

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of

JOSHUA LARKINS and LISA LARKINS,
On behalf of themselves and all others similarly
situated

Petitioners,

For a Judgment Pursuant to Articles 78 and 3001
of the Civil Practice Law and Rules

-against –

NEW YORK CITY HOUSING AUTHORITY,
JAMIE RUBIN, in his official capacity as
Chair of the New York City Housing Authority,

Index No.

VERIFIED PETITION

-and-

DIEGO BEEKMAN MUTUAL HOUSING
ASSOCIATION HDFC,

Respondents.

PRELIMINARY STATEMENT

1. Petitioners Joshua and Lisa Larkins bring this case on behalf of themselves and all others similarly situated to correct Respondent NYCHA’s violation of State law, and its own policies, that have placed Petitioners, and potentially hundreds of other tenants with Section 8 vouchers, in danger of eviction. Since December 2022, Respondent NYCHA has misapplied Section 610 of the New York Private Housing Finance Law (PHFL § 610), which allows certain rent stabilized landlords to charge their Section 8 tenants the maximum amount payable through their Section 8 subsidy, even if that amount exceeds the maximum otherwise allowed under the Rent Stabilization Law.

2. As explained below, PHFL § 610 was enacted in order to allow landlords of some City- and State-regulated projects to receive increased income from federal and local subsidies without placing any additional financial burden on the tenants themselves. NYCHA has acknowledged this purpose in the interpretive guidance it recently promulgated along with HPD and other agencies. However, in the case of the Larkins family and potentially those of numerous other tenants, NYCHA allowed the landlord to charge illegally high rents that resulted in tenant rent shares far in excess of the 30 percent of income they had previously been paying. In the Larkins' case, their rent rose to an unaffordable 90 percent of their household income, subjecting them to the threat of eviction.

3. Despite the issuance of its new guidance in December 2024, NYCHA has refused to correct Petitioners' rent share, either retroactively or prospectively, until their landlord is persuaded to issue a revised lease with a reduced rent – something it has refused to do. Petitioners' landlord, Diego Beekman Mutual Houses, in turn, violated and continues to violate the Rent Stabilization Law (RSL) by increasing Petitioners' lease rent in an amount that far exceeds the amount permitted under PHFL § 610, and refusing to issue a corrected lease as required by the statute and NYCHA's guidance.

4. Petitioners seek an Order pursuant to Articles 78 and 3001 of the Civil Practice Law and Rules declaring that Respondent NYCHA's rent determinations for Petitioners and similarly situated tenants violates PHFL § 610, and directing NYCHA to retroactively readjust the rents of Petitioners and all class members to the percentage of income they were paying prior to the unlawful adjustments. Petitioners further seek a declaration that their landlord is violating the Rent Stabilization Law, and an injunction that it issue corrected leases that comply with the

RSL and PHFL § 610 to Petitioners and all similarly situated class members, and adjust the rent balances of Petitioners and other class members in accordance with law.

PARTIES

5. Petitioners Lisa and Joshua Larkins are mother and son respectively who reside at 370 Cypress Avenue, Apt. 3G, Bronx, New York 10454. They are recipients of a federal Section 8 Housing Choice Voucher (HCV) subsidy. Petitioner Joshua Larkins is deemed Head of Household on the voucher and is the tenant of record on the apartment lease.

6. Respondent NYCHA is a municipal housing authority of New York State organized under the New York State Public Housing Law Section 401. NYCHA is authorized to make rules and regulations consistent with its powers as a municipal authority. NYCHA is authorized under federal law to administer Section 8 rent subsidy vouchers in New York City.

7. Respondent Jamie Rubin is the chair of the NYCHA and is responsible for, inter alia, its compliance with the law.

8. Respondent Diego Beekman Mutual Housing Association HDFC (“Diego Beekman”) is the owner of 370 Cypress Avenue, Bronx, New York 10454 and Petitioners’ landlord. Diego Beekman has a registered address of 694 East 141st Street Bronx, NY 10454.

VENUE

9. Venue lies in New York County pursuant to CPLR § 506(b) and § 7804(b) because it is the county where the principal place of business of Respondents NYCHA and Jamie Rubin are located.

