UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CURRENT AREA RESIDENTS EAST OF THE RIVER ("CARE"), NEAR BUZZARD POINT RESILIENT ACTION COMMITTEE ("NeRAC"), PAULETTE MATTHEWS, TENDANI MPULUBUSI EL, MICHELLE HAMILTON, GERALDINE McCLAIN, SYLVIA CARROLL, RHONDA HAMILTON, GRETA FULLER, SHANIFINNE BALL, TAMIA WELLS, ARIYON WELLS, Plaintiffs, on behalf of themselves and all others similarly situated, v. DISTRICT OF COLUMBIA, DISTRICT OF COLUMBIA HOUSING AUTHORITY, Defendants.	Civil Action No. 1:18-cv-00872 (EGS) **JURY TRIAL DEMANDED**

FIRST AMENDED CLASS ACTION COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND DAMAGES

The District of Columbia has staked its future on attracting a so-called "Creative Class" of millennials who work in creative and non-traditional jobs. In pursuit of this vision of a younger and wealthier D.C., the District of Columbia's agencies have leveraged land use and housing polices to favor luxury developments at the expense of family units and affordable housing. However, in the chase for more luxury housing, D.C. has consistent and repeatedly violated both federal and D.C. law. Specifically, over the past twelve years the Zoning Commission has violated its statutory duties in assessing the adverse impacts of Planned Unit Developments, including, among other things, such adverse impacts as displacement and gentrification. It has cast aside even fundamental administrative

functions like the assignment of party status and ANC review. Moreover, no studies or inadequate studies were conducted to evaluate land use changes that invariably impact the real lives of tens of thousands of people. These violations have perpetuated a pattern of racial segregation in the District of Columbia, have violated Due Process and Equal Protection rights, and have had a disparate impact other protected classes such as race, family, religion, and matriculation.

Plaintiffs do not challenge the administration's power and discretion to favor the Creative Class over DC's established communities. Indeed, Plaintiffs recognize that it may be the mayor's prerogative to define D.C.'s strategy, concluding there's no room for those residents and their families who long made DC their home and sustained neighborhoods during DC's lean hard years. However, the administration may not violate the law and this is precisely what DC has done. The District of Columbia has adopted and carried out its Creative Class Agenda to the detriment and exclusion of vulnerable, long-time residents, particularly African-American residents living east of the Anacostia River. As illustrated by specific actions in Anacostia neighborhoods, the District of Columbia's actions unlawfully and discriminatorily harm African-Americans by perpetuating racial segregation and systematically and repeatedly violating the District of Columbia's own laws and regulations to steamroll controversial neighborhood-wide redevelopment. Ultimately, its actions have resulted and will continue to result in the extreme racial gentrification of neighborhoods, not integrating but impermissibly flipping neighborhoods from predominantly and historically black to predominantly white and knowingly displacing vulnerable black residents in the process.

PRELIMINARY STATEMENT

This is a lawsuit challenging Defendants' violation of the U.S. Constitution and the laws of the District of Columbia. Defendants have repeatedly violated the District's own laws governing

zoning and land use, illustrating a pattern and practice of discrimination against vulnerable residents in Anacostia neighborhoods that can only be remedied by a federal civil action.

JURISDICTION

1. This action arises under the Fifth Amendment to the U.S. Constitution; The Fair Housing Act, 42 U.S.C. § 3604(b); 42 U.S.C. § 1983; and the DC Human Rights Act §§ 2-1402.2(a)(5), (b).

2. This Court has original jurisdiction over Plaintiffs' constitutional claims pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

3. This Court has supplemental jurisdiction over Plaintiffs' District of Columbia law claims pursuant to 28 U.S.C. § 1367(a), which are part of the same case and controversy as Plaintiffs' federal claims.

VENUE

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and (e)(1)(B).

PARTIES

A. Near Buzzard Point Resilient Action Committee ("NeRAC")

5. Plaintiff Near Buzzard Point Resilient Action Committee ("NeRAC") is a community-based nonprofit organization that advocates for D.C. residents' environmental health and safe housing, with a particular focus on residents of Buzzard Point.

B. Current Area Residents East of the River ("CARE")

6. Plaintiff Current Area Residents East of the River ("CARE") is a community-based nonprofit organization that advocates for the preservation of affordable housing and seeks to

improve quality of life for area residents. CARE is a member organization of Plaintiff NeRAC.

C. Individual Plaintiffs: Barry Farm

7. Plaintiff Paulette Matthews is a current Barry Farm resident.

8. Plaintiff Tendani Mpulubusi El is a former Barry Farm resident who is currently homeless.

9. Plaintiff Michelle Hamilton is a former Barry Farm resident.

D. Individual Plaintiffs: Buzzard Point

10. Plaintiff Geraldine McClain is a current Buzzard Point resident.

11. Plaintiff Sylvia Carroll is a current Buzzard Point resident.

12. Plaintiff Rhonda Hamilton is a current Buzzard Point resident and Area Neighborhood Commissioner ("ANC") for her neighborhood.

E. Individual Plaintiffs: Poplar Point

13. Plaintiff Greta Full Greta Fuller is a Historic Anacostia resident and business owner and ANC for the area in which a Poplar Point development is being built.

F. Individual Plaintiffs: Union Market

14. Plaintiff Shanifinne Ball is a current resident of the Union Market neighborhood.

G. Individual Plaintiffs: Housing Insecure Plaintiffs

15. Plaintiff Tamia Wells is a low-income tenant who cannot find safe, affordable housing for her family.

16. Plaintiff Ariyon Wells is a low-income tenant who cannot find safe, affordable housing.

H. Defendants

17. Defendant District of Columbia is a municipal corporation empowered to sue and be sued on behalf of its subdivsions, including the District of Columbia Office of Planning (hereinafter "DCOP"), the District of Columbia Zoning Commission ("DCZC" or "Zoning Commission"), the District of Columbia Department of Housing and Community Development ("DHCD"), the Mayor of the District of Columbia in her or his official capacity, and the Deputy Mayor for Economic Development ("DMPED").

18. Defendant District of Columbia Housing Authority ("DCHA") is a quasi-governmental agency operating in the District of Columbia to "provide[] quality affordable housing to extremely low- through moderate-income households, foster[] sustainable communities, and cultivate[] opportunities for residents to improve their lives."[1]

STATEMENT OF THE CASE

19. Historically, urban renewal projects[2] in the District of Columbia have been adopted and carried out to the detriment of African-American communities, often resulting in widespread community destruction and large-scale exodus of low-income black residents. This unjust pattern spans from the early days immediately after the Civil War, when freedmen were forcibly removed from the "shanties and shacks" they built when seeking freedom in the

[1]DCHA Mission Statement, *available at* www.dchousing.org/search.aspx?str=mission%20statement
[2] Infamously called "negro removal" by James Baldwin.

capital city[3] to the placement of former slaves at Barry Farm as a freedman's colony[4] to the removal of African-Americans from Reno City in Tenleytown[5] to today.

20. Countless communities have been shattered and traumatized in the name of urban renewal, a process driven by private speculators seeking to profit by buying undervalued land with government assistance like tax-incremental financing, and building luxury condominiums.

21. While it is the government's prerogative to select appropriate redevelopment policies, the District of Columbia has adopted and carried out its Creative Class Agenda to the detriment and exclusion of vulnerable, long-time District residents, particularly African-Americans living east of the Anacostia River.

22. In the modern day, not only should the District of Columbia strive, as a matter of policy, to do better by its historic residents who have been moved around like "potted plants"[6] but, as a matter of law, it cannot illegally and discriminatorily harm black residents by perpetuating racial segregation and repeatedly violating the its own laws and regulations to steamroll controversial neighborhood-wide redevelopment in pursuit of the Creative Class Agenda.

23. Ultimately, Defendants' actions have resulted and will continue to result in extreme racial gentrification of neighborhoods—not integrating but impermissibly flipping neighborhoods from predominantly and historically black to predominantly white, all the while knowingly displacing vulnerable black residents.

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[3] Barbara Newsom, The Art Museum as Educator: A Collection of Studies as Guides to Practice Policy 187 (1978).
[4] *See, e.g.*, DC Cultural Tourism: Barry Farm Site, African Heritage Trail, available at www.culturaltourismdc.org/portal/barry-farm-site-african-american-heritage-trail
[5] *See, e.g.*, Neil Flannagan, *The Battle of Fort Reno*, Washington City Paper, November 2, 2017, available at www.washingtoncitypaper.com/news/article/20981322/the-battle-of-fort-reno.
[6] Paulette Matthews

24. This pattern has gross and devastating consequences that unnecessarily perpetuates generations of instability and cyclical poverty. Moreover, such policies replace existing community ecosystems with luxury, isolated studio, and one-bedroom units occupied by higher-income white residents that ultimately resegregate neighborhoods with predominantly white residents.

25. This pattern is illustrated in this action by the Zoning Commission's repeated failure to follow its governing laws and regulations, such as obtaining appropriate reports from the DHCD, issuing arbitrary and capricious rulings, and abusing procedure to suppress dissent from residents who will suffer from the results.

FACTUAL ALLEGATIONS & BACKGROUND

A. Announcement of the Creative Class Agenda

26. Beginning in 2007, the District of Columbia adopted the "Creative Action Agenda" in a series of statements, planning summits, and formal planning documents by Mayor Adrian Fenty's administration and under the leadership of Harriet Tregoning as Director of the DC Office of Planning (DCOP).

27. The policy was inspired by urban planner Richard Florida, who has promoted human creativity as an engine of economic growth.[7]

28. The Creative Action Agenda (hereinafter "Creative Class Agenda" or "Agenda") expressed an explicit preference for attracting and incentivizing the relocation of millennial workers whose income derives from innovative and non-traditional jobs.

B. The Creative Class Agenda's Alarming Overreach

[7] *See, e.g.*, Richard Florida, The Rise of the Creative Class: And How it's Transforming Work, Leisure, Community, and Everyday Life (Basic Books 2002).

29. Upon adoption of the new, far-reaching Agenda, the District of Columbia issued a series of statements and planning documents confirming that each of its relevant agencies were cooperating to carry out the Agenda, including the District of Columbia Office of Planning (hereinafter "DCOP"), the District of Columbia Zoning Commission ("DCZC" or "Zoning Commission"), the District of Columbia Department of Housing and Community Development ("DHCD"), the Mayor of the District of Columbia, the Deputy Mayor for Economic Development ("DMPED"), DC Commission on the Arts and Humanities, and the Washington DC Economic Partnership.[8]

30. The Agenda and Creative Plan DC to implement the Agenda represented a significant paradigm shift in planning and redevelopment, framing planning policy around what constitutes the highest and best use of a person's personhood, thus predicating land use policy on the predilections of a certain class of individual rather than the equal and inherent worth of every person as a member of the community.

31. As a part of this overreach, a person's chosen profession, age (i.e. status as a "millennial"), familial status, and educational attainment became considerations in determining who would receive priority in access to quality housing, public amenities, environmental health, and public transit.

C. Florida's Direct Influence on Policy Planning

32. In DCOP's pursuit of the Agenda, it relied heavily on Florida's creative-class theories. In May 2010, for example, DCOP published a commissioned report, the Creative DC Action Agenda, which served as a blueprint for the Creative Class Agenda. It is one of the guiding documents defining how the District of Columbia would carry out redevelopment.

[8] *See generally* Press Release, District Launches Creative Economy Initiative DC's Focus on Idea People Can Transform Neighborhoods.

33. DCOP used Florida's theories to make District of Columbia neighborhoods, particularly the neighborhoods surrounding the Metro's Green Line "vibrant", "rejuvenated", and places where people "want to live."

34. Under the heading "Attracting Talent", the report borrows heavily from Florida's work.

35. The District of Columbia has released two policy documents further documenting its Creative Class Agenda, including the Creative Economy Strategy (2014) and the Creative Plan DC (2016).

36. The Creative Economy Strategy states, "[B]y changing zoning regulations in industrial areas and allowing residential use, the District will increase affordable space for creative businesses … and creative uses, including make/live space. In executing this initiative, the District government will analyze the costs and benefits of modifying its zoning regulation. If viable, the District will work to update zoning regulations to reflect the recommendations that come out of this report."

37. It also states, in order for a business to be a "creative business" the business must "either (1) produce innovative goods or services or (2) use innovative processes to produce goods and services."

38. In other words, providers of traditional goods and services or using traditional processes would not be eligible to benefit from the Creative Class preference.

D. Tregoning Adopted and Carried Out Florida's Creative Class Preference

39. In a series of public statements and documents, Tregoning adopted and carried out Florida's preference for the Creative Class, publicly expressing a preference for attracting young people who are highly educated.

40. On November 15, 2013, Tregoning interviewed with the Washington Project for the Arts. Tregoning's comments in the interview and other public comments closely track Florida's work.

E. Tregoning at The District of Columbia Office of Planning

41. Tregoning was so successful in drawing the "key" millennial "high value worker" she survived Mayor Fenty.

42. Tregoning was reappointed and further cemented the Creative Class Agenda as the District of Columbia's policy in the new administration of Mayor Vincent Gray with the introduction of the "The Creative Economy Strategy," which outlined DCOP's accomplishments pursuant to the Agenda and updated strategies with based on lessons of the first four years.

43. The "Creative Economy Strategy" serves as a key planning document.

44. Under the heading "Changing Demographics", the policy document institutionalizes Richard Florida's theories and asserts how important attracting millennials are to the city's priorities.

F. Florida Changes Course and Tregoning's Legacy of Perpetuating Racial Segregation

45. By 2014, Florida's research showed a direct correlation between segregation and concentrations of the Creative Class.[9]

46. In fact, Florida found Creative Class clusters perpetuated and worsened segregation patterns, which he has demonstrated since at least 2014.[10]

[9] *See, e.g.* Richard Florida, *The Racial Divide in the Creative Economy*, CityLab (The Atlantic), May 9, 2016, available at www.citylab.com/life/2016/05/creative-class-race-black-white-divide/481749/.

[10] *Id.*; Richard Florida, Zara Matheson, Patrick Adler & Taylor Brydes, The Divided City and the Shape of the New Metropolis (Sept. 6, 2014), available at http://martinprosperity.org/content/the-divided-city-and-the-shape-of-the-new-metropolis/; *see also* Richard Florida, The New Urban Crises: How Our Cities Are Increasing Inequality, Deepening Segregation, and Failing the Middle Class—And what we can Do About it (Basic Books 2017).

