

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS**

HOPE FAIR HOUSING CENTER,

Plaintiff,

v.

CITY OF PEORIA, ILLINOIS,

Defendant.

Civ. Action No. _____

COMPLAINT
Jury Trial Demanded

INTRODUCTION

1. This is a challenge to the City of Peoria’s “chronic nuisance” ordinance, Peoria Code § 20-200 *et seq.* Pursuant to that law, the City requires the eviction of tenants at certain properties that the City deems to be “chronic nuisances,” simply because the properties have been the subject of multiple police contacts. Peoria does not enforce this ordinance even-handedly, but rather intentionally targets enforcement in predominantly African-American neighborhoods and against buildings with predominantly African-American tenants. As a result, African-American residents regularly face eviction for conduct that would not result in eviction for white residents.

2. Peoria’s selective enforcement of its nuisance enforcement has an unjustified disparate impact on African-American communities and tenants, while it perpetuates Peoria’s long-standing residential segregation. This enforcement serves no legitimate purpose, and it often results in the unnecessary eviction of innocent tenants, including survivors of domestic violence—who are predominantly women—and victims of other crimes. To end this discriminatory practice, Plaintiff HOPE Fair Housing Center (“HOPE”) brings this suit pursuant to the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601 *et seq.*, and the Illinois Civil

Rights Act of 2003, 740 Ill. Comp. Stat. Ann. 23/5, for injunctive, monetary, and declarative relief.

3. Peoria is one of hundreds of municipalities around the country—and more than a hundred in Illinois alone—that have enacted some form of chronic nuisance and/or “crime-free” ordinance in recent years. Although varying in some details, these ordinances typically designate buildings that have been the subject of multiple police contacts as “chronic nuisances” and then require landlords to “abate” the nuisance by evicting tenants.

4. The purported rationale for these ordinances is to make residents safer by putting pressure on landlords and tenants to prevent crime. In practice, chronic nuisance ordinances instead have proven to extend discriminatory policing practices and attitudes into the housing sphere.

5. HOPE extensively investigated Peoria’s enforcement of its chronic nuisance ordinance. It found that Peoria does not enforce the ordinance equally at all properties that could be eligible for enforcement under the ordinance’s broad terms. Rather, Peoria selectively enforces its ordinance against a small fraction of eligible buildings, most of which are located in predominantly African-American communities or have primarily African-American tenants.

6. HOPE identified all Peoria properties that were the subject of two or more police calls regarding conduct covered by the ordinance and so were potentially eligible for enforcement under the ordinance’s terms. It found that, among these similarly situated properties, those in African-American neighborhoods are more than twice as likely to be cited as those in white neighborhoods. These racial disparities persist even after controlling for other factors such as neighborhood income and percentage of units in the neighborhood that are

rentals. This discriminatory and selective enforcement has the intent and effect of perpetuating the City's persistent residential segregation.

7. Peoria discriminates not only as to *where* it enforces the ordinance, but also as to *how* it enforces the ordinance. The ordinance delegates virtually total discretion to the Peoria police department as to how a nuisance should be "abated." In practice, the police department often has exercised this discretion, particularly in predominantly African-American neighborhoods, to require the eviction of all tenants associated with nuisance activity—whether perpetrator, victim, or innocent third party. In particular, it has required the eviction of survivors of domestic violence, who are mostly women, and thus has discriminated on the basis of sex as well as race. Far from furthering the legitimate end of resident safety, the chronic nuisance ordinance discourages Peoria's most vulnerable residents, such as survivors of domestic violence, from contacting the police to report crime or seek protection.

8. HOPE's findings with respect to Peoria's chronic nuisance ordinance are consistent with evidence regarding the enforcement of other similar ordinances around the country. Other municipalities have been sued for forcing the eviction of survivors of domestic violence for making calls to the police. None of them have been able to defend such evictions as consistent with the First Amendment right to petition government for assistance. And studies of other jurisdictions' chronic nuisance ordinances have found that enforcement there, as in Peoria, disproportionately occurs in predominantly African-American neighborhoods or against African-American residents.

9. In response to the spread of chronic nuisance and crime-free ordinances that are enforced in discriminatory fashion, the U.S. Department of Housing and Urban Development ("HUD") has issued guidance making clear that discriminatory enforcement of such laws can

constitute a violation of the Fair Housing Act. This guidance provides that municipalities such as Peoria must ensure that chronic nuisance laws are enforced even-handedly. It also makes clear that municipalities such as Peoria will have difficulty demonstrating the necessity of punishing residents simply because of a certain number of police calls.

10. Peoria's discriminatory conduct has harmed HOPE by frustrating its mission to further fair housing in the region that includes Peoria. In response, HOPE has diverted scarce resources to investigating Peoria's conduct that otherwise would have been spent on other valuable activities. HOPE brings this action to address Peoria's discriminatory and unlawful enforcement of its chronic nuisance ordinance and to redress the harm it has suffered and will continue to suffer as a direct result of that enforcement absent relief.

PARTIES

11. Plaintiff HOPE Fair Housing Center is a non-profit corporation dedicated to eradicating housing discrimination and residential segregation. Founded in 1968, around the same time as the passage of the Fair Housing Act, it is one of the country's oldest and best established fair housing organizations. HOPE is based in Wheaton, Illinois. It serves portions of Cook County, Illinois, and 30 other counties in northern and north-central Illinois, including Peoria County.

