

Sargent Shriver National Center on Poverty Law
Report to Barbara McDowell and Gerald S. Hartman Foundation
Submitted August 31, 2018

The Sargent Shriver National Center on Poverty Law (Shriver Center) is grateful for the generous support of the Barbara McDowell and Gerald S. Hartman Foundation which enabled the Shriver Center to bring important civil rights litigation, *HOPE Fair Housing v. City of Peoria*.

Background:

The Shriver Center, along with co-counsel Relman, Dane, & Colfax PLLC (RDC), filed a lawsuit in the late summer of 2017 in federal court against the City of Peoria in Illinois. The lawsuit, *HOPE Fair Housing v. City of Peoria*, contends that the City intentionally targeted enforcement of its “chronic nuisance” ordinance in predominantly African-American neighborhoods and against buildings with predominantly African-American tenants, violating the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* and Illinois Civil Rights Act of 2003. As a result of these enforcement practices, African-American residents regularly face eviction for conduct that would not result in eviction for white residents.

In addition to the federal court case, an administrative complaint was filed with the U.S. Department of Housing and Urban Development’s Office of Fair Housing and Equal Opportunity (“FHEO”) on behalf of a local property owner and a tenant who was impacted by the ordinance.

Specifically, the lawsuit asserts that in addition to being discriminatory as to *where* it enforces the ordinance, the City discriminates as to *how* it enforces the ordinance. The ordinance delegates virtually total discretion to the police department as to how a nuisance should be “abated.” In practice, the police department often has exercised this discretion, particularly in predominantly African-American neighborhoods and in gentrifying neighborhoods, to require the eviction of all tenants associated with nuisance activity—whether perpetrator, victim, or innocent third party. In particular, the enforcement of the ordinance is resulting in the eviction of survivors of domestic violence, most of whom are women, which results in discrimination on the basis of sex as well as race.

The goals of the litigation are to secure the repeal of the City of Peoria’s nuisance ordinance and to send a message to other jurisdictions throughout the country with crime-free and nuisance property ordinances that the enforcement of those laws must comply with civil rights laws. This objective is critically important as every year there are more and more local governments enacting crime-free and nuisance property ordinances. The litigation could also help to influence proposed federal legislation. The current draft of the 2018 re-authorization of the Violence Against Women Act includes, for the first time, language limiting how local governments in receipt of federal community and housing development funds can enforce local crime-free and nuisance property ordinances.

Status Update:

In September 2017, the City of Peoria filed a motion to dismiss the case. In response, the Shriver Center submitted a memorandum in opposition of the motion in early October. In May 2018, the district court denied Peoria’s motion to dismiss based upon a lack of standing. Shortly after the ruling, the parties proposed a discovery schedule, which was approved by the district court. The

parties have an aggressive and intense discovery schedule over the next year. Trial is set for November 2019. Initial written discovery has been issued by both parties, and party depositions are in the process of being scheduled.

The Shriver Center and RDC also recently retained an expert for the case, who will be funded in part through grant funds provided by the McDowell Foundation. The use of these funds to support the use of experts in impact litigation is a terrific example of how critical the McDowell Foundation's efforts are in supporting the needs of legal aid programs. It would not be possible for the Shriver Center to competently advance *HOPE Fair Housing v. Peoria* without the use of experts.

The Shriver Center and its co-counsel continue to cooperate with FHEO's investigation. In June 2018, the Shriver Center and RDC prepared and submitted additional parties for interviews. The Shriver Center and RDC also provided supplemental information to the FHEO investigators. The FHEO investigation continues but should be concluded within the next few months.

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