

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

PEOPLE TO END HOMELESSNESS, INC.	)	
	)	
V.	)	C.A. No. 01-
	)	
MEL MARTINEZ, in his official capacity as	)	
Secretary of the United States Department of	)	
Housing and Urban Development; the UNITED	)	
STATES DEPARTMENT OF HOUSING AND	)	
URBAN DEVELOPMENT; DEVELCO	)	
SINGLES APARTMENT ASSOCIATES;	)	
DEVELCO MODERN APARTMENT	)	
ASSOCIATES; DEVELCO APARTMENTS,	)	
INC.; DEVELCO FAMILY APARTMENTS	)	
ASSOCIATES; HEDCO LTD; and	)	
WOONSOCKET HOUSING AUTHORITY	)	

**DECLARATION OF CATHERINE L. RHODES**

I, Catherine L. Rhodes, being first duly sworn, depose and say that:

1. I am the Coordinator for People to End Homelessness, Inc. (“PEH”), a non-profit corporation dedicated to expanding and preserving the supply of low income housing in Rhode Island.

2. I submit this declaration in support of plaintiff’s motion for a temporary restraining order and preliminary injunction, to halt the termination of several project-based Section 8 contracts for four low income Section 8 developments in Woonsocket, Rhode Island, known as the “Develco Projects.” The Develco Projects include 171 low income apartments owned by four separate entities: Develco Singles Apartments Associates, Develco Modern Apartments Associates, Develco Apartments, Inc., and Develco Family Apartments Associates.

3. I supplied certain information to PEH's attorney that has been attached to the Complaint filed in this action. Below, I describe PEH's involvement with the Develco Projects and how I obtained the information attached to the Complaint.

4. PEH has been in existence for 7 years. For the past five years I worked for PEH as its Coordinator.

5. PEH is a grassroots organization whose membership consists largely of homeless and formerly homeless persons. . A majority of PEH's formerly homeless members live in housing subsidized by the U.S. Department of Housing and Urban Development. PEH also provides direct service to clients, who consist of persons and families that are presently homeless. PEH's mission is to expand and protect the supply of affordable housing for low income persons in Rhode Island, and build the capacity of low-income residents to participate in and affect the outcome of changes that may occur in their housing.

6. PEH carries out its mission in several ways including: providing transitional housing for homeless men and families, helping homeless people find permanent housing; educating low-income residents of HUD-financed housing and other types of affordable housing regarding their rights as tenants and their right to participate in the housing programs that benefit them, increasing resident participation in these programs through resident organizing and the establishment of resident associations, and helping residents and resident associations to form partnerships with housing agencies and community groups to promote resident participation and to preserve development undergoing or at high-risk of the loss of HUD affordability programs.

7. One of the ways PEH assists its members and clients is to help them find affordable housing. On a daily basis PEH receives anywhere from 3 to 10 or more telephone calls from desperate homeless individuals and families with children seeking affordable housing. Some of these homeless families are currently living on the floor of Travelers Aid or at one of the state's twenty-two emergency shelters, including the Woonsocket Shelter. I usually explain to PEH's clients that there are no low income housing units in Rhode Island to move right into. That is because the waiting lists have so many people on them that it takes a new applicant at least 2 to 5 years to get into a project based Section 8 or public housing development. Moreover, all the waiting lists for tenant-based Section 8 vouchers are presently closed because of the number of persons on those lists.

8. Another way PEH furthers its mission is by working with tenants at project-based Section 8 developments that are eligible to participate in HUD's Mark to Market program ("M2M"). HUD's M2M program is a vehicle by which HUD reduces the cost of housing assistance paid by HUD to privately owned Section 8 developments.

9. PEH's role in M2M is to educate the tenants about the program and insure their participation in the M2M process. In the M2M process, tenants are supposed to receive information about proposals to restructure the finances of their apartment complex. PEH's education efforts include distributing pamphlets prepared by HUD about M2M.

10. When a project-based Section 8 development goes through the Mark to Market program, HUD typically reduces the monthly rent subsidy payments to the development's owner to a market based rent level. In exchange for lowering the rents

HUD restructures any HUD insured mortgages on the project to cushion the loss of monthly rent subsidy payments.

11. Sometimes, HUD and the owner cannot agree to a restructuring of finances and the owner decides to opt out of the Section 8 program altogether. When that happens, the owner must give the tenants at least one year's notice of the opt out according to HUD requirements. PEH works to avoid owner opt outs because the loss of project-based Section 8 units will exacerbate the shortage of housing that is affordable to low income Rhode Islanders.

