

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
CITY OF SPRINGFIELD, ILLINOIS,	)	
	)	
Defendant.	)	

**COMPLAINT**

The United States of America alleges as follows:

**I. INTRODUCTION**

1. The United States brings this action for declaratory and injunctive relief, monetary damages and civil penalties against the City of Springfield, Illinois (the “City” or “Springfield”) under the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended (“FHA”), 42 U.S.C. §§ 3601–3631. The City’s zoning ordinance prohibits group homes for persons with disabilities from being located within 600 feet of a similar home, measured property line to property line. The City has engaged in a pattern or practice of discrimination on the basis of disability and discriminated against a group of persons, in violation of the FHA, by refusing to make a reasonable accommodation to this spacing requirement for a small group home of three adults with intellectual and physical disabilities. Additionally, the City’s application of its spacing requirement to group homes with five or fewer residents is discrimination based on disability because this requirement does not apply to housing for up to five unrelated persons who do not have disabilities.

## **II. JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action and may grant the relief sought herein pursuant to 28 U.S.C. §§ 1331 and 1345; 42 U.S.C. § 3614(a); and 28 U.S.C. §§ 2201 and 2202.

3. Venue is proper under 28 U.S.C. § 1391 because the events or omissions giving rise to the claims alleged herein occurred in this district and because the Defendant is located there.

## **III. DEFENDANT**

4. Defendant City of Springfield is a unit of local government organized under the Constitution and laws of the State of Illinois. See Ill. Const. art. 7, § 1; 65 Ill. Comp. Stat. 5/1-1-1 et seq. The City has the capacity to sue and be sued.

## **IV. FACTUAL ALLEGATIONS**

### **A. Community Homes for Persons with Intellectual or Developmental Disabilities**

5. Through Medicaid, the State of Illinois (“State”) provides community residential services to persons with intellectual disabilities through “Community Integrated Living Arrangements,” or CILAs. CILAs, which are limited to no more than eight residents, provide an integrated alternative to large, congregate institutions or nursing facilities. They have enabled thousands of individuals with disabilities to move out of, or avoid living in, institutions and nursing facilities, where they would be segregated from the broader community.

6. The State, through the Illinois Department of Human Services (DHS), regulates, licenses, and oversees providers of CILA services. This oversight includes a licensure process, required reporting on staffing and programming, a requirement that service providers maintain accreditation to ensure that their programs comply with national standards, and required compliance with various safety and environmental regulations.

**B. Springfield's 600-foot Spacing Requirement for Community Residences**

7. Under the City's zoning ordinance, a group home for persons with disabilities, called a "community residence," may not be located within 600 feet of another "community residence," as measured by a direct line between the closest property boundaries of the respective homes, unless the home obtains a Conditional Permitted Use (CPU) permit.

Springfield Code § 155.053. A "community residence" is defined as a "single dwelling unit occupied on a relatively permanent basis in a family-like environment by a group of unrelated persons with disabilities, plus paid professional support staff provided by a sponsoring agency." Id. § 155.001. This term includes CILAs of any size for persons with intellectual disabilities, as well as group homes for persons with other types of disabilities, including the elderly, persons with physical disabilities, and persons with mental illness. See id.

8. Springfield's 600-foot spacing requirement applies only to housing that serves persons with disabilities. Under the zoning code, up to five unrelated residents without disabilities may live together as a "family" in residential neighborhoods, without having to obtain a CPU permit and without being subject to a spacing requirement. See id. §§ 155.001, 155.016.

9. Depending on the density of the surrounding neighborhood, the spacing requirement potentially renders numerous single-family homes and apartments and multiple residential blocks potentially unavailable to persons with disabilities who require the supports and services of a group home to live in the community.

10. The City enforces this spacing rule only when it receives an individual complaint and not as part of a comprehensive zoning scheme. The State of Illinois does not publish or make public the location of CILAs or other group homes it funds, administers or oversees.

**C. Enforcement of the Spacing Requirement Against 2328 South Noble Avenue**

11. 2328 S. Noble Avenue is a three-bedroom, single-family ranch-style house located within the City of Springfield. This house has three residents with intellectual disabilities and is leased by the residents' family members and guardians. The residents pay rent with their Supplemental Security Income payments. These residents have lived in this home since approximately March 2014. Two of the residents have physical disabilities and use wheelchairs to ambulate. The residents are either non-verbal or have limited communicative abilities.

12. 2328 S. Noble operates as a CILA under Illinois' Medicaid Home and Community-Based Services program. Individual Advocacy Group (IAG), an agency licensed by the State of Illinois, provides direct care support services in the home, as well as day and supported employment services to the residents. Two of the residents attend a day program and are away from the home from approximately 7:30 a.m. to 4:00 p.m. The third resident, who recently passed away, stayed at home during the day due to his advanced age. Two staff are present in the home to assist the residents with daily living activities from approximately 4:00 p.m. until approximately 10:00 p.m. At all other times, no more than one staff person is typically present in the home. With the families' consent, IAG handles rental payments and other administrative functions related to the tenancy.

