

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY/AMERICUS DIVISION**

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QUEEN KING, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	Civil Action No. 1:00-CV-109-1 (WLS)
	:	
CITY OF BLAKELY HOUSING AUTHORITY,	:	(Class Action)
<i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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**NOTICE OF SETTLEMENT OF CLASS ACTION AND FAIRNESS HEARING**

**TO: ALL CURRENT OR FORMER AFRICAN-AMERICAN TENANTS OF THE BLAKELY HOUSING AUTHORITY.**

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS WILL BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION.

A FAIRNESS HEARING REGARDING THE PROPOSED SETTLEMENT WILL BE HELD ON \_\_\_\_\_, 2004 AT \_\_\_\_ A.M., AT THE UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF GEORGIA, C.B. KING U.S. COURTHOUSE, 201 WEST BROAD AVENUE, COURTROOM \_\_\_\_\_, ALBANY, GEORGIA 31707, THE HONORABLE W. LOUIS SANDS, CHIEF JUDGE.

**NOTICE OF SETTLEMENT FAIRNESS HEARING**

1. **NOTICE IS HEREBY GIVEN**, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Middle District of Georgia, Albany Division, (the "Court") dated \_\_\_\_\_, 2004, that a hearing will be held before the Honorable W. Louis Sands, Chief Judge, at the C.B. King U.S. Courthouse, 201 West Broad Avenue, Courtroom \_\_, Albany, Georgia 31707, at \_\_\_\_ a.m., on \_\_\_\_\_, 2004 (the "Fairness Hearing") to determine whether a proposed settlement of the Action as described herein (the "Proposed Settlement) and in the Consent Order dated \_\_ \_\_, 2004 (the "Consent Order") is fair, reasonable and adequate, including the proposed allocation of settlement proceeds and payment of a portion of the fees and expenses incurred by counsel for Plaintiffs and the Class in prosecuting the Action.

2. The purpose of this Notice is to inform you that this Action, and the Proposed Settlement, will affect the rights of all members of the Class. This Notice describes the rights you may have under the Proposed Settlement and what steps you may take in relation to this Action. This Notice is not an expression of any opinion by the Court as to the merits of any claims or defenses asserted by any party in this Action, or the fairness or adequacy of the Proposed Settlement.

## DESCRIPTION OF THE ACTION

### Plaintiffs' Claims

3. Plaintiffs Queen King, Sharon Johnson, and Evelyn Reed, on behalf of themselves and a class of past, present, and future African-American tenants and applicants of the Blakely Housing Authority who were, are, or will be subjected to racial discrimination, along with plaintiffs Bonita Mays, individually, and the Concerned Citizens Committee of Blakely and Early County, Georgia (collectively the "Plaintiffs") filed their complaint on June 26, 2000 against the City of Blakely Housing Authority (the "BHA") and its executive director Dan Cooper (collectively, "Defendants").

4. In their complaint, Plaintiffs allege that Defendants: (a) established, maintained, and perpetuated a racially-segregated and unequal system of low-income public housing; (b) subjected African-American tenants of the BHA to more onerous terms and conditions in the rental of housing because of their race and/or color; and (c) retaliated against Plaintiffs for organizing and protesting against the allegedly discriminatory conduct (the "Action"). Plaintiffs claim that such conduct violates the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.* (specifically 42 U.S.C. §§ 3604(a), (b), (c); 3608; and 3617) (the "FHA"); Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulations, 24 C.F.R. §§ 1.1-1.10; the Georgia Fair Housing Law, Ga. Code Ann. §§ 8-3-200, *et seq.*, and its implementing regulations, Ga. Comp. R. & Regs. 186-2-.02(1) and (2); the Thirteenth and Fourteenth Amendments to the United States Constitution; Article I, § 1, Part V of the Constitution of the State of Georgia; and 42 U.S.C. §§ 1982 and 1983. Plaintiffs' complaint seeks injunctive and declaratory relief, and monetary damages incidental thereto, including punitive damages against the BHA and Dan Cooper.

