

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

VICTOR ADAMS JR.,

Plaintiff,

v.

PARKR, LLC,
PARKMM, LLC,
BRINSHORE DEVELOPMENT, LLC,
BRINT DEVELOPMENT, INC., and
LEASING AND MANAGEMENT COMPANY,
INC.,

Defendants.

COMPLAINT

JURY DEMAND

INTRODUCTION

1. This complaint alleges that the entities that own, operate, and/or manage the residential rental development in Chicago known as Park Apartments – ParkR, LLC (“ParkR”), ParkMM, LLC (“ParkMM”), Brinshore Development, LLC (“Brinshore”), Brint Development, Inc. (“Brint”), and Leasing and Management Company, Inc. (“Leasing and Management Company”) (collectively, “Defendants”) – maintained and enforced an illegal and discriminatory tenant selection policy that effectively barred individuals with certain types of criminal convictions¹ from living at the development and as a result had a disproportionate effect on African Americans seeking housing in Chicago.

2. Defendants’ discriminatory policy was used to deny Plaintiff Victor Adams Jr. a unit in Park Apartments. Mr. Adams is a 50-year-old African American man who was born and raised in Chicago. Over 20 years ago, Mr. Adams was convicted of armed robbery and as a result served around six years in prison. Upon his release from prison, Mr. Adams was involved

¹ For purposes of this Complaint, “criminal history” and “criminal record” refer to a prior criminal conviction.

in a serious car accident that left him barely able to walk. Mr. Adams' condition has improved somewhat, but he still suffers from physical disabilities.

3. Today, Mr. Adams and his partner Rachael Morgan are the parents of a one-year-old daughter, Victoraya. When Victoraya was born, Mr. Adams was living in an apartment in the Englewood neighborhood of Chicago. In an effort to provide a safer environment and better life for his young family, Mr. Adams began searching for new housing. During his apartment search, Mr. Adams found an ideal unit in Park Apartments. It provided top-notch security, a child-friendly interior, and an accessible entrance to accommodate his disability. Mr. Adams applied for the apartment and, in the process of doing so, informed the Park Apartments staff of his prior criminal conviction. He was reassured by the staff several times that it would not be a problem because Park Apartments utilized a seven-year background check for prospective tenants. Despite these assurances, Defendants used their policy to discriminatorily deny Mr. Adams' application based on his over twenty-year-old conviction.

4. Defendants' policy effectively disqualifies individuals who have certain criminal convictions within the last 25 years ("Look Back Period"). Defendants do not consider any extenuating circumstances surrounding the conviction or efforts by the applicant to rehabilitate himself since the conviction, which are key to determining whether an individual currently poses a risk to the health or safety of residents. This means that Defendants categorically refused to consider the extenuating circumstances surrounding Mr. Adams' conviction, time served in prison, and activities subsequent to release, as detailed more fully below.

5. Defendants' refusal to consider any extenuating circumstances coupled with their excessively long Look Back Period for convictions prevented Mr. Adams from securing housing in Park Apartments and has had a disproportionate impact on African Americans like Mr.

Adams. Mr. Adams now brings this suit against Defendants pursuant to the Fair Housing Act of 1968, as amended, 42 U.S.C. §§ 3601 *et seq.*, to prevent them from continuing or renewing their illegal and discriminatory conduct at Park Apartments and redress the harm that Mr. Adams has suffered as a direct result of Defendants' conduct.

NATURE OF THE ACTION

6. Mr. Adams seeks monetary and declaratory relief against Defendants for engaging in a practice of unlawful discrimination on the basis of race with respect to the Park Apartments development.

7. From April 2010, or earlier, Defendants applied a Tenant Selection Plan ("TSP") (attached hereto as Exhibit A) to applicants to Park Apartments, a 120-unit residential development located at 220 East Garfield Boulevard in Chicago, Illinois.

8. Defendants' TSP contains a policy that effectively bars applicants who have criminal convictions "that involved physical violence to persons or property, or endangered the health and safety of other persons within the last 25 years" from living at Park Apartments. Under the TSP, "extenuating circumstances," such as the nature of the applicant's offense, the age of the person at the time of the conviction, post-conviction and post-release conduct, evidence of rehabilitation, evidence of any current threat to safety or property, letters of recommendation, the individual's history as a tenant and as a whole, and other relevant factors, are not considered.

