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CITY OF OAKLAND

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

CITY OF OAKLAND, a municipal corporation

Plaintiff,

vs.

OAKLAND HOUSING AUTHORITY and DOES 1 through 20, inclusive,

Defendants.

Case No.

COMPLAINT FOR DAMAGES FOR PUBLIC NUISANCE AND INJUNCTIVE RELIEF

Plaintiff, the City of Oakland, alleges against Defendants, and each of them, as follows:

1. Plaintiff, the City of Oakland, is a municipal corporation and a chartered city organized, and existing under the laws of the State of California.
2. Defendant, Oakland Housing Authority, is a public housing provider with its principal offices located in Oakland, California. The Oakland Housing Authority was created pursuant to California Health & Safety Code §34200, et seq. and §34500, et seq.
3. Defendants DOES 1 through 20 are sued as fictitious names, their names and capacities being unknown to plaintiff. When their true names and capacities are ascertained, plaintiff will amend this complaint.

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4. Whenever reference is made to an act performed by defendant Oakland Housing Authority, such allegations indicate defendant, its agents, managers, representatives, employees or DOES One through Twenty inclusive, who performed or authorized such acts while engaged in the operation, management, direction or control of the defendant's affairs, acting within the scope of their duties.

FACTUAL ALLEGATIONS

5. Plaintiff incorporates by reference Paragraphs 1 through 4 as though fully set forth herein.

6. Plaintiff is exempted from filing a claim against Defendants pursuant to California Government Code §905.

7. Defendant Oakland Housing Authority (hereinafter "OHA") owns, operates and/or is responsible for maintaining low income and government subsidized housing in Oakland, California. OHA owns, operates and/or is responsible for maintaining the following premises ("the Properties") within the geographical limits of the City of Oakland:

- 3330-72nd Avenue
- 3350-72nd Avenue
- 1449-73rd Avenue
- 1486-77th Avenue
- 2509-77th Avenue
- 4516 Fairfax Avenue
- 7107 Favor Street
- 7204 Holly Street
- 7209 Holly Street

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- 2 7000 Lacey Avenue
- 3 7510-20 Ney Avenue
- 4 7636 Ney Avenue
- 5 7908 Ney Avenue
- 6 7950 Ney Avenue
- 7 8021 Plymouth Street
- 8 6238 Seminary Avenue
- 9 6919 Arthur Street
- 10 2468 Coolidge Avenue
- 11 1815-28th Avenue
- 12 1857-38th Avenue
- 13 3014 E. 16th Street
- 14 2170 E. 28th Street
- 15 905 E. 24th Street
- 16 2309-98th Avenue
- 17 2315-98th Avenue
- 18 2317-98th Avenue
- 19 644-14th Street
- 20 873-32nd Street
- 21 2933 Martin Luther King Jr. Boulevard
- 22 630 Apgar Street
- 23 3217 West Street
- 24 3027 West Street
- 25 725-39th Street
- 26 59 Pearl Street

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- 2 2511-11th Avenue
- 3 610 E. 18th Street
- 4 1737 E. 15th Street
- 5 1919 E. 15th Street
- 6 2247 E. 19th Street
- 7 2272 E. 19th Street
- 8 2219 E. 22nd Street
- 9 1900 E. 24th Street
- 10 1951 E. 24th Street
- 11 2032 E. 26th Street
- 12 2155 E. 28th Street
- 13 1815 28th Avenue
- 14 2961 Georgia
- 15 2820-35th Avenue
- 16 2840-35th Avenue
- 17 4516 Fairfax Avenue
- 18 1756-82nd Avenue
- 19 2349-82nd Avenue
- 20 2323-82nd Avenue
- 21 7600 block of Bancroft
- 22 5944 Bromley
- 23 5945 Bromley
- 24 6121 Harmon Avenue
- 25 6229 Hayes Street
- 26 1459-65 Seminary Avenue

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- 1424-50th Avenue
- 1445-50th Avenue
- 1617-50th Avenue
- 5726-30 Elizabeth Street
- 2500-08-76th Avenue
- 5480 Wadean Place
- 5467 Wadean Place
- 5426 Wentworth Avenue
- 5428 Wentworth Avenue
- 7101 Krause Avenue
- 1168-78th Avenue
- 1240-77th Avenue

8. OHA is one of Oakland’s largest landlords with over 3300 apartments provided for low-income tenants. The Properties were built between 1938 and 1984 and are now at least thirty-five years old. Of the over 3300 apartment units under the control of OHA, 1615 of those are at 254 “scattered sites“ that do not have on-site managers and were built between 1968 and 1972.

9. OHA has failed to maintain the Properties free from blighted conditions and conditions detrimental to the health and safety of its low-income tenants. These conditions include, but are not limited to, housing code violations, lack of safe and habitable living spaces, and accumulation of garbage, dirt, debris, rodents, vermin and insects. OHA’s lack of effective on-site management, or any on-site management, has compounded its lack of maintenance.

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10. OHA has failed in its duty to track complaints from tenants and area residents regarding maintenance and crime problems at OHA properties such that blight and nuisance conditions persist and criminal activity continues unchecked and unabated.

11. OHA has failed to provide adequate security for the Properties such that criminal activity on the Properties is rampant and out of control. Plaintiff is informed and believes that the criminal activity is carried on by tenants of the Properties, their invitees and trespassers. Criminal activity on the properties includes, but is not limited to vandalism, burglary, drug use, drug sales, possession of drugs for sale, pimping, pandering and prostitution.