5. Specifically, Plaintiffs allege that, at all times relevant to this case, the BHA operated multifamily residential rental properties totaling approximately 159 dwelling units in five apartment complexes in Blakely, Georgia: Cedar Hills Apartments; Willis Cain Apartments; Cedar Hills II Apartments; Willis Cain II Apartments; and Baptist Branch Apartments.

a. Plaintiffs allege that since at least 1994 the BHA and Dan Cooper have engaged in improper steering based on race at its apartment complexes. Specifically, Plaintiffs allege that Defendants have established, maintained and perpetuated racially segregated housing by selecting housing applicants to fill apartment vacancies based on race, rather than in compliance with the BHA's written policy establishing specific, non-race-based methods for filling vacancies. For example, the BHA, through its executive director Dan Cooper, repeatedly violated its own written policies by allowing White applicants to skip over African-American applicants with higher positions on the BHA waiting lists so that the White applicants could be placed in Cedar Hills II, which the BHA reserved for White tenants.

b. Plaintiffs also allege that Defendants have imposed more onerous terms and conditions of rental on African-American tenants than White tenants. For example, Plaintiffs allege that Dan Cooper conducted armed patrols of the predominately African-American areas of the apartment complexes, and harassed and detained African-American tenants and their guests, without provocation, while not engaging in such conduct in the predominately White areas of the complexes.

c. Plaintiffs further allege that Defendants retaliated against them for forming a tenants' association to address the discriminatory conduct, as well as for engaging in public protests about such conduct. Such retaliation included attempted evictions, attempted transfers of tenants to different apartments, increased rents and the imposition of late fees.

6. By order dated September 17, 2003, the Court certified a class, under Rule 23(b)(2) of the Federal Rules of Civil Procedure, consisting of all past, present, and future African-American tenants and applicants of the Blakely Housing Authority who were, are, or will be subjected to racial discrimination, in violation of the constitutional provisions, laws, rules and regulations set forth in Paragraph 4 of this Notice (the “Class”).

7. Prior to commencing this Action, in or about February 1998, plaintiffs Queen King, Evelyn Reed and Sharon Johnson (the “Class Representatives”), along with plaintiffs Bonita Mays, the Concerned Citizens Committee of Blakely and Early County, Georgia, Rhonda Branch, Dorothy Collier, Patricia Smith, Angie Glenn, Monique Lindsey, Lisa McCoy and Alma Parks (the “GCEO Complainants”) filed complaints with the Georgia Commission on Equal Opportunity (the “GCEO”), which, after an investigation, issued a Charge of Discrimination against the BHA and Dan Cooper in June 1998. The allegations in this Action are based in substantial part on the GCEO’s investigation and findings.

### **Defendants’ Defenses**

8. Defendants have denied the allegations of Plaintiffs and the Class and contend that they have taken effective steps to address and prevent any racial discrimination at the BHA. Specifically, they allege that insufficient facts exist to establish that (1) they maintained, and perpetuated a racially-segregated and unequal system of low-income public housing at the BHA; (2) they treated African-American tenants differently from similarly-situated white tenants; (3) defendant Cooper made statements indicating that he made housing preferences based on race; and (4) they intimidated, harassed and retaliated against African-American tenants for exercising their rights under the FHA. Defendants also allege, among other things, that the claims of Plaintiffs and the Class are barred by the statute of limitations and that the injunctive claims are moot.

9. Defendants enter the Proposed Settlement without any admission that either the BHA or Dan Cooper engaged in any discriminatory practices proscribed by the FHA or any other federal or state statute.

