

AFFIDAVIT, ANDELINO ORTIZ

to 5:00 P.M. The Town of Penfield's 1972 budget for the library is \$70,816.00.

25. I understand that the Town of Penfield is served by volunteer firemen. Volunteers are well trained and the best in fire fighting equipment is available. Residents of the Town of Penfield have some of the lowest fire insurance rates of any town in the county. Each property owner is assessed for support of the Fire Department in the fire district where they live \$1.55 per \$1,000.00 assessed valuation. The department operates one fire station and is seeking voter approval for an additional station.

26. According to my information, the volunteer ambulance service in the Town of Penfield serves the entire town 24 hours a day including holidays except

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from 6:00 A.M. to 5:00 P.M. on Monday and 6:00 A.M. to 9:00 A.M. on Tuesday.

27. Upon information and belief, garbage and trash collection in the Town of Penfield is provided to residents by two private firms. Monroe Disposal makes one collection per week and the cost to residents is \$5.35 including tax per month. Youngblood and Smith Disposal Systems makes one collection per week and cost to residents is \$13.91 every three months including tax. In addition, Youngblood and Smith Disposal Systems offers free recycling service to regular customers and operates, for free, the town's recycling center. The Penfield Highway Department provides an annual free spring pick-up service for hard to dispose of items. Cost to the Town of

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Penfield - approximately \$25,000.00 annually.

28. Upon information and belief, The Town of Penfield highway department employs 22 persons. The department is responsible for ice and snow removal on state, county and town roads in the winter. It is also responsible for road maintenance on county and town roads in the summer. The department is equipped with the most modern equipment for snow and ice control, road building, and maintenance. The 1972 budget for the Penfield Highway Department is: total highway - \$584,433.08, road building, repair - \$173,000.00, machinery repair - \$115,000.00, snow removal and miscellaneous \$295,000.00. There are 71.53 miles of town highways, 25.05 miles of state high-

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ways, 35.33 miles of county highways in the Town of Penfield.

29. I find that living in the Town of Springwater, access to stores is limited and my shopping opportunities are thereby limited. We need to go either to Dansville or Wayland - each about five or six miles away. In Dansville there are three food stores and a few clothing and food stores. However, my wife tries to concentrate her buying in Rochester because she thinks that prices are cheaper there. On the basis of information supplied to me by Metro Act of Rochester, Inc., I understand that the Town of Penfield has two large shopping plazas - Panorama and Eastway; the latter shopping plaza includes a branch of Sibley's department stores.

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Additionally, there are quite a number of other smaller shopping areas in Penfield which include food markets, drug stores, dry cleaning businesses.

30. My wife and I have always considered it desirable that our children have summer jobs. While we lived with them in the city, our girls were able to secure jobs such as nurses aides; the boys were able to find handyman jobs in the summers. However, since we have been living in the Town of Springwater, our children have not been able to find any summer employment. There is practically no industry in Springwater and there are only a couple of stores. According to **information furnished** me by Metro Act of Rochester, Inc., if we were to be living in the Town of Penfield, there would be

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summer employment available for our children. I understand that the Youth Council in Penfield runs an employment center. There is employment for paper boys, mowing of lawns, babysitting and packaging and carrying out groceries.

31. The plight of myself and my family in being a member of a minority and of low income is shared by many other persons. I understand that there are approximately 18,000 persons of Puerto Rican/Spanish extraction or 19,500 Latins living in the Rochester area. Practically all of those are now living in Rochester center city - just as I and my family were prior to our moving to the Town of Springwater to escape the decaying inner city environment. These persons, like myself and my family,

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are continually harmed in a very real and tangible fashion by the effect of the exclusionary practices of the Town of Penfield. Because our living environments are dictated by laws, practices and policies which prevent us from living where we might wish, we are forced, for example, to accept as a way of life poor schools for our children, reduced job opportunities, inferior community services and added expenses of reaching employment.

/s/ Andelino Ortiz
ANDELINO ORTIZ

Jurat
Omitted
In
Printing

EXHIBIT A

PENFIELD

APARTMENT PROJECTS AND TOWN HOUSES

<u>Project</u>	<u>Rentals</u>			
	<u>Studio</u>	<u>1BR</u>	<u>2BR</u>	<u>3 BR</u>
*Penfield Village 6 units at 165 6 " at 190		165-180	190-210	
*Penfield White Oaks		175	195	
*Pennwood		184.50	195	
*Skyline	155-175	175-190	210-225	
*Penfield Park T.H. 105 units			260	300
*Brook Hill		190	225-275	
*Lost Mountain Manor		235-245	285-295	
Mountain Lane		190	225	
* *Creek Hill		165(175)	190(195)	

EXHIBIT A

<u>Project</u>	<u>Rentals</u>			
	<u>Studio</u>	<u>1BR</u>	<u>2BR</u>	<u>3BR</u>
*Eastway Manor		193	220	
*Liberty Manor (1963)	125 6 units	135-145 18 units		
*Avalon		177	188	
* Includes unilities except electricity				
** Rentals increasing to \$175 and \$195 effective 6/72				

Windson Square T.H. for sale	<u>2BR</u>	<u>3BR</u>	<u>4BR</u>	
	28,950- 30,000	31,000 36,000	36,000	

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK

Title	*	AFFIDAVIT
Omitted	*	
In		Civil Action
Printing	*	No. 1972-42
	*	

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

CLARA BROADNAX, duly sworn, according
to law, deposes and says:

1. I am a private citizen residing
at 87 Jefferson Street, Rochester, New
York. I am a person of the black race.
I am one of the plaintiffs in the above
noted lawsuit; I make this affidavit in
opposition to the motion of the defendants
to dismiss my complaint on the ground
that I have no standing to sue the Town
of Penfield for what I believe to be

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practices, policies and customs of excluding persons of my race from living in the Town of Penfield. As I outline more particularly in the succeeding paragraphs in this affidavit, I believe that the policies of the Town of Penfield to maintain a zoning ordinance so as to prevent the construction of any housing in Penfield except expensive housing for middle and high income persons, the Town of Penfield's affirmative action to prevent amendments to and variances from their ordinances which would allow the construction of low and moderate income housing for example, directly affect my rights guaranteed to me under the United States Constitution, the laws of the United States and the laws of the State of New York, guaranteeing to me, among other rights, my right to travel,

my right to associate with other persons, my right to live in an integrated environment, my right to send my children to integrated schools, my right to decent housing, my right to make contracts, etc.

2. I was born in Rochester, New York but shortly after birth moved to Caledonia, New York where I grew up. In 1968, I came back to Rochester to enroll in a Concentrated Employment Program, find a job and live.

3. Since Concentrated Employment Program paid me only \$30.00 a week, it was necessary for me to receive financial assistance from Monroe County Social Welfare Department - besides myself there are six children, Dale Renee, 12, Curtis Eugene, 11, Hiram, 7, Jay Scott, 6, Sonja Ann, 4 and Yolanda 2. I am divorced from my husband; I receive no support from him

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for me or my children; he no longer resides in the State of New York, according to my information.

4. While the Welfare Department was undertaking to pay the costs of my rent for housing in Rochester, the Welfare Department gave me no assistance in locating housing on coming to Rochester. I therefore, bought newspapers and read ads and walked to look for apartments until I found the place where I now reside. I found that there was virtually no choice of housing in the Rochester area. The only other choice of a place to rent that I had at the time I needed an apartment was an apartment which was in obviously very bad shape and on which the landlord wanted a rent of \$175.00 a month. The apartment that I did rent was in terrible shape but it

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had a rent of only \$80.00 per month.