47. Place-making for creatives, especially when done in dense areas with public transportation, resulted in increased segregation between Creative Class and non-Creative Class members, which also correlated along racial segregation lines. (There is a negative correlation between blacks in Creative Class and predominantly black population. There is also a significant negative correlation for inclusion in Creative Class when workers drive to work alone. D.C. has a large black population that also disproportionately drives to work thus increasing segregation and inequality as non-presence in the Creative Class in areas that primarily have creative economies contributes to segregation and inequality.)

48. The following statistics represent the D.C. Metro Area:

a. In one decade, approximately 39,000 African-Americans left D.C. while 50,000 white residents entered during the same timeframe.

b. 61.9% of DC metro area white workers are Creative Class members.

c. 40.9% of DC metro area black workers are Creative Class members.

d. White DC metro area residents are 34% more likely to be Creative Class members.

e. There are .66 black Creative Class members living in the DC metro area for every 1 white Creative Class member.

f. Nationally blacks make up 12% of the US population but only 8.5% of Creative Class jobs.

g. Nationally whites make up 64% of the US population but comprise 73.8% of the Creative Class jobs.

h. Seven of the ten top service class tracts are located in historically black neighborhoods within DC city limits.

i. Between 2000 and 2014 the D.C. Creative Class population grew from 38.8% to 44.6% of the workforce

j. Statistically, the Creative Class skews white.

k. Statistically, the Creative Class skews highly educated.

G. Millennial Demographics

49. In 2015, the DCOP released a report named "Millennials' Demographic Characteristics DC vs US", which tracked, inter alia, the "key" millennial demographic.

50. Between 2009-2013, two years after DC launched the "Creative Economy Initiative" to attract "high knowledge" "high value" "creatives," the number of 18- to 34-year-olds in the city was at its highest levels in over 30 years of tracking the statistic despite the overall amount of 18- to 34-year-olds in the United States being at its lowest since tracking began.[11]

51. In 2000, the number of 18- to 34-year-olds made up 30.5% of the DC population and 23.7% of the US population yet by 2009-2013 the 18-34 population within DC had risen to 35.0% despite the overall numbers of 18- to 34-year-olds in the country dropping by .3% to 23.4% and being on a steady decline since 1980 when the 18- to 34-year-old population of the country was 29.6%.[12]

52. Between 2009-2013 the gap between the percentage of 18- to 34-year-olds living in the District versus the rest of the country was +11.6%. However, historically, from 1980 until 2009, the 18- to 34-year-old population in the District versus the rest of the country had hovered between +5-7%.

H. The Creative Class Agenda Breaks Apart Historically Black Neighborhoods and Replaces them with Luxury Redevelopment for Creative Class Millennials

[11] Joy Phillips, PhD, DC Office of Planning/State Data Center, DC's Millennial Population Ages 18-34: Then and Now, available at https://planning.dc.gov/sites/default/files/dc/sites/op/page_content/attachments/Millennials%20Demographic%20Characteristics%20DC%20vs%20US.pdf.

[12] *Id.*

53. In 2012, the DHCD observed in its Analysis of Impediments to Fair Housing Choice ("AI") that "the District of Columbia consists of hyper-segregated Black neighborhood clusters in which African Americans constitute 93 percent to over 98 percent of the population. In these clusters, the proportion of African Americans is typically more than 60 percentage points higher than would be expected in a free housing market without discrimination while the percentage of Caucasians is 51 to 59 percentage points lower than would be expected.[13] This "extreme degree of segregation is the District's greatest fair housing challenge."[14] It goes on to state that, "the District's goal should be to achieve the racial and ethnic composition throughout the city that would exist in a genuinely free housing market not distorted by racial discrimination."

54. The AI likewise acknowledged that areas that were once integrated had become, through gentrification, resegregated with predominantly white residents, as opposed to historically black residents.[15]

55. The District of Columbia's own planning documents like the Analysis of Impediments illustrates Defendants' awareness of the impact of its policies.

56. In response to the District's AI, on November 14, 2016, the U.S. Department of Housing and Urban Development warned Defendants that its 2016 Consolidated Plan and Annual Action Plan failed to fully address the impediments identified in the District's 2012 AI, which includes "the District's duty to affirmatively further fair housing" by "tak[ing] appropriate

[13] District of Columbia Department of Housing and Community Development, Fair Housing Analysis of Impediments (2006-2011), at 178, available at https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/DC_AI_2012_-_FINAL.pdf
[14] *Id.* at 3.
[15] *Id.* at 174.

actions to overcome the effects of impediments identified through its AI."[16] In the letter, HUD warned the District that it had failed to adequately address the District's:

a. "entrenched dual housing market"
b. "high cost of housing leading to displacement of low to middle income residents"
c. Overuse of exemptions to the District's inclusionary zoning ordinance,
d. Lack of clear goals and objectives to achieve stable, racially-integrated neighborhoods,
e. Severe concentrations and discrimination caused by the District's zoning treatment of "community based residential facilities" and
f. Lack of a cogent, pro-integrative policy for siting public housing and the use of Housing Choice Vouchers.

57. The lack of clear goals and objectives to achieve stable, racially integrated neighborhoods is evident in the Zoning Commission's failure to gather DHCD written reports as required by statute (detailed below).[17] The District's failure to appropriately analyze is impediments to fair housing, specifically clear goals and objectives to achieve stable, racially integrated neighborhoods is another example of how Defendants have pursued a discriminatory policy that disproportionately impacts vulnerable neighborhoods.

58. In a subsection of the District of Columbia FY16- FY20 Consolidated Plan titled, "Are there other strategic opportunities in any of these areas?" The Plan states, "It is vital to create affordable housing that integrates neighborhoods racially and economically... To this end,

[16] HUD letter to Mayor Muriel Bower, November 14, 2016.
[17] *See* Zoning Commission Decisions, ZC Nos. 14-02, 16-13, 16-09, 15-27, 15-24, 16-02, 16-07, 15-29, 15-28, 15-16, 15-22.

strategic opportunities include...development of mixed-income housing, particularly in areas of the city where market rate housing could subsidize affordable income targets."[18]

59. The Consolidated Plan explicitly states race is a factor in carrying out the development of mixed income communities.[19] DMPED and the DHCD formed the Consolidated Plan in 2016, but the DHCD has advocated for racially integrating communities since 2012's AI. Yet, in the very same document, DHCD warns that "[T]he in-migration by wealthier whites is producing gentrification that is reducing the Districts supply of housing affordable to households with modest incomes and threatens to resegregate these gentrifying neighborhoods as virtually all-white."[20]

60. The 2016 Consolidated Plan is an active DC government policy to create mixed income neighborhoods in order to racially integrate them in a manner where the market rate housing pays for the affordable housing when in 2011 the District Government knew their plans to integrate neighborhoods were turning them "virtually all" white.[21]

61. The timing of the AI report coincides with the public scaling up of the Creative Economy and DMPED's release of the "Creative Economy Strategy" report. The New Communities Initiative was another way to carry out the non-race neutral goals of the AI, and after 9 years of inactivity New Communities was relaunched the same year DMPED released the Creative Economy Strategy.

62. Today, the Creative Class Agenda is the driving force of District of Columbia urban planning.

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[18] Department of Housing and Community Development, FY 2016-FY 2020 Consolidated Plan, p. 137, available at https://dhcd.dc.gov/service/consolidated-plan-housing-and- community-development.
[19] *Id.*
[20] *Id.*
[21] *Id.*

63. The Creative Class Agenda gave the District's agencies the green light to prioritize millennial creatives to the detriment and at the expense of black communities.

I. New Communities Is The Vanguard Government Policy To Eliminate Low Income, Non-College Educated African-American Communities

64. The New Communities Initiative program, which began in 2006, reinforces the Creative Class Agenda.

65. The Initiative is designed to revitalize severely distressed subsidized housing and redevelop communities plagued with concentrated poverty, high crime, and economic segregation. The initiative targets four neighborhoods in the District of Columbia, including Barry Farm in Ward 8, Lincoln Heights/Richardson Dwellings in Ward 7, Northwest One in Ward 6 and Park Morton in Ward 1.

66. Each Public Housing project is a close-knit community inhabited by people largely without formal education. Framed through the paradigm of the Creative Class Agenda, public housing projects have fewer innovative or creative people and processes and more traditional employment roles like babysitter, barber, dental assistant, fast food restaurant workers, and security guard jobs.

67. New Communities targeted neighborhoods are the anti-Creative Class and they have been overtly targeted for elimination through the combined use of the Consolidated Plan, New Communities, Creative Action Agenda, Creative Economy Strategy and Creative Plan DC and implemented through patterns and practices of discrimination at the Zoning Commission.

J. The Creative Class Agenda and New Communities Program Disparately Impacts Low-Income, African-Americans in Anacostia

68. Both the Creative Class Agenda generally, and New Communities Initiatives specifically, require high density development. The Agenda "clusters" highly educated young people together in order to “creative place make” and create experiences. New Communities requires high density in order to support the cost of the public housing replacement units.

69. Predictably, the neighborhoods with the most dense development have undergone the most demographic change from 2005-2009 to 2010-2016:

    a. American Community Survey estimates Navy Yard (Census Tract 72) had 625 total residents between the years 2005-2009. Of those 625 residents, 138 were white and 459 were black. So 73.44% of Navy Yard residents were black compared to 22.08% of residents being white. After implementation of the city planning apparatus policy, and by the time of 2010-2016, Navy Yard had 4,664 total residents. Among them 3,085 were white and 1,294 of them were black. The percentages virtually flipped, with 66.1% of the population being white and only 27.7% being black.

    b. Navy Yard has the most dense development in the city.

    c. This trend begins as far north as Petworth, continuing along the Green Line and trekking east to Bloomingdale, and H. St., continuing south and eastward to Anacostia.

    d. Bloomingdale has seen some of the most intense re-segregation. From 2005-2009 American Community Survey estimates Bloomingdale had a total 5,107 residents. 3,439 were black, or 67.3%; while 1,126, or 22% were white. By the 2010-2016 survey, there were 6,135 total residents and despite gaining over a thousand total residents, the area lost 770 black residents for a total 2,669 black residents living in the Bloomingdale neighborhood consisting of census tracts

33.01 and 33.02. Black residents went from 67.3% of the population to 43% of the population. White residents grew to make up nearly 46% from 22% of the population.

e. Likewise, U St. gained 2,674 residents, going from 6,795 in total residents in the surveys collected from 2005-2009, to 9,469 residents in 2010-2016. Despite U St. gaining 2,674 total residents black residents were displaced. From 2005-2009 there were 2,355 black residents but by the time of 2010-2016 there were only 1,984 black residents. The U St neighborhood lost 371 black residents and gained 1,306 white residents during the same time period. During that time period black residents went from 34.65% of the population to 20.95% of population while white residents experienced population growth going from 58.01% of the population to 65.98%.

K. The Office of Planning and Zoning Commission Repeatedly Violate Statutory Duties to Steamroll the Creative Class Agenda

70. To exacerbate matters the DCOP generally, and Zoning Commission specifically, has a pattern and practice of ignoring their statutory duties in pushing the Creative Class Agenda forward.

71. The DCOP generally, and Zoning Commission specifically, has routinely undermined the process by which historic DC residents voice their concerns about redevelopment policies under which their quality of lives and livelihood will suffer.

72. Between 2014 and present, the Zoning Commission made a series of arbitrary decisions in which the gross and devastating consequences of redevelopment were ignored, including: gentrification, displacement, tax increases, dislocation, and related consequences that

disproportionately affect non-college educated, mostly black, service and working class workers, low-income individuals from their communities.

73. Such disregard for current residents' concerns was calculated to carry out the Creative Class Agenda to attract and settle creative-class millennials in luxury developments, thus displacing historic black communities. In every instance the Commission made arbitrary findings which require impossible suspensions of disbelief to ignore the adverse impact of projects. Such arbitrary findings are evidence of racial animus, as it is not possible to explain the pattern of arbitrary decisions but for the existence of animus against a predominantly black community.

74. The Zoning Commission has in concert with the Office of Planning repeatedly made arbitrary findings on matters as fundamental as party status.[22]

75. The Zoning Commission has in concert with the Office of Planning routinely made arbitrary findings or made no findings at all on gentrification/displacement despite it being within its clear statutory authority and despite having provisions protecting against displacement/ gentrification in the comprehensive plan.[23]

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[22] ZC No.14-02 (FFCL.FF.8.P1,2; FFCL FF.9,10,12,13.P2) (prejudiced by initial denial of party status for not being "uniquely" impacted despite being Barry Farm residents); ZC No.15-24 (ex. 27A.p1-17); *see also* ZCO.FF.9.P3 (denying party status due to not being impacted despite UMN having membership living one block and a half from 1000-unit luxury development); ZC No.15-28; ZTr. 6/20/2016.P6-8; *see also* ZCO.FF.7,8.P2) (denying party status due to not appearing at hearing however facilitator has sworn affidavit they appeared and were denied so left the hearing in frustration).

[23] ZC No. 14-02; ZCO.FF.P53, 1003; see also FFCL.FF.31.P5; FFCL.FF. 53-55.P7; FFCL.FF.59,60,65.P8; FFCL.FF.66.P9; FFCL.CL.86,87.P11; FFCL.CL.90.P12; FFCL.CL.126.P17; FFCL.CL.127.P18); 15-28 (Ex.22A.p2-4,6-13; ZC No. 15-27 (arbitrary findings not based on substantial evidence on the record because no DHCD report) (ZCO.FF.112(f).P. 32; FF.120(b)(c)(d).P.38; ZCO.CL.151(e).P.48); ZC No.15-24 (arbitrary finding that there would be no displacement to surrounding area because current construction site is empty despite no DHCD report per statute and despite the McMillan case which remanded so Commission could conduct a gentrification study on surrounding area when construction site was empty)(ex. 27 . p 2-3; Ex. 27A.p7-18; *see also* ZCO.FF.29.P6; ZCO.FF.74(a).P18-19; ZCO.FF.74(b).P.20; ZCO.FF.100.P31.).

