SUPREME COURT FOR THE STATE OF NEW YORK
NEW YORK COUNTY

ERNEST ROBINSON and ROSA RODRIGUEZ, individually and on behalf of all others similarly situated, Plaintiffs, v. THE CITY OF NEW YORK and STATE OF NEW YORK, Defendants.	Case No. **VERIFIED CLASS ACTION COMPLAINT**

PRELIMINARY STATEMENT

Plaintiffs Ernest Robinson and Rosa Rodriguez (collectively "Plaintiffs"), by and through their attorneys, Newman Ferrara LLP, bring this class action seeking declaratory and injunctive relief against the hereinafter named Defendants City of New York ("New York City" or "City") and State of New York ("State") and allege upon knowledge, information, and/or belief as follows:

1. This is an action seeking declaratory and injunctive relief under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3601, *et seq.*, (the "Fair Housing Act" or "FHA") and 42 U.S.C. §1983 challenging New York City's property tax classification system. As currently applied, the City's property tax classification system perpetuates a "tale of two cities", has a disparate and adverse impact upon the City's African-American and Hispanic residents, and denies such residents their statutorily and constitutionally protected rights to due process and equal protection.

2. In a report issued in July 2013, the Furman Center For Real Estate & Urban Policy of New York University identified the impact of the problem being addressed in this action in clear and dramatic terms:

> *The burden of the undervaluation of co-ops and condos therefore falls on families already struggling to afford housing in New York City. Tenants in Class 2 rentals are also much more likely to be black or Hispanic and to have children than co-op and condo owners, so the burden of undervaluation may threaten the city's ability to attract and retain a diverse range of households.*

Furman Center for Real Estate and Urban Policy, Shifting the Burden: Examining the Undertaxation of Some of the Most Valuable Properties in New York City (2013). Retrieved from http://furmancenter.org/files/FurmanCenter_ShiftingtheBurden.pdf. ("Shifting the Burden") at 7, annexed hereto as Exhibit A.

3. As more fully alleged below, the City and State have adopted certain practices, procedures, regulations and/or legislation with respect to the assessment, classification and taxation of residential real estate properties that have benefited predominantly White residents of the City and has had, and will continue to have, a disparate impact on African-American and Hispanic residents of the City. Such practices and procedures have resulted in the owners of rental properties where African-Americans and Hispanics predominantly reside paying higher taxes than owners of buildings wherein Whites predominantly reside. African-American and Hispanic residents bear the burden of the higher real estate taxes as those amounts are reflected as a portion of their rent. Indeed, approximately 30% of the monthly rent reflects the owner's real estate tax obligation.

4. By this action, Plaintiffs, individually and on behalf of others similarly situated, seek a declaratory judgment declaring that the aforementioned violates the statutory and constitutional rights of the Class of African-American and Hispanic residents of buildings with 11 or more units in the City as secured by the Fair Housing Act, 42 U.S.C. §1983, Article 1, §11

of the New York State Constitution, and the Fourteenth Amendment to the Constitution of the United States.

5. Plaintiffs also seek an Order from this Court mandating that the City and State adopt policies, procedures, regulations and/or legislation that will equalize the tax burdens that are disproportionally borne by African-American and Hispanic residents of buildings with 11 or more units located within the City.

PARTIES

6. Plaintiff Ernest Robinson is an African-American resident of New York City. Plaintiff Robinson resides in an apartment in Bronx County. He brings this action in his individual capacity and on behalf of African-American residents of rental apartments in buildings with 11 or more units in New York City.

7. Plaintiff Rosa Rodriguez is a Hispanic resident of New York City. Plaintiff Rodriguez resides in an apartment in Queens County. She brings this action in her individual capacity and on behalf of Hispanic residents of rental apartments in buildings with 11 or more apartments in New York City.

8. The Defendant New York City is a municipal corporation chartered under the laws of the State of New York. As alleged more fully *infra*, the City, through its departments, agencies, and its legislative body, including, but not limited to, the Department of Finance and the Council for the City have adopted and/or maintained certain practices, policies and procedures relating to the classification and/or assessment of properties within the City for purposes of real estate taxation that have had and will continue to have a disproportionate effect and disparate impact on African-American and Hispanic residents of rental properties with 11 or more units.

9. The Defendant New York State is one of the 50 states of the United States of America. As more fully alleged *infra*, the State, through its legislature, has adopted certain legislation and practices regarding the assessment, classification, and taxation of real estate properties within the State and the City that have had, and will continue to have, a disproportionate effect and disparate impact on African-American and Hispanic residents of rental properties located in the City with 11 or more units.