5. On locating the apartment, I contacted the Welfare Department for them to screen the apartment to see whether it complied with Welfare's standards for renting. I was first told that the apartment was approved for my renting as a welfare recipient. Once I moved in, however, Welfare Department personnel advised me that the apartment had had numerous housing code violations for four years and it was not an approved apartment. However, since I was already in the apartment and since I could find no other housing, the Welfare Department agreed to pay the rent.

6. The apartment at 87 Jefferson Street is an upstairs apartment in the house at that address. I have five rooms - two bedrooms, a living room, kitchen

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and dining room. There is a private landlord.

7. The apartment and house is in deplorable condition - conditions existing from the time I moved in and steadily getting worse in the four years that I have been there. The landlord was cited for many housing violations before I moved in and since I have been living there he has been cited for many more violations but conditions are never really corrected. The situation finally became so bad that I requested a hearing of the Welfare Department at which time I called to their attention in photographs and statements the impossible living conditions in the apartment. I advised the Welfare Department that they would need to take the responsibility of applying money to pay the rent, that I could not

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in good conscience take money that the Welfare Department gave me and give it to a landlord as rent for an apartment in such deplorable condition. The Welfare Department, thereafter, has withheld the rent allotment to me and is now withholding rent payments to the landlord. Thus, no one is paying rent on the apartment at the present time because of its uninhabitable conditions.

8. The defects in our apartment include many leaks in the roof, bad wiring, roach infestation, rat and mice infestation, crumbling house foundation, broken front door, broken hot water heater, etc. There are at least six holes in the roof. When it rains, the rain comes down through the ceiling and leaks into the living room and kitchen. The rain leaks so heavily that it follows the

electric wiring and flows from the light fixtures.

9. The wiring in the house is so old and defective that there is some electrical short in the apartment at least every two weeks which requires our resetting fuses. The house foundation is now crumbling very badly. Since the foundation has started crumbling, there have been mice and rats coming into the house. The mice and rat infestation is now so bad that they come through the heating vents into the rooms of the apartment itself. I have already caught two mice in the children's bed. To have rats and mice infesting the house causes great anxiety among the children. One way that I try to reduce the danger of my children getting bitten is to leave the light on in the bedroom all night.

AFFIDAVIT, CLARA BROADNAX

The children are now afraid to go to sleep unless there is a light on in the room.

10 There are so many roaches infesting the house that it is not safe even to allow cereal to remain out on a table; any food left out will be immediately spoiled by roaches crawling over it. About four months ago, the hot water heater for our apartment began leaking. To date, although there has been constant complaint, the landlord has not repaired the hot water heater. Thus, for the past four months, I have not even had hot water in the house for bathing or dish washing purposes.

11. The front door of the apartment is in such poor repair that it does not fit. In the winter, snow constantly blows in around the door. Because the door

does not fit, the apartment is constantly drafty. I pay \$31.00 a week for fuel (oil). The drafty condition in the apartment is particularly troublesome for me since my son, Jay Scott, has had a bad asthmatic condition since birth. The house did not have even a heat vent in one room so I changed that room from the children's room to my room so that there would at least be some heat for them. In the winter of 1971, the furnace stopped operating altogether. The fuel company man advised me that the heating unit was producing carbon monoxide because of a repair that needed to be made in the furnace and he said therefore, that it was too dangerous to light the furnace. Although my landlord was called about the problem early in the evening, the intervention of the Rochester Fire Department on my behalf was necessary

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before the necessary repairs were made very early the next morning.

12. The outside of the house is dilapidated as well - boards are rotting and there is the constant problem of lead paint chipping from the house. The peeling lead paint chips are a particular concern for me with my young children. Young children eating paint chips and thereby consuming lead, develop serious behavioral problems, brain damage and retardation.

13. Since January, 1970, I have been employed by the City of Rochester School District as a School Plan Advisor to the Neighborhood. I receive a net income every two weeks of \$212.00 or a net income of \$106.00 a week. Because my income is so low and because I have the full support of myself and my six

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children, I receive an additional \$35.00 every two weeks from the Monroe County Welfare Department. Because my present housing in Rochester is so inadequate, I only have four of my children living with me in the apartment on Jefferson Avenue. Two of my children, Dale Renee and Curtis Eugene, I have living in Caledonia, New York. (I believe my children are also receiving a better education in Caledonia than they would receive in the Rochester City Schools.) Presently, I have in Rochester, only one bedroom for all of my children and it is just impossible for me to have my two older children here with me. As it is now, I have all of my children, both boys and girls, sleeping in one bedroom. Since they are becoming older, this creates increasing problems for me. Now the girls change in the bath-

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room and the boys change in the bedroom. But as they grow older, there is a growing feeling of their living on top of each other, not having any space even to keep their own clothes separately and not having any privacy for themselves.

14. My dilapidated house is located in a decaying part of Rochester inner city. Violent crime is high in the area, police protection is unsatisfactory, there are no parks and community services are poor. Our community is yet haunted by a kidnapping, rape and murder of a young child in our area last summer. We have had six break-ins within

No parent in the neighborhood can feel safe in allowing his/her children to be alone anywhere in the neighborhood after dark. Adults also consider it unsafe to be on the streets after dark.

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15. There is a bad traffic problem in our area, as well. My neighbor has a child killed by being hit by a car on the way to school. There have been three children hit in the front of my apartment within the last two years. We have constantly complained for more traffic control and direction but all to no effect.

16. I have been trying for some time now to find some alternative to living in dilapidated housing in a decaying environment. However, because my income is low, \$494.00 net per month, including welfare assistance, I have only about \$121.00 per month that I can devote to my housing budget for myself and my children. A person with only \$121.00 to spend on rent per month, however, can

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just not find housing to rent in the Rochester area for that money. I understand that a three bedroom apartment in the Town of Penfield rents for \$300.00 per month - far beyond my reach. I would like to find a place with at least four bedrooms. With my children being older, I really do need a bedroom for myself, a bedroom for the boys, a bedroom for my oldest daughter and a bedroom for the other girls. I want to live in an environment where there will be some backyard for my children to play in and where I and my children will have some feeling of privacy - not with everyone living on top of everyone else. I feel that if I could locate a decent house in a decent environment that I could expect that if there were problems, there would

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be action on those problems. For example, if I lived in a good neighborhood and called the police, I could expect that the police would come promptly and take prompt action rather than coming belatedly and not expressing any concern about the problem. I would feel that there would be adequate community services such as garbage disposal and prompt attention to problems such as mice, rats or roaches. If I lived in a decent house on a decent street, I feel that I could be comfortable when my children would walk on the streets to and from school and after school. There would be playground space for my children in addition to our own yard.

17. Recently, I have been considering trying to afford to buy a house. I could not possibly afford something more than \$11,000.00 and probably should not pay

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more than \$9,000.00. However, there is certainly housing of that price available nowhere in the Rochester area except in the Rochester center city and that housing is old, decaying and dilapidated; I could expect that there would be much expense of continual repair.

18. I am working for a decent place to live and I don't have it. I am unable to get it. I believe that the Town of Penfield by its zoning laws and policies to exclude construction of low and moderate income housing is depriving me of many rights, including my right to decent housing. There are many people in my situation. I understand that the 1970 census shows that there are 52,218 blacks in the Rochester metropolitan area (Monroe County), 49,647 of those blacks live in Rochester. I

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believe that I adequately represent
the blacks of the Rochester community
who because of their minority
and low income status are excluded from
an opportunity to live in the Town of
Penfield.

