

FINAL REPORT
July 2012

Barbara McDowell & Gerald S. Hartman Foundation

Legal Aid Justice Center -- Excessive Utility Billing of Public Housing Residents

The essence of this effort is to keep public housing affordable for lower-income households. As articulated in our grant application and award, the United States Housing Act directs that the resident's share of rent in most federally assisted housing programs be limited to no more than 30% of the household's adjusted monthly income. This tenant housing payment includes both rent and the additional costs for reasonable amounts of utilities that are not included in the rent. In an effort to ensure that residents' basic housing costs are appropriately limited, federal guidelines require local housing authorities to justify, document and update the schedule of utility allowances for their residential units. Tenants' usage is metered and they are billed for amounts over the allowance. It is generally expected that only a small minority of tenants will receive excess charges on a monthly basis. On behalf of a group of affected tenants, we are pursuing a claim of noncompliance with these requirements by the Charlottesville Redevelopment and Housing Authority (CRHA).

We spent six months acquiring and analyzing historic data of actual utility consumption and billing by the CRHA. For nearly nine years, the CRHA has billed residents and collected excess charges for electricity based on an alleged schedule from a study the housing authority cannot produce. The lack of allowances based on current data results in as many as 80% of the residents being assessed excess charges in some months during 2010 and 2011. The CRHA assessed the residents' total surcharges for electricity of approximately \$54,100 in 2010 with an average of 72% of residents receiving surcharges during the year. The comparable amounts in 2012 are a total of approximately \$53,700 with an average of 74% of residents receiving surcharges. Extrapolating those surcharges over the last five years, reveals that residents have experienced illegal excess charges for electricity equal to approximately \$270,000 (5 x \$54,000).

While accumulating and analyzing the data, we drafted the Federal complaint. We also signed retainers with individual named plaintiffs to fairly and fully represent that class of residents harmed by the excessive billing. We delivered a demand letter to counsel for the CRHA, outlining the legal basis for our claim and listing the remedies that we were seeking, and clearly stating our intention to file the lawsuit in the absence of significant and continuing progress.

On June 7, we filed a class action against the CRHA. Our six named plaintiffs represent all similarly impacted current and former residents who were financially harmed by inappropriate and excessive utility billing. Immediately following the electronic filing, we held a press conference to announce and define the lawsuit. It was well covered by the largest local media. The daily paper featured a front page article the next day and both local TV stations reporting on local news items gave it good coverage. Featured at the press conference and on TV were Janyce Lewis, the lead plaintiff, and John Conover, the attorney with primary responsibility for the case.

The CRHA has engaged a private law firm to defend on their behalf. The firm requested from the court an extension of time to respond due to the complexity of the issues. The request was granted and they now must respond in August 2012.

We greatly appreciate the Foundation's support for our work on behalf of these clients over the past year. Without the help of those, like you, who believe in the promise of justice for all, there would be no one to protect the rights of our neighbors in need. We hope that you will consider providing additional support to our program in the coming year, specifically to continue work on our recently initiated suit on behalf of women prisoners denied adequate medical care in Virginia.