CLASS ALLEGATIONS

10. Plaintiffs bring this class action pursuant to Article 9 of the New York Civil Practice Law and Rules ("C.P.L.R.") on behalf of the following: (a) African-American residents of rental properties with 11 or more units in the City of New York; and (b) Hispanic residents of rental properties with 11 or more units in the City of New York.

11. The period for which Plaintiffs seek Class relief is February 26, 2011 to the present.

12. The Class is so numerous that joinder of all members is impracticable.

13. The disposition of the claims in a class action will be of benefit to the parties and to the Court.

14. There are questions of law and fact common to the class, including: (1) whether the City and the State have adopted certain practices, procedures, regulations, and/or legislation that have a disparate impact on African-American and Hispanic residents of rental properties with 11 or more units and benefits White residents of other classes of residential properties within the City; (2) whether injunctive relief is an appropriate remedy; and (3) whether declaratory relief is an appropriate remedy.

15. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs are members of the Class and are committed to prosecuting this action. Plaintiffs have retained competent counsel experienced in litigation of this nature.

16. Plaintiffs' claims are typical of the claims of other members of the proposed Class in that they are seeking injunctive relief for the practices, policies, regulations and/or legislation of the City and State as alleged herein; the same claims being asserted on behalf of each individual member of the Class.

17. The City and State have acted or refused to act on grounds that apply generally to the Class, so that final injunctive and declaratory relief is appropriate respecting the Class as a whole.

FACTUAL ALLEGATIONS

The Demographics of Residential Housing in New York City

18. As described by the City in its Property Tax Annual Report for Fiscal Year 2013 ("2013 Property Tax Report"), New York State law divides the City's real property into four classes: "Class One is primarily one-, two-, and three-family homes; Class Two is all other residential properties; Class Three is certain types of property owned by utility companies subject to governmental supervision; and Class Four is all other commercial property." New York City Dept. of Finance, Office of Tax Policy, Annual Report on the New York City Property Tax Fiscal Year 2013 (2013) at i.

19. According to the 2010 United States Census, New York City's demographic breakdown is 33.3% White, 22.8% African-American, 12.6% Asian, and 28.6% Hispanic, with 2.5% being two or more races, some other race, Native Hawaiian, or Native American.

20. According to the American Community Service's Census Records for 2011, Whites and Asians combined make up 62% of the City's homeowners, despite having only 45.6% of the population, while African-Americans and Hispanics make up more than half of the City's population, but only 44% of the City's homeowners.

21. Conversely, only 37.5% of the renting population is White or Asian, while 60% of the renting population is African-American or Hispanic. The difference is especially acute among Hispanics, who are roughly three times as likely to rent as to own.

22. According to the Furman Center's analysis of the characteristics of New York City households by tax class and property type, roughly 61.9% of the households residing in co-ops built before 1974 are White, and 9.9% are Asian, while only 14.6% are African-American, and 12.8% are Hispanic. In Class Two co-ops built after 1974, and all condos, 57.8% of households are White, and 21.2 % are Asian, while only 9.3% are African-American and 10.2% are Hispanic. Shifting the Burden, Exhibit A at 7.

23. In Class Two rental buildings, 38.2% of householders are White, and 9.8% are Asian, while 21.4% are African-American, and 29.5% are Hispanic. Translating those numbers, African-Americans are roughly twice as likely to live in Class Two rental buildings as they are to live in a condominium or co-op, and Hispanics are more than three times as likely to live in a Class Two property than a condo or co-op. *Id.*

24. The household measurements understate the population size of each race within each property class. According the New York City's Housing and Vacancy Survey published in 2011, the mean household size for Whites is 2.14, while the mean household size for non-Puerto Rican Hispanics is 3.39 (2.61 for Puerto Rican Hispanic). The number for African-Americans

and Asians is 2.61 and 3.01, respectively. Dr. Moon Wha Lee, New York City Department of Housing Preservation and Development, Housing New York City 2011 (2013), 108.

25. Most of the City's stock of Class Two rental properties with 11 or more units exists in areas with high concentrations of African-Americans and Hispanics, such as the sub-boroughs of Inwood, Mott Haven, and Jamaica/Hollis.

