the rights of the Plaintiffs, deprive the Plaintiffs of their right of equal access to housing in the Town of Huntington under color of law in violation of the Federal Civil Rights Act of 1871, 42 U.S.C. § 1983.

**COUNT FOUR**  
**(Violation of the Equal Protection Clause of the Fourteenth**  
**Amendment to the Constitution of the United States)**

51. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

52. The Defendants' discriminatory practices, motivated by malice and/or callous disregard for the rights of the Plaintiffs, deprives the Plaintiffs of their rights under the Equal Protection Clause of the United States Constitution with regard to housing in the Town of Huntington.

**JURY DEMAND**

Plaintiffs demand a trial by jury.

**PRAYER FOR RELIEF**

Wherefore, Plaintiffs respectfully demand that this Court enter a judgment:

(a) Declaring that Defendants' acts, practices, and policies complained of herein violated and violate Plaintiffs' rights as secured by Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*; the Civil Rights Act of 1866, 42 U.S.C. § 1982; the Civil Rights Act of

1871, 42 U.S.C. § 1983; and the Equal Protection clause of the Fourteenth Amendment to the U.S. Constitution;

(b) Enjoining Defendants, their agents, employees, successors, assigns, and those acting in active concert, combination or participation with them, from engaging in any policies or practices that deprive Plaintiffs of their rights secured by any and all of the statutes cited in sub-paragraph (a), above, including, but not limited to:

(i) Enjoining Defendants from granting, and ordering Defendants to withdraw, any permits, letters of approval, or other consents allowing steps toward construction of the Ruland Road development as currently proposed to continue;

(ii) Compelling Defendants to approve an affordable housing plan for Ruland Road comprised of units with two or more bedrooms that are suitable for families with children;

(iii) Enjoining Defendants from permitting any construction at Ruland Road under the current plan;

(iv) Enjoining Defendants and their agents, employees, successors and assigns, from engaging in any other discriminatory acts that perpetuate or contribute to segregation in the Town of Huntington; and

(v) Ordering Defendants to take affirmative steps, supervised by this Court, to overcome the effects of past discriminatory practices;

- (c) Awarding compensatory damages resulting from Defendants' discriminatory conduct in an amount to be proven at trial;
- (d) Awarding punitive damages to Plaintiffs;
- (e) Awarding to the Fair Housing in Huntington Committee, the Huntington Branch of the NAACP, and Individual Plaintiffs their expenses incurred in obtaining legal redress for the Defendants' practices and in pursuing this litigation;
- (f) Awarding the Plaintiffs their costs and attorneys' fees in this action;
- and
- (g) For such other and further relief as this Court deems just and proper.

Dated: New York, New York  
March 17, 2011

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