12. Defendant City of Peoria, Illinois ("Peoria" or the "City") is a municipal corporation located in Peoria County, Illinois. The City is organized under and operates by virtue of the rules of the State of Illinois as a home rule unit of local government. The City is governed by a Mayor and a ten-member City Council.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1343(a)(3), 2201, and 2202, and 42 U.S.C. § 3613(a).

14. Venue is proper in this District under 28 U.S.C. § 1391(b) because the claims arose in the District, Defendants are incorporated in and/or reside in this District, Plaintiffs do business in this District, and a substantial part of the events giving rise to this action occurred in the District.

FACTS

Peoria's History of Racial Division

15. Peoria has always been deeply segregated by race.

16. Peoria's racial segregation is facilitated by its geography. It lies on the western bank of the Illinois River. The low land near the river—known as the “Valley”—has historically been devoted to industry and the homes of poorer people. Almost all African-American communities have always been located in the south part of the Valley, known as the “Southside.” Further inland to the west is high ground—known as the “Bluff”—where wealthier, white people live. Lined on its north side by thick brush and planted trees, Martin Luther King Junior Drive runs along the south side of the Bluff and forms one of the principal segregating lines in the City.

17. Peoria's racial segregation historically was also facilitated by the City's dominant employer, Caterpillar Inc., which still employs 15,000 residents. As of 1959, Caterpillar's workforce included virtually no African-American employees.¹ Similarly, as of 1963, Central Illinois Light and Gas Company employed 600 Peoria residents, only two of whom were African

¹ See Terry H. Anderson, *The Pursuit of Fairness: A History of Affirmative Action* 55 (2004).

American.² Consigned to certain areas of town and excluded from the City's major employers, Peoria's relatively small African-American community established itself literally on the periphery.

18. In 1950, African Americans comprised only about 5% of Peoria's population of 111,850. Virtually all of them lived in a few areas of the Southside.

19. As Peoria's overall population slowly increased over the next two decades, its African-American community remained relatively small. By 1970, Peoria had a population of 126,963—its high-water mark—including about 14,500 African-American residents (11.5%).

20. What followed, as in other industrial cities around the country, was a long period of population decrease due in large part to job losses at Caterpillar and “white flight.” Peoria's white population dropped steadily, while its African-American population increased slowly in absolute terms and dramatically in terms of population share. By 2010, the African-American population had more than doubled since 1970, to almost 31,000, and constituted about 27% of the City's population.

21. Although the African-American population of Peoria has grown substantially and become a much greater percentage of the City's overall population, African Americans continue to be concentrated in the Southside, where they make up about 65 percent of the population.³

The map below illustrates this residential segregation.

² See *Gwynn Attacks Mayor Day Statement, Says There is Racial Tension in Peoria*, Peoria Journal Star, June 22, 1963, available at <http://www.becomingrichardpryor.com/pryors-peoria/assets/GwynnAttacksMayorDayStatementSaysThereISRacialTensionInPeoria.pdf>.

³ National Resource Network, *City of Peoria, IL Assessment Report 6* (Jan. 13, 2016).

22. The Southside is also extremely poor. One recent report found that more than 90% of Southside residents are in poverty.⁴

23. Efforts to desegregate Peoria and de-concentrate its poverty have failed because of community opposition. For example, the Peoria Housing Authority attempted in 2014 to replace the crumbling Taft Homes public housing development with mixed-income sites scattered throughout the City. The Authority abandoned that plan in the face of public opposition by residents who lived nearby the proposed sites. It is instead replacing the condemned Taft Homes facilities with new construction in the same area.⁵

24. African Americans in Peoria are disproportionately renters. Whereas only 34.1% of non-Hispanic white households rent their homes,⁶ 70.4% of African-American households do.⁷

25. By contrast, Peoria's government employees—and its public safety and law enforcement employees in particular—are overwhelmingly white and male. As of June 2014, the City's workforce was 81% white and 82% male.⁸ As of 2015, the fire department had not hired

⁴ *Id.*

⁵ Nick Vlahos, *Peoria Housing Authority to Build 44 Units Near the Present Taft Homes*, Peoria Journal Star, July 7, 2016, available at <http://www.pjstar.com/news/20160707/peoria-housing-authority-to-build-44-units-near-present-taft-homes>; see also Laura Nightengale, *Peoria Area Ranked One of the Top 25 Most Segregated in the U.S.*, Peoria Journal Star, Sept. 24, 2016, available at <http://www.pjstar.com/news/20160924/peoria-area-ranked-one-of-top-25-most-segregated-in-us>.

⁶ U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates, Table B25003H (2015) available at https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_5YR/B25003H/1600000US1759000.

⁷ U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates, Table B25003B (2015), available at https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_5YR/B25003B/1600000US1759000.

⁸ Audrey Wise, *NAACP Criticizes Peoria Hiring*, May 26, 2015, available at <http://www.cinewsnow.com/news/local/NAACP-criticizes-Peoria-hiring--305106921.html>.

an African American since 2008 (with 33 positions filled during that time) and had not hired a woman since 1998.⁹ Just 3 of the police department's last 26 hires were African-American.¹⁰

26. These discrepancies are reflected in law enforcement results. In 2015, the majority of traffic stops by Peoria police were of drivers who are racial minorities, even though Peoria remains a majority-white city. African Americans in Peoria County similarly are far more likely than whites to be arrested and/or incarcerated.¹¹

Peoria's Adoption and Enforcement of its Nuisance Ordinance

27. Against that background of an increasing African-American population, continued racial segregation in housing, and racial profiling in policing, in November 1998 Peoria enacted Ordinance No. 14616. That ordinance prohibits any person from permitting property under his or her control from becoming a "chronic nuisance property" by allowing certain events to occur repeatedly on the premises.