26. Any property tax policy that affects Class Two rental housing, and specifically Class Two rental housing with 11 or more units, has a disparate impact on African-Americans and Hispanics.

27. As New York City's Rental Guidelines Board ("RGB") has long recognized, a significant portion of property tax charged on rental buildings is passed along to the tenant, and the RGB estimates that roughly 1/3 of a tenant's rent is comprised of property taxes.

28. In its 2006 Report, the City's Independent Budget Office analyzed the effects of a neutral policy that treated all residential property identically. According to the Budget Office, each apartment in large residential buildings would see a tax cut that averaged between $1,237 and $1,854 per apartment per year. These numbers have likely increased in the intervening period as rental costs have increased.

29. The City's property tax system, while outwardly neutral, has a significant and disproportionate effect upon tenants of Class Two large unit rental housing; tenants who are significantly more likely to be African-American or Hispanic than White or Asian. Thus, the City's property tax system violates the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3601, *et seq.*

A Tale of Two Cities: The Discriminatory Real Property Tax Scheme

30. The City's 2013 Property Tax Report details that for Fiscal Year 2013, Class One properties had the largest percentage of the City's market value, with 47.77%. Id. at 1. Class Two's market value was roughly half that of Class One's market value at 23.20%. *Id.*

31. Despite having nearly twice the market value of Class Two properties, Class One's share of Citywide revenue was roughly half that of Class Two. For Fiscal Year 2013, Class One paid only 15.5% of the City's Real Property Tax, while Class Two paid 37.0%. *Id.* at 1.

32. An Effective Tax Rate ("ETR") is a composite of the two figures above, and here it allows for comparison across property tax classes. The ETR is calculated by dividing the tax paid upon a piece of property by the market value. New York City's ETR starkly displays the different treatment accorded Class One residential property and Class Two residential property. For Class One, the ETR is 0.74%. For Class Two, the ETR is 3.497%, nearly 5 times that of Class One.

33. The exceedingly favorable treatment accorded to Class One properties under New York City's property tax treatment is offset by exceedingly harsh treatment to other property classes, including the residential properties in Class Two. Exacerbating matters, the primary Class Two tax burdens fall disproportionately onto one type of Class Two housing.

34. Class Two is divided into three distinct property types: condos and co-ops; properties with 11 units or fewer; and rental buildings with 11 or more units. Each of these distinct property types receives different treatment under the City's property tax system.

35. Within Class Two, condos and co-ops receive exceedingly generous treatment, a product of concerted lobbying on behalf of owners who sought similar treatment to that given to

Class One property owners. Through use of property tax abatements, the owners of condos and co-ops in buildings with 11 or more units pay a much lower tax rate.

36. Making matters worse, many Class Two condos and co-ops are systematically undervalued by the City, because the Department of Finance values them by comparing them to rental housing. N.Y. Real Prop. Tax Law § 581(1)(a) (McKinney 2013).

37. For many of the City's condos and co-ops, rental housing of the same age and size is rent controlled or rent stabilized, which leads to significant undervaluation of the City's condos and co-ops. Shifting the Burden, Exhibit A at 2-3.

38. As an example, although the penthouse at 15 Central Park West is listed by the City in its assessment rolls as having a fair market value of $3.957 million; it recently sold for $88 million. Luisa Kroll, Billionaire's Daughter Pays Record Sum for NYC Pad, Forbes, Dec. 19, 2011. Retrieved from http://www.forbes.com/sites/luisakroll/2011/12/19/billionaires-daughter-pays-record-sum-for-nyc-pad/.

39. On the City's assessment rolls, other units at 15 Central Park West are listed as having a market value as low as $135,014.

40. Since market value is one of the primary determinants in the property tax calculation, the burden borne by Class Two properties as a whole is shifted from one set of Class Two properties, condos and co-ops with 11 or more units, to the remaining Class Two properties.

41. Yet, even the remaining Class Two properties are not all identically taxed. The City divides the remaining properties into four types, Class Two-A (buildings with 4-6 units); Class Two-B (buildings with 7-11 units); Class Two-C (condos and co-ops with 2-10 units); and the remaining Class 2 properties, rental residential properties with 11 or more units. N.Y. Real Prop. Tax Law § 581(1)(a) (McKinney 2013).

42. State law limits how much the assessed value of the Class Two-A, Class Two-B, and Class Two-C properties can increase annually, while no such cap exists for the large rental buildings that make up the remainder of the Class Two properties. N.Y. Real Prop. Tax Law § 1803 (McKinney 2013).