9. As a direct result of Defendants' 25-year ban in its TSP, applicants with a criminal record were either deterred from ever applying to Park Apartments after learning of the TSP; or, like Mr. Adams, were denied admission to Park Apartments because of their criminal history.

10. The effect of Defendants' 25-year ban is that it disproportionately impacts African Americans in violation of the Fair Housing Act.

11. The Fair Housing Act prohibits any policy that has a disparate impact on a protected class unless the policy is necessary to achieve a substantial, legitimate, nondiscriminatory business purpose that cannot be satisfied with a less discriminatory alternative.

12. Defendants' policy of applying a 25-year ban in its TSP to applicants to Park Apartments was not necessary to achieve a substantial, legitimate, nondiscriminatory business purpose. Enforcing a 25-year ban, or a period spanning one-third to one-half of an applicant's life, and refusing to consider an applicant's extenuating circumstances constitutes the type of automatic ban that the U.S. Department of Housing and Urban Development has stated in 2016 guidance² is never necessary to achieve the potentially legitimate interest of protecting safety and/or property.

13. Defendants should have considered an applicant's extenuating circumstances and considered factors directly relevant to the applicant's qualifications for tenancy at Park Apartments.

14. Conducting an individualized assessment of an applicant with a criminal record and utilizing a shorter Look Back Period is a less discriminatory alternative and still serves the objective of protecting the health and safety of other residents.

15. Mr. Adams brings this action against Defendants to address their illegal and discriminatory conduct and to redress the harm he has suffered as a direct result of that conduct.

² See Exhibit B (HUD, Office of Gen. Counsel Guidance on Application of FHA Standards to the Use of Criminal Records by Providers of Hous. and Real Estate-Related Transactions) (Apr. 4, 2016).

PARTIES

I. PLAINTIFF VICTOR ADAMS JR.

16. Plaintiff Victor Adams Jr. is a 50-year-old African American resident of Chicago. He has resided in Chicago nearly all of his life. Mr. Adams' father was a Chicago Police Officer, while his mother was a Chicago Public School teacher. Mr. Adams graduated from Steinmetz High School in 1987. Before and during high school, Mr. Adams was an avid participant in Boy Scouts, culminating in him earning the rank of Eagle Scout. Following his high school graduation, Mr. Adams worked as a delivery driver for UPS until he was injured in an on-the-job accident.

17. In or around 1997, Mr. Adams was convicted of armed robbery. Mr. Adams was sentenced to six years in prison, and served most of this time in Taylorville, Illinois.

18. During his time in prison, Mr. Adams worked for the City of Taylorville as a sanitation employee and took as many courses as he could to further his education through a program offered by Black Hawk Community College. Mr. Adams was released from prison in or around 2000.

19. Shortly after his release from prison, Mr. Adams was involved in a serious car accident that left him in a full-body cast for seven weeks due to severe injuries to his hips and back. Mr. Adams subsequently underwent significant therapy and eventually recovered the ability to walk. But the remnants of this injury have returned in recent years, causing Mr. Adams significant pain and difficulty walking.

20. Mr. Adams also enrolled in an Associate's degree program at Harold Washington College following his release in order to continue to pursue his education. He earned an Associate's degree in Liberal Arts and then enrolled at Chicago State University, where he

earned a Bachelor's degree in African American Studies. While he studied there, he also worked for the university as an audio technician. Upon receiving his Bachelor's degree, Mr. Adams then completed coursework at Chicago State University toward a Master's degree in African American Studies. While attending school, Mr. Adams lived at home with his mother to care for her while she struggled with, and eventually succumbed to, muscular dystrophy.

21. Mr. Adams also was offered an opportunity to pursue additional scholarship at Northwestern University but he decided to forgo further education in hopes of joining the workforce. To that end, he worked a series of jobs, including as an energy salesman for Hovey Enterprises and a position with PSI Marketing Consultants, a company that sells commercial airtime to radio stations. Mr. Adams eventually filed for disability because his health deteriorated from his prior injuries and he is currently receiving disability assistance.

22. Since his release from prison in 2000, Mr. Adams has no further criminal record.

II. DEFENDANTS

23. Defendant ParkR, LLC is a privately-owned Illinois limited liability company headquartered in Northbrook, Illinois. Its address for service of process on file with the Office of the Illinois Secretary of State is 666 Dundee Road Suite 1102, Northbrook, IL 60062. Upon information and belief, Defendant ParkR owns or holds all beneficial and equitable interest in Park Apartments.

