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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOUGLAS SHEPHERD, PATRICIA ANN,
KHADIJA BIN, KOMBA NGAUJA, and the
RESIDENT ACTION COUNCIL,
Plaintiffs,

vs.

WELDON MEDIATION SERVICES, INC.,
LAWRENCE N. WELDON, SEATTLE
HOUSING AUTHORITY, U.S.
DEPARTMENT OF HOUSING & URBAN
DEVELOPMENT, and TOM TIERNEY,
Executive Director of Seattle Housing
Authority, in his Official Capacity,

Defendants.

No.

OMNIBUS COMPLAINT
CHALLENGING UNLAWFUL
POLICIES AND PRACTICES IN
THE ADMINISTRATION OF
FEDERALLY-SUBSIDIZED
PUBLIC HOUSING

Plaintiffs Douglas Shepherd, Patricia Ann, Khadija Bin, Komba Ngauja, and the Resident
Action Council (RAC), by counsel, present the following Omnibus Complaint Challenging
Unlawful Policies and Practices in the Administration of Federally-Subsidized Public Housing
against the above-named defendants:

I. Introduction

1.1. The plaintiffs are individual tenants who reside in public housing facilities owned
and operated by Defendant Seattle Housing Authority (SHA), and an SHA public housing

1 resident organization. They seek relief designed to correct a set of unlawful SHA policies and
2 practices concerning major aspects of SHA's public housing program.

3 1.2. The SHA policies and practices at issue include:

4 (i) SHA's failure to provide a fair and meaningful administrative "grievance hearing"
5 procedure by which tenants may challenge certain adverse SHA actions and decisions;

6 (ii) an unlawful rent calculation policy that has resulted in subsidized tenants being over-
7 charged for rent when they secure employment;

8 (iii) the improper administration of a tenant savings account program that has resulted in
9 tenants being deprived of savings, interest, and other funds entrusted to SHA; and

10 (iv) SHA's failure to properly recognize resident organizations, or to solicit or consider
11 tenant input on certain critical decisions, such as the selection of grievance hearing officers.

12 1.3. The policies and practices the Plaintiffs challenge in this action are impermissible
13 under an overlapping series of statutory, regulatory, and contractual requirements applicable to
14 SHA, as well as certain constitutional provisions.

15 1.4. The Plaintiffs seek primarily declaratory and prospective injunctive relief, proper
16 ameliorative measures for the benefit of those injured by SHA unlawful practices in the past, in
17 addition to all costs of litigation, any damages to which they may be entitled, and reasonable
18 attorney fees.

19 **II. Summary of Claims**

20 **A. The Public Housing Program at Seattle Housing Authority**

21 2.A.1. Public housing is a federal program that was first enacted as part of the New Deal;
22 in its current form, Congress appropriates money to the U.S. Department of Housing & Urban
23 Development ("HUD"), which contracts with local "public housing agencies" (or "PHAs"), to
24

1 develop and operate affordable housing for low-income families. See 42 USC 1437 et seq.

2 2.A.2. Most public housing agencies are government entities, including Defendant Seattle
3 Housing Authority (hereafter “SHA”), the PHA that administers the public housing program in
4 Seattle, Washington. See 24 CFR 5.100; see RCW 35.82. SHA calls its public housing program
5 “Low-Income Public Housing” or “LIPH.”

6 2.A.3. SHA has received federal funds to acquire, develop, construct, maintain, and
7 operate public housing in Seattle since 1939, and SHA continues to receive federal public
8 housing funds today; for FY 2010, 65% of SHA’s overall funding came from HUD, including a
9 \$120 million block grant and public housing “operating subsidy.”

10 2.A.4. SHA is now the largest PHA (indeed, one of the largest residential landlords) in
11 the Pacific Northwest, owing and operating more than 5,200 public housing dwelling units in
12 more thirty-one large, multi-family complexes throughout Seattle, as well as hundreds of smaller
13 “scattered sites” (i.e., single family homes, duplexes, or other small buildings subsidized through
14 the public housing program). These federally-funded dwelling units provide housing for more
15 than 14,000 low-income people. In addition to public housing, SHA also administers other low-
16 income housing programs in Seattle, including the HUD-funded “Housing Choice Voucher
17 Program,” (f.k.a. “Section 8”) which subsidizes rent for approximately 8,000 low-income
18 households. See 24 CFR 982.1 et seq.

19 **B. Public Housing Rents, Earned Income Disallowance, and Tenant Trust Accounts**

20 2.B.1 As a condition for receiving federal public housing funds, PHAs must limit public
21 housing rents to about 30% of a household’s monthly income. See 24 CFR 960.253.

22 2.B.2. This income-based rent policy is designed to assure that public housing units
23 remain affordable to truly indigent families; however, this rule can also operate as a disincentive
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1 for public housing tenants to seek employment (because an increase in a household's income
2 tends to produce a corresponding increase in the household's rent).

3 2.B.3. To encourage more able-bodied public housing tenants to become economically
4 self-sufficient, in 1990 Congress enacted the "Earned Income Disallowance," whereby public
5 housing rent increases for tenants who become employed are delayed for twelve months, then
6 phased-in over the ensuing twelve months. See 42 USC 1437a(d)(1); see 24 CFR 960.255(b).

7 2.B.4. Any public housing tenant who qualifies for the Earned Income Disallowance is
8 entitled to the benefit of the rent savings; however, SHA does not apply the Earned Income
9 Disallowance to the calculation of public housing tenant rents, even for tenants who qualify.

10 2.B.5. A public housing agency may offer tenants qualifying for the Earned Income
11 Disallowance the alternative of having an "individual savings account," whereby the rent
12 increase (from earned income) takes effect immediately but the additional rent funds are
13 deposited into an interest-bearing account for the tenant. See 42 USC 1437a(e); 24 CFR
14 960.255(d). However, participation in an individual savings account plan is optional; a PHA
15 may not compel a public housing tenant to choose an individual savings account. See to 42 USC
16 1437a(d) and 24 CFR 960.255; see also HUD, *Public Housing Occupancy Guidebook (PHOG)*,
17 Sec. 10.9, at 145 (June 2003).

18 2.B.6. SHA has established an individual savings account plan called "Tenant Trust
19 Accounts (or "TTAs"). By refusing to apply the Earned Income Disallowance to delay rent
20 increase for tenants whose incomes increase due to employment, SHA effectively forces some
21 public housing tenants to participate in the TTA program (or forfeit altogether the rent savings to
22 which they are entitled). This policy is contrary to 42 USC 1437a(d) and 24 CFR 960.255 and is
23 detrimental to tenants, who have limited access to funds deposited into a TTA; some tenants
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1 have TTA accounts despite having no realistic expectation of ever meeting the criteria to
2 withdraw their funds.

3 2.B.7. Many other rules and policies pertaining to the TTA program are impermissible
4 under federal law and operate to the detriment of the tenants; for instance:

5 a. SHA does not deposit as much money into the TTA accounts as SHA is
6 required to deposit under 42 USC 1437a(d)(2) and 24 CFR 960.255(d)(2);

7 b. SHA does not enable tenants to earn interest on their deposits, as required by
8 24 CFR 960.255(d)(4);

9 c. SHA unlawfully levies service charges upon tenants, contrary to 24 CFR
10 960.255(d)(4); and

11 d. Tenant funds in TTA accounts are automatically forfeited to SHA under
12 numerous circumstances, including when no withdrawals or deposits are made to the
13 account for a 24-month period; because of these forfeiture rules, which are unfair and
14 contrary to 24 CFR 960.255(d)(6) among other laws, most SHA tenants participating in
15 the TTA program have forfeited, or will forfeit, some or all of their accumulated savings.