28. Since 1998, Peoria has amended this ordinance to facilitate increasingly aggressive enforcement. When it was originally enacted in 1998, the ordinance required three or more offenses to occur at a building in quick succession—within a 60-day period—in order to trigger eligibility for a declaration that the building was a nuisance. In October 2004, the City amended the ordinance to require three events in a 365-day period—a threshold easily reached over a full year by large apartment buildings—in order to trigger such eligibility. Peoria Code

⁹ Billy Dennis, *NAACP Gently Spanks Peoria City Council on Minority Hiring*, May 26, 2015, available at https://www.peoria.com/news/news_detail.php?news_id=3963.

¹⁰ Nick Vlahos, *Minority Hiring Declines, Applications Waning For Peoria Fire and Police Jobs*, Peoria Journal Star, May 27, 2015, available at <http://www.pjstar.com/article/20150527/NEWS/150529307>.

¹¹ Scott Hilyard, *Data: Peoria-Area Minorities Far More Likely to be Arrested and Imprisoned*, Peoria Journal Star, Aug. 27, 2016, available at <http://www.pjstar.com/news/20160827/data-peoria-area-minorities-far-more-likely-to-be-arrested-and-imprisoned>.

§ 20-201(a). Similarly, a September 2006 amendment added many more offenses to those that count toward chronic nuisance eligibility, thereby making the ordinance potentially cover even more buildings and giving the City vast discretion in its enforcement decisions.

29. In the ordinance's current form, eligible offenses that can trigger § 20-201(a) include events spanning a wide range of severity, from housing code or noise violations to possession of cannabis to first-degree murder and kidnapping. Peoria's ordinance treats them all the same, except that certain serious crimes can trigger the ordinance after two occurrences and result in a property being designated an "aggravated chronic nuisance property." Peoria Code § 20-201(b).

30. Peoria assigns primary responsibility for enforcement of the nuisance ordinance to its police department's "Neighborhood Services Unit," which operates with virtually no day-to-day oversight. It gives that unit unchecked authority to determine whether any of these triggering events have occurred and whether a property should therefore be deemed a chronic nuisance property.

31. According to the ordinance's text, once the police chief receives "two or more police reports documenting the occurrence of nuisance activity," the chief may issue a formal warning to the property's owner and demand that the owner propose within 10 days "a course of action that the superintendent of police agrees will abate the nuisance activities." Peoria Code § 20-203(1). There is no requirement that the mayor, corporation counsel, or anyone else sign off on—or even be informed of—this action.

32. Following such a warning, according to the ordinance's text, the police chief is authorized to declare the property to be a chronic nuisance property with the next police report describing a "nuisance activity" there. The property owner then has 10 days to convince the

police chief that the nuisance is being sufficiently “abated,” or else the City may take legal action to enforce the ordinance. Peoria Code § 20-203(2). The ordinance does not describe proper abatement procedures except to exclude the police chief from overtly ordering certain discriminatory actions as described more fully below.

33. In practice, the police chief plays little part in the ordinance’s enforcement. Instead, the Neighborhood Services Unit has broad discretion as to whether to find that a property is a nuisance and, if so, how the property owner should abate that nuisance.

Discriminatory Enforcement of the Nuisance Ordinance

34. Peoria has enforced its nuisance ordinance in a discriminatory manner, as to both *where* it enforces the ordinance and *how* it enforces the ordinance. Peoria declares properties to be nuisances far more often in predominantly minority neighborhoods. Its primary “abatement” strategy is eviction of tenants—even tenants not responsible for the nuisance behavior. HOPE documented these discriminatory impacts through a comprehensive investigation of Peoria’s enforcement of its ordinance.

35. HOPE reviewed and performed a statistical analysis of 148 nuisance citations Peoria issued during a three-year period. The City disclosed these citations in response to a public records request asking for all nuisance citations issued during that time period. HOPE also reviewed police calls made over the same period and identified a much larger universe of properties—more than 12,000—that could have been cited according to Peoria’s stated criteria. Peoria thus chose to cite just over 1% of the properties that it could have cited, confirming that the Neighborhood Services Unit has broad enforcement discretion because of the ordinance’s low bar for nuisance citation eligibility.

36. While Peoria does not record the race of the tenants affected by chronic nuisance enforcement, it does record the locations of the buildings cited. Analysis of those locations shows that enforcement discretion was not exercised evenly throughout the City, but rather was exercised in such a way as to have a disproportionate impact on African Americans and to perpetuate segregation and racial isolation.

37. Of the 148 citations, 106 of them (71.6%) involved properties located in neighborhoods where African Americans constitute the largest racial group—even though African Americans constitute only 27% of Peoria’s population. A statistical analysis found that, as the percentage of black residents in a neighborhood increased, so did the likelihood of nuisance enforcement action. That effect was substantial and statistically significant.

