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September 14, 2006

BY HAND

Honorable John Gleeson
United States District Court
Eastern District of New York
225 Cadman Plaza East, Room 456
Brooklyn, New York 11201

Re: Estevez et al v. Cosmopolitan, 05 Civ. 4318 (JG)(MJL)

Dear Judge Gleeson:

Plaintiffs write pursuant to this Court's rules to request a pre-motion conference prior to making a motion for summary judgment pursuant to FRCP 56. A Rule 56.1 statement is attached.

Plaintiffs are 18 low income families who have enhanced Section 8 vouchers and reside in buildings owned and operated by defendant Cosmopolitan Associates LLC (hereinafter "Cosmopolitan") Plaintiffs, low income families, face eviction and homelessness because Cosmopolitan, the owner of properties formerly subsidized by the United States Department of Housing & Urban Development ("HUD") through the Section 8 Moderate Rehabilitation program, claims that it is not obligated to accept their Section 8 enhanced vouchers. Without the rent subsidy provided through these vouchers, plaintiffs cannot afford their rent. On November 28, 2005, this Court issued a preliminary injunction enjoining the defendant from refusing to renew plaintiffs' leases and ordering the defendant to accept plaintiffs enhanced vouchers as partial payment of plaintiffs' monthly rent payments. Estevez v. Cosmopolitan Assocs. LLC, Slip Copy, 2005 WL 3164146, at *10 (E.D.N.Y. Nov. 28, 2005)

There is no genuine issue as to any material fact. In granting plaintiffs' motion for a preliminary injunction, this court stated that 42 U.S.C. 1437f(t) "provides clear statutory authority for obligating landlords to accept plaintiff's vouchers." Estevez v. Cosmopolitan Assocs. LLC, Slip Copy, 2005 WL 3164146, at *4 (E.D.N.Y. Nov. 28, 2005). Based on the court's decision, plaintiffs seek permission to move for summary judgment on their claims.

Respectfully submitted,

s/

Judith Goldiner

Oda Friedheim

Attorneys for the Plaintiffs

cc: Niles Welikson, attorney for the Defendant, via telefax

this document has been electronically filed.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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05 Civ. 4318 (JG)(MJL)

DIANA ESTEVEZ, ARCELIANO GONZALEZ,
GERMANIA GONZALEZ, ALBANIA NUNEZ,
ANA REYES, MARIA PAULINO, MARIA
TORRES, MARIA MORONTA, NANCY GARCIA,
ZOILA PINZON, EMMA ROMAN,
BERNARDINA INIRIO, MARY ALBERICCI,
GILMA BERMUDEZ, EVELYN TAVARES,
GUADALUPE GODINEZ, GLADYS ABREU
and RAMONA CALDERON,

Plaintiffs,

-against-

COSMOPOLITAN ASSOCIATES LLC

Defendant

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PLAINTIFFS’ LOCAL RULE 56.1 STATEMENT

Pursuant to Local Rule 56.1 of the Civil Rules of the United States District Court for the Eastern District of New York, the Plaintiffs state that there are no genuine issues of material fact with respect to the following matters.

I. BACKGROUND

1. Plaintiffs are low income tenants who reside in various apartments in buildings located at 48th and 49th Street (“Cosmopolitan Houses”), and owned by defendant Cosmopolitan Associates, LLC (“Cosmopolitan”) as part of its large rental complex. Plaintiffs are long-term tenants and many have lived at the premises for over two decades. They receive Section 8 rental subsidies and rely on these subsidies to pay a substantial portion of their rent which they otherwise could not afford on their low wages or fixed incomes.

2. In the mid-80's, these buildings were rehabilitated with federal and private funds through a program administered by the Department of Housing Preservation and Development of the City of New York ("HPD"). In order to prevent the displacement of low income tenants as a result of rent increases authorized by the program, HPD provided these buildings with project based rental subsidies for apartments occupied by low income and therefore eligible tenants. The subsidies were provided by HUD under its Moderate Section 8 program but were administered by HPD.

See Complaint ¶¶ 23, 30.

3. At the completion of the buildings' rehabilitation in the mid-80's, Cosmopolitan entered into a project-based subsidy contract with HPD. Under this contract, known as Housing Assistance Payments ("HAP") contract, plaintiffs' rents were subsidized. See Complaint ¶ 31.

4. In 2002, each of the plaintiffs, along with numerous other tenants of the subject buildings, received a letter from an attorney stating that Cosmopolitan had determined that it would not renew the "Section 8 Housing Assistance Payments Moderate Rehabilitation Program presently existing as it regards your apartment and it is the intention of Cosmopolitan Associates LLC to terminate the Contract." The termination was to be effective in 2003. See Complaint ¶ 32.

5. Upon defendant's opt-out of the project-based Section 8 contract, HPD, in accordance with federal laws and regulations, provided plaintiffs with "enhanced" vouchers, [42 U.S.C. §1437f(t)] and defendant entered into new individual HAP contracts and issued plaintiffs leases under the Housing Choice Voucher Program which run concurrent with plaintiffs' rent stabilized leases. See Complaint ¶ 33.

6. In 2005, Steven Seltzer in his capacity as General Manager of defendant corporation, sent letters to plaintiffs, informing them that Cosmopolitan had elected to not offer a new lease under the Housing Choice Voucher Program and that plaintiffs would be responsible for the entire

contract rent should they renew their rent stabilized lease. See Complaint ¶ 34.