16 **C. Public Housing Grievance Hearings**

17 2.C.1. From time-to-time, disputes arise between SHA and its public housing residents
18 concerning matters that may “adversely affect the individual tenant's rights, duties, welfare or
19 status;” examples of such disputes include: disagreements regarding the proper amount of a
20 tenant’s rent obligation, issues concerning whether the dwelling unit assigned to the tenant is
21 appropriate to the size or makeup of the household, claims that a resident should be removed or a
22 tenancy terminated for some reason, questions as to whether a tenant may permissibly engage in
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1 certain activities on the premises (e.g., operating a home-based business, hosting certain guests,
2 having a companion animal, etc.), and so on.

3 2.C.2. Pursuant to their rental agreements with SHA, public housing tenants are entitled
4 to an administrative grievance procedure for resolving such disputes. In addition to the rental
5 agreements, SHA is also obligated to afford such a grievance procedure by 42 USC 1437(d)(k)
6 and 24 CFR 966.51(a)(1). Congress and HUD imposed these grievance hearing requirements to
7 facilitate PHAs' compliance with the Fourteenth Amendment Due Process Clause, which the
8 U.S. Supreme Court has interpreted to require some form of hearing, with certain distinct
9 procedural safeguards, before a PHA may take any action that deprives or impairs the liberty or
10 property interests of public housing tenants. See *Goldberg v. Kelly*, 397 U.S. 254; 90 S.Ct 1011
11 (1970); see *King County Housing Authority v. Saylor*, 19 Wn. App. 871, 873; 578 P.2d 76
12 (1978). Similar due process requirements arise under the Washington State Constitution. See
13 Wash.St.Const., Art. I, Sec. 3.

14 2.C.3. A public housing grievance hearing, if conducted in accordance with the relevant
15 HUD regulations, provides a public housing tenant with extensive procedural safeguards and an
16 opportunity to be heard, at a meaningful time and in a meaningful manner, in opposition to an
17 adverse PHA action or decision; these safeguards include:

- 18 a. written notice of grounds for taking the adverse action;
- 19 b. an impartial decision-maker;
- 20 c. a prompt hearing at a reasonably convenient time and place;
- 21 d. the right to inspect and copy PHA documents before the hearing;
- 22 e. the right to have an attorney or other advocate speak on the tenant's behalf;
- 23 f. the ability to present relevant evidence and arguments on pertinent issues;

1 g. the right to confront and cross-examine opposing witnesses;

2 h. a decision based solely on the evidence and legal rules presented at the hearing;

3 i. a written ruling that states the reason(s) for the outcome; and

4 j. a judicially-reviewable record of the proceedings.

5 See 24 CFR 966.50-57.

6 2.C.4. In practice, however, SHA public housing tenants very seldom receive these
7 procedural safeguards, because for some time SHA has been conducting its grievance hearings in
8 a manner inconsistent and irreconcilable with the requirements of applicable constitutional,
9 statutory, regulatory, and contractual provisions; among other things:

10 a. SHA regularly supplies a hearing officer who lacks the necessary skills and
11 training to hear and adjudicate public housing disputes;

12 b. SHA regularly supplies a hearing officer who lacks the requisite impartiality
13 and who customarily favors or defers to SHA;

14 c. SHA fails to consult with or consider input from resident organizations in
15 appointing hearing officers, contrary to explicit regulatory requirements;

16 d. SHA regularly supplies a hearing officer who arbitrarily excludes relevant
17 evidence, arguments and legal authorities from consideration at grievance hearings, and
18 SHA actively endorses and encourages such arbitrary exclusion of relevant material;

19 e. SHA uses improper methods to schedule hearings that impair the ability of
20 tenants, tenant advocates, and pro-tenant witnesses to attend;

21 f. Grievance decisions are regularly based on, or influenced by, information other
22 than that presented at the hearings;

1 g. Tenants are frequently denied the opportunity to confront or cross-examine
2 opposing witnesses through the presentation of hearsay evidence, and objections to the
3 admission of such evidence are routinely disregarded;

4 h. The written rulings that result from SHA grievance hearings routinely fail to
5 state the reasons for the decision, indicate the evidence relied upon, or demonstrate any
6 meaningful analysis or consideration of the seminal issues.

7 **D. Lawrence N. Weldon and Public Housing Grievance Hearings at SHA**

8 2.D.1. When a public housing tenant requests a grievance hearing, the hearing officer is
9 selected by SHA's Office of General Counsel.

10 2.D.2. SHA's Office of General Counsel ordinarily chooses Defendant Lawrence N.
11 Weldon (of Defendant Weldon Mediation Services, Inc.; hereafter both these defendants are
12 referred to collectively as "Weldon") to preside as the hearing officer in public housing
13 grievance hearings; only if Weldon is not available for some reason does SHA select a different
14 hearing officer. For this reason, Weldon hears and decides almost all SHA public housing
15 grievance hearings.

16 2.D.3. Most, though not all, of the deficiencies in SHA's public housing grievance
17 hearings are related to SHA's routine use of this particular hearing officer, Defendant Weldon, to
18 hear and decide the cases.

19 2.D.4. Weldon is not an appropriate person to preside over SHA public housing grievance
20 hearings because:

21 a. Weldon lacks the requisite impartiality to serve as a public housing grievance
22 hearing officer;

1 b. Weldon does not possess the skills, training or background to properly
2 adjudicate factual disputes, interpret and analyze legal arguments, or prepare written
3 opinions that conform to relevant legal authority; and

4 c. SHA has never solicited or considered any comments or recommendations from
5 the public housing resident organizations or resident organizations concerning the choice
6 of Lawrence Weldon or Weldon Mediation Services, Inc. to serve as hearing officer, nor
7 otherwise consulted with the resident organizations regarding his appointment. SHA has
8 disregarded unsolicited comments it has received regarding Weldon's performance.

9 2.D.5. SHA determined by 2007 (or earlier), that Weldon is not capable of understanding
10 or properly ruling upon "involved and complicated" legal arguments; however, rather than
11 replace Weldon with a more qualified hearing officer, SHA has instead prohibited public housing
12 tenants from making "involved and complicated" arguments at grievance hearings. Pursuant to
13 this policy, SHA does not require hearing officers to abide by relevant law in hearing and
14 adjudicating public housing grievances.

15 2.D.6. SHA has actively instructed Weldon, and possibly other hearing officers, not to
16 consider or adjudicate arguments based on constitutions, statutes, ordinances, judicial decisions,
17 or other legal authorities; instead, SHA has instructed that Weldon "refer" any such "issue to
18 the [SHA Office of General Counsel] and state that it's outside the scope of the simple grievance
19 hearing;" in accordance with this policy, Weldon routinely refuses to consider arguments based
20 on constitutions, statutes, ordinances, judicial decisions, or other legal authorities when presented
21 in grievance hearings.

22 2.D.7. Legal authorities that Weldon has deemed "outside the scope" of SHA grievance
23 hearings include (but are not limited to): the United States Constitution, the Washington State
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1 Constitution, Washington's Residential Landlord-Tenant Act, the Seattle Municipal Code, the
2 U.S. Housing Act of 1937, the Fair Housing Act, the Federal Rehabilitation Act, Americans with
3 Disabilities Act, federal immigration law, the U.S. Bankruptcy Code, and the common law.

4 2.D.8. By hearing and adjudicating grievance hearings without regard to relevant legal
5 authorities, Weldon (and any other hearing officers who abide by SHA's policy) systematically
6 fails to afford public housing tenants opportunities to be heard in a meaningful manner in
7 connection with their grievances.

8 2.D.9. Because arguments based on legal authorities are precluded from consideration at
9 informal hearings by SHA policy, evidence supporting these arguments is often disallowed or, if
10 presented, such evidence is typically ignored by the decision-maker.

11 2.D.10. The types of arguments and authorities Weldon and SHA categorically exclude
12 from consideration at public housing grievance hearings are virtually always relevant and often
13 material to the outcome. Because such arguments and authorities are ignored, public housing
14 grievances are frequently decided incorrectly; only fortuitously does an SHA grievance hearing
15 ever result in the correct result, but even then often not for incorrect reasons.