76. The Zoning Commission has in concert with the Office of Planning routinely made arbitrary findings or made no findings at all on density/building height.[24]

77. The Zoning Commission has in concert with the Office of Planning routinely made arbitrary findings on ANC Great Weight.[25]

78. The Zoning Commission has in concert with the Office of Planning routinely made arbitrary findings on the Environment.[26]

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[24] ZC No. 14-02 (finding a moderate density site was consistent with a development plan including clusters of high density and medium density buildings based on conclusory statements from developers not based on substantial evidence in the record) (ex. 83A2.p21,22); ZCO.FF.13.p4; ZCO.FF.18(a).p5;ZCO.FF.30.p10;ZCO.FF.39.p11;ZCO.FF.80-82.p26; FFCL.FF.7.P1; FFCL.FF.22.P3; FFCL.FF.29.P4; F F C L . F F . 7 1 , 7 3 . P 9 ; F F C L . C L . 1 1 1 , 1 1 2 . P 1 5 ; F F C L . C L . 131.P18; ZC No. 15-28 (Arbitrary findings changing from Production, Distribution, Repair in FLUM to residential without DHCD report and also granting public benefit with no set proposal for residential units, leaving option open for office space contrary to statute) (Ex.22.p2,3;Ex.22A.p5; see also ZCO.FF.23.p3-4; ZCO.CL.12.p24; See also ZC N o . 1 5 - 2 4 (Ex. 39 p. 1-3.) (ZCO. FF. 82-84. p.25-26; ZCO.CL.96-97.P27-29. ZC No. 16-07 (finding a 9 story building fit medium density when regulations clearly state medium density tops out at 7 stories)(ZCO.ff.60-62.p15); see also ZC No. 16-20 (Finding the descriptions for land use zones located in the zoning regulations is not binding because it is in the pre-amble and thus finding a building type noted as "appropriate" for arterial streets is not inconsistent with the comprehensive plan despite the building in question fronting a street much smaller than an arterial street. See Commission shutting down testimony by arguing the increased density for the site is appropriate because of a setback despite court rulings in Durant explicating a necessity for deeper analysis into adverse impacts and despite there not being any DHCD report on the record to consider the adverse impacts of increased density. ZC No 16-07 (Ex.34)

[25] ZC No.14-02 (Commission gives great weight to an ANC resolution that did not have quorum and ignores the recommendations of the ANC with quorum) (FFCL. FF. 123 . P 16; ZCO. CL. 11,12.P57; see also ZC No. 16-20 (ANC commissioner testifies project does not qualify as a community benefit but rather will have adverse impacts given circumstances of community but no findings are made in ZC Order addressing the ANC's concerns re: whether the project qualifies as a "community benefit", despite the Commissioner explaining she represents the will of the community, despite the ZC being required to give the ANC great weight, and despite there being no report from the DHCD on the record that may address the ANC's concerns, with the ZC merely writing in its order the PUD process is not a "popularity contest") ZCO.FF.87).

[26] ZC No. 16-02 (Finding adverse impacts to noted environmental contaminates were "mitigated" by efforts at least one Commissioner acknowledged could not possibly be adequate, then the ZC making no findings in the ZC Order as to that particular concern. ZCTr…App.Ex..p.; see also ZC No. 15-29 (Abused discretion finding it was "unusual" to accept a motion to reconsider from a non party that participated heavily in the hearing when the non party lived next door, participated

79. The Zoning Commission in concert with the Office of Planning has engaged in contract zoning. The city has invested millions into the DC United project in order to gain site control before the project has even gone to the Zoning Commission, further calling to question the impartiality of the Zoning process.

80. In fact, the Office of Planning, since 2007 has not once weighed the benefits of a proposed PUD against opposition arguments brought forth concerning the destabilization of a neighborhood or "well-being" of its residents regarding adverse effects.

81. Despite adamant pleas from community members who often, tearfully, give testimony out of concern for their home and neighborhood the commission has ultimately approved every project.

82. Compounding matters, in all of the aforementioned cases, DHCD has refused to produce a statutorily-required agency report, thus violating D.C. law. Such reports are due 10 days before the hearing so ANCs may have the chance to review them and bring issues before the Zoning Commission so that they may mitigate the issues before approval of a PUD. Other agencies that routinely do not produce reports but by statute must include the Department of the Environment and DC Water.[27]

83. Moreover, the Zoning Commission consistently misused procedure to squelch dissent, such as silencing ANC commissions and prospective opposition, ignoring objections from the

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heavily in the hearings, and discovered documented evidence of site contamination) ZCTr…App.Ex..p.; see also (Appeals court finding adverse impacts must be considered per enabling statute and comprehensive plan policies when the ZC failed to consider same for the very large McMillan project) Friends of McMillan v Zoning Commission, 149 A.3d 1027, 1036-1038 (2016).

[27] *See Generally* (ZC Nos. 14-02, 16-13, 16-09, 15-27, 15-24, 16-02, 16-07, 15-29, 15-28, 15-16, 15-22, 16-20, 13-14, 16-29 (no DHCD reports); and 14-02, 16- 16-13, 16-09, 15-27, 15-24, 16-02, 16-07, 15-29, 15-28, 15-16, 15-22, 16-29, 13-14 (no DDOE Reports).

community by turning away from statutes and regulations that provide protections against gentrification and displacement.

L. Specific Instances of Unsettling Arbitrary Findings, Rulings, and Conflicts of Interest

i. Barry Farm Tenants and Allies Association

84. Initially BFTAA was denied party status even though testifying members lived in Barry Farm. People testifying were told dislocation and displacement was "not in our purview" even though it clearly was by way of organic statute and the Comprehensive plan. The Commission found that displacement was outside its purview because the URA was a federal statute concerned with the relocation of public housing residents and thus conferred no jurisdiction on the Zoning Commission. Alternatively, the Commission found that even if displacement or dislocation was in its purview Applicant met its burden to "avoid displacement" by mitigating the effects of dislocation with wrap-around services. In the order, the Zoning Commission did not include any citation for their legal reasoning besides a general cite to the URA explaining it took precedence over local law. However, the URA has an explicit provision for local agencies to work with and cooperate with HUD pursuant to local policy regarding relocation procedures.

85. This provision was analyzed in the Findings of Fact and Conclusions of law submitted by BFTAA but the provision was ignored entirely in the Commission's order. Moreover, the commission’s confusing the words "avoid displacement" with "help deal with the impacts of displacement" is irregular. It is a significant departure from foundational administrative law for the Commission to make findings on contested facts without at least referencing the specific statutory provision opposing parties raised in support of their arguments.

86. Moreover, the Commission made a nonsensical finding about the ANC where the sole ANC vote approving the project was revealed to be done without quorum but the ANC Commission that held the improper vote would still be given great weight because the previous ANC disapproval vote, the one with quorum, requested as pre-requisite for project approval matters the Commission deemed outside its purview. To be clear, the Commission gave great weight to a publicly elected body that by law could not act on behalf of the people; and, in doing so, denied "great weight" to the convening of ANCs that had democratic support.

87. At zoning, government development partner A&R Development alleged with conclusory statements that in order to provide the required public housing replacement units they needed to build roughly 1,423 units of mixed income housing as opposed to the small area plan specified 1,100 units of mixed income housing. That, in order to increase revenue. A&R development made more conclusory statements about the exorbitant costs of redoing the street grid and utility infrastructure. According to A&R Development they cannot do "development in place" during construction of the 1,423-unit site because of the massive infrastructure upgrades the site will need due to the intensified land use.

88. At the Barry Farm site, the introduction of roughly 1,000 new economically integrating units on top of the 344 replacement units is the direct cause of residents' removal from the site during construction and which causes increased risk of permanent displacement. Yet the developer has presented no evidence the policy goals of the New Communities Initiative can only be carried out by moving residents off the site, only conclusory statements. Even if the revitalization of dilapidated housing and the economic integration of communities and the racial integration of communities were important government concerns, causing widespread, long term and indeterminate dislocation with great risk of permanent displacement is far

from the least imposing of methods to accomplish the aforementioned and alleged government interests.

ii. McMillan

89. In 2015, the Zoning Commission held that Friends of McMillan's concerns about gentrification were unfounded because community members in opposition did not prove the project would lead to gentrification. By finding that community members were responsible for proving the project would lead to gentrification the commission departed from foundational administrative law norms and shifted the burden of proof from the Applicant to community members.

90. In *Friends of McMillan v. DC Zoning Commission* (2016), the District of Columbia Court of Appeals held that the Comprehensive plan required that the Commission weigh the effects of gentrification, both through the lens of relevant Comprehensive plan provisions, and through the lens of the adverse impact statute.

91. The court also found that the Commission could not shift the burden from Applicant to community members when it came to assessing the impact of gentrification such as dislocation, displacement, and increased property taxes.

iii. Buzzard Point

92. In 2016 the Zoning Commission issued an order on the Buzzard Point project, or soccer stadium deal. Almost a dozen community members testified as to the project likely gentrifying their community. Even after the McMillan ruling and court provided guidance, specifically on the impacts of gentrification, the Zoning Commission issued yet another ruling on the matter, finding: since the homes adjacent to the soccer stadium would not be

demolished that there was no risk of displacement. There was no study conducted to determine if the Zoning Commission's conclusion was correct. It is a significant departure from foundational administrative law for the Commission to make findings without basing it on substantial evidence on the record. Moreover, asserting displacement only happens when the homes the people are living in gets demolished is beyond absurd. For the third time, the Zoning Commission failed to adequately weigh community concerns about development projects that are accused of weakening and destroying communities via gentrification and displacement. Moreover,

iv. Union Market

93. In the Union Market cases, the Zoning Commission approved high-density projects, including 6,000 units of studio and one bedroom apartments as part of a plan to resegregate the area by introducing massive amounts of a different racial and economic development without considering any of the UMN's concerns about gentrification. In the UMN cases the Zoning Commission went so far as to deny party status when members lived within 200 feet of a 1000 unit development because they were not "uniquely effected", much the same as they denied party status in the Barry Farm case when residents actually lived in the public housing.

M. Repeated Violations Are Evidence of Animus

94. These systematic and repeated violations of federal and D.C. law are evidence of racial animus, as it is not possible to explain the pattern of arbitrary decisions but for the existence of animus against a predominantly black community.

N. Unexplainable Zoning Commission Ignorance

95. Chairman Hood has been on the Zoning Commission for 18 years and at his recent re-confirmation hearing March 26, 2018 Chairman Hood gave testimony about his reasoning for the real-time denial of Barry Farm residents party status request when they sought to engage the Zoning process for a project that would lead to the removal from their homes and community.

96. In the public roundtable, Hood seems to argue that since opposition to the Barry Farm community being split apart and demolished was widespread across the city that actual residents bringing the issue of being displaced from their homes was not worthy of Party Status because it was not unique to other claims: Council Chairman Mendolson: "Let me ask you about party status …."

97. Zoning Commission Chairman Hood: "Particularly in the Barry Farm case, and nobody re-prompted us[28]…you have to be uniquely affected so if everybody is saying the same thing there is no uniqueness…"[29]

98. However, in ZC No 15-28 Hood lucidly argued against a projects progression because he could not understand how the proposed use was not just a "restaurant" instead of an eligible maker space.

99. Hoods feigned ignorance about what constitutes party status after 18 years as Chairman of a commission that routinely engages the public compared to Hood's spot-on knowledge about

[28] Chairman Hood and the Zoning Commission eventually granted party status but only after a motion to reconsider was submitted by pro-se public housing residents. Hood denied that zoning commission was "re-prompted" twice during his committee of the whole testimony but the record is very clear here. See App.Ex.J.p0772; see also App.Ex.M.p1893. The real-time denial of party status prejudiced members by affecting the availability of expert witnesses as well as the ability to bring contemporaneous cross examination.

[29] DC Council, Committee of the Whole, Public Roundtable, 3/26/2018, 1:14:22-1:17:00, available at http:// dccouncil.us/videos/archive/.

what constitutes a maker space reflects the policies of DMPED, OP, and the Mayors agendas to create a low social value city to the detriment of blacks, non-millennials, and legacy residents, among other protected classes.

100. Also illustrative, in ZC 10-28 (captioned 901 Monroe Street LLC), the Zoning Commission literally incorporated Holland & Knights findings of fact and conclusions of law word for word, including typos, into the commission's order.[30]

O. The Office of Planning and the Zoning Commission Intentionally and Knowingly Changed the Demographics of the City in Pursuit of the Creative Class Agenda

101. The Office of Planning and the Zoning Commission have enacted policies hostile to non-favored individuals continued existence in this city.

102. Repeatedly, the Zoning Commission and Office of Planning has violated D.C. law and regulations governing zoning and land use.

103. The Office of Planning has propounded a covert and far-reaching programmatic mission to tear the fabric of close knit communities in compliance with Florida's theories about growing the creative economy.

104. As a result, the Office of Planning, and the Zoning Commission, has caused deleterious injury to historic communities in violation of federal and D.C. law.

105. The destruction of low-income black communities has a deep and long-lasting impact on collective progress negatively influencing the ability to maintain or build businesses and interpersonal relationships, the ability to keep stable work, to grow culture and support

[30] *See generally* John Banister, *Newly Introduced Comprehensive Plan Amendments Aim to Combat Development Appeals*, Bisnow Washington DC, Jan. 9, 2018 (Eric Shaw, the Director of the DC Office of Planning, explaining that a motive for altering the comprehensive plan was to make it more difficult for residents to file appeals by giving the Zoning Commission even more discretion), available at www.bisnow.com/washington-dc/news/economic-development/newly-introduced-comp-plan-amendments-aim-to-prevent-development-appeals-83426.

systems and reputations and goodwill, to have familiarity, peace and non-violence, and to pass on shared heritage.

106. Black DC residents have remained in a constant state of disease and flux, since slavery, repeatedly having their communities uprooted, compounding injury and quite insidiously contributing to the conditions used as justification for the racist policies.

107. DC Planning Agencies have mission and vision statements purporting to promote economic and racial integration, but are knowingly causing economic inequality and racial segregation in order to present private businesses with what are historically once in a generation financing opportunities to profit off the low market values caused by years of government disinvestment or environmental neglect and concomitant land banking, allowing the government to exchange, intentionally kept unused land, for private funding and management of traditional government functions like public and subsidized housing.

108. It is black neighborhoods targeted for this speculation under the auspice of integration, then further disadvantaged by implementation of economic systems that lead to their disparate and explicit exclusion, resulting in widespread low income, non-college educated, larger families, and mostly black DC residents' waning of opportunities, displacement, and hardship forming a historical pattern and a depressing multiplication of indignities over the generations.

109. This destruction in the name of the Creative Class Agenda has no end in sight.

110. The newest, close-knit black community slated for destruction through intentional Office of Planning policy is further east, Historic Anacostia. In Historic Anacostia plans are under way to develop the entire Martin Luther King corridor with 1000's of high density residential housing that requires incomes higher than the surrounding three census tracts in order to live in the proposed development. Housing that is primarily for singles in an area

that has a great need for family housing not kept in slum conditions. Such development will also bring retail out of step with the vast majority of local residents displacing local, non-creative businesses.

