
A New “Plan for Transformation”: Improving Living Conditions in Chicago’s Public Housing

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ABSTRACT. Despite transformations in Chicago’s public housing over the past few decades, many families continue to live in deplorable conditions. The existing landscape of legal rights and services for low-income tenants is unable to address the problem comprehensively. We must consider systemic solutions. To that end, this Essay argues that housing advocates should collaborate with resident councils, consider innovative approaches to impact litigation, and, perhaps most importantly, push for increasing local-government oversight of public-housing authorities.

INTRODUCTION

The United States is facing a housing-affordability crisis. The situation is particularly dire for our lowest-income families. There is no county in the country where “full-time, minimum-wage workers can afford a two-bedroom apartment priced at the fortieth percentile of area rents.”¹ And “[n]ationally, there are only thirty-six affordable, available, and adequate homes for every hundred extremely low-income households.”²

Public housing is an important source of stable, affordable housing for low-income families throughout the United States. The U.S. Department of Housing and Urban Development (HUD) allocates federal funding to locally appointed public-housing authorities (PHAs) to own and operate public-housing

1. “*We Deserve to Have a Place to Live*”: *How U.S. Underfunding Public Housing Harms Rights in New York, New Mexico, and Beyond*, HUM. RTS. WATCH 14 (Sept. 2022), https://www.hrw.org/sites/default/files/media_2022/09/us_publichousing0922_web.pdf [<https://perma.cc/8ZVV-EKEV>].

2. *Id.*

portfolios, which range from single-family houses to high-rise apartments.³ Public housing is priced below market rates, and residents typically pay 30% of their monthly adjusted income for rent.⁴ About two million people live in public housing, 43% of whom are Black and 26% of whom are Latinx.⁵ Families in public housing include some of the most disadvantaged populations, including seniors, people with disabilities, and single-parent households with young children.⁶ Today, the public need far outweighs the available supply, as over 1.5 million families are on public-housing waitlists across the country.⁷

Public housing suffers from disinvestment. Federal budget cuts and restrictions on the creation of new public-housing units have limited the ability of PHAs to provide safe, decent housing at the local level. Congress has severely cut PHA budgets since the 1990s, resulting in over 100,000 units lost between 2000 and 2012 and an estimated \$70 billion needed for repairs.⁸ There are also restrictions on the total number of public-housing units that can be built. The Faircloth Amendment effectively prevents PHAs from using federal funds to construct or acquire new public housing if it would result in a PHA having more public-housing units than it did in October 1999.⁹ Rental Assistance Demonstration program conversions are an increasingly popular way of leveraging public- and private-sector financing for preserving buildings, but the program raises concerns about the long-term viability of public-housing units.¹⁰

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3. HUD's *Public Housing Program*, U.S. DEP'T HOUS. & URB. DEV., https://www.hud.gov/topics/rental_assistance/phprog [<https://perma.cc/M8ZR-XERS>].
 4. *Id.*
 5. HUM. RTS. WATCH, *supra* note 1, at 12-13.
 6. Over half of public-housing households are headed by a family member who is elderly and/or disabled. *Public Housing Facts*, COUNCIL LARGE PUB. HOUS. AUTHS. (2024), <https://clpha.org/public-housing/facts> [<https://perma.cc/22CB-5L83>]. Seventeen percent of single mothers receive public-housing subsidies. Isabella Salas-Betsch, *The Economic Status of Single Mothers*, CTR. FOR AM. PROGRESS (2024), <https://www.americanprogress.org/article/the-economic-status-of-single-mothers> [<https://perma.cc/G43M-V4XG>].
 7. HUM. RTS. WATCH, *supra* note 1, at 30.
 8. *Id.* at 27, 29.
 9. *Id.* at 27; see 42 U.S.C. § 1437g(g)(A)(2018). A number of housing advocates have pushed for a repeal of the Faircloth Amendment. See, e.g., *Repeal the Faircloth Amendment*, NAT'L COAL. FOR THE HOMELESS 2, https://nationalhomeless.org/wp-content/uploads/2022/04/REPEAL-THE-FAIRCLOTH-AMENDMENT_NCH_FINAL-1.pdf [<https://perma.cc/C7WC-QCJQ>].
 10. Beginning in 2012, the Rental Assistance Demonstration (RAD) program allows private real estate developers to purchase and manage public-housing developments, converting the buildings from traditional public housing to project-based Section 8 housing. The public-housing authority (PHA) maintains a portion of ownership, and the private developers are required to maintain the housing units as affordable for certain periods of time. RAD conversions are favored because they allow for private-sector financing of public-housing repairs,

Today, the living conditions in many public-housing units put residents’ health at risk and compound the psychological stressors of living in poverty. Asthma, for example, is “the most common chronic childhood disease.”¹¹ Mold, water damage, and poor ventilation in homes can trigger and worsen asthma. Dilapidated buildings with holes in the walls and ceilings allow easier entry of roaches and rodents, which contribute to allergens.¹² As a result, Black and Latinx children in low-income urban environments, and especially those in public housing, are at much higher risk of developing asthma and requiring hospitalization.¹³ During my fellowship at Legal Action Chicago, I saw how faulty construction and poor building maintenance can lead to injuries. Deteriorated floorboards and stairs were serious falling hazards. Unaddressed leaks weakened ceilings over time to the point that they sometimes caved in. More generally, lack of heat and running water can spread and worsen flu, coughs, colds, and other illnesses.¹⁴ Having to bathe in cold water can exacerbate the health issues of residents with heart and chronic-pain conditions.¹⁵

Living in substandard conditions also strains mental health. Home is where we want to feel safe and comfortable. Yet, for families living in substandard housing, home is often a source of stress—from the stress of pest infestations and winter heat outages to the stress of not being able to invite family and friends into one’s home. These anxieties are especially felt in public housing, where families often deal with unresponsive housing authorities, cannot afford to make the repairs themselves, and lack the resources to find other housing options. Parents become preoccupied with their housing situation. They may lose sleep or have difficulty concentrating at work.¹⁶ Due to parental stress and parenting behaviors that result from poor housing conditions, children may even develop emotional and behavioral problems and perform worse in school.¹⁷

Chicago is a compelling case study for the past, present, and potential future of public housing in the nation. The Chicago Housing Authority (CHA) is the

helping fill the severe gap in public funds. However, RAD also raises concerns about the long-term preservation of public housing, since developers can switch to market-rate rents once the requirements to maintain affordable units expire. Rachel Schwartz, *The Warranty of Habitability and the New York City Housing Authority*, 33 GEO. J. LEGAL ETHICS 781, 790 (2020).

11. Tyra Bryant-Stephens, *Asthma Disparities in Urban Environments*, 123 J. ALLERGY & CLINICAL IMMUNOLOGY 1199, 1199 (2009).
12. *Id.* at 1202.
13. *Id.* at 1199-20; see also Jennifer Northridge, Olivia F. Ramirez, Jeanette A. Stingone & Luz Claudio, *The Role of Housing Type and Housing Quality in Urban Children with Asthma*, 87 J. URB. HEALTH 211, 220 (2010) (finding “a high prevalence of asthma in public housing” in New York City).
14. Kathryn Sabbeth, *(Under)Enforcement of Poor Tenants’ Rights*, 27 GEO. J. POVERTY L. & POL’Y 97, 105 (2019).
15. Complaint at 15, *Kolio v. Hawaii*, No. 11-cv-00266 (D. Haw. Apr. 21, 2011).
16. Sabbeth, *supra* note 14, at 105.
17. Rebekah Levine Coley, Tama Leventhal, Alicia Doyle Lynch & Melissa Kull, *Poor Quality Housing Is Tied to Children’s Emotional and Behavioral Problems*, MACARTHUR FOUND. 1-2 (Sept. 2013), https://www.macfound.org/media/files/hhm_research_brief_-_september_2013.pdf [<https://perma.cc/5JWC-2E47>].

country's third-largest PHA, providing homes for 65,000 families throughout the city, including over 20,000 families who live in public housing.¹⁸ In the 1960s, Chicago saw the country's first major public-housing racial-desegregation case.¹⁹ By the end of the twentieth century, the city's high-rise housing projects had become national symbols of crime, decay, and concentrated poverty in federally subsidized housing.²⁰ In 2000, CHA embarked on one of the largest public-housing experiments in the country—tearing down nearly 18,000 units and replacing them with reconstructed or renovated public-housing units scattered throughout the city.²¹

While the face of public housing in Chicago has dramatically transformed over the past few decades, many CHA families continue to live in deplorable conditions. Deteriorating building infrastructure, heat outages, mouse and roach infestations, mold, leaks, floods, and high vacancy rates are urgent problems in a number of CHA developments.²² Unfortunately, these issues have yet to be addressed in a systematic way. The existing landscape of legal rights and services for low-income tenants is unable to improve comprehensively the living conditions in CHA housing. Many public-housing residents do not bring conditions complaints for fear of retaliation.²³ The minimal penalties that PHAs face

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18. *About*, CHI. HOUS. AUTH. (2024), <https://www.thecha.org/about> [<https://perma.cc/P7KA-HZCD>]; *Public Housing*, CHI. HOUS. AUTH. (2024), <https://www.thecha.org/residents/public-housing> [<https://perma.cc/HZU8-Z9MH>].
 19. Sophie Kasakove, *A Major Chicago Public-Housing Lawsuit Is Wrapping Up. The Segregation It Fought Against Lives on.*, PAC. STANDARD (Feb. 28, 2019), <https://psmag.com/social-justice/a-major-chicago-public-housing-lawsuit-is-wrapping-up-the-segregation-it-fought-against-lives-on> [<https://perma.cc/BH2W-6NRK>]; see *Gautreaux v. Chi. Hous. Auth.*, 296 F. Supp. 907, 914-15 (N.D. Ill. 1969).
 20. Adam M. Rhodes, 'A City Within a City,' CHI. READER (Mar. 30, 2021), <https://chicago-reader.com/news-politics/a-city-within-a-city> [<https://perma.cc/HLN7-SJBP>].
 21. Kenya Barbara, *The Plan for Transformation: How a Plan with Lofty Goals Has Underperformed and Forever Changed Public Housing in Chicago*, 24 PUB. INT. L. REP. 101, 101, 103 (2018).
 22. See, e.g., Brandon Ison, *Inside Chicago's Public Housing: Mold, Water Damage and a Dangerous Lack of Heat*, WBBM NEWSRADIO (Feb. 20, 2024, 3:14 PM), <https://www.audacy.com/wbbm780/news/local/chicago-housing-authority-tenants-report-mold-infestations-complete-lack-of-heat> [<https://perma.cc/H2JQ-6JAU>]; Mike Krauser, *Vermin, Bugs, and More: Uptown High-Rise Tenants Protest 'Dangerous' Living Conditions*, WBBM NEWSRADIO (Feb. 15, 2024, 4:55 PM), <https://www.audacy.com/wbbm780/news/local/uptown-high-rise-tenants-protest-vermin-infested-housing> [<https://perma.cc/2SPZ-MAZB>].
 23. CHA residents sometimes experience retaliation from property management or CHA upon bringing maintenance complaints. Many of the residents whom I spoke with during my fellowship also said that they were reluctant to bring complaints for fear of retaliation. See Nick Blumberg, *Chicago Housing Authority Leaseholders Accuse Management Companies of Retaliation, Blast Agency Oversight: 'They're Not Dictators'*, WTTW NEWS (Sept. 13, 2023, 6:23 PM), <https://news.wttw.com/2023/09/13/chicago-housing-authority-leaseholders-accuse-management-companies-retaliation-blast> [<https://perma.cc/9PWX-QAQE>].

for failing to make necessary repairs in individual units are an insufficient incentive to change maintenance practices. Legal-aid attorneys subject to Legal Services Corporation (LSC) funding restrictions can typically challenge building conditions only on a case-by-case basis, in the context of eviction defense.²⁴ As a result, it is necessary to pursue new, innovative strategies to tackle widespread conditions problems affirmatively and systematically. Systemic issues require systemic solutions.

