IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

SUELLEN KLOSSNER, Plaintiff, vs. **IADU TABLE MOUND MHP, LLC, RV HORIZONS, INC., AND IMPACT MHC MANAGEMENT, LLC,** Defendants.	No. 2:20-cv-01037 PLAINTIFF'S MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION **EXPEDITED RELIEF REQUESTED** **EXPEDITED ORAL ARGUMENT REQUESTED**

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INTRODUCTION

Plaintiff Suellen Klossner ("Ms. Klossner") has resided in Table Mound Mobile Home Park ("Table Mound") for the past ten years. She owns her home but rents the land under it from Defendants. Ms. Klossner, who is 61 years old, has numerous physical and mental impairments that prevent her from working. Her sole income is from public assistance payments she receives from the government.

Defendants acquired Table Mound in 2017. Since that time, Defendants have drastically increased the lot rent and fees such that Ms. Klossner's rent and utility payments now account for more than half of her income. As a result of this, Ms. Klossner can no longer afford basic repairs to her home and has had to seek out emergency rent assistance to cover her rent.

On November 4, 2019, in an effort to address the housing crisis caused by the rent hikes Defendants had imposed on the residents of Table Mound, the Dubuque City Council approved a measure to allow the Dubuque Housing Authority to issue housing choice vouchers to mobile home park residents in the city. Ms. Klossner applied for and was issued a voucher, but Defendants have refused to accept it. Ms. Klossner then requested, through counsel, that Defendants accept her housing choice voucher as a reasonable accommodation for her disabilities, but the Defendants have denied this request as well.

Ms. Klossner seeks a preliminary mandatory injunction without bond or upon nominal bond to require Defendants IADU Table Mound MHP, LLC, RV Horizons, Inc., and Impact MHC Management, LLC to accept her housing choice voucher and to bar them from instituting eviction proceedings against her. As demonstrated below, Ms. Klossner has a substantial likelihood of success on the merits of her claims that Defendants' conduct violates the federal Fair Housing Amendments Act ("FHAA"), 42 U.S.C. § 3601, *et seq*.

If the relief that Ms. Klossner seeks is not granted, she will suffer irreparable injury. Ms. Klossner cannot move her home due to its age and condition. She has been unable to find other suitable housing due to her disabilities and the COVID-19 pandemic. For the past ten years Ms. Klossner has been stable and able to manage her own affairs. If she is evicted, Ms. Klossner will become homeless and rendered permanently incapable of caring for herself anymore.

FACTS

Table Mound was constructed in 1963 and is located on the southern edge of Dubuque, Iowa. With 525 lots, it is the largest mobile home park in Dubuque. (Compl. ¶ 11.)

In 2009, Ms. Klossner purchased a 1977 Trail-A-Rod double-wide manufactured home situated at 2530 Anamosa Drive in Table Mound for $28,000. (Photographs of Klossner Home Ex. 1, Aug. 13, 2020; Klossner Decl. Ex. 2 ¶ 2, Nov. 16, 2020.) Ms. Klossner owns her home free and clear of any liens or encumbrances. (Klossner Decl. ¶ 2.)

I. Ms. Klossner's Disabilities

Ms. Klossner, who is 61 years old and lives alone in her home at Table Mound, is a person with disabilities. She has been diagnosed with Bipolar I, Post-Traumatic Stress Disorder ("PTSD"), and Anxiety Disorder. (Brimeyer Decl. Ex. 3 ¶ 4, Sep. 1, 2020.) In addition to these psychiatric disabilities, Ms. Klossner also has numerous significant physical disabilities such as migraine headaches, neuropathy, chronic obstructive pulmonary disease ("COPD"), and fibromyalgia. (Klossner Decl. ¶ 3.) Ms. Klossner is currently receiving medical treatment for the foregoing disabilities. (*Id.*) Defendants have always known that Ms. Klossner is a person with disabilities. (*Id.* ¶ 9.)