111. The District of Columbia has adopted and carried out its Creative Class Agenda to the detriment and exclusion of vulnerable, long-time residents, particularly African-American residents living east of the Anacostia River. As illustrated by specific actions in Anacostia neighborhoods, the District of Columbia's actions unlawfully and discriminatorily harm African-Americans by perpetuating racial segregation and systematically and repeatedly violating the District of Columbia's own laws and regulations to steamroll controversial neighborhood-wide redevelopment. Ultimately, its actions have resulted and will continue to result in the extreme racial gentrification of neighborhoods, not integrating but impermissibly flipping neighborhoods from predominantly and historically black to predominantly white and knowingly displacing vulnerable black residents in the process.

INDIVIDUAL ALLEGATIONS

A. Near Buzzard Point Resilient Action Committee ("NeRAC")

112. Plaintiff Near Buzzard Point Resilient Action Committee ("NeRAC") is a community-based nonprofit organization that advocates for D.C. residents' environmental health and safe housing, with a particular focus on residents of Buzzard Point. Its members have been actively in this cause since 2016 and formally organized as NeRAC in January 2018.

113. NeRAC has an interest in protecting its members and area residents from environmental damage caused by redevelopment, including by not limited to toxic air resulting from construction dust and diesel fumes emitted by construction vehicles.

114. NeRAC advances its interest through grassroots organizing, leadership development, community education, and providing resident testimony at Zoning Commission meetings.

115. NeRAC interests having been thwarted by Defendants' redevelopment decisions that have negatively affected the health of its members and area residents.

116. NeRAC has expended its resources in response to, and to counteract, the negative effects of defendants' actions.

B. Current Area Residents East of the River ("CARE")

117. Plaintiff Current Area Residents East of the River ("CARE") is a community-based nonprofit organization that advocates for the preservation of affordable housing and seeks to improve quality of life for area residents. CARE is a member organization of Plaintiff NeRAC.

118. CARE's members are African-American residents living east of the Anacostia River.

119. CARE members meet both formally and informally. Formally, they have testified before various governmental bodies on the effects of gentrification. Informally, they gather on neighborhood streets to raise awareness among community members unable or not inclined to attend civic meetings. As such, CARE members are a valuable part of the communication network between neighbors regarding current events.

120. Like Plaintiff NeRAC, CARE advances its interests through grassroots organizing, leadership development, community education, and testifying at various governmental meetings.

121. Its interests have been thwarted by Defendants' development decisions that have negatively affected the housing of CARE members. It has expended its resources in response to, and to counteract, the negative effects of defendants' actions.

C. Individual Plaintiffs: Barry Farm

i. Plaintiff Paulette Matthews

122. Plaintiff Paulette Matthews is a founding BFTAA (Barry Farm Tenants and Allies Association, Inc.) and CARE member.

123. She has lived in the Barry Farm neighborhood for two decades and strongly desires to continue living there during redevelopment. She is African-American, a non-millennial, currently unemployed, and has never attended college. She lives in subsidized housing and cannot afford market rate rent.

124. Defendants' development decisions have injured Ms. Matthews in several ways, including their failure to maintain Barry Farm—allowing it to fall into a gross state of disrepair—and pressuring tenants to move out of their units and keeping those units vacant.

125. Moreover, Defendants' decisions have also resulted in environmental degradation that negatively affects Ms. Matthews' health and quality of life.

126. In addition to the gross disrepair Ms. Matthews endures, she has suffered a loss of neighbors and friends, thus undermining her social network and quality of life. In 2015, she was mugged. She found herself alone and afraid because her friends had already moved out due to Defendants' redevelopment and gross disrepair. To address this, Ms. Matthews has dedicated countless hours to being involved in the development process to minimize its negative impacts on her neighborhood and maintain her community's ecosystem.

ii. Plaintiff Tendani Mpulubusi El

127. Plaintiff Tendani Mpulubusi El is a former Barry Farm resident who is currently homeless and a member of CARE.

128. He is an established artist and served as a Commissioner on the DC Commission on the Arts and Humanities.

129. He is African-American. He is a non-millennial. Defendants' decisions have injured Mr. Mpulubusi in several ways, including the loss of neighbors and friends and the breakdown of a vibrant community culture, thus undermining his social network and quality of life.

130. Like other plaintiffs, Defendants' decisions have also resulted in environmental degradation that negatively affects Mr. Mpulubusi's health and quality of life.

131. In addition to the injuries facing other plaintiffs, Mr. Mpulubusi's artistic livelihood is centered in documenting the history and culture of Barry Farm, including a recent documentary titled "Barry Farm: The People Past & Present, which has been featured in several publications including the Washington Post and screened in venues across D.C., such as the Carnegie Library, American University and UDC. Defendants' decisions have injured his livelihood by scattering residents that compose the art culture—thus interfering the topic of his work, making it more difficult to interview and cover Barry Farm residents, and undermining the artistic collaboration intrinsic to his livelihood, a concrete and cognizable injury.

iii. Plaintiff Michelle Hamilton

132. Plaintiff Michelle Hamilton is a founding member of BFTAA and member of NeRAC.

133. Michelle Hamilton was a resident of Barry Farm who moved out of Barry Farm because her unit was filled with mold, which DCHA failed to adequately despite her request.

134. Michelle Hamilton is African-American. She is a non-millennial.

135. Defendants' development decisions have injured Michelle Hamilton in several ways, including their failure to maintain Barry Farm—allowing it to fall into a gross state of disrepair—and pressuring tenants to move out of their units and keeping those units vacant.

136. Moreover, Defendants' decisions have also resulted in environmental degradation that negatively affects Michelle Hamilton's health and quality of life.

137. In addition to the gross disrepair she has endured, she has suffered a loss of neighbors and friends, thus undermining her social network and quality of life. This is a particular hardship because she is disabled and wheelchair-bound, making it especially difficult to maintain a social network that has been scattered.

D. Individual Plaintiffs: Buzzard Point

i. Geraldine McClain

138. Plaintiff Geraldine McClain is a sixty-seven-year-old woman who has resided in Buzzard Point since 1986.

139. Ms. McClain is African-American. She is a non-millennial.

140. As a direct result of Defendants' decisions, Ms. McClain has lived at the center of constant redevelopment construction since 2015.

141. The environment has negatively affected Ms. McClain's health. For example, construction trucks idle next to her house for long periods of time, resulting in polluted air that forces her to close her windows. The pollution in the air is so palpable that Ms. McClain states that she can practically "taste it." The construction has exacerbated her allergies, caused headaches, and caused emotional stress and a sense of voicelessness and hopelessness.

142. Redevelopment construction has frequent involved digging for underground pipes. The digging has interrupted Ms. McClain's power on at least three occasions for hours at a time, and once interrupted the gas line. In that event, Ms. McClain had to hire a professional to restore her gas so she could operate her furnace. The construction has also shaken her house and caused her backyard fence to fall down, decreasing her quality of life and resulting in economic harm.

143. Ms. McClain also suffers from the loss of social network as individuals leave Buzzard Point.

ii. Sylvia Carroll

144. Plaintiff Sylvia Carroll has also been a Buzzard Point resident since 1986.

145. Ms. Carroll is African-American. She is a non-millennial.

146. Ms. Carroll lives near Plaintiff Geraldine McClain and, as a result of Defendants' decisions, has experienced similar environmental hazards that has undermined her health, including air pollution from construction trucks, construction dust that coats surfaces in her house that is not remediated by air purifiers.

147. Ms. Carroll enjoys gardening but feels the air quality is so poor that sometimes she cannot work in her garden. She also suffers from the loss of social network as individuals leave Buzzard Point.

iii. Rhonda Hamilton

148. Plaintiff Rhonda Hamilton is a resident of Buzzard Point and founding member of NeRAC.

149. Rhonda Hamilton is African-American. She is a non-millennial.

150. Like other plaintiffs living in Buzzard Point, Rhonda Hamilton experiences environmental hazards like bad air from construction.

151. Rhonda Hamilton also suffers from the loss of social network as individuals leave Buzzard Point.

152. Moreover, after testifying before the D.C. Zoning Commission on several occasions, Rhonda Hamilton's negative experience with Defendants' decisions and the planning process have led to emotional stress and fear that she and her community are voiceless about the future of their neighborhood. In particular, they are witnessing the destruction and intentional redesign of their neighborhood, which is changing its character from a close-knit community of neighbors to blocks of high-density luxury buildings that she and her neighbors cannot

afford, which will imminently require them to move out of their neighborhood or imminently undermine their social networks.

153. In addition to being a resident, Rhonda Hamilton is an Area Neighborhood Commissioner (ANC) (suing in her individual capacity). Because she has make it a priority as a representative to her constituency to protect the character of her neighborhood, the existing and imminent construction and redevelopment has undermined Rhonda Hamilton's standing and reputation in the community, an additional injury.

E. Individual Plaintiffs: Poplar Point

i. Plaintiff Greta Fuller

154. Plaintiff Greta Full Greta Fuller is a Historic Anacostia resident and business owner.

155. Ms. Fuller is an African-American, non-millennial professional whose business is not considered a "creative business" by the D.C. Office of Planning.

156. In addition to the injury Ms. Fuller faces as a non-"creative business" owner, she is also an ANC 8A Commissioner, the region where the Poplar Point development is being built (suing in her individual capacity). She has dedicated hours as a representative to her constituency to protecting the character of her neighborhood, and the existing and imminent construction and redevelopment has undermined Ms. Fuller's standing and reputation in the community.

157. Additionally, Ms. Fuller faces humiliation and stress resulting from her efforts to educate through her testimony the D.C. Zoning Commission about the serious negative implications of its decision-making, which ultimately resulted in Ms. Fuller's concern that the zoning process is a sham and her strenuous efforts were futile.

F. Individual Plaintiffs: Union Market

i. Plaintiff Shanifinne Ball

158. Plaintiff Shanifinne Ball is a resident of the Union Market neighborhood.

159. Ms. Ball is African-American. She is a non-millennial.

160. Ms. Ball is not employed and lives on a fixed income.

161. In Ms. Ball's community, multi-PUD development is currently underway, located less than two blocks from her home. As a direct result of Defendants' decisions, she lives in reasonable fear about several aspects of her imminently changing neighborhood: environmental degradation similar to other plaintiffs, increased taxes that she will not be able to afford on her home, and the changing character of her neighborhood, the loss of nearby business at which she engages in commerce, and break-up of her social network.

G. Individual Plaintiffs: Housing Insecure Plaintiffs

i. Tamia Wells

162. Plaintiff Tamia Wells is a low-income tenant who cannot find safe, affordable housing for her family.

163. Tamia Wells is a mother with a minor child who seeks to rent in a racially integrated neighborhood.

164. Tamia Wells is African-American.

165. As a result of Defendants' decisions—including but not limited to the D.C. Zoning Commission's custom and practice of not conducting comprehensive reviews of projects that account for the impact of "Creative Class" development on lower income families' racial segregation—there are very few affordable multi-bedroom rental units available for low-income African-Americans in racially integrated neighborhoods.

ii. Ariyon Wells

166. Plaintiff Ariyon Wells is the adult daughter of Tamia Wells.

167. Ariyon Wells is also a low-income tenant who cannot find safe, affordable housing.

168. Ariyon Wells seeks to rent in a racially integrated neighborhood.

169. Ariyon Wells is African-American.

170. As a result of Defendants' decisions—including but not limited to the D.C. Zoning Commission's custom and practice of not conducting comprehensive reviews of projects that account for the impact of "Creative Class" development on low-income families' racial segregation—there are very few affordable multi-bedroom rental units available for low-income African-Americans in racially integrated neighborhoods.

CLASS ALLEGATIONS

171. Plaintiffs CARE, NeRAC, Paulette Matthews, Tendani Mpulubusi El, Michelle Hamilton, Geraldine McClain, Sylvia Carroll, Rhonda Hamilton, Greta Fuller, Shanifinne Ball, Tamia Wells, and Ariyon Wells, bring this action on behalf of themselves and all others similarly situated pursuant to Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, or in the alternative as a hybrid class under Rule 23(a) and 23(b)(2) and (c)(4), on behalf of the following subclasses:

a. Residents in Opposition Subclass: All residents who have appeared before the Zoning Commission since 2006, who when they appeared before the Zoning Commission lived in a community that was targeted for economic redevelopment pursuant to the Creative Action Agenda, Creative Economic Strategy, and Cultural Plan DC by virtue of it being in or directly adjacent to an industrial zoned district and were subjected to arbitrary and capricious PUD decisions that

either did not make findings of fact for contested issues on the record or did not make findings based on substantial evidence on the record regarding the issue of adverse environmental impacts.

b. Legacy Residents in Opposition Subclass: All residents who have appeared before the Zoning Commission since 2006, who 1.) testified as to their concerns about gentrification and displacement when they appeared before the Zoning Commission, 2.) lived in the community where the PUD project was being proposed for greater than 10 years, and 3.) at the time of the project proposal said community had a majority of black residents. However, after meeting those three criteria were subjected to arbitrary and capricious PUD decisions that either did not make findings of fact for contested issues on the record or did not make findings based on substantial evidence on the record regarding the issues of gentrification and displacement.

c. Residents Seeking Fair Housing Subclass: All residents who have been seeking affordable family housing in non-segregated neighborhoods since 2006, have been on the affordable housing waitlist for longer than one year, and have been unable to find affordable family housing in a non-segregated community as the result of discriminatory District of Columbia governmental policy to produce housing for residents directly based on source of income and age and indirectly based on family size, race, and religious background.

172. The Residents in Opposition Subclass seek monetary damages for all members of the proposed subclass so that all members of the proposed subclass will have recompense for injuries to their physical health and mental health and the future harm that will result from

the injuries they have suffered from environmental pollutants including, but not limited to, adverse impacts from air pollution, soil pollution, water pollution, flooding, and noise pollution traceable at least in part to construction projects that went forward as a result of customs and policies of the Zoning Commission to not make findings on the record or not make findings based on substantial evidence on the record regarding adverse environmental impacts to PUD projects. The Residents in opposition subclass also seek permanent injunctive relief for individuals who oppose future projects arguing for consideration of adverse environmental impacts so that the Zoning Commission must at least make findings on the record considering adverse environmental impacts pursuant to DC regulations and common law. Also, the Residents in Opposition Subclass seek permanent injunctive relief for individuals who oppose future projects arguing for consideration of adverse impacts arising from environmental pollutants so that the Zoning Commission must receive written reports from relevant District of Columbia Agencies assessing project impacts pursuant to statute, in this instance receive written reports from DDOE.