### **The United States’ Action**

10. On June 10, 2002, the United States of America, by the United States Department of Justice (the “United States”), commenced an action against Defendants arising from essentially the same facts and circumstances on which the Action is based, including the investigation and findings of the GCEO described above (the “United States’ Action”). In its complaint, the United States alleges that Defendants, in violation of the FHA: (1) refused to rent, refused to negotiate for the rental of, or otherwise made unavailable dwellings because of the race or color of renters, in violation of 42 U.S.C. § 3604(a) and (b); (2) made statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on race or color, or an intention to make such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c); and (3) coerced, intimidated, threatened or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights under the FHA, in violation of 42 U.S.C. § 3617. Defendants deny these allegations and contend that they have taken effective steps to address and prevent any racial discrimination at the BHA, in addition to relying on the defenses set forth in Paragraph 8 of this Notice.

11. The United States’ Action and this Action were consolidated for purposes of discovery and trial. The Consent Order embodying the Proposed Settlement settles and dismisses both this Action and the United States’ Action. The terms of the Proposed Settlement (set forth below) are identical for both actions.

12. This Notice pertains only to the Action and not to the United States’ Action. The Fairness Hearing described herein will be conducted only for the Action and not for the United States’ Action. Members of the

Class have no right or ability to object to the Proposed Settlement insofar as it disposes of the United States' Action.

### **History of the Action and the Proposed Settlement**

13. The parties actively litigated this Action for almost four years prior to reaching the Proposed Settlement. During this period, the parties (including the United States) exchanged and analyzed thousands of pages of documents and took over forty depositions of party and non-party witnesses. The parties engaged expert witnesses to support their claims and/or defenses and submitted voluminous filings in connection with Defendants' motions for summary judgment, which the Court denied in February 2004.

14. Prior to reaching the Proposed Settlement, the parties (including the United States) engaged in a two-day mediation session with the assistance of the U.S. Department of Housing and Urban Development ("HUD"). This mediation session followed the parties' extensive analysis of the voluminous evidence amassed during discovery as well as Plaintiffs' discovery and analysis of the financial circumstances of the BHA and Dan Cooper.

15. All parties have now agreed to settle all aspects of the Action, subject to approval of the Court.

16. In determining to settle the Action, counsel for Plaintiffs and the Class have taken into account the substantial expense and time necessary to litigate the Action through trial, post-trial proceedings, likely appeal and proceedings necessary to enforce any judgment that might be obtained following trial, as well as the strength and weaknesses of Plaintiffs' claims and Defendants' defenses and the significant uncertainties in predicting the outcome of this complex litigation. Based upon consideration and extensive analysis of all of these factors, counsel believes that it is in the best interest of Plaintiffs and the Class to settle the Action on the terms described herein.

### **TERMS OF THE PROPOSED SETTLEMENT**

#### **Reasons for Proposed Settlement**

17. The principal reason for the Proposed Settlement are the benefits to be provided to the Class now. These benefits must be compared to (a) the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future, (b) the risk that any relief rendered by the Court may be materially less satisfactory and beneficial to the Class than the result achieved through the Proposed Settlement, and (c) the risk that a judgment may be recovered but be uncollectible. For example, (a) Defendants may prevail in whole or substantial part following a contested trial or appeal; (b) the Court may award monetary damages in an amount significantly less than the amount Defendants have agreed to pay under the Proposed Settlement; (c) the Court may decide that terminating Dan Cooper from his employment at the BHA as part of any relief awarded to Plaintiffs is not warranted on the facts of this case or under applicable law; (4) the Court may otherwise award injunctive relief that is different from the specifically-tailored injunctive relief that has been agreed upon by the parties through their intensive efforts at the mediation session described above.

18. In addition, because 95% of the funds comprising the monetary aspect of the Proposed Settlement is being paid directly on behalf of the BHA by the United States Department of Housing and Urban Development from a specially-approved, one-time discretionary allocation from the FY 2005 Federal Budget, there is a substantial risk that these funds may not be available in the future to satisfy any judgment or subsequent settlement.

**Injunctive / Non-Monetary Relief** – Following are the principal non-monetary terms settling the Action:

19. Dan Cooper shall resign from employment with the BHA and shall be forever barred by the BHA from employment with or management of the BHA in any capacity, directly or indirectly.