/s/ Clara Broadnax

CLARA BROADNAX

Jurat
Omitted
In
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THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK

	*
Title	*
Omitted	AFFIDAVIT
In	* Civil Action
Printing	No. 1972-42
	*

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

ANGELA REYES, being duly sworn,
according to law, deposes and says:

1. I am a private citizen residing
at 128 Alphonse Street, Rochester, New York.
I am a person of the Puerto Rican race.
I am one of the plaintiffs in the above
noted action. This affidavit is made in
opposition to the defendant's motion in
this lawsuit to dismiss my complaint
against defendants on the ground that I
have no standing to sue the Town of Penfield

for what I believe to be policies, practices, customs and usages of excluding persons of my race from living in the Town of Penfield. I believe that the policies in the Town of Penfield to maintain a zoning ordinance so as to prevent the construction of any housing in Penfield except expensive housing for middle and high income persons, the Town of Penfield's affirmative actions to prevent variances in their ordinance which would allow the construction of low and moderate income housing, for example, directly affect my rights guaranteed to me under the United States Constitution, the laws of the United States and the laws of the State of New York, guaranteeing to me among other rights, my right to travel, my right to associate with other persons, my right to live in an integrated environ-

AFFIDAVIT, ANGELA REYES

ment, my right to send my children to integrated schools, my right to decent housing, my right to make contracts, etc.

2. I have for the past year been employed as a Task Force developer with the Rochester Model Cities program. My gross income per year in this employment is \$8,400.00. I have a bi-weekly gross income of \$323.00 or a net bi-weekly income of \$285.00. My husband, Melbil, is also employed. For the past year he has been working at Rochester Jobs, Inc. His gross annual income is \$6,000.00 - a weekly gross income of \$115.00 or a weekly net income of \$89.00. My husband and I have two children, two boys ages two and three.

3. I was born in Puerto Rico and moved to Rochester with my parents at the age of three years. With my parents

being members of a minority race and with my father coming to this country without means, I have known from childhood the circumstances of being poor and a minority and therefore segregated to living in a community of sub-standard housing and community services in a decaying part of a center city. I was one of seven children; it was necessary at times for my parents to seek welfare payments to supplement our income in order for our rent payments to be made. My vivid recollection of childhood is a series of moves from one house to another in fairly rapid succession - all in the hope that the next house would be better accomodation, provide more space and be more habitable. At one time, our family of seven children and two adults was crowded into a four room unit consisting

of a kitchen, two bedrooms and a living room. All the houses in the center city that we lived in were uniformly old and infested with roaches and rats. My moves with my family during childhood and adolescence included moves from Hand Street to Scio Street from Scio to Woodward Street from Woodward to Scio Street from Scio to another location on Scio Street from Scio to Hartford Street from Hartford to Mudge Place from Mudge Place to Woodward Street from Woodward Street to Ontario Street.

4. Along with the dilapidated housing in the center city to which a family of a minority and low income such as ours was confined, was the lack of adequate police protection and community services in general. An individual would not walk alone or perhaps not at all

after dark in the Scio Street area. A parent would never, even during the day, allow his/her children outside to play alone in this area. When we were living on Woodward Street, we were robbed of our television and record player. The area is reputed for the high incidents of violent crimes and is now an area for large drug traffic.

5. Moving to our house where we presently reside at 128 Alphonse Street, Rochester, New York, was the culmination of my husband and my shopping around the entire Rochester area to locate a house which we could afford to buy. We began this search by contacting a real estate broker and finally securing the help and interest of one real estate broker. Our net disposable income being \$924.00 per month between both my husband and myself

we can afford approximately \$231.00 per month for housing. The price range of house, therefore, that we could consider, would be a house not to exceed \$20,000.00 in price.

6. Because my husband and I were interested in not only buying a house of our own but also in so buying to place ourselves and our children in an environment which would provide adequate community services, police protection and especially, good public schools, our investigation for housing included the Rochester bedroom communities of Webster, Irondequoit, Penfield and Perinton. Our search over a period of two years led us to no possible purchase in any of these towns. In the Town of Webster, properties ran \$25,000.00 and up, \$5,000.00 beyond our budget. In the Town of Irondequoit, the properties

were above \$20,000.00 and were properties on large lots which had very high taxes. In the Town of Perinton, properties began no lower than \$23,000.00 and taxes amounted to another \$2,000.00 a year on the house and large lot. In the Town of Penfield, there was no possibility of finding a house costing less than \$35,000.00 - far beyond our budget without taking into consideration the high taxes on the house and land.

7. The house we found, 128 Alphonse Street, Rochester, New York, is a house that my husband and I finally located on our own through a contact of my husband at his job. This house is located still in Rochester center city; therefore we have not been able to achieve our goal of changing our atmosphere, environment and outlook, but have at least found a house

that we could afford. The sale price of this house was \$13,800.00 including \$1,200.00 which we will need to pay the bank for closing costs and down payments. We are now renting the house from Community Savings Bank of Rochester pending papers being cleared for our receiving a mortgage from Community Savings Bank with FHA approval. The house on Alphonse Street is a house which the Metropolitan Rochester Foundation - a non-profit group in Rochester which rehabilitates old houses - bought and completely refurbished and then sold to Community Savings Bank for resale. The house which Metropolitan Rochester Foundation buys are very frequently just shells of houses which have to be completely refurbished in every respect. For example, our house on Alphonse has had a new rood, new gutters, new win-

dows and window sills and sashes, new partitions, lowered ceilings, new kitchen, new water heater and new electrical system installed. There has been new siding put on the outside and the outside has been completely painted. A new driveway has been installed.

8. We now pay Community Savings Bank \$149.00 a month rent; as soon as the FHA mortgage is approved we will be paying \$149.00 a month plus approximately \$36.00 a month taxes and \$7.00 a month insurance on the house. Additionally, we will have utility expenses on the house amounting to about \$30.00 a month. Thus we will be spending at least \$222.00 a month on our house without taking into account the possibility of the yearly upkeep and improvements on this old house.

9. The predicament that I and

my husband have faced in being members of a minority with limited incomes and finding no housing in any of the Rochester suburban communities, including the Town of Penfield, which is available for us to purchase is a predicament that is shared by approximately 18,000 persons who are Puerto Rican or approximately 19,500 persons who are Latin. Because persons in the Puerto-Rican/Latin population are like us, a minority population and of limited incomes, all of us live in the Rochester inner city, either in dilapidated housing like I grew up in or in reconstructed housing like my husband and I now live in.

10. Unless there is action taken to prevent the Rochester suburban communities, like the Town of Penfield, from maintaining the zoning ordinances, practices and

policies, calculated to exclude low and moderate income housing construction, my family will never have the opportunity to select a house in a decent, good environment. The selection of the environment of our housing is particularly important to me since I am very concerned that my children receive the best possible public education. Because I wanted to take advantage of what I considered to be superior schools systems - superior school systems to the public school systems of the City of Rochester - in the suburban towns, my husband and I made a long fruitless effort to locate our house in one of the towns adjacent to Rochester.

11. I believe, therefore, that the practices of the Town of Penfield which exclude the construction of low,

moderate income housing have directly affected me adversely and have deprived me of many opportunities and rights to which I am guaranteed and entitled. I believe that I adequately represent, furthermore, a large number of Puerto Ricans of limited income who by virtue of these same practices and policies of the Town of Penfield have no real choice in housing.