173. The Legacy Residents in Opposition Subclass seek monetary damages for all members of the proposed subclass so that all members of the proposed subclass will have recompense for loss of social support networks, including like-kind exchange and business opportunities, traceable to PUD approvals that came as a result of customs and policies of the Zoning Commission to not make findings on the record or not make findings based on substantial evidence on the record regarding gentrification and displacement arising from PUD projects. The Legacy Residents in opposition subclass also seek permanent injunctive relief for individuals who oppose future projects arguing for consideration of gentrification and displacement so that the Zoning Commission must at least make findings on the record considering adverse impacts from gentrification and displacement pursuant to DC

regulations and common law. Also, the Legacy Residents in Opposition Subclass seek permanent injunctive relief for individuals who oppose future projects arguing for consideration of adverse impacts arising from gentrification and displacement so that the Zoning Commission must receive written reports from relevant District of Columbia Agencies assessing project impacts pursuant to statute, in this instance receive written reports from DHCD.

174. Residents Seeking Fair Housing Subclass seek permanent injunctive relief for all members of the proposed subclass so that all members of the proposed subclass stop being discriminated against by District of Columbia governmental policies that have direct preferences based on age and source of income with respect to real property transactions. The residents Seeking Fair Housing subclass seek permanent injunctive relief whereby the District of Columbia government must immediately cease linking discriminatory Creative Class policy to zoning land use so that the subclass can seek housing in a housing market where the government is not perpetuating racial segregation. The Residents Seeking Fair Housing Subclass also seek monetary damages for actual costs spent seeking housing including travel expenses and time off work to make appointments. The Residents Seeking Fair Housing Subclass also seek monetary damages for the mental distress that arises from housing instability caused at least partially by discriminatory housing policy propagated by the District of Columbia government.

175. This action is properly maintainable as a class action, because the requirements of Rule 23(a) and Rule 23(b) of the Federal Rules of Civil Procedure can be satisfied.

176. The subclasses are so numerous that joinder of all members is impracticable.

177. There are numerous questions of law and fact that are common to each member of the proposed Subclasses.

178. The District of Columbia's customs, policies, and practices to either not make findings of fact for contested issues on the record or not make findings based on substantial evidence on the record regarding the issue of adverse environmental impacts have the same impact on all Residents in Opposition Subclass members, as the District of Columbia's uniform policy to transform industrially zoned neighborhoods pursuant to discriminatory Creative Class policy leads to reduced air quality from construction dust and diesel emissions, ceaseless noise, and mental distress. In particular, common questions of law and fact that apply to each subclass member include, but are not limited to:

a. Whether Defendants' policy or practice of transforming industrially zoned neighborhoods pursuant to discriminatory Creative Class policy results in arbitrary and capricious rulings for residents in or directly adjacent to those neighborhoods?
b. Whether arbitrary and capricious rulings regarding environmental impacts from PUD approvals cause harm to residents in or adjacent to neighborhoods targeted for transformation by discriminatory Creative Class policy?
c. Whether the District of Columbia Government may be enjoined from proceeding with transforming industrially zoned neighborhoods without giving fair hearings?
d. Whether the District of Columbia's actions violate the DCHRA statute on Subterfuge?
e. Whether the District of Columbia's actions violate the 5th Amendment Due Process Clause?
f. Whether the District of Columbia has legitimate non-discriminatory reasons for their conduct?

179. The Zoning Commission has intentionally and systematically failed to either make findings of fact for contested issues on the record or not make findings based on substantial evidence on the record regarding the issues of gentrification and displacement in furtherance of discriminatory Creative Class policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions. The Zoning Commissions actions therefore will continue to re-segregate and break apart long standing communities and will have the same impact on all Legacy Residents in Opposition subclass. In particular, common questions of law and fact that apply to each subclass member include, but are not limited to:

a. Whether Defendants' policy or practice of transforming neighborhoods inimical to discriminatory Creative Class policy results in arbitrary and capricious rulings for residents in or directly adjacent to those neighborhoods?
b. Whether arbitrary and capricious rulings regarding gentrification or displacement from PUD approvals cause harm to residents in or adjacent to neighborhoods targeted by discriminatory policy as result of their neighborhoods being inimical to Creative Class growth?
c. Whether the District of Columbia Government may be enjoined from proceeding with transforming neighborhoods inimical to Creative Class growth without giving fair hearings at the Zoning Commission?
d. Whether the District of Columbia and DCHA's actions violate the DCHRA statute on Subterfuge?
e. Whether the DCHA and District of Columbia government have legitimate non-discriminatory reasons for their conduct?

180. The District of Columbia government has intentionally propagated discriminatory Creative Class policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions. Upon information and belief, the District of Columbia government's actions have disparately impacted blacks who are non-creative and non-millennial and earn incomes which qualify them for affordable housing assistance, the same, and thus the afore-named Residents Seeking Fair Housing Subclass. In particular, common questions of law and fact that apply to each subclass member include, but are not limited to:

a. Whether the District of Columbia's intentionally discriminatory Creative Class policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions has resulted in the perpetuation of segregation?
b. Whether the District of Columbia's intentionally discriminatory Creative Class policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions has exacerbated income inequality and led to housing instability?
c. Whether the District of Columbia Government may be enjoined from proceeding with intentionally discriminatory Creative Class policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions?
d. Whether the District of Columbia government's actions violate the DCHRA statute on Blockbusting?
e. Whether the District of Columbia government's actions disparately impact black residents?

f. Whether the District of Columbia government has legitimate non-discriminatory reasons for their conduct?

181. The claims of the named Residents in Opposition Subclass, Legacy Residents in Opposition Subclass, and the Residents Seeking Fair Housing Subclass are typical of the claims of the other putative and respective Subclass Members they seek to represent.

a. Residents in Opposition Subclass challenge a single policy and practice of the Zoning Commission through which the Zoning Commission has chosen to purposefully not make findings of fact for contested issues on the record or not make findings based on substantial evidence on the record regarding the issue of adverse environmental impacts in order to transform industrially zoned neighborhoods pursuant to discriminatory Creative Class policy that was implemented by the District of Columbia government. Plaintiffs' civil rights were accordingly violated in the same manner as all other Residents in Opposition Subclass Members, who were subjected to the Zoning Commission's same policy or practice.

b. Legacy Residents in Opposition Subclass challenge the Zoning Commission's practice through which it has chosen to not make findings on the record or not make findings based on substantial evidence on the record regarding gentrification and displacement arising from PUD projects in order to effectuate discriminatory District of Columbia Creative Class policy to break apart long standing communities that are inimical to Creative Class growth. Plaintiffs' civil rights were accordingly violated in the same manner as all other Legacy

Residents in opposition Subclass Members, who were subjected to Defendant DCHA's same policy or practice.

c. Residents Seeking Fair Housing Subclass challenge discriminatory District of Columbia policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions and that were intentionally propagated pursuant to the Creative Action Agenda, Creative Economy Strategy, and the Cultural Plan DC. Each policy document being an iterative update to the same underlying policy and civil rights violation.

182. The named Residents in Opposition Subclass, Legacy Residents in Opposition Subclass, and Residents Seeking Fair Housing Subclass will fairly and adequately protect the interests of the proposed Subclasses. The named Residents in Opposition Subclass, Legacy Residents in Opposition Subclass, and Residents Seeking Fair Housing Subclass Plaintiffs are aware of no conflict with any other member of the respective subclasses. The named Residents in Opposition Subclass, Legacy Residents in Opposition Subclass, and Residents Seeking Fair Housing Subclass Plaintiffs understand their obligations as proposed Subclass Representatives, have already taken steps to fulfill them, and are prepared to continue to fulfill their duties as proposed subclass representatives.

183. Defendants have no unique defenses against the named Residents in Opposition Subclass, Legacy Residents in Opposition Subclass, and Residents Seeking Fair Housing Subclass Plaintiffs that would interfere with them serving as Class Representatives of their respective subclasses.

184. Class Plaintiffs' counsel are inexperienced in federal court class-action litigation. However, this matter being a case of public interest Class Plaintiffs' counsel has received several co-counsel and of-counsel offers. Should the case proceed to class certification, Plaintiffs' counsel anticipates being fully prepared to handle such a matter.

185. This action may be maintained as a class action pursuant to Rule 23(b)(3) of because the questions of law and fact common to members of the subclasses predominate over questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient resolution of this controversy.

186. This action may alternatively be maintained as hybrid subclasses under Rule 23(b)(2) and 23(b)(3), in which the Court certifies a Rule 23(b)(2) subclass with respect to the claims for injunctive or declaratory relief for each subclass and a Rule 23(b)(3) subclass with respect to the monetary claims for each subclass, and grants the right to opt out to subclass members regarding monetary relief.

a. The Zoning Commission's actions whereby they have chosen to purposefully not make findings of fact for contested issues on the record or not make findings based on substantial evidence on the record regarding the issue of adverse environmental impacts in order to more quickly transform industrially zoned neighborhoods pursuant to discriminatory Creative Class policy that was implemented by the District of Columbia government applies generally to the members of the Residents in Opposition Subclass. Final injunctive or declaratory relief, therefore, is appropriate with respect to the subclass as a whole. The proposed Residents in Opposition Subclass can satisfy Rule 23(b)(3)'s requirements of predominance and superiority, and to the extent that some of the

members of the Proposed Residents in Opposition Subclass have damages, their claims for damages can be adjudicated consistent with Rule 23(b)(3).

b. The Zoning Commission's actions whereby they have chosen to not make findings on the record or not make findings based on substantial evidence on the record regarding gentrification and displacement arising from PUD projects in order to effectuate discriminatory District of Columbia Creative Class policy to break apart long standing communities that are inimical to Creative Class growth applies generally to the members of Legacy Residents in Opposition Subclass. Final injunctive or declaratory relief, therefore, is appropriate with respect to the subclass as a whole. The proposed Conditions Tenants Subclass can satisfy Rule 23(b)(3)'s requirements of predominance and superiority, and to the extent that some of the members of the Legacy Residents in Opposition Subclass have damages, their claims for damages can be adjudicated consistent with Rule 23(b)(3).

187. The District of Columbia governmental actions whereby they have propagated policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions pursuant to the Creative Action Agenda, Creative Economy Strategy, and the Cultural Plan DC applies generally to the members of Residents seeking Fair Housing Subclass. Final injunctive or declaratory relief, therefore, is appropriate with respect to the subclass as a whole. The proposed Residents seeking Fair Housing Subclass can satisfy Rule 23(b)(3)'s requirements of predominance and superiority, and to the extent that some of the members of the Legacy Residents in Opposition Subclass have damages, their claims for damages can be adjudicated consistent with Rule 23(b)(3).

188. Finally, this action may alternatively be maintained as hybrid subclasses pursuant to Rule 23(b)(2) and (c)(4). Because final injunctive or declaratory relief is appropriate with respect to each respective subclass as a whole, the proposed Residents in Opposition Subclass, Legacy Residents in Opposition Subclass, and Residents Seeking Fair Housing Subclass may seek injunctive and declaratory relief pursuant to Rule 23(b)(2) for each respective subclass. In addition, the Court may certify issue subclasses pursuant to Rule 23(c)(4), which states that "an action may be brought or maintained as a class action with respect to particular issues," while resolving on an individual basis the claims for damages that some of the proposed Subclass Members or each subclass may have.

189. By resolving the common issues described herein through a single class proceeding, each member of the Residents in Opposition Subclass will receive a determination of whether the Zoning Commissions policy or practice of not making findings of fact for contested issues on the record or not make findings based on substantial evidence on the record regarding the issue of adverse environmental impacts in order to more quickly transform industrially zoned neighborhoods pursuant to discriminatory Creative Class policy that was implemented by the District of Columbia government violates the DCHRA and 5th amendment and whether Defendants should be enjoined from linking source of income preference, age preference, and resident desirability preferences to zoning decisions involving residential housing.

190. By resolving the common issues described herein through a single class proceeding, each member of the Legacy Residents in Opposition Subclass will receive a determination of whether the Zoning Commission's policy or practice of not making findings of fact for contested issues on the record or not make findings based on substantial evidence on the record regarding the issue of adverse impacts of gentrification and displacement in order to

break apart communities seen as inimical to discriminatory Creative Class policy that was implemented by the District of Columbia government violates the DCHRA and whether Defendants should be enjoined from linking source of income preference, age preference, and resident desirability preferences to zoning decisions involving residential housing.

191. By resolving the common issues described herein through a single class proceeding, each member of the Residents Seeking Fair Housing Subclass will receive a determination of whether District of Columbia Governmental policy or practice policies that have preferences based on age, source of income, and desirability of certain residents over others with respect to real property transactions pursuant to the Creative Action Agenda, Creative Economy Strategy, and the Cultural Plan DC violates the DCHRA and the FHA and whether Defendants should be enjoined from linking source of income preference, age preference, and resident desirability preferences to zoning decisions involving residential housing.

192. Members of the proposed Subclasses do not have a significant interest in controlling the prosecution of separate actions, as a single injunction will provide all Residents in Opposition Subclass, Legacy Residents in Opposition Subclass, and Residents Seeking Fair Housing Subclass the primary respective relief that they seek for the respective subclasses in this litigation.

193. This is the second civil rights litigation involving the redevelopment of Barry Farm. However, this case brings entirely different causes of action.

194. There are no difficulties in managing the subclasses as a class action.

COUNT ONE
PROCEDURAL DUE PROCESS – BARRY FARM – ZC No. 14-02
FIFTH AMENDMENT VIOLATION
Barry Farm v Zoning Commission,

Plaintiffs – Paulette Matthews and Michelle Hamilton
Defendant – District of Columbia

195. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

196. The Zoning Commission took several intentional actions against Plaintiffs, including but not limited to:

a. Exhibiting bias against Ms. Matthews and Ms. Hamilton because they represent a class of citizen that the city government does not consider "high value."

b. Making arbitrary and capricious findings of fact and erroneous and egregious conclusions of law in ZC No. 14-02.

c. Failing to make findings of fact on issues of resident hardship in ZC No. 14-02.

d. Denying Ms. Matthews and Ms. Hamilton an opportunity to chance to be heard through the organization representing their interests when the Zoning Commission denied BFTAA party status.

e. Denying Ms. Matthews and Ms. Hamilton the opportunity to contemporaneously cross-examine witnesses through the organization representing their interests when the Zoning Commission denied BFTAA party status.

f. Giving Ms. Matthews and Ms. Hamilton inadequate notice in violation of their statutory rights. They only learned BFTAA was granted party status the day of the next hearing and thus the group representing their interests could not adequately prepare their testimony, cross examination, or bring witnesses.

g. Displaying bias in reading the Uniform Relation Act incorrectly and ignoring its statutory provisions.

h. Incorrectly stating on the record several times that relocation, displacement, and gentrification were outside of its purview when those issues clearly were within its purview.

i. On the whole, proceeding over fundamentally unfair proceedings in ZC 14-02.