FIRST CAUSE OF ACTION
Against OHA, and DOES 1 through 20
MAINTENANCE OF A PUBLIC NUISANCE

12. Plaintiff incorporates by reference Paragraphs 1 through 11 as though fully set forth herein.

13. Plaintiff brings this action pursuant to California Code of Civil Procedure §731 to abate a public nuisance. This action is also brought under Oakland Municipal Code Chapter 15.08.

14. Defendant's maintenance of the Properties, or lack thereof, constitutes a continuing public nuisance. (CA. Civ. Code §§ 3479, 3480.) That is, defendant's failure to maintain and repair the Properties adversely affects not only the City of Oakland, but also the surrounding community. The continuous and unabated criminal activity (including but not limited to drug sales, drug possession, possession of drugs for sale, pimping, pandering and prostitution), housing code violations, lack of safe and habitable living spaces, accumulation of garbage, dirt, debris, rodents, vermin and insects is a blight on

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2 the City of Oakland and the residences surrounding the Properties and constitutes a public
3 nuisance. The condition of the Properties is injurious to health, offensive to the senses,
4 and unlawfully undermines, degrades and obstructs the free use of the Properties as well
5 as neighboring residences and streets.

6 15. Defendant's maintenance of the Properties in the condition described in this
7 complaint is a continuing public nuisance as described in Oakland Municipal Code
8 including but not limited to §§ 15.08.340B, C, and D and 15.08.170 and California Civil
9 Code §§ 3479 and 3480 and is a nuisance per se.

10 16. Defendant was notified of the blighted and nuisance condition of the
11 Properties numerous times by the City of Oakland and the residents of the Properties.
12 Despite this knowledge, defendant has failed to abate these hazardous and nuisance
13 conditions with the result being the public nuisance that continues and exists today.

14 17. Unless stopped by this Court, OHA will continue to maintain the Properties in
15 the above-described substandard and dangerous condition and continue to cause
16 irreparable injury to the public's health, safety and welfare.

17 18. Plaintiff has no adequate remedy at law.

18 19. Plaintiff is informed and believes that defendant will not correct these
19 violations or abate the nuisance within a reasonable period of time. If it becomes
20 necessary for plaintiffs to correct the violations or abate the nuisance, the City of Oakland
21 will incur substantial costs. As part of its prayer, plaintiffs request recovery of their costs to
22 correct said violations or abate the nuisance and establish a prior lien on the Properties for
23 the costs.

24 WHEREFORE, plaintiff prays for relief as hereinafter set forth.

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2 **SECOND CAUSE OF ACTION**
3 **Against OHA and DOES 1 through 20**
4 **INJUNCTIVE RELIEF**

5 20. Plaintiff incorporates by reference Paragraphs 1 through 19 as though fully
6 set forth herein.

7 21. OHA's wrongful conduct, unless and until enjoined by this court, has caused
8 and continues to cause irreparable harm and injury to plaintiff and the residents of the
9 Properties in Oakland, CA. The continuous and unabated criminal activity (including but
10 not limited to drug sales, drug possession and prostitution), housing code violations, lack
11 of safe and habitable living spaces, accumulation of garbage, dirt, debris, rodents, and
12 insects is a blight on the City of Oakland and the residences surrounding the Properties
13 and constitutes a public nuisance. OHA has refused and continues to refuse to remedy the
14 blighted and nuisance conditions at the Properties.

15 22. Plaintiff has no adequate remedy at law for the injuries suffered as a result of
16 the wrongful conduct of OHA and its failure to maintain the Properties, which have become
17 a public nuisance in Oakland, CA. This court must compel OHA to repair and maintain the
18 Properties in a safe and habitable condition, repair existing and future violations of the
19 Oakland Housing Code, hire and retain managers for all OHA sites, provide training to all
20 OHA managers on reporting and/or repairing damage to the Properties, fumigate pests,
21 vermin and rodents from the Properties such that they are abated and do not return and to
22 abate all other conditions that constitute a public nuisance at the Properties.
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25 WHEREFORE, plaintiff prays for relief as hereinafter set forth.

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PRAYER FOR RELIEF

WHEREFORE plaintiff prays for judgment as follows:

1. For a temporary restraining order, preliminary and permanent injunctions compelling OHA and its agents:
 - a. To replace or comprehensively repair the Properties such that the Properties meet applicable Oakland Housing Code standards and are safe and habitable for tenants;
 - b. To hire and retain managers at all OHA sites;
 - c. To provide training to on-site managers in reporting and/or repairing damage to the Properties;
 - d. To fumigate or otherwise abate pests, vermin and rodents from the Properties and maintain the properties free from infestation from pests, vermin and rodents;
 - e. To relocate tenants at the Properties while those properties are repaired with cost of the relocation to be borne exclusively by OHA
 - f. To abate all conditions that constitute a public nuisance at the properties;
 - g. To be permanently enjoined from maintaining a public nuisance on their Properties.
2. That the Properties be declared ongoing public nuisances;
3. That OHA abate its public nuisance and repair the Properties such that blight, nuisance and criminal activity that are detrimental to the public's health, safety and welfare ceases;

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- 4. That OHA reimburse the City of Oakland for any repairs or other remedial measures undertaken by the City of Oakland or its agents and contractors to eliminate the blighted conditions at OHA properties;
- 5. For the costs of suit herein;
- 6. For such other and further relief as the court deems just and proper.

Dated: February 15, 2007

JOHN A. RUSSO, City Attorney
RANDOLPH W. HALL, Chief Assistant City Attorney
JAMES F. HODGKINS, Supervising Trial Attorney

By: _____
Attorneys for Plaintiff
CITY OF OAKLAND