38. The map below illustrates how the locations at which Peoria selectively enforces its nuisance ordinance line up with the neighborhoods that are predominantly African American.

39. These disparities persist even under a statistical analysis that controls for other factors. They persist when controlling for other neighborhood characteristics (such as average household income or percentage of housing stock that is rental housing). And they persist when controlling for the number of calls made about a specific property. Even with such controls, a property in a majority African-American neighborhood was more than twice as likely to be cited as a comparable property in a majority white neighborhood.

40. Meanwhile, even when Peoria does enforce the ordinance against properties in predominantly white neighborhoods, such action often has been taken against buildings with predominantly poor and African-American tenants. For example, Peoria has repeatedly targeted for discriminatory and unreasonable enforcement Lexington Hills, a residential development with predominantly African-American tenants that is surrounded by white residents. These targeted enforcement actions in white neighborhoods discourage landlords and developers from renting to poor and/or African-American tenants and from engaging in real estate projects that could help desegregate Peoria by creating housing for African-American tenants in predominantly white areas of the City.

41. This statistical evidence of discriminatory enforcement is consistent with statements made by Peoria officials. They have openly admitted that they do not enforce their ordinance even-handedly based on its stated criteria (number of police reports in a 365-day period), but rather use it as a tool to target particular properties or neighborhoods that come to the police department's attention for other reasons.

42. For example, in a June 10, 2014 City Council meeting, Officer Anthony Allen, the ordinance's top enforcement official, made clear that nuisance enforcement officials do not consider enforcement against all properties that meet the ordinance's broad criteria. Instead, after

they have decided to investigate a property for other reasons, they check the police department database for police reports that would make the property eligible for nuisance citation. According to Mr. Allen, in deciding which properties to cite as nuisances: “There’s a lot of discretion that I use.”

43. Peoria’s political leadership, in turn, has regularly directed the Neighborhood Services Unit to take enforcement action against buildings in predominantly African-American neighborhoods. Moreover, those leaders have expressed views that explain why that community has been targeted for unequal enforcement of the nuisance ordinance.

44. Most notably, Councilman Charles Grayeb, who originally sponsored the ordinance, has directed nuisance enforcement officers to cite particular rental properties in Southside. Councilman Grayeb has expressed support for the concept of limiting rental units in Peoria but has acknowledged that any such limit, if done explicitly, would be illegal. As noted above, African Americans are far more likely to rent their homes than are white residents of Peoria.

45. In addition to requiring immediate evictions of tenants, Peoria also imposes additional requirements on landlords that it deems to be operating nuisance properties that exacerbate the discriminatory effects described above. For example, it often requires landlords to begin screening incoming tenants for criminal records, notwithstanding that such screening has been proven to have a substantial disparate impact based on race that cannot be justified by any non-discriminatory interest in tenant safety.¹²

¹² See, e.g., U.S. Department of Housing and Urban Development, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions* (Apr. 4, 2016), available at https://portal.hud.gov/hudportal/documents/huddoc?id=hud_ogcguidappfhastandcr.pdf.

46. Peoria also enforces its nuisance ordinance, and otherwise furthers its discriminatory objectives, through the use of military-style armored cars. Nicknamed the “Armadillos,” these armored vehicles, which are equipped with cameras, are deployed in front of targeted properties in order to continuously record the activities of and otherwise harass the residents of those properties.

47. The Armadillos, like the nuisance ordinance, are deployed at the request of political officials and well-connected local residents rather than pursuant to objective criteria. These deployments are made primarily in predominantly African-American neighborhoods, as illustrated by the map below:

48. Although the Armadillos are not mentioned or authorized by the text of the nuisance ordinance, in practice, Peoria uses them both to “verify” the existence of a nuisance property and to help “abate” such a nuisance. Such abatement is accomplished through public shaming of a building’s residents and their landlord.

49. Peoria has widely publicized its use of the Armadillos to assist its chronic nuisance ordinance enforcement efforts.

Peoria Requires “Nuisance Abatement” That Often Amounts to Punishing Crime Victims, Including Survivors of Domestic Violence, and Others Who Pose No Threat

50. Peoria’s law is largely silent as to how nuisances are to be abated, and the official records the City has released publicly do not describe the outcome of these citations. In practice, however, eviction of tenants—through informal or illegal means if necessary—has been the City’s preferred way for landlords to abate alleged nuisances.

51. Peoria officials have publicly stated that landlords generally should abate alleged nuisances through the eviction of tenants.

52. For example, in a 2006 City Council meeting, the City’s corporation counsel stated that, when a property owner receives a letter from the police department claiming that the property is a nuisance, the property owner should evict any tenant involved promptly.

53. Similarly, in the June 10, 2014 City Council meeting, Officer Allen stated: “The property owner must take remedial measures. Including eviction. If they cannot evict—they must take remedial steps.” He thus made clear that eviction is the first-choice remedy, with other “remedial steps” pursued only if eviction is not possible.

54. Interviews with affected landlords confirm that, consistent with Officer Allen’s public statements, Peoria demands that landlords quickly remove any tenants deemed to be

involved with the nuisance activity, even if that “quick removal” violates Illinois’ Forcible Entry and Detainer Act and/or due process. Indeed, nuisance enforcement officers encourage landlords to pressure tenants to leave without complying with the formal eviction process, so as not to create an opportunity for tenant advocates to intervene and ensure that the eviction is legal. Landlords who instead file eviction court cases against tenants report being harassed by nuisance officers if the court proceedings result in any delay. Because the ordinance directly regulates landlords, not tenants, the tenants have no opportunity to defend against the allegations, which may be both untrue and improper grounds for forcing an eviction.