197. Defendants' intentional acts deprived Ms. Matthews and Ms. Hamilton of their constitutionally or statutorily protected rights, including but not limited to their right to participate in proceedings that comply with D.C. law and their right to access and enjoy their housing.

198. Ms. Matthews and Ms. Hamilton were injured by the unfair proceedings and today live with the consequences.

199. Ms. Matthews lives in a hollowed-out community rend from her social support networks due to the inaction of the Zoning Commission whose failure to adhere to statutory requirements

200. There are policies currently in place that could have avoided their injuries.

201. Including the Area Comprehensive Plan Policy 2.3.1, statutes that call for mitigation of adverse impacts of development projects, and statutes regarding assignment of party status.

202. As a result, Ms. Matthews and Ms. Hamilton face present and future injuries as described in the individual allegations.

COUNT TWO
PROCEDURAL DUE PROCESS – BUZZARD POINT – ZC No. 16-02
FIFTH AMENDMENT VIOLATION

Plaintiff – NeRAC, Sylvia Carroll, Geraldine McClain, and Rhonda Hamilton
Defendant – District of Columbia

203. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

204. The Zoning Commission took several intentional actions against Plaintiffs, including but not limited to:

a. Exhibiting bias against NeRAC, Ms. Hamilton, and other members of NeRAC because they represent a class of citizen that the city government does not consider “high value.”

b. Making arbitrary and capricious findings of fact and erroneous and egregious conclusions of law in ZC No. 16-02.

c. Failing to make findings of fact regarding the contested issue of whether there were cumulative health risks posed to residents from PUD approval, despite that (1) NeRAC member Kari Fulton testified at the first public meeting for ZC No 16-02, (2) Experts testified as to the adverse impacts of toxic fugitive dust escaping the site as to the adverse impacts was the cumulative exposure to airborne toxins and how they interact with other airborne toxins to cause morbidity, (3) area residents, including Buzzard Point residents, advocated for a complete soil remediation at the development site and for a baseline study to take place to understand both the composition and level of toxicity present in the air surrounding the site, (4) The CHASS study and an applicant consultant confirmed that the exact composition of the toxins in the soil at the soccer stadium site was unknown, (5) DOEE did provide a written report but did not conduct an impact study allowing the developer to hire a third party consultant that included a waiver for any negative health outcomes affiliated with construction of the stadium, (6) Commissioner Turnbull also insisted on "placing the shovel" back in the developers hands , refusing to sign any order that specified there were no health risks to surrounding area residents from

developing the site, (7) Experts testified that dust accumulating on surfaces surrounding the site posed a health concern, (8) The CHASS study also found that dust accumulating on surfaces surrounding the site posed a health risk for area residents, ZC Order 16-02 found that air monitoring equipment would trigger a cessation to development if toxic particulate was registered as having escaped the site, and (9) logically, if toxic dust leaves the site it means harm was already done and injuring residents.

d. Failing to mention the residents' concerns in ZC order 16-02 and arbitrarily finding that the developer was abiding by all regulations.

e. Failing to make findings of fact regarding the contested issue of whether there were cumulative health risks posed to residents from PUD approval.

f. Failing to address resident concerns about displacement and gentrification despite that it was separately raised by residents, arbitrarily determining that since stadium site was empty there would be no risk of displacement or gentrification, arbitrarily finding that since the current stadium site was empty there would be no risk of displacement or gentrification from PUD approval but not basing it on evidence on the record as there was no DHCD impact assessment, nor any other kind of study regarding gentrification or displacement on the record in ZC 16-02.

g. Failing to make findings of fact on the adverse impacts of the cumulative exposure to environmental pollutants that had the acknowledged potential of making surrounding residents sick in ZC 16-02

h. Failing to make findings based on substantial evidence on the record regarding the adverse impacts from gentrification and displacement in ZC 16-02.

i. Allowing Applicant's agreement with the District of Columbia to impermissibly expedite permitted to meet project milestones in order to play soccer home games at the field.

205. Defendants' intentional acts deprived NeRAC, Sylvia Carroll, Geraldine McClain, and Rhonda Hamilton of their constitutionally or statutorily protected rights, including but not limited to their right to participate in proceedings that comply with D.C. law and their right to access and enjoy their housing.

206. For the aforementioned reasons, zoning case number 16-02 was fundamentally unfair and violated the Fifth Amendment procedural due process rights of residents.

207. As a result, NeRAC, Sylvia Carroll, Geraldine McClain, and Rhonda Hamilton face present and future injuries as described in the individual allegations.

COUNT THREE
PROCEDURAL DUE PROCESS – UNION MARKET – ZC No. 15-28
FIFTH AMENDMENT VIOLATION

Plaintiff – Shanifinne Ball
Defendant – District of Columbia

208. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

209. Shanifinne Ball is a member of the Union Market Neighbors.

210. June 20, 2016 the Union Market Neighbors sent in their request for party status.

211. The first public hearing was on July 25, 2016.

212. The developer's project consisted of 372 units, 175 hotel rooms, 25,659 square feet of "creative use" space and 25, 327 square feet of retail space on the ground floor.

213. The total FAR was 6.67 and therefore is considered high density.

214. Shanifinne Ball lives two blocks from the construction site in a moderate density zone.

215. Union Market Neighbors through its attorney argued that members lived within two blocks of the site and therefore were entitled to party status due to their concerns about gentrification, displacement, tax rate increases, environmental concerns, and neighborhood character.

216. The Zoning Commission took several intentional actions against Plaintiffs, including but not limited to:

a. Exhibiting bias against NeRAC, Ms. Hamilton, and other members of NeRAC because they represent a class of citizen that the city government does not consider "high value."

b. Making arbitrary and capricious findings of fact and erroneous and egregious conclusions of law in ZC No. 15-28.

c. Summarily denying party status request and stating Ms. Ball's (and Union Market Neighbors') concerns did not rise to the level of party status.

d. Denying Ms. Ball the opportunity to bring and cross examine witnesses.[31]

e. Failing to make a single finding of fact on any of the issues the Union Market Neighbor's submitted for the record, including, concerns about gentrification, displacement, tax increases, parking, neighborhood character, environmental concerns, and neighborhood destabilization, all o fwhich would qualify within the Zoning Commission's purview.

f. Failing to collect a written impact assessment from the DHCD or any other relevant agency besides DDOT.

[31] At D.C. Court of Appeals oral arguments Intervenors argued no one from the Union Market Neighbors appeared at the Zoning Commission, however their facilitator signed an affidavit stating he was present and ready to present UMN's case.

217. Defendants' intentional acts deprived Ms. Ball of her constitutionally or statutorily protected rights, including but not limited to her right to participate in proceedings that comply with D.C. law and her right to access and enjoy her housing.

218. For the foregoing reasons, the entirety of the zoning proceedings in ZC No. 15-28 were fundamentally unfair and Ms. Ball's procedural due process rights were violated.

219. As a result, Ms. Ball faces present and future injuries as described in the individual allegations.

220. Therefore, Ms. Ball seeks immediate injunctive relief on ZC No. 15-28 so that the DHCD may conduct an impact assessment for the 548-unit luxury project then properly weigh the benefits of the project against the project's adverse impacts.

COUNT FOUR
PROCEDURAL DUE PROCESS – POPLAR POINT – ZC No. 16-29
FIFTH AMENDMENT VIOLATION

Plaintiff – CARE, Greta Fuller, Tendani Mpulubusi El
Defendant – District of Columbia

221. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

222. Greta Fuller and Tendani Mpulubusi-El are current and active members of CARE.

223. CARE submitted a party status request and record testimony on December 12, 2017.

224. CARE argued that the project would lead to displacement, gentrification, community destabilization, and tax increases.

225. CARE argued this would occur because the project is only 8% affordable housing at levels of affordability too expensive for the surrounding census tracts.

226. CARE provided data backing this claim.

227. CARE provided the Zoning Commission with a letter from HUD specifying a lack of comprehensive planning was re-segregating communities and leading to a loss of affordable housing for low and mid income people.

228. CARE also requested the hearing be delayed until a DHCD written "impact assessment" report could be produced pursuant to 11 DCMR 308.4.

229. CARE argued that the Poplar Point development was part of synergistic planning for the area that had the potential to erase adjacent historically black communities.

230. Separately, Greta Fuller had party status as an ANC and had asked for and received one delay seeking more information about the project

231. The Zoning Commission took several intentional actions against Plaintiffs, including but not limited to:

    a. Exhibiting bias against CARE, Greta Fuller, and Tendani Mpulubusi El, and other members of CARE because they represent a class of citizen that the city government does not consider "high value."
    b. Making arbitrary and capricious findings of fact and erroneous and egregious conclusions of law in ZC No. 16-29.
    c. Denying CARE's request for a DHCD written report and made no factual findings about whether a DHCD written report was received. *McMillan Park v Zoning Commission*.
    d. Failing to reach a legal conclusion on the Zoning Commission's failure to procure an impact assessment from the DHCD.
    e. Only allowing one member of CARE to speak (Ms. Matthews) despite that CARE was represented by counsel who was present at the hearing and sought to speak for CARE at the meeting.

f. Using Ms. Matthews' testimony—the sole testimony allowed—on which to base findings for all of CARE's concerns which at the time included a dozen people.

g. Failing to make findings on gentrification in their order despite it being a contested fact and within their purview, *McMillan Park v Zoning Commission*.

h. Vaguely and in adequately referencing g "changes" to the area being outweighed by the project's benefits but make that finding on evidence that cannot be located on the record since there are no impact assessments to base the finding on.

i. Arbitrarily concluding that concerns about displacement were addressed by developer contributions to two community organizations that have as their mission preservation of historic homes and have no known connection to anti-displacement efforts for current residents.

j. Failing to make findings of fact on how the massive Poplar Point development in conjunction with a quick succession of other massive development projects in the area would destabilize the community despite being statutorily required to conduct a comprehensive review.

k. Erroneously finding, in response to CARE filing DHCD policy documents pertaining to development in black communities East of the River, that their review is limited to judging the "instant application" and does not include unrelated District of Columbia government policy documents.

l. Failing to make findings of fact on at least three contested issues brought by CARE including concerns about gentrification, concerns about conducting a comprehensive review of synergistic development, and whether a DHCD impact assessment was placed on the record in accord with 11 DCMR 308.4.

m. Making erroneous legal conclusions, including blanket rejection of public policy documents as supporting evidence.

n. Making findings of fact that did not align with the record at at least two occasions: finding the Historic Anacostia Trust and the Historic Anacostia Preservation society will help prevent displacement and also finding the project's benefits outweigh the project's harms despite having no impact assessment to determine project harms.

232. Defendants' intentional acts deprived CARE, Greta Fuller, Tendani Mpulubusi-El, and other CARE members of their constitutionally or statutorily protected rights, including but not limited to their right to participate in proceedings that comply with D.C. law and their right to access and enjoy their housing.

233. For the foregoing reasons, *inter-alia*, the entirety of the zoning proceedings in ZC No. 16-29 were fundamentally unfair and Greta Fuller, Tendani Mpulubusi-El, and CARE members procedural due process rights were violated.

234. As a result, CARE, Greta Fuller, Tendani Mpulubusi-El, and CARE members face present and future injuries as described in the individual allegations.

235. Therefore, CARE, Greta Fuller, Tendani Mpulubusi-El, and CARE members seek immediate injunctive relief so that the DHCD may conduct an impact assessment for the 700-unit luxury project then may properly weigh the benefits of the project against the project's adverse impacts.

COUNT FIVE
PROCEDURAL DUE PROCESS
FIFTH AMENDMENT VIOLATION
FAILURE TO PROVIDE PRE-DEPRIVATION PROCEDURES AND FAILURE TO EXECUTE POST- DEPRIVATION PROCEDURES AFTER IMPLIMENTING CREATIVE CLASS POLICIES

Plaintiffs - All
Defendants – District of Columbia

236. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

237. The District of Columbia government violated the Fifth Amendment procedural due process rights of District of Columbia residents by failing to put in place pre-deprivation procedures and by failing to execute post-deprivation procedures, through the following intentional actions, including but not limited to:

a. In pursuit of the Creative Class Agenda, dramatically changing how zoning processes have traditionally operated, thus implicating the property, life, and liberty of Plaintiffs.

b. Denying the PUD process unless the mixed-use portion of the project fit the very specific definitions of a "maker use", a designation located nowhere in the zoning regulations.[32]

c. Assigning "high value" to residents who meet Defendants' definition of Creative Class and giving priority to those residents to the detriment and exclusion of non-Creative Class residents, particularly low-income African-American residents in Anacostia, where development is targeted.

d. Repeatedly failing to provide even basic pre-deprivation or post-deprivation procedures in zoning and land use decision-making.

[32]A "maker use" is a type of land use derivative of Richard Florida theories meant to attract and retain "creatives".

238. Defendants have demonstrated a pattern and practice of denying even basic pre-deprivation or post-deprivation procedures in zoning, as illustrated by the examples in Counts I through IV, in which land use and zoning rules were repeated violated.

239. These statutory benefits include protection from the adverse impacts of development projects, protection against gentrification and displacement, protection against environmental pollutants, and protection against community destabilization.

240. In its place the District of Columbia government offered built environments for people based on their membership in an invented discrete class and which discriminated explicitly based on source of income and age.

241. Upon information and belief, this change in how the Zoning Commission operated occurred without a hearing or any opportunity to be heard.

242. Upon information and belief, the only notice occurred through a series of press announcements, informal gatherings, and public policy documents.

243. As a result, District of Columbia residents have had their property, life, and liberty interests severely impacted.

244. Such an impact was predictable as city planners knew or should have known the ramifications for implementing Creative Class policy as early as 2004.

245. In 2004, almost an entire issue of the Journal of the American Planning Association was dedicated to soundly criticizing Creative Class policy.

246. Even Florida's own work in the early iterations should have raised reservations.

247. Given Director Tregoning's near rote execution of Florida's theories it is almost incomprehensible that the Office of Planning was unaware of the downsides of Creative Class policy.