24. Defendant ParkMM, LLC is a privately-owned Illinois limited liability company headquartered in Northbrook, Illinois. Its address for service of process on file with the Office of the Illinois Secretary of State is 666 Dundee Road Suite 1102, Northbrook, IL 60062. Upon information and belief, Defendant ParkMM is the managing member of Defendant ParkR.

25. Defendant Brinshore Development, LLC is a privately-owned Illinois limited liability company headquartered in Northbrook, Illinois. Its address for service of process on file with the Office of the Illinois Secretary of State is 666 Dundee Road Suite 1102, Northbrook, IL 60062. Upon information and belief, Defendant Brinshore is a member of Defendant ParkR and a managing member of ParkMM.

26. Defendant Brint Development, Inc. is a privately-owned Illinois corporation headquartered in Northbrook, Illinois. Its address for service of process on file with the Office of the Illinois Secretary of State is 666 Dundee Road Suite 1102, Northbrook, IL 60062. Upon information and belief, Defendant Brint is a member of Defendant ParkR and a managing member of Defendant Brinshore.

27. Defendant Leasing and Management Company, Inc. is a privately-owned Illinois corporation headquartered in Chicago, Illinois. Its address for service of process on file with the Office of the Illinois Secretary of State is 180 North LaSalle Street Suite 3300, Chicago, IL 60601. Upon information and belief, Defendant Leasing and Management Company is employed by Defendants ParkR, ParkMM, Brinshore, and Brint to operate and manage Park Apartments on their behalf.

28. Park Apartments is a residential rental development that is owned by Defendants ParkR, ParkMM, Brinshore, and Brint and managed by Defendant Leasing and Management Company. Defendant Brinshore lists Park Apartments as a “Mixed Income Residential Rental” development on its company website and states that its “comprehensive restoration of each of the buildings’ apartments and common areas has ensured the preservation of 120 units of affordable workforce housing.”

JURISDICTION AND VENUE

29. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 3613. This Court also has jurisdiction under 28 U.S.C. §§ 1331 and 1343 because the claims alleged herein arise under the laws of the United States.

30. Venue is proper in this district under 28 U.S.C. § 1391(b) because Defendants are residents of this district, the subject property that Defendants own, operate, or manage is located in the district, and a substantial part of the events or omissions giving rise to the claims occurred in the district.

FACTUAL BACKGROUND

I. PARK APARTMENTS AND DEFENDANTS' TENANT SELECTION PLAN

31. Defendants own, operate, or manage residential rental properties, including Park Apartments, in Chicago, Illinois.

32. Upon information and belief, Defendants receive financial assistance for Park Apartments from government agencies such as HUD by participating in the Section 8 Project-Based Rental Assistance ("PBRA") program and the Illinois Housing Development Authority. Federal regulations require housing providers who participate in PBRA programs to adopt a "written tenant selection plan in accordance with HUD requirements." 24 C.F.R. §§ 5.655(a) & (b)(2). Defendants signed the TSP for Park Apartments, which was revised as of April 1, 2010. *See Ex. A.*

33. The TSP that Defendants signed includes a section on the Fair Housing Act and provides that "Owner and Management shall not . . . a. Deny anyone the opportunity to apply to rent housing, or deny to any qualified applicant the opportunity to lease housing suitable to his or

her needs”; and “e. Treat anyone differently in determining eligibility or other requirements for admission . . .”.

34. In the section of the TSP titled “Rejection Criteria”, there is a subsection titled “Criminal Convictions/Current Drug Use”. Under this subsection, the TSP provides that applicants who fall into the following category “may be rejected”: “a) criminal convictions that involved physical violence to persons or property, or endangered the health and safety of other persons within the last 25 year(s).”

35. Under the subsection titled “Exception to Rejection Criteria”, the TSP includes a checked box next to the following option: “Extenuating circumstances will not be considered.”

36. The same “Exception to Rejection Criteria” subsection contains a second option that Defendants did not check, which states: “Extenuating circumstances will be considered in cases when applicants would normally be rejected. The applicants will have to provide, in writing, the circumstances under which he/she will be an acceptable resident in the future.” Thus, while the TSP suggests that an applicant “may” be rejected for a criminal conviction within the last 25 years, as a practical matter, on information and belief any such applicant was automatically rejected and no extenuating circumstances were considered.