In 1993, the Social Security Administration determined that Ms. Klossner was unable to work due to a combination of her mental and physical impairments. (*Id.* ¶ 4.) Her sole income is

$364.00 per month in Supplemental Security Income, $427.00 per month in Social Security Disability, and $194.00 in Supplemental Nutrition Assistance Program benefits. (*Id.*)

In addition to preventing her from working, Ms. Klossner's disabilities also affect other major activities such as sleeping, eating, breathing, concentrating, thinking and communicating. Ms. Klossner has debilitating migraine headaches at least twice a week. (*Id.* ¶ 15.) She suffers from extreme sleep deprivation and night terrors. (*Id.*) When she is anxious, she has problems overeating or not eating at all. (*Id.*) She is agoraphobic. (Brimeyer Decl. ¶ 6.) The uncertainty of Ms. Klossner's housing situation has exacerbated Ms. Klossner's mental health issues. (*Id.* ¶ 7.)

II. Defendants' Rent and Utility Hikes

Ms. Klossner's lot rent was $235.00 per month when she first moved to Table Mound in 2009. (Klossner ¶ 5.) Ms. Klossner's lot rent increased incrementally from $235.00 in 2009 to $280.00 in 2017. (*Id.*) Over 8 years, Ms. Klossner's rent increased by approximately 2% per year.

Defendant IADU Table Mound MHP, LLC purchased Table Mound on June 30, 2017. Between June 30, 2017 and September 1, 2019, Defendant IADU Table Mound MHP, LLC raised Ms. Klossner's lot rent from $280.00 to $380.00 per month. In addition to this rent increase, Defendant IADU Table Mound MHP, LLC began to charge Ms. Klossner for water and sewer usage and trash pick-up. (*Id.* ¶ 10.) Since Defendant IADU Table Mound MHP, LLC acquired Table Mound in 2017, Ms. Klossner's rent and utilities as a share of her income have increased from approximately 30% in 2017 to more than 50% today. (Compl. ¶¶ 39-40.)

In November 2019, Ms. Klossner had a plumbing issue in her bathroom. (Klossner Decl. ¶ 12.) Due to the cost of these repairs, Ms. Klossner could not afford her rent and utility bills. (*Id.*) In February 2020, Ms. Klossner obtained rental assistance from St. Vincent De Paul Society to help with her rent. (*Id.*) Ms. Klossner's rent and utility payments to Defendant IADU Table

Mound MHP, LLC are current and up to date as of the date of filing this Motion, although meeting this obligation consistently creates great hardship for her. (*Id*. ¶ 14.)

III. The Mobile Home Park Industry

The term "mobile home" is a misnomer. Most homes cannot be moved quickly or at all because of the age or condition of the home or the expense involved. In cases where relocating a mobile home is structurally possible, moving is very expensive and beyond the financial capacity of most low-income people. First, the home must be disconnected from all utility lines. External structures like carports and decks must be removed, and the home must be prepared for moving. Then, the home has to be raised up from its foundation and mounted on wheels or placed on the back of a truck. All of these things must then be done in reverse when the home reaches its new lot. The moving process requires special equipment, and generally must be completed by trained workers. The minimum cost of moving a double-wide manufactured home is more than $10,000. Paul Luciano et. al., *Report on the Viability and Disaster Resilience of Mobile Home Ownership and Parks*, Vt. Dep't of Hous. and Cmty. Dev., p. 26 (2013) *available at* http://www.leg.state.vt.us/reports/2013externalreports/295178.pdf.

Even if a mobile home resident can afford these costs, which may be more than the home itself is worth, many older homes are unsafe to move. (*Id*.) Additionally, many parks will not accept older mobile homes. (*Id*.) As a result, many mobile home tenants are not able to bargain with their landlord over rent increases or fees because the tenant does not have any alternative other than to abandon their home. In the words of Frank Rolfe, one of the principals of RV Horizons and Impact Communities, owning a manufactured housing park is "like owning a Waffle House where the customers are chained to the booths[.]" Karl Vick, *The Home of the Future*, TIME MAGAZINE (March 23, 2017) (available at https://time.com/4710619/the-home-of-

the-future/). Like most other mobile home park tenants, it is not an option for Ms. Klossner to move her mobile home. (Klossner Decl. ¶ 20.)

