

January 7, 2015

**BY ECF**

Honorable Shira A. Scheindlin  
United States District Judge, SDNY  
500 Pearl Street  
New York, NY 10007

Re: *Davis v. City of New York, et al.*, 10 Civ. 0699 (SAS)

Dear Judge Scheindlin:

As Class Counsel in the above-referenced case, we are pleased to write jointly with defense counsel to advise the Court that all parties—Eleanor Britt, Rikia Evans, Vaughn Frederick, Roman Jackson, Kristin Johnson, Shawne Jones, Patrick Littlejohn, Raymond Osorio, Lashaun Smith, Hector Suarez, and Andrew Washington, individually and on behalf of a class of all others similarly situated (“Plaintiffs”), Defendant City of New York (“City”), and Defendant New York City Housing Authority (“NYCHA”)—have reached a settlement. We enclose for your preliminary approval the Stipulation of Settlement and Proposed Order, with exhibits, executed by the parties. The parties are prepared to discuss this correspondence and the Stipulation of Settlement and Proposed Order at the next scheduled court conference in the above-captioned matter on January 9, 2014.

Briefly summarized, the Stipulation of Settlement and Proposed Order (“Stipulation”) provides for the following:

- Revisions to the New York Police Department (“NYPD”) Patrol Guide 212-60 that instructs NYPD officers how to conduct interior (or “vertical”) patrols of NYCHA residences in a manner that respects the rights of NYCHA residents and their authorized visitors. These revisions address the various levels of interaction between officers and NYCHA residents and guests, and clarify the circumstances in which officers are, and are not, permitted to engage in those interactions.
- Revisions to certain NYPD training materials that instruct NYPD officers how to conduct interior (or “vertical”) patrols in NYCHA residences, and how to enforce NYCHA Rules when conducting those interior patrols, in a manner that respects the rights of NYCHA residents and their authorized visitors;
- The revisions to the interior patrols training address the various levels of suspicion needed for interactions with individuals in and around NYCHA residences, the appropriate manner in which to conduct such interactions, the required forms associated with the varying levels of interactions, and circumstances in which officers should take measures to deescalate or exercise their discretion to avoid arrests in favor of requesting individuals to leave an area.

- The revisions to the NYCHA Rules training clarify the procedures officers must follow when he or she observes a violation of both criminal and non-criminal House Rules. The revisions to the NYCHA Rules training materials particularly focuses on the notice that is required in situations in which residents or guests may be present in restricted areas, as well as the appropriate circumstances for approaching and questioning individuals based on a potential violation of NYCHA's non-criminal House Rule prohibiting "lingering" in common areas.
- The requirement that NYPD officers must complete a "Trespass Crime Fact Sheet" ("TCFS") after making any arrest for trespass in or around NYCHA residences, as well as revisions to the TCFS;
- Revisions to NYCHA's "Highlights of House Rules, Lease Terms and Policy," which makes clear that (1) NYCHA residents are asked, but not required, to cooperate with inquiries from NYPD officers, and (2) clarifies the definition of the prohibited activity of "lingering" in common areas of NYCHA residences; and
- Full participation in a Court-ordered monitoring process ("Court-Ordered Monitoring Process") with the parties in the "stop-and-frisk" case, *Floyd v. City of New York*, 08 Civ. 1034, which will reform the NYPD's training, supervision, monitoring, and discipline policies and practices with respect to trespass enforcement in or around NYCHA residences, and will provide an opportunity for community members, including NYCHA residents, to voice their opinions and experiences during the development of those reforms.

The Stipulation also contemplates that following the Fairness Hearing and Final Approval and Dismissal with Prejudice by Your Honor, the parties will jointly request that the case be transferred to the Honorable Analisa Torres, who is presiding over the Court-Ordered Monitoring Process in *Floyd v. City of New York*, 08 Civ. 1034 (SAS/AT), and *Ligon v. City of New York*, 12 Civ. 2274 (SAS/AT). (Stipulation at ¶ H.4). The parties, therefore, respectfully request that Your Honor transfer this case to Judge Torres (SDNY) at that time for oversight of the remedies, including Class Counsel's participation in the Court-Ordered Monitoring Process. Additionally, the parties will jointly request that Judge Torres endorse an order to incorporate, in full, the terms and provisions of the Floyd Remedies Order, (*Floyd v. City of New York*, 08 Civ. 1034 (SAS), dated August 12, 2013, as modified by the Order Modifying Remedial Order, *Floyd v. City of New York*, 08 Civ. 1034 (AT), dated July 30, 2014), into *Davis*, including the duties of the Monitor for the purpose of enforcing the Stipulation as it pertains to reforms to the NYPD's policies and practices that relate to trespass enforcement in or around NYCHA residences, including training, supervision, monitoring, and discipline of officers. (Stipulation at ¶ H.5).

