

THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

BRIGHTON PARK NEIGHBORHOOD )  
COUNCIL, LOGAN SQUARE )  
NEIGHBORHOOD ASSOCIATION, and )  
SOUTH SUBURBAN HOUSING CENTER, )

Plaintiffs, )

v. )

JOSEPH BERRIOS, in his official capacity as )  
the Cook County Assessor; and COUNTY OF )  
COOK, a body politic and corporate, )

Defendants. )

No. 17 CH 16453

**FIRST AMENDED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiffs, by their undersigned counsel, complain against Defendants as follows:

**INTRODUCTION**

1. This complaint alleges that Defendant Joseph Berrios, as the Cook County Assessor, systematically and illegally shifts residential property tax burdens in Cook County both from property owners in majority-White neighborhoods to property owners in majority-Hispanic and majority-African American neighborhoods and from the rich to the poor.

2. In a fair and legally compliant system of residential property taxation, two things would be true. First, the Assessor's valuation of residential properties would be accurate: his assessed values would not materially differ from market values. Second, his valuation of residential properties also would not be biased: the relationship between his assessed values and market values -- what assessment professionals call the "assessment ratio" -- would be uniform throughout Cook County. Residential properties at all price levels and in all census tracts --

majority-White, majority-Hispanic, and majority-African American -- would all be taxed based on the same, uniform percentage of their market value.

3. Under Defendant Berrios, Cook County's residential property tax scheme is neither accurate nor uniform -- and therefore violates the Illinois Civil Rights Act, the Equal Protection Clauses of the Illinois and United States Constitutions, the Uniformity Clause of the Illinois Constitution, and the federal Fair Housing Act.

4. Under Defendant Berrios, the Cook County Assessor's Office ("CCAO"), chronically under-values ("under-assesses") residential properties in majority-White census tracts, compared to their market value, and over-values ("over-assesses") properties in majority-Hispanic and majority-African American census tracts.

5. Residential properties in majority-Hispanic and majority-African American census tracts are twice as likely as residential properties in majority-White census tracts to be over-assessed by twenty percent or more.

6. As the percentage of non-White residents in a census tract in Cook County increases, so does the average assessment ratio -- and as a result, residential property owners in majority-Hispanic and majority-African American census tracts pay more than their fair share of Cook County residential property taxes.

7. The CCAO's residential property assessments are also independently biased in favor of the rich and against the poor. They are profoundly regressive: the CCAO systematically and consistently over-assesses lower-value homes and under-assesses higher-value homes. For example, the average effective tax rate (*i.e.*, the ratio of the property tax divided by the market value) for residential property owners in North Lawndale and Little Village (where property values are lower) has been about twice as high as in the Gold Coast and Lincoln Park (where

property values are higher). And even though residential property owners can appeal their assessments, the appeals process makes the regressivity of the CCAO's assessments worse, not better.

8. The Illinois Constitution requires uniformity in the taxation of residential property, both in the basis of assessment and the rate of taxation. Yet the CCAO under-assesses some census tracts by more than 30% on average, while over-assessing others by more than 45% on average.

9. Two more factors further contribute to the inequities in the residential property assessment system. First, the CCAO performs its flawed and unlawful assessments of residential property value using methods that it refuses to disclose. The CCAO is administering taxation without explanation.

10. Second, despite Defendant Berrios' insistence that he "stands for equality in everything he do[es]," under his leadership the CCAO's residential property assessment methods re-enforce entrenched racial and ethnic inequalities, and for seven years now, he has refused to correct them.

11. Communities of color in Cook County have been burdened by discrimination in housing for decades. They endured redlining by the Federal Housing Administration, which declared African Americans too "high risk" to qualify for federally insured mortgages, and racial steering by the Chicago Housing Authority, which caused and maintained extreme residential segregation. They endured restrictive covenants, unconscionable "contract sales," blockbusting and panic peddling, predatory lending, and violence.<sup>1</sup> Today, the CCAO's practices are

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<sup>1</sup> Regarding redlining by the FHA, see Richard Rothstein, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017). Regarding racial steering by the CHA, see *Gautreaux v. Chicago Housing Authority*, 296 F.Supp. 907, 910 (N.D.Ill. 1969). Regarding racially restrictive covenants, see *Tovey v. Levy*, 401 Ill. 393 (1948) and *Hansberry v. Lee*, 311

inflicting new injuries on these same communities -- by taxing their disadvantage, stripping capital out of their neighborhoods again, and perpetuating institutional racism.

12. The CCAO's methods of assessing residential property values are racially and ethnically discriminatory, and they are regressive. Defendant Berrios has publicly claimed to have fixed these problems in the past while, in fact, refusing to correct them. Absent the declaratory and injunctive relief this complaint seeks, the CCAO will continue to over-assess (and thus over-tax) homeowners in Hispanic, African American, and poor neighborhoods.

13. Pursuant to the Illinois Civil Rights Act of 2003, the Illinois Constitution, the United States Constitution, 42 U.S.C. §1983, and the federal Fair Housing Act, the Court can and should declare the CCAO's valuation methods invalid and order the CCAO to adopt and implement fair, accurate, transparent, lawful, and nondiscriminatory methods, at the earliest feasible date.

#### **VENUE**

14. Venue is proper in this court pursuant to 735 ILCS §5/2-101 because the transactions out of which Plaintiffs' causes of action arose occurred in Cook County.

#### **PARTIES**

15. Plaintiff Brighton Park Neighborhood Council ("BPNC") is a community based, nonprofit organization serving a working-class neighborhood on Chicago's Southwest side.