By combining the literature on public-housing history and tenant-rights law with the lived experiences of public-housing residents, this Essay uses Chicago as a case study to explore strategies for systematically improving public-housing conditions. Part I provides a brief history of Chicago’s public housing, highlights the persistence of substandard living conditions, and offers a ground-level perspective on the issues based on my experiences working with CHA families during my fellowship. Part II describes how the existing landscape of legal rights and services for low-income tenants is unable to address comprehensively the conditions problems that CHA families deal with on a daily basis. Part III argues that housing attorneys should collaborate with resident councils and consider new, innovative approaches to representing large groups of public-housing residents via class-action litigation. Attorneys should also shift their focus to advocating for local-government oversight of PHAs, which would give cities the power to inspect, monitor, and penalize PHAs proactively for building- and health-code violations.

I. THE TRANSFORMATION OF CHICAGO’S PUBLIC HOUSING

From its beginning, Chicago’s public-housing high-rises were constructed in poor, racially segregated areas, in keeping with the city’s history of racial inequity.²⁵ While public housing initially offered an important source of stable housing for many low-income families, it deteriorated over the latter half of the twentieth century due to CHA mismanagement, federal budget cuts, and heavily concentrated poverty. HUD took control of CHA from 1995 to 1999. Shortly thereafter, CHA implemented the Plan for Transformation, a strategy aimed at deconcentrating poverty and improving public-housing quality by demolishing or rehabilitating many of the high-rises and building decentralized scattered-site and mixed-income units throughout the city.

24. David A. Super, *The Rise and Fall of the Implied Warranty of Habitability*, 99 CALIF. L. REV. 389, 405 (2011).

25. Although Chicago is highly diverse—with over sixty-five percent of the city’s population being Black, Latinx, or Asian—it remains deeply segregated and unequal. Redlining and restrictive covenants limited the housing options of racial minorities during the 1900s. Today, predominately Black and Latinx neighborhoods on the South and West Sides of the city continue to face disparities in economic, health, and quality-of-life outcomes. Heather Cherone, *How Did Chicago Become So Segregated? By Inventing Modern Segregation*, WTTW NEWS (Feb. 24, 2022), <https://interactive.wttw.com/firsthand/segregation/how-did-chicago-become-so-segregated-by-inventing-modern-segregation> [<https://perma.cc/8YCG-ZCX5>].

While the Plan for Transformation dramatically changed the face of Chicago's public-housing stock, significant challenges remain. Many of the redeveloped housing complexes have fallen into disrepair. CHA has not replaced nearly as many units as promised, leaving thousands of former residents unable to return to their homes. CHA's vacancy rates are well beyond HUD's guidelines, and it can take years to fill vacant units with new families. In the midst of our housing-affordability crisis, CHA is struggling to provide safe, decent homes for some of the lowest-income Chicagoans.

A. *The History of Public Housing in Chicago*

Public housing in Chicago was first developed under the Housing Act of 1937, which was enacted in the midst of the Great Depression as part of the New Deal-era programs to combat urban blight. Congress passed the Housing Act to eliminate dangerous conditions in the urban slums of the early 1900s and to promote "safe" and "sanitary" dwellings for low-income families.²⁶ In doing so, it established the contemporary model of providing federal funds to local PHAs to own and operate affordable housing for low-income families. Chicago's public housing grew in the 1940s, occupied by low-income families, then war-industry workers, and later veterans returning from World War II.²⁷

Chicago is infamously one of the most segregated big cities in the country.²⁸ Throughout the twentieth century, public-housing policy worked in tandem with redlining and other discriminatory housing practices in the private market to reinforce residential segregation patterns.²⁹ The federal "Neighborhood Composition Rule" initially required that public-housing residents be of the same race as residents in the surrounding neighborhood, so as not to "alter" the preexisting racial composition.³⁰ Chicago's city aldermen, who must approve construction of new housing projects in their wards, often blocked developments in predominantly white wards.³¹ Thus, more than ninety-eight percent of all

26. Housing Act of 1937, 42 U.S.C. § 1437 (2018).

27. *About*, CHI. HOUS. AUTH. (2024), <https://www.thecha.org/about> [<https://perma.cc/RDA3-NUR6>].

28. Cherone, *supra* note 25.

29. RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA*, at vii-viii (2017).

30. *Id.* at 21.

31. The "aldermanic prerogative" continues to limit the construction of affordable housing in majority-white Chicago neighborhoods. Brett Chase, *Chicago Wrongly Limited Affordable Housing with Aldermanic Prerogative, HUD Says*, CHI. SUN-TIMES (Nov. 28, 2023, 6:54 PM EDT), <https://chicago.suntimes.com/city-hall/2023/11/28/23979913/aldermanic-prerogative-affordable-housing-hud-chicago-discrimination> [<https://perma.cc/RYZ3Z-82L7>].

public-housing units built between the 1950s and 1960s were in Black neighborhoods.³²

High demand for affordable housing, coupled with the cost and limited availability of land where Black families could live, led to the dominance of high-rise public-housing towers.³³ The State Street Corridor, which included Harold Ickes Homes, Stateway Gardens, Ida B. Wells Homes, and the Robert Taylor Homes, stretched over four miles across the historic Bronzeville neighborhood on the South Side and became the largest contiguous expanse of public housing in the United States.³⁴ At its height, CHA was the largest landlord in Chicago.³⁵ It owned over 40,000 public-housing units throughout the city, which provided stable homes for over 100,000 residents, most of whom had few, if any, other options in the private housing market.³⁶

In 1966, Chicago public-housing residents brought the nation’s first major public-housing desegregation case, *Gautreaux v. Chicago Housing Authority*.³⁷ Led by Dorothy Gautreaux from Altgeld Gardens on the far South Side, residents sued CHA for racially discriminating by selecting housing-project sites in predominantly Black neighborhoods and using racial quotas to limit the number of Black residents in housing projects in predominantly white neighborhoods.³⁸ The court held that public-housing residents have a Fourteenth Amendment right to have public-housing sites selected without regard to a neighborhood’s preexisting racial composition.³⁹ Based on demographic statistics of the housing-project sites considered, the court found “a very high probability, a near certainty,” that race was the basis for decisions on where to build public housing.⁴⁰ The ruling in *Gautreaux* led to a one-for-one policy under which CHA could only build new public-housing units in Black neighborhoods if CHA also built an equal number in racially diverse neighborhoods.⁴¹ It also created a voucher

32. Cherone, *supra* note 25.

33. *Id.*

34. *Changes to Public Housing Spur State Street Revival*, CHI. TRIB. (Aug. 21, 2021, 4:42 AM), <https://www.chicagotribune.com/2003/07/30/changes-to-public-housing-spur-state-street-revival> [<https://perma.cc/K7WN-NXFZ>].

35. CHI. HOUS. AUTH., *supra* note 27.

36. Mick Dumke, *After 22 Years, Housing Promises Still Unfulfilled in Chicago*, PROPUBLICA (Dec. 16, 2022, 6:00 AM EST), <https://www.propublica.org/article/chicago-housing-authority-hud-transformation-plan> [<https://perma.cc/2EA3-CDG9>].

37. Kasakove, *supra* note 19.

38. *Gautreaux v. Chi. Hous. Auth.*, 265 F. Supp. 582, 583 (N.D. Ill. 1967).

39. *Id.* (“[P]laintiffs, as present and future users of the system, have the right under the Fourteenth Amendment to have sites selected for public housing projects without regard to the racial composition of either the surrounding neighborhood or of the projects themselves.”).

40. *Gautreaux v. Chi. Hous. Auth.*, 296 F. Supp. 907, 913 (N.D. Ill. 1969).

41. For a critical perspective on the *Gautreaux* litigation strategy and the settlement outcome, see Maya Dukmasova, *The Fight to Preserve a Model Public Housing Project*, CHI. READER (June 12, 2014), <https://chicagoreader.com/news-politics/the-fight-to-preserve-a-model-public-housing-project> [<https://perma.cc/AH7Q-V6XN>].

program that allowed a limited number of public-housing families to move to more affluent areas.⁴²

As poverty became increasingly concentrated in the high-rise projects and CHA's financial resources diminished, public-housing quality declined over the latter half of the twentieth century. Deindustrialization and white flight led to declines in population and public revenues in urban centers around the country.⁴³ In 1969, Congress passed the Brooke Amendments, which required public-housing residents to pay no more than a percentage of their household income (first twenty-five percent, then thirty percent) as rent.⁴⁴ This marked the end of CHA's fixed-rent policy. More importantly, it reduced the amount of rent revenue that CHA could use to cover maintenance costs. Public housing became more attractive to the lowest-income families in the city. Many working families that could afford market-rate housing left.⁴⁵ CHA fell further behind on maintenance inspections and repairs, often turning a blind eye to residents' complaints.⁴⁶ At the end of the century, CHA developments would constitute eleven of the fifteen poorest census tracts in the nation.⁴⁷

By the 1990s, Chicago's public-housing projects were in disarray. The Cabrini-Green Homes on the Near North Side had become a symbol for crime and decay in federally subsidized housing.⁴⁸ Elevators frequently went out, trash chutes piled up, and cockroaches infested the buildings.⁴⁹ CHA's disinvestment—unlit hallways, elevators, and stairwells—contributed to the prevalence of gang activity, drug trafficking, and assault.⁵⁰ In 1991, residents at the West Side housing project Henry Horner Homes—recently renamed Westhaven Park—filed a class-action lawsuit, arguing that their buildings had deteriorated

42. *The Fight for Fair Housing: A Summary of Gautreaux v. Chicago Housing Authority*, IMPACT FOR EQUITY 8 (2024), <https://www.impactforequity.org/wp-content/uploads/2024/07/The-Fight-for-Fair-Housing-A-Summary-of-Gautreaux-v.-Chicago-Housing-Authority.pdf> [<https://perma.cc/7MEA-MY7W>].