20. The BHA shall conduct a nationwide search for a new Executive Director. The candidate selected by the BHA as Dan Cooper's replacement shall be approved by HUD. Alternatively, the BHA may hire an independent management company to carry out the duties of the Executive Director and his or her staff. HUD must approve the BHA's selection of such a management company.

21. Neither the BHA Executive Director nor any other BHA employee shall be permitted to carry out security or policing functions on BHA property, although the BHA may hire licensed security personnel to perform such functions.

22. After appointment of a new executive director or hiring of a management company, the BHA shall publicize and conduct an election among the BHA tenants, the winner of which shall serve as a non-voting advisor to the BHA's Board of Commissioners. The BHA Board of Commissioners shall meet with BHA tenants quarterly to discuss any issues tenants may have regarding their housing. Such an election shall be conducted annually.

23. The BHA shall forgive past due balances of former BHA tenants who are members of the Class and who wish to move back to the BHA, and shall expunge from the BHA files of such tenants, to the extent permitted by law and/or HUD regulations, any past criminal, disciplinary, financial or other negative information that might otherwise result in such Class member being denied a BHA apartment.

24. The BHA shall not charge tenants for the costs associated with maintenance of BHA apartments arising out of routine wear and tear or complex-wide repairs. The BHA may charge tenants a refundable deposit to rent its community room but in no event shall such deposit exceed \$25.00. The BHA may, however, recover from the offending persons costs associated with damage done to the community room in excess of the security deposit.

25. The BHA shall charge tenants a late fee on any past-due balance of 10% of the unpaid balance of the original charge or assessment, but in no case shall any initial late fee be less than \$10 or more than \$25. Subsequent fees for bills that remain unpaid for longer periods shall not exceed 10% percent of the unpaid balance. For example, a tenant who has a rent of \$50 a month and is late paying that rent shall be charged \$10 for the first month and \$5 for any subsequent months that that particular month's rent remains unpaid. Under no circumstances shall these late fees be cumulative.

26. The BHA shall conduct three seminars for BHA tenants explaining their fair housing rights and their rights and responsibilities under BHA apartment leases.

27. Each member of the BHA Board of Commissioners and certain other BHA employees shall complete a mandatory fair housing training program, which program shall be approved by the United States, and shall agree to refrain from (a) refusing to rent a dwelling, refusing or failing to provide or offer information about a dwelling, or otherwise making unavailable or denying a dwelling to persons because of race or color; (b) discriminating against any person in the terms, conditions, or privileges of rental or sale of a dwelling or in the provision of services or facilities in connection therewith, including engaging in any harassment or intimidation, because of race or color; (c) making, printing, publishing, or causing to be made, printed or published, any notice, statement, or advertisement with respect to the rental, sale, or ownership of a dwelling that indicates any

preference, limitation, or discrimination on the basis of race or color; and (d) coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right protected by the FHA.

28. The BHA shall comply with a comprehensive document creation, maintenance and reporting program developed and administered by the United States and set forth in the Consent Order, governing the BHA's application and tenant placement procedures, nondiscrimination procedures, maintenance procedures and other management procedures and policies. The duration of such program is four (4) years from the date it is approved by the Court.

**Monetary and Related Relief** – Following are the principal monetary terms settling the Action:

29. The BHA shall pay to Plaintiffs \$190,000 in cash, following the BHA's receipt of 2004 Capital Fund Program funds from HUD (the "Settlement Funds"). The Settlement Funds will be held in an interest-bearing escrow account (the "Escrow Account") by lead counsel for Plaintiffs and the Class, Proskauer Rose LLP, 1585 Broadway, New York, N.Y. 10036, (212) 969-3000, attn. Nancy Kilson, Esq. Expenses of administering the Escrow Account shall be borne by Plaintiffs and the Class.

30. Dan Cooper shall pay to Plaintiffs \$12,500 in cash, which shall be placed in the Escrow Account and become part of the Settlement Funds.