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U.S. 32 (1940). Regarding contract sales, *see* Beryl Satter, *FAMILY PROPERTIES: RACE, REAL ESTATE, AND THE EXPLOITATION OF BLACK URBAN AMERICA* (2009), and *Contract Buyers League v. F&F Inv.*, 300 F.Supp. 210 (N.D.Ill. 1969). Regarding blockbusting and panic peddling, *see* 720 ILCS 590/1-1(d) and *Chicago Real Estate Bd. v. City of Chicago*, 36 Ill.2d 530 (1967). Regarding predatory lending, *see* [www.illinoisattorneygeneral.gov/pressroom/2009\\_07/20090731.html](http://www.illinoisattorneygeneral.gov/pressroom/2009_07/20090731.html) and Jacob S. Rugh & Douglas S. Massey, *Racial Segregation and the American Foreclosure Crisis*, 75 Am. Soc. Rev. 629 (2010). Regarding violence against minority homeowners, *see* Stephen Grant Meyer, *AS LONG AS THEY DON'T MOVE NEXT DOOR: SEGREGATION AND RACIAL CONFLICT IN AMERICAN NEIGHBORHOODS* (2000) and Charles Abrams, *FORBIDDEN NEIGHBORS* (1955).

BPNC's mission is to create a safer community, improve the learning environment at public schools, preserve affordable housing, provide a voice for youth, protect immigrant rights, promote gender equality, and end all forms of violence. BPNC has been working on economic justice and housing counseling since 2003. In response to the housing market crash of 2007, BPNC began focusing on increasing families' financial capacity and providing direct counseling on foreclosure prevention, credit repair, savings, budgeting, banking, financial planning, and workforce development. CCAO's residential property assessment system frustrates BPNC's efforts to achieve economic justice. Eighty-three percent of Brighton Park residents are Hispanic and BPNC has diverted resources to counsel many Hispanic homeowners who have concerns about residential property tax assessments and assists these homeowners in filing appeals to challenge overassessments.

16. Before filing this action, BPNC had diverted scarce resources away from other pressing projects and programs and instead devoted them to investigating, responding to, and trying to counteract the over-assessment of residential properties in majority Hispanic neighborhoods in its service area, including by assisting homeowners in filing property tax appeals, convening meetings to inform homeowners about over-assessments, and petitioning Defendant Berrios to adopt assessment methods that would be transparent, more uniform and less discriminatory. Because of the measures that BPNC took to counteract the CCAO's discriminatory practices, BPNC has had fewer resources to devote for other existing and new programs and projects. BPNC, nevertheless, diverted staff time and financial resources to combatting the over-assessment of residential properties in majority Hispanic neighborhoods in its service area because, left unaddressed, the CCAO's discriminatory practices detrimentally affect its service area and the constituents it serves. Until the CCAO's discriminatory practices,

addressed in this complaint, are corrected, they will continue to require BPNC, consistent with its mission, to divert staff time and financial resources to counteract them, causing ongoing injury.

17. Founded in 1962, plaintiff Logan Square Neighborhood Association (“LSNA”) is a nonprofit, multi-issue, grassroots community organization serving multi-ethnic Chicago communities in and around Logan Square, including the Hermosa neighborhood. LSNA is a community-based organization advancing diversity, leadership development and models for engagement as the catalyst for social justice. LSNA’s mission is to convene networks of neighbors, schools, businesses, social service agencies, faith communities, and other organizations to work together to empower and maintain these communities as diverse, safe, and affordable neighborhoods in which to live and work, learn and grow. Collectively, LSNA represents thousands of diverse residents, the majority of whom are Hispanic and Spanish-speaking residents, with incomes ranging from moderate to very low. LSNA develops local leadership to identify, strategize, and organize around significant community issues that impact their lives such as affordable housing, school reform, living-wage jobs, land-use and zoning, economic development, health care, and neighborhood safety. Since 1994, affordable housing and foreclosure prevention has been one of LSNA’s key community concern strategies and part of its Holistic Plan. One of LSNA’s current programs is a Foreclosure Prevention Outreach Team which visits local properties facing foreclosure, providing both homeowners and tenants with a targeted set of resources based on their respective needs. As part of this work, LSNA counsel homeowners on property tax concerns, including over-assessments, and assists these homeowners to connect with support for filing property tax appeals. LSNA has diverted resources to issues of housing instability, unaffordability and displacement, in part due to

concerns about high property tax assessments. This work around housing affordability includes the Hermosa neighborhood which is approximately 88% Hispanic and where housing affordability and displacement as a result of property taxes is a concern for residents.

18. Before filing this action, LSNA had diverted scarce resources away from other pressing projects and programs and instead devoted them to investigating, responding to, and trying to counteract the over-assessment of residential properties in majority Hispanic neighborhoods in its service area, including by counseling homeowners on property tax concerns and petitioning Defendant Berrios to adopt better assessment methods that would be transparent, more uniform, and less discriminatory. Because of the measures that LSNA has taken to counteract the CCAO's discriminatory practices, LSNA has had fewer resources to devote for other existing and new programs and projects. LSNA, nevertheless, diverted staff time and financial resources to combatting the over-assessment of residential properties in majority Hispanic neighborhoods in its service area because, left unaddressed, the CCAO's discriminatory practices detrimentally affect its service area and the constituents it serves. Until the CCAO's discriminatory practices, addressed in this complaint, are corrected, they will continue to require LSNA, consistent with its mission, to divert staff time and financial resources to counteract them, causing ongoing injury.

19. Plaintiff South Suburban Housing Center ("SSHC") is a nonprofit organization based in Homewood, Illinois that primarily serves the south metropolitan Cook County area, an area with a significant African American population including, for example, the towns of Sauk Village, Harvey, and Park Forest, which are 64%, 70%, and 64% African American, respectively. SSHC is dedicated to eliminating all forms of discrimination in the housing market through the operation of fair housing enforcement and affirmative housing counseling programs

to foster stable, racially and economically, diverse communities. SSHC educates, advocates, and organizes to uphold these values with programs and activities that include: fair housing enforcement activities; comprehensive housing counseling assistance; administration of community relief grant assistance; and fair housing education and outreach activities for the general public as well as those involved in all aspects of housing development.

20. In 2016 and 2017, SSHC counseled over 1,108 families with regard to their housing issues. Many of these households sought counseling assistance related to the payment of their property taxes.