43. HUM. RTS. WATCH, *supra* note 1, at 26.

44. Housing and Urban Development Act of 1969, Pub. L. No. 91-152 § 213(a), 83 Stat. 379, 389.

45. D. BRADFORD HUNT, *BLUEPRINT FOR DISASTER: THE UNRAVELING OF CHICAGO'S PUBLIC HOUSING 9-10* (2009).

46. Julia C. Powell, *De Facto Demolition: The Hidden Deterioration of Public Housing*, 44 CATH. U. L. REV. 885, 888 n.12 (1995).

47. *The Plan for Transformation: An Update on Relocation*, CHI. HOUS. AUTH. 1 (Apr. 2011), https://cha-assets.s3.us-east-2.amazonaws.com/s3fs-public/2018-08/4_14_11_report_final_appendices_1.pdf [<https://perma.cc/LC3L-MWFZ>].

48. Rhodes, *supra* note 20.

49. *Id.*

50. *Id.*

to the point that they were “de facto demolish[ed].”⁵¹ At the time, forty-nine percent of the units that comprised Horner were vacant, and the conditions were perhaps the worst across all CHA developments.⁵² The Henry Horner Mothers Guild, a group of mothers in public housing, organized their neighbors to join the class of plaintiffs and launched a media campaign documenting their fight for better living conditions, which drew further attention to the public-housing crisis.⁵³

Due to widespread conditions problems, rampant crime, and mismanagement, HUD took over CHA from 1995 to 1999, prompting massive changes in leadership and direction.⁵⁴ The CHA Board of Commissioners voted to transfer control of CHA to HUD, as part of HUD’s larger recovery efforts to improve “troubled” PHAs in major cities throughout the country.⁵⁵ When CHA regained control, it became part of HUD’s Moving to Work program, which gives participating PHAs flexibility and discretion to use federal funds to adapt public-housing strategies to fit local needs.⁵⁶ In turn, CHA developed one of the most ambitious plans in the country for transforming public housing.

Launched in 2000, the Plan for Transformation aimed to address the public-housing ills of crime and disrepair associated with concentrated poverty in the high-rises. CHA accelerated demolition of over 18,000 public-housing units.⁵⁷ In their place, CHA prioritized scattered-site developments—typically smaller, two- to three-story apartment complexes dispersed throughout the city’s neighborhoods; mixed-income buildings, where CHA residents share buildings with neighbors who pay market- or affordable-rate rents; and housing-choice vouchers, which allow low-income families to pay no more than thirty to forty percent of their incomes for rent in the private market, with CHA paying the remainder directly to the landlord.⁵⁸ Residents displaced by the demolitions were generally guaranteed the “right to return” to redeveloped public-housing units.⁵⁹ In total,

51. Henry Horner Mothers Guild v. Chi. Hous. Auth., 824 F. Supp. 808, 817 (N.D. Ill. 1993).

52. Powell, *supra* note 46, at 908 n.121.

53. Linda Gerber, *Henry Horner Mothers Guild: Tenants Go Public on Public Housing*, UNIV. RSCH. CORP. 5 (Feb. 1995), https://bmsg.org/sites/default/files/bmsg_henry_horner_mothers_guild.pdf [<https://perma.cc/7NVY-LPU7>].

54. Barbara, *supra* note 21, at 101.

55. *Public Housing: HUD’s Takeover of the Chicago Housing Authority: Hearing Before the H. Subcomm. on Hous. and Cmty. Opportunity, Comm. on Banking and Fin. Servs.*, 104th Cong. 1 (1995) (statement of Judy England-Joseph, Director, Housing and Community Development Issues, Government Accountability Office).

56. *About*, CHI. HOUS. AUTH., <https://www.thecha.org/about> [<https://perma.cc/D4BU-7X6A>].

57. Barbara, *supra* note 21, at 101-02.

58. *Id.* at 104; *Housing Choice Voucher (HCV) Program*, CHI. HOUS. AUTH., <https://www.thecha.org/residents/housing-choice-voucher-hcv-program> [<https://perma.cc/QC7A-7HG3>].

59. Lolly Bowean, *The Wait to Return*, CHI. TRIB. (Dec. 24, 2018, 10:26 AM CDT), <https://www.chicagotribune.com/2013/09/18/the-wait-to-return-2> [<https://perma.cc/2NUZ-39RU>]. See also the relocation rights contract, which provides the right to return for CHA leaseholders who occupied CHA housing on October 1, 1999, and were displaced by the Plan for Transformation. *Revised CHA Leaseholder Housing Choice and Relocation Rights Contract*, CHI. HOUS. AUTH. (Oct. 1, 1999),

CHA committed to reconstruct or rehabilitate 25,000 units.⁶⁰ CHA has yet to deliver fully on this promise.⁶¹

B. *Chicago's Public-Housing Challenges in the Twenty-First Century*

The Plan for Transformation improved public housing, but significant challenges remain. Many CHA residents see their replacement housing as an improvement from their original homes and feel safer in their new neighborhoods.⁶² The scattered sites, for example, have allowed families to live in lower-poverty and more racially diverse neighborhoods.⁶³ Mixed-income housing also offers an important, socioeconomically integrated option. However, the scarcity of mixed-income units throughout the city and the stricter work requirements and background checks required to live in these buildings limit the number of residents who can take advantage of this opportunity.⁶⁴

Today, housing-choice vouchers are by far the most popular option for subsidized housing in Chicago, with around 47,000 families receiving assistance.⁶⁵ While voucher holders appreciate the power of being able to choose where to rent in the private market, they often experience the compound effects of race and source-of-income discrimination when trying to rent in more affluent, racially diverse neighborhoods. Landlords in these areas can be unwilling to rent to housing applicants who come with vouchers.⁶⁶ A voucher holder in the

public/2023-03/8_13_14_revised_10-1-99_contract_rrc_revisions_bd_approved_4-20-10_final_2%20(1).pdf [https://perma.cc/ZU7N-4AWZ].

60. Barbara, *supra* note 21, at 101.

61. Dumke, *supra* note 36.

62. Susan J. Popkin, Megan Gallagher, Chantal Hailey, Elizabeth Davies, Larry Buron & Christopher Hayes, *CHA Residents and the Plan for Transformation*, URB. INST. 3 (Jan. 2013), <https://www.urban.org/sites/default/files/publication/23376/412761-CHA-Residents-and-the-Plan-for-Transformation.PDF> [https://perma.cc/6CT3-64UF].

63. Robert Chaskin & Mark Joseph, *Mixed-Income Development Study: Chicago's Public Housing Transformation: What Happened to the Residents?*, UNIV. OF CHI. SCH. OF SOC. SERV. ADMIN. & CASE W. RSRV. UNIV. MANDEL SCH. OF APPLIED SOC. SCIS. 2, 4 (Feb. 2012), https://bpb-us-w2.wpmucdn.com/voices.uchicago.edu/dist/o/1173/files/2018/06/Chaskin_Study_5_2_2012-1z9qa7m.pdf [https://perma.cc/DNV7-TWET].

64. Barbara, *supra* note 21, at 103; Chaskin & Joseph, *supra* note 63, at 1.

65. See Samantha Chatman & Maggie Green, *Chicago Affordable Housing Wait Can Take Years as City, CHA Face Severe Shortage*, ABC 7 CHI. (May 10, 2023), <https://abc7chicago.com/affordable-housing-chicago-cha-section-8-portal/13232375> [https://perma.cc/C8J4-5MRF].

66. See Natalie Moore, *Chicago's Section 8 Vouchers Increasing in Black Communities, Declining in White Neighborhoods*, WBEZ CHI. (May 2, 2019, 4:18 PM EDT), <https://www.wbez.org/chicago/2019/05/02/more-section-8-vouchers-in-chicagos-black-neighborhoods-than-a-decade-ago> [https://perma.cc/38EE-LEX4]; see also *Fair Housing Testing Project for the Chicago Commission on Human Relations*, CHI. LAWS' COMM. FOR C.R., at iii (2018),

Garfield Park neighborhood on the West Side commented on the struggle of finding housing in more affluent areas, saying, “[We’re] very stuck . . . It’s a stigma attached to Section 8 that we don’t want to work . . . we’re not educated, we don’t take care of ourselves, our children are just reckless.”⁶⁷ As a result, there are more voucher holders living in the majority-Black communities of South Shore (3,487), on the South Side, and Austin (3,130), on the West Side, than in all of the city’s nineteen majority-white communities combined (2,357).⁶⁸

Despite the problems associated with the high-rise projects, the large-scale demolitions brought by the Plan for Transformation disrupted residents’ sense of home. Many residents lamented the loss of the community they had in the high-rises—the social networks, support systems, and ability to organize with their neighbors for collective action.⁶⁹ A former Cabrini-Green resident and community activist reflected that there was “a sense of community, a sense of family” in the high-rises and that “there was a sense of not knowing how people were going to receive us” in other neighborhoods.⁷⁰ Over the years, many displaced residents with the “right to return” to redeveloped public-housing units have not been able to move back.⁷¹ CHA’s construction of new buildings to replace the high-rises has stalled, and there are not enough new units to accommodate the former residents.⁷² Due to bureaucratic errors, CHA has also lost track of many of the public-housing residents whose homes were demolished.⁷³ There are still large swaths of vacant land throughout the city where the high-rises once stood, some of which were recently leased to the private sector in controversial, high-profile deals to build sports facilities.⁷⁴

Moreover, conditions problems are widespread in the city’s existing public housing. Several CHA developments, including two of the largest in the city—Altgeld Gardens and Trumbull Park Homes—along with nearly all of the scattered-site regions, routinely score very low on routine HUD inspections.⁷⁵ For

https://www.chicago.gov/content/dam/city/depts/cchr/supp_info/FairHousingReportAUG2018.pdf [<https://perma.cc/8JLK-WVDD>] (finding race and source-of-income discrimination by Chicago landlords).

67. Moore, *supra* note 66.

68. *Id.*

69. Rhodes, *supra* note 20.

70. *Id.*

71. Alejandra Cancino, *Cabrini-Green: A History of Broken Promises*, BLOCK CLUB CHI. (Dec. 15, 2021), <https://blockclubchicago.org/2021/12/15/cabrini-green-a-history-of-broken-promises> [<https://perma.cc/52Y5-S2XQ>].