/s/ Angela Reyes
ANGELA REYES

Jurat
Omitted
In
Printing

THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

	*	
Title	*	<u>AFFIDAVIT</u>
Omitted	*	
In		CIVIL ACTION
Printing	*	No. 1972-42
	*	

STATE OF NEW YORK)
COUNTY OF MONROE) ss:
CITY OF ROCHESTER)

ROSA SINKLER, being duly sworn,
according to law, deposes and says:

1. I am a private citizen residing
at Apartment 7-F, 10 Vienna Street,
Rochester, New York. I am a person
of the black race. I am one of the
plaintiffs in the above noted action
and make this affidavit in opposition
to the motion of the defendants herein
to dismiss my complaint against the
defendants on the ground that I have

AFFIDAVIT, ROSA SINKLER

no standing to sue the Town of Penfield for what I believe to be policies, practices, customs and usages of excluding persons of my race from living in the Town of Penfield. I believe that the policies of the Town of Penfield to maintain a zoning ordinance so as to prevent the construction of any housing in Penfield except expensive housing for middle and high income persons, the Town of Penfield's affirmative actions to prevent variances in their ordinance which would allow the construction of low and moderate income housing, for example, directly affect my rights guaranteed to me under the United States Constitution, the laws of the United States and the laws of the State of New York guaranteeing to me, among other rights, my right to travel, my right to associate with other persons, my right to live in an integrated environment,

AFFIDAVIT, ROSA SINKLER

my right to send my children to integrated schools, my right to decent housing, my right to make contracts, etc.

2. I am employed as a legal secretary by Monroe County Legal Assistance Corporation, 628 Clinton Avenue North, Rochester, New York. My gross annual income for this past year was \$5,981.00; this is paid every two weeks, gross amount \$235.00, net amount \$198.94. I have three children, ages three, four and seven - the oldest being a boy and the youngest two, girls. Because my income is so limited and because I am the sole support of myself and my minor children (I am separated from my husband; I believe that he is unemployed), I am eligible and do receive benefits from the Monroe County Welfare Department. Monroe County Welfare pays \$101.00 a month for my public housing apartment unit in Hanover Houses.

AFFIDAVIT, ROSA SINKLER

This is a special rate on the rent of this apartment for a welfare recipient, such as myself. Additionally, I receive a payment of \$45.00 every two weeks from the Welfare Department to help defray other living expenses for myself and my family. I receive medicare benefits and food stamps.

3. Counting the bi-weekly extra payment from welfare in addition to my bi-weekly salary, I have disposable income of \$480.00 per month. Allowing one-fourth of that income to defray housing costs for myself and my minor children, I would have \$120.00 a month of income which could be available for supplying my housing needs. Because of my low income, locating decent and adequate housing in the metropolitan Rochester community has always been a particular problem for me.

AFFIDAVIT, ROSA SINKLER

4. I was born in Rochester in 1946. My parents came to Rochester, my mother from Memphis, Tennessee and my father from Arkansas, approximately twenty-eight years ago. Because of our race, our low income status and the lack and availability of adequate, decent housing in the Rochester metropolitan community, I have always lived in the sub-standard housing of black ghettos in the Rochester center city. I first lived at 25 Baden Street in Rochester, New York with my parents. The house had no central heating but only a space heater on the first floor. Next my family moved to 31 Thomas Street, Rochester, New York. The house was in such a state of disrepair that there was a column in the basement which supported an obviously sloping livingroom floor. Gutter rats ran in and outside of the house and the premises was

AFFIDAVIT, ROSA SINKLER

roach infested. Thereafter, I lived by myself at 23 Loomis Street, Rochester, New York. Because I got married and started having a family and needed more space, I had to find other housing. I moved to 79 Sellinger Street, Rochester, New York. I had a two bedroom second floor apartment which I rented from a private landlord for \$75.00 a month plus utilities. The apartment was in deplorable condition. It was rat infested and roach infested; the sewers constantly backed up, the roof leaked and the house was also infested with red ants. Because the housing was so deplorable, I applied and finally received a place in Hanover Houses, public housing operated by the Rochester Housing Authority. The house at 79 Sellinger Street, Rochester, New York had been so infested with roaches and ants that my refrigerator and freezer

AFFIDAVIT, ROSA SINKLER

and other furniture had become infested in their linings with the roaches and ants and I was unable to move any of my furniture or household appliances to my new unit in public housing at 10 Vienna Street.

5. The apartment at 10 Vienna Street is a three bedroom apartment on which I have a month to month written lease. I have lived there for approximately two years. While the public housing authority has recently re-furbished the apartment, installing new kitchen fixtures and putting carpets on the floors, the housing is far from adequate and the environment like living in a jungle. The apartment has such physical defects as exposed radiator pipes which cause burns when touched by small children; the apartment units have no heat control so that the apartment is very hot in the summer and

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very cold in winter. Hanover Houses is a multi-storied apartment complex; I now live on the seventh floor; since the elevator regularly does not work in the apartment project, I must walk seven floors to and from my apartment. There is no air-conditioning in the apartment and I have not been able to get action to date from the housing authority on my request for screens in the windows.

6. In addition to the physical defects in the public housing unit, the environment of the apartment project is one of extreme overcrowding of persons into inadequate units in an environment which is one of uncontrolled violence. I am vice-president of our Hanover Houses tenants' association and I am familiar with the problems of our public housing project not only from being a tenant who lives in the project but from being a

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tenant who has tried to bring solutions to some of our problems.

7. About 96% of the housing units in the public housing project are occupied by women who reside by themselves with numbers of small children. Children in these apartment units average anywhere from two to nine. Because there are so many units occupied by women alone, attacks on women have been commonplace in the apartment project. Since the summer of 1971, there have been three successful rapes of women in the apartment project. No one has been arrested or accused of any of these rapes and we have been unsuccessful in having local police involve themselves in anything but a minor way in more adequate policing of the area since our project is not a city public housing project. The public housing authority to date has not responded to our requests for

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an adequate monitoring and maintenance system to give protection to women tenants. The threat of attack to women is so great that rapes have gone unprevented when an attacker accosts a woman in an elevator or when an attacker waits in a shadow in a hallway while a woman opens her door into her apartment and is then pushed into the apartment by her attacker and raped.

8. Not only is the apartment project located in an area which is high in incidents of violent crimes, the area is also one frequented by dope addicts. Apartment dwellers in Hanover Houses are constantly faced with the prospect that on returning each evening to the apartment, the apartment will have been sacked of all movable, quickly resalable items. Narcotics addicts have in the past stolen master keys to the apartments in Hanover Houses and

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and while the residents are away have obtained easy access to the apartment units and have removed such things as television sets, radios, etc. My sister, who also resides at Hanover Houses, had this experience on several occasions. Once she found that thieves had gained access to her apartment and prepared their own meal; another time she found that her humidifier, clock radio and other personal items had been stolen. The addicts then sell these stolen items to other residents of the area, many times other residents of the Hanover Houses apartments. Because the residents of Hanover Houses apartments are all of such a low income level, there is a ready market for stolen valuables; it is not surprising for one tenant to visit another tenant and find that the other tenant has bought items of recently stolen property.

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9. Existing alongside of the violence is prevalent prostitution and perversion. My son, now seven years old, recently was accosted by a male pervert in the elevator at Hanover Houses. Because the project is so overcrowded (once one two bedroom apartment was occupied for a period of time by two families), it is impossible for any mother to allow her children outside of the apartment to play. Any child alone with any toy of his own immediately becomes a victim of larger, unsupervised and uncontrolled children, who simply take the toy from the child.