21. Defendants' discriminatory residential property tax assessment practices have led SSHC to divert resources to assisting homeowners with property tax arrearages. For example, in 2016, SSHC allocated \$174,526 to an Inclusive Communities Fund Grant Program assisting mortgage distressed homeowners. SSHC has subsequently given out \$162,733 in grants to cover mortgage, real estate tax or assessment fee arrearages to eligible recipients. Ten of the 14 grants amounting to \$119,754 have gone to homeowners with residential property tax arrearages. There is only \$551,793 currently left in this allocated fund as a result.

22. SSHC has diverted staff time and financial resources to combatting the discriminatory assessment of residential properties in its service area because, left unaddressed, CCAO's discriminatory practices detrimentally affect its service area and the constituents it serves. Until the CCAO's discriminatory practices, addressed in this complaint, are corrected, they will continue to require SSHC, consistent with its mission, to divert staff time and financial resources to counteract them, causing ongoing injury.

23. Plaintiffs BPNC, LSNA, and SSHC lack an adequate remedy at law.



24. Defendant Joseph Berrios is and has been the duly elected and acting Assessor of Cook County from December 2010 to the present, in charge of the Cook County Assessor's Office. In that capacity, he is responsible for assessing the value of the more than 1.3 million parcels of residential property in Cook County, as a basis for levying property taxes.

25. Defendant County of Cook is a county in the State of Illinois, a body politic and corporate and a party defendant solely for purposes of indemnification of Defendant Berrios as to any monetary amounts, including attorney's fees and costs, recovered by Plaintiffs by judgment or settlement of this action. County of Cook is a necessary party pursuant to *Carver v. Sheriff of LaSalle County*, 203 Ill.2d 497 (2003), and *Carver v. Sheriff of LaSalle County*, 324 F.3d 947 (7th Cir. 2003).

### **FACTUAL ALLEGATIONS**

#### **A. Background**

26. Illinois law provides for recurrent ad valorem taxation of real property, with residential and other real property parcels taxed, annually, on the basis of "fair cash" or "market" value. 35 ILCS §200/1-50; 35 ILCS §200/9-155; Cook County Code of Ord. §74-62(b).

27. The determination of a property's fair or market value for tax purposes is made by the Cook County Assessor's Office. The Assessor's major responsibility is assessing the value of property parcels within Cook County, as a basis for levying taxes.

28. The CCAO claims that in valuing residential properties it uses a computer-assisted "mass appraisal" method. "Mass appraisal" methods rely on common data and statistical modeling to estimate market values, including by comparing the characteristics of properties that have recently sold to properties that have not. The CCAO claims that in addition to comparable

sales in the same neighborhood, its methods also take into account several other components of value, such as a structure's age, size, location, and construction type and quality.

29. The CCAO also claims that it modifies its mass appraisal results, on a case-by-case basis, by applying what it refers to as “hand checks” (or “hand reviews”) and “machine reviews” (or “machine changes”). But the CCAO refuses to provide information about what these modifications are, what impact they have, or how many properties are affected. In 2016, the Chicago Tribune filed a Freedom of Information Act request with the CCAO seeking details on the CCAO's valuation methods, including the “hand checks” or “machine reviews.” The CCAO refused to divulge the information. This secrecy is antithetical to democratic accountability and undermines public trust and confidence in the residential property tax system.

#### **B. The Effect of Assessed Values on Property Tax Bills**

30. The CCAO's valuations of residential property are a crucial step in determining every Cook County homeowner's property tax bill. They are the starting point from which all other calculations are made.

31. There are five components of every Cook County homeowner's property tax bill:
- (a) The assessed value assigned to a property, as determined by the CCAO (subject to appeals);
  - (b) The “assessment level,” which, in Cook County, is set at 10% of assessed value for residential properties. *See, e.g.*, Cook County Code of Ord. §74-64.
  - (c) The State-imposed “equalization” factor or “multiplier,” which the Illinois Department of Revenue calculates for each county, in order “to equalize the assessments between counties.” 35 ILCS §200/17-5. This equalization assures, for example, that in a school district that overlaps two counties, properties in both counties will contribute equally to the school district's levy;
  - (d) Exemptions (for example, the homestead exemption, 35 ILCS §200/15-175); and
  - (e) The “composite” tax rate, which is the sum of the rates imposed by all taxing districts servicing a property (such as school, fire, library, and water reclamation

districts, and towns and villages). The composite tax rate is calculated by the Cook County Clerk.

32. The crucial impact of the first factor – the CCAO’s determination of market value – is illustrated by the following example. For a residential property valued by the CCAO at \$200,000, a homeowner’s property tax bill would be calculated as follows:

\$200,000	<b>Assessed market value, as determined by the CCAO</b>
X	
.10	Assessment Level (10%)
=	
\$20,000	Proposed Assessed Valuation (subject to appeal)
X	
2.8032	State Equalizer/Multiplier (for Cook County 2016)
=	
\$56,064	Equalized Assessed Value (EAV)
-	
\$7,000	Homestead Exemption
=	
\$49,064	Adjusted EAV
X	
7.145%	Composite Tax Rate (City of Chicago, 2016)
=	
<b>\$3,505.62</b>	<b>Tax Bill</b>

From this example, the effect of errors by the CCAO in estimating market value becomes apparent. If the assessed value of the home in the example above were to increase by twenty percent, from \$200,000 to \$240,000, the homeowner’s tax bill would increase from approximately \$3,500 to approximately \$4,300.