7. Many of the plaintiffs are elderly and survive on a fixed income, and those that still raise families either receive public assistance or earn barely above the minimum wage. As a result, plaintiffs are at risk of being evicted. Indeed, where plaintiffs' Section 8 lease has already expired, as in the case of plaintiffs Maria Torres, Emma Roman, Mary Albericci, Gilma Bermudez, Evelyn Tavares, Gladys Abreu, Guadalupe Godinez and Ramona Calderon, defendant instituted eviction proceedings demanding the full contract rent even though HPD continued to tender payments to defendant on behalf of plaintiffs. See Complaint ¶ 36.

8. Unless defendant renews their Section 8 lease and accepts their subsidy, plaintiffs risk losing their home of many years and may face homelessness. Most of the plaintiffs have lived in their apartment for well over a decade and have established strong ties to their communities. Being displaced by defendant's action would completely disrupt their lives and endanger the welfare especially of the elderly plaintiffs. See Complaint ¶ 38.

II. THE PARTIES

A. Plaintiffs

1. DIANA ESTEVEZ

9. Diana Estevez resides at 45-18 48th Street, in Apartment 3C. She moved to the apartment in 1969, where she has raised her family. As stated above, her building underwent a major renovation in the mid 1980's. After the renovation HUD provided her building with rental subsidies under the Section 8 Moderate Rehabilitation program, and entered into a contract with HPD, the agency that administered the HUD program. From that time forward her rent was

partially paid by HUD. Ms. Estevez paid the balance, representing about 30% of her income. See Estevez Decl. ¶ 3.

10. In 2002, Ms. Estevez received a letter from Cosmopolitan's attorney. The letter set forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Estevez Decl. ¶ 4 and Exhibit A, annexed thereto.

11. As a result, HPD in 2003 converted Ms. Estevez's project-based subsidy to a tenant-based subsidy, also known as "enhanced voucher," and continued to subsidize a portion of her rent. Until 2005, Cosmopolitan accepted her enhanced voucher. See Estevez Decl. ¶ 5.

12. In May of 2005, Ms. Estevez received a renewal of her rent stabilized lease as required by law. See 9 NYCRR §2522.5(b). She signed the renewal on June 1, 2005, and elected to renew the same for a two year term. The renewal lease increased her rent to \$798.11, effective October 1, 2005. See Estevez Decl. ¶ 6 and Exhibit B, annexed thereto.

13. Ms. Estevez signed the renewal lease with the expectation that Cosmopolitan would continue to accept her Section 8 subsidy, and that she would be responsible solely for her share of the rent. See Estevez Decl. ¶ 6.

14. After signing the renewal lease, Ms. Estevez received a letter from Cosmopolitan stating that it was opting out of the Section 8 Program and would no longer accept the subsidy. Further, that upon signing the renewal lease she would be assuming responsibility for the entire rent. See Estevez Decl. ¶ 7 and Exhibit C, annexed thereto.

15. Ms. Estevez is a long term resident, having occupied her apartment for 36 years. She has no other resources upon which to rely on and without the subsidy cannot afford to pay her rent. Based on her circumstances, if Ms. Estevez lost her subsidy it would mean certain eviction from

her home and the likelihood of homelessness. See Estevez Decl. ¶ 10.

2. ARCELIANO GONZALEZ

16. Arceliano Gonzalez, resides at 45-15 48th Street, Apartment 2C with his son and daughter. Mr. Gonzalez moved to the apartment in approximately 1984 where he raised his children. As stated above, his building underwent a major renovation in the mid 1980's. After the renovation HUD provided his building with rental subsidies under the Section 8 Moderate Rehabilitation program, and entered into a contract with HPD, the agency that administered the HUD program. From that time forward his rent was partially paid by HUD. Mr. Gonzalez paid the balance, representing about 30% of his income. See Gonzalez Decl. ¶ 3.

17. In 2002, Mr. Gonzalez received a letter from Cosmopolitan's attorney. The letter set forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective 2003. See Gonzalez Decl. ¶ 4.

18. As a result, HPD in 2003 converted Mr. Gonzalez's project-based subsidy to a tenant-based subsidy, also known as "enhanced voucher," and continued to subsidize a portion of his rent. Cosmopolitan accepted the enhanced voucher until 2005. See Gonzalez Decl. ¶ 5.

19. In May of 2005, Cosmopolitan sent Mr. Gonzalez a renewal of his rent stabilized lease as required by law. See, 9 NYCRR §2522.5(b). He signed the lease on June 1, 2005 for a two-year term at a contract rent of \$788.82, effective October 1, 2005. See Gonzalez Decl. ¶ 6 and Exhibit A, annexed thereto.

20. Mr. Gonzalez signed the renewal lease with the expectation that Cosmopolitan would continue to accept his Section 8 subsidy, and that he would be responsible solely for his share of the rent. See Gonzalez Decl. ¶ 6.

21. After signing the renewal lease, Mr. Gonzalez received a letter from Cosmopolitan, dated June 1, 2005, stating that it was opting out of the Section 8 Program and would no longer accept his subsidy. Further that if Mr. Gonzalez signed the renewal he would be assuming responsibility for entire rent. See Gonzalez Decl. ¶ 7 and Exhibit C annexed thereto.

22. Mr. Gonzalez was shocked and frightened by the letter because he knew he could not afford the rent on the limited income of his household. Mr. Gonzalez is a long term resident, having lived in his apartment for more than 20 years. He has no other income or resources to draw from and faces homelessness if his subsidy is lost. See Gonzalez Decl. ¶ 8.