10. Because of the violence of the neighborhood, young children are also unsafe even in going to and from school. My son, my only school age child at the present time, was enrolled in public school in the area for kindergarten and

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first grade. I used to send him to school with milk money and some small change. However, he was always mugged on his way to or from school by other larger boys and his small change taken from him. While he was not physically hurt on any of these occasions, he was roughed up so that his pants were practically torn off him on numerous occasions. The situation was such that I had to make special arrangements with his public school teacher to allow him to leave his public school through a different door so he could avoid certain of the worst streets in the neighborhood in returning from school to the apartment house.

11. Because the threat to my son in going to and from school became so great, I decided to try to afford enrolling him in a parochial school; he can go to this

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school by taking a bus very near to our apartment project entrance. I really cannot afford to pay the extra costs even though I am given a special rate because of my low income level. At the parochial school tuition is \$125.00 a year, plus \$20.00 registration fee. I have to pay extra for all his books, pencils, etc. Because my son cannot come home for lunch - I, of course, am away all day working - I need to pay an extra \$1.75 a week for a lady at the parochial school to watch my son eat his lunch which I prepare for him every day; the parochial school has no cafeteria. The public schools which my son attended for kindergarten and first grade were so inadequate that he had not even learned his numbers and alphabet after completing the first grade. Last year, I therefore enrolled my son in special tutoring in order for him to catch up with

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his parochial school classmates. He now has his subjects at parochial school split between classes on a second and first grade level.

12. There are no play areas for children on the Hanover Houses project or in the neighborhood. A parent cannot let young children outside of the apartment as I previously indicated, without an adult accompanying them. However, even such supervised play outside of the apartment is treacherous. For example, older children in the neighborhood who attend Baden Street Settlement, about 10:00 o'clock each evening break their soda pop bottles around the Hanover Houses project. Each morning the area is littered with soda pop glass. The apartment project personnel attempt to sweep up this glass but inevitably the apartment house project remains strewn with glass.

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Last summer, when my son was playing football in the apartment house project grass, he cut his hand on glass in the lawn and had to have three stitches to close the wound.

13. Surviving in an environment such as that of Hanover Houses, presents adjustment problems for the children. My son, for example, prior to moving into the Hanover Houses had been taught not to fight. However, just to get to and from his school in the Hanover Houses area, he had to cultivate a tough, aggressive attitude. Now, however, that he is safe in going to and from parochial school and is relatively secure in the environment of parochial school, he has needed to re-adjust his attitudes and relationships toward other children. I myself make every effort to be in my apartment in the apartment unit and locked into that apart-

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ment unit every evening prior to darkness. I never go outside of my apartment after dark even with my children unless I am going with a group of persons. The only playgrounds that I feel that I can safely take my children to are those where I go when I play in the women's softball league in the evening and where there are numbers of people gathered.

14. I believe that I am entitled to be able to locate adequate, decent housing in an environment which will offer security in performing the routine, ordinary tasks of life, recreation for me and my children and adequate educational opportunity for my children. However, there is just no housing to rent in the City of Rochester for a person of my low income. The public housing unit located in the jungle where I now reside has long waiting lists for persons of low income seeking an apartment

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unit. In the past I have searched for alternate housing in the Rochester metropolitan area and I am continually alert to other possibilities for housing. However, apartments in the Rochester Metropolitan area of any description begin at a rent of at least \$180.00 per month. The limit on a welfare allowance for rent is \$150.00 per month.

15. Realistically, after careful search for adequate housing in the Rochester metropolitan area over a six year period, I have found that a black person has no choice of housing in the Rochester metropolitan area. Rather, a black person of my income level is forced by reason of his/her race to live in substandard housing in the center of Rochester. For example, there are no **apartments** available in the Town of Penfield which a person of my income

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level can afford. My budget for housing per month is, as above noted \$120.00 per month. I understand that a three bedroom apartment in Penfield rents for \$300.00 per month. Since there is not enough housing for low and moderate income persons available, even in the City of Rochester, I and my family are forced to live in Hanover Houses, which is substandard housing.

16. I have sought housing accommodations in the Rochester metropolitan area, including the Town of Penfield - all to no avail because I am a black person of low income. I would like an opportunity to live in the Town of Penfield; I believe I have a right to live in the Town of Penfield and to have access to decent housing in a decent environment.

17. One of the most important

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reasons for my desiring to have an opportunity to live with my family in decent housing in a decent environment is my great concern that my children have an adequate education. I have already noted that I found the instruction in the public kindergarten and first grade to be so inadequate that I transferred my child to a parochial school. I understand that the public school in my area, school No.20, has been rated among studies of Rochester City Schools as one of the lowest in terms of effective instruction of students. On the other hand, the Town of Penfields schools rate high in studies which evaluate area schools. The Town of Penfield by its exclusionary policies, practices and laws has and continues, therefore, to cause me real harm by denying me the opportunity to

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to reside there.

18. The problem that I have in being a black person of low income and therefore confined for the purposes of selection of housing and environment to "ghetto" conditions in Rochester center city is a problem that is shared by many other persons. The census of 1970 discloses that there are 49,647 blacks residing in Rochester. In the whole of Monroe County there are 52,218 blacks. Penfield, according to the latest census has 60 black residents. I believe that I can adequately represent the black, low income individual in this lawsuit against the Town of Penfield.

/s/ Rosa Sinkler
ROSA SINKLER

Jurat
omitted
in
Printing

THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NEW YORK

	*	
Title	*	<u>AFFIDAVIT</u>
Omitted	*	
In	*	CIVIL ACTION
Printing	*	No. 1972-42
	*	

STATE OF NEW YORK)
COUNTY OF MONROE) ss:
CITY OF ROCHESTER)

ROBERT WARTH, LYNN REICHERT, VICTOR
VINKEY and KATHERINE HARRIS, being duly
sworn according to law, depose and say:

1. ROBERT WARTH, individually,
alleges that he is a private citizen
residing at 265 Castlebar Road, Rochester,
New York. Along with Gail I. Warth, his
wife, he owns the real property at 265
Castlebar Road, Rochester, New York as
a tenant by the entirety. ROBERT WARTH
has lived in the City of Rochester all his
life. He has owned property in the City
of Rochester since 1964. As a city tax-

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payer since 1964, ROBERT WARTH has observed the taxes of the City of Rochester rise. For example, in 1965-66, ROBERT WARTH's tax on property at 145 Afton Street, Rochester was \$392.93. In 1966-67, Robert Warth's tax on the same property was \$413.13. In 1967-68, Robert Warth's tax on the property was \$430.77. In 1968-69, Robert Warth's tax on the property was \$470.94. In 1969-70, Robert Warth's tax on the property was \$530.54. In 1970-71, Robert Warth's tax on the property was \$566.93. In 1971-72, Robert Worth's tax on the property was \$608.45. Robert Warth believes that his taxes have risen in large measure because the City of Rochester has increasingly been caused to assume more than its full share of the burden of tax abated properties because of the exclusionary

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practices of the surrounding, adjacent towns to Rochester like the Town of Penfield, the defendant.