248. Due diligence through an agency white paper on the potential harms associated with broad reaching implementation of Creative Class policy would have yielded many red flags.

249. Upon information and belief, one was never produced for such a massive and broad reaching undertaking and is representative of District of Columbia government gross negligence.

250. Even after years of implementing Creative Class policies, years of studies noting segregative effect to Creative Class policies, and years of correlative data concerning inequality, segregation, and displacement in the District of Columbia it was not until 2016 that the District of Columbia government began to even half-heartedly address the cons to linking housing production to source of income and age.

251. Further, there are basic tenets to city planning which could have been implemented to limit the harm done to District of Columbia residents and many already are required by statute.

252. However, even to this day, those post-deprivation requirements are routinely ignored.

253. Prior to any PUD approval written reports from the DHCD assessing the adverse impact of development proposals are supposed to be submitted to the Zoning Commission and considered along with resident testimony.

254. If there are found to be any adverse impacts, steps must be taken to mitigate them prior to a PUD approval.

255. The Zoning Commission regularly approves PUD's without DHCD written reports assessing the adverse impacts of projects.

256. On the few occasions where the DHCD has even been asked to produce a written report by the Zoning Commission, they decline.

257. Following those post-deprivation procedures would have prevented the normalization of the Zoning Commission primarily offering built environments for people based on source of income and age.

258. Thus, the District of Columbia government violated the 5th amendment due process rights of District of Columbia residents.

259. As a result, Plaintiffs face present and future injuries as described in the individual allegations.

COUNT SIX
EQUAL PROTECTION
FIFTH AMENDMENT VIOLATION
RACE-BASED DISCRIMINATION – DISPARATE TREATMENT

Plaintiffs - All
Defendants – District of Columbia

260. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

261. The District of Columbia government violated the Fifth Amendment's guarantee of Equal Protection on the basis of race in its housing policies adopted in pursuit of the Creative Class Agenda, in the manner in which it carried out land use and zoning decision-making as previously alleged.

262. This disparate treatment has adversely affected African-Americans, particularly those living in historically and predominantly black communities that are targeted for redevelopment in Anacostia.

263. Defendants have engaged in unlawful practices that would not otherwise occur but for, wholly or partially, discriminatory reasons, as illustrated in Defendants' lengthy pattern of arbitrary behavior that cannot be explained but for animus on the basis of race against black residents.

264. As a direct and proximate result of Defendants' unconstitutional and unequal treatment, Plaintiffs have been injured, including but not limited to the allegations alleged in the individual allegations.

COUNT SEVEN
DC HUMAN RIGHTS ACT OF 1977 DC Code § 2-1402.21(a)(2)
EXPLICIT PREFERENCE FOR AGE AND SOURCE OF INCOME IN REAL ESTATE TRANSACTIONS

Plaintiffs – All
Defendants – District of Columbia

265. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

266. The District of Columbia Human Rights Act, D.C. Code § 2-1402.21(a)(2) prohibits discrimination on the basis of age and source of income in the terms or conditions of a transaction in real property.

267. Defendants, in pursuit of the Creative Class Agenda, adopted a policy expressing a preference for allocation of public and private resources based on age (millennial) and source of income (creative, innovative, and non-traditional jobs).

268. A transaction in real property is defined as an agreement that has been negotiated pertaining to any interest in real property or improvements thereon.

269. The PUD process is a three-way negotiation between the District of Columbia government, residents, and private developers regarding an interest in real property, particularly which improvements will be allowed on real property delimited by lot number and square.

270. When a PUD is approved it comes as the result of an agreement between the District of Columbia government and developers.

271. "Strategy number 1" of the Creative Economy Strategy is to "improve access to space and affordable resources".

272. "Space" as referenced in "Strategy number 1" includes "live space" which is more commonly known as residential housing.

273. The entirety of the Creative Economy Strategy makes plain who this improved access to residential housing is meant for: millennials and creatives.

274. The methodology the Creative Economy Strategy uses to improve millennial and creative access to residential housing is "by changing zoning regulations in industrial areas and allowing residential use"

275. Thus the Creative Economy Strategy is a District of Columbia government publication that has source of income and age preferences with respect to real property transactions and violates the DCHRA.

276. Upon information and belief, the Zoning Commission has implemented land use changes to industrial zones city-wide by following District of Columbia policy that has the intent of providing housing to millennials and people who earn their income within certain professions.

277. As a result, Plaintiffs face present and future injuries as described in the individual allegations.

COUNT EIGHT
DC HUMAN RIGHTS ACT OF 1977 DC Code §2-1402.21(a)(5)
EXPLICIT PREFERENCE FOR SOURCE OF INCOME IN REAL ESTATE TRANSACTIONS

Plaintiffs - All
Defendants – District of Columbia

278. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

279. The District of Columbia Human Rights Act, D.C. Code § 2-1402.21(a)(5) prohibits discrimination on the basis of age and source of income in the making, printing, or publishing of any notice, statement, or advertising with respect to a real estate transaction.

280. Defendants, in pursuit of the Creative Class Agenda, adopted a policy expressing a preference for allocation of public and private resources based on age (millennial) and source of income (creative, innovative, and non-traditional jobs).

281. In ZC No. 15-28, the Zoning Commission included as an express condition of the pertinent real property transaction an unlawful preference for based on source of income.

282. A transaction in real property is defined as an agreement that has been negotiated pertaining to any interest in real property or improvements thereon.

283. The PUD process is a three-way negotiation between the District of Columbia government, residents, and private developers regarding an interest in real property, particularly which improvements will be allowed on real property delimited by lot number and square.

284. When a PUD is approved it comes as the result of an agreement between the District of Columbia government and developers.

285. In ZC No. 15-28 the Zoning Commission would not approve residential housing brought under the PUD process unless the mixed-use portion fit the very specific definitions of a "maker use", a designation located nowhere in the zoning regulations.

286. Creatives earn their livings in a peculiar way that is exclusive of those that earn their incomes based on working class and service class professions.

287. In ZC No. 15-28 the Zoning Commission restricted the development of residential housing based on how retail tenants in a mixed-use development earned their living.

288. In ZC No. 15-28 the restriction placed on land use was not a typical concern of zoning i.e. pollution, over-crowdedness, site appropriateness, noise, traffic, etc.

289. In ZC No. 15-28 the restriction was purely based on the desirability of certain types of people based on how they earn their living and efforts to retain and attract those "high

value" residents in accord with Creative Class theory and policy adopted by the District of Columbia government.

290. Accordingly, in ZC No. 15-28 the Zoning Commission violated the DCHRA.

291. Upon information and belief, the Zoning Commission has placed restrictions on the development of housing city-wide by following District of Columbia policy that has the intent of providing housing to millennials and people who earn their income within certain professions.

292. As a result, Plaintiffs face present and future injuries as described in the individual allegations.

COUNT NINE
DC HUMAN RIGHTS ACT OF 1977 DC Code § 2-1402.21(b)
SUBTERFUGE BASED ON AGE AND SOURCE OF INCOME

Plaintiffs - All
Defendants – District of Columbia

293. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

294. The District of Columbia Human Rights Act, D.C. Code § 2-1402.21(b) makes it an unlawful discriminatory practice to do any of the aforementioned prohibited acts, see D.C. Code § 2-1402.21(a), for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on age and source of income.

295. Defendants, in pursuit of the Creative Class Agenda, adopted a policy demonstrating a preference for allocation of public and private resources in real estate transactions based on age (millennial) and source of income (creative, innovative, and non-traditional jobs).

296. The Creative Class Agenda is a subterfuge for discrimination on the basis of age and source of income.

297. The Zoning Commission has unlawful practices that would not otherwise occur but for, wholly or partially, discriminatory reasons.

298. A transaction in real property is defined as an agreement that has been negotiated pertaining to any interest in real property or improvements thereon.

299. The PUD process is a three-way negotiation between the District of Columbia government, residents, and private developers regarding an interest in real property, particularly which improvements will be allowed on real property delimited by lot number and square.

300. When a PUD is approved it comes as the result of an agreement between the District of Columbia government and developers.

301. Upon information and belief, the Zoning Commission has repeatedly approved PUD applications in an arbitrary and capricious manner that violates the procedural due process rights of District of Columbia residents in order to, at least in part, effectuate the Creative Economy Strategy.

302. The Creative Economy Strategy is a District of Columbia government publication that has source of income and age preferences with respect to real estate transactions and violates the DCHRA.

303. Upon information and belief, and pursuant to the Creative Economy Strategy, the Zoning Commission has implemented land use changes to industrial zones city-wide by following District of Columbia government policy that has the intent of providing housing to millennials and people who earn their income within certain professions.

304. On at least one occasion the Zoning Commission has placed restrictions on the development of housing by following District of Columbia government policy that has the intent of providing housing to millennials and people who earn their income within certain professions.

305. Upon information and belief, the Zoning Commission has placed restrictions on the development of housing city-wide by following District of Columbia government policy that has the intent of providing housing to millennials and people who earn their income within certain professions.

306. Accordingly, the Zoning Commission has engaged in illegal subterfuge against the residents of the District of Columbia and contrary to the DCHRA.

307. As a result, Plaintiffs face present and future injuries as described in the individual allegations.

COUNT TEN
DC HUMAN RIGHTS ACT OF 1977 DC Code §2-1402.23
BLOCKBUSTING AND STEERING

Plaintiffs - All
Defendants – District of Columbia

308. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

309. The District of Columbia Human Rights Act, D.C. Code § 2-1402.23 makes it an unlawful discriminatory practice for any person, whether or not acting for monetary gain, to directly or indirectly engage in the practice of blockbusting and steering, including but limited to promoting, inducing, influencing, or attempting to include a transaction in real property to induce a person to discriminate on the basis of age or income.

310. Defendants, in pursuit of the Creative Class Agenda, adopted a policy of actively encouraging others to allocate public and private resources in real estate transactions based on age (millennial) and source of income (creative, innovative, and non-traditional jobs).

311. Various persons, namely the current Mayor, and Former Mayors Gray and Fenty, have engaged in unlawful discriminatory policies whereby they participated in blockbusting and steering based on age and source of income.

312. These documents are the Creative Action Agenda (Fenty) The Creative Economy Strategy (Gray), and The Creative Plan DC (Bowser).

313. A transaction in real property is defined as an agreement that has been negotiated pertaining to any interest in real property or improvements thereon.

314. The PUD process is a three-way negotiation between the District of Columbia government, residents, and private developers regarding an interest in real property, particularly which improvements will be allowed on real property delimited by lot number and square.

315. When a PUD is approved it comes as the result of an agreement between the District of Columbia government and developers.

316. The Creative Action Agenda purports to investigate ways to "coordinate opportunities for the development of affordable housing and live-work space…via zoning support…"

317. The Cultural Plan DC boasts that heavily gentrified areas like H St. and U St. were supported with a "combination of zoning and financing incentives"

318. "Strategy number 1" of the Creative Economy Strategy is to "improve access to space and affordable resources".

319. "Space" as referenced in "Strategy number 1" of the Creative Economy Strategy includes "live space" which is more commonly known as residential housing.

320. The entirety of the Creative Economy Strategy makes plain who this improved access to residential housing is meant for: millennials and creatives.

321. The methodology the Creative Economy Strategy uses to improve millennial and creative access to residential housing is "by changing zoning regulations in industrial areas and allowing residential use"

322. Thus, the Creative Economy Strategy is a District of Columbia government publication that has source of income and age preferences with respect to real estate transactions and violates the DCHRA.

323. As well, the entirety of the Cultural Plan DC and the Creative Action Agenda both emphasize who the zoning changes and development incentives are to directly benefit: creatives.

324. Thus, the Cultural Plan DC and the Creative Action Agenda are District of Columbia government publications that have source of income preferences with respect to real estate transactions and violates the DCHRA.

325. Thus, current and Former Mayors each undersigned and published policy documents referencing transactions or proposed transactions in real property that unlawfully indicates preferences based on age and source of income.

326. Upon information and belief, the Zoning Commission has implemented land use changes to industrial zones city-wide by following District of Columbia policy documents that has the intent of providing housing to millennials and people who earn their income within certain professions.

327. All of the aforementioned policy documents, which offer development incentives and zoning relief in order to attract and retain creatives and/or millennials and provide them with housing, were undersigned by either Mayor Bowser or former Mayors Fenty and Gray.

328. Therefore, Mayor Bowser and former Mayors Fenty and Gray are persons who have induced private developers to discriminate in their offerings, wholly or partially, through development incentives made available through project financing or the PUD process.

329. As a result, Plaintiffs face present and future injuries as described in the individual allegations.

COUNT ELEVEN
DC HUMAN RIGHTS ACT OF 1977 DC Code §2-1402.21(b)
SUBTERFUGE BASED ON RACE

Plaintiffs – Paulette Matthews, Michelle Hamilton
Defendants – All Defendants

330. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

331. The District of Columbia Human Rights Act, D.C. Code § 2-1402.21(b) makes it an unlawful discriminatory practice to do any of the aforementioned prohibited acts, see D.C. Code § 2-1402.21(a), for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on race, color or national origin.

332. Defendants, in pursuit of the Creative Class Agenda, adopted a policy of actively encouraging others to allocate public and private resources in real estate transactions based on age (millennial) and source of income (creative, innovative, and non-traditional jobs) to the detriment of low-income predominantly historic black residents of Anacostia neighborhoods.

333. The District of Columbia Housing Authority has unlawful practices that would not otherwise occur but for, wholly or partially, discriminatory reasons.

334. DCHA has repeatedly failed to comply with one for one housing replacement provisions, leading to the displacement of tens of thousands of black residents since 2006.

335. The DCHA testified at ZC 14-02 that DCHA does a fine job of relocating residents.

336. The Quadel Report states otherwise denoting numerous problems with DCHA's relocation programing highlighting instances of widespread displacement.

337. Instead of leveraging the public/private partnership with A&R Development in order to avoid resident hardship at the Barry Farm site, DCHA went to great lengths to cause resident hardship.

338. DCHA caused resident hardship by leaving the Barry Farm site in gross disrepair so as to constructively evict Barry Farm residents.

339. Neil Albert is one of the original architects of DC's plan to attract the Creative Class by leveraging its "creative assets" and he currently serves as chair of the DC Housing Authority Board of Directors.

340. Neil Albert and the DCHA knew or should have known the theories of Florida and that Barry Farm is precisely the sort of "high social" value community that is inimical to Creative Class growth and would result in dramatic resegregation patterns, flipping communities from predominantly black to predominantly white.