72. Bowean, *supra* note 59.

73. Antonio Olivo, *Report Hits CHA for Losing Residents*, CHI. TRIB. (Aug. 21, 2021, 8:26 PM CDT), <https://www.chicagotribune.com/2005/07/22/report-hits-cha-for-losing-residents> [<https://perma.cc/QJ92-XTZF>].

74. Julie Elena Brown & Ashley Meeder, *Building on Opportunity: Vacant Public Housing Land Holds the Key to Community*, IMPACT FOR EQUITY (Jan. 2024), https://www.impactforequity.org/wp-content/uploads/2024/01/IFE_Building-on-Opportunity-Housing-Report-REDUCED.pdf [<https://perma.cc/SDG4-4ENL>].

75. See *Chicago Housing Authority*, PROPUBLICA (2019), <https://projects.propublica.org/hud/owners/IL002> [<https://perma.cc/5TCJ-FJVV>]; *Physical Inspection Scores*, DEP’T

the past few winters, many CHA residents have dealt with heat outages, sometimes using kitchen ovens to warm their homes for days.⁷⁶ A resident of Washington Park Homes on the South Side expressed frustration over the dilemma of using an oven to warm her home this past February: “You have to make that determination: Do I need to be warm right now, or do I care to breathe these fumes [and gases from an open oven] in?”⁷⁷ Residents often complain of mouse and roach infestations.⁷⁸ Elevators frequently go out, which is especially troubling for seniors in the high-rises, such as Ella Flagg Young Apartments on the North Side, where residents have limited mobility.⁷⁹ Mold is pervasive in many of the buildings, as are leaks.⁸⁰ One out of every six scattered-site homes throughout the city sits vacant.⁸¹ Some CHA properties have become hubs for drug activity and hotspots for pest infestations after being vacant for years.⁸²

In sum, the city is not able to supply nearly enough safe, affordable housing to meet the overwhelming demand. In 2021, over 1,700—around fifteen percent—of CHA’s public-housing units were vacant, compared to the HUD national recommendation of only four percent.⁸³ Many of these units were vacant for no documented reason, and most have been vacant for over fifty days,⁸⁴ indicating significant delays in moving families into available units. Meanwhile, the demand for affordable housing is perhaps higher than ever. Almost half of

HOUS. URB. DEV. OFF. POL’Y DEV. & RSCH. (2021), https://www.huduser.gov/portal/datasets/pis.html#codebook_2021 [<https://perma.cc/7FK8-V9MM>].

76. See, e.g., Trey Arline, *CHA Senior Building Went Without Heat for Days over Frigid Christmas, Residents Say*, BLOCK CLUB CHI. (Dec. 29, 2022), <https://blockclubchicago.org/2022/12/29/cha-senior-building-went-without-heat-for-days-over-frigid-christmas-residents-say> [<https://perma.cc/7BLY-MXWT>]; Sharda Gray, *‘We Still Pay Rent’: South Deering Residents Without Heat, But New Boiler for Building Sits Outside*, CBS NEWS (Jan. 31, 2023, 11:32 AM CST), <https://www.cbsnews.com/chicago/news/south-deering-residents-no-heat> [<https://perma.cc/3WFS-GYVC>].
77. Ison, *supra* note 22.
78. Krauser, *supra* note 22.
79. *Id.*
80. Ison, *supra* note 22.
81. Kathryn Richards, Michael Kosanovich, Beatriz Martinez & Ellaye Accoh, *Audit of CHA’s Tracking & Management of Vacant Public Housing Units*, CHI. HOUS. AUTH. OFF. OF THE INSPECTOR GEN. 19 (Mar. 10, 2023), <https://cha-assets.s3.us-east-2.amazonaws.com/s3fs-public/2023-03/CHA%20OIG%20Audit%20of%20CHA%27s%20Tracking%20%20Management%20of%20Vacant%20Units%2003-28-2023.pdf> [<https://perma.cc/EE3H-9Q4J>].
82. Emeline Posner, Jennifer Bamberg, Rachel Hinton & Mick Dumke, *As City Battles Housing Shortage, CHA Lets Hundreds of Empty Homes Decay*, *Block Club Chicago* (Dec. 13, 2023), <https://blockclubchicago.org/2023/11/29/as-city-battles-housing-shortage-cha-lets-hundreds-of-empty-homes-decay> [<https://perma.cc/2CGL-Z7F2>].
83. Richards et al., *supra* note 81, at 8, 17.
84. *Id.* at 18.

Chicago renters are cost-burdened, spending more than thirty percent of their income on housing.⁸⁵ There are over 200,000 people, or roughly seven percent of the city’s population, on CHA’s waiting list.⁸⁶ Public-housing applicants can typically expect to wait several years to get a unit.⁸⁷ The waitlist for housing-choice vouchers has remained closed since 2014 due to exceedingly high interest.⁸⁸

C. *A Ground-Level Perspective on Conditions Problems in Chicago’s Public Housing*

During my year-long fellowship at Legal Action Chicago, I investigated public-housing conditions city-wide. I met with nearly all of the local advisory councils (LACs) at each of the public-housing developments and visited individual units to document the living conditions. When the problems were severe, I advocated on behalf of the residents, communicating with CHA and property management and, if necessary, presenting demand letters to have the issues resolved. I also worked on class-action litigation in support of the consent decree governing the Henry Horner Homes on the West Side, which allowed me to visit residents’ homes and see conditions problems firsthand.⁸⁹ In total, I heard from nearly one hundred public-housing residents living in substandard conditions and visited about forty units across the city. Drawing on my experiences during the fellowship, this Section will provide a ground-level perspective of the substandard living conditions in several CHA developments and the challenges that residents face when seeking repairs in their homes.

Public-housing repairs are seldom made in a timely manner. Typically, CHA and property management become aware of conditions problems via resident complaints or regular building inspections. Maintenance requests are then logged in CHA’s system and categorized in terms of priority – emergency issues

85. Debbie-Marie Brown, ‘*That Land Was Promised to Us*,’ CHI. READER (Sept. 8, 2023), <https://chicagoreader.com/news-politics/that-land-was-promised-to-us> [<https://perma.cc/3WNB-Y9XN>].

86. *Id.*; see *Chicago, Illinois Population 2024*, WORLD POPULATION REV., <https://worldpopulationreview.com/us-cities/chicago-il-population> [<https://perma.cc/BDM5-6LP8>].

87. *Estimated Wait Time for Housing Interview and Screening*, CHI. HOUS. AUTH. (2020), <https://applyonline.thecha.org/PopupWaittimes.aspx> [<https://perma.cc/V8A9-A97S>].

88. Chatman & Green, *supra* note 65.

89. The Henry Horner Homes on the West Side of Chicago has been under a consent decree since 1995, which requires the Chicago Housing Authority (CHA) to redevelop public-housing units lost during the demolition of the Horner high-rises and to maintain those redeveloped units in decent, safe, and sanitary condition. Nonetheless, nearly thirty years later, residents continue to deal with widespread conditions problems, which were among the worst that I personally observed across CHA developments. See Sylvia Lebrun, ‘*The Same Battle from the Very Beginning*’: *After Almost 30 Years of Redevelopment, Some Henry Horner Homes Residents Say They Face Inadequate Housing*, CHI. TRIB. (Aug. 14, 2024, 5:00 AM CDT), <https://www.chicagotribune.com/2024/08/14/the-same-battle-from-the-very-beginning-after-almost-30-years-of-redevelopment-some-henry-horner-homes-residents-say-they-face-inadequate-housing> [<https://perma.cc/H749-RGRA>].

must be abated within twenty-four hours, urgent issues within forty-eight hours, and routine issues, which include general maintenance and unscheduled preventative maintenance, are held to a less regimented schedule.⁹⁰ Property managers, however, often do not make repairs on these timeframes. Residents feel that their requests disappear into a black hole. Sometimes they never receive a response. A resident of Henry Horner Homes expressed frustration with CHA, saying: “They don’t do nothing. We call them, I don’t how many times (we’ve) called them.”⁹¹ Other times, maintenance workers will visit their home to do an initial inspection of the problem without following up to complete the work. The work orders might then get marked as completed, even though no work had actually been done. Some residents wait years for repairs and many eventually give up on making maintenance requests, feeling that nothing will change.

When small issues are not addressed, they become big. At a scattered-site building on the West Side, I saw how failing to regularly clean “sump pumps,” which are designed to take water surrounding a building’s foundation and pump it outside, can have disastrous effects. The sump pump at the scattered-site building became clogged, causing recurring floods in the basement unit for over five years. By the time I got in touch with the family living there, the conditions were deplorable. The floors and walls in the unit were damaged and covered in the most severe black mold that I have seen, posing a grave health hazard. In another example, I visited a unit on the South Side where a family’s kitchen ceiling had begun to buckle due to a leak. The maintenance request they had placed months before my visit was marked as complete, even though no work had been done. By the time of my visit, they had placed a second request. The ceiling began to cave in a few weeks later. The problem was fixed only after I presented a demand for repairs to the property management staff.

Some developments struggle with persistent mold and pest infestations that put families’ health at risk and necessitate systemic change to maintenance practices. At Trumbull Park Homes, a low-rise development on the far South Side with over four hundred units, I heard from nearly thirty families who experienced recurring mold. Many of their children developed asthma at a young age. Maintenance would typically come out to provide surface-level fixes to the problem, often painting over the mold, which would come back again the following year. Within the past several months, though, CHA has taken larger-scale preventative measures to reduce moisture build-up by replacing water boilers and vents. At another apartment complex in Bronzeville with around three dozen units, nearly every resident deals with mouse infestations. One new family caught several mice within weeks of moving into their unit, before they had even

90. CHI. HOUS. AUTH., PRIVATE PROPERTY MANAGEMENT PROCEDURAL MANUAL 86-87 (2020).

91. Lebrun, *supra* note 89.

fully unpacked. Housing advocates have recommended that public-housing authorities address the root causes of problems like mold and pests and follow up with residents to ensure long-term improvements.⁹² This could involve using photo or video evidence to confirm that the problems have been fully abated.

CHA residents in mixed-income developments face unique challenges. The mixed-income buildings typically are newer and appear nicer than traditional public housing. This is especially true on the outside. Some are located in racially diverse middle-class or affluent communities – take, for example, the mixed-income developments in the Cabrini-Green area, where the neighborhood has become dramatically whiter and more affluent over the past few decades.⁹³ The situation inside mixed-income units, however, can be a different story. Repairs are typically made more readily for privileged families who pay market-rate rents, while the maintenance needs of CHA residents are ignored. CHA residents face negative stereotypes and discrimination from higher-income, non-Black neighbors and development professionals.⁹⁴ Their exclusion is compounded by the fact that they cannot meaningfully participate in the Condo Owners’ Associations governing their developments,⁹⁵ which often means that their maintenance needs are further delayed and pushed to the side.⁹⁶ As a result, CHA residents often feel disempowered in mixed-income communities. Several of the residents that I spoke with are also more hesitant to raise maintenance complaints, even when the issues are severe, as they feel fortunate not to be in the housing projects and fear retaliation from CHA and property management.