55. Peoria also informs the Peoria Housing Authority of nuisance citations and pressures the Housing Authority to terminate the Section 8 vouchers of tenants involved. Such revocation causes profound harm to voucher holders, who in Peoria are overwhelmingly African-American. Without a voucher, many families cannot afford to obtain housing in Peoria.

56. Peoria does not distinguish between serious violations and less serious ones, but instead invariably requires eviction. And it does not distinguish between those tenants who committed violations, those who had little or nothing to do with any violations, and those who were the *victims*. The result is that Peoria’s nuisance ordinance frequently punishes crime victims and others who need police or other municipal assistance rather than protecting them.

57. For example, Peoria declared one building to be a nuisance because a tenant had called the police several times to report acts of violence by the same attacker. She reported enduring a physical assault, bricks thrown through her car windshield, and gunshots fired into her apartment. Rather than taking action against the attacker, Peoria required the eviction of the tenant.

58. This result is not atypical. HOPE’s analysis found that domestic violence incidents were the second most common type of “nuisance activity” described in Peoria’s nuisance citations.

59. Moreover, as described below, this result is consistent with findings regarding other municipalities’ nuisance ordinances, which similarly have proven to punish domestic violence victims rather than make them safer.

60. Peoria has used its nuisance ordinance even in cases where the tenants were calling the police for assistance. In one case, a grandmother called the police when her minor, disabled grandson repeatedly failed to come home at night. The grandmother had been instructed to call the police when the grandson did not come home on time. After she made those calls, Peoria sent the woman’s landlord a nuisance citation, declaring that the building was a nuisance based on six incidents. Two of them were calls she made regarding her grandson’s whereabouts. The other four accused her family of conduct such as fighting and hosting loud parties that either never happened at all or involved other people on her block rather than the woman’s family. Police never spoke to or interviewed the grandmother and her household about these incidents and no arrests or criminal charges were initiated.

61. The grandmother’s landlord told her he did not want to evict her but Peoria required him to do so in order to “abate” the nuisance.

62. The threatened eviction not only risked the grandmother’s family’s housing but also their Section 8 voucher, which helps the family pay for rent and keep their housing affordable. Indeed, once informed by Peoria of the nuisance order, the Peoria Housing Authority initiated voucher termination proceedings against the family. In this proceeding—unlike the nuisance determination—the grandmother was given an opportunity to attend a hearing and

defend herself. The Housing Authority determined that it was not appropriate to terminate her voucher.

63. Nonetheless, because of Peoria's insistence, the landlord began eviction proceedings against the family. In order to forestall eviction and ensure family stability, the grandmother agreed to move out with her grandchildren in a few months, once the school year was over.

64. Peoria had no legitimate reason to insist on this eviction. It had no reason to think that this grandmother or her grandchildren posed a threat to public safety or even violated the terms of their lease. Indeed, the nuisance order itself does not make such a finding or contain allegations that would support such a finding, even if they were true. There is no legitimate reason to require a family's eviction based in part on calls to the police to report the whereabouts of a runaway child—particularly when Peoria itself required those calls to be made.

65. Illinois recently passed legislation forbidding its municipalities from enforcing nuisance ordinances that result in the eviction of tenants because of domestic violence incidents, calls about domestic violence or on behalf of people with disabilities. In response, Peoria passed Ordinance No. 17,329, which amends its ordinance to exclude incidents of domestic violence and calls on behalf of people with disabilities from those that trigger the nuisance ordinance.

66. Peoria's amendment, however, does not provide any mechanism by which police officials are to determine what constitutes an act of domestic violence or which persons have disabilities, so as to exclude these calls from nuisance ordinance enforcement. Nor does it more broadly exempt victims of crime from nuisance ordinance enforcement, although HOPE's investigation revealed that victims of other crimes were evicted even when the Neighborhood Services Unit did not document any wrongdoing on their part.

67. By Peoria's own admission, it does not intend or expect this amendment to change its discriminatory enforcement of its nuisance ordinance. The preamble to the amendment states that Peoria's nuisance ordinance "was not interpreted or applied to penalize victims of domestic or sexual violence" previously—notwithstanding HOPE's findings to the contrary—and that the City is amending its ordinance only to "clearly conform" to state law.

68. The harm that Peoria's nuisance ordinance does to victims of domestic violence, crime victims, people with disabilities, and others with a need for municipal assistance extends well beyond those subject to actual evictions. Once made aware of the nuisance ordinance and the possibility of its enforcement, victims become reluctant to call the police or otherwise use public services, thereby putting them at grave risk. Peoria is aware that its ordinance is having this chilling result yet it persists in enforcing the ordinance in a discriminatory manner.

69. Prior to filing this complaint, HOPE shared with Peoria its concerns that the City's ordinance enforcement has an unjustified disparate impact based on race and gender in violation of the Fair Housing Act and Illinois state law. HOPE requested that Peoria repeal the ordinance or modify it to the extent required to comply with the law, but Peoria has not done so.

70. Through its actions described above, Peoria has acted negligently, intentionally, maliciously, and with willful, malicious, wanton, and reckless disregard for the rights guaranteed by federal and state fair housing and non-discrimination laws.