16 2.D.11. Because legal arguments and authorities are not considered, written decisions
17 from SHA public housing grievance hearings seldom contain any meaningful analysis of the
18 evidence or arguments or supply any informative rationale for the result.

19 2.D.12. Written decisions from SHA public housing grievance hearings frequently fail to
20 indicate the evidence upon which the decision rested, or explain why certain evidence was or
21 was not found credible or persuasive.

1 2.D.13. Tenants who object to Weldon (or any other hearing officer) have no opportunity
2 to present their objections to a neutral decision-maker at a meaningful time or in a meaningful
3 manner, because:

4 a. SHA typically does not inform tenants in advance of their hearings of the
5 person who will serve as hearing officer;

6 b. Weldon's lack of impartiality and lack of competence are not generally known
7 to public housing tenants, and neither Weldon nor any SHA representative informs
8 tenants of these facts prior to the hearings;

9 c. SHA does not forward objections regarding the choice of hearing officer or
10 requests for recusal directly to the hearing officers, even if requested by the tenants; and

11 d. Weldon, and possibly other SHA hearing officers as well, does not entertain
12 requests for his recusal and considers such requests "irrelevant."

13 2.D.14. Only rarely does Weldon issue a grievance decision that overturns an adverse
14 SHA action; however, when Weldon does issue such a decision, SHA's Office of General
15 Counsel routinely summons Weldon to meetings where he is instructed to "explain [his]
16 reasoning and [his] analysis." SHA does not summon Weldon to such meetings or ask him to
17 provide such explanations when he issues decisions upholding SHA adverse actions. SHA's
18 custom and practice of having these meetings calls Weldon's impartiality into further question.

19 2.D.15. Weldon earns substantially all of his business revenue through serving as the
20 hearing officer for SHA public housing grievances.

21 2.D.16. SHA generally treats grievance hearing decisions in SHA's favor as binding and
22 proceeds with adverse actions where upheld by hearing officers. However, SHA routinely fails
23 to properly honor or abide by grievance decisions issued in favor of tenants and against SHA
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1 **E. Other Deficiencies in SHA Public Housing Grievance Hearings**

2 2.E.1. By disallowing virtually all pertinent legal arguments, and by supplying a biased
3 hearing officer willing to adjudicate cases without regard to relevant legal authority, SHA
4 renders public housing grievance hearings substantially meaningless; however, SHA hearings are
5 also compromised by a series of lesser, though significant, flaws. These include:

6 a. When a grievance hearing is requested, SHA's Office of General Counsel
7 chooses the date, time, and location of the hearing and transmits notice to the tenant.

8 SHA does not seek input from the tenant regarding the time or location of the hearing or
9 attempt to schedule the proceeding in coordination with the tenant. As a result, grievance
10 hearings are often conducted at times or places inconvenient to tenants, advocates,
11 witnesses, or other relevant persons.

12 b. Once a grievance hearing is scheduled, a tenant may normally have the hearing
13 rescheduled one time by contacting SHA's Office of General Counsel. If such a request
14 is submitted, SHA's Office of General Counsel reschedules the hearing for a different
15 date, time, and location of SHA's choosing, and transmits notice to the tenant. SHA does
16 not seek input from the tenant regarding the new time or location of the hearing or
17 attempt to coordinate with the tenant in rescheduling the proceeding. As a result,
18 grievance hearings are often rescheduled for times or places inconvenient to tenants,
19 advocates, witnesses, or others. SHA does not honor subsequent requests to reschedule
20 hearings.

21 c. Tenants who disagree with the time or location for which a grievance hearing is
22 scheduled have no opportunity to present their objections to a neutral decision-maker at a
23 meaningful time or in a meaningful manner, because: (i) SHA precludes hearing officers
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1 from rescheduling grievance hearings; (ii) SHA typically neither informs tenants in
2 advance which hearing officer will preside over their grievance hearings, nor provides
3 contact information for the hearing officers; few public tenants are familiar with Weldon
4 or know that he is the hearing officer for the overwhelming majority of SHA public
5 housing hearings; (iii) SHA does not forward objections regarding the time or place of
6 hearings directly to the hearing officers, even if requested by the tenants; and (iv) the
7 purpose of seeking a change in the time or place of a grievance hearing is often frustrated
8 when the tenant must appear at the hearing to request such a change.

9 d. SHA's failure to allow tenants a role in scheduling the date, time, and location
10 of the hearings hampers tenants' efforts to secure the attendance of witnesses, have their
11 advocates present, or even show up for their hearings. In addition, such scheduling
12 procedures cause tenants to unnecessarily miss work, disrupt child care arrangements, or
13 cause other external problems.

14 e. SHA has failed to established procedures by which tenants may compel
15 witnesses to attend and give testimony at grievance hearings; as a result, tenants are often
16 denied the ability to present material evidence in support of their cases.

17 f. When tenants are of limited English proficiency, SHA fails to provide language
18 access services, such as translation of relevant notices, other than interpretation at the
19 hearing itself.

20 **F. SHA's Defective Grievance Hearings Threaten All SHA Public Housing Tenants**

21 2.F.1. The deficiencies in SHA's public housing grievance hearings are routine and
22 systematic, and result directly from unlawful and unconstitutional policies, practices, and
23 customs that SHA has established and maintains.

1 2.F.2. As a result of routinely and systematically deficient grievance hearings in SHA's
2 public housing program:

3 a. SHA has taken adverse actions—such as rent increases, lease terminations,
4 etc.—against dozens of public housing residents without first providing such residents an
5 opportunity to be heard in a meaningful manner, thus depriving such residents of interests
6 in liberty or property without due process of law, and SHA continues to take such
7 improper adverse actions;

8 b. Public housing residents who disagree with certain SHA decisions are chilled
9 from contesting adverse actions in grievance hearings due to the futility of the procedure;

10 c. Public housing residents are impaired in their ability to obtain legal aid or pro
11 bono legal representation in connection with PHA grievances because with no prospect of
12 obtaining a fair outcome from SHA's deficient grievance tribunals, an attorney with
13 experience in SHA public housing cases will likely agree to provide representation only
14 if prepared to file a lawsuit on the tenant's behalf; and

15 d. At the present time, SHA public housing tenants simply do not have access to a
16 fair and meaningful administrative procedure by which to resolve disputes with SHA.

17 2.F.3. SHA's deficient grievance hearing practices are inconsistent and irreconcilable
18 with SHA's constitutional duty to afford due process, as well as with SHA's obligations under 42
19 USC 1437d(k) and 24 CFR 966.51(a), and with the dwelling leases into which SHA has entered
20 and continues to enter with specific public housing residents.

21 2.F.4. SHA similarly fails to provide a fair and meaningful administrative tribunal by
22 which public housing applicants can dispute denials of admission to SHA public housing, for
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1 which reason many applicants have been wrongfully denied admission to SHA public housing
2 without due process of law.

3 2.F.5. SHA is aware of the recurring and systematic deficiencies in its public housing
4 grievance hearings, but has willfully refused to correct these problems; SHA's intransigence on
5 this matter threatens the financial stability of the housing program, especially considering that:

6 a. SHA corrected similar deficiencies in the administrative tribunals used to
7 adjudicate disputes with participants in a different HUD-subsidized program (the
8 "Housing Choice Voucher Program," commonly known by its former name, "Section 8")
9 in 2008, only after a federal consent decree forced SHA to make such reforms;

10 b. SHA is currently facing a federal class action lawsuit in this Court (*Markaletta*
11 *Wilson, et al. v. Seattle Housing Authority*, U.S. Dist. Ct. No. 09-CV-00226-MJP) that
12 seeks damages and other relief on behalf of hundreds of low-income tenants expelled
13 from SHA's Housing Choice Voucher Program prior to the 2008 reforms; SHA's liability
14 in that lawsuit could reach into the millions of dollars; and

15 c. Similar claims are possible on behalf of public housing tenants who have been
16 wrongfully evicted, over-charged in rent, or otherwise adversely affected by SHA actions
17 and who were denied due process by reason of SHA's deficient grievance hearings;
18 SHA's potential liability continues to increase as SHA carries on with its improper
19 grievance practices.