II. MR. ADAMS’ ATTEMPT TO APPLY FOR AN APARTMENT AT PARK APARTMENTS AND DEFENDANTS’ REJECTION OF HIS APPLICATION PURSUANT TO THEIR TENANT SELECTION PLAN

A. Mr. Adams’ Interest in Park Apartments and Submission of his Application

37. From 2015 to 2017, Mr. Adams lived with his partner Ms. Morgan in an apartment in the Englewood neighborhood. The area was so crime-ridden that Mr. Adams and Ms. Morgan did not want to leave the house after noon on most days. After their daughter Victoraya was born, Mr. Adams decided that he needed to move his family to a safer, more child-friendly

apartment that would also accommodate Mr. Adams' growing accessibility needs. So Mr. Adams began his search.

38. On or about November 22, 2017, a few days prior to the Thanksgiving holiday, Mr. Adams visited the main office of Park Apartments located at 220 East Garfield Avenue, Chicago, Illinois 60615 to inquire about the availability of a two-bedroom accessible apartment. Mr. Adams is a Housing Choice Voucher ("HCV") holder and is eligible to live in an accessible apartment because he has a mobility disability. Mr. Adams spoke with Leasing Agent Nneka Scott, who upon information and belief is an employee of Defendant Leasing and Management Company. Ms. Scott informed Mr. Adams that a two-bedroom accessible apartment was available and that the property accepted HCV.

39. Mr. Adams toured a two-bedroom accessible apartment on the first floor of the Park Apartments development with Ms. Scott. The apartment checked all the boxes of what Mr. Adams wanted for his family. It had a dedicated private security force, it was completely gated, and it had surveillance cameras. The apartment was carpeted throughout, which was ideal for Victoraya who would be crawling and then eventually walking. And the apartment was handicap accessible with first floor access as well as a large kitchen, hallways, and a bathroom to accommodate Mr. Adams' worsening mobility disability.

40. After the tour, Mr. Adams told Ms. Scott that he was interested in submitting an application for the apartment. Ms. Scott gave Mr. Adams a document that stated what the requirements were to apply for the apartment, which included a \$25 fee to process the application and run a background check and a \$50 fee to hold the apartment.

41. After receiving the document with the application requirements, Mr. Adams told Ms. Scott that he had been convicted of a felony in 1997 and was released from prison around

2000. He also told Ms. Scott that he had not been charged or convicted of any crimes since his release from prison. Mr. Adams told Ms. Scott that he did not want to waste his money and therefore was telling her upfront about his criminal background.

42. Ms. Scott asked Mr. Adams if anyone was hurt and Mr. Adams replied that no one had gotten hurt. Ms. Scott then told Mr. Adams that it should not be a problem because the crime occurred more than 20 years ago and Park Apartments “go[es] back seven years.” Mr. Adams told Ms. Scott that he wanted his partner, Ms. Morgan, to view the apartment and that they would be back.

43. On or about December 1, 2017, Mr. Adams, Ms. Morgan, and Victoraya visited the main office at Park Apartments and toured the first floor two-bedroom accessible apartment with Ms. Scott that Mr. Adams toured the week before. After the tour, when they all returned to the main office, Mr. Adams again told Ms. Scott that she should be aware of what she was going to find when they ran the background check. He also told Ms. Scott that he wanted to be on the same page with Ms. Scott because his HCV was expiring on January 1, 2018 and he would not plan to apply for an extension if he was applying for the two-bedroom accessible apartment at Park Apartments. Ms. Scott again told Mr. Adams, this time in the presence of Ms. Morgan, that they had nothing to worry about with respect to Mr. Adams’ criminal background. Ms. Morgan told Ms. Scott that she and Mr. Adams had been together for five years and he was a great father, and also discussed Mr. Adams’ education history. Ms. Morgan even offered to present proof of Mr. Adams’ educational achievements but Ms. Scott told her that was not necessary.

44. Ms. Scott took Mr. Adams’ HCV paperwork, which consisted of the Request for Tenancy Approval (“RTA”), and highlighted the places on the paperwork where Mr. Adams needed to sign. Mr. Adams also provided Ms. Scott with money orders for the \$25 application

and background check fee and the \$50 holding fee. After Mr. Adams signed the paperwork, Ms. Scott told Mr. Adams and Ms. Morgan that they would receive paperwork about the date of the inspection for the apartment, which was the next step in the leasing process for HCV holders.