13. Having the residents of a group home, or their families or guardians, own or lease the dwelling, as opposed to the provider agency doing so, is consistent with federal law governing Medicaid-funded community residential services for persons with disabilities. See 42 C.F.R. § 441.301(c)(4)(vi)(A) (residential services should be provided in a "unit or dwelling . . .

that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services”).

14. The two residents who use wheelchairs were formerly institutionalized in large, congregate facilities. The State’s treating professionals determined that these residents were capable of living in the community, and their families were likewise supportive of community placement. Since moving into the community, these residents’ developmental skills have improved. The residents participate extensively in community activities, including employment, visits with family members, and recreational outings such as sporting events. Each resident has his own bedroom and considers the house to be his home.

15. 2328 S. Noble is fully accessible to persons with disabilities. The landlords, Christine and Robin Hovey, modified the home at their own expense to make it more accessible for persons with physical disabilities by installing, among other things, lowered kitchen countertops, accessible door thresholds, a roll-in shower, and floors that could accommodate wheelchairs.

16. Under State law, CILAs “shall be typical of homes in the community and residential neighborhood and their inclusion should not appreciably alter the characteristics of the neighborhood.” 59 Ill. Admin. Code § 115.310(a). Consistent with this mandate, 2328 S. Noble does not appear outwardly different from other homes on the block. The house is well-maintained with new landscaping. It does not generate significantly more traffic or cars than other homes in the neighborhood. The residents themselves do not drive, and there are typically between two and three vehicles at the home, including an accessible van that transports residents and cars belonging to support staff. The home is consistent with other land uses in the surrounding area.

17. Since March 2014, 2328 S. Noble has not had been the subject of any police or emergency calls, other than a domestic disturbance call in 2014 that was unrelated to and did not involve the residents.

18. The first family member to sign the lease, Mary Valencia, is the sister and guardian of a 62-year old man with physical and intellectual disabilities who formerly resided at Murray Developmental Center, a state-operated facility in Centralia. Ms. Valencia chose the house because the neighborhood was quiet, safe, and close to her family, and because the house was one-story and does not have stairs.

19. At the time the lease was signed, Ms. Valencia, Mr. and Ms. Hovey, and IAG were not aware that another CILA was located within 600 feet of 2328 S. Noble. They also were not aware that the City had a 600-foot spacing requirement for such homes.

20. In or about August 2016, the City initiated an enforcement action against 2328 S. Noble by notifying Mr. and Ms. Hovey that the home was in violation of the City's 600-foot spacing ordinance. The City had been on notice since at least September 23, 2014, of 2328 S. Noble's proximity to the other CILA.

21. On October 17, 2016, in an attempt to prevent the group home from closing and the residents from losing their housing, Mr. and Ms. Hovey and IAG applied to the City for a CPU permit to allow the home to operate notwithstanding the 600-foot spacing requirement. They also requested a reasonable accommodation to the City's 600-foot spacing requirement based on the residents' disabilities and need for housing in the community. They attached extensive documentation in support of these requests, including information about IAG, the most recent national accreditation report on IAG, photographs of the home, and an expert's summary

of studies showing that small group homes such as 2328 S. Noble did not have an adverse impact on residential neighborhoods.

22. About one month later, the Springfield-Sangamon County Regional Planning Commission recommended denying the CPU permit. Notwithstanding the documentation and evidence provided with the application, the Commission's staff report recommended denial on grounds that "[t]he evidence provided in the petition does not provide sufficient detail to allow staff to make a reasonable determination whether the design and method of operation of the proposed use will minimize the adverse effects of the surrounding area." The report did not explain what "adverse effects" the home was creating; nor did it address the fact that 2328 S. Noble had been operating without incident or any "adverse effects" for over two years. The report also did not identify or request any additional information that would have allowed the Commission to determine how these effects could be minimized. The Commission did not address the request for a reasonable accommodation.

23. The City's Planning and Zoning Commission scheduled a hearing on the CPU permit application at its November 16, 2016 meeting. Prior to that meeting, the City ordered that a large sign be erected on the front lawn of 2328 S. Noble Avenue, notifying neighbors of the CPU permit application and hearing. This sign generated intense interest, and sometimes hostility, from neighbors and passersby.

24. The Planning and Zoning Commission voted 4–3 to deny the CPU permit. On December 20, 2016, the City Council voted 8–2 to adopt that recommendation. Neither the Council nor the Planning and Zoning Commission discussed or addressed the request for a reasonable accommodation. To the contrary, the Mayor specifically advised against creating a

“precedent” for future CPU permit requests by group homes, thus indicating that no such requests should be granted.

#### **IV. CLAIMS FOR RELIEF**

##### **Count I: Violations of the Fair Housing Act**

25. The allegations listed above are incorporated herein by reference.

26. “Community residences,” including the CILA at 2328 S. Noble Avenue, are “dwellings” within the meaning of 42 U.S.C. § 3602(b). The residents of these homes are persons with disabilities within the meaning of 42 U.S.C. § 3602(h).<sup>1</sup>

27. Defendant City of Springfield’s actions described above constitute:

a. discrimination in the sale or rental, or otherwise making unavailable or denying, a dwelling because of disability, in violation of the FHA, 42 U.S.C.