3. GERMANIA GONZALEZ

23. Germania Gonzalez, resides at 47-15 48th Street, Apartment 2H with her daughter, Jancy Ventura. Ms. Gonzalez moved to the apartment in the mid 1970's. As stated above, her building underwent a major renovation in the mid 1980's. After the renovation HUD provided her building with rental subsidies under the Section 8 Moderate Rehabilitation program, and entered into a contract with HPD, the agency that administered the HUD program. From that time forward her rent was partially paid by HUD. Ms. Gonzalez paid the balance, representing about 30% of her income. See Ventura Decl. ¶ 3.

24. In 2003 Ms. Gonzalez learned that HPD was issuing new vouchers that would continue to subsidize her rent. See Ventura Decl. ¶ 4.

25. In February 2005, Ms. Gonzalez received a rent stabilized renewal lease as required by law. See 9 NYCRR §2522.5. She signed the renewal lease on April 17, 2005, and elected to renew the same for a one year term. The renewal increased her rent to \$753.49, effective July 1, 2005. See Ventura Decl. ¶ 5 and Exhibit A, annexed thereto.

26. Ms. Gonzalez signed the renewal lease with the expectation that Cosmopolitan would continue to accept her Section 8 subsidy, and that she would be responsible solely for her share.

See Ventura Decl. ¶ 5.

27. Subsequent to making the renewal offer, Cosmopolitan sent a letter to Ms. Gonzalez, stating that it was opting out of the Section 8 Program and would no longer accept the subsidy.

The letter went on state that if Ms. Gonzalez signed the renewal lease she would assume full responsibility for the rent. See Exhibit B, annexed to the Ventura Decl.

28. Ms. Gonzalez was very upset by the letter because she knew she would not be able to afford the rent due to her household's limited income. See Ventura Decl. ¶ 6.

29. Ms. Gonzalez is a long term resident, having occupied her apartment for more than 30 years. She has no other income or resources to draw from and faces homelessness if her subsidy is lost. See Ventura Decl. ¶¶ 8 and 9.

4. ALBANIA NUNEZ

30. Albania Nunez resides at 45-15 48th Street, in Apartment 5H. She moved to the apartment in 1981 where she raised her children. See Nunez Decl. ¶ 2.

31. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Nunez Decl. ¶ 3.

32. In 2002, Ms. Nunez received a letter from Cosmopolitan's attorney. The letter set forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective 2003. See Nunez Decl. ¶ 4.

33. As a result, HPD in 2003 converted Ms. Nunez's project-based subsidy to a tenant-based subsidy, also known as an "enhanced voucher," and continued to subsidize a portion of her rent. Cosmopolitan initially accepted the enhanced voucher. See Nunez Decl. ¶ 5.

34. In May 2005, Ms. Nunez received a rent stabilized renewal lease as required by law. See, 9 NYCRR §2522.5(b). She signed the renewal lease on May 27, 2005, and elected to renew the same for a two year term. The renewal increased her rent to \$905.58. See Nunez Decl. ¶ 6.

35. Ms. Nunez signed the renewal lease with the expectation that Cosmopolitan would continue to accept her subsidy. A few weeks after signing the lease, Ms. Nunez received a letter from Cosmopolitan, stating that it was opting out of the Section 8 Program and would no longer accept her Section 8 subsidy. The letter went on state that if she signed the renewal lease she would assume responsibility for entire the rent. See Nunez Decl. ¶ 7 and Exhibit A, annexed thereto.

36. Ms. Nunez was very worried by the letter because she knew she could not afford the rent with the low wages she earned as a housekeeper. Like all the named plaintiffs, Ms. Nunez is a long term resident who has lived in her apartment for more than 20 years. Ms. Nunez raised all three of her children in this apartment and has strong ties to the community. For instance, her church is just blocks from her apartment and her children are all enrolled in nearby schools. See Nunez Decl. ¶ 8.

37. Based on Ms. Nunez's limited resources and without the Section 8 subsidy she and her family would likely become homeless.

5. ANA REYES

38. Ana Reyes resides at 45-15 48th Street, Apartment 5A with her two adult sons. She

moved to the apartment in 1978 where she has raised her family. See Reyes Decl. ¶ 2.

39. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Reyes Decl. ¶ 3.

40. In 2002, Ms. Reyes received a letter from Cosmopolitan's attorney. The letter set forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective 2003. See Reyes Decl. ¶ 4 and Exhibit A, annexed thereto.

41. As a result, HPD in 2003 converted Ms. Reyes' project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan initially accepted the enhanced voucher. See Reyes Decl. ¶ 5.

42. In May of 2005, Ms. Reyes received a rent stabilized renewal of her rent stabilized lease as required by law. See, 9 NYCRR §2522.5(b). Ms. Reyes signed the renewal lease and elected to renew her term for two years, at a monthly contract rent of \$927.62. Ms. Reyes signed the renewal lease with the expectation that Cosmopolitan would continue to accept her Section 8 subsidy, and that she would continue paying solely her share. See Reyes Decl. ¶ 6 and Exhibit B, annexed thereto.

43. A few weeks later, Ms. Reyes received a letter from Cosmopolitan stating that it was opting out of the Section 8 Program and would no longer accept the subsidy. The letter went on state that if she signed the renewal lease she would assume responsibility for the entire rent. See Reyes Decl. ¶ 7 and Exhibit C, annexed thereto.