2. LYNN REICHERT, individually, alleges that she is a private citizen at 224 Seneca Parkway, Rochester, New York. Along with David M. Reichert, her husband, she owns the real property at 224 Seneca Parkway, Rochester, New York, as a tenant by the entirety. LYNN REICHERT has owned property in the City of Rochester since 1970. As a city taxpayer, she has observed the taxes of the City of Rochester rise. For example, city taxes on the Seneca Parkway property for 1970-71 were \$843.15; city taxes on the same property for 1971-72 were \$901.33. LYNN REICHERT believes that her taxes have risen in large measure because the City of Rochester has increasingly been caused

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to assume more than its full share of the burden of the tax abated properties because of the exclusionary practices of the surrounding, adjacent towns to Rochester like the Town of Penfield, the defendant.

3. VICTOR VINKEY, individually, alleges that he is a private citizen residing at 134 Nunda Boulevard, Rochester, New York. Along with Karen F. Vinkey, his wife, he owns the real property at 134 Nunda Boulevard, Rochester, New York, as a tenant by the entirety. VICTOR VINKEY has owned this property for nine years. As a city taxpayer, he has observed the taxes of the City of Rochester rise. Taxes on his property in 1964-65 were \$561.08; in 1965-66, \$581.39; in 1966-67, \$608.60; in 1967-68, \$625.80; in 1968-69, \$682.06; in 1969-70, \$792.54; in 1970-71,

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\$840.91; in 1971-72, \$892.84. VICTOR
VINKEY believes that his taxes have risen
in large measure because the City of
Rochester has increasingly been caused to
assume more than its full share of the
burden of tax abated property because of
the exclusionary practices of the surr-
ounding, adjacent towns to Rochester like
the Town of Penfield, the defendant.

4. KATHERINE HARRIS, individually,
alleges that she is a private citizen
residing at 108 Garson Avenue, Rochester,
New York. Along with Nathan Harris, Jr.,
her husband, she owns the real property at
108 Garson Avenue, as a tenant by the
entirety. KATHERINE HARRIS has lived in
Rochester since 1932; she has owned the
property at Garson Avenue for about twelve
years. As a city taxpayer, KATHERINE
HARRIS has observed the taxes in the City

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of Rochester rise. In 1959-60, the taxes on the Garson Avenue property were \$177.07; in 1960-61, \$185.04; in 1961-62, \$189.19; in 1962-63, \$186.84; in 1963-64, \$186.87; in 1965-66, \$213.90; in 1967-68, \$236.44; in 1968-69, \$258.47. KATHERINE HARRIS believes that her taxes have risen in large measure because the City of Rochester has increasingly been caused to assume more than its full share of the burden of tax abated property because of the exclusionary practices of the surrounding, adjacent towns to Rochester like the Town of Penfield, the defendant.

5. The individuals aforementioned make this affidavit in opposition to the defendants' motion to dismiss their complaint on the ground that they have no standing to sue. The basis of the complaint against the Town of Penfield

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is that these individuals, property owners and tax payers of the City of Rochester, are damaged by the defendant Town of Penfield's exclusionary action which excludes the construction of low and moderate income housing in Penfield, which actions of the Town of Penfield, cause the City of Rochester to bear the burden of supplying low and moderate income housing in the Rochester area, placing thereby a greater proportion of tax-abated property in Rochester than in the Town of Penfield. The individual property owners and tax payers also maintain that they are damaged by the exclusionary practices of Penfield in that because they are federal tax payers and the federal government appropriates to the Department of Housing in Urban Development certain monies each year for

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federally financed housing programs, these individuals do not receive fair or equitable benefit of their federal tax dollar because the Town of Penfield refuses to allow any subsidized or federally financed housing in the Town of Penfield.

6. According to the affiants' information, there has never been a single program of subsidized housing in the Town of Penfield whether that subsidized would be by way of subsidized rental units or subsidized unit housing for sale. In fact, the affiants know that Metro Act of Rochester in 1969, attempted to interest Penfield, along with other Rochester area towns in undertaking the benefit of Section 23 of the U.S. Housing Act of 1937 to provide for low cost rental units in the Town of Penfield. However, the Town of Penfield took no action on the proposal.

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Significantly, the Town of Penfield's Housing Task Force, appointed by the Penfield Town Board in 1972 to survey housing needs in the town, reported recently that its opinion survey of Penfield town residents disclosed that while residents believe that Penfield should allow the building of moderate income housing (no inquiry was made by the town on attitude toward low income housing) - something the plaintiffs in this lawsuit allege that the town has forbidden by ordinance, practices and policies in the past - the residents are still opposed to the Town of Penfield undertaking or encouraging any government subsidized housing (except where that housing would be subsidized for the elderly). See page 6 of Report of Penfield Housing Task Force on Moderate Income Housing, June 5, 1972 attached here-

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to and made a part hereof as Exhibit A.

7. As is more fully outlined in the chart attached hereto and made a part hereof as Exhibit B, the federal government over the last ten years has appropriated increasing amounts of the federal taxpayer dollar in support of an increasingly recognized national commitment to provide decent housing to all citizens. In explaining the Housing and Urban Development Act of 1968, The Report of the President's Committee on Urban Housing - A Decent Home, discusses the national housing goal as follows:

The place a man lives is more than just another commodity, service, or possession; it is a symbol of his status, an extension of his personality, a part of his identity, a determinant of many of the benefits - and disadvantages - of society that will come to him and his family: schooling, police protection, municipal services,

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neighborhood environment,
access (or lack of access) to
a hundred possibilities of life
and culture.

The Report of the Pres-
ident's Committee on
Urban Housing: A Decent
Home, page 45.

* * * * *

Housing is not only a matter of
a roof and walls but of a neigh-
borhood and a society. People
need not just a housing unit,
but a neighborhood - a unit in a
social setting.

And a national housing policy
must look at the relation of
housing to the web of living.
Although investigation of all
the social and physical elements
of a suitable living environment
is well beyond the scope of this
assignment, better community
facilities and services are
necessary if a housing program is
to succeed.

The Report of the Pres-
ident's Committee on Urban
Housing: A Decent Home,
page 48.

8. Because the Town of Penfield has
by its ordinances, policies, practices,
customs and usages excluded the use of

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monies available for subsidized rentals or sale units in the Town of Penfield, affiants have received no fair or equitable benefit of their federal tax dollar which is appropriated for such purposes. While receiving no fair benefits of that federal tax dollar, affiants have become and are still becoming the victims of the process of urban decay which the exclusionary practices of the defendant Town of Penfield have produced. The process of exodus from the central city by the affluent white population to the fringe areas of the city continues, leaving concentrated in the central city the poor and non-white population. "... (the total population of central cities will increase by somewhat over 10 million persons between 1950 and 1978, but ... over this same period the percentage of Ameri-

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cans residing in these central cities will have declined from 34% to 27%." The Report of the President's Committee on Urban Housing: A Decent Home (1968), at page 136. "While the central cities have gradually been losing their white population... the non-white population of the central cities has doubled since 1950, and is projected...to continue to increase. By the projections, 30% of the population of central cities will be non-white in 1978, compared to 22% today and 12% in 1950." The Report of the President's Committee on Urban House - A Decent Home (1968), at page 137. With the shift of the affluent, white population to the suburbs, also comes the shift of jobs to the suburbs. The center city becomes an area inhabited increasingly by non-white, poor and an area of declining business and

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job opportunities.