§ 3604(f)(1);

b. discrimination in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling because of disability, in violation of the FHA, 42 U.S.C. § 3604(f)(2); and

c. a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person an equal

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<sup>1</sup> Throughout this Complaint, the United States uses the term “disability” instead of “handicap.” For purposes of the Act, the terms have the same meaning. See Helen L. v. DiDario, 46 F.3d 325, 330 n.8 (3d Cir.) (“The change in nomenclature from ‘handicap’ to ‘disability’ reflects Congress’ awareness that individuals with disabilities find the term ‘handicapped’ objectionable.”), cert. denied sub nom., Pa. Sec’y of Pub. Welfare v. Idell S., 516 U.S. 813 (1995).

opportunity to use and enjoy a dwelling, in violation of the FHA, 42 U.S.C.

§ 3604(f)(3)(B).

28. Defendant has acted intentionally, willfully, and in disregard for the rights of others.

29. Defendant's actions as described above constitute a pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, or a denial of rights protected by the Fair Housing Act to a group of persons, which denial raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

30. The residents of 2328 S. Noble, their families, IAG, and other persons and/or agencies who may have been the victims of Defendant's discriminatory conduct are "aggrieved persons" within the meaning of 42 U.S.C. §§ 3602(i) and 3614(d)(1)(B), and have suffered harm and damages as a result of Defendant's conduct.

WHEREFORE, the United States prays that the Court enter an order:

- a. Declaring that the Defendant's actions violate the Fair Housing Act;
- b. Ordering the Defendant to take all affirmative steps to ensure their compliance with the Fair Housing Act, including steps necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate to the extent practicable the effects of their unlawful housing practices as described herein;
- c. Ordering the Defendant to take all affirmative steps to restore, as nearly as practicable, the victims of the Defendant's unlawful practices to the position they would have been in but for the Defendant's discriminatory conduct;
- d. Awarding monetary damages, pursuant to 42 U.S.C. § 3614(d)(1)(B), to all aggrieved persons; and

e. Assessing a civil penalty against the Defendant in an amount authorized by 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest.

The United States further prays for such additional relief as the interests of justice may require.

Dated: November 28, 2017.

Respectfully submitted,

JEFFERSON B. SESSIONS, III  
Attorney General

JOHN E. CHILDRESS  
United States Attorney  
Central District of Illinois

s/ John M. Gore  
JOHN M. GORE  
Acting Assistant Attorney General  
Civil Rights Division

s/ Lillian N. Stewart  
LILLIAN N. STEWART  
Assistant United States Attorney  
United States Attorney's Office  
Central District of Illinois  
318 S. Sixth Street  
Springfield, IL 62701  
Tel: (217) 492-4450  
Fax: (217) 492-4512  
Email: Lillian.Stewart@usdoj.gov

s/ Sameena S. Majeed  
SAMEENA SHINA MAJEED  
Chief, Housing and Civil Enforcement  
Section

s/ Max Lapertosa  
TIMOTHY J. MORAN  
Deputy Chief  
MAX LAPERTOSA  
ELIZA H. SIMON  
Attorneys  
United States Department of Justice  
Housing and Civil Enforcement Section  
Civil Rights Division  
950 Pennsylvania Ave. NW – G St.  
Washington, DC 20530  
Tel: (202) 305-1077  
Fax: (202) 514-1116  
Email: Max.Lapertosa@usdoj.gov

AO 440 (Rev. 06/12) Summons in a Civil Action E

UNITED STATES DISTRICT COURT

for the

Central District of Illinois

United States of America )

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*Plaintiff(s)*

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Civil Action No. E

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City of Springfield, Ill. E )

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*Defendant(s)*

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SUMMONS IN A CIVIL ACTION E

To: *(Defendant's name and address)* City of Springfield, IL  
c/o Frank Lesko, City Clerk  
Municipal Center West, Room 106  
300 S. Seventh St.  
Springfield, IL 62701

A lawsuit has been filed against you

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Max Lapertosa  
Eliza Simon  
U.S. Department of Justice  
950 Pennsylvania Ave. NW  
Washington DC 20530

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. E  
You also must file your answer or motion with the court

CLERK OF COURT

Date: E \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk E*

Civil Action No. R \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* R \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* R \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* R \_\_\_\_\_  
\_\_\_\_\_ on *(date)* R \_\_\_\_\_; or R

I returned the summons unexecuted because R \_\_\_\_\_; or

Other *(specify)*:

My fees are \$ R \_\_\_\_\_ for travel and \$ R \_\_\_\_\_ for services, for a total of \$ R 0.00

I declare under penalty of perjury that this information is true

Date: R \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title* R

\_\_\_\_\_  
*Server's address* R

Additional information regarding attempted service, etc: R \_\_\_\_\_

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
PERSONAL INJURY
REAL PROPERTY
CIVIL RIGHTS
PRISONER PETITIONS
FORFEITURE/PENALTY
LABOR
IMMIGRATION
BANKRUPTCY
PROPERTY RIGHTS
SOCIAL SECURITY
FEDERAL TAX SUITS
OTHER STATUTES

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.