**C. The CCAO’s Assessment Practices Have a Disparate Impact on African American and Hispanic Homeowners in Cook County.**

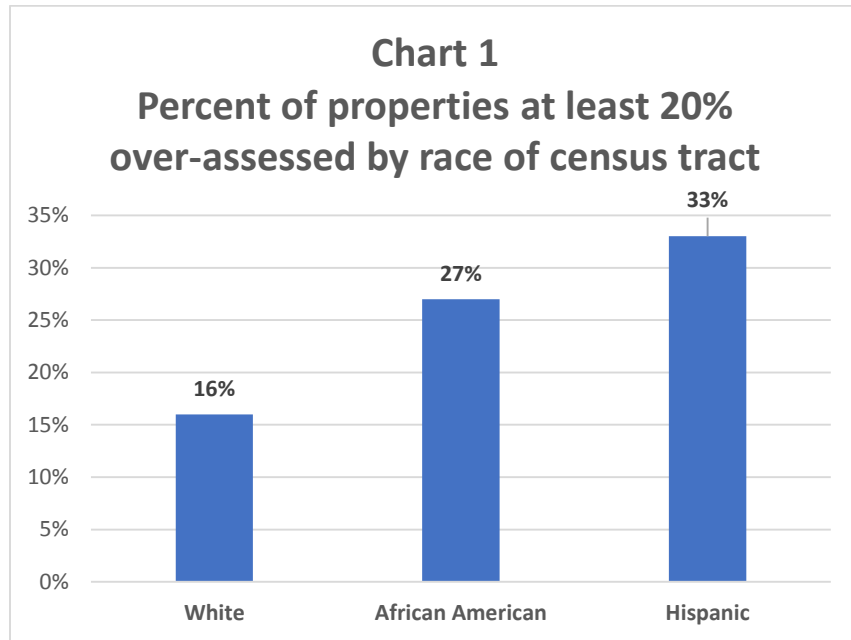
33. The CCAO’s methods of valuation consistently assess residential properties in majority-African American and majority-Hispanic census tracts at higher rates than properties in majority-White census tracts. These differences are both practically and statistically significant.

34. For example, for residential properties that sold between 2011 and 2015 in Cook County, more than 33% in census tracts that are majority-Hispanic, and 27% in census tracts that

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are majority-African American, were over-assessed by the CCAO by at least twenty percent. By contrast, only 16% of properties in census tracts that are majority-White were so over-assessed.

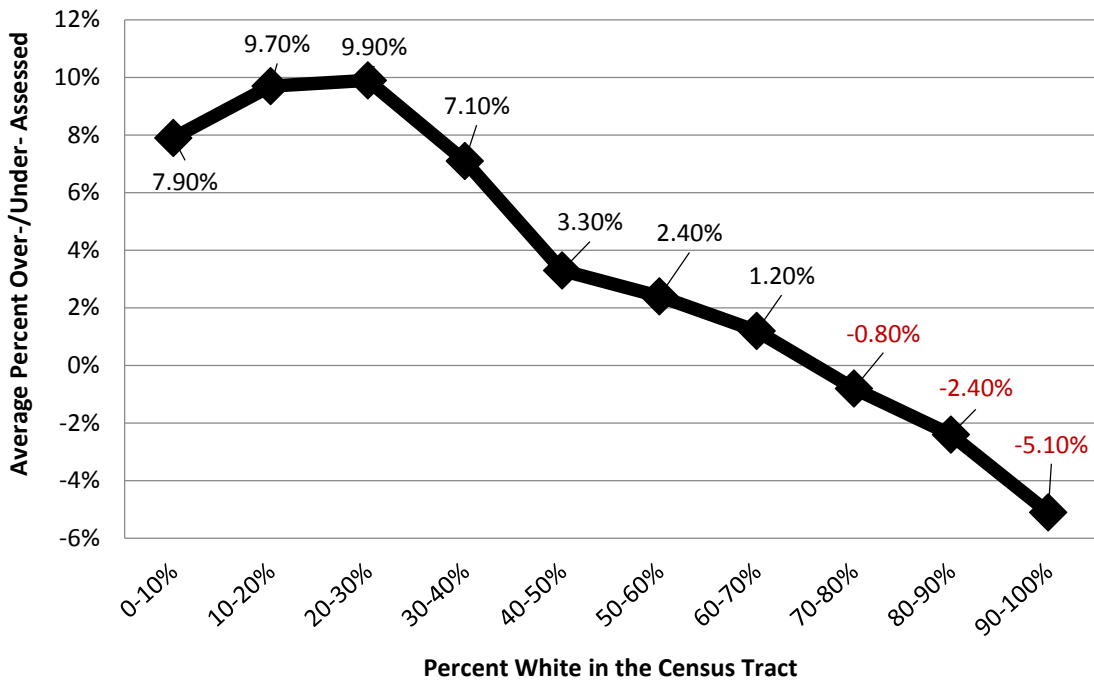
This gap is statistically significant and illustrated in Chart 1 below:



35. Furthermore, the CCAO's patterns of over- and under-assessment significantly correlate with neighborhood demographics. As shown in Chart 2 below, as the percentage of White residents in a census tract in Cook County increases, the ratio between the CCAO's assessed values and actual market values decreases:

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**Chart 2: Average Percent Over/Under Assessment by Percent White, 2011-2015**



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36. In Brighton Park, an overwhelmingly Hispanic neighborhood within Cook County, 46% of residential properties that sold between 2011 and 2015 were over-assessed by at least twenty percent. Furthermore, 7% of residential properties in Brighton Park that sold between 2011 and 2015 were assessed at more than double their market value.

37. In Hermosa, an overwhelmingly Hispanic neighborhood in Cook County served by LSNA, 46% of residential properties that sold between 2011 and 2015 were over-assessed by at least twenty percent. Some 8% of residential properties in Hermosa that sold between 2011 and 2015 were assessed at more than double their market value.

38. In Sauk Village, an overwhelmingly African American town in Cook County served by SSHC, 68% of residential properties that sold between 2011 and 2015 were over-

assessed by at least twenty percent. Some 14% of residential properties in Sauk Village that sold between 2011 and 2015 were assessed at more than double their market value.

39. In Harvey, an overwhelmingly African American town in Cook County served by SSHC, 48% of residential properties that sold between 2011 and 2015 were over-assessed by at least twenty percent. Some 7% of residential properties in Harvey that sold between 2011 and 2015 were assessed at more than double their market value.