20 2.F.6. From time-to-time, SHA public housing grievances are heard and decided by the
21 qualified and competent hearing officers now serving in SHA's Housing Choice Voucher
22 Program as a result of the 2008 reforms; for the most part, the hearings and decisions of these
23 hearing officers are consistent with applicable due process requirements and governing policies
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1 and regulations. Why SHA fails to remove Weldon given the ready availability of superior
2 hearing officers is unknown; however, the continued use of Weldon to hear and decide public
3 housing grievances on a routine basis leaves not doubt that SHA's refusal to correct these
4 problems is willful and deliberate.

5 **G. Tenant Participation in Selection of Grievance Hearing Officers**

6 2.G.1. Federal public housing regulations entitle public housing tenants and resident
7 organizations to receive notice and submit comments on many significant PHA decisions. See,
8 e.g., 24 CFR 966.3 (changes to lease form), 966.5 (changes to any rules or policies incorporated
9 into tenant leases by reference), 966.55(b)(3) (selection of grievance hearing officers); see also
10 24 CFR 964.135(b) ("Residents shall be actively involved in a [P]HA's decision-making process
11 and give advice on matters such as modernization, security, maintenance, resident screening and
12 selection, and recreation").

13 2.G.2. One of the most significant matters upon which public housing resident
14 organizations are entitled to exert influence is in the selection of grievance hearing officers. See
15 24 CFR 966.55(b)(3) ("The PHA shall consult the resident organizations before PHA
16 appointment of each hearing officer or panel member. Any comments or recommendations
17 submitted by the tenant organizations shall be considered by the PHA before the appointment.").

18 2.G.3. However, SHA routinely appoints persons to preside over and issue decisions in
19 public housing grievance hearings without consulting resident organizations or soliciting or
20 considering comments from such resident organizations. This practice not only deprives the
21 resident organizations of their right to influence the selection of SHA grievance hearing officers,
22 but also deprives individual tenants of the right to a hearing before a decision-maker that resident
23 organizations have had a role in choosing.

1 2.G.4. SHA has never solicited or considered any comments or recommendations from
2 RAC or other public housing resident organizations concerning the choice of Lawrence Weldon
3 or Weldon Mediation Services, Inc. to serve as hearing officer. SHA has disregarded unsolicited
4 comments it has received regarding Weldon's performance.

5 **III. Parties, Jurisdiction & Venue**

6 3.1. Defendant Seattle Housing Authority (SHA) is a "public housing agency" (or
7 "PHA") for purposes of 24 CFR 5.100; SHA was established pursuant to Washington's Housing
8 Authorities Law, RCW 35.82 et seq., and operates within the City of Seattle, Washington,
9 situated in King County; SHA is a "public body corporate and politic" authorized to exercise
10 certain governmental powers and duties under state law. See RCW 35.82.030 et seq.

11 3.2. Defendant Tom Tierney is the Executive Director of SHA and is responsible for
12 implementing and carrying out SHA's programs and policies, including the public housing
13 program, and is joined to this action in his official capacity only.

14 3.3. Defendant Weldon Mediation Services, Inc., is a Washington (for-profit) corporation
15 that carries on continuous and systematic business in King County, including supplying hearing
16 officers for SHA public housing grievance hearings.

17 3.4. Defendant Lawrence Weldon is a natural person who resides in King County, and is
18 a shareholder, officer, employee, and agent of Weldon Mediation Services, Inc.

19 3.5. Defendant U.S. Department of Housing & Urban Development (HUD) is the federal
20 agency responsible for administering the public housing program nationwide; although the
21 Plaintiffs advance no claims or causes of action against HUD, the Plaintiffs have reason to
22 believe that HUD may claim an interest in the subject matter of this action that, as a practical
23 matter, may be impaired or impeded if this action is disposed of in HUD's absence.
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1 3.6. Plaintiff Resident Action Council (RAC) is a non-profit organization comprised of
2 representatives from public housing facilities owned and operated by Defendant SHA; the
3 members of RAC are residents of King County and RAC carries on continuous and systematic
4 business in King County.

5 3.7. RAC members are themselves residents of SHA's public housing facilities and have
6 a special relationship to the public housing tenant community as a whole.

7 3.8. Plaintiffs Douglas Shepherd, Patricia Ann, Khadija Bin, and Komba Ngauja are
8 natural persons who reside in SHA public housing.

9 3.9. This Court is has subject matter jurisdiction over this action because the claims arise
10 under certain federal laws including the Due Process Clause of the Fourteenth Amendment to the
11 United States Constitution, various federal statutes including 42 USC 1437 et seq., 42 USC 1983,
12 and others, and certain regulations of the U.S. Department of Housing and Urban Development,
13 particularly those codified at 24 CFR Parts 960-966, because the action concerns federal civil
14 rights, and because the United States is a defendant. See 28 USC 1331, 1343, 1346. This Court
15 has supplemental jurisdiction over state law claims. See 28 USC 1367.

16 3.10. Venue is appropriate in this District because one or more of the defendants reside in
17 this District and substantially all of the acts giving rise to this lawsuit took place in this District.
18 See 28 USC 1391.

19 **IV. Facts Pertaining to Individual Plaintiffs**

20 **A. Patricia Ann**

21 4.A.1. Plaintiff Patricia Ann lives in an SHA public housing facility called Jefferson
22 Terrace; she has been an SHA public housing tenant since 2003.
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1 4.A.2. Ms. Ann was unemployed for more than one year prior to September 30, 2008; at
2 that time, her monthly income was less than \$800 and her monthly rent was \$182.

3 4.A.3. On September 30, 2008, Ms. Ann began working for a non-profit organization
4 called Solid Ground; she earned about \$1,237.60 per month (gross) in wages from Solid Ground
5 (20 hours per week @ \$14.28 per hour).

6 4.A.4. In 2009, SHA conducted a review of Ms. Ann's income to recalculate her monthly
7 rent; upon completing this recalculation, SHA increased Ms. Ann's monthly rent from \$182 per
8 month to \$582 per month. This increase reflected the inclusion of all Ms. Ann's earned income
9 in the rent recalculation.

10 4.A.5. The increase in Ms. Ann's rent to \$582 per month was contrary to law; had SHA
11 conducted the rent recalculation properly, then—by reason of the Earned Income Disallowance,
12 SHA could not have raised Ms. Ann's rent to more than \$397 until after September 30, 2010.
13 See 42 USC 1437a(d) and 24 CFR 960.255,

14 4.A.6. Ms. Ann objected to the amount of this rent increase, claiming she did not receive
15 the proper exclusions for earned income to which she was entitled under 42 USC 1437a(d) and
16 24 CFR 960.255. Ms. Ann also presented SHA with literature from a non-profit organization
17 describing the Earned Income Disallowance and suggesting that Ms. Ann qualified for it.

18 4.A.7. SHA, through managerial staff, responded to Ms. Ann's objections by stating that
19 SHA does not apply the Earned Income Disallowance to public housing rents, and reported that
20 it began "sending letters to some [social service] organizations informing them that they are
21 putting out the wrong information."

22 4.A.8. Ms. Ann requested a grievance hearing at which to dispute the calculation of her
23 rent, and the grievance hearing was held on December 15, 2010.
24

1 4.A.9. Defendant Lawrence N. Weldon presided over the grievance hearing, and issued a
2 written decision dated January 4, 2010.

3 4.A.10. Weldon's decision upheld SHA's improper recalculation of Ms. Ann's monthly
4 rent; Weldon ruled that the Earned Income Disallowance does not apply to the public housing
5 program.

6 4.A.11. Weldon's grievance decision was contrary to law because the Earned Income
7 Disallowance does apply to public housing. See 42 USC 1437a(d); see 24 CFR 966.255.