Peoria's Ordinance Violates the Fair Housing Act and the Illinois Civil Rights Act

71. Peoria's nuisance ordinance violates the federal Fair Housing Act, as well as the Illinois Civil Rights Act. It disproportionately harms non-white residents and women, and it contributes to the maintenance of Peoria's long-standing residential segregation. These effects are not accidental. Rather, they stem from the intentional decisions to enforce the ordinance

disproportionately in certain communities based on race and to make abuse victims responsible for the acts of their abusers.

72. The federal Fair Housing Act makes it unlawful to deny housing or make housing unavailable to any person “because of race, color, religion, sex, familial status, or national origin.” 42 U.S.C. § 3604(a). It also makes it unlawful to discriminate in the “terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith” for the same reasons. 42 U.S.C. § 3604(b).

73. Both Supreme Court precedent and a HUD regulation provide that a defendant can violate the Fair Housing Act through either intentional discrimination or through conduct that has an unnecessary disparate impact based on one or more protected classifications such as race or sex. *See Tex. Dep’t of Hous. & Cmty. Affairs v. Inclusive Cmty. Project*, 135 S. Ct. 2507 (2015); 24 § C.F.R. 100.500, *et seq.*

74. Peoria’s nuisance ordinance makes housing unavailable to those tenants who are evicted because of it. It also discriminates against not only those same tenants, but also those tenants who are chilled from seeking police or other government services for fear of triggering the ordinance, in the privileges of renting and in the provision of municipal services related to renting.

75. Peoria has intentionally concentrated its enforcement of the ordinance in predominantly minority neighborhoods and against buildings that house African-American tenants. As a result, African-American residents regularly face eviction for conduct that would not result in eviction elsewhere. Peoria’s ordinance thus makes housing unavailable, discriminates in the privileges of renting, and discriminates in the provision of municipal services related to rental housing, because of race and color. It also has the purpose and effect of

perpetuating the City's longstanding residential segregation by race, in violation of the Fair Housing Act.

76. Peoria also intentionally enforces its ordinance to require landlords to evict an entire household whose residence is linked to an alleged crime. This strict liability enforcement results in crime victims, including victims of domestic violence, being evicted for the acts of crime perpetrators. Most survivors of domestic violence are women. In enforcing its nuisance ordinance against this population, Peoria intentionally discriminates on the basis of sex.

77. Peoria's nuisance ordinance also violates the Fair Housing Act because it has an unnecessary disparate impact on the availability of housing based on race and sex. The Fair Housing Act makes it unlawful to maintain a practice that has such a disparate impact if that practice serves no legitimate purpose. Even if the practice does serve a legitimate purpose, it still is unlawful if such a purpose could be accomplished through less discriminatory means.

78. Peoria's nuisance ordinance serves no legitimate purpose. Although Peoria's ordinance and others like it have been touted as making housing safer, they in fact make housing less safe by discouraging residents and landlords from contacting law enforcement. Peoria's discriminatory enforcement of its nuisance ordinance contributes to the general distrust that many minority communities have of law enforcement. Such distrust has been proven to depress community members' willingness to report crime to the police.¹³

¹³ See, e.g., Quoc Trung Bui, *Calls to 911 From Black Neighborhoods Fell After a Case of Police Violence*, N.Y. Times, Sept. 29, 2016, available at https://www.nytimes.com/2016/09/29/upshot/calls-to-911-from-black-neighborhoods-fell-after-a-case-of-police-violence.html?_r=0.

79. Similarly, there is a long history of law enforcement mistreatment of victims of domestic violence. As a consequence, victims are reluctant to report abuse to authorities. Peoria's nuisance ordinance exacerbates that problem.¹⁴

80. Even if Peoria's ordinance did make housing safer, this goal could be achieved in a manner that does not result in the disproportionate eviction of African-American and female residents, or in the eviction of crime victims.

81. Peoria's enforcement practices are inconsistent with various federal laws and guidance, further demonstrating that they are not the least discriminatory means of accomplishing any legitimate end.

82. Congress has recognized that it is improper to evict survivors of domestic violence because of their abusers' activities. It has barred housing providers that receive federal funds from evicting people for being the victims of domestic violence. 42 U.S.C. § 14043e-11(b). While that provision does not directly regulate private housing or the municipal nuisance ordinance at issue here, it expresses a clear federal policy that is inconsistent with the notion that Peoria's policy of requiring the eviction of survivors of domestic violence is ever appropriate, or could be the least discriminatory means of furthering any legitimate safety interests.

83. The U.S. Department of Housing and Urban Development issued guidance last year confirming that nuisance ordinances that function like Peoria's are not the least discriminatory means of accomplishing a legitimate purpose.¹⁵ It issued the guidance because

¹⁴ See Gretchen Arnold & Megan Slusser, *Silencing Women's Voices: Nuisance Property Laws and Battered Women* 4, Law & Social Inquiry 908 (2015).