40. Similarly, in Park Forest, an overwhelmingly African American town in Cook County served by SSHC, 48% of residential properties that sold between 2011 and 2015 were over-assessed by at least twenty percent. Some 6% of residential properties in Park Forest that sold between 2011 and 2015 were assessed at more than double their market value.

41. There is no way for residential property owners to tell from the face of their property tax bills that CCAO's under- and over-assessments significantly correlate with neighborhood demographics. That fact is hidden, which has assisted the CCAO in perpetuating its flawed and unlawful assessment methods until now.

42. The CCAO's over-assessment of residential properties in Hispanic and African American neighborhoods is covertly shifting costs of government services to minority and less affluent property owners, many of whom can ill afford it. This disproportionate burden on African American and Hispanic neighborhoods affects affordability in homeownership and the rental market and, ultimately, the availability of housing.

**D. The CCAO Consistently Under-Assesses Higher-Value Residential Properties, While Over-Assessing Lower-Value Properties.**

43. The CCAO's assessments are also systematically higher in neighborhoods with lower-value properties.

44. Between 2011 and 2015, the average sales price of a residential property in Cook County was \$337,000. On average, the CCAO *over*-assessed residential properties below that price by 4%, but under-assessed properties above that price by 16%.

45. Looking just at Chicago in 2015, a home worth \$100,000 has a 50% chance of being assessed between \$75,000 and \$125,000 and a 50% chance of being valued further from its market value.

46. Similarly, in Chicago in 2015, the owner of a \$600,000 home would be paying a 24% lower effective tax rate than the owner of a \$300,000 home.

47. This price-related bias creates what assessment professionals refer to as both “vertical inequity” and “regressivity.”

48. When assessments are regressive, tax burdens are being distributed unequally. Owners of lower-value properties are being *overtaxed* and owners of higher-value properties are being *undertaxed*. That is consistently and systematically the case in Cook County.

49. To measure levels of regressivity, assessors customarily rely on a statistic called the price-related differential (“PRD”). PRDs reveal whether low-valued properties are appraised at the same percentage of market value as high-valued properties.

50. According to the Illinois Department of Revenue (“IDOR”), and under established professional standards, when the PRD exceeds 1.03, there is “an inequity in assessment.” IDOR Publication 136 (April 2016); International Association of Assessing Officers Standard on Ratio Studies (2013).

51. Defendant Berrios has endorsed the IAAO standards and 1.03 PRD threshold as the standards for judging assessment uniformity.

52. The PRDs for the CCAO’s assessments of residential property routinely and consistently exceed 1.03, often by a wide margin, indicating that property tax burdens in Cook County are unacceptably non-uniform and regressive:

<u>Year</u>	<u>PRD</u>
2011	1.18
2012	1.25
2013	1.19
2014	1.15
2015	1.11

Source: IDOR Property Tax Statistics, *available at* <http://www.revenue.state.il.us/AboutIdor/TaxStats/>.

**E. The CCAO Does Not Conduct Sales Ratio Studies, Which Are the Industry’s Standard Tool for Identifying and Preventing Inequities.**

53. To test the fairness and accuracy of their assessments, assessors around the world conduct “sales ratio studies,” which compare the relationship between assessed values and actual market values.

54. The International Association of Assessing Officers (“IAAO”), which is the pre-eminent source of standards and research for property assessment administration worldwide, calls sales ratio studies “the most important performance analysis tool” that assessors have. The IAAO’s published standards state that:

The major responsibility of assessing officers is estimating the market value of properties.... The viability of the property tax depends largely on the accuracy of such value estimates.... Local authorities should use ratio studies as a *primary* mass appraisal testing procedure and their *most important* performance analysis tool.... Ratio studies provide a means for testing and evaluating mass appraisal valuation models to ensure that value estimates meet attainable standards of accuracy.... Ratio studies also play an important role in judging [both the degree of discrimination and] whether constitutional uniformity requirements are met....

Standard on Ratio Studies, §§2.1, 2.2 and 2.4 (IAAO 2013) (emphasis added).

55. Contrary to IAAO standards, the CCAO does not conduct sales ratio studies.

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56. The IAAO recommends that assessors should conduct at least two kinds of sales ratio studies to evaluate the accuracy and fairness of their assessments. One is the PRD, discussed in paragraphs 49-50 above. The second is what assessment professionals call the coefficient of dispersion (“COD”).

57. Coefficients of dispersion are calculated by comparing an assessor’s estimated market values to actual sales prices -- yielding what assessment professionals call “assessment ratios” -- and then calculating the average percentage deviation of those assessment ratios from the median ratio. The results, expressed as a COD, reflect the average percentage error in an assessor’s assessed values.

58. If assessments are uniform, CODs will be low. Conversely, if assessments vary widely, CODs will be high.

59. According to the Illinois Department of Revenue, and under established professional standards, assessments of acceptable general quality for residential properties should yield CODs between 5.0 and 15. CODs above 15.0 “indicate[ ] that...property was not uniformly assessed and the property tax burden was not fairly distributed among taxpayers....” IDOR Publication 136 (April 2016).

60. Defendant Berrios has endorsed the IAAO standards and 15.0 COD threshold as the standards for judging assessment uniformity.

61. The CCAO does not conduct sales ratio studies to examine CODs. But IDOR does.

62. According to IDOR, the CODs for the CCAO’s assessments of residential property routinely exceed 15.0, often by a wide margin, which indicates that property tax burdens in Cook County are unfairly distributed:

<u>Year</u>	<u>COD</u>
2011	28.89
2012	35.93
2013	30.15
2014	26.93
2015	23.47

Source: IDOR Property Tax Statistics, *available at* <http://www.revenue.state.il.us/AboutIdor/TaxStats/>.

63. CODs for some townships in Cook County have recently been as high as 38.18 (for Thornton Township), 32.82 (for Calumet), 31.21 (for Bloom), and 27.48 (for Rich). According to Richard Almy, a former executive director of the IAAO, COD scores at those levels “call[ ] into question the credibility of the whole tax system.”