31. The Settlement Funds shall be distributed as follows:

a. \$197,500.00 shall be distributed amongst the GCEO Complainants (the "GCEO Complainants' Fund") in an amount that is fair and equitable under the circumstances, to be determined by the Class Representatives and counsel for Plaintiffs and the Class, and approved by the Court. As noted above, each of the GCEO Complainants filed a complaint with the GCEO in or about February 1998, which, after an investigation, led the GCEO to issue a Charge of Discrimination against the BHA and Dan Cooper in June 1998. The allegations in this Action are based in substantial part on the GCEO's investigation and findings. The monetary relief paid to the GCEO Complainants consists of compensatory damages for the substantial harm suffered by each of them, allegedly as the result of Defendants' conduct, and for the substantial assistance they rendered to counsel for the Class in prosecuting the Action.

b. \$5,000.00 of the Settlement Funds, less administrative fees, shall be paid to members of the Class, excluding the GCEO Complainants, who paid excessive, duplicative or unwarranted late fees to the BHA. The United States shall review the BHA's files to identify members of the Class who paid such late fees and determine how much each such member paid and should therefore receive. In no event, however, will the total of such disbursements, including the administrative costs associated with the distribution of these monies, exceed \$5,000.00. Any funds remaining after disbursement of all late fees and payment of all administrative fees pursuant to this Paragraph shall be disbursed *pro rata* to the GCEO Complainants. In the event that the amount of late fees to which the United States determines members of the Class are entitled, together with administrative costs, exceeds \$5,000.00, the amount paid to each such Class member hereunder shall be *pro rated*.

32. Former BHA tenants who wish to move back to the BHA shall, subject to the limits of applicable law and HUD regulations, have any past-due balances owed to the BHA forgiven (see also Paragraph 23 above).

## **Attorneys' Fees and Disbursements**

33. At the Fairness Hearing, or at such other time as the Court may direct, counsel for Plaintiffs and the Class intend to apply to the Court for an award of attorneys' fees and out-of-pocket costs incurred in prosecuting the Action on behalf of the Class, in an amount not to exceed \$50,000.00 (the "Attorneys' Fees").

34. The Attorneys' Fees represent a total of 19.8% of the total common fund of \$252,500.00 in funds available to Defendants to settle this Action.

35. The Attorneys' Fees shall be divided amongst attorneys for Plaintiffs and the Class (Proskauer Rose LLP; the Lawyers' Committee For Civil Rights Under Law; Laverne Lewis-Gaskins, Esq.; and Betty Walker-Lanier, Esq.) in a manner that is fair and equitable, as determined by said attorneys, and approved by the Court.

36. The Attorneys' Fees represent only a small fraction of the amount of attorneys' fees advanced and disbursements advanced on behalf of Plaintiffs and the Class in prosecuting this Action.

## **THE RIGHTS AND DUTIES OF CLASS MEMBERS**

### **Who is a Member of the Class?**

37. As noted above, the Court has certified a class of all past, present, and future African-American tenants and applicants of the Blakely Housing Authority who were, are, or will be subjected to racial discrimination at the Blakely Housing Authority.

38. You are a member of the Class with rights hereunder if you are an African-American and a past or present tenant or applicant of the Blakely Housing Authority who was subjected to racial discrimination by the Blakely Housing Authority and/or any of its employees or agents, including but not limited to Dan Cooper.

### **Options for Members of the Class**

39. ***If You Do Nothing.*** You may do nothing in response to this Notice and still remain a member of the Class. In that case, you will be entitled to the benefits of the injunctive, non-monetary relief described in Paragraphs 19 to 28 of this Notice. You will also be entitled to share in the portion of the Settlement Fund allocated to reimburse those tenants who, as determined by the United States, paid unwarranted late fees to the BHA (see Paragraph 31(b) of this Notice). If you are a former BHA tenant, you may do nothing in response to this Notice and further be entitled to have forgiven any past-due balance you owed the BHA at the time you moved out, and, depending on your individual circumstances, to have other negative information, if any, expunged from your BHA file (see Paragraphs 23 and 32 of this Notice). **If you do nothing in response to this Notice, you will NOT be entitled to appear at the Fairness Hearing and raise objections to the Proposed Settlement.**

