CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF NEW YORK: HOUSING PART E

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PETITIONER 1, PETITIONER 2, PETITIONER 3, PETITIONER 4, PETITIONER 5, PETITIONER 6, PETITIONER 7, PETITIONER 8, PETITIONER 9, PETITIONER 10, PETITIONER 11, PETITIONER 12, PETITIONER 13, and PETITIONER 14

 Index No. HP \_\_\_\_\_\_/\_\_

VERIFIED PETITION OR

Petitioners, SUPPORT OF ORDER TO SHOW CAUSE

-against- Premises:

 Frederick Douglass Houses buildings:

SHOLA OLATOYE, as Chairman of 1. Insert Address

the New York City Housing Authority; 2. Insert Address

THE NEW YORK CITY HOUSING AUTHORITY; and

THE NEW YORK CITY DEPARTMENT OF

HOUSING PRESERVATION AND DEVELOPMENT.

 Respondents,

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 Petitioners “Petitioner 1”, “Petitioner 2”, “Petitioner 3”, “Petitioner 4”, “Petitioner 5”, “Petitioner 6”, “Petitioner 7”, “Petitioner 8”, “Petitioner 9”, “Petitioner 10”, “Petitioner 11”, “Petitioner 12”, “Petitioner 13”, and “Petitioner 14” (collectively, “Petitioners”), as and for their petition, allege as follows:

 **PARTIES**

1. The Frederick Douglass Houses (the “Douglass Houses”) are a group of 17 buildings located in the borough of Manhattan, in the Manhattan Valley neighborhood of the Upper West Side, between 100th Street and 104th Street, to the east of [Amsterdam Avenue](http://en.wikipedia.org/wiki/Tenth_Avenue_%28Manhattan%29) and the west of [Manhattan Avenue](http://en.wikipedia.org/wiki/Manhattan_Avenue_%28Manhattan%29).
2. In the instant proceedings, each petitioner is a tenant in a public housing apartment building in the Douglass Houses, owned and operated by the Respondent New York City Housing Authority (“NYCHA”).
3. The names and addresses of each petitioner are listed below. Each Petitioner has unsafe and/or unsanitary conditions in his or her apartment and these conditions violate the Housing Maintenance Code. In every case, each tenant has notified NYCHA about the conditions of his or her apartment and NYCHA has failed to make the requested repairs.
4. “Petitioner 1” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
5. “Petitioner 2” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
6. “Petitioner 3” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
7. “Petitioner 4” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
8. “Petitioner 5” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
9. “Petitioner 6” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
10. “Petitioner 7” is a tenant of a public housing apartment located at [Insert Address] in the Frederick Douglass Houses, owned and operated by the Respondent NYCHA.
11. “Petitioner 8” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
12. “Petitioner 9” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
13. “Petitioner 10” is a tenant of a public housing apartment located at [Insert Address] in the Frederick Douglass Houses, owned and operated by the Respondent NYCHA.
14. “Petitioner 11” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
15. “Petitioner 12” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
16. “Petitioner 13” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
17. “Petitioner 14” is a tenant of a public housing apartment located at [Insert Address] in the Douglass Houses, owned and operated by the Respondent NYCHA.
18. Upon information and belief, [Insert Address 1 and 2] are multiple dwelling buildings as defined by law.
19. Respondent NYCHA is a body of corporate and politic established by the New York State Legislature, as set forth in Section 401 of the N.Y. Public Housing Law. It is responsible for the administration, operation, and maintenance of public housing projects within the City of New York, and is registered as such with the New York City Department of Housing Preservation and Development (“HPD”). It maintains its principal place of business at 250 Broadway, New York, New York.
20. Respondent Shola Olatoye is the chairman of NYCHA and is in such capacity charged with the responsibility for the operation of NYCHA by its agents and or employees.
21. Co-Respondent HPD is the city department charged with enforcement of, *inter alia*, the Housing Maintenance Code. Co-Respondent HPD is a proper party to this proceeding pursuant to New York City Civil Court Act § 110(d).