FACTUAL BACKGROUND

The Larkins Family

10. The Larkins family is a household of three who reside at 370 Cypress Avenue, Apartment 3G, Bronx, NY 10454. The household consists of Joshua Larkins, his mother, Lisa Larkins, and his adult sister, Daneesha Lambert. The apartment contains four bedrooms.

11. The Larkins' tenancy at 370 Cypress Avenue, Apartment 3G, commenced in 2001, when Petitioner Joshua Larkins moved into the family home as a child with his grandmother Elizabeth Larkins, his two siblings, including his sister Daneesha Lambert (who also currently still lives at the residence), and his cousin, all minor children at the time. They were a household of five in total.

12. Prior to 2010, the Diego Beekman buildings were a project-based U.S. Department of Housing and Urban Development (HUD) Section 8 complex, meaning that subsidies were issued directly to building management by HUD and not through tenant vouchers administered by a City or State agency. In or around 2008, all tenants' project-based subsidies, including the Larkins' subsidy, were converted to Section 8 vouchers administered by Respondent NYCHA, the workings of which are explained in more detail below. *See, Diego Beekman MHA HDFC v. McNeil*, 64 Misc.3d 1206(A) at 3 (Civ Ct, Bronx County 2019), quoting testimony of Diego Beekman management).

13. The household composition has changed many times over the years, with all of Elizabeth Larkins' grandchildren and later great-grandchildren living in the home at one time or another. Elizabeth Larkins died in 2012. Petitioner Lisa Larkins joined the household in or around 2016.

14. NYCHA deemed Joshua the Head of Household for the purposes of the Section 8 voucher in or around 2017 after his older brother vacated.

**The Federal Section 8 Housing Choice Voucher Program
as Administered by NYCHA**

15. The federal Section 8 HCV program (“Section 8”) enables low-income households to access housing they could otherwise not afford due to their limited and/or fixed incomes. The U.S. Department of Housing and Urban Development (HUD) manages the program, which is administered locally by public housing agencies (PHAs). 24 C.F.R. § 982.1. The program works as a rental subsidy that generally allows families to pay no more than thirty percent (30%) of their adjusted monthly income towards their rent. 24 C.F.R. § 982.501 *et seq.*

16. The subsidized portion of the rent under Section 8 is governed by Housing Assistance Payment (HAP) contracts between the PHA and landlords, in which the PHA agrees to pay the difference between the full contract rent for the apartment and the lesser fraction of the rent the voucher recipient pays based upon their limited income. 24 C.F.R. § 982.451.

17. Respondent NYCHA is a PHA in New York City. In its role as a PHA, NYCHA is empowered to issue Section 8 vouchers to tenants, enter into HAP contracts with landlords, and to determine “payment standards” or the maximum subsidy amount NYCHA will pay for an apartment within the local housing market under Section 8.

18. The “payment standard” is dependent on both the household and apartment size and is controlled by 24 CFR § 982.505 (c)(1) which states that “[t]he payment standard for the family is *the lower of*: (i) [t]he payment standard amount for the family unit size; or (ii) [t]he payment standard amount for the size of the dwelling unit rented by the family.” [Emphasis added.] For example, the Larkins home is a four-bedroom apartment. However, because

Petitioners' family currently consists of three persons, NYCHA has determined that they are only entitled to the NYCHA maximum rate for a two-bedroom apartment in New York City, which is currently \$2,762 per month (if no utilities are included in rent).

19. Generally, tenants who rent apartments at or below the applicable payment standard pay rent shares equal to 30 percent of adjusted household income. Tenants whose rents exceed the payment standard pay 30 percent of income *plus* the excess of their actual rent above the payment standard. *See*, 24 CFR § 982.501 *et seq.*

20. HUD regulations prohibit NYCHA from approving rents that are not “reasonable” in comparison to “comparable unassisted units,” even if those rents are within the applicable payment standard. 24 CFR § 982.507. HUD’s Section 8 Voucher Guidebook clarifies that “in regulated localities, rents are limited to the lesser of the PHA-determined reasonable rent or the rent controlled amount unless units leased under the voucher program are exempt from local rent control under the local rent control ordinance.” Section 8 Voucher Guidebook, Section 2.4.1, available at https://www.hud.gov/sites/dfiles/PIH/documents/HCV_Guidebook_Rent%20Reasonableness_updated_Sept%202020.pdf, last visited March 13, 2025. *See also*, NYCHA Leased Housing Directive LHD 09-7 (“If the regulated rent (‘registered rent’ for rent stabilization) for new applicant or transfer rentals is less than the GOSection8 reasonable rent, the regulated rent shall be the contract rent.”)