43. As the City's Independent Budget Office found in 2006, the assessment caps in Class Two-A, Class Two-B, and Class Two-C, "have prevented the city from fully reflecting all of the market value appreciation that has occurred over the past 25 years." For the large apartment buildings however, "phase-ins smooth out the assessment changes while allowing the city to eventually capture the appreciation in value for those properties." New York City Independent Budget Office, Twenty Five Years After S7000A: How Property Tax Burdens Have Shifted in New York City, (2006) at 16 ("IBO Report").

44. Thus, Class One residential properties are significantly under-taxed in proportion to over-taxed Class Two residential properties, and within Class Two the property tax burden falls disproportionately upon one type of residential property: rental property with 11 or more units.

45. A landlord's property tax is born by his tenants. Currently, New York City's RGB estimates that approximately 30% of a tenant's rental payment is attributable to property tax. New York City Rent Guidelines Board. 2013 Price Index of Operating Costs (2013) at 17.

46. A property tax burden that is so grossly disproportionate in favoring all residential housing, except for rental buildings with 11 or more units, is borne by the tenants in rental buildings with 11 or more units.

47. Most rental buildings with 11 or more units are located in areas with high concentrations of African-American and Hispanic residents, such as the sub-boroughs of

Inwood, Bedford-Stuyvesant, Fordham/University Heights, and Central Harlem. Conversely, those parts of Manhattan with a significant percentage of Class One housing, condos and co-ops, and Class Two-A and Class Two-B housing are predominately in sub-boroughs with high concentrations of White and Asian residents, such as Tottenville/Great Kills, the Upper West Side, the West Village/Soho, and Bayside/Little Neck.

48. New York City's African-American and Hispanic residents are significantly more likely to live in Class Two residential properties with 11 or more units. Conversely, New York City's White and Asian-American residents are more likely to live in the type of housing that receives favorable tax treatment.

49. Thus, while the City's property tax scheme is facially neutral, it has an actual, significant, disproportionate and discriminatory effect upon the City's African-American and Hispanic residents, and therefore violates the Fair Housing Act.

The Codification of Discrimination

50. Until 1975, New York State municipal authorities conducted real property assessments using fractional assessment, which resulted in residential properties being assessed at less than full market value, despite a state law that required that all real property be assessed at full market value.

51. In *Matter of Hellerstein v. Town of Islip*, 37 N.Y.2d 1, 332 N.E.2d 279 (1975), the New York Court of Appeals held that the New York law requiring full value assessments meant exactly what it said, and that full value assessments were required. Aware that its decision would require significant changes to the existing assessment rolls, the Court of Appeals gave Islip (and by extension other municipalities) until the end of 1976 to provide new assessment rolls in compliance with state law.

52. Several years after the decision in *Hellerstein,* the New York Court of Appeals described the effect, "Because of the ubiquity of fractional assessment, our decision in *Hellerstein* reverberated throughout the state. Under a hodgepodge of fractional assessment regimes that had proliferated over the years, localities routinely assessed commercial and industrial property at higher ratios (assessed value over market value) than residential property. But as a result of *Hellerstein,* all real property would be subject to the same effective tax rate, or taxes per dollar of full market value. As reflected in the extensive newspaper coverage of the time, there was widespread fear that, without ameliorative legislative action, *Hellerstein* would force an unwelcome shift of a significant portion of the property tax burden from businesses to homeowners." *O'Shea v. Bd. of Assessors of Nassau Cnty*., 8 N.Y.3d 249, 253, 864 N.E.2d 1261, 1262 (2007) (internal citations omitted).

53. After several grants of legislative moratoria, the state legislature overrode a gubernatorial veto to pass S7000A. A portion of S7000a, codified as N.Y. Real Prop. Tax Law § 305, specifically allowed for fractional assessments. *Id.* In addition, the legislature established a specific article which governed assessments in New York City and Nassau County; N.Y. Real Prop. Tax Law § 1802. *Id.*

54. As originally passed, §1802 provided for four different property tax classes in New York City, as follows:

a. Class One: One-, two- and three-family residential property;

b. Class Two: All other residential property except for hotels and motels;

c. Class Three: Utility property; and

d. Class Four: All other real property.