8 4.A.12. To avoid putting herself at risk of eviction for non-payment of rent, Ms. Ann has
9 made the \$582 per-month rent payments since January 2010; she has, accordingly, been over-
10 charged at the rate of roughly \$185 per month (\$1,295 as of the date of this complaint).

11 4.A.13. Ms. Ann has suffered economic and non-economic injuries by reason of SHA's
12 wrongful conduct.

13 **B. Komba Ngauja**

14 4.B.1. Plaintiff Komba Ngauja lives in an SHA public housing facility called Jackson
15 Park; he has been an SHA public housing tenant since 1998.

16 4.B.2. At times throughout his tenure in SHA public housing, Mr. Ngauja earned income
17 that was subject to exclusion from his rent calculations pursuant to the Earned Income
18 Disallowance; however, SHA did not properly exclude all or part of such income from his
19 monthly rent.

20 4.B.3. Although SHA did not properly exclude portions of Mr. Ngauja's earned income
21 for purposes of his rent calculations, SHA did offer Mr. Ngauja the opportunity to participate in
22 SHA's Tenant Trust Account (TTA) program.

1 4.B.4. Mr. Ngauja agreed to participate in the TTA program, and established a TTA
2 account with SHA in 2002.

3 4.B.5. Between 2002 and 2007, Mr. Ngauja accrued deposits of \$782.50 in his TTA
4 account, and withdrew \$50.00, leaving a total balance of \$732.50.

5 4.B.6. However, SHA did not deposit into Mr. Ngauja's TTA "an amount equal to the
6 total amount that otherwise would be applied to [his] rent payment ... as a result of
7 employment;" the balance would have been substantially larger had SHA made the proper
8 deposits to the account.

9 4.B.7. Mr. Ngauja did not receive interest on his funds, contrary to 24 CFR
10 960.255(d)(4).

11 4.B.8. In Fall 2009, Mr. Ngauja attempted to withdraw funds from his TTA account for
12 the authorized purpose of moving; however, SHA did not process the request until early 2010, at
13 which time SHA told Mr. Ngauja that he had forfeited the entire balance of his account.

14 4.B.9. SHA did not offer Mr. Ngauja any opportunity for a hearing to dispute the
15 forfeiture of his funds.

16 4.B.10. Mr. Ngauja has thus been deprived of at least \$732.50 in TTA funds, in addition
17 to unknown amounts SHA unlawfully failed to deposit, or that he was over-charged in rent.

18 4.B.11. Mr. Ngauja has suffered economic and non-economic injuries by reason of
19 SHA's wrongful conduct.

20 **C. Khadija Bin**

21 4.C.1. Plaintiff Khadija Bin lives in an SHA public housing facility called Yesler Terrace;
22 she has been an SHA public housing tenant since 2002.

1 4.C.2. Ms. Bin is a Somali immigrant who has limited English proficiency; she informed
2 SHA of her limited English proficiency on her original public housing application and on many
3 occasions since then.

4 4.C.3. In 2009, SHA attempted to evict Ms. Bin and her family from their home and
5 collect over \$5,800 supposedly owed in back-rent based on a false accusation that Ms. Bin had
6 withheld (from SHA) information about the membership of her household between 2005 and
7 2007. These accusations were unfounded.

8 4.C.4. SHA provided Ms. Bin written notice of these allegations, and of her right to a
9 grievance hearing by which to contest the allegations, in English only; because these written
10 notices were “vital documents,” SHA’s failure to provide interpretation or translation of these
11 materials was contrary to SHA’s Interpretation & Translation Policy (which provides for
12 mandatory translation of vital documents).

13 4.C.5. In July 2009, Ms. Bin requested a grievance hearing at which to contest SHA’s
14 decision to terminate her tenancy and bill her for a retroactive rent increase.

15 4.C.6. SHA provided the grievance hearing on September 8, 2009, but the proceeding
16 was defective. The hearing officer, Defendant Lawrence N. Weldon (of Defendant Weldon
17 Meditation Services, Inc.), was not impartial and was not competent to hear and decide the case.
18 The hearing was improperly scheduled by SHA’s legal staff for a date and time that Ms. Bin’s
19 lawyer could not be present.

20 4.C.7. Weldon issued a written grievance hearing decision dated September 24, 2009, but
21 the decision was illegitimate. Weldon’s conclusion relied upon erroneous factual findings that
22 were not supported by substantial evidence, and Weldon did not consider the legal arguments
23 Ms. Bin presented in her defense. The written decision contained no meaningful analysis of the
24

1 salient points in dispute. The decision was based on a hearing at which Ms. Bin was forced to
2 defend herself, after Weldon improperly denied her request for a continuance needed to enable
3 her attorney to be present.

4 4.C.8. Ms. Bin's attorney sent SHA a letter on October 8, 2009, detailing a series of
5 material errors in the grievance hearing and in Weldon's written decision; the letter urged SHA
6 to disavow the defective proceeding and grant Ms. Bin a new hearing, but SHA refused.

7 4.C.9. On October 27, 2009, SHA filed an unlawful detainer action in King County
8 Superior Court seeking to remove Ms. Bin and her family from the rental premises; however,
9 that action was dismissed after the King County Superior Court judicially reviewed Ms. Bin's
10 grievance hearing and found the procedure to have been deficient and conducted in a manner
11 inconsistent with Ms. Bin's due process rights. See *King County Housing Authority v. Saylor*,
12 19 Wn. App. 871, 873-75; 578 P.2d 76 (1978) (“[E]very public tenant, however disorderly, evil,
13 or malevolent, is entitled to due process before he is evicted.’ The Housing Authority must also
14 comply with HUD regulations and its own grievance procedure. Until it does so, [tenant] is
15 entitled to continue her tenancy.”), quoting *Ruffin v. Housing Authority of New Orleans*, 301
16 F.Supp. 251, 254 (E.D.La.1969).

17 4.C.10. Following the dismissal of this lawsuit, SHA announced that it would continue to
18 pursue its claims against Ms. Bin and hold a new grievance hearing.

19 4.C.11. Ms. Bin's counsel sent SHA a letter February 1, 2010, insisting that SHA provide
20 a hearing officer from SHA's Housing Choice Voucher program for the new grievance hearing,
21 citing possible bias (or the appearance thereof) arising from Weldon's prior involvement in the
22 same case. When SHA replied that it would “be following standard procedures” regarding the
23 selection of hearing officer, Ms. Bin's counsel advised SHA that she would seek a temporary
24

1 restraining order to prevent Weldon from hearing the case. SHA then replied that Joan Kalhorn,
2 one of the hearing officers placed on SHA's Housing Choice Voucher roster as a result of the
3 2008 reforms, was "available and is scheduled to appear for the Bin hearing."

4 4.C.12. The second grievance hearing was held on February 11, 2010, before Joan
5 Kalhorn. The decision was issued February 25, 2010. The written decision, which reflected
6 thoughtful and meticulous consideration of all relevant factual and legal points, fully exonerated
7 Ms. Bin on all claims. That decision found that Ms. Bin had not deceived SHA about her
8 household membership and did not owe any back rent to SHA. The ruling forbade SHA from
9 terminating Ms. Bin's tenancy.

10 4.C.13. Though Ms. Bin was eventually able, with the assistance of counsel, to refute the
11 charges and clear her name, the procedural ordeal to which SHA subjected her illustrates many
12 of the recurring failures and due process violations SHA's flawed administrative tribunals inflict
13 upon public housing tenants. Unlike Ms. Bin, most SHA public housing tenants do not have
14 legal representation and are unable to secure judicial review of flawed grievance hearings.

15 4.C.14. Furthermore, while the February 25, 2010, grievance decision is binding, SHA
16 has nonetheless followed a course of actions and omissions since then that are inconsistent with
17 the ruling; for instance:

- 18 a. SHA has refused to accept Ms. Bin's rent or post payments to her account;
- 19 b. SHA has failed to conduct a mandatory "annual recertification" of Ms. Bin's
20 household, adjusting her rent and apartment size to reflect current conditions;
- 21 c. SHA has accused Ms. Bin of being "in non-compliance" with applicable public
22 housing rules; and

1 d. SHA has sent Ms. Bin letters and bills seeking over \$13,000 in back rent—
2 charges for which Ms. Bin was found not to be liable in the hearing decision.