NYS Rent Stabilization Law Provisions Applicable to Petitioners’ Apartment

21. The rent stabilization laws are intended to alleviate the housing crisis that existed, and continues to exist, in New York City and other large cities within the state. The laws allow the local government to ascertain if there is a housing emergency in their location. For several

decades, the New York City Council has consistently and continuously determined that a housing crisis exists in New York City. NYC Administrative Code § 26-501 and 26-502.

22. The general purpose of both the Rent Stabilization Law and the Rent Stabilization Code is “to prevent the exaction of unjust, unreasonable and oppressive rents and rental agreements.” 9 NYCRR § 2520.3. The law establishes a “legal rent” for any apartment subject to its provisions. The “legal rent” must be registered with the NYS Division of Housing and Community Renewal (DHCR) and the landlord may not issue a lease in excess of, nor otherwise charge more than, the legal registered rent. 9 NYCRR §§ 2525.1; 2526.1.

23. The maximum legal regulated rent for the Larkins home is \$2,386.85 based upon a two-year lease term beginning June 1, 2024, according to the last rent-stabilized renewal lease offered to the Larkins family. See, Exhibit B – June 2024 Rent Stabilized Renewal Lease. Therefore, the legal rent for the Larkins apartment is below the NYCHA maximum payment rate for a two-bedroom apartment in New York City, which is currently \$2,762 per month. Because the legal rent for their four-bedroom apartment is below the two-bedroom payment standard applicable to the Larkins’ Section 8 voucher, the family rent share was set at an affordable 30 percent of their household income, which as of May 2024 was \$542 per month. See Exhibit A -- Section 8 Payment History.

Public Housing Finance Law Section 610

24. New York State enacted Private Housing Finance Law Section 610 (PHFL § 610) in December 2022. The law allows landlords subject to certain regulatory agreements to “charge and collect a rent . . . that (i) does not exceed the maximum payment standard or contract rent that the rental assistance program may provide for such housing accommodation, but (ii) does exceed the legal regulated rent for the housing accommodation.”

25. The justification for the law was, “to use rental assistance *to protect tenants*, create and *preserve affordable housing* . . . and ensure that buildings have the cash flow needed to operate.” [emphasis added]. Governor’s Bill Jacket at 5, *Introducer’s Memorandum in Support*, 2022 S.B. 7235, Ch. 685. See Exhibit D.

26. The law only applies to subsidized tenants whose buildings are subject to regulatory agreements with government agencies. PHFL § 610(1).

27. From its inception, the NYC Department of Housing Preservation and Development (HPD) interpreted the statute as allowing landlords to collect higher rents only if they would not result in any increase to the tenant. “The new law allows owners of affordable housing projects with tenant- or project-based rental assistance to collect the full rental subsidy amount, even if it is above the legal rent, *without affecting the amount the tenant has to pay.*”

HPD Webpage “Private Housing Finance Law Section 610.”

<https://www.nyc.gov/site/hpd/services-and-information/phfl-section-610.page>, last visited March 17, 2025. [emphasis added].

28. The Larkins’ building is subject to a regulatory agreement with the NYC Department of Housing Preservation and Development (HPD). HPD amended the regulatory agreement for the Diego Beekman properties in May 2023, allowing it to charge rents in excess of the legal rent-stabilized rent in accordance with PHFL § 610.

Respondent NYCHA’s Misinterpretation and Misapplication of PHFL § 610

29. The Larkins’ rent stabilized lease was set to expire on May 31, 2024. In February 2024, Petitioners received from Diego Beekman what looked like the typical rent stabilized renewal lease for the upcoming lease term beginning June 1, 2024, except this time, there was an additional notice indicating that “actual rents [could be] higher than legal and preferential rents.”

Although the lease indicated that the legal regulated rent was \$2,386.85 for the second year of a two-year lease term, beginning in paragraph 5, the lease indicated that instead, the actual rent to be charged would be \$3,789, regardless of whether they opted for one-year or two-year lease term. See Exhibit B -- 2024 Rent Stabilized Renewal Lease.