**REGULATORY SCHEME**

**Order to Correct**

1. A tenant or group of tenants may petition the Court to order the New York Department of Housing Preservation & Development to inspect and issue violations against a landlord-owner for conditions in violation of the Housing Maintenance Code. See N.Y.C. Adm. Code ß 27-2002. A tenant, or group of tenants, may bring an HP action seeking an Order directing the owner to correct all violations found by the court. See N.Y.C. Adm. Code § 27‑2115(h).
2. Upon the owner’s failure to correct the violations in the time required under the Housing Maintenance Code, the court shall impose civil penalties against the owner in accordance with N.Y.C. Adm. Code § 27‑2115(a). Id.
3. If a violation is found to exist the owner is required to correct the condition and, thus there is no defense to an Order to Correct other than the non-existence of the violation. The only defenses available in an HP action are to the imposition of civil penalties. See N.Y.C. Adm. Code § 27‑2116(b).

**FACTUAL ALLEGATIONS**

1. Each of the above-captioned Petitioners is a tenant in a public housing residential building in the Douglass Houses, owned managed and maintained by NYCHA.
2. Despite the existence of numerous unsafe and/or unsanitary conditions in each of the Petitioners’ residences, NYCHA has failed to correct and repair those conditions.
3. Neither has NYCHA attempted to make the necessary repairs within a reasonable amount of time. Among the above-captioned Petitioners, most have been living for years with major uncorrected conditions in their apartments like serious leaks, mold, and disintegrating plaster on walls and ceilings, as well as infestations of rats, cockroaches and other vermin.
4. The buildings at [insert address] in particular suffer from NYCHA’s profound and inexcusable failure to live up to its requirement to provide safe, clean, and healthy living environments for its tenants. The result of this ongoing neglect are the deplorable conditions described below.

[Insert Address] Common Issues

1. [Insert Address] is a public housing residential building in the Douglass Houses, owned managed and maintained by NYCHA.
2. The chief common area deficiency at [insert address] —and the one from which many deficiencies in individual units flow—is the condition of the roof.
3. The roof is in serious disrepair, causing continual leaks to the apartments on the top floor, and resulting in significant structural and interior damage in those apartments and mold infestations.
4. From the top floor, water continues to travel to the floors below, causing peeling paint, and collapsing plaster throughout the building, including the common hallways.
5. The building has a severe bird infestation on the exterior, causing windows in the units to be clogged with bird feces.
6. In addition, the grounds immediately surrounding the building are home to a major rat infestation. These rats are able to access units in the building, particularly those on the ground floor, through physical cracks and holes as well as improperly functioning windows.
7. In addition, the hallways in [insert address] are not regularly maintained, allowing dirt and garbage to accumulate.
8. These conditions affect each of the petitioners below who inhabit [insert address].

“Petitioner 1”

1. “Petitioner 1” is a tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. “Petitioner 1’s” unit is in a shocking state of disrepair and is manifestly uninhabitable for several reasons.
3. Water damage has rendered the bathroom in “Petitioner 1’s” unit completely unusable. There is no available water service, and as a result no working toilet. There is also no bathroom sink—only a hole in the wall where the bathroom sink should be. As a result, “Petitioner 1” has been forced to use rely on neighbors for things as basic as taking a shower.
4. There is only one functional radiator in the apartment, located in the bedroom. As a consequence, the living room and the kitchen completely lack access to heat.
5. Water damage has also caused the collapse of the floor and interior wall of the living room, rendering the room unsafe and unusable. The damage to the floor has created a continuing safety hazard. Repairs to eliminate this safety hazard are not completed and have been repeatedly delayed.
6. Mold contamination in the unit also continues to persist and has not been properly remediated.
7. “Petitioner 1” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, or has unreasonably delayed doing so, forcing “Petitioner 1” to file the instant action.