3 4.C.15. SHA has also treated Ms. Bin differently, and less-favorably, than other public
4 housing tenants, since at least February 25, 2010; for instance:

5 a. SHA has summoned Ms. Bin to appear at meetings or conferences and asserted
6 a right to evict Ms. Bin from her home for failure to appear when called;

7 b. SHA has demanded that Ms. Bin produce unusual documents and asserted a
8 right to evict Ms. Bin from her home for failure to fulfill the demands;

9 c. SHA has attempted to audit Ms. Bin's federal income taxes; and

10 d. SHA has issued numerous pay-or-vacate notices to Ms. Bin, demanding she
11 pay amounts exceeding \$2,400 or surrender her apartment, even though no such amounts
12 are owed.

13 4.C.16. SHA has repeatedly presented its demands directly to Ms. Bin, without informing
14 her attorneys, despite having known at all relevant times that Ms. Bin is represented by counsel
15 and having accurate contact information for her attorneys.

16 4.C.17. SHA continues to deny Ms. Bin mandatory language access services to which she
17 is entitled as a person with limited English proficiency, and on at least one occasion SHA
18 attempted (unsuccessfully) to exploit Ms. Bin's language barrier to procure her signature on a
19 payment contract for a debt Ms. Bin denied owing.

20 4.C.18. SHA has a history of retaliating against tenants who prevail in their grievance
21 hearings or court cases, and of failing to honor and abide by those few administrative rulings that
22 are issued in favor of tenants and against SHA. For instance, in 2009 SHA filed a collections
23 case in King County District Court against an SHA tenant seeking judgment for the same funds
24

1 an SHA hearing officer had previously ruled the tenant did not owe. Also in 2009, SHA brought
2 lease termination proceedings against a public housing tenant based on alleged violations of a pet
3 policy that was held inapplicable to the tenant's service dog in a 2008 SHA grievance decision.

4 4.C.19. For all these reasons, Khadija Bin has reasonable grounds to fear that she may
5 have to appear before an SHA administrative tribunal again in the future, and that she may be
6 denied the rightful benefits of the favorable grievance ruling she has already obtained.

7 4.C.20. SHA's conduct has raised questions surrounding Ms. Bin's public housing
8 tenancy, and her rights and status under her the rental agreement and governing laws, of which
9 she is entitled to seek adjudication by declaratory judgment. See RCW 7.24 et seq.

10 4.C.21. Ms. Bin has suffered economic and non-economic injuries by reason of SHA's
11 wrongful conduct.

12 **D. Resident Action Council**

13 4.D.1. Plaintiff Resident Action Council (RAC) is an organization of elected SHA public
14 housing resident leaders; RAC is the only such organization that represents the interests of public
15 housing residents vis-à-vis SHA on a city-wide basis.

16 4.D.2. RAC's constituents include both individual public housing residents as well as
17 "resident councils" established at specific SHA public housing buildings or developments.

18 4.D.3. RAC is entitled to recognition by SHA as the "jurisdiction-wide resident council"
19 for SHA public housing and has requested such recognition, but SHA has withheld such
20 recognition and threatened to retaliate (by diverting certain funding from RAC to other entities)
21 if RAC continues to pursue recognition as jurisdiction-wide resident council.

22 4.D.4. Whether or not as the "jurisdiction-wide resident council," RAC is a tenant
23 organization that SHA must consult before appointing hearing officers for public housing
24

1 grievance hearings; indeed, RAC is probably the most important tenant organization for SHA to
2 consult on such matters.

3 4.D.5. SHA did not consult RAC before appointing Weldon Mediation Services, Inc. or
4 Lawrence Weldon to hear and decide public housing grievances.

5 4.D.6. By allowing hearing officers to preside over and adjudicate public housing
6 grievance hearings without consulting RAC or considering comments from RAC, SHA
7 diminishes the value of public housing resident organizations and deprives RAC's constituents of
8 the opportunity to have meaningful input on the selection of hearing officers, as well as the
9 benefit of having their grievances heard by hearing officers who are accountable to public
10 housing residents and whom tenants and their advocates have played a role in choosing.

11 4.D.7. RAC has a special relationship to all SHA public housing residents and in that
12 capacity seeks to compel SHA's compliance with applicable grievance hearing requirements
13 arising under constitutional, statutory, regulatory, and other law, as well as public housing
14 dwelling leases and other contractual sources.

15 4.D.8. RAC has suffered economic and non-economic injuries by reason of SHA's
16 wrongful conduct.

17 **E. Douglas Shepherd**

18 4.E.1. Plaintiff Douglas Shepherd lives in an SHA public housing facility called Capitol
19 Park; he has been an SHA public housing tenant for fourteen years and has lived at Capitol Pak
20 for the past ten years.

21 4.E.2. In March 2010, Mr. Shepherd experienced a major plumbing problem with his
22 kitchen sink, when the sink filled with black water and would not drain.

23 4.E.3. Mr. Shepherd immediately notified SHA of the problem and requested repair.
24

1 4.E.4. SHA promptly dispatched a plumber who repaired the problem.

2 4.E.5. Several weeks later, SHA billed Mr. Shepherd \$229 for the repair.

3 4.E.6. Mr. Shepherd promptly informed SHA that he objected to the bill, but SHA has
4 refused to withdraw the charges.

5 4.E.7. Mr. Shepherd then requested a grievance hearing at which to challenge the repair
6 bill; SHA has acknowledged receiving the grievance hearing request and is in the process of
7 arranging the hearing..

8 4.E.8. However, due to the improper policies and practices pursuant to which SHA
9 grievance hearings are conducted, as described above, Mr. Shepherd can have no confidence that
10 his grievance hearing will provide him an opportunity to be heard in a meaningful manner before
11 a competent and impartial decision-maker; for instance:

12 a. Weldon is expected to serve as the hearing officer for Mr. Shepherd's hearing;
13 Weldon lacks an adequate level of impartiality, especially with respect to tenants
14 represented by the Northwest Justice Project (such as Shepherd), but Weldon does not
15 entertain motions for recusal;

16 b. Weldon is not a competent decision-maker because he lacks the requisite skills
17 and expertise for weighing evidence, applying law to facts, and reaching a fair and
18 legally-sound decision, and also because SHA has appointed Weldon without properly
19 consulting with or considering comments from resident organizations; and

20 c. Mr. Shepherd intends to argue, among other things, that he is not liable for the
21 repair because he did not cause the plumbing problem, and because Washington'
22 Residential Landlord-Tenant Act precludes SHA from billing a tenant for ordinary
23 repairs and maintenance; see RCW 59.18.060(7); Mr. Shepherd will not receive a
24

1 meaningful hearing on this issue because Weldon categorically refuses to consider
2 arguments based on the Residential Landlord-Tenant Act.

3 4.E.9. Mr. Shepherd would suffer irreparable harm by appearing before an illegitimate
4 SHA grievance hearing and permitting an improper grievance decision to be issued against him.

5 4.E.10. Mr. Shepherd is a disabled individual who receives Supplemental Security
6 Income of less than \$700 per month; he would suffer a substantial hardship if he is required to
7 pay the \$229 plumbing bill, and he could face the loss of his public housing tenancy if he is not
8 able to pay the bill.