30. Upon information and belief, Respondent Diego Beekman based the rent in the June 2024 lease on NYCHA's four-bedroom payment standard, rather than Petitioners' two-bedroom voucher.

31. Diego Beekman submitted the fully executed lease to NYCHA with the \$3,789 rent.

32. Pursuant to 24 CFR § 982.505, a PHA may not pay more than the "payment standard" as the maximum subsidy amount allowed by law. The payment standard is defined as the lower of the payment standard for a family unit size or the dwelling unit size. Only one standard can be utilized, and it *must* be the lesser of the two options.

33. NYCHA should therefore have rejected that lease and directed Diego Beekman to reissue a new lease aligned with the maximum for a two-bedroom payment standard, but it did not. Instead, NYCHA accepted the lease. NYCHA then increased Petitioners' former, income-based rent of \$542 by \$1093 – the difference between the lease rent and the two-bedroom payment standard – resulting in a tenant share of \$1653, which exceeds 90 percent of Petitioners' income. See Exhibit C -- Explanation of Voucher Benefits, dated June 21, 2024.¹

¹ Respondent NYCHA has agreed to extend Petitioners' time to challenge the June 21 decision until May 20, 2025.

Respondent NYCHA's 2024 Guidelines

34. Despite HPD's interpretation and other indicia that PHFL § 610 was never intended to increase the tenant's share of the rent, landlords sought to charge rents above their tenants' payment standards that would result in unaffordable increases of tenant shares and, in time, eviction proceedings.

35. To correct this misinterpretation, in December 2024, five City and State agencies, including Respondent NYCHA, HPD, the NYC Department of Social Services, the NYC Housing Development Corporation, and NYS Division of Homes and Community Renewal (DHCR), issued guidelines to make it abundantly clear that PHFL § 610 does not and should not affect the subsidized tenant's share of the rent. *See,*

<https://www.nyc.gov/assets/hpd/downloads/pdfs/services/PHFL-section-610-consolidated-guidance-for-owners.pdf>. Also attached as Exhibit E.

36. The guidelines explicitly state that the tenant's share is not to be increased:

Section § 610 of the PHFL is intended to help the most financially troubled, regulated affordable housing developments in the respective housing agencies' portfolios by allowing rental subsidy programs to pay reasonable rents above the legal regulated rent, *without affecting the tenant's portion of the rent . . .*

Nothing under PHFL 610 permits the owner to request modification of contract rents that *increases the tenant's portion of rent.*

37. The guidelines also state that "for units with tenant-based subsidy, the rent amount requested cannot exceed the lesser of the payment standard for (i) the unit size payment standard or (ii) household size payment standard, pursuant to the subsidy agency's payment calculation and subject to the subsidy provider's rent reasonableness requirements."

38. Despite Respondent NYCHA's promulgation of the December 2024 Guidelines, it still has not corrected Petitioners' rent share or required Respondent Diego Beekman to issue a corrected lease for the period commencing June 1, 2024.

39. NYCHA has taken the position that it cannot act until the landlord, Diego Beekman, submits a new lease with corrections.

40. To date, Diego Beekman has refused to issue a new lease compliant with PHFL § 610 and the December 2024 guidelines retroactive to the date the current lease commenced.

41. Meanwhile, since January 2020, Respondent Diego Beekman has maintained a nonpayment eviction proceeding against Petitioners in Bronx County Housing Court, under Index No. LT-001450-20/BX. The proceeding was initially stayed due to COVID and then pending Petitioners' application for ERAP funds. Respondent Diego Beekman moved to restore the proceeding to the calendar in 2024, but due to the unlawful increase in Petitioners' rent share in June 2024, they cannot apply to the NYC Department of Social Services for a grant to pay their rental arrears because they can no longer demonstrate an ability to pay rent in the future. Although a motion to dismiss is pending in the eviction case, unless Petitioners' rent share is correctly adjusted to 30 percent of their income, Petitioners will be unable to pay their arrears and will ultimately be evicted.

CLASS ACTION ALLEGATIONS

42. Petitioners bring this action against Respondent NYCHA on behalf of a class of all households that receive NYCHA-administered Section 8 subsidies and whose rent shares increased as a result of NYCHA's approval of a renewal lease under PHFL § 610. (the "Class").