“Petitioner 2”

1. “Petitioner 2” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. “Petitioner 2” suffers from severe asthma.
3. Moisture caused by leaks in the walls of this unit has led to major mold growth on the walls of her bedroom. This mold exasperates her asthmatic condition.
4. “Petitioner 2’s” unit has extensive water damage in the outer walls, causing cracking and damage to the electrical outlets.
5. [Insert address] also suffers from a severe rat infestation in the surrounding grounds, creating an unsanitary condition in common areas and preventing “Petitioner 2”—who lives on the first floor—from opening her windows. The inability to open the windows further exacerbates her asthma.
6. Damage to the walls resulting from rats and water decay allow poisonous fumes to enter the unit whenever NYCHA sets off pesticide bombs in an ineffectual attempt to deal with the infestation. “Petitioner 2” and her five year old daughter subsequently inhale these fumes.
7. The radiator in the apartment severely malfunctions, causing loud noises throughout the night, making sleep extremely difficult and often impossible. This situation is so disruptive to “Petitioner 2’s” life and that of her child that she has requested that NYCHA remove the radiator entirely, simply so that they can sleep, even at the expense of their heat.
8. “Petitioner 2” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 2” to file the instant action.

“Petitioner 3”

1. “Petitioner 3” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. “Petitioner 3’s” unit has a major water leak in the bathroom caused by faulty plumbing, causing major water damage and continual flooding in her unit and, presumably, the units below her. The leak at one time was so large and continuous that occupants in the apartment were forced to set an alarm for every half-hour to remind them to empty the large trash containers that fill with leaked water during that period.
3. The leak has caused major damage to the ceiling of the bathroom, causing portions of it to collapse.
4. Additional and separate water damage has occurred in the living room, caused by a leaking radiator that has loosened the linoleum floor tiles and essentially destroyed the wood flooring underneath.
5. The water damage and continual leaking caused by the radiator has also attracted cockroaches, resulting in a major infestation centered in the living room. Certain electrical outlets in this room also are nonfunctional, possibly as a result of this water damage.
6. The windows in the unit are not in proper working order, causing them to become filled with bird feces resulting from the unmanaged bird infestation in the areas around and above “Petitioner 3’s” unit, and creating an unsafe and unsanitary condition.
7. The unit also suffers from significant drainage issues. Both the bathroom sink and bathtub do not properly drain, causing stagnant water to pool and linger in these areas. The same occurs with the kitchen sink.
8. The kitchen appliances are not in working order, such that the stove and refrigerator will regularly stop working without warning or identifiable cause.
9. The kitchen cabinets are also significantly damaged, requiring replacement for them to be functional.
10. “Petitioner 3” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 3” to file the instant action.

“Petitioner 4”

1. “Petitioner 4” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. “Petitioner 4’s” apartment contains dangerous mold and mildew growth, caused by inadequate ventilation and drainage.
3. The mold and mildew problem are particularly problematic in the bathroom, where they have taken over the bathtub, rending it unsafe to use.
4. The mold and mildew conditions are exacerbated by the fact that the windows in the kitchen and bathroom cannot be opened because of an uncontrolled bird infestation in the area near the unit, preventing “Petitioner 4” from opening the windows to ventilate the apartment and forcing him to inhale the spores and fumes from the mold and mildew.
5. The unit also suffers from major cockroach infestation, which are accessing the unit through the water-damaged portions.
6. The intercom function in “Petitioner 4’s” apartment is also non-functional, requiring him to travel downstairs each time he has a visitor at the door.
7. “Petitioner 4” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 4” to file the instant action.

“Petitioner 5”

1. “Petitioner 5” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. “Petitioner 5” is essentially housebound due to numerous medical conditions, exacerbating the effects of the conditions described below.
3. “Petitioner 5’s” unit has received extensive water damage, caused by continuing leaks from the unit above hers.
4. As a result of these leaks, the ceiling plaster in the bedroom has collapsed in several areas and continues to degrade.
5. The living room and bedroom in the unit are missing substantial sections of paint and plaster from the walls and ceiling.
6. The floors are warped and uneven, causing an unsafe walking area, particularly in light of “Petitioner 5’s” mobility issues.
7. The unit also has plumbing issues, particularly in the bathtub, which cannot stay filled and renders the tub unusable for bathing.
8. “Petitioner 5” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 5” to file the instant action.