64. Overall, the CCAO’s residential assessment system is more variable and more regressive than agreed upon industry standards, causing a wealth transfer from owners of lower-value homes to those of higher-value homes.

65. The assessed values produced by the CCAO’s multiple regression model are outside industry standard target ranges for all uniformity metrics.

66. The assessed values produced by the current CCAO system are much more regressive than industry standards recommend.

67. Further, the CCAO’s residential property assessment system has an unusually high number of appeals when compared to other jurisdictions in the United States and abroad. The level of appeals in Cook County are very high and increase regressivity.

68. Between 34-64% of all properties appealed are granted reductions at the Assessor’s Office, Board of Review, or both. This contributes to increasing the variability and regressivity in the outcomes from the system.

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69. During the appeals process, from the final CCAO assessment to the final Board of Review assessment, regressivity increases and uniformity decreases.

**F. The CCAO’s Longstanding and Willful Denial of the Racial and Ethnic Disparate Impact and Regressivity of its Property Tax Assessment Practices.**

70. For decades, whenever attention has been called to the racial and ethnic disparate impact or regressivity caused by the CCAO’s assessment methods, the CCAO has changed the subject, slandered its critics, or misled the public, the Cook County Board, and the press.

71. Nearly forty years ago, in 1979, the University of Illinois at Chicago’s School of Urban Sciences conducted regression analyses of the CCAO’s assessment data and, based on those analyses, issued a report. This report, *Relative Tax Burdens in Black and White Neighborhoods of Cook County*, concluded that: “(a) black neighborhoods are assessed at a higher percentage of market value than are white neighborhoods, and (b) that assessments in almost every neighborhood are not a uniform percentage of value over the range of observed prices for that neighborhood.” The CCAO responded to this UIC report by dismissing it, claiming that its conclusions were “utterly ridiculous and should not be dignified with a reply.”

72. In 2008, two more professors from the University of Illinois at Chicago published a study in the *National Tax Journal*, in which they examined assessment data for residential properties in Chicago. They tested assessment uniformity and regressivity (and the influence, on both, of the number of nearby sales). They concluded, among other things, that the data revealed “a pronounced lack of uniformity,” with “coefficients of dispersion [of] 24.436 percent in 2004 and 27.097 percent in 2005, or nearly double the IAAO’s recommended limit of 15 percent for older residential properties.” Daniel McMillen and Rachel Weber, “Thin Markets and Property Tax Inequities: A Multinomial Approach,” *National Tax Journal*, Vol. LXI, No. 4, Part 1 (December 2008).

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73. In the last seven years in particular, and with the CCAO under Berrios’ control, additional, rigorous statistical studies -- coming to the similar or same conclusions about the CCAO’s fundamentally flawed valuation methods -- have been performed.

74. In 2011, University of Illinois Professor Daniel McMillen published a further article, this time comparing regressivity in Cook County and DuPage County. His conclusion: “DuPage County’s degree of regressivity is acceptable while Chicago’s is not.” McMillen, “Assessment Regressivity, A Tale of Two Illinois Counties,” Land Lines, Lincoln Institute of Land Policy (January 2011), *available at* <http://www.lincolninst.edu/publications/articles/assessment-regressivity>.

75. In May of 2017, the Center for Municipal Finance at the University of Chicago issued a paper examining the unusually high rate of property tax appeals in Cook County, which is among the highest in the country. This study concluded, among other things, that:

(a) the CCAO’s assessments are regressive, “which shifts a considerable portion of the total property tax burden onto lower value properties”;

(b) the outcomes of homeowners’ property tax appeals “make taxes *more* regressive”;

(c) “effective tax rates are higher in neighborhoods with a higher percentage of minorities...areas with fewer minorities pay significantly lower tax rates”; and

(d) “the CCAO should make the property tax database available, in full, to the public, along with all computer code necessary to replicate the assessors’ estimation process.”

Robert Ross, “The Impact of Property Tax Appeals on Vertical Equity in Cook County, IL” (University of Chicago, Center for Municipal Finance, May 2017), *available at* [http://harris.uchicago.edu/files/ross-vertical\\_equity\\_in\\_cook\\_county\\_0.pdf](http://harris.uchicago.edu/files/ross-vertical_equity_in_cook_county_0.pdf).

76. Most recently, in June of 2017, the Chicago Tribune published a series of front-page stories, based on its own independent statistical analysis of more than 1 million residential properties and assessments in Cook County over more than a decade. Based on that analysis -- which was vetted by independent industry experts -- the Tribune concluded that:

- (a) the CCAO’s valuations “create an unequal burden on residents, handing huge financial breaks to homeowners who are well-off while punishing those who have the least, particularly people living in minority communities;”
- (b) the way the CCAO values property is “fundamentally flawed;”
- (c) “during the past six years, the county’s assessment system has failed to meet uniformity standards set out by the IAAO;”
- (d) “Assessor Joseph Berrios has resisted reforms and ignored industry standards while his office churned out inaccurate values;” and
- (e) “Residential assessments have been so far off the mark for so many years that the credibility of the entire property tax system is in doubt.”

77. The CCAO has never disproved the above studies. Instead, the CCAO has consistently resisted implementing reform and misled the Cook County Board and the public about its assessments, while refusing to disclose how it conducts them.

78. The CCAO has passed up opportunities to reform its assessment practices. Beginning in 2009 and 2010, the MacArthur Foundation started funding the development of alternative computer-assisted mass appraisal methods for use by the CCAO. In 2012, the MacArthur Foundation funded a grant to support implementation of a new model at the CCAO.

79. In July 2015, the CCAO issued a press release boasting that it had “implemented a new state-of-the-art residential assessment modeling technique that assesses the value of homes

in different price ranges to improve accuracy.” Among other things, the release stated that the new model improved accuracy by 50 percent and cut down on regressivity by 25 percent – a tacit admission, at least, that accuracy and regressivity were problems and that an improved assessment model was needed.