12. To ensure tenant participation PEH goes door to door to meet with tenants, invite them to tenant meetings, and encourage them to attend two required meetings with the Public Administrative Entity ("PAE"), which in this instance is Rhode Island Housing Mortgage Finance Corporation ("RIHMFC"). In the M2M program, the PAE is responsible for evaluating different options for restructuring a Section 8 development's finances and making recommendations to HUD.

13. The Develco Projects were subjected to the M2M program during the years 2000-01. PEH was involved with RIHMFC's M2M review of the Develco Projects and other properties owned by HEDCO, Ltd (which owns the Develco Projects). PEH staff attended a meeting at the Champlin-Perez Center in Woonsocket with RIHMFC (as the PAE), about 8 Develco Project tenants, and Develco Project management persons. The discussions at that time indicated that the Develco Projects' Owners intended to restructure the financing of their projects through M2M. There was no discussion at that time about Develco's owners opting out of their Section 8 contracts.

14. PEH received a copy of RIHMFC's recommendations to HUD for each the Develco Projects. Copies of those reports are attached to this declaration as Exhibits 1a-1c.

15. RIHMFC evaluated the option of vouchering out the Develco Projects and recommended against it. For each Develco Project RIHMFC concluded:

Together, these four developments account for 171 units of affordable housing in a predominately low income community. They are important to the stability of the neighborhood. It is the PAE's feeling that the community could not absorb these [171] units should the residents be given vouchers. The statewide vacancy rate is less than 6%, which points to limited availability of affordable units. In addition, it is the PAE's impression that the residents have strong ties to the area and do not want to move out of the existing community.

Exhibits 1a, at p. 18; 1b, at p. 17; and 1c., at p. 17.

16. PEH first learned about the Develco Project's owners' plans to opt out of their Section 8 contracts on or about May 13, 2001 when I received a call from a Develco Project tenant asking me what the difference between a voucher and a project-based subsidy was. When I inquired why the tenant was asking this question the tenant informed me that she had attended a meeting with the Woonsocket Housing Authority (WHA), and that WHA was starting the process to issue tenant based Section 8 vouchers to the Develco Project tenants. On May 15, 2001, I sent a Freedom of Information Act ("FOIA") request to the Providence HUD office. A copy of that request is attached to this declaration as Exhibit 2.

17. In the FOIA request I supplied HUD with a list of project-based Section 8 developments in Rhode Island that have been identified as having owners that might opt out of the Section 8 program and/or pre-pay the HUD insured mortgages on those developments. The Develco Projects were included in the list.

18. For each development on the list I asked HUD to supply copies of all notification to tenants regarding the required one year notice of opt out of the Section 8 program. I also asked HUD for copies of the most recent signed Section 8 contracts for those developments.

19. After sending the FOIA request I had a conversation with Stephen Vadnais, the Executive Director of the WHA. He informed me that all of the Develco Projects were scheduled to be vouchered out on June 1, 2001. I asked Mr. Vadnais about why they were vouchering out the Develco Projects since the tenants never received a one year notice of the opt out. Vadnais replied that "HUD had approved the process to protect the tenants." Vadnais indicated there were a handful of apartments that would not pass a housing quality standards inspection, which could mean the tenants living in those apartments could not use their tenant-based Section 8 voucher at those apartments. Vadnais also stated that some of the Develco tenants would not be eligible to receive Section 8 vouchers because they did not pass a criminal background check.

20. After speaking with Vadnais I went door to door to speak to Develco Project tenants affected by the opt out. One of the tenants gave me a copy of a notice they received from the Woonsocket Housing Authority dated April 16, 2001. A copy of the April 16, 2001 notice is attached to the Complaint as Exhibit 3.

21. The Develco Project tenants I spoke with were very confused about the plan to issue them tenant based Section 8 vouchers. Many tenants did not understand the difference between project-based Section 8 assistance and tenant based Section 8 assistance. Other tenants did not understand why there was a sudden change in their housing assistance, and why vouchers were being issued to them so quickly. Several

tenants told me that WHA had informed them that if they were not using their vouchers at their current Develco Project apartments by June 1, 2001, that they would have to move out of the Develco Projects. The confusion was compounded by the short time between the April 16, 2001 notice and the June 1, 2001 deadline by which people had to make very important decisions about their living arrangements.

22. Many of the Develco Project tenants speak only Spanish. None of the notices from WHA that I saw were written in Spanish. Only the words “NOTA IMPORTANTE” appeared on the notices I saw from WHA. Thus, many of the Spanish speaking may not even know of the need to ask questions about the opt out and issuance of tenant based Section 8 vouchers.

23. On May 25, 2001 I received a telephone from Barry Tate, an HUD employee in the Providence HUD office. He informed me that the information I requested in the FOIA letter was ready to be picked up. Included in the package were notices sent on May 1, 1999 by the owners of the Develco Projects to the tenants. Tate informed me that HUD considered the May 1, 1999 notices from the Develco Projects’ owners as satisfying the one year opt out notice requirement in existence at that time (i.e., May, 1999).