44. Ms. Reyes was shocked and frightened by the letter because she knew she could not

afford the rent with her limited income as a home health-aide and her son's part-time wages.

Ms. Reyes is a long term resident, having occupied her apartment for about 27 years. She is an active member of her community and a volunteer at her church. She also knows all of her neighbors, many of whom she considers good friends. Ms. Nunez has no other income or resources to rely on and with out the subsidy cannot afford to pay her rent. See Reyes Decl. ¶ 8.

6. MARIA PAULINO

45. Maria Paulino resides at 45-15 48th Street, in Apartment 5D. She moved to the apartment in or about 2001. See Paulino Decl. ¶ 2.

46. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Paulino Decl. ¶ 3.

47. In 2002, Ms. Paulino received a letter from Cosmopolitan's attorney. The letter sets forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Paulino Decl. ¶ 4 and Exhibit A, annexed thereto.

48. In response to Cosmopolitan's opt-out, HPD in 2003 converted Ms. Paulino's project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan accepted her enhanced voucher until 2005. See Paulino Decl. ¶ 5.

49. In May of 2005, Ms. Paulino received a rent stabilized renewal of her lease as required by law. See, 9 NYCRR §2522.5(b). She signed the renewal lease and elected to renew the same for a two year term at a monthly contract rent of \$692.65. Ms. Paulino signed the renewal lease with

the expectation that Cosmopolitan would continue to accept her Section 8 subsidy and that she would continue to pay solely her share of the rent. See Paulino Decl. ¶ 6 and Exhibit B, annexed thereto.

50. In June of 2005, Ms. Paulino received a letter from Cosmopolitan stating that it was opting out of the Section 8 Program and would no longer accept the subsidy. The letter went on state that if she signed the renewal lease she would assume responsibility for the entire rent. See Paulino Decl. ¶ 7 and Exhibit C, annexed thereto.

51. Ms. Paulino was very frightened by the 2005 letter because she knew she could not afford the rent with her fixed income. Ms. Paulino is a 68 year old senior citizen whose sole income is derived from social security retirement benefits plus food stamps. Like most of the named plaintiffs, Ms. Paulino subsists on a fixed and without the subsidy simply cannot afford to pay her rent. See Paulino Decl. ¶¶ 8 and 9.

7. **MARIA TORRES**

52. Maria Torres resides at 47-25 48th Street, in Apartment 5E. She moved to the apartment in or about 1993. See Torres Decl. ¶ 2.

53. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Torres Decl. ¶ 3.

54. In 2002, Ms. Torres received a letter from Cosmopolitan's attorney. The letter sets forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Torres Decl. ¶ 4.

55. In response to Cosmopolitan's opt-out, HPD in 2003 converted Ms. Torres' project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan accepted her enhanced voucher until 2005. See Torres Decl. ¶ 5.

56. In February of 2005, Ms. Torres received a renewal of her rent stabilized lease as required by law. See, 9 NYCRR §2522.5(b). Ms. Torres signed the renewal on February 25, 2005, and elected to renew the same for a two year term at a monthly contract rent of \$680.07. Ms. Torres signed the renewal lease with the expectation that Cosmopolitan would continue to accept her Section 8 subsidy, and that she would continue to pay solely her share of the rent. See Torres Decl. ¶ 6.

57. On March 22, 2005, after having received Cosmopolitan's renewal offer, Ms. Torres received a letter from Cosmopolitan stating that it was opting out of the Section 8 Program and would no longer accept the subsidy. The letter went on state that if she signed the renewal lease she would assume responsibility for the entire rent. See Torres Decl. ¶ 7 and Exhibit B, annexed thereto.

58. On July 1, 2005, Cosmopolitan began billing Ms. Torres for the full rent. Unable to pay the full contract rent of \$680.07 on her fixed SSI income, she continued paying only her portion of the rent. Cosmopolitan then instituted a non-payment proceeding in Queens Civil Court to evict Ms. Torres. See Torres Decl. ¶ 9. The Rent Demand and Notice of Petition and Petition, are annexed thereto as Exhibits C and D.

59. Ms. Torres is a disabled senior citizen who lives on a fixed income. She has no other monetary resources and with out the subsidy cannot afford to pay her rent. Despite her physical

limitations Ms. Torres tried searching for other apartments but found the rents far above her means. The consequence of losing her subsidy would mean eventual eviction and inevitable homelessness. See Torres Decl. ¶ 11.

8. MARIA MORONTA

60. Maria Moronta resides at 45-25 48th Street, in Apartment 5B. She moved to the apartment in or about 1998 and resides with her two children. See Moronta Decl. ¶ 2.

61. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income, with the balance being subsidized. See Moronta Decl. ¶ 3.

62. In 2002, Ms. Moronta received a letter from Cosmopolitan's attorney. The letter sets forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Moronta Decl. ¶ 4 and Exhibit A annexed thereto.

63. As a result, HPD in 2003 converted Ms. Moronta's project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan accepted her enhanced voucher until 2005. See Moronta Decl. ¶ 5.

64. In May of 2005, Ms. Moronta received a renewal of her rent stabilized lease as required by law. See, 9 NYCRR §2522.5(b). A few weeks later she received a letter from Cosmopolitan stating that it was opting out of the Section 8 Program and would no longer accept the subsidy. The letter went on state that if she signed the renewal lease she would assume responsibility for the entire rent. See Moronta Decl. ¶ 7.