IV. The Housing Choice Voucher Program

The housing choice voucher program is a federal program that provides rental assistance to ensure very low-income families, persons with disabilities, and seniors can afford safe, decent housing. (Steger Decl. Ex. 4 ¶ 3, July 15, 2020.) Under this program, participants pay 30% of their adjusted gross income towards rent and utilities. (*Id*.) The remainder of the rent is paid directly to the participant's landlord by the housing choice voucher. (*Id*.)

Although the housing choice voucher program is federally funded, it is administered by the local housing authority. The housing choice voucher program in Dubuque is administered by the City of Dubuque Housing Authority ("DHA"). (*Id*. ¶ 2.) Historically, the City of Dubuque has not issued housing choice vouchers for lot rent, however, after hearing from residents and community advocates about the dramatic rent hikes that had been imposed by Table Mound Mobile Home Park, the Dubuque City Council unanimously approved a measure on November 4, 2019 allowing DHA to issue housing choice vouchers to manufactured home park residents. (*Id*. ¶ 4.)

V. Ms. Klossner's Reasonable Accommodation Request

Ms. Klossner was approved for a housing choice voucher in January of 2020. (*Id*. ¶ 5.) If accepted by her landlord, Ms. Klossner's housing choice voucher would pay $333 of her lot rent. (*Id*.) The housing choice voucher payment may fluctuate in the future if Ms. Klossner's income or rent obligation changes. (*Id*. ¶ 3.)

After she was awarded a housing choice voucher, Ms. Klossner immediately inquired if Defendant IADU Table Mound MHP, LLC would accept it. (Klossner Decl. ¶ 13.) Ms. Klossner

told Defendant Property Manager Stephanie Small that she was disabled, that she could not continue to pay the rent without financial assistance, and asked Ms. Small to accept her housing choice voucher. Ms. Small denied Ms. Klossner's request. (*Id*.)

On February 20, 2020, Ms. Klossner, through counsel, sent Defendant's counsel a letter asking if they would accept Ms. Klossner's housing choice voucher as a reasonable accommodation for Ms. Klossner's disabilities, which prevent her from working. (Iowa Legal Aid Ltr. Ex. 5, Feb. 20, 2020.) On March 23, Defendant, through counsel, refused Ms. Klossner's request for a reasonable accommodation, stating that it would create an undue administrative burden and fundamentally alter the nature of their housing program. (Davis Brown Ltr. Ex. 6, Mar. 23, 2020.)

Participating landlords and tenants in the housing choice voucher program are required to sign a Housing Assistance Payments (HAP) contract with the Department of Housing and Urban Development (HUD). (Steger Decl. ¶ 6.) Defendant cited only one specific provision of the housing choice voucher program that it found objectionable: Defendant asserted that Part C, paragraph 8 of the HAP contract would create an obligation for it to renew Ms. Klossner's lease at the end of her term. (HAP Contract Ex. 7; Davis Brown Ltr.)

Part C, paragraph 8 of the HAP contract provides that during "the initial term of the lease or any extension term" that the owner is not permitted to terminate the lease absent good cause. (HAP Contract.) After receiving Defendants' response, Mr. Klossner's counsel consulted with the Director of DHA, Alexis Steger ("Dir. Steger"), who advised him that neither the provision cited by Defendant or any other provision in the HAP contract created any obligation for a landlord to renew a tenant's lease at the end of the lease term. (Steger Decl. ¶ 6.)