9. This pattern of urban flight is present in the Rochester area just as in other areas of the country. As is illustrated in the population data compiled by the Rochester Center for Governmental Research, attached hereto and made a part hereof as Exhibit C, Rochester city population between 1960 and 1970 has steadily declined while the population in the surrounding, suburban towns has steadily increased. For example, in 1960 the City of Rochester population was 318,611 while the population of the surrounding towns, combined, was 267,776; in 1964, the City of Rochester population had declined to 305,849 and the population of the surrounding suburban towns had risen to 319,279; by 1970, the City of Rochester population had further declined to 296,233 while the

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population of the surrounding suburban towns had risen to 415,684. Black population has always been and is increasingly centered in Rochester. In 1960, Rochester black population was 23,586 while the black population of the surrounding, suburban towns was 598; in 1964 the black population in Rochester was 31,751 while the black population in the surrounding, suburban towns was 810; in 1970, the black population in the City of Rochester had risen to 49,647 while the black population in the surrounding, suburban towns was only 2,571. Penfield population has grown from 12,601 in 1960 to 17,337 in 1964 to 23,782 in 1970. Black population in Penfield in 1960 was 23, in 1964 was 22, and in 1970 was 60. A survey published in 1970 entitled Housing in Monroe County - Housing Study Memo Number 4, demonstrates

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that 82% of all new jobs in the Rochester area in the next three years will be jobs which develop in the Rochester suburbs.

10. As the Town of Penfield excludes, as affiants believe, by their zoning ordinance, policies, practices, customs, and usages all low and moderate income housing from Penfield, the City of Rochester assumes an ever increasing burden and in turn the affiants as taxpayers of the City of Rochester, assume an ever increasing burden of providing low and moderate income housing, some of which housing is tax abated. As is demonstrated from the tax information on the Town of Penfield collected over the most recent ten year period, attached hereto and made a part hereof as Exhibit D, the Town of Penfield has no tax abated property on its rolls attributable to housing.

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11. An examination of the tax data in the last ten years on the Town of Penfield shows dramatically the effect of the urban flight in financial benefits. The value of total taxable property rose from 5,463,588 in 1950 to 71,664,043 in 1971-72. On residences, for example, assessed value rose from 28,417,000 in 1968-69 to 47,484,450 in 1971-72. Assessed valuation in Penfield on shopping centers rose from 1,296,300 in 1968-69 to 2,643,519 in 1971-72. Commercial buildings, assessed valuation, rose from 1,296,300 in 1968-69 to 3,428,800 in 1971-72. Assessed valuation for industries rose from 634,719 in 1968-69 to 911,400 in 1971-72.

12. On the other hand, an examination of the history of tax abated property in the City of Rochester for the same, most recent

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ten year period demonstrates that tax abated properties have been an increasing factor on the Rochester city tax roll. Copies of these charts are attached hereto and made a part hereof as Exhibit E. From 1962 through 1965, there were no tax abated housing projects in the city listed. Beginning in 1967-68 tax year, \$6,055,919.00 are listed on Rochester exempt property rolls; in 1968-69 this figure rose to \$7,333,179.00 to \$7,646,774.00 in 1969-70, to \$11,194,226.00 in 1970-71, to \$11,463,716.00 in 1971-72. As is reported in a recent news article, a copy attached and made a part hereof as Exhibit F, the City of Rochester tax base continues to decline. One of the major reasons cited for that decline is "urban renewal". The city manager reported that the tax base declined "largely

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because the amount of tax exempt prop-
erty grew".

13. As properties are taken off the tax rolls of the City of Rochester, the remaining taxpayers necessarily have to assume individually a larger burden of the taxes in Rochester which are necessary to finance the essential services of the city. As already noted, the tax rate in the City of Rochester has risen continually in the past and continues to rise as the tax abated figure in Rochester arises. The city tax rate rose from \$42.06 per \$1,000.00 assessed valuation in 1959 to \$48.57 by 1964 to \$80.95 in 1972. See Exhibit G attached hereto and made a part hereof.

14. It is now almost a matter of certainty that Rochester city tax rate will rise again shortly. See Exhibit H

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attached hereto and made a part hereof.

15. While the City of Rochester struggles with all the problems of providing for a mixed urban community, the Town of Penfield by its zoning ordinances and practices and policies incidental thereto, secures for itself a safe place and haven for affluent whites. As is evident from analysis of the zoning ordinance submitted in the affidavits of Messrs. Kling, Taddiken and Farley, submitted herewith, 98% of all vacant land in the Town of Penfield is reserved for expensive, single family home development. In commenting on the recent Report of Penfield Housing Task Force on Moderate Income Housing, June 5, 1972, Pierre Coste, Housing Task Force chairman, has described the "heartland of Penfield residents" being persons who

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live in private homes, have lived in Penfield over five years and are between 36 and 55 years of age. See Exhibit I attached hereto and made a part hereof. The survey conducted by the Penfield Housing Task Force reveals that 66% of those surveyed do not approve of federal mortgage assistance for families of moderate income; 65% feel that there is a shortage of moderate income housing in Monroe County, 65% do not approve of tax abatement of local property taxes to provide moderate income housing in Penfield but 64% do approve of tax abatement of local property taxes to provide moderate income housing in Penfield for the elderly, specifically. As previously noted, there was not even an inquiry by the Task Force of attitudes of Penfield residents about construction of low

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income housing in Penfield. The survey did show that 63% of those surveyed would not object to living within one mile of a moderate income dwelling but when the distance to the moderate income dwelling was reduced to one-fourth mile only 42% of those responding indicated that they would not object.

16. Seventy-six percent of the people surveyed in Penfield by the Housing Task Force felt that the planning board and zoning board in Penfield are obligated to enforce strict zoning laws to protect existing property owners. In fact, the Housing Task Force report discloses that present zoning in Penfield indeed has the exclusionary effect which the plaintiffs in this lawsuit maintain exist. The Housing Task Force recommended, among other points, that the Town of Penfield take

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steps to allow the construction of at least 2,000 moderate income (again no inquiry was made on low income housing units) housing units by 1980 to meet the town's "fair share" of the Monroe County need for such housing. See news article attached hereto and made a part hereof as Exhibit J. In order for there even to be implementation of the recommendation for construction of moderate income housing in Penfield, the Task Force recognized that Penfield's present zoning ordinance does not presently allow for the variety of housing styles, sizes and densities which will be necessary to utilize in order to build moderate income housing "given today's construction economics". See page 13 of Exhibit A. In connection with the release of the Task Force report, Task Force chairman Pierre Coste is quoted as

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having stated, "The zoning laws, density requirements and construction costs now prohibit moderate income housing in Penfield."¹ Not only does the present zoning law of Penfield, and the policies and practices of the town, preserve Penfield as an exclusive enclave, residents of the Town of Penfield recognize and appreciate this exclusiveness and intend to keep it that way.

Following the release of the Penfield Housing Task Force report, one Penfield resident, apparently the owner of a \$40,000.00 home in Penfield, put the problem succinctly as follows:

I don't want Penfield to become a low cost development community. If I wanted that, I could move to the center city...the Task Force is going to have to modify either

¹ See news article attached hereto and made a part hereof as Exhibit K.

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its statistics or its values.
See news article attached here-
to and made a part hereof as
Exhibit L.

17. The effect of the exclusionary practices and exclusionary laws of the Town of Penfield on the plaintiff City of Rochester taxpayers is a pervasive damage. The damage to the City of Rochester taxpayers is not only the damage of loss of benefits from federal tax dollar, spiraling city tax rate to provide minimum city services but it is as well the real, measurable monetary damage that flows from there being an impairment to the city environment by the calculated acts of the Town of Penfield. The right to decent housing, otherwise stated as the right to an adequate dwelling in an environment where there are adequate opportunities for good schools, community services, job

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opportunities, is, at this point in the development of our constitutional law a longstanding right. Justice Vincent in Shelley v. Kramer, 334 U.S. 1 (1948), observed:

It cannot be doubted that among the civil rights intended to be protected from discriminatory state action by the Fourteenth Amendment on the rights to acquire, enjoy, own and dispose of property. Equality in the enjoyment of **Property rights was regarded as** an essential pre-condition to the realization of other basic civil rights and liberties which the amendment was intended to guarantee.