65. Ms. Moronta was frightened by this letter and went to Cosmopolitan's office to discuss

the matter. When the statements in the letter were confirmed by one of Cosmopolitan's employees Ms. Moronta decided not to sign the lease and contacted our office. After discussing her case with her attorneys Ms. Moronta signed the renewal lease and continued paying her share of the rent. See Moronta Decl. ¶¶ 7 and 8, and Exhibit C annexed thereto.

66. Ms. Moronta fears being evicted. She is a single mother of two living on low wages. She has no other income or resources and without the subsidy cannot afford the rent. The consequence of losing the subsidy would mean certain eviction from her home and likely homelessness for her family. See Moronta Decl. ¶ 9.

9. NANCY GARCIA

67. Nancy Garcia, resides 45-35 48th Street, Apartment 4F with her daughter and grandson. She moved to the apartment in approximately 1990 where she has raised her family. See Garcia Decl. ¶ 2.

68. Until 2003, Ms. Garcia's rent was partially paid by HUD under the Section 8 Moderate Rehabilitation program, administered by HPD. In 2002, Ms. Garcia received a letter from Cosmopolitan's attorney. The letter set forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Garcia Decl. ¶ 3.

69. As a result, HPD in 2003 converted Ms. Garcia's project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan accepted her enhanced voucher. See Garcia Decl. ¶ 4.

70. In May of 2005, Ms. Garcia received a renewal of her rent stabilized renewal lease as required by law. See, 9 NYCRR §2522.5(b). She signed the lease and elected to renew the same for a two-year term at a monthly contract rent of \$772.45, effective October 1, 2005. Ms. Garcia

signed the lease with the understanding that Cosmopolitan would continue to accept her subsidy and that she would be responsible solely for her portion of the rent. See Garcia Decl. ¶ 5.

71. A few weeks after receiving Cosmopolitan's renewal offer, Ms. Garcia received a letter from Cosmopolitan, dated June 1, 2005, informing her that it had elected not to offer her a renewal lease under the Housing Choice Voucher Program and that she would be responsible for the entire rent if she signed the renewal lease, effective October 1, 2005. See Garcia Decl. ¶ 6 and Exhibit B, annexed thereto.

72. Ms. Garcia was shocked and extremely upset by this letter because without the subsidy she could not afford the rent. Ms. Garcia's income consists of \$602.00 in monthly disability benefits. Her daughter receives \$50 per week in child support for her son, Ms. Garcia's grandson. See Garcia Decl. ¶¶ 7 and 8.

73. Ms. Garcia's fear that defendant will refuse her voucher has caused her great anxiety and stress. See Garcia Decl. ¶ 9.

10. ZOILA PINZON

74. Zoila Pinzon resides at 45-35 48th Street, Apartment 3B. She moved to the apartment in 1977. See Pinzon Decl. ¶ 2.

75. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Pinzon Decl. ¶ 3.

76. In 2002, Ms. Pinzon received a letter from Cosmopolitan's attorney. The letter sets forth

Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Pinzon Decl. ¶ 4 and Exhibit A, annexed thereto.

77. In response to Cosmopolitan's opt-out, HPD in 2003 converted Ms. Pinzon's project-based subsidy to a tenant-based subsidy, also known as an "enhanced" voucher, and continued to subsidize a portion of her rent. Cosmopolitan accepted her enhanced voucher until 2005. See Pinzon Decl. ¶ 5.

78. In May of 2005, Ms. Pinzon received a renewal of her rent stabilized as required by law. See, 9 NYCRR §2522.5(b). She signed the lease on June 9, 2005 and elected to renew the same for a two-year term at a contract rent of \$803.20, effective October 1, 2005. Ms. Pinzon signed the lease with the understanding that Cosmopolitan would continue to accept her subsidy and that she would continue paying solely her portion of the rent. See Pinzon Decl. ¶ 6 and Exhibit B, annexed thereto.

79. A few weeks after receiving Cosmopolitan's lease renewal offer, Ms. Pinzon received a letter from Cosmopolitan, dated June 1, 2005, stating that it would not be offering her a new lease under the Housing Choice Voucher Program and that she would be responsible for the entire rent if she signed the renewal lease, effective October 1, 2005. See Pinzon Decl. ¶ 7 and Exhibit C, annexed thereto.

80. Ms. Pinzon was very frightened by the letter because without the subsidy she could not afford the rent. Ms. Pinzon is a 65 year old senior citizen. Her income consists of a small pension and social security benefits and collectively are almost the same amount as her rent. See Pinzon Decl. ¶¶ 8 and 9.

11. EMMA ROMAN

81. Emma Roman resides at 45-55 48th Street, Apartment 2H with her son, daughter and grandson. She moved to the apartment in 1975 where she has raised her family. See Roman Decl. ¶ 2.

82. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Roman Decl. ¶ 3.

83. In 2002, Ms. Roman received a letter from Cosmopolitan's attorney. The letter set forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Roman Decl. ¶ 4.

84. As a result, HPD in 2003 converted Ms. Roman's project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan accepted her enhanced voucher until 2005. See Roman Decl. ¶ 5.

85. In November of 2004, Ms. Roman received a renewal of her rent stabilized renewal lease as required by law. See, 9 NYCRR §2522.5(b). She signed the lease on November 29, 2004, and elected to renew the same for a two-year term at a monthly contract rent of \$895.78, effective April 1, 2005. Ms. Roman signed the lease on November 29, 2004, with the understanding that Cosmopolitan would continue to accept her subsidy and that she would continue to pay solely her portion of the rent. See Roman Decl. ¶ and Exhibit A, annexed thereto.