B. Mr. Adams' Lack of Notice from Park Apartments Regarding the Status of His Application

45. On or about the first week of December 2017, Mr. Adams notified his landlord at the apartment where he and his family were residing of their intent to vacate their apartment. Mr. Adams also visited the South Office of the Chicago Housing Authority ("CHA"), located at 10 West 35th Street, Chicago, Illinois 60616 to ask if he needed to seek an extension of his voucher. A CHA employee told him that an extension was not necessary because he submitted his RTA paperwork before the January 1, 2018 voucher expiration date.

46. On or about December 15, 2017, approximately two weeks after his December 1, 2017 visit to Park Apartments, Mr. Adams contacted the CHA by telephone because he had not received anything in the mail regarding an inspection date for the apartment at Park Apartments. A CHA employee told him that the agency had not received any paperwork from Park Apartments. Mr. Adams, who was growing increasingly concerned about the situation, contacted Park Apartments and spoke with Ms. Scott. Mr. Adams told Ms. Scott about his conversation with the CHA employee and Ms. Scott told him that the paperwork had been submitted to the CHA and not to worry because sometimes the paperwork gets backed up.

47. On or about December 20, 2017, Mr. Adams called Park Apartments to get an update on the status of his application and asked to speak with Ms. Scott. The person at Park Apartments who answered Mr. Adams' phone call told him that Ms. Scott was not in the office.

48. On or about December 23, 2017, Mr. Adams visited the CHA South Office and asked why it was taking so long for an inspection to be scheduled. A CHA employee told Mr.

Adams that the agency had not received an RTA packet from Park Apartments and therefore no inspection had been scheduled.

49. Immediately after his visit to the CHA South Office on December 23, 2017, Mr. Adams called Park Apartments and asked to speak with Ms. Scott. Park Apartments' Property Manager Gina Wright, who upon information and belief is an employee of Defendant Leasing and Management Company, answered Mr. Adams' phone call and told him that Ms. Scott was on vacation. When Mr. Adams told Ms. Wright that the CHA had not received the RTA paperwork, Ms. Wright told him that she would look into the situation.

50. On or about January 1, 2018, Mr. Adams called Park Apartments again and spoke with Ms. Wright because he still had not received notification of an inspection being scheduled and his voucher was set to expire that same day. Ms. Wright told Mr. Adams that she would e-mail and fax the RTA paperwork to the CHA.

51. On or about January 2, 2018, Mr. Adams went to the CHA South Office and requested an extension for his HCV. He also obtained new RTA paperwork to submit to Park Apartments and went to the main office at Park Apartments on the same day to have the paperwork signed. Mr. Adams handed the new RTA paperwork to Ms. Wright because Ms. Scott was still on vacation and was not in the office.

C. Park Apartments' Rejection of Mr. Adams' Application

52. On or about January 8, 2018, Mr. Adams received a phone call from Ms. Wright. Ms. Wright told him that they had a problem with his paperwork and that Mr. Adams needed to come to the main office at Park Apartments so she could explain what had happened. That same

day, Mr. Adams and Ms. Morgan went to the main office at Park Apartments and met with Ms. Wright. Ms. Scott had returned from vacation and was present at the office.

53. Ms. Wright told Mr. Adams and Ms. Morgan that a background check had been run and had shown that Mr. Adams had an armed robbery conviction and the company “goes back 25 years.” Ms. Wright then told Mr. Adams and Ms. Morgan that Mr. Adams’ application for an apartment at Park Apartments was being rejected because of his criminal background.

54. Mr. Adams asked Ms. Wright what she was talking about because Ms. Scott had told him that the company only goes back seven years and that he had nothing to worry about. Ms. Wright responded that Ms. Scott had some “bad information” and that they go back 25 years. Ms. Wright handed Mr. Adams a typed letter dated January 8, 2018 bearing her signature (attached hereto as Exhibit C). The letter stated, “Your file contains background item(s) that are rejectable per our Tenant Selection Plan. We, therefore, are unable to approve your file at this time.” Mr. Adams did not receive a copy of the TSP from Ms. Wright at this time.

55. Mr. Adams told Ms. Wright that the way that Park Apartments handled his application was unprofessional from the very start and that because of Park Apartments’ delay in handling his RTA paperwork, he was almost homeless because his voucher had expired on January 1, 2018 and he had already given notice to his landlord of his family’s intent to vacate their apartment. Ms. Scott then processed a refund for the \$50 holding fee but Ms. Wright refused to provide a refund for the \$25 application and background check fee.