55. A further portion of the S7000a provided that the relative property class tax share would remain the same, although the City Council was given discretion to adjust the tax levy share of each class up to 5% annually. *Id.*

Class One Property Taxes

56. In a 2006 report reflecting on the City's property taxes 25 years after the passage of S7000a, the New York City Independent Budget Office wrote "[w]hen S7000A was originally enacted, it was expected that the State's Office of Real Property Services would undertake market value surveys every two years to be used when adjusting the market value shares. The first state survey was scheduled to be ready for 1987, but it was delayed and legislation was passed pushing the deadline back until 1989. The same bill also substituted 1984, rather than 1981 as the base year for the shares. With no market value adjustments made from 1983 through 1989, during which Class 1 values had been growing rapidly, the use of the first survey in 1990 would have resulted in a significant adjustment of class shares, with taxes for Class 1 growing by an estimated 42 percent." IBO Report, 20-22.

57. In response to outcry from Class One property owners, the State Legislature passed legislation setting the base class shares at the 1990 levels. *See* N.Y. Real Prop. Tax Law § 1802. Since no market share adjustment had taken place between 1981 through 1989, §1802 meant that the substantial market value increases in Class One properties in the 1980s (sales prices for a Class 1 house had increased 257% by 1989) were never reflected in the Class One property tax shares. IBO Report, 20-22.

58. Since the 1990 Amendments, the Class One market value has grown faster than the market value for the other classes. Further exacerbating the problem, the State Legislature

has repeatedly lowered the cap on the maximum increase from the statutory 5% to 2% or 2.5%, which in turn spreads the excess to the other three property classes.

59. As a result of the failure to adjust Class One market shares, the effective tax rates for Class One are significantly less than for the other three classes, and, as the chart below demonstrates, are roughly 1/5 of the effective tax rates for Class Two properties.

FY2013 Effective Tax Rates				
	Tax Paid		Market Value	ETR
Class One	$	2,961,400,000.00	$ 400,288,200,000.00	0.740%
Class Two	$	6,828,300,000.00	$ 195,251,400,000.00	3.497%
Class Three	$	1,416,000,000.00	$ 26,102,500,000.00	5.425%
Class Four	$	8,140,500,000.00	$ 216,361,100,000.00	3.762%

60. Class One properties make up 47.7% of New York City's overall property value, yet pay only 15.5% of New York City's property tax. Conversely, Class Two properties make up 23.20% of New York City's overall property value, yet pay 37% of New York City's property tax. Thus, the reduced ETR on Class One properties mandates that the City use a disproportionately high ETR on Class Two properties.

Class Two Condos and Co-Ops

61. While Class Two properties bear a disproportionate share of the City's overall residential property tax burden vis-à-vis their market share, the distribution of property taxes within Class Two is also disproportionate, and has the effect of shifting Class Two's tax burden on to only one type of Class Two properties; rental buildings with 11 or more units.

62. In the early to mid-1990s, as the effect of the burden shifting provisions of the S7000A amendments began to be felt, Class Two condominium and co-op owners sought relief from the 1993 Property Tax Reform Commission appointed by Mayor David Dinkins and City Council Speaker Peter Vallone, Sr., and questioned why homeowners should be taxed at a

different rate, depending on whether they owned a house on one hand, or a condo or co-op on the other.

63. In response to pressure from condo and co-op owners, the City Council recommended, and the State Legislature passed, the Cooperative and Condominium Property Tax Abatement Program in 1996, codified at N.Y. Real Prop. Tax Law § 467-a (McKinney). The effect of the Cooperative and Condominium Property Tax Abatement Program was to lower the property taxes on co-ops and condos, bringing them more in line with Class One properties.

64. Making the problem even worse is the manner in which the City establishes the market value of condos and co-ops.

65. N.Y. Real Prop. Tax Law § 581 (McKinney) provides that "[R]eal property owned or leased by a cooperative corporation or on a condominium basis shall be assessed for purposes of this chapter at a sum not exceeding the assessment which would be placed upon such parcel were the parcel not owned or leased by a cooperative corporation or on a condominium basis." *Id.*

66. Put simply, §581 requires that the Department of Finance ("DOF) value Class Two condo and co-op buildings as if they were rental properties. To do so, the Department of Finance identifies properties that are comparable in age, size, location, and number of units.

67. However, the City's identification process is fundamentally flawed, as New York University's Furman Center for Real Estate & Urban Policy found in its Shifting the Burden report. *See* Exhibit A.