Another requirement of housing choice voucher program are basic housing quality standards ("HQS"), which all rental units must meet before assistance can be paid by HUD on behalf of a family. 24 C.F.R. § 982.401. HQS establish minimal health and safety standards for housing choice voucher program participants. *Id.* According to Dir. Steger, the most significant administrative burden typically associated with the housing choice voucher program is the requirement that the landlord comply with the HQS as well as the Dubuque Maintenance Code. (Steger Decl. ¶ 7.) In Ms. Klossner's case, however, that obligation would be minimal for Defendants because Ms. Klossner owns her home and is therefore obligated to complete any necessary repairs to the home itself. (*Id*.)

On March 17, 2020, the Governor of Iowa proclaimed a State of Public Health Disaster Emergency concerning the Novel Coronavirus 2019 (COVID-19). The Governor's proclamation noted that COVID-19 can be transmitted person-to-person and in some cases may cause severe illness, disability, or death. In an effort to suppress the spread of COVID-19, the Governor's order mandated the closure of many public accommodations including restaurants, bars, and theaters, and prohibited gatherings of more than ten people. *Available at* https://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.03.17.pdf. The Governor subsequently placed a moratorium on most evictions until May 27, 2020. *Available at* https://www.homelandsecurity.iowa.gov/documents/disasters/Proclamations/2020/PROC_2020_44_COVID-19_April27.pdf. Typically, a housing choice voucher participant has 60 days to utilize her voucher, however, due to the COVID-19 pandemic, DHA extended the deadline for Ms. Klossner to use her housing choice voucher indefinitely. (Steger Decl. ¶ 5.)

On May 21, 2019, after the COVID-19 pandemic made it almost impossible for Ms. Klossner to seek alternative housing, and after discovering that her housing choice voucher was not time-limited due to the pandemic, Ms. Klossner's counsel again requested a reasonable accommodation from Defendant's counsel. (Iowa Legal Aid Ltr., Ex. 8, May 22, 2019.) This request was also rejected by Defendants for the same reason.

Ms. Klossner is not able to move her manufactured home due to the age and condition of the home. (Klossner Decl. ¶ 20.) She has tried unsuccessfully to find suitable housing to meet her needs. (Brimeyer Decl. ¶ 7.) If Ms. Klossner is evicted due to her inability to pay rent, she will be homeless. (Klossner Decl. ¶ 20.)

If Ms. Klossner is evicted the effect on her health will be devastating. (Brimeyer Decl. ¶ 8.) Up to this point she has been stable and able to manage her own affairs. (*Id*.) If she loses her home then her ability to function will decline, and her mental health providers fear that she may not be able to care for herself anymore. (*Id*.)

ARGUMENT

I. Legal Standard for Preliminary Injunctive Relief

In the Eighth Circuit, a party seeking preliminary injunctive relief must demonstrate four factors. These include the likelihood of success on the merits, the threat of irreparable harm to the Plaintiff, the balance between that threat of harm and the injury that granting injunctive relief would inflict on other interested parties, and whether a preliminary injunction is in the public interest. *Dataphase Systems, Inc. v. CL Systems, Inc.*, 640 F. 2d 109, 114 (8th Cir. 1981); *Roudachevski v. All-American Centers, Inc.* 648 F. 3d 701, 705 (8th Cir. 2011).

II. The Fair Housing Amendments Act

In 1988, Congress adopted the Fair Housing Amendments Act ("FHAA") to extend to

individuals with disabilities the federal guarantee of equal housing opportunities. 42 U.S.C. § 3604(f). To this end, the FHAA provides that it shall be unlawful to "discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap" of any person who intends to reside in the dwelling. 42 U.S.C. § 3604(f)(1). Furthermore, the FHAA makes it illegal to "discriminate against any person 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 a handicap" of any person who intends to reside in the dwelling after it is made available. 42 U.S.C. § 3604(f)(2). For the purposes of the FHAA, unlawful discrimination includes a showing that a defendant failed to make a "reasonable accommodation in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B); see *Edwards v. Gene Salter Properties*, 739 Fed. Appx. 357, 358 (8th Cir. 2018); see also *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028, 1034 (D. N.D. 2011).