The high turnover in private management companies and lack of CHA oversight seem to contribute to the prevalence of conditions problems. As of 2024,

92. In November of 2023, housing attorneys around the country sent an advocacy letter to the Department of Housing and Urban Development (HUD), urging HUD to ensure enforcement of its new National Standards for Physical Inspection of Real Estate inspection program. As a result of the letter, we met with HUD’s Office of Public and Indian Housing leadership team, shared stories of severely problematic public-housing conditions in our respective cities, and garnered support for HUD monitoring of PHAs’ maintenance practices. Letter from Psalm Brown, Law Fellow, Legal Action Chi., and other housing attorneys to Richard J. Monocchio, Principal Deputy Assistant Sec’y, Office of Pub. and Indian Hous., U.S. Dep’t of Hous. and Urb. Dev. & Julia R. Gordon, Assistant Sec’y for Hous. and Fed. Hous. Admin. Comm’r, U.S. Dep’t of Hous. and Urb. Dev. (Nov. 22, 2023), <https://www.nhlp.org/wp-content/uploads/NSPIRE-Enforcement-Advocacy-Letter.pdf> [<https://perma.cc/A4V7-2YGG>].

93. Cancino, *supra* note 71.

94. Robert Chaskin, Mark Joseph, Amy Khare & Sara Voelker, *The Enduring Significance of Race in Mixed-Income Communities*, UNIV. OF CHI. SCH. OF SOC. SERV. ADMIN. & CASE W. RSRV. UNIV. MANDEL SCH. OF APPLIED SOC. SCIS. (Feb. 2015) https://case.edu/socialwork/nimc/sites/default/files/2018-09/chaskin_brief_10_final.pdf [<https://perma.cc/2PTE-5RXM>].

95. Only unit owners are entitled to be members of a Condo Owners’ Association and to attend membership and board meetings. *The Condo Unit Owner’s Rights and Responsibilities Handbook*, ILL. DEP’T OF FIN. & PRO. REGUL. 2, 5 (August 2022), <https://idfpr.illinois.gov/content/dam/soi/en/web/idfpr/ccico/pdfs/condo-unit-owner-s-rights-and-responsibilities-aug-2022.pdf> [<https://perma.cc/QL8H-87PA>].

96. Condo Owners’ Associations have the general power over maintenance for “common elements” in the development. Illinois Condominium Property Act, 765 ILL. COMP. STAT 605 § 18.4(a) (2023).

the day-to-day operations and maintenance of most Chicago public-housing units are managed by one of four companies: East Lake Management, The Habitat Company, Hispanic Housing Development Corporation, and Manage Chicago, Inc.⁹⁷ These companies are among the largest property-management firms that focus on affordable housing in the Midwest.⁹⁸ CHA typically enters into multimillion-dollar contracts with these companies for a few years at a time.⁹⁹ During my visits to public-housing developments, residents were frequently frustrated by how work-order requests and other documents were lost in transitions between property-management companies. As a result, problems in their buildings could persist for years. Due to staff turnover, many residents also do not know with whom they should communicate to resolve issues. They lose existing relationships with property-management personnel when they change. This has intensified mistrust of CHA. CHA has come under fire recently, as residents, housing activists, and city aldermen alike have urged them to monitor the management companies more closely.¹⁰⁰

Overall, CHA residents tend to have a fraught relationship with property management. Maintenance requests are often ignored. Mold and mouse infestations are recurring challenges in whole developments, adding to the daily stressors of families in public housing and exacerbating health conditions like asthma in young children. CHA families in mixed-income developments face discrimination from their neighbors and development professionals. High turnover in property-management staff creates further distrust and leaves residents confused on where they should go for help.

Having an attorney who can visit public-housing units, document the conditions problems, and send demand letters to CHA and property management—with the threat to sue if repairs are not made in a timely manner—can speed things up tremendously. However, not nearly enough housing attorneys have the capacity to do this type of individualized advocacy

97. *Private Property Management Services*, CHI. HOUS. AUTH., <https://www.thecha.org/doing-business/contracting-opportunities/private-property-management-services> [https://perma.cc/7L6D-C2K8].

98. *About Us*, E. LAKE MGMT., <https://eastlakemgmt.com/about> [https://perma.cc/JE52-PU92]; *Chicago Housing Authority Property Management*, HISP. HOUS. DEV. CORP., <https://www.hispanichousingdevelopment.com/chicago-housing-authority-property-management> [https://perma.cc/PV6M-47BX].

99. See, e.g., *CHA Board Approves Contract Awards for Property Management Services*, CHI. HOUS. AUTH. (May 20, 2020), <https://www.thecha.org/news-media/news/cha-board-approves-contract-awards-property-management-services> [https://perma.cc/A6WG-BACF].

100. Rachel Hinton & Mick Dumke, *CHA Residents Rip CEO at Hearing: “We Need Something Much Better than This,”* BLOCK CLUB CHI. (May 9, 2024), <https://blockclubchicago.org/2024/05/09/cha-residents-rip-ceo-at-hearing-we-need-something-much-better-than-this> [https://perma.cc/4KTL-SE52]; see Blumberg, *supra* note 23.

y to support the hundreds, and likely thousands, of residents in need. More importantly, given how widespread conditions problems are and the fact that issues like pest infestations, heat outages, and nonfunctioning elevators implicate residents in entire buildings, we need a systematic approach to tackling these issues.

II. THE NEED FOR SYSTEMIC ADVOCACY TO ADDRESS SUBSTANDARD PUBLIC HOUSING

This Part lays out the current legal landscape facing tenants and housing lawyers. Section II.A will briefly discuss the legal protections for low-income families living in substandard housing. The implied warranty of habitability sets out the landlord’s obligation to maintain residential buildings properly. Municipal building codes, antidiscrimination law, and tort law also aim to ensure tenants have access to decent housing. Nonetheless, these rights are often underenforced. Section II.B will explain the barriers that low-income tenants, and especially those in public housing, face in vindicating their rights. Residents’ fear of retaliation and the low penalties for PHAs that fail to make necessary repairs limit the effectiveness of approaching conditions problems on a case-by-case basis. Legal-aid attorneys can be overwhelmed by large caseloads primarily focused on supporting residents facing eviction and thus do not have the capacity to bring enough individualized, affirmative conditions cases to address the scope of the problem. Moreover, federal funding restrictions limit the tools legal-aid organizations can use to engage in systemic advocacy.

A. *Legal Protections for Tenants Living in Substandard Housing*

There are important legal protections for tenants living in substandard housing. The tenants’ rights revolution of the 1960s and 1970s pushed courts to read contract-law principles into tenant-landlord law.¹⁰¹ This led to one of the key legal rights for renters: the implied warranty of habitability, which provides that a tenant’s obligation to pay rent is dependent upon the landlord properly maintaining the home in compliance with local building codes.¹⁰² If a landlord fails to make necessary repairs in a timely manner, tenants may pay a reduced rent in proportion with the reduced value of the home.¹⁰³ This innovation redistributed bargaining power to renters and aimed to improve living conditions and combat urban blight in deindustrializing urban centers.¹⁰⁴ Following the landmark case that established the implied warranty of habitability, *Javins v. First National*

^{101.} Super, *supra* note 24, at 394.

^{102.} *Id.*

^{103.} *Id.*

^{104.} *Id.* at 402.

Realty Corp.,¹⁰⁵ legislatures and courts in nearly every state have adopted this framework, applying it to public housing as well.¹⁰⁶

Municipal building codes, antidiscrimination law, and tort law also protect tenants living in substandard housing.¹⁰⁷ For example, the Cook County Residential Landlord Tenant Ordinance, enacted in 2021, provides substantial protections for tenants living in substandard housing, in addition to other protections against retaliation and illegal lockouts.¹⁰⁸ Tenants have successfully used disability law to challenge pervasive mold in public-housing developments, arguing that the local housing authority's failure to abate mold and excessive moisture denies residents with asthma equal access to public housing.¹⁰⁹ Others have brought negligence claims against PHAs, claiming that they failed to monitor property-management companies and maintenance personnel adequately.¹¹⁰

B. Barriers to Vindicating Low-Income Tenants' Housing Rights

Unfortunately, however, low-income residents' right to live in properly maintained housing is often underenforced. Many families do not bring affirmative complaints regarding housing conditions for fear of retaliation. And the housing choices low-income families can afford are often limited.¹¹¹ This is especially true in public housing, where families pay income-based rent and typically have nowhere else to go. Retaliation could mean being evicted from one of their only options in the housing market, and it could force them to live somewhere worse. Low-income families' precarious situation makes them risk averse and thus less likely to make complaints than high-income families.¹¹² Moreover, eviction actions, even if meritless, "can land a tenant on a private 'blacklist,' which landlords use to weed out applicants," further barring alternative housing opportunities.¹¹³ Many of the CHA residents that I met feared that bringing

^{105.} 428 F.2d 1071, 1077 (D.C. Cir. 1970).

^{106.} Super, *supra* note 24, at 394; see Rachel Camber, *The Incorporation of the Implied Warranty of Habitability in Public Housing Programs*, 38 WASH. U. J. URB. & CONTEMP. L. 205, 209-10 (1990).

^{107.} See Alan M. Weinberger, *Up from Javins: A 50-Year Retrospective on the Implied Warranty of Habitability*, 64 ST. LOUIS U. L.J. 443, 457 (2020); CHI. MUN. CODE tit. 5, § 5-12-070 (2024).

^{108.} CHI. MUN. CODE tit. 5, §§ 5-12-070, 150, 160 (2024).

^{109.} *Baez v. N.Y.C. Hous. Auth.*, No. 13cv8916, 2015 WL 9809872, at *3-4 (S.D.N.Y. Dec. 15, 2021).

^{110.} Complaint at 11, *Brown v. Hous. Auth.*, No. 2023-CP-1004766 (Charleston Cnty. Ct. C.P. Sept. 28, 2023).

^{111.} Sabbeth, *supra* note 14, at 109.

^{112.} Super, *supra* note 24, at 411.

^{113.} Sabbeth, *supra* note 14, at 109.

complaints would prompt CHA to scrutinize them, searching for lease violations or blaming the conditions on tenants’ poor housekeeping.