D. The Impact of Defendants’ Policy on Mr. Adams

56. Approximately one week later, in or around mid-January 2018, Mr. Adams called James Watts, Senior Vice President at Defendant Leasing and Management Company, and asked Mr. Watts why his application was rejected when he was told that they only go back seven years

on their background checks. Mr. Watts told Mr. Adams that a board makes decisions regarding the policy and confirmed that the policy was for 25 years, not seven years. Mr. Watts did not explain what the board was or who served on the board. Mr. Watts also had no answer when Mr. Adams asked him why he did not receive a copy of the TSP or why he was not notified of the 25-year criminal background check policy at any point during the application process.

57. In or around mid-January 2018, Mr. Adams located another two-bedroom accessible apartment and moved into the apartment with his family on or about March 6, 2018.

58. In or around the first half of February 2018, Mr. Adams received a copy of his screening report, which was generated by Defendant Leasing and Management Company on or about December 5, 2017. Mr. Adams again did not receive a copy of the TSP at this time.

59. In or around the second half of February 2018, Mr. Adams contacted Park Apartments by telephone and requested a copy of the TSP. Ms. Wright answered Mr. Adams' call and refused to provide him with a copy of the TSP.

60. On or about March 5, 2018, counsel for Mr. Adams contacted Ms. Wright and requested a copy of the TSP. Ms. Wright sent counsel for Mr. Adams a copy of the January 8, 2018 letter and a one-page document that appeared to be an excerpt from a longer document purporting to be Park Apartments' TSP.

61. On or about March 9, 2018, counsel for Mr. Adams sent a letter to Ms. Wright and Mr. Watts requesting additional information regarding the rejection of Mr. Adams' application.

62. Mr. Watts sent a letter dated March 20, 2018 to counsel for Mr. Adams (attached hereto as Exhibit D). The letter stated that "Mr. Adams was rejected due to his criminal conviction involving physical violence to persons or property or endangering the health and safety of other persons within the last 25 years" and that "extenuating circumstances will not be

considered as an exception to the rejection criteria.” Defendant Leasing and Management Company further stated in the March 20, 2018 letter that “[t]hese criteria are being consistently enforced on all applicants who fall into this category.” Defendant Leasing and Management Company attached a copy of the TSP to its March 20, 2018 letter.

63. Defendants’ refusal to entertain any extenuating circumstances meant that they never considered the following facts that showed that Mr. Adams posed no threat to any person or property, including: (1) that Mr. Adams’ conviction stemmed from an incident in which Mr. Adams did not harm anyone; (2) that during his time in prison, he served as a sanitation employee for the City of Taylorville, Illinois; (3) that during this same time, he took college classes through a program offered by a local community college; (4) that immediately after his release, he earned an Associate’s and a Bachelor’s and then completed course work towards a Master’s degree; (5) that while he went to school, he held various campus jobs; (6) that at this same time, he lived with his mother to care for her as she suffered from, and eventually succumbed to, muscular dystrophy; (7) that following his education, he worked as a salesman at various companies; and (8) that Mr. Adams has a clean record following his release from prison around eighteen years ago.

E. Defendants’ Policy Injured Mr. Adams

64. As a result of Defendants’ unlawful and discriminatory conduct, Mr. Adams suffered substantial injury, including emotional distress and out-of-pocket costs. Mr. Adams was devastated that his family was denied the opportunity to live in the accessible unit at Park Apartments. Mr. Adams had been excited about moving into the apartment because it provided Victoraya, Ms. Morgan, and himself the safety and accommodations that they needed. Ms. Morgan, who had also toured the apartment, loved the apartment and was looking forward to

living there. Mr. Adams had to endure the heart-wrenching pain of telling Ms. Morgan that they could not move their family into the apartment because of his over twenty-year-old conviction. Simply put, Mr. Adams felt like a failure. He also had to endure the added emotional stress of having to scramble to seek an extension for his HCV and to find alternate housing within the voucher period.

65. In addition to the emotional distress Mr. Adams suffered, he also incurred out-of-pocket expenses. After being reassured that his application should be fine, Mr. Adams secured a moving truck and moving men, both of which required non-refundable deposits. Mr. Adams' rejection via Defendants' discriminatory policy resulted in the loss of this money as well as the background check fee he paid to Defendants, which was not refunded.

III. DEFENDANTS' REJECTION OF MR. ADAMS' APPLICATION ON THE BASIS OF THEIR 25-YEAR BAN AGAINST RESIDENTS WITH CRIMINAL RECORDS CONSTITUTES UNLAWFUL DISCRIMINATION.