43. Petitioners bring the claims in this action against Respondent Diego Beekman on behalf of a Subclass of the Class that is comprised of all tenants of Diego Beekman with whom Diego Beekman executed a lease in excess of the maximum permissible rent, due to a mistaken interpretation of PHFL § 610 (the “Subclass”).

44. Article 9 of the New York Civil Practice Law and Rules (CPLR) authorizes certification of the Class and Subclass. The Class and Subclass satisfy the numerosity, commonality, typicality, adequacy and superiority requirement of CPLR § 901 for maintaining a class action.

45. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, there are potentially hundreds of recipients of NYCHA Section 8 voucher whose rental share increased far beyond 30 percent of household income due to a mistaken interpretation of PHFL § 610. As the municipal housing authority for New York City, NYCHA issues Section 8 vouchers to pay rent to landlords across New York City. Upon information and belief, NYCHA approved renewal leases and issued tenant share letters under a mistaken interpretation of PHFL § 610 for nearly two years, from May 2023 when PHFL § 610 took effect until December 2024 when the clarifying guidance was issued.

46. The Diego Beekman project alone consists of 1231 apartments in which over 900 families were issued Section 8 vouchers when the buildings converted from project-based assistance in 2003. *See, Diego Beekman MHA HDFC v. McNeil*, 64 Misc. 3d 1206(A) at 3 (Civ Ct, Bronx County 2019). Since rent stabilized leases must be renewed at least every two years, virtually all Diego Beekman tenants will have had renewal leases processed by Respondent NYCHA since the project’s regulatory agreement was amended in May 2023 to allow rent increases under PHFL § 610. Out of these hundreds of households, it is likely that many, like the

Larkins household, have lost family members over the years of their rent stabilized tenancies and therefore have Section 8 vouchers with payment standards lower than the maximum for their apartment size. All such households would have had their rents miscalculated under Respondent NYCHA's former practice. In addition, HPD and other agencies have modified rental agreements pertaining to dozens, if not hundreds of other buildings throughout the City to permit the collection of rent increases under Section 610. Any tenants in any of these buildings who pay their rents with NYCHA Section 8 vouchers were at risk of having their rents miscalculated in the same manner experienced by Petitioners.

47. There are questions of law and fact common to the Class and Subclass. The claims in this action are that Respondents have acted in violation of state and federal law by issuing rental share letters and executing leases that exceed the maximum permissible rent. The factual and legal determinations necessary to resolve that dispute are common to the Class and Subclass.

48. The claims made by Petitioners Lisa and Joshua Larkins are typical of the claims of the Class and Subclass. The Petitioners are recipients of a NYCHA Section 8 voucher, reside in an apartment owned by Diego Beekman, and, due to a mistaken interpretation of PHFL § 610, were issued a tenant share letter that exceeds 30 percent of household income and a lease that exceeds the maximum permissible rent.

49. Counsel for Petitioners is experienced in representing clients in class action litigation and therefore will be able to provide adequate representation to the Class and Subclass in this litigation.

50. A class action is superior to other available methods for a fair and efficient adjudication of this matter because the prosecution of separate actions by individual members of

the Class and Subclass would unduly burden the Court and create the possibility of conflicting decisions.

STATEMENT OF CLAIMS

FIRST CAUSE OF ACTION

51. Petitioners reallege each allegation of paragraphs 1-50, *supra*, as if fully set forth herein.

52. Respondent NYCHA's miscalculation of Petitioners' Section 8 rent share, and its ongoing failure to correct its error, violated its own policies and procedures, and is therefore arbitrary and capricious.

SECOND CAUSE OF ACTION

53. Petitioners reallege each allegation of paragraphs 1-50, *supra*, as if fully set forth herein.

54. Respondent NYCHA's miscalculation of Petitioners' Section 8 rent share, and its ongoing failure to correct its error, violates the provisions of Section § 610 of the Private Housing Finance Law, and is therefore arbitrary and capricious and in violation of law.