Although Ms. Klossner is also asserting disparate treatment and disparate impact claims in this case, she will limit discussion to her reasonable accommodation claim. Courts have found that claims under the FHAA involving denial of reasonable accommodations require a showing of four elements. Specifically, a plaintiff must show she is handicapped within the meaning of § 3602(a), that the defendant knew or should have known this, that her requested accommodation is necessary for her to use and enjoy the dwelling, and that her accommodation request is reasonable. *Fair Hous. of the Dakotas, Inc.* at 1037; see also, *e.g., Edwards v. Gene Salter Props.*, No. 4:15CV0571, 2019 WL 2651109, *3 (E.D. Ark. June 27, 2019).

Defendants have always known that Ms. Klossner is a person with disabilities. Ms.

Klossner notified Defendants' agent that she was a person with disabilities, and her attorneys have notified Defendants' counsel of the same. Defendants have not disputed or even questioned Ms. Klossner's status as a person with a disability. The issue in this case is whether the accommodation she is requesting (that Defendants accept her housing choice voucher) is necessary and reasonable.

Whether a requested accommodation is necessary or reasonable is a highly fact-specific inquiry and requires balancing the needs of the parties. *Fair Hous. of the Dakotas, Inc.* at 1039. A plaintiff establishes that a requested accommodation is necessary by showing "that the desired accommodation will affirmatively enhance a disabled plaintiff's quality of life by ameliorating the effects of the disability." *Id*. (quoting *Bronk v. Ineichen*, 54 F.3d 425, 429 (7th Cir. 1995)). An accommodation is considered reasonable if it is "both efficacious and proportional to the costs to implement it." *Id*. (quoting *Oconomowoc Residential Programs v. City of Milwaukee,* 300 F.3d 775, 784 (7th Cir. 2002)).

III. Application of the Legal Standard for Injunctive Relief

A. Ms. Klossner is likely to succeed on the merits of her Fair Housing claim: The probability of success on the merits is described as the most important of the factors a court will consider when considering a preliminary injunction. *Roudachevski v. All-American Centers, Inc.* 648 F. 3d 701, 706 (8th Cir. 2011). In this case, Ms. Klossner must only show that she has a "fair chance of prevailing" in the ultimate litigation. *Richland/Wilkin Joint Powers Auth. v. United States Army Corps of Eng'rs,* 826 F. 3d 1030, 1040-41 (8th Cir. 2016); *O'Toole v. City of Walnut Grove*, 238 F. Supp. 3d 1147, 1149 (W.D. Mo. 2017). She is not required to show that she is "likely to prevail" on the merits of her claim, because she is not seeking to enjoin government action, like the enforcement of a statute. *Id*. The Eight Circuit Court of Appeals has held that

"where the balance of factors other than likelihood of success on the merits tips decidedly toward plaintiff, a preliminary injunction may issue if movant has raised questions so serious and difficult as to call for more deliberate investigation." *Genosource LLC v. Inguran LLC*, 373 F. Supp. 3d 1212, 1221 (N.D. Iowa 2018) (quoting *Dataphase Sys., Inc.*, 640 F.2d at 113).

In *Salute v. Stratford Greens Garden Apartments*, a divided panel of the Second Circuit ruled against two disabled plaintiffs with housing choice vouchers on their FHAA claim who were denied housing by a large apartment complex in suburban New York that did not accept vouchers. 136 F.3d 293 (2d Cir. 1998). The plaintiffs were requesting that the landlord accept their housing choice vouchers as a reasonable accommodation. The Court ruled that plaintiffs were asserting "an entitlement to an accommodation that remedies their economic status" rather than their disabilities, and therefore their request was not a proper reasonable accommodation request. *Id*. at 301-2.