66. The Fair Housing Act prohibits housing policies that appear to be neutral on their face but have a disparate impact on the basis of race, unless such policies are necessary to achieve a legitimate business purpose that cannot be satisfied through a less discriminatory alternative practice. Defendants' TSP is unlawful under this standard because it contains a policy that effectively bars individuals with certain types of criminal convictions from having access to housing by applying a 25-year ban to such individuals and fails to consider an applicant's extenuating circumstances. Such bans to housing have a significant disparate impact on African Americans, and any legitimate safety concerns can be satisfied through the less discriminatory alternative of giving individualized consideration to each applicant's

circumstances and suitability as a tenant and through significantly decreasing the Look Back Period.

67. Over the past four decades, there has been a massive increase in the U.S. prison population from approximately 300,000 people in 1980 to over 2 million people today.³ African Americans represent an overwhelmingly disproportionate portion of this population. For example, while African Americans only constitute 13.3 percent of the U.S. general population,⁴ they account for 33.4 percent of the national prison population.⁵

68. In Illinois, the disproportionate incarceration rate of African Americans is even greater. African Americans make up 14.7 percent of the population of Illinois,⁶ but constitute 56.7 percent of the state's prison population.⁷

69. In Chicago, an African American person is eight times more likely to be arrested than a White person.⁸ Despite making up only 32 percent of Chicago's population, African Americans constitute 72 percent of the city's arrests and 67 percent of the individuals held at Cook County Jail.⁹ Additionally, African Americans are subjected to the vast majority of the police stops performed in the Chicago area.¹⁰

70. African Americans are also disproportionately convicted of crimes against person or property in Chicago. In 2010, African Americans were convicted of 48.5 percent of crimes

³ See BUREAU OF JUSTICE STAT., U.S. DEP'T OF JUSTICE, PRISONERS IN 1980 1 (1981); BUREAU OF JUSTICE STAT., U.S. DEP'T OF JUSTICE, CORRECTIONAL POPULATIONS IN THE UNITED STATES, 2016 tbl. 1 (2018).

⁴ U.S. CENSUS BUREAU, STAT. ABSTRACT OF THE UNITED STATES: 2012, tbl. 6 (2012).

⁵ See Bureau of Justice Stat., U.S. Dep't of Justice, *Corrections Stat. Analysis Tool (CSAT) - Prisoners, Prisoner Characteristics (Age, Sex, Race, Offense)*, tbl. (2016), <https://www.bjs.gov/index.cfm?ty=nps> (last visited Sept. 26, 2018).

⁶ U.S. CENSUS BUREAU, STAT. ABSTRACT OF THE UNITED STATES: 2012.

⁷ ILL. DEP'T OF CORRECTIONS, FISCAL YEAR 2016 ANNUAL REP. 77 (2017).

⁸ Henricks, Kasey, et al., *A Tale of Three Cities: The State of Racial Justice in Chicago* 112 (Inst. For Research on Race and Pub. Pol'y, 2017).

⁹ CHI. POLICE DEP'T ANN. REP. 2010, ex. 12c (2011).

¹⁰ Am. Civ. Liberties Union of Ill., *Stop and Frisk in Chicago*, 9 (2015).

against person or property despite making up only 32 percent of the population.¹¹ Thus, African Americans are nearly two times more likely to be affected by Defendants' 25-year ban regarding criminal convictions for crimes against person or property.

71. Approximately 700,000 people are released from confinement in the United States each year.¹² In the approximately twenty years following Mr. Adams' conviction, over 13 million people have been released from federal or state confinement.¹³ Nearly 650,000 people have been released from confinement by the State of Illinois in the same time period.¹⁴ Over 95 percent of inmates released in Illinois stay in the state, and over 50 percent of those who stay in Illinois return to Chicago.¹⁵

72. In light of the above, African Americans are much more likely than similarly situated Whites to be incarcerated and many of these individuals are likely to find themselves searching for housing in Chicago after their release from confinement. Thus, African Americans are significantly more likely to be denied housing as a result of Defendants' policy to enforce a 25-year ban in its TSP.

73. In 2016, the Office of General Counsel for HUD issued Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate Transactions. *See* Ex. B. Using the well-established discriminatory effects or "disparate impact" framework and looking to data on incarceration rates and disproportionate representation of African Americans and Hispanics in the criminal justice system, HUD

¹¹ CHI. POLICE DEP'T ANN. REP. 2010, at 17, 31.