9 **V. Causes of Action**

10 5.1. Defective Grievance Hearings

11 a. SHA's failure to have in place a system for properly scheduling, hearing, and
12 adjudicating public housing grievances violates SHA's obligations under its rental
13 agreements with every SHA public housing tenant and is unlawful under 42 USC
14 1437d(k) and 24 CFR Part 966, which make a grievance procedure mandatory in public
15 housing leases, and is contrary to the Amendment XIV of the U.S. Constitution and Art.
16 I, Sec. 3 of the Washington State Constitution;

17 b. SHA's past failures to properly schedule, hear, and adjudicate public housing
18 grievances violated SHA's obligations under its rental agreements with every affected
19 SHA public housing tenant and were unlawful under 42 USC 1437d(k) and 24 CFR Part
20 966, which make a grievance procedure mandatory in public housing leases, and resulted
21 in deprivations of interests in liberty and property without due process of law, contrary to
22 the Amendment XIV of the U.S. Constitution and Art. I, Sec. 3 of the Washington State
23 Constitution;

1 c. SHA public housing tenants have been injured in the past and continue in the
2 present to be injured by SHA's failure to honor the grievance requirements in its public
3 housing rental agreements, including through the termination of public housing tenancies,
4 improper calculation of tenant rent payments, denial of permission for certain persons to
5 join subsidized households, assignment to dwelling units inappropriate to the size and
6 composition of the family, and other deprivations of interests in property and liberty,
7 which have occurred without due process of law.

8 d. SHA committed, and continues to commit, these unlawful acts by and through
9 its employees and agents, including Defendants Tom Tierney, Lawrence N. Weldon, and
10 Weldon Mediation Services, Inc., all of whom act under color of state law.

11 e. This Court is authorized under 42 USC 1983 and other laws to enjoin these due
12 process violations, award damages, and order such other relief as may be appropriate in
13 the interests of justice.

14 5.2. Failure to Apply Earned Income Disallowance to Rent Calculations

15 a. SHA has in the past, and continues in the present, to systematically deprive
16 public housing families of money by over-charging rent to tenant households with
17 members who qualify for the Earned Income Disallowance.

18 b. SHA's refusal to delay public housing rent increases in accordance with the
19 Earned Income Disallowance is unlawful under 42 USC 1437a(d) and 24 CFR 960.255,
20 constitutes the deprivation of property without due process of law, an unreasonable
21 seizure of property, and/or a taking, contrary to the Amendments IV, V, and XIV of the
22 U.S. Constitution and Art. I, Sec. 3 and 7 of the Washington State Constitution, and is
23 contrary to SHA's obligations under its rental agreements with affected SHA public
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1 housing tenants;

2 c. SHA committed, and continues to commit, these unlawful acts by and through
3 its employees and agents, including Defendant Tom Tierney, all of whom act under color
4 of state law.

5 d. This Court is authorized under 42 USC 1983 and other laws to enjoin these
6 violations of federally-protected rights, award damages, and order such other relief as
7 may be appropriate in the interests of justice.

8 5.3. Improper Administration of Tenant Trust Accounts

9 a. SHA has in the past, and continues in the present, to systematically deprive
10 public housing families participating in the Tenant Trust Account program of money by
11 failing to make the full deposits required by 42 USC 1437a(e) and 24 CFR 960.255(d)(2)
12 into such tenants' accounts;

13 b. SHA has in the past, and continues in the present, to systematically deprive
14 public housing families participating in the Tenant Trust Account program of money by
15 charging unlawful fees and failing to allow tenants to earn interest on their accounts,
16 contrary to 24 CFR 960.255(d)(2);

17 c. SHA has in the past, and continues in the present, to systematically deprive
18 public housing families participating in the Tenant Trust Account program of money by
19 causing their accounts to be forfeited to SHA, when no authority permits such forfeitures;

20 d. SHA has in the past, and continues in the present, to systematically deprive
21 public housing families of money by denying tenants qualified for the Earned Income
22 Disallowance the opportunity to benefit from delayed rent increases, thus prompting
23 some families to deposit money into Tenant Trust Accounts, where access to the funds is
24

1 limited, no interest is collected, and money can be forfeited to SHA;

2 e. SHA committed, and continues to commit, these unlawful and unconscionable
3 acts by and through its employees and agents, including Defendant Tom Tierney, all of
4 whom act under color of state law.

5 f. Any SHA policies or contractual provisions purporting to authorize these unfair
6 acts and practices are unconscionable and illegitimate, frustrate the purpose of 42 USC
7 1437a(e), and are entitled to no legal recognition—especially where in conflict with 42
8 USC 1437a(e) or implementing regulations of HUD.

9 g. This Court is authorized under 29 USC 1367, 42 USC 1983, and other laws and
10 common law doctrines to enjoin these violations of state- and federally-protected rights
11 and contractual rights, award damages, and order such other relief as may be appropriate
12 in the interests of justice.

13 5.4. Unlawful Discrimination in Housing, Services and Federal Programs

14 a. SHA categorically excludes certain arguments and legal authorities from
15 consideration at public housing grievance hearings, including anti-discrimination laws.

16 b. In so doing, SHA causes a disproportionately harsh effect on persons who
17 belong to classes protected by anti-discrimination laws and fails to affirmatively further
18 fair housing.

19 c. There is no viable business justification to excuse these discriminatory effects.

20 d. SHA public housing tenants have been injured in the past and continue in the
21 present to be injured by SHA's unlawful preclusion of arguments based on anti-
22 discrimination laws from grievance hearings.

23 e. SHA's refusal to allow or consider arguments based on anti-discrimination laws
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1 at public housing grievance hearings is unlawful pursuant to the Fair Housing Act, Title
2 VI (42 USC 2000d), the Americans with Disabilities Act, the federal Rehabilitation Act
3 (29 USC 794), the Washington Law Against Discrimination (RCW 49.60 et seq.), the
4 Seattle Open Housing Ordinance (SMC 14.08 et seq.), and various other laws, including
5 HUD regulations pertaining to the public housing program (24 CFR 5.105 in particular).

6 f. This Court is authorized under 29 USC 1367, 42 USC 1983, 42 USC 3613, and
7 other laws to enjoin these violations of state- and federally-protected rights, award
8 damages, and order such other relief as may be appropriate in the interests of justice.

9 5.5. National Origin Discrimination/Failure to Provide Language Access Services.

10 a. Many SHA public housing residents are immigrants or other persons with
11 limited English proficiency;

12 b. SHA regularly issues documents so public housing residents, including, but not
13 limited to: (i) notices of rent changes, (ii) documents containing SHA rules and policies
14 or changes thereto; (iii) notices of alleged lease violations or lease termination (i.e.,
15 “eviction”) notices, (iv) bills for repairs, utilities, or other charges; (v) grievance hearing
16 rights; or (v) grievance hearing decisions.

17 c. Many of these documents are “vital documents” that, if not understood, may
18 jeopardize a family’s tenancy—such as by causing them to default in rent, violate a term
19 of the rental agreement, miss a deadline for requesting a grievance hearing, etc.

20 d. SHA’s written Interpretation & Translation Policy provides that: “[v]ital
21 documents shall be translated into selected languages [and] non-vital documents may be
22 translated.”

23 e. However, SHA routinely fails to have vital documents translated into the
24

1 primary languages of tenants with limited English proficiency, especially documents
2 unique to individual households such as eviction notices or grievance hearing decisions.

3 f. SHA's refusal to translate these documents runs afoul of applicable language
4 access requirements, such as SHA's own Interpretation & Translation Policy, and causes
5 a disparate impact on households with immigrant members, who are more likely to be of
6 limited English proficiency.

7 g. This Court is authorized under RCW 49.60.340 (via 29 USC 1367), 42 USC
8 1983, 42 USC 3613, and other laws to enjoin these violations of state- and federally-
9 protected rights, award damages, and order such other relief as may be appropriate in the
10 interests of justice.

11 5.6. Declaratory Judgment Act, RCW 7.24

12 a. HUD regulations require SHA to "consult the resident organizations before
13 PHA appointment of each hearing officer or panel member. Any comments or
14 recommendations submitted by the tenant organizations shall be considered by the PHA
15 before the appointment." 24 CFR 966.55(b)(3).

16 b. Plaintiff Resident Action Council (RAC) is a tenant organization that SHA
17 needed to consult before appointing Weldon Mediation Services, Inc., or Lawrence
18 Weldon, as a hearing officer for public housing grievance hearings; indeed, as RAC is
19 entitled to recognition as the "jurisdiction-wide resident council" for SHA public housing
20 tenants, RAC is the most important tenant organization for SHA to consult.