40. ***If You Wish to be Excluded From the Class.*** Each member of the Class will be bound by all determinations and judgments in this Action, including all terms of the Proposed Settlement and the Consent Order, whether favorable or unfavorable, unless such person takes action to exclude themselves from the Class. If you exclude yourself from the Class, you will not be bound by the terms of the Proposed Settlement or the Consent Order settling and dismissing this action and you will **NOT** be able to appear at the Fairness Hearing and object to the terms of the Proposed Settlement. Persons who wish to be excluded from the Class must send a written notice, requesting to be excluded from the Class, to Nancy Kilson, Esq., Proskauer Rose LLP, 1585 Broadway, New York, NY 10036-8299, (212) 969-3000. The written notice must contain your name, address,

daytime and evening telephone numbers, and social security number and the approximate dates on which you resided at the Blakely Housing Authority. This request must be postmarked no later than \_\_\_\_\_, 2004.

41. **If You Wish to Object to the Proposed Settlement.** If you wish to object to the Proposed Settlement, you must follow the following procedures:

a. Do **NOT** request to be excluded from the Class. Persons who request to be excluded from the Class may not appear at the Fairness Hearing and object to the Proposed Settlement.

b. On or before \_\_\_\_\_, 2004, [*X* days prior to Fairness Hearing], you must (i) **file** with the Clerk of the Court, United States District Court, Middle District of Georgia, C.B. King U.S. Courthouse, 201 West Broad Avenue, Albany, Georgia 31707, either on your own or through counsel, a notice of intention to appear at the Fairness Hearing, containing the name of the case and case number, showing proof of membership in the Class, and providing a statement that indicates the basis for your opposition to the Proposed Settlement, along with any documentation or other evidence in support of such objection; and (ii) **serve**, simultaneously, copies of such notice, statement and any supporting documentation, in person or by mail, on lead counsel for Plaintiffs and the Class, Nancy Kilson, Esq., Proskauer Rose LLP, 1585 Broadway, New York, NY 10036-8299, (212) 969-3000, **and** on counsel for Defendants, Robert B. Langstaff, Jr., Langstaff Law Offices, 1500 Dawson Road, P.O. Box 1306, Albany, Georgia 31702-1306, (229) 436-5725.

### **FAIRNESS HEARING**

42. At the Fairness Hearing, the Court will determine whether to finally approve the terms of the Proposed Settlement and to dismiss the Action and all claims of Plaintiffs and members of the Class with prejudice. Among other things, the Court will determine whether the distribution of the Settlement Fund, and the amount of Attorneys' Fees proposed to be paid to counsel for Plaintiffs and the Class, are fair and reasonable to all members of the Class.

43. Members of the Class who wish to appear at the Fairness Hearing and object to the terms of the Proposed Settlement should follow the instructions set forth in Paragraph 41 of this Notice.

44. Members of the Class who wish to appear at the Fairness Hearing, in addition to following the instructions set forth in this Notice, should also contact counsel for Plaintiffs prior to the scheduled date of the Fairness Hearing, as the date and time are subject to change without notice.

### **FURTHER INFORMATION**

45. For a more detailed statement of the matters involved in this Action, reference is made to the pleadings, the Orders entered by the Court and the other documents on file in this Action, which may be inspected at the Office of the Clerk, United States District Court, Middle District of Georgia, C.B. King U.S. Courthouse, 201 West Broad Avenue, Albany, Georgia 31707, during regular business hours.

46. ALL INQUIRIES CONCERNING THIS NOTICE OR ANY MATTERS HEREIN SHOULD BE MADE IN WRITING TO COUNSEL FOR PLAINTIFFS OR DEFENDANTS SET FORTH IN PARAGRAPH 41(b) HEREOF.

**BY ORDER OF THE COURT**

Dated: \_\_\_\_\_, 2004

**W. LOUIS SANDS, CHIEF JUDGE**