Even when tenants bring meritorious complaints, they are unlikely to receive rent abatements.¹¹⁴ When tenants do get relief, the remedies are often insufficient deterrents to compel landlords to maintain their buildings properly. From a purely economic perspective, landlords are incentivized to maintain their units only if “the cost of failing to do so exceeds the cost of repairs.”¹¹⁵ This cost depends on the probability that a tenant will successfully assert their rights offset by the building’s increased value after repairs.¹¹⁶

If a tenant successfully raises a conditions complaint, rent abatements are often too little to make a meaningful difference to landlords. Courts tend to discount the rent by less than half, even in the most severe cases.¹¹⁷ Public-housing residents pay an income-based rent, which is typically much lower than market rate. Thousands of CHA residents are unemployed and survive on Supplemental Nutrition Assistance Program or disability benefits, often paying only \$75 per month, the minimum flat rent, or \$0 per month if they are given a hardship exemption.¹¹⁸ Therefore, withholding rent or receiving rent abatements can be futile, as the financial penalty is not nearly enough to pressure PHAs to comply with building codes.¹¹⁹ Moreover, because the penalty for failing to make repairs in public housing is so low, it vastly undervalues low-income families’ suffering—the health risks and psychological stresses of living in substandard housing.¹²⁰ As a result, many low-income families are never meaningfully compensated, nor do they expect to be, which can discourage them from bringing complaints in the first place.¹²¹

Taken together, residents’ fear of retaliation and the low penalties on PHAs for failing to make necessary repairs limit the effectiveness of approaching conditions problems on a case-by-case basis. Systemic advocacy is thus necessary to change public-housing conditions meaningfully.

Legal-aid attorneys, who work directly with public-housing residents and often have the best understanding of their living conditions, are typically unable to bring affirmative conditions cases. Legal advocacy to address conditions

114. Nicole Summers, *The Limits of Good Law: A Study of Housing Court Outcomes*, 87 U. CHI. L. REV. 145, 190 (2020).

115. Super, *supra* note 24, at 405.

116. *Id.*

117. Sabbeth, *supra* note 14, at 122.

118. Press Release, Nat’l Hous. L. Project, Federal Court Approves Settlement Agreement Between Public Housing Tenants and Chicago Housing Authority (Apr. 12, 2023), <https://www.nhlp.org/press-release/federal-court-approves-settlement-agreement-between-public-housing-tenants-and-chicago-housing-authority> [<https://perma.cc/FAM5-637P>].

119. For example, for a CHA resident who pays the minimum monthly rent of \$75 and is dealing with severe conditions problems in their unit, withholding rent until the problem is fixed would not pose a significant financial incentive for CHA to make repairs in a timely manner, since the cost of repairs would likely far exceed the residents’ share of the rent.

120. Sabbeth, *supra* note 14, at 123.

121. Super, *supra* note 24, at 407-08.

problems is primarily done in the context of eviction defense.¹²² Tenants can use the warranty of habitability as a defense in an eviction action for non-payment of rent by claiming that the landlord's failure to maintain their home reduced the home's value such that the rent should have been reduced. At best, this can reduce the amount owed in an eviction action by about half. Legal-aid lawyers have very limited capacity to bring affirmative conditions cases, as they tend to be overwhelmed by eviction-defense cases. This is especially true given the increase in right-to-counsel programs throughout the country.¹²³ Based on conversations that I had with housing attorneys at Legal Aid Chicago during my fellowship, for example, I learned that supporting residents facing eviction now takes up the majority of the Housing Practice Group's time. While it is certainly right to prioritize keeping families housed, we also want to go a step further and make sure that they have safe, decent homes to live in.

Legal-aid attorneys face barriers to engaging in systemic advocacy. LSC, a nonprofit established by Congress, is the largest funder of civil legal-aid organizations in the United States.¹²⁴ LSC funds over 130 organizations across all fifty states,¹²⁵ including Legal Aid Chicago (my fellowship host organization's partner), the largest provider of free civil legal services to people living in poverty in the Midwest,¹²⁶ and Legal Services NYC, which serves more than 100,000 low-income New Yorkers annually.¹²⁷ The Legal Services Corporation Act stipulates that LSC-funded programs cannot engage in political activities like funding political campaigns.¹²⁸ In 1996, Congress took these provisions a step further by restricting LSC-funded programs from engaging in legislative advocacy and from pursuing class-action lawsuits.¹²⁹ This severely limits the ability of legal-

122. *Id.* at 405.

123. Juliet M. Brodie & Larisa G. Bowman, *Lawyers Aren't Rent*, 75 STAN. L. REV. ONLINE 132, 140 (2023).

124. *Who We Are*, LEGAL SERVS. CORP., <https://www.lsc.gov/about-lsc/who-we-are> [<https://perma.cc/9EC5-N53H>].

125. *2023 Annual Report*, LEGAL SERVS. CORP. 6-7 (2024), <https://lsc-live.app.box.com/s/zywm3sybnqep4wfhavlp7i8wj5ckuv> [<https://perma.cc/FD4S-2KVK>].

126. *Id.*; LEGAL ACTION CHI., <https://legalactionchicago.org> [<https://perma.cc/BE2U-ANRB>].

127. *About Us*, LEGAL SERVS. NYC, <https://legalservicesnyc.org/about-us> [<https://perma.cc/93BS-4DBF>].

128. 42 U.S.C. § 2996e (2018).

129. Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, § 504(a), 110 Stat. 1321, 1321-53.

aid attorneys, who work directly with low-income renters, typically on a case-by-case basis, to address substandard housing in a systematic way.¹³⁰

III. MOVING FORWARD: STRATEGIES TO IMPROVE PUBLIC HOUSING SYSTEMATICALLY

This Part considers advocacy strategies to make large-scale improvements in the living conditions in public housing. As a first step, attorneys can collaborate with resident councils to build relationships with residents, gain insight into systemic housing problems, and work towards improving conditions at public-housing developments. This approach is particularly well suited for public housing, where each development may have resident leadership councils protected under federal law. This Part then considers class-action litigation strategy, highlighting an innovative example of using disability law to address widespread mold in New York City’s public housing. Finally, this Part argues that we should also look beyond litigation and push for increased oversight of PHAs. Giving local governments the ability to inspect public-housing developments proactively, monitor the handling of residents’ maintenance requests, and issue fines on PHAs for building-code violations could be a strong enforcement mechanism. To that end, this Part examines a recent successful campaign to increase oversight of the Housing Authority of the City of Milwaukee (HACM), and it shares models of city ordinances that take a public-health approach to proactive housing inspections.

A. Collaborating with Resident Councils

Resident councils are an important feature of public housing. They provide a means of organizing public-housing residents, allowing them to come forward to present their complaints to PHAs and have a voice in the decision-making process on public-housing matters.¹³¹ Through my fellowship, I learned that collaborating with resident councils can be a great way for housing attorneys to gain insight into the extent of conditions problems at public-housing developments, develop relationships with and support resident leaders, and identify plaintiffs for individual cases. Moreover, even LSC-restricted legal-aid attorneys can represent resident councils, which provides an opportunity to pursue impact

130. See *Statutory Restrictions on LSC-Funded Programs*, LEGAL SERVS. CORP., <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/statutory-restrictions-lsc-funded-programs> [<https://perma.cc/N6BL-Y6DR>].

131. *Public Housing Resident Organizing and Participation Toolkit, Guide 1: Organizing and Running Resident Councils*, U.S. DEP’T OF HOUS. & URB. DEV. 10 (2021), <https://files.hudexchange.info/resources/documents/PHA-Organizing-Running-Resident-Councils.pdf> [<https://perma.cc/2TR6-3DWG>].

litigation that could address conditions problems affecting whole developments.¹³²

Resident councils are protected under federal law.¹³³ They can consist of residents living in a single public-housing property or within a development area such as a scattered-site region, and there may even be jurisdiction-wide resident councils that represent all residents served by a single PHA.¹³⁴ Chicago, for example, has local advisory councils (LACs) at each development and then a larger council – the Central Advisory Council, comprised of each LAC president – that provides public-housing residents a voice with CHA at a city-wide level.¹³⁵ Residents vote to elect leadership teams within their community at least once every three years.¹³⁶ Resident leaders establish Memoranda of Understanding with PHAs, communicate with PHAs to address issues in their developments, and do other community-building activities like host social events.¹³⁷ HUD recently even gave resident councils the ability to recommend public-housing units in their developments for routine HUD inspections.¹³⁸ HUD encourages residents to participate in resident councils and has published several guides with tips on how to utilize them effectively.¹³⁹

By collaborating with resident councils, attorneys can develop important relationships within the public-housing community, gain insight into the extent of conditions problems, and identify plaintiffs for individual cases. Working with resident councils was essential to my fellowship project. By attending LAC meetings around the city, I learned about conditions problems at particular developments, built trust with resident leadership, was able to share legal information with residents widely, and received a number of referrals for individual advocacy cases. As discussed above, many public-housing residents do not complain about problems for fear of retaliation. Though it is illegal, PHAs may retaliate against individual residents by, for example, fishing for lease violations

132. See, e.g., Consent Decree at 3, *Cabrini-Green Loc. Advisory Council v. Chi. Hous. Auth.*, No. 96 C 6949 (N.D. Ill. Aug. 30, 2000), <https://clearinghouse.net/doc/131765> [<https://perma.cc/C9EN-R8ZP>].

133. 24 C.F.R. § 964.11 (2024).

134. *Public Housing Resident Organizing and Participation Toolkit, Guide 1: Organizing and Running Resident Councils*, *supra* note 131, at 10.

135. *Id.*

136. *Id.* at 6.

137. *Id.* at 5, 7.

138. U.S. DEP'T OF HOUS. & URB. DEV., PIH 2023-16/H 2023-07, IMPLEMENTATION OF NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE) PROCEDURES 17 (2023), <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-16pihn.pdf> [<https://perma.cc/7UFN-9UCA>].

139. For a compilation of HUD's guides on resident councils, see *supra* note 131.

that could lead to adverse action or even eviction. It is much more difficult, however, to retaliate against tens or even hundreds of residents who bring their demands together. Indeed, during my fellowship, residents seemed more comfortable bringing forward their complaints with the support of resident councils, oftentimes sharing their stories alongside their local council presidents.