341. Upon information and belief, while it was physically and economically possible to follow Policy 2.3.1's mandate to "build first" or "avoid dislocation" DCHA chose not to in order create an environment more amenable to people who earn their income in a certain way.

342. Upon information and belief, constructive eviction was preferable to development in place or build first principles because Barry Farm and communities like it were inimical to growing Creative Class communities.

343. Upon information and belief, DCHA refused to make repairs at the Barry Farm site since it was a part of a real property transaction that if laws were followed would have kept relatively intact a community inimical to the sorts of communities the District of Columbia Government has been seeking to grow pursuant to Creative Class policies.

344. To be sure, Creative Class policies that have as their intent providing housing to people based on their age and source of income.

345. Thus, by refusing to make repairs on Barry Farm residents' properties, wholly or partially, for discriminatory purposes, the DCHA has been engaged in Subterfuge against the residents of Barry Farm and has acted contrary to the DCHRA.

346. Likewise, the Zoning Commission has unlawful practices that would not otherwise occur but for, wholly or partially, discriminatory reasons, as illustrated in its length pattern of arbitrary behavior that cannot be explained but for animus on the basis of race against black residents.

347. As a result of Defendants' violations of the DCHRA, Plaintiffs face present and future injuries as described in the individual allegations.

COUNT TWELVE
DC HUMAN RIGHTS ACT OF 1977 DC Code §2-1402.21(b)
DISPARATE IMPACT
SUBTERFUGE

Plaintiff – Tamia Wells, Ariyon Wells and Certified Class
Defendant – District of Columbia

348. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

349. In Washington DC land use policy to attract the Creative Class disproportionately impact black residents.

350. Creatives skew white by over 20% nationally.

351. Creatives skew white by over 20% in the D.C. Metro Area.

352. In DC land use policy with the intent of housing people based on their Creative Class status, which Defendants knew or should have known disproportionately impacts black residents, particularly historic black residents in predominantly black neighborhoods in Anacostia.

353. Evidence of this disparate impact is illustrated by Defendants' lengthy pattern of violating D.C. law governing land use and zoning, which cannot be explained but for racial animus.

354. Upon information and belief, land use policy to attract creatives disproportionately impact families.

355. Upon information and belief, land use policy to attract creatives disproportionately impact the religious persons who live in historically communities in Anacostia.

356. As a result of Defendants' violations of the DCHRA, Plaintiffs face present and future injuries as described in the individual allegations.

COUNT THIRTEEN
FAIR HOUSING ACT, 42 U.S.C. § 3604 et seq.
DISPARATE TREATMENT ON BASIS OF RACE

Plaintiff – All Plaintiffs
Defendant – District of Columbia

357. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

358. The Fair Housing Action, 42 U.S.C. § 3604 *et seq.*, prohibits discrimination on the basis of race in the sale or rental of housing, making it illegal to refuse to sell, rent, negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person on the basis of race. The Act also prohibits discrimination on the basis of race against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith.

359. Defendants' adoption and enforcement of the Creative Class Agenda intentionally discriminates based on race, in violation of 42 U.S.C. § 3604.

360. Defendants' adoption and enforcement of the Creative Class Agenda 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 housing, as well as in the provision of services in connection with the housing, in violation of 42 U.S.C. § 3604(b).

361. Defendants' adoption and enforcement of the Creative Class Agenda perpetuates the District of Columbia's longstanding racial segregation in housing without justification, in violation of 42 U.S.C. § 3604(a).

362. Additionally, Defendants actions in failing to maintain the conditions of housing at Barry Farm, allowing the units to fall into gross disrepair to encourage tenants to vacate discriminates based on race in the terms, conditions, and/or privileges of the housing, as well as in the provision of services in connection with the housing, in violation of 42 U.S.C. § 3604(b).

363. This disparate treatment has adversely affected African-Americans, particularly those living in historically and predominantly black communities that are targeted for redevelopment in Anacostia.

364. Defendants have engaged in unlawful practices that would not otherwise occur but for, wholly or partially, discriminatory reasons, as illustrated in Defendants' lengthy pattern of arbitrary behavior that cannot be explained but for animus on the basis of race against black residents.

365. As a direct and proximate result of Defendants' unconstitutional and unequal treatment, Plaintiffs have suffered and continue to suffer the injury of living in a more segregated community and society and the additional injuries alleged in the individual allegations.

COUNT FOURTEEN
FAIR HOUSING ACT, 42 U.S.C. 3604 et seq.
PERPETUATION OF RACIAL SEGREGATION – SEGREGATIVE EFFECT

Plaintiff – All Plaintiffs
Defendant – District of Columbia

366. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

367. The Fair Housing Act prohibits policies that illegally perpetuate race-based segregation.

368. Defendants' adoption and enforcement of the Creative Class Agenda perpetuates the District of Columbia's longstanding racial segregation in housing without justification, in violation of 42 U.S.C. § 3604(a) by erected arbitrary barriers to housing choices, particularly among longtime African-American residents in historic Anacostia neighborhoods.

369. These arbitrary barriers to housing—which include both the Creative Class Agenda as a policy and the specific Zoning Commission and other actions taken in pursuit of enacting the Agenda—have caused or predictably will cause a discriminatory effect in perpetuating racial segregation.

370. There is not a legally sufficient, non-discriminatory justification for the segregative effect, and even if there were, the arbitrary barriers could be served by another practice with a less discriminatory effect.

371. Numerous studies show cities that enact Creative Class policies are among the most segregated.

372. Studies show there is a strong correlation between a city having a significant black population, large Creative Class population, and segregation.

373. The District of Columbia has a significant black population

374. The District of Columbia has a large Creative Class population.

375. Upon information and belief, housing policy linked to source of income discrimination predicated on Creative Class policies leads to segregation.

376. Navy Yard, a former industrial neighborhood of the sort targeted by city planners for transformation, has shown strong segregative patterns.

377. While the population of black residents in Navy Yard has grown, the number of white residents in the area has far outstripped the black population, reaching and surpassing the tipping point into re-segregation.

378. Curiously, there is no recent census data available for other targeted District of Columbia neighborhoods such as H St. or Union Market.

379. However, according to reports from DHCD many communities in the District of Columbia are at risk of re-segregation.

380. According to a letter from HUD in 2016 the District of Columbia's lack of planning pertaining to its revitalization efforts was leading to re-segregation and loss of affordability for low and middle-income residents.

381. Nonetheless, and contrary to statute, the Zoning Commission still habitually approves PUD projects without receiving and reviewing written reports from the DHCD.

382. Without DHCD reports it is impossible to fulfill the expectations of HUD and the mandates of common law and the FHA concerning housing segregation by race.

383. As a stop gap measure, the Zoning Commission allows developers to hire their own consultants to make impact assessments to predictable result.

384. Separately, the agency responsible for approving most large-scale housing development, the Zoning Commission, has a history of not making findings on contested facts that implicate fair housing. That includes findings on gentrification and displacement.

385. Explicit policies as well as the unspoken customs and practices of the District of Columbia government perpetuate segregation in the District of Columbia.

386. As a result of Defendants' actions, Plaintiffs have suffered and continue to suffer the injury of living in a more segregated community and society and the additional injuries alleged in the individual allegations.

COUNT FIFTEEN
FIFTH AMENDMENT VIOLATIONS
SUBSTANTIVE DUE PROCESS
CUSTOMS AND PRACTICES TO CONSTRUCTIVELY EVICT AND DISPLACE ALMOST EXCLUSIVELY BLACK PUBLIC HOUSING RESIDENTS CONTRARY TO POLICY 2.3.1 BUT IN ACCORD WITH HISTORIC PATTERNS OF RACE BASED DISPLACEMENT IN THE DISTRICT OF COLUMBIA AND IN ACCORD WITH DISTRICT OF COLUMBIA POLICIES TO ATTRACT THE CREATIVE CLASS ARE SO DISCRIMINATORY THEY VIOLATE THE SUBSTANTIVE DUE PROCESS RIGHTS OF DISTRICT OF COLUMBIA RESIDENTS

Plaintiffs – Paulette Matthews, Michelle Hamilton, and Certified Class
Defendants – District of Columbia Housing Authority

387. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

388. Since slavery the District of Columbia government has a long history of de jure, then de-facto segregation.

389. Since at least the alley dwellings of the 1920s the District of Columbia government has a long history of breaking apart black communities and forcefully displacing its inhabitants in the name of economic development.

390. Barry Farm as with all public housing in the District of Columbia is almost exclusively made up of black residents.

391. Policy 2.3.1 of the Barry Farm Small Area Plan was supposed to ensure economic development would not break apart the Barry Farm community.

392. Nonetheless, instead of leveraging the public/private partnership with A&R Development in order to avoid resident hardship at the Barry Farm site, DCHA went to great lengths to cause resident hardship.

393. DCHA caused resident hardship by leaving the Barry Farm site in gross disrepair so as to constructively evict Barry Farm residents.

394. Neil Albert is one of the original architects of DC's plan to attract the Creative Class by leveraging its "creative assets", and he currently serves as chair of the DC Housing Authority Board of Directors.

395. Neil Albert knows or should have known the theories of Florida and that Barry Farm is precisely the sort of "high social" value community that is inimical to Creative Class growth.

396. Upon information and belief, while it was physically and economically possible to follow Policy 2.3.1's mandate to "build first" or "avoid dislocation" DCHA chose not to in order create an environment more amenable to people who earn their income in a certain way.

397. Upon information and belief, constructive eviction was preferable to development in place or build first principles because Barry Farm and communities like it were inimical to growing Creative Class communities.

398. Upon information and belief, DCHA refused to make repairs at the Barry Farm site since it was a part of a real property transaction that if laws were followed would have kept relatively intact a community inimical to the sorts of communities the District of Columbia Government has been seeking to grow pursuant to Creative Class policies.

399. Constructive eviction for discriminatory purposes denies almost exclusively black residents the right to a hearing concerning their loss of statutory entitlement, namely to be given notice before eviction from public housing, rather than being constructively evicted without notice or hearing.

400. Thus the District of Columbia governments unspoken historical policy to break apart and displace black communities in the name of economic gain, combined with new-fangled Creative Class zoning policy that seeks to increase access to housing based on source of income and age, combined with unspoken DCHA policy to constructively evict Barry Farm residents because they are a part of a close knit community that is inimical to the discriminatory Creative Class policy, all lead to governmental behavior so discriminatory to Barry Farm residents that it violates their substantive due process rights.

401. Defendants' intentional actions deprived Plaintiffs Paulette Matthews, Michelle Hamilton, and others similarly situated their constitutionally or statutorily protected rights, including but not limited to their rights to access housing without discrimination.

402. Defendants' intentional actions resulted in injury to Plaintiffs Paulette Matthews, Michelle Hamilton, and others similarly situated that they endure to this day.

COUNT SIXTEEN
42 U.S.C. § 1983
VIOLATIONS OF THE FIFTH AMENDMENT PROCEDURAL DUE PROCESS, FIFTH AMENDMENT SUBSTANTIVE DUE PROCESS, AND VIOLATION OF THE FAIR HOUSING ACT

Plaintiffs – All
Defendants – All

403. Plaintiffs reallege and incorporate by reference each and every allegation above as if fully set forth herein.

404. Defendanted acted under color of state law in reckless and/or conscious disregard of Plaintiffs' rights, immunities, and privileges guaranteed by the U.S. Constitution and federal law.

405. Defendants' actions deprived Plaintifs of their rights, immunities, and privileges under the U.S. Constitution and federal law, including their rights to procedural due process, substantive due process, and equal protection under the Fifth Amendment, and their rights to fair housing free of unlawful discrimination under the Fair Housing Act.

406. As a direct and proximate result of Defendants' violations of Plaintiffs' rights, Plaintiffs have suffered injuries, including but not limited to those described in Plaintiffs' individual allegations and the preceding Counts.

407. For the reasons stated in the preceding Counts, Defendants' unconstitutional and illegal actions have amounted to a violation of 42 U.S.C. § 1983 against each Plaintiff as alleged in each count.

RELIEF REQUESTED

WHEREFORE, Plaintiffs request the following relief:

A. Determine that Plaintiffs prevail on all counts of the Complaint.

B. Or, order that in the alternative this court issue an immediate injunction against the DCZC enjoining it from further activity regarding phase one PUD approvals.

C. Order that Defendants must consider the effects of gentrification and the segregative effects in approving all future developments.

D. Issue immediate emergency injunction prohibiting the DCOP, DMPED, and Muriel Bowser, and/or DC City Council from amending the Comprehensive Plan.

E. Order Barry Farm Plaintiffs the following specific performance:

   i. DCHA to develop in place so residents do not have to leave the neighborhood;

   ii. DCHA to cease all pre-construction activity at Barry Farm;

   iii. DCHA to make every resident current on their rent and utility bills due DCHAs years of neglecting the site;

   iv. DCHA to make timely and necessary repairs on every unit;

v. DCHA provide adequately funded prepaid phones to permissively track residents if they ever are required to leave the Barry Farm site; and

vi. DCHA to regularly restore and maintain the conditions of the property that has fallen into disrepair.

F. Order that all outstanding Requests for Proposals be halted and investigated for Creative Class preferences.

G. Order that DC residents receive a fully staffed independent People's Counsel before the Zoning Commission and the DC Court of Appeals.

H. Grant Plaintiffs class certification.

I. Award monetary damages in the amount to be determined by the Court.

J. Award attorneys' fees and court costs.

K. Award awarded such additional relief as the Court deems just.

s/Aristotle Theresa, Esq. Stoop Law
DC Bar : 1014041 1604 V St SE
Washington DC, 20020

Certificate of Service

I, Aristotle Theresa, hereby certify a true and correct copy of the foregoing AMENDED COMPLAINT was served to the following defendants. This, the ___ day of July 2018.

s/Aristotle Theresa, Esq Stoop Law
DC Bar : 1014041 1604 V St SE
Washington DC, 20020

Julia Wiley DHCD
1133 North Capitol St. NE Washington DC, 20002

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Jessie K. Liu
Office of the US Attorney General DC 555 4th St NW
Washington DC, 20001

Mayor Muriel Bowser Executive Office of the Mayor John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

Certificate of Service

I, Aristotle Theresa, hereby certify a true and correct copy of the foregoing COMPLAINT was served to the following defendants. This, the ___ day of July 2018.

Councilman Vince Gray
1350 Pennsylvania Ave, Suite 406
Washington DC, 20004