80. The CCAO’s July 2015 press release was false. The Chicago Tribune obtained the computer code for the new model that the CCAO claimed it used for the 2015 reassessment, and upon examining the computer code, the Tribune discovered that few, if any, differences existed between that model and prior models used by the CCAO. The CCAO had not, in fact, “implemented a new state-of-the-art residential modeling technique.”

81. In September 2015, in response to the Tribune’s discovery, the CCAO changed its story. This time, the CCAO told the Tribune that it had used *both* the older model and the new model. But the CCAO refused to say how it reconciled the two. Pressed further, the CCAO told the Tribune that it was still placing primary reliance on the old model, as a baseline. That, too, appears to have been false. Examining that explanation, the Tribune found that only a small fraction of the assessed values sent to taxpayers in 2015 matched the results from *any* model disclosed by the CCAO. The CCAO refuses to disclose how it calculated 2015 valuations.

82. The CCAO’s evasions and deceptions undermine public trust and confidence in the residential property tax system and do not comport with democratic principles, which require that government officials be accountable to the governed.

83. In the fall of 2016, the CCAO’s deputy assessor for valuation and appeals, Thomas Jaconetty, continued to defend the CCAO’s assessments and dismissed the need for updated assessment models, despite the abundant evidence of disparate impact and unconstitutional regressivity. In defense of the status quo, Jaconetty pointed to the role of taxpayer appeals in

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allegedly improving the accuracy of assessments. In fact, however, assessment appeals make property tax assessments less accurate and less fair -- not more. Regressivity is worse after appeals than before. Jason Grotto, "The Problems with Appeals" (Chicago Tribune, June 10, 2017); Robert Ross, "The Impact of Property Tax Appeals on Vertical Equity in Cook County, IL" (University of Chicago, Center for Municipal Finance) (May 2017); Daniel McMillen, "The effect of appeals on assessment ratio distributions," Real Estate Economics, Vol. 41, Issue 1 (2013).

84. In late June 2017, responding to front-page stories in the Tribune, the CCAO posted a news release on its website, citing a report by the Lincoln Institute of Land Policy, a prominent research organization, as proof that the CCAO's assessments are fair and accurate. Defendant Berrios invoked the same study during a television interview on WTTW's Chicago Tonight in late June 2017. During that broadcast, Defendant Berrios asserted that the Lincoln Institute study "says[s] that assessments in Chicago are fair ... which shows that the assessment part of it is correct." He also claimed that the Lincoln Institute study says that "the Tribune numbers ... were fifty percent off." Berrios' statements were false. The Lincoln Institute's report does not evaluate (or claim to evaluate) the fairness or accuracy of assessments in Cook County (or any other jurisdiction) or the Tribune's analysis. The lead author of the Lincoln Institute's study subsequently confirmed that the CCAO had mischaracterized the report and sent a statement to the CCAO to set the record straight.

85. On or about February 15, 2018, the Civic Consulting Alliance ("CCA") issued a report, commissioned by the defendants, summarizing its findings and evaluation regarding the CCAO's property tax assessment system, with a focus on residential properties. After reviewing

and analyzing data from the assessment cycles for 2014, 2015, and 2016, the CCA’s report made the following findings:

- (a) “CCA has found that the residential assessment system is more variable and more regressive than agreed upon industry standards, causing a wealth transfer from owners of lower-value homes to those of higher-value homes.”
- (b) “[O]utcomes produced by the current system are more variable than industry standard[s] recommend across the County.”
- (c) “[O]utcomes produced by the current system are much more regressive than industry standards recommend – across the County, within each triad, and with the highest levels of regressivity within the City of Chicago.”
- (d) “The values produced by the model (multiple regression analysis) are outside target range for all uniformity metrics.”
- (e) “One striking feature of the Cook County system is its unusually high number of appeals when compared to other jurisdictions in the United States and abroad. While every local jurisdiction has its own regulatory framework and mindsets that impact the number of appeals, the level of appeals in Cook County are very high and increase regressivity.”
- (f) “Cook County relies much more on appeals than other assessment jurisdictions – for Cook County, the appeal levels are more than 20 times higher than benchmark jurisdictions.”
- (g) “Between 34-64% of all properties appealed are granted reductions at the Assessor’s Office, Board of Review, or both [ ]. This contributes to increasing the variability and regressivity in the outcomes from the system.”



(h) The data “suggest that selective reappraisal is present in the Cook County assessment process,” such that “there is a high likelihood that outcomes from the end-to-end assessment process are actually less uniform than [what CCA’s analysis determined].”

86. Selective reappraisal is a practice where the assessor manipulates the value of properties that have sold recently differently than other properties, which would make statistics derived from sales ratio studies more uniform than actual property assessments.

87. If the CCAO engages in selective reappraisal, as the CCA reports, then *all prior* sales ratio studies likely understate the CCAO’s problems with regressivity and uniformity.

88. On July 18, 2017, Defendant Berrios spoke at a hearing before the Cook County Board, where he misrepresented that the CCAO’s “fairness and accuracy are within all standards of the industry,” that “we follow all industry standards and guidelines for the practice of assessments,” and that talk to the contrary was “nonsense.”

89. In fact, the CCAO’s assessments do not comply with industry standards. Defendant Berrios’ assertions are disproved by IDOR’s annual sales ratio studies, as well as by the successive, independent statistical analyses performed by the University of Illinois, the University of Chicago, the Chicago Tribune, and the Civic Consulting Alliance.

90. The CCA independent review of current CCAO practices, concluded that the CCAO could produce much more accurate property assessments.

91. The CCAO’s actions -- needlessly hiding processes from public scrutiny, to avoid the accountability of public debate and criticism -- reveal the Assessor’s professed commitments to checks and balances as empty rhetoric.

92. Upon information and belief, the CCAO's policies and practices as alleged in this Complaint have continued to the present and will continue into the future if not enjoined by this Court.