Shelley v. Kramer, at 10.

Indeed, responding to the Penfield Housing Task Force questionnaire, 76% of the Penfield persons responding indicated that they believed decent housing is the right of every citizen. See news article attached hereto and made a part hereof as Exhibit M.

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18. There are many indices to measuring the effect of the exclusionary practices by the Town of Penfield on the City of Rochester and City of Rochester residents. The low and moderate income housing pressure created in the City of Rochester by the exclusionary practices of Penfield can be measured, for example, by the number of residential conversions, both reported and unreported in the City of Rochester. Conversions are simply the process of creating additional housing units by breaking up larger ones into smaller ones or by improving existing non-residential space so that it can be used for living purposes. It is a forerunner of a neighborhood's decline unless it is controlled and planned. ¹Recent data indicates that from the 1960 to the 1970
.....
¹Source of information Monroe County Planning Council.

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census there were almost twice as many unreported residential conversions taking place as there were reported ones. The effect of such trends is ultimately to increase densities to a point where public services and facilities become overtaxed while increasing absentee ownership.

19. The effect of Penfield's exclusionary practices which create a concentration of low, moderate housing in the City of Rochester and produce, as some of the effects, a density crush, also has direct effect on the City of Rochester and the City of Rochester residents in incidents of crime and provision for law enforcement.

Some of the conditions associated with the type and amount of crime are related to the geographic area in population - the density and size of a community; the race, age, and sex composition of its population; economic status and mores of the inhabitants; educational, recreational, and

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religious characteristics; the stability of the population in terms of commuters and seasonal visitors; and the climate.

The Police System, Present/
Proposed, Rochester Center for
Governmental and Community,
Research, Inc. (1970) page
35.

In reporting in March of 1972 on the most recent crime statistics in the City of Rochester, see Exhibit N attached hereto and made a part hereof, City Police Commissioner John A. Mastrella commented that the number of crimes is directly related to the density of population in an area. More people mean more crime, he said.

20. Unless the Town of Penfield is prevented from continuing its exclusionary practices and enforcing its exclusionary zoning laws and policies, the plaintiffs city taxpayers will continue to be grievously damaged in terms of monetary loss

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and deprivation of rights, as more specifically outlined above. There are 48,005 persons who are residents of the City of Rochester and property owners in the City of Rochester. Plaintiffs as residents and taxpayers of the City of Rochester submit that they adequately represent this large class of persons in this lawsuit.

/s/ Robert J. Warth
ROBERT WARTH

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in
Printing.

/s/ Lynn D. Reichert
LYNN REICHERT

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HARRIS

/s/ Victor Vinkey
VICTOR VINKEY

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/s/ Katherine Harris
KATHERINE HARRIS

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EXHIBIT A.

Report of
PENFIELD HOUSING TASK FORCE
on
MODERATE INCOME HOUSING

June 5, 1972

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EXHIBIT A

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INTRODUCTION

Origin and Purpose

The Penfield Housing Task Force was created by the Penfield Town Board at its regular meeting on March 6, 1972. The resolution establishing the Task Force appears in Appendix A on page 21.

The Preamble and Purpose from that resolution are as follows:

Preamble: The Penfield Town Board recognizes that a shortage of moderate income housing exists in the County of Monroe, and that the Town of Penfield has a responsibility to help alleviate that shortage. We hereby create the Penfield Housing Task Force and charge it with the following purpose.

Purpose: To analyze the various presently existing methods by which moderate income housing can be built in Penfield and to recommend the types and quantity that should be built. The recommendations of the Housing Task Force may also include: 1) Identification of general or specific locations for moderate income housing in Penfield, and 2) changes, if any, needed in the Penfield Zoning Laws to permit the construction of

EXHIBIT A

the recommended moderate income housing.

Membership

The Chairman, Pierre Coste and Co-Chairman, Dr. J. Donald Hare of the Task Force were appointed at the March 6 Town Board meeting. Other members were appointed at the April 3 meeting. The membership of the Task Force was selected to represent a cross section of views and philosophies within Penfield. The Task Force members are:

Phillip Bailey	1912 Salt Road
Wendy Bickmore	1849 Blossom Road
Alan Bernstein	129 Shirewood
Pierre Coste	107 Woodhaven Drive
Roy Everson	2467 Penfield Road
Joseph Frate	38 Hitchcock Lane
Thomas Hammond	108 Henderson Drive
J. Donald Hare	52 Farmbrook
Clarence Heininger	2048 Five Mile Line Road
Max Holtzberg	50 Old Barn Circle
Thomas Johnston	29 Royal View
Evelyn Landon	56 Hilltop Drive
David O'Brien	2 Greenwood Cliff
Cornelia Patten	143 Brentwood Drive
Robert Peterson	152 Willow Bend Drive
George Shaw	1700 Jackson Road
Edith Wilcox	1736 Jackson Road

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WHAT IS "MODERATE INCOME"

-Just about all of us living in Penfield have been (or maybe still are, or perhaps will be) in the moderate income range.-

Because the term moderate income is a subjective one, definitions will vary. This Task Force has reviewed various definitions and has considered the income levels set by various agencies that assist families in obtaining housing. (See Appendix B on page 23.)

For the purpose of this report we will consider moderate income families as families having incomes between \$5,500 and \$11,000 per year, depending on the size of the family. That is a single person or couple with no children would be towards the bottom of the range. Families with one or two children would be towards the center of the range, and families with three or more children would be towards the top of the range.

Occupations often considered in the moderate income range are: retail and service industry employees, municipal employees, school district employees. A large local manufacturing facility indicated four groups of people are typically hired in the moderate income range: unskilled assembly line workers, skilled tradesmen, secretaries and recent college graduates. The elderly, young people and minorities are often in the moderate income range.

EXHIBIT A

Moderate income housing, that is, housing which moderate income families can afford to purchase or rent, should in most cases be priced below \$20,000 or carry a rental price of less than \$150. a month. Again the size of the family will be an important variable.

At the outset of this study the Task Force suggested that the maximum purchase price of a home should be about \$25,000. This was based on the assumption that a family can afford housing valued at roughly two and a half (2 1/2) times its income. Discussions with mortgage officers at local lending institutions indicate that this factor should be reduced to two (2) times, because of increased interest rates and taxes. Therefore, the \$20,000 figure is a more realistic maximum.

OPINION SURVEY

Purpose:

- a) To measure the opinions of Penfield voters toward moderate income housing in the town.
- b) To determine what effect a straightforward presentation of some of the facts (pro and con) relating to key issues has on opinions.
- c) To provide an additional communication channel for Penfield residents to express their views on housing issues.

Participants:

2319 questionnaires were sent to every fifth voter registered for the November 2, 1971 General Election. 811 or 35% of the questionnaires were returned and tabulated. This is considered to be a good rate of participation for this type of survey.

Survey Design:

A four page questionnaire consisting of 31 questions dealing with moderate income housing and related issues and 11 questions on personal data was mailed to each of the participants on April 13, 1972. A letter of explanation and a postage-paid return envelope was enclosed. In addition, half the mailing contained a fact sheet titled "Some Points to Consider".