86. A few weeks after signing the lease, Ms. Roman received a letter from Cosmopolitan dated December 7, 2005. The letter stated that Cosmopolitan would be offering her new lease under the Housing Choice Voucher Program and that she would be responsible for the entire rent

upon signing the renewal lease. See Roman Decl. ¶ 7 and Exhibit B, annexed thereto.

87. On April 1, 2005, Cosmopolitan began billing Ms. Roman for the entire rent. When Ms. Roman, whose income consists of disability benefits and food stamps, did not pay the full rent Cosmopolitan sued to evict her for non-payment of rent. See Roman Decl. ¶ 8.

88. Ms. Roman was so frightened of losing her home of over 27 years, and becoming homeless that she borrowed money from her family and paid the entire rent due at that time. Initially, she tried to pay the entire rent, not knowing that HPD was still sending subsidy payments to Cosmopolitan. However, in August 2005, she resumed paying only her share because she could simply not afford the contract rent on her fixed income. See Roman Decl. ¶ 9.

12. BERNADINA INIRIO

89. Bernadina Inirio resides at 47-05 48th Street, Apartment 1H. She moved to the apartment in 1979 and raised her family there. See Inirio Decl. ¶ 2.

90. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Inirio Decl. ¶ 3.

91. In 2002, Ms. Inirio received a letter from Cosmopolitan's attorney. The letter sets forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Inirio Decl. ¶ 4.

92. As a result, HPD in 2003 converted Ms. Inirio's project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan initially accepted the enhanced voucher. See Inirio Decl. ¶ 5.

93. In February of 2005, Ms. Inirio received a renewal of her rent stabilized as required by law. See, 9 NYCRR §2522.5(b). She signed the lease and elected to renew the same for a two-year term at a monthly contract rent of \$897.16, starting July 1, 2005. Ms. Inirio signed the lease with the understanding that Cosmopolitan would continue to accept her subsidy and that she would be responsible solely for her share of the rent. See Inirio Decl. ¶ 6 and Exhibit A, annexed thereto.

94. The following month, Ms. Inirio received a letter from Cosmopolitan, dated March 22, 2005, stating that Cosmopolitan will not be renewing Ms. Inirio's lease under the Housing Choice Voucher Program and that she will become liable for the full rent should she sign the renewal lease. See Inirio Decl. ¶ 7 and Exhibit C, annexed thereto.

95. On July 1, 2005, Cosmopolitan began billing Ms. Inirio for the entire rent. Ms. Inirio continued paying solely her share of \$128.00 because she could not afford the entire contract rent of almost \$900 on her limited income of SSI benefits of \$677.00. See Inirio Decl. ¶¶ 8 and 10.

96. Cosmopolitan then sued to evict Ms. Inirio for non-payment of rent. See Inirio Decl. 8. A copy of the Rent Demand and Petition and Notice of Petition is annexed as Exhibit D thereto.

97. Ms. Inirio is afraid she will lose her home of 27 years where she raised her family, knows most of her neighbors, many of whom are like family to her. Displacement from her home would be devastating for her. See Inirio Decl. ¶ 11.

13. MARY ALBERICCI

98. Mary Albericci resides at 47-15 48th Street, Apartment 4H with her son, a college student. She moved to the apartment in approximately 1976 and raised her family there. See

Albericci Decl. ¶ 2.

99. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Albericci Decl. ¶ 3.

100. In 2002, Ms. Albericci received a letter from Cosmopolitan's attorney, stating that Cosmopolitan decided to opt out of its project-based contract with HPD, effective in 2003. See Albericci Decl. ¶ 4.

101. As a result, HPD in 2003 converted Ms. Albericci's project-based subsidy to a tenant-based subsidy, also known as "enhanced" voucher, and continued to subsidize a portion of her rent. Cosmopolitan accepted her enhanced voucher until 2005. See Albericci Decl. ¶ 5.

102. In February of 2005, Ms. Albericci received a renewal of her rent stabilized renewal lease as required by law. See, 9 NYCRR §2522.5(b). She signed the lease, electing to renew the same for a one- year term at a monthly contract rent of \$735.18, effective July 1, 2005. Ms. Albericci signed the lease with the understanding that Cosmopolitan would continue to accept her subsidy and that she would be responsible solely for her portion of the rent. See Albericci Decl. ¶ 6 and Exhibit B, annexed thereto.

103. A few weeks after receiving the renewal lease, Ms. Albericci received a letter from Cosmopolitan, dated March 22, 2005. The letter stated that Cosmopolitan will not be renewing Ms. Albericci's lease under the Housing Choice Voucher Program and that she will become liable for the full rent should she sign the renewal lease. See Albericci Decl. ¶ 7 and Exhibit C, annexed thereto.

104. Starting July 1, 2005, Cosmopolitan began billing Ms. Albericci for the entire rent of \$735.18. See Albericci Decl. ¶ 8.

105. Ms. Albericci has been a resident of her apartment and community for more than 29 years, where she raised her children. She is currently unemployed and is collecting unemployment benefits. Based on her financial circumstances it is evident that Ms. Albericci cannot afford the rent for her apartment without her Section 8 subsidy. If her subsidy is lost Ms. Albericci and her son will likely be evicted from their home and face the prospect of becoming homeless. See Albericci Decl. ¶ 9.