68. The Furman Center identified two key problems with the DOF's chosen methodology. First, many condos and co-op buildings are not comparable to any rental properties in the City, such as the luxury condos and co-ops lining Central Park. Second, due to

similar ages, the City often uses rent-regulated buildings to establish the income producing value of condos and co-ops; because rent-regulated buildings produce only a limited amount of income for their owners, the income value determined by DOF is correspondingly lower.

69. As an example, the penthouse at 15 Central Park West was recently sold by former Citigroup Chairman and CEO Sandy Weill to Russian fertilizer billionaire, Dmitry Rybovlev for a total price of $88 million. *See supra* Kroll, Billionaire's Daughter. The full value of the penthouse, as listed in the City's final assessment rolls is $3.957 million. Other units in the 36 story luxury building are taxed at a market value of $135,014.

70. The combined total of the market value of all the co-ops at 60 Broadway in Williamsburg, Brooklyn is listed by DOF as having a fair market value of $12.656 million. 60 Broadway, #10CD is currently listed at Trulia.com as for sale for $6.5 million, more than half the total market value of a building with 131 units. Retrieved from: http://www.trulia.com/property/3140330763-60-Broadway-10CD-Brooklyn-NY-11249.

71. The Furman Center's Shifting the Burden report, which was non-exhaustive, noted 50 further extreme examples of condos and co-ops where the property itself is listed with a full market value that is less than the sales price of one of the building's units. Shifting the Burden, Exhibit A at 4.

Rental Properties with 11 Units or More

72. Class One properties are provided with an assessment cap, which limits how much assessments can be increased, and one of the first significant changes to S7000A was to extend the advantages of an assessment cap to small apartment buildings in Class Two.

73. Currently state law limits how much the assessed value of Class Two buildings of 11 units or less (known as Class Two-A, Class Two-B, and Class Two-C) can be annually

increased, and bars increases of more than 8% annually and more than 30% over five years. IBO Report at 21-22, N.Y. Real Prop. Tax Law § 1805 (McKinney).

74. Unlike their smaller brethren, there are no property tax caps for buildings with 11 or more units; instead assessment changes due to market conditions are phased in over a five year period. As recognized in the Independent Budget Office Report from 2006, "[u]nlike the assessment caps used in Class [One] and Classes [Two-A], [Two-B], and [Two-C], which have prevented the city from fully reflecting all of the market value appreciation that has occurred over the past 25 years, the Class [Two]…phase-ins smooth out the assessment changes while allowing the city to eventually capture the appreciation in value for those properties." *Id.* at 16.

75. For example, from 2003 to 2013 in Williamsburg, Brooklyn, the average sales price of a condo soared from $331,000 to $827,000. Ivan Pereira and Heather Senison, Brooklyn's 10-Year Boom, AM New York, January 7, 2014 at 3. Yet, because of the assessment caps on condos and co-ops, the City will never realize the increased property tax commensurate with the increase in property value.

76. Thus, because the true market value (a portion of the effective tax rate) for Class Two-A, Class Two-B, and Two-C are never realized by the City, while the true market values for Class Two properties of 11 or more units are realized by the City, the effective tax rates for Class Two buildings of 11 or more units are significantly higher than for Class Two-A, Class Two-B, and Class Two-C buildings within Class Two's already disproportionate effective tax rate vis-à-vis Class One.

77. As noted above, the split between Class One and Class Two housing places a disproportionate share of the tax revenue onto Class Two housing. Further, the systematic undervaluation of condos and co-ops shifts, and the assessment caps on Class Two-A, Two-B,

and Two-C housing, disproportionately shifts the already disproportionate Class Two tax burden onto Class Two rental housing containing 11 or more units.

FIRST CLAIM FOR RELIEF
(Violation of 42 U.S.C. §3601, *et seq.)*

78. Plaintiffs re-allege and incorporate by reference the allegations in all previous paragraphs of this Complaint.

79. New York City's actions, practices, and policies, as described herein, have had and continue to have a substantial adverse, disparate impact on African-American and Hispanic households in violation of the Fair Housing Act, 42 U.S.C. §3604(a) and (b). *See Coleman v. Seldin*, 18 Misc.2d 219 (S.Ct. Nassau Co. 1999), annexed hereto as Exhibit B.

80. The actions of Defendants herein in adopting, revising, and implementing New York City's property tax system have caused, and continue to cause, substantial injury to each of the Plaintiffs and the Class they seek to represent.

81. The actions of Defendants herein in adopting, revising, and implementing New York City's property tax system have caused, and continue to cause, substantial injury to the predominately African-American and Hispanic residents of New York City's large unit Class Two rental housing of 11 or more units.

