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Legal Aid, Lowenstein Sandler LLP File Federal Class Action Lawsuit to Require the City of Newark to Accept NYC Special One-Time Assistance (SOTA) Program From Homeless New Yorkers Seeking Housing

Litigation Also Names City of New York, Seeks to Establish NYC SOTA Apartment Inspection Guidelines

(NEW YORK, NY) – The Legal Aid Society and Lowenstein Sandler LLP filed a federal class action lawsuit in United States District Court for the District of New Jersey against the City of Newark on behalf of New Yorkers who moved or seek to move from a New York City homeless shelter to an apartment in Newark using rent subsidies funded by New York City’s Special One-Time Assistance (SOTA) program. Plaintiffs also sue the City of New York seeking, among other relief, to require the City to establish and adhere to minimum SOTA apartment inspection guidelines.

The City of Newark had sued to stop New York City from implementing the SOTA program in Newark, arguing that it violates the dormant Commerce Clause and creates a public nuisance. New York City, in turn, asserted now-dismissed counterclaims arguing that the Ordinance violates New Jersey’s Law Against Discrimination and the constitutional right to travel. The SOTA recipients who are directly affected are now parties to the lawsuit, and Legal Aid and

Lowenstein Sandler will work on their behalf to ensure that the SOTA program properly inspects housing in Newark and to stop enforcement of the Ordinance so that SOTA recipients who wish to move to Newark may do so.

Legal Aid and Lowenstein Sandler filed this litigation on behalf of two putative classes—past tenants and future tenants. The first group, including lead plaintiff Shakira Jones, who received SOTA grants in 2018 and 2019 and lived in unsafe, uninhabitable apartments in Newark, is comprised of “SOTA-participant tenants who moved into untenable living situations outside of New York due to defects in the SOTA apartment review process that the Ordinance purports to remedy.” The second group, including lead plaintiff Eugene Samuels, who is eligible for a SOTA grant and would move to Newark but for the Ordinance, is comprised of “SOTA-eligible tenants who wish to move to Newark but cannot because of conflicting terms in SOTA and the Ordinance.”

This lawsuit seeks the following relief:

1. Secure class certification;
2. Declare that Newark’s Ordinance and Amended Ordinance violates (1) NJLAD by unlawfully discriminating against individuals on the basis of their lawful income, and/or (2) the U.S. Constitution as it unlawfully infringes the right to travel;
3. Declare that NYC’s initial administration of SOTA in failing to appropriately confirm the quality of SOTA apartments (1) violated the Dormant Commerce Clause by excessively burdening interstate commerce, and (2) constituted a state-created danger in violation of the Due Process Clause by actively placing individuals into uninhabitable, dangerous living conditions;
4. Preliminarily and permanently enjoin Newark from any further actions aimed to prevent SOTA-eligible individuals from moving to Newark;
5. Preliminarily and permanently enjoin NYC from placing homeless New Yorkers in unsafe and uninhabitable housing pursuant to SOTA, and require NYC to establish and adhere to minimum SOTA apartment inspection guidelines; and
6. Grant any other and further relief that the Court may deem just and proper.

“The City of Newark’s ordinance, which deprives New Yorkers who seek to move to Newark for the benefits of the SOTA program, is patently illegal and immoral, and endangers the well-being of our clients who seek to secure, safe and affordable housing,” said **Josh Goldfein, Staff Attorney with the Homeless Rights Project at The Legal Aid Society**. “Other jurisdictions outside of New York City do not prohibit New Yorkers from using these vouchers, and we look forward to nullifying this ordinance in court as soon as possible.”

“In addition to removing unconstitutional barriers to travel and safe housing, we also seek to ensure that the City of New York will make improvements to the SOTA program which will increase protections for SOTA recipients when they take that first critical step back into the housing market,” said **Matthew M. Oliver, a partner at Lowenstein Sandler**.

SOTA BACKGROUND: New York City created the SOTA program in 2017 to assist people living in homeless shelters in obtaining more permanent housing; eligible participants can receive a one-time grant of up to one full year of rent, paid directly to the landlord, for use in cities across the United States. Newark alleges that New York City’s representatives failed to inspect prospective housing prior to approving SOTA grants, and, as a result, a number of SOTA recipients moved into illegal or uninhabitable apartments.

In response, Newark amended its Municipal Code to impose certain inspection and reporting requirements on any agency or person that provides rental subsidies to tenants seeking housing in Newark. Unfortunately, the ordinance also seeks to prevent any person from “knowingly bring[ing], or caus[ing] to be brought, a needy person to the City of Newark for the purpose of making him or her a public charge,” and to impose monetary penalties for violations.

Brought by the City of Newark, *City of Newark v. City of New York, et al.* seeks to stop New York City from implementing the SOTA program in Newark, arguing that it violates the dormant Commerce Clause and creates a public nuisance. New York City, in turn, asserted counterclaims arguing that the Ordinance violates New Jersey’s Law Against Discrimination and the constitutional right to travel. Those counterclaims were dismissed. The Legal Aid Society and Lowenstein Sandler LLP filed a motion to intervene in February 2020, which was denied without prejudice. The renewed motion was granted last week.

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