In the ensuing years, other Courts have declined to follow the Second Circuit's approach in *Salute*. In *Giebeler v. M&B Assocs*., 343 F.3d 1143 (9th Cir. 2003), for example, a landlord refused to accept a prospective tenant's mother as a co-signer on a lease, claiming it had a minimum income policy as well as a policy of not accepting co-signors. The prospective tenant was a person who was formerly fully employed but became disabled, and whose sources of income were Social Security Disability payments and public housing assistance payments. The prospective tenant asked the landlord to allow his mother to co-sign the lease to guarantee payments, but the landlord refused this offer. The Court held that the FHAA's reasonable accommodation requirement meant that the landlord was required to accept the prospective tenant and his co-signer, even though the landlord had a policy of refusing to accept co-signers, because the prospective tenant showed that his disability was directly related to his reduced

income, and because his accommodations request – the opportunity for his mother to co-sign his lease – was a reasonable accommodation. *Id.* at 1155. In assessing the reasonableness of the tenant's request, the Court emphasized that requiring the landlord to accept payment from a third-party would not increase the landlord's financial exposure:

> We stress once more that Giebeler was in no way trying to avoid payment of the usual rent for the apartment he wanted to live in, nor was he proposing to leave M&B without a means of ascertaining that an individual with the means to pay that rent would be responsible for doing so. Giebeler's modest request that his financially qualified mother be allowed to rent an apartment for him to live in affording him the opportunity to live in a suitable dwelling despite his disability, was a request for a reasonable accommodation within the intendment of the FHAA, and should have been honored.

Id. at 1159. The Ninth Circuit explicitly rejected the Second Circuit's reasoning in *Salute*, finding that the tenants' request was reasonable on its face, or "ordinarily or in the run of cases." *Id*. at 1154 (quoting *U.S. Airways v. Barnett*, 535 U.S. 391, 401 (2002)).

More recently, in *Schaw v. Habitat for Humanity of Citrus Cty*., the Eleventh Circuit also declined to follow *Salute*, noting that the FHAA lists "working" as a major life activity, and therefore a "necessary" accommodation may alleviate the effect of a tenant's inability to work. 938 F.3d 1259, 1270 (11th Cir. 2019) (citing 42 U.S.C. § 3602(h) and 24 C.F.R. § 100.201(b)); see also *Freeland v. Sisao LLC*, No. CV-07-3741, 2008 WL 906746, *3-*5 (E.D New York April 1, 2008) (denying landlord's motion to dismiss FHAA claim by disabled tenant seeking acceptance of housing choice voucher as a reasonable accommodation); *Edwards v. Gene Salter Properties*, 739 Fed. Appx. 357, 358 (8th Cir. 2018) (denying landlord's motion for summary judgment for FHAA claim of disabled tenant seeking reasonable accommodation that landlord accept Social Security benefit statements in lieu of pay stubs and tax returns).

In addition to her inability to work, Ms. Klossner has obvious other disability-related needs: she has bipolar disorder, PTSD, and anxiety disorder, which causes her to fear going out

into the public. As a result of Defendants' drastic rent hikes, she can no longer afford basic repairs that would allow her to fully enjoy her home. At the same time, the COVID-19 pandemic makes public travel especially dangerous for persons over 60 with underlying health conditions, like Ms. Klossner. She is not able to transport her home and move elsewhere because of the combination of her disabilities and the effect of the pandemic, nor would simply abandoning her home of ten years be feasible based on this public health crisis.

Ms. Klossner has been a resident of Table Mound for more than ten years. She would still be able to maintain her independence and continue to pay full rent to Defendant but for its decision to dramatically increase her rent obligation and then refuse to accept her housing choice voucher to assist with her rent. Ms. Klossner's modest request is simply that Defendants accept a different form of payment, not less rent money. Defendants insist that accepting Ms. Klossner's housing choice voucher would impose potential financial obligations and additional management requirements upon the landlord. However, Defendants either do not understand the housing choice voucher program or willfully misinterpret it. The declaration of Dir. Steger shows that no such financial obligations or impositions upon Defendants' management of Table Mound are foreseeable simply from accepting rental payments from DHA. (Steger Decl. ¶¶ 6-7.)