82. The actions, practices, policies and/or procedures of the Defendants herein have encouraged the conversion of large rental properties and the development of condos and coops to the detriment of the African-American and Hispanic residents of rental residential properties.

83. The actions, practices, policies and/or procedures of the Defendants herein have resulted in a diminution in the availability of housing rental units in the City to the detriment of the African-American and Hispanic residents of rental residential properties.

84. The actions, practices, policies and/or procedures of the Defendants are in violation of the duty of the Defendants to affirmatively further fair housing and have resulted in the diminution of the availability of fair housing rental properties.

85. The actions, practices, policies and/or procedures of the Defendants have interfered with the Plaintiffs, and the Class they seek to represent, from enjoying the full benefit of the Fair Housing Act.

86. The actions, practices, policies and/or procedures of the Defendants have had the effect of otherwise making unavailable affordable fair housing apartments in the City.

87. In light of the foregoing, the City and State have violated the Fair Housing Act and appropriate injunctive and declaratory relief is appropriate.

SECOND CLAIM FOR RELIEF
(Violation of the Fourteenth Amendment to the United States Constitution)

88. Plaintiffs re-allege and incorporate by reference the allegations in all previous paragraphs of this Complaint.

89. As a result of the actions, practices, policies and/or procedures of the Defendants herein the Plaintiffs, and the Class they seek to represent, have been deprived of property without due process of law in violation of the Fourteenth Amendment to the United States Constitution.

90. As a resulted of the aforementioned, Plaintiffs and the Class they seek to represent have been denied equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.

91. As a result of the foregoing, Plaintiffs and the Class they seek to represent are entitled to injunctive and declaratory relief under 42 U.S.C. §1983.

THIRD CAUSE OF ACTION
(Violation of Article 1, §11 of the New York State Constitution)

92. Plaintiffs re-allege and incorporate by reference the allegations in all previous paragraphs of this Complaint.

93. As a result of the actions, practices, policies and procedures of the Defendants, Plaintiffs, and the Class they seek to represent, have been subjected to discrimination because of their race and/or color in their civil rights and have been denied equal protection of the laws.

94. Accordingly, Plaintiffs, and the Class they seek to represent, are entitled to appropriate declaratory and injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this Court enter judgment against Defendants:

A. Declaring that the City has violated the Plaintiffs' rights under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §3601, *et seq.* and 42 U.S.C.§1983;

B. Declaring that N.Y. Real Prop. Tax Law § 1801, *et seq.*, as applied, violates Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §3601, *et seq.* and 42 U.S.C. §1983;

C. Declaring that the State and City have violated the rights of Plaintiffs, and the Class they seek to represent, as secured by the New York State Constitution;

D. Ordering the City and State to establish a property tax code for New York City without a significantly adverse or disproportionate impact on African-American or Hispanic residents;

E. Ordering the City to pay Plaintiffs' reasonable expert and attorney's fees and costs; and

F. Granting such other and further relief as this Court deems just and proper.

DATED: New York, New York
February 26, 2014

NEWMAN FERRARA LLP

By: _____

Lucas A. Ferrara
Randolph M. McLaughlin
Debra S. Cohen
Jeffrey M. Norton
1250 Broadway, 27th Floor
New York, New York 10001
Tel: 212-619-5400
Fax: 212-619-3090
lferrara@nfllp.com
rmclaughlin@nfllp.com
dcohen@nfllp.com
jnorton@nfllp.com

Counsel for Plaintiffs

ATTORNEY VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RANDOLPH M. MCLAUGHLIN, being duly sworn, deposes and says:

I am a member of the law firm of Newman Ferrara LLP, counsel for Plaintiffs in this action. I have read the foregoing Complaint, and state that the document is true to my own knowledge, except as to matters therein stated on information or belief, and as to those matters I believe them to be true. The grounds for my belief as to all matters not stated upon my knowledge are information provided to me by the Plaintiffs, public documents reviewed by me, and consultations with Dr. Andrew Beveridge, a demographer and housing expert. This verification is made by Plaintiffs' counsel rather than Plaintiffs, pursuant to CPLR § 3020(d)(3), because Plaintiffs do not reside in the county in which Plaintiffs' counsel's office is located.

_____
RANDOLPH M. MCLAUGHLIN

Sworn to before me this
26th day of February, 2014

_____
Notary Public