THIRD CAUSE OF ACTION

55. Petitioners reallege each allegation of paragraphs 1-50, *supra*, as if fully set forth herein.

56. Respondent NYCHA, as a pattern and practice, approved rent stabilized leases offered to Section 8 voucher tenants that allow the landlord to charge more in rent than the tenant's maximum payment standard permitted by 24 CFR § 982.505, and also required the

tenant to pay the difference between the tenant's maximum payment standard currently in effect and the higher payment standard that NYCHA improperly approved.

57. As a result, the tenants are charged a rent that they cannot afford or that will be extremely burdensome.

58. NYCHA's practice with respect to the class of Section 8 tenants who reside in buildings subject to Section 610 of the PHFL is arbitrary and capricious and in violation of law.

FOURTH CAUSE OF ACTION

59. Petitioners reallege each allegation of paragraphs 1-50, *supra*, as if fully set forth herein.

60. Petitioners are entitled to a declaration pursuant to Section 3001 of the CPLR that NYCHA's implementation of Private Financing Housing Law Section 610 is unlawful with respect to Petitioners and the class of Section 8 voucher holders who reside in buildings subject to PHFL § 610.

FIFTH CAUSE OF ACTION

61. Petitioners reallege each allegation of paragraphs 1-50, *supra*, as if fully set forth herein.

62. HUD regulations prohibit NYCHA from approving rents that are not "reasonable" in comparison to "comparable unassisted units." 24 CFR § 982.507. HUD's Section 8 Voucher Guidebook clarifies that "in regulated localities, rents are limited to the lesser of the PHA-determined reasonable rent or the rent controlled amount unless units leased under the voucher program are exempt from local rent control under the local rent control ordinance."

63. Respondent NYCHA's approval of Petitioners' June 2024 renewal lease at an unreasonable rent in excess of that allowed under PHFL 610 and the Rent Stabilization Law and its similar actions for other voucher holders residing in buildings subject to PHFL 610, violated federal law, for which a cause of action is created under 42 USC § 1983.

64. Petitioners and similarly situated voucher holders are entitled to declaratory and injunctive relief.

SIXTH CAUSE OF ACTION

65. Petitioners reallege each allegation of paragraphs 1-50, *supra*, as if fully set forth herein.

66. Respondent Diego Beekman's issuance of a renewal lease commencing July 1, 2024, with a rent of \$3789 and its demand for rent pursuant to that lease violated the provisions of PHFL 610, the Rent Stabilization Law and Code, and NYCHA's December 2024 Guidance.

67. Petitioners are entitled to declaratory judgment pursuant to CPLR 3001, as well as injunctive relief requiring Respondent Diego Beekman to issue corrected renewal leases to Petitioners and similarly situated members of the Subclass, and to adjust its records to remove all illegal charges from the accounts of Petitioners and all subclass members.

WHEREFORE, Petitioner request that this court grant an order:

(a) Reversing respondent NYCHA's June 21, 2024, determination improperly approving a Section 8 contract rent in excess of what the Private Housing Finance Law Section 610 allows, and unlawfully setting Petitioners' rent share at \$1635 per month;

(b) Declaring that NYCHA's interpretation and implementation of Private Financing Housing Law Section 610 was erroneous and unlawful;

(c) Certifying a class of all households that receive NYCHA-administered Section 8 subsidies and whose rent shares increased as a result of NYCHA's approval of a renewal lease under PHFL § 610, and a subclass of all class members who reside at the Diego Beekman houses;

(d) Enjoining NYCHA to correct all rent determinations for the proposed Class of Section 8 voucher holders whose rent was improperly determined in violation of PHFL § 610;

(e) Issuing a declaratory judgment and an injunction requiring Diego Beekman to issue a corrected leases to Petitioners and all Subclass members and to remove unlawful charges from the accounts of Petitioners and other Subclass members;

(f) Ordering Respondents to pay costs and reasonable attorneys' fees for this proceeding;

(g) Granting such other and further relief as may be just and proper.

Dated: Bronx, New York
April 2, 2025

Edward Josephson

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LISA LARKINS, being duly sworn, deposes and says that he is the petitioner; that he has read the foregoing petition and knows the contents thereof; that the same is true to his own knowledge except as to matters alleged on information and belief, and that as to these matters he believes them to be true.

Lisa M. Larkins
LISA LARKINS

[Signature]
4/2/2025



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JOSHUA LARKINS

4/2/2025