¹² *Id.*

¹³ *See* Bureau of Justice Stat., U.S. Dep't of Justice, *Corrections Stat. Analysis Tool (CSAT) – Prisoners, Prison Releases*, tbl. (2016), <https://www.bjs.gov/index.cfm?ty=nps>.

¹⁴ *Id.*

¹⁵ Nancy G. La Vigne and Cynthia A. Mamalian, *A Portrait of Prisoner Reentry in Ill. 2* (Urb. Inst. Just. Pol'y Ctr, 2003).

cautioned that arbitrary and overbroad criminal-history bans would have an unjustified discriminatory effect.

74. The Guidance instructively detailed examples of best practices, which included a 24-month look back period for violent and other criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. The Guidance also asserted that admission policies should consider each application individually and consider, among other things, whether the applicant's offense bears a relationship to the safety and security of other residents, the level of violence the offense involved, the length of time since the conviction, the number of convictions that appear in the applicant's criminal history, and any rehabilitation efforts that the applicant has undertaken since the time of conviction.

75. Defendants' 25-year ban is 23 years longer than best practices suggested by HUD and does not give applicants to Park Apartments the opportunity to present evidence of extenuating circumstances before making a decision whether to accept or reject their application.

76. For Title VII disparate impact cases, which involve the same burden-shifting framework used in Fair Housing Act discriminatory effect cases, the Equal Employment Opportunity Commission ("EEOC") concluded that due to the disproportionate incarceration of African Americans, a ban from employment based on criminal history has a presumptively disparate impact on the basis of race.¹⁶

77. The EEOC's presumption applies with equal force in the housing context — bans based on past criminal history have a disparate impact on the basis of race. Mr. Adams was excluded based on his criminal history from over 20 years ago without an individualized assessment of any extenuating circumstances and thus Defendants' 25-year ban in its TSP clearly

¹⁶ Consideration of Arrest and Conviction records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, 2012 WL 1499883 (Apr. 25, 2012).

has a disparate impact on the basis of race. In both the employment and housing contexts, applicants are excluded from opportunities due solely to the existence of a past criminal history, regardless of whether they actually pose a current safety risk.

CAUSES OF ACTION

COUNT I

Disparate Impact in Violation of the Fair Housing Act, 42 U.S.C. § 3604

78. Plaintiff repeats and incorporates by reference all allegations set forth in Paragraphs 1 through 77 above.

79. The federal Fair Housing Act makes it unlawful, among other practices, to “otherwise 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).

80. It is also unlawful under the Fair Housing Act to “discriminate against any person in the terms, conditions, or privileges of 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).

81. Defendants’ policy in its TSP that excludes certain applicants from Park Apartments who have criminal convictions going back 25 years and fails to consider an applicant’s extenuating circumstances, provides different “terms, conditions, or privileges” of rental housing and also has the effect of “otherwise mak[ing] unavailable or deny[ing] a dwelling” on the basis of race. Even if Defendants’ 25-year ban in its TSP related to any valid interest in disqualifying certain applicants for prior criminal activity, there are less discriminatory alternatives available in determining applicant eligibility for housing at Park Apartments that would serve the same purpose.

82. Defendants' conduct has an adverse and disproportionate impact on African Americans in Chicago as compared to similarly situated Whites. This adverse and disproportionate impact is the direct result of Defendants' policy in its TSP that effectively bans individuals with certain types of criminal backgrounds and fails to consider an applicant's extenuating circumstances.

83. The application of the 25-year ban in Defendants' TSP harmed Mr. Adams, an African American Chicago resident, by denying him housing, perpetuating unreasonable tenant selection policies, causing him to suffer emotional distress, and causing him to incur out-of-pocket costs.

DEMAND FOR JURY TRIAL

84. Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury on all issues triable as of right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court grant him the following relief:

- (1) Enter a declaratory judgment finding that the foregoing actions of Defendants violate 42 U.S.C. § 3604;
- (2) Award compensatory damages to Plaintiff in an amount to be determined by the jury that would fully compensate Plaintiff for injuries caused by Defendants' conduct alleged herein;
- (3) Award Plaintiff his reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 3613(c)(2);
- (4) Award pre- and post-judgment interest to Plaintiff, as provided by law; and
- (5) Order such other relief as this Court deems just and equitable.

Dated: October 23, 2018

Respectfully submitted,

By: /s/ Aneel L. Chablani

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