B. Ms. Klossner will suffer irreparable injury if her landlord does not accept her housing choice voucher: To succeed in demonstrating a threat of irreparable harm, a plaintiff "must show that the harm is certain and great and of such imminence that there is a clear and present need for equitable relief." *Wendt v. City of Denison*, No. C16-4130, 2017 WL 2484101, *6 (N.D. Iowa June 8, 2017) (citing *S.J.W. ex rel. Wilson v. Lee's Summit R-7 Sch. Dist.*, 696 F. 3d 771, 778 (8th Cir. 2012)). The nature of the harm alleged in the Complaint is such that no plain, adequate or complete remedy at law exists to prevent or redress the actual and prospective injury,

which is being and will be suffered by Ms. Klossner if an injunction is not issued. Deprivation of housing may constitute irreparable harm. *Higbee v. Starr*, 698 F. 2d 945, 947 (8th Cir. 1983). Additionally, where a defendant violates a civil rights statute, like the FHAA, irreparable harm is presumed. *Silver Sage Partners, Ltd. v. City of Desert Hot Springs,* 251 F.3d 814, 827 (9th Cir. 2001).

Absent injunctive relief, Ms. Klossner will face eviction proceedings very soon due to the high proportion of her income that she is currently devoting to her rent. Ms. Klossner has already had to seek out emergency rental assistance from St. Vincent De Paul Society in order to avoid eviction. (Klossner Decl. ¶ 12.) If she is unable to pay the rent, the landlord is permitted to terminate her leasehold with a three-day notice. Iowa Code § 562B.25(2) ("If rent is unpaid when due and the tenant fails to pay rent within three days after written notice by the landlord of nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.") Under the summary eviction process available to the landlord under Iowa Code 648, if the landlord terminates her lot lease based on nonpayment she could be evicted in as little as ten days. Ms. Klossner is not able to transport her home. (Klossner Decl. ¶ 20.) Consequently, when Ms. Klossner is evicted she will lose her leasehold and thus right to possess the lot, as well as her home. Loss of an interest in real estate, as well as the possibility of a wrongful eviction, constitutes irreparable harm. *Johnson v. Macy*, 145 F. Supp. 3d 907, 920 (C.D. Cal. 2015).

The consequences of Ms. Klossner's loss of her home are especially acute due to the repercussions for her health if she is evicted. During the decade in which she has lived at Table Mound Ms. Klossner has been able to live independently and manage her own affairs. (Brimeyer Decl. ¶ 8.) Her mental health providers have opined that if Ms. Klossner loses her home, her

ability to function will be decline, and she may not be able to care for herself anymore. (*Id*.) If she is evicted and becomes homeless during the pandemic she will be forced to move into a shelter and face greater exposure to COVID-19. Her age and underlying health conditions place her at high risk of serious complications or even death if she were to become infected with the virus. (Klossner Decl. ¶ 3.) The risk of irreparable harm to Ms. Klossner is likely to be severe if her Motion is denied.

C. The balance of harms strongly favors Ms. Klossner: Once the court has concluded that Plaintiff is threatened with irreparable harm, it must balance this harm with the injury that an injunction would inflict on the other party. *Richland/Wilkin Joint Powers Auth. v. United States Corps of Eng'rs*, 826 F. 3d 1030, 1039 (8th Cir. 2016). "The balance of harms analysis considers several factors including the threat of each parties' rights that would result from granting or denying the injunction, the potential economic harm to the parties, and whether the defendant has taken voluntary remedial action." *General Motors LLC v. KAR Auto Group of Decorah, Inc.*, No. 20-CV-2039-CJM-KEM, 2020 WL 4937119 *10 (N.D. Iowa August 24, 2020) (citing *Wachovia Secs., LLC v. Stanton*, 571 F. Supp. 2d 1014, 1047 (N.D. Iowa 2008)). Defendant will continue to receive full rent if Plaintiff is successful in this litigation, so it will not suffer any concrete injury or other substantial harm from the entry of a preliminary injunction. Defendant asserts that the HAP contract associated with the housing choice voucher program would create an obligation for it to renew Ms. Klossner's lease at the end of her term, but in fact, the housing choice voucher program creates no such obligation. While it is true that at one time the program had provided that at the conclusion of a lease term a landlord was not permitted to refuse to renew a lease of a housing choice voucher tenant "except for serious or repeated violation of the terms and conditions of the lease," this provision was repealed in 1996. Pub. L. No. 104-134, §