**Count I**  
**Violation of the Illinois Civil Rights Act**  
**(740 ILCS §23/5)**  
**(Against Defendant Joseph Berrios)**

93. Plaintiffs repeat and re-allege all preceding paragraphs.

94. The CCAO's methods of valuing residential property violate the Illinois Civil Rights Act of 2003, which prohibits any "unit of State, county, or local government" from (1) "utiliz[ing] criteria or methods of administration that have the effect of subjecting" property owners "to discrimination because of their race, color, [or] national origin," and (2) "exclud[ing] a person from participation in, deny a person the benefits of, or subject a person to discrimination under any program or activity on the grounds of that person's race, color, national origin, or gender." 740 ILCS 23/5(a)(1) and (2).

95. Under the Illinois Civil Rights Act of 2003, the court has the authority to "grant as relief any permanent or preliminary negative or mandatory injunction, temporary restraining order, or other order." 740 ILCS §23/5.

**Count II**  
**Violation of Uniformity**  
**Under the Illinois Constitution, Article IX, §4(a)**  
**(Against Defendant Joseph Berrios)**

96. Plaintiffs repeat and re-allege all preceding paragraphs.

97. Article IX, §4(a) of the Illinois Constitution mandates that "taxes upon real property shall be levied uniformly by valuation," requiring an equality in the burden of taxation on

residential property that cannot exist without uniformity both in the basis of assessment and the rate of taxation.

98. The CCAO’s systematic over- and under-assessment of residential properties in Cook County, resulting in taxation of residential properties at wildly different percentages of their market values, violates the equality in the burden of taxation required by Article IX, §4(a) of the Illinois Constitution.

**Count III**  
**Violation of Equal Protection**  
**Under the Illinois Constitution, Article I, §2**  
**(Against Defendant Joseph Berrios)**

99. Plaintiffs repeat and re-allege all preceding paragraphs.

100. The Equal Protection Clause of the Illinois Constitution states that “no person shall be...denied the equal protection of the laws.”

101. Equal protection of the laws under the Illinois Constitution requires uniformity in the taxation of all residential property, both in the basis of assessment and the rate of taxation.

102. The CCAO’s systematic over- and under-assessment of residential properties in Cook County, resulting in taxation of residential properties at wildly different percentages of their market values, violates the Illinois Constitution’s guarantee of Equal Protection.

**Count IV**  
**Violation of Equal Protection**  
**Under the United States Constitution**  
**(as made enforceable by 42 U.S.C. §1983)**  
**(Against Defendant Joseph Berrios)**

103. Plaintiffs repeat and re-allege all preceding paragraphs.

104. The Equal Protection Clause of the Fourteenth Amendment of the United States Constitution states that “No state shall...deny to any person within its jurisdiction the equal protection of the laws.”

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105. Equal protection of the laws under the Fourteenth Amendment of the United States Constitution requires uniform taxation of residential property, both in the basis of assessment and the rate of taxation.

106. The CCAO's systematic over- and under-assessment of residential properties in Cook County, resulting in taxation of residential properties at wildly different percentages of their market values, violates the Fourteenth Amendment's guarantee of Equal Protection.

**Count V**  
**Violation of the Fair Housing Act**  
**(42 U.S.C. §§3604-3605)**  
**(Against Defendant Joseph Berrios)**

107. Plaintiffs repeat and re-allege all preceding paragraphs.

108. The federal Fair Housing Act makes it unlawful:

- (a) "To ... make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, or national origin," 42 U.S.C. §3604(a),
- (b) "To discriminate against any person in the terms, conditions, or privileges or sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin," 42 U.S.C. §3604(b), or
- (c) "[F]or any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin." 42 U.S.C. 3605(a).

109. The inequities in the CCAO's assessment methods disproportionately burden residential property owners in majority-Hispanic and majority-African American neighborhoods, exacerbating the financial burden on those neighborhoods, perpetuating patterns of residential segregation and making housing unavailable in violation of the federal Fair Housing Act.

**Count VI**  
**Indemnification**  
**(Against Defendant County of Cook)**

110. Plaintiffs repeat and re-allege all preceding paragraphs.

111. Defendant County of Cook is empowered and responsible for indemnifying Defendant Berrios against monetary amounts, including attorney's fees and costs, recovered by Plaintiffs by judgment or settlement of this action.

**Prayer for Relief**

WHEREFORE, Plaintiffs request that this Court:

A. Declare that the CCAO's methods of valuing residential property violate: (i) the Illinois Civil Rights Act, (ii) Article IX, §4(a) of the Illinois Constitution, (iii) the Equal Protection Clauses of both the Illinois and United States Constitutions; and (iv) the federal Fair Housing Act.

B. Enter an injunction requiring the CCAO to adopt and implement – at the earliest feasible date – improved valuation methods that both minimize regressivity and do not discriminate on the basis of race or ethnicity;

C. Enter a permanent injunction requiring the CCAO to publicly disclose (on an annual basis and without charge) all records, methods, computer code, and other information necessary to allow residential property owners and independent parties to replicate the CCAO's assessments for each residential property in Cook County.

D. Appoint an independent monitor to oversee the CCAO's adoption and implementation of improved assessment methods, at the earliest feasible date, and to report to the Court;

E. Enter a permanent injunction requiring that the CCAO publish accurate statistics every year, including PRD and COD scores, both countywide and at the township level, by price and neighborhood, before notices of assessment are mailed to homeowners.

F. Award all available monetary damages to plaintiffs;

G. Order the CCAO to pay plaintiffs' reasonable attorney's fees and expenses, including expert costs; and

H. Order all other appropriate relief as the interests of justice may require.

Dated: February 28, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

Lisa Mecca Davis certifies that she caused a copy of the foregoing Amended Complaint to be served upon all counsel of record, by this Court's electronic-filing system, this seventh day of March, 2018.

/s/ Lisa Mecca Davis  
Lisa Mecca Davis

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