¹⁵ See U.S. Department of Housing and Urban Development, *Office of General Counsel, Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services* (Sept. 13, 2016), available at

Peoria is just one of hundreds of U.S. municipalities that have enacted similar “nuisance” ordinances in recent years.¹⁶

84. HUD observed that many such ordinances, like Peoria’s, result in tenants’ eviction because of police contacts regardless of whether the tenants did anything wrongful. Under such circumstances, it stated, a municipality will have a “difficult burden” to prove that it is necessary to “cut[] off access to emergency services for those in grave need of such services, including victims of domestic violence or other crimes, thereby potentially endangering their lives, safety and security.”¹⁷

85. The enforcement practices described herein also violate tenants’ First Amendment rights, and for this reason do not serve legitimate interests in the least discriminatory manner.

Injury to HOPE Fair Housing Center

86. Peoria’s enactment and enforcement of its nuisance ordinance has injured and is continuing to injure Plaintiff HOPE Fair Housing Center.

87. HOPE’s mission is to eliminate housing discrimination and racial segregation in housing in northern and north-central Illinois.

88. Peoria’s discriminatory enforcement of its nuisance ordinance has frustrated and continues to frustrate HOPE’s mission of ensuring that all people have equal access to housing opportunities, in Peoria and elsewhere in the region that HOPE serves. Peoria’s conduct has not just affected fair housing within its own borders, but also has influenced the conduct of nearby

<https://portal.hud.gov/hudportal/documents/huddoc?id=FinalNuisanceOrdGdnce.pdf> (“HUD Guidance - Enforcement of Nuisance Ordinances”).

¹⁶ Emily Werth, The Cost of Being “Crime Free”: Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances 1, Sargent Shriver National Center on Poverty Law (Aug. 2013), *available at* <http://www.povertylaw.org/files/docs/cost-of-being-crime-free.pdf>

¹⁷ HUD Guidance - Enforcement of Nuisance Ordinances at 9.

municipalities that are contemplating adopting similar ordinances and/or making decisions about how to enforce them.

89. In response, HOPE has diverted scarce resources to investigating and remedying Peoria's discriminatory enforcement. Those resources would have been expended on other projects if not for the discriminatory actions described in this Complaint.

90. HOPE has devoted considerable staff time and resources to analyzing the nature and scope of Peoria's discriminatory conduct, including by interviewing affected people in Peoria. It also spent considerable time and money filing Freedom of Information Act requests seeking information on Peoria's enforcement of its ordinance.

91. In addition, in order to counteract Peoria's discrimination and prevent it from spreading to other local municipalities, HOPE has taken many other actions, including but not limited to:

- Advocating to state legislators in connection with Illinois Senate Bill 1547, now P.A. 99-441, which required changes to Peoria's ordinances and others like it. In response to its experience with Peoria's enforcement practices, HOPE apprised lawmakers that enforcement of nuisance ordinances was being triggered by calls for service by victims of domestic violence, persons with disabilities, and other vulnerable populations.
- Convening a panel discussion related to nuisance ordinances and their potential for discriminatory enforcement as part of the DuPage Area Housing Dialogue that HOPE hosted in Wheaton on February 19, 2015 for community leaders, elected officials, and others focused on housing issues.

- Providing public testimony and otherwise advocating before the City of Naperville during the summer of 2015 in opposition to a proposed requirement that landlords participate in a “crime free” program. Like Peoria’s ordinance, this requirement would likely have had discriminatory effects including causing the eviction of survivors of domestic violence. Based in part on advocacy from HOPE and others regarding these discriminatory effects, Naperville voted against requiring landlord participation in this program.
- Providing information related to the impact of chronic nuisance ordinance enforcement on women, including survivors of domestic violence, at a session titled “Gender Bias in Housing” at the Fair Housing Center of Central Indiana Fair Housing Conference on April 14, 2016.
- Providing information regarding chronic nuisance ordinances, potentially discriminatory enforcement, and the new HUD Guidance regarding such ordinances to the DuPage County Continuum of Care.
- Providing information regarding chronic nuisance ordinances and their potentially discriminatory impacts at a HUD Peer-to-Peer Training in Springfield on September 27, 2016.

92. All of these activities have required the diversion and expenditure of financial resources and staff time.

93. As a result of this diversion of resources, HOPE has had to postpone or abandon previously planned fair housing activities. For example:

- HOPE had planned to conduct follow-up investigations regarding certain multi-family housing developments that HOPE’s initial investigations

revealed were designed and constructed such that they may be inaccessible for individuals with disabilities. These investigations, and possible enforcement actions, were delayed by the diversion of HOPE's resources to investigating Peoria from late 2014 to late 2016.

- HOPE had planned to attend and provide public testimony at various events, such as the Arlington Heights Consolidated Action Plan Public Hearing, but was unable to because of the diversion of time and resources to this matter.
- HOPE previously issued public newsletters on an annual or semi-annual basis, but it was unable to do so during the pendency of this investigation.
- HOPE otherwise would have applied for a number of additional funding opportunities, but it did not do so due to limited staff resources caused by diversion of resources into this investigation.
- HOPE otherwise would have attended a number of additional conferences, networking events, and educational webinars, but it could not do so due to the time and resources diverted to investigating and remedying Peoria's discriminatory conduct.

CAUSES OF ACTION

First Cause of Action **Race Discrimination in Violation of the Fair Housing Act,** **42 U.S.C. § 3604**

94. HOPE re-alleges and incorporates the facts and allegations contained in paragraphs 1 through 93 as fully set forth herein.

95. Peoria's enforcement of its nuisance ordinance intentionally discriminates based on race, in violation of 42 U.S.C. § 3604.