203(c), 110 Stat., 1321 (1996). Dir. Steger confirms that no provision in the HAP contract creates any obligation for a landlord to renew a tenant's lease at the end of the lease term. (Steger Decl. ¶ 6.) According to Dir. Steger, the most significant administrative burden typically associated with the housing choice voucher program is the requirement that the landlord comply with the HQS as well as the Dubuque Maintenance Code. (Steger ¶ 7.) In Ms. Klossner's case, however, that obligation would be minimal for Defendants because Ms. Klossner owns her home and consequently it is her responsibility to complete any necessary repairs to the home itself. Iowa Code § 562B.16.

On the other hand, as discussed above, if this Motion is not granted Ms. Klossner will almost certainly be evicted for non-payment of rent in the very near future. She is not able to move her manufactured home due to the age and condition of the home. (Klossner Decl. ¶ 20.) She has tried unsuccessfully to find suitable housing to meet her needs. (Brimeyer Decl. ¶ 7.) If Ms. Klossner is evicted due to her inability to pay rent, she will be homeless. (Klossner Decl. ¶ 20.) If she becomes homeless during a pandemic, she will face increased exposure to COVID-19, of which she is at high risk of serious complications or even death due to her age and underlying health conditions. Her mental health providers state that if she loses her home then her ability to function will decline, and she may not be able to care for herself anymore. (Brimeyer Decl. ¶ 8.)

Accordingly, Plaintiff seeks an injunction without bond, or upon nominal bond, because she is a poor person. Under Fed. R. Civ. Pro. 65, this Court has discretion to order a nominal bond or no bond where, as here, there are no damages resulting from the proposed injunction. *Richland/Wilkin Joint Powers Auth.* at 1043; *Evanstad v. City of West St. Paul,* 306 F. Supp. 3d 1086, 1101-02 (D. Minn. 2018).

D. The public interest supports the relief Ms. Klossner is requesting: As a general matter, it is in the public interest for the Court to require compliance with federal law prohibiting discrimination on the basis of disability. *Jordan v. Greater Dayton Premier Mgmt.*, 9 F. Supp. 3d 847, 863 (S.D. Ohio 2014) (preliminary injunction under FHAA entered against administrator of Section 8 Housing Voucher program for failure to provide accessible communications to blind tenant). More specifically to this case, the drastic rent hikes imposed by Defendants have created a housing crisis in the City of Dubuque. It is precisely for this reason that the Dubuque City Council unanimously approved a measure on November 4, 2019 to allow DHA to issue housing choice vouchers to manufactured home park residents like Ms. Klossner. (Steger Decl. ¶ 4.) This decision was made in direct response to public input from residents of Table Mound and community advocates describing the catastrophic impact of Defendants' rent hikes. (*Id.*) The fact that the Dubuque City Council intervened on behalf of these residents strongly supports the conclusion that the relief Ms. Klossner seeks is in the public interest.

CONCLUSION

After a full hearing, Plaintiff prays that this Court enter a preliminary mandatory injunction without bond or upon nominal bond to require Defendants to immediately accept her housing choice voucher and to bar them from instituting eviction proceedings against her during the pendency of this action, and such other relief that the Court may deem just and proper under the circumstances.

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury pursuant to 28 U.S.C. § 1746 that on November 18, 2020, I electronically filed this Memorandum in Support of Motion for Preliminary Injunction with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the attorneys of record.

/s/Todd Schmidt
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