Despite the power of resident councils, there may come a point where legal intervention is necessary to ensure that PHAs are responsive to the needs of public-housing communities. Housing attorneys, including those who work at LSC-funded organizations, may represent resident councils. The Cabrini-Green LAC, which has been an organizational plaintiff in a few cases against CHA over the past few decades, is a helpful example of what representing a resident council could look like and how they may serve as a proper plaintiff for conditions cases. In the late 1990s, the Cabrini-Green LAC sued the CHA, alleging that the LAC was denied participation in the planning process the Plan for Transformation, which entailed the demolition of the Cabrini-Green high-rises.¹⁴⁰ Whether or not the Cabrini-Green LAC had proper standing as a plaintiff to bring the lawsuit became a key question. An organization may have standing if (1) it has standing in its own right due to injury to the organization, or (2) it alleges that its members have been injured.¹⁴¹ The court found that the Cabrini-Green LAC had standing on both grounds, as it was forced to divert its resources to respond to and advocate against the Plan, and its membership comes from public-housing residents who are affected by the CHA’s actions.¹⁴² The case ultimately resulted in a consent decree in favor of the LAC.¹⁴³ More recently, in 2013, Legal Aid Chicago (then known as the Legal Assistance Foundation of Metropolitan Chicago) represented the Cabrini-Green LAC in a lawsuit against CHA to ensure that at least forty percent of the units at the redeveloped buildings at the public housing site remained reserved for public-housing residents.¹⁴⁴

The Cabrini-Green LAC litigation demonstrates how housing attorneys, including those at legal-aid organizations, can support resident-led advocacy for changes that impact whole public-housing developments. The litigation empowered residents in decision-making processes with the CHA, giving them greater influence in the redevelopment and preservation of public-housing units. More broadly, this model of resident-council litigation could also be used to amplify residents’ voices in regard to building maintenance, helping them address widespread conditions problems and inadequate maintenance policies and practices that trouble their housing complexes.

^{140.} *Cabrini-Green Loc. Advisory Council v. Chi. Hous. Auth.*, No. 96 C 6949, 1997 WL 31002, at *3 (N.D. Ill. Jan. 22, 1997).

^{141.} *Id.* at *9.

^{142.} *Id.* at *8-10.

^{143.} Consent Decree at 4-8, *Cabrini-Green Loc. Advisory Council v. Chi. Hous. Auth.*, No. 96 C 6949 (N.D. Ill. Aug. 30, 2000), <https://clearinghouse.net/doc/131765> [<https://perma.cc/C9EN-R8ZP>].

^{144.} Mina Bloom, *Future of Cabrini-Green Row Houses May Be Settled After 19 Years in Limbo*, TENANTS TOGETHER (Sept. 11, 2015), <https://www.tenantstogether.org/updates/future-cabrini-green-row-houses-may-be-settled-after-19-years-limbo> [<https://perma.cc/4FUK-L4XU>].

B. Pursuing Class-Action Litigation

Attorneys engaging in class actions should employ creative strategies to address conditions problems. This Section highlights an innovative example of using disability law in class-action litigation to improve public-housing conditions in New York City. The case — *Baez v. New York City Housing Authority* — provides a possible template for how advocates can use disability law to address mold and other conditions problems that impact large numbers of public-housing residents. Ultimately, it also demonstrates the need for continuing to apply pressure to courts and PHAs, even after litigation wins, to ensure that conditions meaningfully improve.

In December 2013, New York Housing Authority (NYCHA) residents and two community-based organizations, Upper Manhattan Together and South Bronx Churches Sponsoring Committee, brought a class-action lawsuit against NYCHA to address widespread mold in the city's public housing. NYCHA is by far the largest PHA in North America, providing public housing for over 360,000 residents.¹⁴⁵ One in seventeen New Yorkers call NYCHA home.¹⁴⁶ Due to decades of federal disinvestment from public housing, NYCHA has fallen behind on addressing residents' maintenance needs, and there are more than \$40 billion in major repairs needed across the city's public-housing stock.¹⁴⁷ Many NYCHA public-housing residents suffer from asthma, which is exacerbated by mildew, moisture, and other allergens in their homes.¹⁴⁸ One study showed that asthma is nearly three times more prevalent among children in NYCHA's public-housing developments than among children who live in private family dwellings in the city.¹⁴⁹

The *Baez* plaintiffs made a novel use of disability law in the complaint, arguing that NYCHA's failure to abate mold and excessive moisture in their units and to provide reasonable accommodations to residents with asthma denied them an "equal and meaningful opportunity to use, benefit from, and enjoy public

145. *NYCHA 2023 Fact Sheet*, N.Y.C. HOUS. AUTH.1 (Apr. 2023), <https://www.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet-2023.pdf> [<https://perma.cc/ZYA9-3UWY>].

146. *Id.*

147. *Id.* In the winter of 2017-2018, around eighty percent of New York City Housing Authority's public-housing units had heat and hot water outages due to obsolete boilers and a faulty process for addressing maintenance complaints. *Diamond v. N.Y.C. Hous. Auth.*, 179 A.D.3d 525, 527 (N.Y. App. Div. 2020).

148. Jennifer Northridge, Olivia F. Ramirez, Jeanette A. Stingone & Luz Claudio, *The Role of Housing Type and Housing Quality in Urban Children with Asthma*, 87 J. URB. HEALTH 211, 212, 218 (2010).

149. *Id.* at 218.

housing.”¹⁵⁰ This denial, they argued, violated the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, the Fair Housing Act, and New York State’s Human Rights Law.¹⁵¹ By April 2014, the parties settled. The settlement required NYCHA to respond to mold complaints more promptly—by remediating simple mold problems within seven days and more complex mold problems within fifteen days—and improve its handling of disability-accommodations requests.¹⁵²

Initially, NYCHA was far from completing repairs on schedule and, because their repairs were largely cosmetic fixes that did not address the root causes of mold, the mold often recurred.¹⁵³ In response, the organizational plaintiffs set up three legal clinics across the city, where they advised NYCHA residents on the settlement terms and assisted them in filing hundreds of public comment letters to the court detailing the city’s continued mishandling of mold.¹⁵⁴ This led to new strategies for improvement. The court appointed an ombudsperson who helps residents navigate government bureaucracy and get mold problems addressed.¹⁵⁵ NYCHA’s information technology department developed an app called Mold Busters to assist property maintenance supervisors with conducting inspections, identifying root causes of mold, selecting appropriate remediation methods, and generating work orders.¹⁵⁶ NYCHA also improved air circulation and reduced moisture buildup in bathrooms by replacing eighty percent of its old fans and mechanical exhaust systems.¹⁵⁷ As a result, the rate of mold recurrence dropped from forty percent in 2019 to just fourteen percent in 2023.¹⁵⁸

Baez provides an important example of how advocates can use disability law to fight for better public-housing conditions. Given the disproportionately high rates of asthma across low-income communities, and especially those with high concentrations of public housing, attorneys could employ similar strategies to address widespread mold.¹⁵⁹ Beyond mold, advocates can also use disability law to address a variety of conditions problems effecting whole developments. Public-housing residents at the Mayor Wright Homes in Hawaii, for example,

150. Complaint for Declaratory and Injunctive Relief at 2-3, *Baez v. N.Y.C. Hous. Auth.*, 533 F. Supp. 3d 135 (S.D.N.Y. 2021) (No. 13-cv-08916).

151. *Id.* at 1-2.

152. Stipulation and Order of Settlement at 3-4, 6, *Baez*, 533 F. Supp. 3d 135 (No. 13-cv-08916).

153. Plaintiffs’ Memorandum in Support of Their Motion to Enforce or Modify the Stipulation and Order, for Appointment of a Master and for Contempt at 26-27, *Baez*, 533 F. Supp. 3d 135 (No. 13-cv-8916).

154. Sara E. Imperiale & Erin M. Meyer, *Enforcing the Right to Breathe: Continuing the Fight for Environmental Justice in Public Housing*, ENV’T L. N.Y., June 2019, at 109-10.

155. Greg B. Smith, *NYCHA’s Decade of Court-Monitored Mold Cleanup Starts to Show Results*, CITY (June 29, 2023, 5:00 AM), <https://www.thecity.nyc/2023/06/29/nycha-mold-cleanup-progress-baez-monitor> [<https://perma.cc/737Z-C4F8>].

156. Imperiale & Meyer, *supra* note 154, at 107.

157. Smith, *supra* note 155.

158. *Id.*

159. See Bryant-Stephens, *supra* note 11, at 1201-04 (discussing “environmental disparities” in housing quality and potential interventions to reduce asthma in children).

successfully brought a disability class-action lawsuit, in which they argued that issues such as lack of hot water exacerbated residents' medical conditions, including chronic pain and heart disease.¹⁶⁰ Advocates could also use disability law to address serious mobility concerns in Chicago's public housing. For example, broken elevators pose an accessibility barrier to mobility-limited residents, many of whom live in high-rises for seniors.¹⁶¹

Baez also underscores the importance of continuing to apply pressure on courts and PHAs to achieve results. Winning in court is only half the battle. Enforcement is tricky. *Baez* shows how we can remain connected with public-housing communities, empower residents to share their stories of persisting conditions problems on the ground, and create a sense of urgency, even after settlement. Indeed, this could be helpful lesson in Chicago, where consent decrees alone have been insufficient to enforce CHA's obligation to maintain its public-housing developments in good condition.¹⁶²

C. Increasing Local-Government Oversight of PHAs

Ultimately, lawyers and housing advocates should also look beyond litigation and push for increased local-government oversight over PHAs. Local governments are well-positioned to add an additional layer of oversight to PHAs and serve as an alternative enforcement mechanism to the courts. To explore this possibility, this Section will examine Common Ground, a Wisconsin advocacy coalition that waged a successful campaign to bring Milwaukee's public housing under the oversight of the local government. The group's success is a case study in how housing advocates can garner support from their city council and then use existing local-government infrastructure to increase transparency and accountability in public-housing systems. This Section will conclude with a brief discussion of how cities can take a public-health-informed approach to proactive inspections of rental properties, including public housing.

In 2020, a broad-based coalition of faith groups, businesses, and community organizations called Common Ground began a campaign to reform HACM.

160. Complaint at 15, *Kolio v. Hawaii*, No. 11-cv-00266 (D. Haw. Apr. 21, 2011).

161. Alejandra Cancino, *Neglected Elevators Put Chicago's Public Housing Residents at Risk*, BETTER GOV'T ASS'N (June 4, 2018), <https://projects.bettergov.org/2018/trapped/politics-connections> [<https://perma.cc/5HTP-36S4>]. See also the work of Access Living, which sued the city of Chicago for failing to enforce accessible housing standards. Emma Olson, *Chicago Has Failed to Enforce Key Housing Accessibility Laws for People with Disabilities for 34 Years*, ACCESS LIVING (Jan. 4, 2023), <https://accessliving.org/newsroom/press-releases-and-statements/breaking-chicago-has-failed-to-enforce-key-housing-accessibility-laws-for-people-with-disabilities-for-34-years> [<https://perma.cc/S3F7-WTL3>].