14. GILMA BERMUDEZ

106. Gilma Bermudez resides at 47-06 49th Street, Apartment 2F with her daughter. She moved to the apartment in 1976, where she has raised her family. She currently resides with her daughter. See Bermudez Decl. ¶ 2.

107. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Bermudez Decl. ¶ 3.

108. In 2002, Ms. Bermudez received a letter from Cosmopolitan's attorney. In 2002, Ms. Roman received a letter from Cosmopolitan's attorney. The letter set forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Bermudez Decl. ¶ 4.

109. As a result, HPD in 2003 converted Ms. Bermudez's project-based subsidy to a tenant-based subsidy, also known as an "enhanced" voucher, and continued to subsidize a portion of her

rent. Cosmopolitan accepted the enhanced voucher until 2005. See Bermudez Decl. ¶ 5.

110. In January of 2005, Ms. Bermudez received a renewal offer of her rent stabilized lease. She signed the lease and elected to renew the same for a two-year term at a monthly contract rent of \$792.36, effective April 1, 2005. Ms. Bermudez signed the renewal lease with the understanding that Cosmopolitan would continue to accept her subsidy and that she would be responsible solely for her portion of the rent. See Bermudez Decl. ¶ 6 and Exhibit A, annexed thereto.

111. Subsequently, on or about February 3, 2005, after receiving the renewal lease, Ms. Bermudez received a letter from Cosmopolitan, dated December 7, 2005. The letter states that Cosmopolitan would not be renewing Ms. Bermudez' lease under the Housing Choice Voucher Program and that she would become liable for the full rent upon signing the renewal lease. See Bermudez Decl. ¶ 7 and Exhibit B, annexed thereto.

112. Starting July 1, 2005, Cosmopolitan began billing Ms. Bermudez for the entire rent. She continued to pay her share of \$172.00. Cosmopolitan then sued to evict Ms. Bermudez for non-payment of rent. See Bermudez Decl. ¶ 9. A copy of the Notice of Petition and Petition are annexed as Exhibit C thereto.

113. Ms. Bermudez is a long time resident of her apartment, having lived there for about 29 years. She raised her family in the apartment and know all of her neighbors. Ms. Bermudez is an active member of her community and volunteers in the food pantry of her church. Being evicted from her home and her community would be extremely devastating for Ms. Bermudez. See Bermudez Decl. ¶ 10.

15. EVELYN TAVARES

114. Evelyn Tavares reside at 47-06 49th Street, Apartment 3A. She moved to the apartment in 1992 and lives there with her daughter. See Tavares Decl. ¶ 2.

115. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Tavares Decl. ¶ 3.

116. In 2002, Ms. Tavares learned that Cosmopolitan had decided to opt out of its project-based contract with HPD the following year but was told that her would continue to be subsidized with an “enhanced voucher”. See Tavares Decl. ¶ 4.

117. In January of 2005, Ms. Tavares received a renewal of her rent stabilized renewal lease as required by law. See, 9 NYCRR §2522.5(b). She signed the lease on January 20, 2005, and elected to renew the same for two-year term at a monthly contract rent of \$773.10, effective June 1, 2005. Ms. Tavares signed the lease with the understanding that the landlord would continue to accept her subsidy and that she would be responsible solely for her portion of the rent, \$207.00. See Tavares Decl. ¶ 5 and Exhibit A, annexed thereto.

118. A few weeks after signing the lease, Ms. Tavares received a letter from Cosmopolitan. The letter states that Cosmopolitan would not be renewing Ms. Tavares’ lease under the Housing Choice Voucher Program and that she would become liable for the full rent upon signing the renewal lease. See Tavares Decl. ¶ 6 and Exhibit B, annexed thereto.

119. On June 1, 2005, Cosmopolitan began billing Ms. Tavares for the entire rent. Afraid to lose her home, Ms. Tavares tried to borrow money from her relatives to pay the rent. See Tavares Decl. ¶ 8.

120. Ms. Tavares' income consists of monthly disability benefits in the amount of \$602.00. She also receives food stamps. The household receives no other income. If evicted, Ms. Tavares would face homelessness. Like many of the other plaintiffs, Ms. Tavares has deep roots in the community, is active with her church and a food pantry. Being evicted from her home and community would be devastating for Ms. Tavares. Ms. Tavares' income consists of monthly disability benefits in the amount of \$602.00. She also receives food stamps. The household receives no other income. See Tavares Decl. ¶ 9.

16. GUADALUPE GODINEZ

121. Guadalupe Godinez resides at 47-16 49th Street, Apartment 2F. She moved to the apartment in 1989. See Godinez Decl. ¶ 2.

122. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Godinez Decl. ¶ 3.

123. In 2002, Ms. Godinez received a letter from Cosmopolitan's attorney. The letter sets forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Godinez Decl. ¶ 4.

124. As a result, HPD in 2003 converted Ms. Godinez's project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan initially accepted the enhanced voucher. See Godinez Decl. ¶ 5.

125. In February of 2005, Ms. Godinez received a renewal of her rent stabilized renewal lease as required by the rent stabilization law. See, 9 NYCRR §2522.5(b). Ms. Godinez did not sign

the lease because she also received a letter from Cosmopolitan stating that it was no longer going to accept her Section 8 subsidy and that upon signing the renewal lease she would be responsible for the entire rent. Effective June 1, 2005, the new rent would be \$760.82. See Godinez Decl. ¶ 6 and Exhibit A, annexed thereto.