The parties have further agreed that the Stipulation will be deemed null and void should any of the following events not occur: (1) Preliminary and Final Approval by this Court; (2) dismissal with prejudice by this Court; (3) transfer of the case

to Judge Torres; and (4) failure to secure Judge Torres' approval of the proposed order, or an order substantially and materially similar to the proposed order, to incorporate the Floyd Remedies Order and resultant Court-Ordered Monitoring Process into *Davis*. (Stipulation at Section T). The parties have also agreed that, when the Court-Ordered Monitoring Process ends, the City will authorize the Inspector General of the NYPD (IG) to use his or her authority under Section 803 of Chapter 34 of the New York City Charter to continue to monitor and report to the parties and the public during the pendency of the Court's jurisdiction over *Davis* on the NYPD's compliance with the reforms required by the Stipulation. The parties have agreed that, if the City can show it has maintained substantial compliance with the aforementioned reforms for two years following the termination of the Court-Ordered Monitoring Process, the plaintiffs will not oppose a motion by the City to terminate the Court's jurisdiction at the end of the two-year period.

The parties agree that the proposed Stipulation is fair, reasonable, and adequate to protect the interests of the Named Plaintiffs and the Class Members. Counsel for the plaintiffs and the defendants negotiated the terms of the Stipulation extensively over a period of more than five months, and the Stipulation contains over fifteen pages of substantive provisions, including numerous commitments by the defendants. As detailed above, the Stipulation and attendant revisions to policy and training materials address a multitude of procedures and practices implicated when NYPD officers interact with NYCHA residents and guests in the context of trespass enforcement in and around NYCHA residences. "Where the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class and falls within the range of possible approval, preliminary approval is granted." *In re Nasdaq Market-Makers Antitrust Litigation*, 176 F.R.D. 99, 102 (S.D.N.Y. 1997).

Additionally, the parties agree that the proposed form and mechanism of notice satisfy the requirements of Federal Rule of Civil Procedure 23(e)(1) ("Rule 23(e)(1)"). In order to satisfy the Rule, notice must be provided to absent class members in a reasonable manner. Fed. R. Civ. P. 23(e)(1). The Notice of Proposed Class Action Settlement (the "Notice") prepared by the parties (Exhibit H to the attached Stipulation) defines the class of individuals whose rights are affected, and sets forth the claims at issue in this litigation and the key terms of the Stipulation, as well as providing instructions for Class Members who wish to inspect the Stipulation in full. The Notice clearly identifies the time and place of the Fairness Hearing addressing the terms of the Stipulation; additionally, the Notice explains to Class Members how their rights may be affected, and in large print informs them that they may object to the Stipulation, and instructs them on how their objections may be entered. The Stipulation provides for the Notice to be made widely available to Class Members in two ways: (1) it shall be published in the *New York Daily News*, the *New York Post*, the *Amsterdam News*, and *El Diario* three times within the same two-week period; and (2) it shall additionally be posted conspicuously in central locations in all NYCHA residential buildings. Notice will also be issued pursuant to 28 U.S.C. § 1715.

The parties are available to discuss the Stipulation and any processes that the Court may prefer to employ to conduct a Fairness Hearing and obtain Final Approval.

Respectfully submitted,



Jin Hee Lee  
NAACP LEGAL DEFENSE AND  
EDUCATIONAL FUND, INC.  
40 Rector Street, 5th Floor  
New York, NY 10006  
Tel: (212) 965-2200  
Fax: (212) 226-7592



Brenda E. Cooke  
NEW YORK CITY LAW DEPARTMENT  
100 Church Street  
New York, New York 10007  
Tel: (212) 356-2344  
Fax: (212) 356-3509

*Attorneys for Defendant City of New York*



William Gibney  
THE LEGAL AID SOCIETY OF NEW YORK  
199 Water Street, 6th Floor  
New York, NY 10038  
Tel: (212) 577-3419  
Fax: (212) 509-8141



Donna Murphy  
NEW YORK CITY HOUSING AUTHORITY  
250 Broadway, 9th Floor  
New York, NY 10007  
Tel. (212) 776-5184

*Attorneys for Defendant New York City  
Housing Authority*



Elana R. Beale  
PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064  
Tel: (212) 373-3000  
Fax: (212) 492-0740

Dated: New York, NY  
January 7, 2015

*Attorneys for the Plaintiff Class and Individual  
Plaintiff Class Representatives*

CC:  
Honorable Analisa Torres  
United States District Judge, SDNY  
500 Pearl Street  
New York, NY 10007