162. Lebrun, *supra* note 89.

HACM is the second largest landlord in Milwaukee, Wisconsin, with over 4,000 public-housing or subsidized units and 6,000 Section 8 voucher households.¹⁶³ Since its beginning in 1944, HACM’s board has been appointed by the Mayor of Milwaukee and approved by the Common Council (Milwaukee’s city council).¹⁶⁴ Like most PHAs throughout the country, HACM, up until 2024, was only subject to HUD regulations and not the oversight of local government. In response to growing complaints on public-housing conditions and HACM mismanagement, Milwaukee activists pointed to a key problem with HUD’s oversight—it is typically inadequate.¹⁶⁵ While HUD oversees PHAs across the nation, it lacks sufficient power to compel PHAs to improve. HUD often gives passing inspection scores to public-housing developments in poor condition and does not refer troubled PHAs for national intervention, as required by law.¹⁶⁶

In response to these failures, Common Ground demanded an investigation into HACM, a replacement of the leadership, and increased local-government oversight.¹⁶⁷ Common Ground conducted extensive community outreach, holding listening sessions with public-housing residents, identifying and supporting resident leaders in making improvements at each development, and building relationships with city alders.¹⁶⁸ In total, Common Ground spoke to over 1,700 HACM residents across the city to understand the extent of the problems and collect stories.¹⁶⁹ In 2023, Common Ground presented to the Common Council more than 1,000 cases of residents who had experienced a range of issues, including assault, bed bugs, rats, mold, no heat, lost rent payments, and abusive management.¹⁷⁰ The campaign also leveraged media pressure on HACM and led

163. *Mission & History*, HOUS. AUTH. CITY MILWAUKEE (2024), <https://www.hacm.org/about-us/mission-history> [<https://perma.cc/A4VS-Q229>]; *Tenants United: A Campaign to Reform Public Housing in Milwaukee*, COMMON GROUND (2024), <https://www.commongroundwi.org/tenants-united-new> [<https://perma.cc/W8SL-C7DW>].

164. *Mission & History*, *supra* note 163.

165. *Tenants United: A Campaign to Reform Public Housing in Milwaukee*, *supra* note 163.

166. Molly Parker, “Pretty Much a Failure”: HUD Inspections Pass Dangerous Apartments Filled with Rats, Roaches and Toxic Mold, PROPUBLICA (Nov. 16, 2018, 11:00 AM EST), <https://www.propublica.org/article/hud-inspections-pass-dangerous-apartments-with-rats-roaches-toxic-mold> [<https://perma.cc/R584-9N88>]; OFF. OF THE INSPECTOR GEN., U.S. DEP’T OF HOUS. & URB. DEV., REP. NO. 2019-OE-001, HUD HAS NOT REFERRED TROUBLED PUBLIC HOUSING AGENCIES AS THE LAW AND REGULATIONS REQUIRE 1 (2020).

167. Taris Shelbourne & Beck Andrew Salgado, *A Milwaukee Activist Group Seeks an Investigation into the City’s Housing Authority over Numerous Issues at Its Properties*, MILWAUKEE J. SENTINEL (Apr. 3, 2023, 10:57 AM CT), <https://www.jsonline.com/story/news/local/milwaukee/2023/03/26/common-ground-calls-for-investigation-into-milwaukee-housing-authority/70049957007> [<https://perma.cc/X3ER-RZ7E>].

168. Ben Slowey, *Inside Common Ground’s Historic Campaign to Reform Public Housing*, SHEPHERD EXPRESS (Apr. 8, 2024, 1:08 PM), <https://shepherdexpress.com/news/features/inside-common-grounds-historic-campaign-to-reform-public-ho> [<https://perma.cc/RGS9-R8NE>].

169. *Tenants United: A Campaign to Reform Public Housing in Milwaukee*, *supra* note 163.

170. Princess Safiya Byers, *The City Is Pushing for More Oversight of the Housing Authority. Here’s What You Need to Know*, MILWAUKEE NEIGHBORHOOD NEWS SERV. (Sept. 27, 2023), <https://milwaukeenns.org/2023/09/27/the-city-is-pushing-for-more-oversight-of-the-housing-authority-heres-what-you-need-to-know> [<https://perma.cc/MPG9-ZU4Q>].

one of the largest demonstrations of public-housing residents in Milwaukee history.¹⁷¹

By the end of 2023, the Milwaukee Common Council voted to put HACM under the oversight of the Department of Neighborhood Services (DNS), which is the city agency that already enforces building codes for privately owned housing.¹⁷² Under the new regime, DNS will have the power to inspect HACM properties and issue fees for code violations.¹⁷³ Common Council also dedicated \$120,000 to create two new positions in DNS to oversee HACM buildings.¹⁷⁴ Common Council members expect that inspection fees will cover the long-term cost of the inspectors.¹⁷⁵ They also designated \$250,000 in the 2024 budget to help HACM address the backlog of maintenance requests.¹⁷⁶ In addition, HACM will roll out a new online service via RENTCafe, which will increase transparency in the maintenance process by allowing residents to monitor the status of their requests.¹⁷⁷

While the long-term impact of bringing HACM under local-government oversight has yet to be seen, Common Ground's victory is a historic win that can inform strategies for public-housing reform across the country. The campaign demonstrates how housing advocates can find allies in city council members, who inherently have a stake in public-housing developments in their wards and are answerable to the hundreds, or even thousands, of constituents. By presenting the stories of HACM residents and leveraging media pressure, Common Ground successfully brought the often-unseen realities of life in public housing to the attention of Milwaukee's city council. This approach could be particularly productive in cities where there is growing public dissatisfaction with public-

171. Slowey, *supra* note 168.

172. A.J. Bayatpour, *Amid Repair Backlog and Reports of Bad Bookkeeping, Ideas Vary on How to Fix Milwaukee Housing Authority*, CBS 58 (Oct. 25, 2023, 10:17 PM CT), <https://www.cbs58.com/news/amid-repair-backlog-and-reports-of-bad-bookkeeping-ideas-vary-on-how-to-fix-milwaukee-housing-authority> [<https://perma.cc/5HWA-M7NX>].

173. Jeramey Jannene, *Council Delays Housing Authority Crackdown to January 1*, URB. MILWAUKEE (Oct. 10, 2023, 1:10 PM), <https://urbanmilwaukee.com/2023/10/10/city-hall-council-delays-housing-authority-crackdown-to-january-1> [<https://perma.cc/29AK-732W>].

174. Bayatpour, *supra* note 172.

175. Jannene, *supra* note 173.

176. Bob Bauman, *Council Approves Amendment to Help Fund HACM Maintenance*, URB. MILWAUKEE (Nov. 3, 2023, 2:38 PM), <https://urbanmilwaukee.com/pressrelease/council-approves-amendment-to-help-fund-hacm-maintenance> [<https://perma.cc/3P4G-MPPZ>].

177. Jeramy Jannene, *Council, Residents Seek Solutions for Housing Authority Woes*, URB. MILWAUKEE (Sept. 26, 2023, 10:01 AM), <https://urbanmilwaukee.com/2023/09/26/council-residents-seek-solutions-for-housing-authority-woes> [<https://perma.cc/XT7A-LN7C>].

housing conditions, like Chicago.¹⁷⁸ Moreover, Milwaukee is an example of how cities can utilize existing local-government infrastructure to regulate PHAs. Many local governments may already have departments that regulate conditions in privately owned housing, focusing on their quality, neighborhood services, or public health. By expanding the scope of these departments to include public housing, cities can improve PHA’s transparency and accountability.

Similarly, a growing movement of housing and public-health advocates across the United States are pushing for city governments to conduct regular, proactive inspections of rental properties. These advocates recognize the important links between housing quality and health outcomes.¹⁷⁹ Giving city governments the ability to inspect and issue fines on rental properties, including public-housing units, could help enforce local building codes. Many cities still rely on complaint-based inspection systems, which discourage low-income families and undocumented families from speaking up about problematic conditions in their homes.¹⁸⁰ Making these inspections proactive, rather than merely reactive to resident complaints, could lead to stronger enforcement without residents fearing retaliation. ChangeLab Solutions, for example, has developed model city ordinances which build on pilot programs throughout the country.¹⁸¹ Advocates may use these model ordinances as inspiration as they consider what is feasible for their unique locations. Advocates in larger cities like Chicago may find that it is more sensible to pilot an inspection program in a few neighborhoods before scaling up to the rest of the city. As in Milwaukee, advocates may also want to consider how such a program could be best rolled out given their unique local-government infrastructure.

CONCLUSION

Despite the many challenges that this Essay identifies, there are a range of tools and strategies available to housing advocates who are working to make the changes that our public-housing communities need and deserve. Chicago offers a compelling case study for understanding the transformation of public housing

178. Earlier this year, following investigative news reporting on widespread vacancies and conditions problems in CHA’s scattered-site portfolio, Chicago’s alders called hearings to confront CHA’s leadership team on their mismanagement and lack of accountability. See Rachel Hinton, *After Demands for Accountability, CHA Boss Agrees to Testify Before City Council Committee*, BLOCK CLUB CHI. (Apr. 19, 2024), <https://blockclubchicago.org/2024/04/19/after-demands-for-accountability-cha-boss-agrees-to-testify-before-city-council-committee> [<https://perma.cc/48NJ-2U44>].

179. *A Guide to Proactive Rental Inspections*, CHANGELAB SOLS., <https://www.changelabsolutions.org/product/healthy-housing-through-proactive-rental-inspection> [<https://perma.cc/RS7S-5VCA>].

180. *Proactive Rental Inspections (PRI) for Healthy Homes*, CHANGELAB SOLS., <https://www.changelabsolutions.org/story/proactive-rental-inspections-pri-healthy-homes> [<https://perma.cc/82FM-JKF7>].

181. For guides and model city ordinances, see *Model Ordinance on Proactive Rental Inspection*, CHANGELAB SOLS., <https://www.changelabsolutions.org/product/model-proactive-rental-inspection-ordinance> [<https://perma.cc/3YSP-K88N>].

in the United States and how we might move forward. In many ways, the Chicago story is not unique. Public-housing communities around the country are grappling with legacies of racial segregation and concentrated poverty and the present-day realities of underfunding and substandard living conditions.

Ultimately, this Essay aims to be useful to housing advocates. Oftentimes, this work can feel like an uphill battle. While it is important to diagnose the problem, it is equally important that we share our strategies and successes. During my fellowship, I learned the importance of working closely with public-housing residents to develop strategies to address the issues that affect them. The approaches that this Essay puts forward—deepening our collaboration with resident councils, pursuing innovative class-action lawsuits to address widespread conditions problems, and increasing local-government oversight of PHAs—will hopefully serve as productive contributions to an ongoing conversation.

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