“Petitioner 6”

1. “Petitioner 6” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. The unit suffers from extensive deficiencies, which separately and taken together create an unsafe and unsanitary condition for “Petitioner 6” and the children living with her. These issues include: broken kitchen tile, cracks and falling plaster from the ceiling, cracks and chipping paint on the walls.
3. The unit also suffers from major plumbing and draining issues. The kitchen sink emits a brown, sooty water, rather than clean, hot water. Similar brown, sooty water leaks from the radiator.
4. The windows in the unit kitchen and bathroom cannot be opened because of an uncontrolled bird infestation in the area outside the unit, preventing the tenants from airing out the unit.
5. The unit also has a rodent infestation, with mice appearing regularly due to holes and cracks in the walls.
6. The refrigerator in the unit works only intermittently, causing a particular danger to “Petitioner 6”, who is diabetic and requires refrigerated insulin for her condition.
7. “Petitioner 6” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 6” to file the instant action.

[Insert Address]

1. [Insert address] is a public housing residential building in the Douglass Houses, owned managed and maintained by NYCHA. On information and belief, [insert address] was built over 100 years ago.
2. The grounds immediately surrounding [insert address] are home to a major rat infestation. These rats are able to access units in the building, particularly those on the ground floor, through physical cracks and holes as well as improperly functioning windows
3. The maintenance of the common areas of [insert address] is haphazard at best, with wall half-repainted and garbage and dirt regularly accumulating in the hallways, exacerbating the rodent infestation in the building.
4. In addition, the second entry door of [insert address] regularly malfunctions and fails to lock, causing a security hazard for the residents.
5. These conditions affect each of the petitioners below who inhabit [insert address].

“Petitioner 7”

1. “Petitioner 7” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. The bathroom door in “Petitioner 7’s” unit has a large hole in it, and was never properly installed and is currently off the hinges.
3. There is extensive damage to the kitchen cabinets due to normal wear and tear, requiring the replacement of those over and under the sink.
4. The bedroom door has a large hole in it and is not currently functional, depriving “Petitioner 7” of reasonable privacy.
5. “Petitioner 7” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 7” to file the instant action.

“Petitioner 8”

1. “Petitioner 8” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. The heat in “Petitioner 8’s” unit is intermittent, and in the winter she has insufficient heat for long periods of time.
3. The ceiling has sustained extensive damage from leaks, resulting in parts of the ceiling collapsing into the unit, leaving a large hole.
4. The unit has a severe cockroach infestation, which requires immediate remediation.
5. The windows in the unit do not properly function and there is no security gate on the windows. These conditions cause “Petitioner 8” to feel that the security of her unit is compromised.
6. The paint in the unit is crumbling and peeling off in large areas, particularly in the bathroom, and requires repainting.
7. “Petitioner 8” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 8” to file the instant action.

“Petitioner 9”

1. “Petitioner 9” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. “Petitioner 9’s” unit has a severe and ongoing bedbug infestation that needs immediate remediation. This infestation has forced “Petitioner 9” to permanently keep clothing and other items in bags.
3. The unit’s windows do not properly function, preventing “Petitioner 9” from opening and ventilating the apartment as necessary.
4. The paint in the unit is crumbing and peeling in large areas, and requires repainting.
5. The floor tiling in the unit is crumbling, with several sections of tile missing completely.
6. “Petitioner 9” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 9” to file the instant action.

“Petitioner 10”

1. “Petitioner 10” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. This unit has a significant rodent infestation, caused by holes in the wall and requiring immediate remediation.
3. The unit has not been repainted in over 10 years, and paint in the unit is crumbing and peeling in large areas.
4. “Petitioner 10” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 10” to file the instant action.

“Petitioner 11”

1. “Petitioner 11” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. The kitchen windows in the unit are not in proper working order, causing them to fall out of the window frame and creating an unsafe and unsanitary condition. “Petitioner 11” has previously had the kitchen windows fall directly onto him after it came out of the window frame.
3. The unit also suffers from continuous leaks from the bathroom sink.
4. The entrance door to the unit is improperly attached to its frame, and the latch on that door is further improperly attached to the entrance door, creating an unsafe condition.
5. The paint is also chipping off of the walls throughout the unit.
6. “Petitioner 11” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 11” to file the instant action.

Petitioner 12

1. “Petitioner 12” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. “Petitioner 12’s” unit has severe water damage throughout, particularly in the walls and ceilings of the bathroom and hallways, caused by leaks from the apartment above.
3. Paint and plaster are peeling off the walls and ceilings in large sheets throughout “Petitioner 12’s” unit, including in the living room, and kitchen, creating an unsafe and unsanitary condition.
4. “Petitioner 12” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 12” to file the instant action.