96. Peoria's enforcement of its nuisance ordinance has an unjustified disparate impact based on race, in violation of 42 U.S.C. § 3604.

97. Peoria's enforcement of its nuisance ordinance makes housing unavailable based on race, in violation of 42 U.S.C. § 3604(a). It also discriminates based on race in the terms, conditions, and/or privileges of the rental of housing, as well as in the provision of services in connection with the rental of housing, in violation of 42 U.S.C. § 3604(b).

98. Peoria's enforcement of its nuisance ordinance perpetuates Peoria's long-standing racial segregation in housing without justification, in violation of 42 U.S.C. § 3604(a).

Second Cause of Action
Sex Discrimination in Violation of the Fair Housing Act, 42 U.S.C. § 3604

99. HOPE re-alleges and incorporates the facts and allegations contained in paragraphs 1 through 93 as fully set forth herein.

100. Peoria's enforcement of its nuisance ordinance intentionally discriminates based on sex, in violation of 42 U.S.C. § 3604.

101. Peoria's enforcement of its nuisance ordinance has an unjustified disparate impact based on sex, in violation of 42 U.S.C. § 3604.

102. Peoria's enforcement of its nuisance ordinance makes housing unavailable based on sex, in violation of 42 U.S.C. § 3604(a). It also discriminates based on sex in the terms, conditions, and/or privileges of the rental of housing, as well as in the provision of services in connection with the rental of housing, in violation of 42 U.S.C. § 3604(b).

Third Cause of Action
Race Discrimination Under the Illinois Civil Rights Act of 2003,
740 Ill. Comp. Stat. Ann. 23/5

103. Plaintiffs re-allege and incorporate the facts and allegations contained in paragraphs 1 through 93 as fully set forth herein.

104. Defendant, through its actions and the actions of its agents, is liable for the violation of Plaintiff's rights under the Illinois Civil Rights Act of 2003, 740 Ill. Comp. Stat. Ann. 23/5, under which, "[n]o unit of State, county, or local government in Illinois shall: (1) exclude a person from participation in, deny a person the benefits of, or subject a person to discrimination under any program or activity on the grounds of that person's race, color, national origin, or gender; or (2) utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, national origin, or gender."

105. Peoria's enforcement of its nuisance ordinance intentionally discriminates based on race, in violation of the Illinois Civil Rights Act.

106. Peoria's enforcement of its nuisance ordinance has an unjustified disparate impact based on race, in violation of the Illinois Civil Rights Act.

107. Peoria's enforcement of its nuisance ordinance subjects people to discrimination based on race, and utilizes criteria or methods of administration that have the effect of subjecting people to discrimination based on race, in violation of the Illinois Civil Rights Act.

108. Peoria's enforcement of its nuisance ordinance perpetuates Peoria's long-standing racial segregation in housing without justification, in violation of the Illinois Civil Rights Act.

Fourth Cause of Action
Sex Discrimination Under the Illinois Civil Rights Act of 2003,
740 Ill. Comp. Stat. Ann. 23/5

109. Plaintiff re-alleges and incorporates the facts and allegations contained in paragraphs 1 through 93 as fully set forth herein.

110. Defendant, through its actions and the actions of its agents, is liable for the violation of Plaintiff's rights under the Illinois Civil Rights Act of 2003, 740 Ill. Comp. Stat. Ann. 23/5, under which, "[n]o unit of State, county, or local government in Illinois shall: (1)

exclude a person from participation in, deny a person the benefits of, or subject a person to discrimination under any program or activity on the grounds of that person's race, color, national origin, or gender; or (2) utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, national origin, or gender.”

111. Peoria's enforcement of its nuisance ordinance intentionally discriminates based on sex, in violation of the Illinois Civil Rights Act.

112. Peoria's enforcement of its nuisance ordinance has an unjustified disparate impact based on sex, in violation of the Illinois Civil Rights Act.

113. Peoria's enforcement of its nuisance ordinance subjects people to discrimination based on sex, and utilizes criteria or methods of administration that have the effect of subjecting people to discrimination based on sex, in violation of the Illinois Civil Rights Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff HOPE Fair Housing Center prays that this Court:

(a) enter a declaratory judgment that the actions of the City of Peoria complained of herein are in violation of the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601 *et seq.* and the Illinois Civil Rights Act of 2003, 740 Ill. Comp. Stat. Ann. 23/5;

(b) issue a permanent injunction restraining the City of Peoria, its agents, employees, representatives, or any other person acting directly or indirectly with or on behalf of the City of Peoria from enforcing its chronic nuisance ordinance, Peoria Code § 20-200 *et seq.*, and directing the City of Peoria to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;

(c) award compensatory damages in an amount to be determined by the jury that would fully compensate HOPE for the loss that has been caused by the conduct of the City of Peoria alleged herein;

(d) award punitive damages to HOPE in an amount to be determined by the jury that would punish the City of Peoria for its willful, wanton, and reckless conduct alleged herein and that would effectively deter the City of Peoria and other municipalities from engaging in similar conduct in the future;

(e) award HOPE its reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 3613(c)(2) and 740 Ill. Comp. Stat. Ann. 23/5(c); and

(f) order such other relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff HOPE Fair Housing Center demands a trial by jury of all issues in this case.

Dated: August 10, 2017

Respectfully submitted,

/s/ Katherine E. Walz

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