21 c. SHA did not consult RAC or other crucial SHA tenant organizations before
22 appointing Weldon Mediation Services, Inc., or Lawrence Weldon, to serve as a hearing
23 officer for public housing grievance hearings.

24

1 d. SHA did not solicit or consider comments from RAC or other SHA tenant
2 organizations before appointing Weldon Mediation Services, Inc., or Lawrence Weldon,
3 to serve as a hearing officer for public housing grievance hearings.

4 e. Therefore, SHA has not properly empanelled Lawrence Weldon or Weldon
5 Mediation Services, Inc., to serve as hearing officer for public housing grievance
6 hearings; Lawrence Weldon or Weldon Mediation Services, Inc., have no lawful
7 jurisdiction to hear or decide SHA public housing grievances.

8 f. Pursuant to RCW 7.24.010 and 29 USC 1367, this Court may and should
9 declare that Lawrence Weldon and Weldon Mediation Services, Inc., are disqualified
10 from serving as SHA hearing officer and enter an order precluding Lawrence Weldon or
11 Weldon Mediation Services, Inc. from hearing or ruling on SHA public housing cases.

12 **VI. Relief Requested**

13 6.1. Patricia Ann. Based on all the foregoing claims, Plaintiff Patricia Ann requests:

14 a. Judgment finding and declaring that SHA's policy of denying the Earned
15 Income Disallowance to public housing residents is unlawful and enjoining its further
16 operation;

17 b. An accounting for all rent SHA has charged or collected from Ms. Ann, with a
18 determination of the amount by which she has been over-charged for rent due to SHA's
19 violations of the Earned Income Disallowance law; and

20 c. Compensation for all damages she has suffered, together with any other
21 damages (such as statutory or exemplary damages) to which she may be entitled.

22 6.2. Komba Ngauja. Based on all the foregoing claims, Plaintiff Komba Ngauja requests:
23
24

1 a. Judgment finding and declaring that SHA's formula for calculating deposits to
2 Tenant Trust Accounts is unlawful and commanding SHA to begin calculating such
3 deposits in accordance with 42 USC 1437a(e) and 24 CFR 960.255(d)(2);

4 b. Judgment finding and declaring that SHA's policy of charging tenants fees for
5 maintaining Tenant Trust Accounts is unlawful under 24 CFR 960.255(d)(4) and
6 commanding SHA to cease and desist from charging such fees;

7 c. Judgment finding and declaring that SHA's failure to enable tenants to earn
8 interest on the funds in their Tenant Trust Accounts is unlawful under 24 CFR
9 960.255(d)(4) and commanding SHA to take prompt remedial action;

10 d. Judgment finding and declaring that the rules providing for SHA public
11 housing tenants to forfeit funds contained in their Tenant Trust Accounts to SHA are
12 unlawful and enjoining the further operation of such rules;

13 e. An accounting for all rent SHA has charged or collected from Mr. Ngauja,
14 together with an accounting of all funds deposited or removed from Mr. Ngauja's Tenant
15 Trust Account, with determinations of (i) any amount by which Mr. Ngauja has been
16 over-charged for rent, and (ii) the proper balance that Mr. Ngauja's Tenant Trust Account
17 would reflect, had all appropriate laws and policies been followed;

18 f. Compensation for all damages Mr. Ngauja has suffered, together with any other
19 damages (such as statutory or exemplary damages) to which he may be entitled.

20 6.3. Khadija Bin. Based on all the foregoing claims, Plaintiff Khadija Bin requests:

21 a. Judgment finding and declaring that Ms. Bin is current in her rent and
22 commanding SHA to cease and desist from taking any action or making any statement
23 inconsistent with the findings and conclusions of her February 25, 2010, grievance
24

1 hearing decision, including any attempts to bill Ms. Bin for charges related to events pre-
2 dating her July 24, 2009, grievance hearing request;

3 b. Judgment finding and declaring that the February 25, 2010, grievance hearing
4 decision in her case is a “vital document” and commanding SHA to provide Ms. Bin with
5 competent translation of that decision, as well as any other vital documents;

6 c. Compensation for all damages Ms. Bin has suffered, together with any other
7 damages (such as statutory or exemplary damages) to which she may be entitled.

8 6.4. Resident Action Council. Based on all the foregoing claims, Plaintiff RAC requests:

9 a. Judgment finding and declaring that the following policies and customs by
10 which SHA has conducted public housing grievance hearings are deficient and unlawful:

11 (i) SHA’s appointment of hearing officers without consulting with the
12 Resident Action Council (RAC) or considering comments of tenant organizations
13 including RAC;

14 (ii) SHA’s practice of unilaterally scheduling hearings without tenant
15 input and depriving the tenant of any effective mechanism for presenting and
16 obtaining adjudication of objections concerning scheduling-related issues;

17 (iii) SHA’s failure to establish procedure for compelling the attendance of
18 witnesses at grievance hearings;

19 (iv) SHA’s practice of unilaterally selecting hearing officers without
20 tenant input and depriving the tenant of any effective mechanism for presenting
21 and obtaining adjudication of objections to the choice of hearing officer;

22 (v) SHA’s policy of allowing its own Office of General Counsel, which
23 advises SHA employees and agents and represents SHA in unlawful detainer
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1 actions, collection lawsuits, and other proceedings against public housing tenants,
2 to also select the hearing officers and supervise their performance;

3 (vi) SHA's practice of rewarding hearing officers for ruling in favor of
4 SHA with additional contracts (or, of punishing hearing officers who rule against
5 SHA);

6 (vii) SHA's policies allowing hearing officers to decide public housing
7 grievances without regard to applicable law, and discouraging or prohibiting
8 considering of relevant legal arguments and authorities on a categorical or near-
9 categorical basis;

10 (viii) SHA's custom of treating illegitimate public housing grievance
11 hearings as binding on SHA tenants and taking adverse actions against public
12 housing tenants without having afforded fair or meaningful grievance hearings;
13 and

14 (ix) SHA's custom of failing to honor and abide by grievance hearing
15 decisions rendered in favor of tenants (i.e., adverse to SHA).

16 b. Judgment declaring that RAC is entitled to recognition as the jurisdiction-wide
17 resident council for SHA public housing and commanding SHA to grant such
18 recognition, and prohibiting any reprisal or retaliatory action against RAC;

19 c. Compensation for all damages RAC has suffered, together with any other
20 damages (such as statutory or exemplary damages) to which RAC may be entitled.

21 6.5. Douglas Shepherd. Based on the foregoing claims, Plaintiff Douglas Shepherd
22 requests an injunction precluding SHA from conducting a grievance hearing concerning his
23
24

1 liability for the plumbing repair until the above-described defects in SHA's public housing
2 grievance hearings have been corrected.

3 6.6. The Plaintiffs also seek an injunction compelling SHA to swiftly correct each such
4 improper policy, practice, or custom.

5 6.7. The Plaintiffs also seek a judgment finding and declaring that Lawrence Weldon and
6 Weldon Mediation Services, Inc., lack the requisite skills, impartiality, and other essential
7 qualifications to serve as a hearing officer for public housing grievance hearings, and
8 commanding such defendants to permanently cease and desist from such activities.

9 6.8. The Plaintiffs seek appointment of a master to review all of SHA's public housing
10 grievance decisions since 2004, recommend and order appropriate corrective action with respect
11 to each such case.

12 6.9. The Plaintiffs also seek an award for all litigation expenses and costs of suit,
13 reasonable attorney fees, and such other relief as the Court may find appropriate and consistent
14 with the interests of justice.

15 RESPECTFULLY SUBMITTED this _____ day of July, 2010.

16 **NORTHWEST JUSTICE PROJECT**

17
18 By: /s/Eric Dunn
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20 Leticia Camacho, WSBA #31341
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