“Petitioner 13”

1. “Petitioner 13” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. The unit suffers from a severe and extensive rodent infestation. The walls in the unit bathroom, bedroom, kitchen and hallway are marked with holes through which rodents are able to enter the unit, creating an unsafe and unsanitary condition in Petitioners’ unit.
3. The windows and window gates in the unit—which is located on the first floor—do not properly lock. Additionally, one of the window gates is missing entirely. The security of the unit is therefore compromised.
4. The shelves in the unit’s bedroom and hallway closets are not properly mounted into place. This has previously caused one of the shelves to collapse onto “Petitioner 13’s” husband.
5. “Petitioner 13” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 13” to file the instant action.

“Petitioner 14”

1. “Petitioner 14” is the tenant of a public housing apartment located at [insert address] in the Douglass Houses.
2. The paint in the unit has been crumbing and peeling in large areas for the past three years, and requires repainting.
3. The unit has extensive water damages caused by leaks and causing mold growth.
4. The unit has a mold infestation in the plumbing below the sink, causing mold to grow up through the drain and into the sink.
5. “Petitioner 14” has made repeated requests to NYCHA to repair the above-described conditions. To date, NYCHA has failed to do so, forcing “Petitioner 14” to file the instant action.
6. Respondents have violated the Administrative Code of the City of New York in that the above-listed conditions as to all Petitioners presently existing in the apartment have not been corrected.
7. In order to ensure the health, safety and welfare of petitioner, Petitioners request that this Court issue an Order to Correct each of the above-mentioned unsafe and unsanitary conditions pursuant to Administrative Code Section 27-2116(b).
8. In accordance with the Directive of HPD of February 11, 1977, and because the above listed conditions constitute an emergency or danger to the life, health and safety of the tenant, it is requested that prior notification to HPD be waived.
9. Petitioners have not made a prior application for the relief sought herein.

**WHEREFORE**, Petitioners respectfully requests that the Court find the conditions set forth above constitute violations of the Housing Maintenance Code and enter an order:

1. Directing Respondents to correct the violations and upon the failure to do so within the time set for certifying the correction of such violations pursuant to Section 27-2115(c) of the Administrative Code, for an Order directing HPD to enter judgment against respondents for the penalties stated in Section 27-2115(a) of the Administrative Code;
2. Directing Respondents to retain an engineer or other expert to precisely determine the source of the leaking and water damage at the premises and to recommend specific remediation measures to ensure that flooding and leaks into the apartment are stopped, including but not limited to replacing the roof, and directing respondents to comply with such recommendations;
3. Directing Respondents to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, remediate, or in any way respond to, or assess the effects of any ongoing mold, moss, mildew, fungi, spores, bacterial infestation in the subject premises;
4. Directing Respondents to repair the peeling plaster and repaint in those units described above as having damaged paint or plaster.
5. Directing Respondents to take immediate appropriate steps to eliminate rodent and other pest infestation of the subject premises;
6. Directing Respondents to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of any ongoing rodent and other infestation in the subject premises;
7. Directing Respondents to restore all windows, doors, electrical fixtures, and appliances described above as disordered to working order;
8. Directing Respondents to repair damaged floors and restore them to a save, even, and usable condition;
9. Providing that if Respondents fail to correct the violations within the time set for certifying the correction of said violations pursuant to all applicable law, that the Respondent HPD enter a judgment against respondents for the penalties stated in Section 27-2115(a) of the Administrative Code;
10. Requiring Respondents to reimburse petitioner for all expenses incurred in this proceeding including attorney fees;
11. Finding that, pursuant to RPL Section 234, each Petitioner is entitled to an award of legal fees upon successfully prosecuting this proceeding, in an amount to be determined by this court, but in no event less than $5000.
12. Granting such other relief as is just and proper.

Dated: New York, New York

 \_\_\_\_\_\_\_\_\_\_\_\_, 201\_

Respectfully submitted,

Attorney Name

Firm Name

Address

Tel:

*Attorneys for Petitioners*