126. Since she could not afford to pay the entire rent Ms. Godinez called Cosmopolitan's office to discuss the letter. She was told that no partial payments would be accepted and that unless she mailed the entire rent she would have to vacate the apartment. Further that Cosmopolitan would no longer be accepting the Section 8 subsidy. See Godinez Decl. ¶ 7.

127. On June 1, 2005, Cosmopolitan began billing Ms. Godinez for the full rent. Since she could not afford to pay the rent on her low wages and Cosmopolitan had made it clear that partial payments would be rejected, she established a bank account to deposit her share of the rent of \$471.00 See Godinez Decl. ¶¶ 6 to 8.

128. In July 2005, Cosmopolitan commenced an eviction proceeding against Ms. Godinez for non-payment of rent. See Godinez Decl. ¶¶ 9 and 10. A copy of the Rent Demand and Notice of Petition and Petition are annexed as Exhibits B and C to the Godinez Decl.

129. Based on her income, Ms. Godinez cannot afford to move. She has tried searching for other apartments but has found the rents far beyond her reach. She also encountered many landlord who did not wish to rent to her because of her status as a Section 8 recipient. Losing her home would be devastating for Ms. Godinez, a resident of more than 16 years. See Godinez Decl. ¶¶ 11 and 12.

17. GLADYS ABREU

130. Gladys Abreu resides at 47-26 49th Street, Apartment 5A. She moved to the apartment in or about 1997. See Abreu Decl. ¶ 2.

131. After her building underwent a major renovation in the mid 1980's, she received a project-based subsidy from HUD pursuant to the Section 8 Moderate Rehabilitation program, administered by HPD. Accordingly, her share of the rent was about 30% of her income with the balance being subsidized. See Abreu Decl. ¶ 3.

132. In 2002, Ms. Abreu received a letter from Cosmopolitan's attorney, setting forth Cosmopolitan's decision to opt out of its project-based contract with HPD, effective in 2003. See Abreu Decl. ¶ 4.

133. As a result, HPD in 2003 converted Ms. Abreu's project-based subsidy to a tenant-based subsidy, also known as an enhanced voucher, and continued to subsidize a portion of her rent. Cosmopolitan initially accepted the enhanced voucher. See Abreu Decl. ¶ 5.

134. In or about February 2005, Ms. Abreu received a letter from Cosmopolitan stating that her lease was due to expire. The letter further stated that Cosmopolitan would no longer be accepting her Section 8 subsidy and that upon signing the renewal lease she would become responsible for the entire rent. See Abreu Decl. ¶ 6 and Exhibit A, annexed thereto.

135. The following month Ms. Abreu received the renewal lease from the landlord as required by the rent stabilization law. See, 9 NYCRR §2522.5(b). She signed the lease and personally took it to the management office where she was told by the General Manager, Steven Seltzer, that Cosmopolitan was no longer accepting Section 8 and that therefore her lease would not be accepted or signed by Cosmopolitan and that she would have to move. See Abreu Decl. ¶ 7.

136. The renewal lease increased the rent to \$902.44, effective June 1, 2005. On June 1, 2005,

Cosmopolitan began billing Ms. Abreu the entire rent. See Abreu Decl. ¶ 8.

137. In August of 2005, Cosmopolitan commenced an eviction proceeding against Ms. Abreu for non-payment of rent. See Abreu Decl. ¶ 10. Copies of the Rent Demand and Notice of Petition and Petition are annexed as Exhibits B and C to the Abreu Decl.

138. Ms. Abreu is a single mother of three whose income is very low. Fearing she would be evicted, Ms. Abreu asked HPD for a transfer voucher and began searching other apartments. She began her search sometime in February after Cosmopolitan made it clear to her that it would no longer accept her subsidy. Despite a diligent search she was unable to find an apartment large enough to accommodate her family that she could afford or even a landlord willing to accept her Section 8 subsidy. See Abreu Decl. ¶ 8.

139. Ms. Abreu has lived in her apartment with her children for 8 years. Without the subsidy she cannot afford the rent and is afraid to become homeless. See Abreu Decl. ¶ 11.

18. RAMONA CALDERON

140. Ramona Calderon resides at 47-26 49th Street, Apartment 4B. In June of 2005, Ms. Calderon received a letter from Cosmopolitan that starting June 1, 2005, Cosmopolitan would no longer accept her voucher and that she will be responsible for the entire contract rent of \$795.00, an amount exceeding her limited income from social security and a small pension. Subsequently, Cosmopolitan refused to accept the voucher and brought a non-payment proceeding to evict Ms. Calderon. See Complaint ¶ 22.

B. Defendant

141. Defendant Cosmopolitan Associates LLC (hereinafter “Cosmopolitan”) is a domestic corporation, established and existing in the State of New York, having its principal place of business at 47-01 49th Street, Woodside, New York 11377. Cosmopolitan is the owner of Cosmopolitan Houses, a large complex located in Woodside and Sunnyside in Queens consisting of over 1500 apartments in approximately 38 buildings. Sixteen of these buildings, located on 48th and 49th Street in Sunnyside were subsidized by the United States Department of Housing and Urban Development (hereinafter “HUD”) with project- based rental subsidies until 2003 when defendant Cosmopolitan opted out of its contract. After the opt-out, plaintiffs were provided with tenant-based “enhanced” vouchers which defendant Cosmopolitan now refuses to accept in violation of federal and state laws. See Complaint ¶ 23.

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Respectfully submitted

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