24. I went to the HUD office in the afternoon of May 25, 2001 and received from Tate a letter explaining what information he was giving me. A copy of that letter is attached to this declaration as Exhibit 4. That information included the May 1, 1999 notices for the Develco Projects, notices for several other projects owned by HEDCO (the corporation that owns the four ownership entities of the Develco Projects), and the most recent Section 8 Housing Assistance Payments contracts for the Develco Projects.

Copies of the May 1, 1999 notices are attached to the Complaint in this action as Complaint Exhibit 2. The most recent Section 8 Housing Assistance Payments Contracts are attached to the Complaint in this action as Complaint Exhibits 1a-1g.

25. When I went to pick up the info at HUD on May 25, 2001, Tate informed me that there were several other projects owned by HEDCO where HEDCO had decided to opt out of the Section 8 program. Tate also said that the notices he included in the FOIA response which also date back to 1999 were also deemed by HUD to satisfy the one year opt out notice requirement.

26. I am a low income tenant myself. I receive housing assistance from the United States Department of Housing Development's ("HUD") tenant-based Section 8 voucher program. In the last five years I have had to move 3 times. During one of the times I had to move I was homeless for approximately three months while I was trying to find a landlord willing to accept a Section 8 voucher.

27. I have knowledge of the housing market in Rhode Island for Section 8 voucher holders based on my own experience, and based on my experience working for PEH. Based on my knowledge I am opposed to the plan to issue Section 8 vouchers to the Develco tenants and end the project based Section 8 assistance at the Develco Projects. I am concerned that the Develco tenants will have a hard time finding a landlord willing to take the vouchers, and that the Develco tenants may lose their housing assistance in the process. I also know there are many homeless people in need of low income housing, and that homeless people more readily find housing in developments with project-based Section 8 assistance than they do with Section 8 vouchers.



**28.** According to the March 2000 State Housing Plan, there were 1,333 project-based Section 8 apartments in Woonsocket in 1995: 686 of these apartments are for the elderly and disabled, and 647 are for families. See State Housing Plan, Table 421-4(04) (March 2000) (copy attached hereto as Exhibit 5). The 171 Develco Project apartments comprise more than 10% of Woonsocket's project-based Section 8 housing stock. The loss of those units will place a severe hardship on low income tenants looking for affordable housing in Woonsocket, especially considering that the state's rental housing vacancy rate is under 6%, according to RIHMFC.

**29.** I am also concerned about the long-term value of the voucher subsidies to the Develco tenants. After the first year of the voucher lease the Owner can evict a tenant for any reason, whereas with the project-based lease the Owner can evict a tenant only for good cause. Moreover, once the project-based Section 8 contracts are terminated, the Develco Owners may decide to raise rents to a level at which a voucher may not be used or where the rents are no longer affordable to low income persons.

**30.** PEH will be harmed in several ways should the Develco Projects lose their Section 8 contracts and their tenants issued vouchers. First, PEH's homeless members and clients will have to compete for apartments with Develco Project tenants who want to move with their vouchers, thus prolonging their homelessness. Second, Develco Project tenants will come to PEH for assistance in finding new housing, further straining the organization's resources. Third, PEH's mission to protect the supply of low income housing will be thwarted by the loss of 171 project based Section 8 units. Fourth, PEH's efforts to keep tenants informed about the M2M program has been harmed, since PEH

was kept in the dark about any discussions between HUD and the Develco Projects' Owners to voucher out the four developments.

31. Had our organization known of the pending opt outs, PEH would have expended its resources to do everything it could to prevent the opt out by the Develco Projects Owners, such as trying to find a non-profit buyer committed to keeping the project-based Section 8 subsidies in place. Instead, our scarce resources have been expended trying to reassure a group of tenants who are fearful of losing their affordable apartments.

32. The 171 Develco Project units are not the only project-based Section 8 apartments in Rhode Island due to be vouchered out. I am aware of plans for the vouchering out of at least 500 project-based Section 8 apartments in the coming months, including the 171 Develco Project apartments. Thus, the harms to PEH caused by the Develco opt outs will be compounded if another 300 plus apartments are vouchered out in the coming months.

33. PEH is a nonprofit public interest organization with virtually no financial resources with which to post a bond to obtain injunctive relief. Its members are mostly low income persons who also lack the resources to post a bond.

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Catherine L. Rhodes

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Date

Subscribed and sworn to before me this \_\_\_\_\_ day of May, 2001.

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Notary Public

My Commission Expires \_\_\_\_\_.