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DIVISION OF PUBLIC INTEREST ADVOCACY  
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FILED

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Michael R. Connor, J.S.C.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
ATLANTIC COUNTY

DOCKET NO. L 8306-84 E

JEANETTE MATICKA, JOSEPH BARNES, :  
JOSEPH ARMSTRONG, BERNARD NUZA, :  
RICHARD GAYMON, WILLIAM DURHAM :  
AND JOSEPH RODRIGUEZ, PUBLIC :  
ADVOCATE STATE OF NEW JERSEY, :

Plaintiffs,

v.

THE CITY OF ATLANTIC CITY AND  
SAMUEL BEARD, as Director of  
Municipal Welfare of the City of  
Atlantic City,

Defendants.

Civil Action

COMPLAINT IN LIEU OF  
PREROGATIVE WRIT

### INTRODUCTORY STATEMENT

1. This is an action for declaratory and injunctive relief brought by homeless persons who reside in Atlantic City and Joseph H. Rodriguez, the Public Advocate of the State of New Jersey. The plight of the homeless in Atlantic City is tragic. Homeless individuals in Atlantic City must spend their nights on the streets, under the boardwalk, and in abandoned buildings, because of the failure of the City to provide safe and suitable emergency shelter.

Without emergency shelter, plaintiffs and other homeless persons in Atlantic City suffer, and will continue to suffer, from harsh weather, sickness, disease and mental illness. Some of the homeless will die as a result of their constant exposure to the elements particularly at night and during the winter months.

2. This an action on behalf of individual plaintiffs, who are homeless men and women in Atlantic City and Joseph H. Rodriguez, the Public Advocate of the State of New Jersey, which seeks relief from the Court to remedy the desperate situation of the homeless in Atlantic City.

3. Plaintiffs contend that the practice and policy of the City of Atlantic City and the Director of Welfare of the City of Atlantic City of refusing to provide emergency shelter, immediate assistance, and general assistance payments to homeless persons violates the New Jersey Constitution and the General Public Assistance Laws.

4. Specifically, the present action seeks to establish that homeless men and women have a right to emergency shelter under Article I, paragraph 1 of the New Jersey Constitution and that the City of Atlantic City has an obligation to provide safe and suitable emergency shelter to homeless men and women under Article I, paragraph 1 of the New Jersey Constitution, the General Public Assistance Law, N.J.S.A. 44:8-107 et seq., and pertinent regulations in the General Assistance Manual, N.J.A.C. 10:85-1.1 et seq.

## II. PARTIES

5. Plaintiff, Jeanette Maticka, is a 44-year old indigent woman. She is homeless and lives on the street, in the casinos, and in the bus terminal in Atlantic City. Ms. Maticka came to Atlantic City seeking employment and intends to remain.

6. Plaintiff, Joseph Barnes, is a 42-year old indigent male. He is homeless and lives on the streets, in abandoned buildings, and at the Rescue Mission in Atlantic City. Mr. Barnes was born in Atlantic City and has lived in the City for forty years.

7. Plaintiff, Joseph Armstrong is a 57-year old indigent male. He is homeless and lives on the streets and under the boardwalk in Atlantic City. At present, he is a patient in the Atlantic City Medical Center. Mr. Armstrong is a long-time resident of Atlantic City.

8. Plaintiff, William Durham is a 36 year old indigent male. He is homeless and lives on the streets and in abandoned buildings in Atlantic City. Mr. Durham has lived in Atlantic City for the past twenty-three years.

9. Plaintiff, Bernard Nuza, is a 35-year old indigent male. He is homeless and lives in the Atlantic City Rescue Mission. Mr. Nuza came to Atlantic City seeking employment and intends to remain.

10. Plaintiff, Richard Gaymon, is a 29-year old indigent male. He is homeless and lives in the streets, in abandoned buildings and in the Rescue Mission in Atlantic City. Mr. Gaymon was born in Atlantic City and has lived in the City all his life.

11. Each of the plaintiffs mentioned in paragraphs 5-10 is a resident of Atlantic City and is in Atlantic City with the intention to remain there. Each of the plaintiffs has contacted the defendant City of Atlantic City, through the Atlantic City Municipal Welfare Department, and requested shelter, immediate assistance, and general assistance payments. Defendants ignored plaintiffs' requests for emergency shelter and failed to provide plaintiffs with immediate assistance despite their critical need. Furthermore, defendants failed to provide plaintiffs with emergency shelter, immediate assistance or general assistance payments because they lacked a permanent home and address in Atlantic City, or, in other words, because of their status as homeless individuals.

12. Plaintiff, Joseph H. Rodriguez, is the Public Advocate of the State of New Jersey, and will hereinafter be referred to as the Public Advocate. As the Public Advocate, Joseph H. Rodriguez is charged by law with representing the public interest, which is defined, inter alia, as an interest or right arising under the Constitution or laws of New Jersey which adhere to citizens of this State or a broad class of such citizens. N.J.S.A. 52:27E-30 and 31. The Public Advocate brings this action on behalf of homeless men and women in the City of Atlantic City who have been refused emergency shelter, immediate assistance, and general assistance payments by the defendants, City of Atlantic City and Samuel Beard, Director of Municipal Welfare. In this action, the Public Advocate seeks to establish the right of homeless men and women to emergency shelter, immediate assistance, and general assistance payments under Article I, paragraph 1 of the New Jersey Constitution, the General Public Assistance Law, N.J.S.A. 44:8-107 et seq., and the General Assistance Manual, N.J.A.C. 10:85-1.1 et seq. The Public Advocate, through the Division of Public Interest Advocacy, has standing to represent the rights and interests of homeless persons in any court proceedings that the Public Advocate "deems shall best serve the public interest." N.J.S.A. 52:27E-29.

13. The defendant, City of Atlantic City, is a municipality in the County of Atlantic organized under the laws of the State of New Jersey. As such, the City of Atlantic City, through the Municipal Welfare Department, is responsible for furnishing appropriate public assistance to needy persons pursuant to the General Public Assistance Law. N.J.S.A. 44:8-109 (hereinafter "General Assistance"). The General Assistance Manual sets forth the regulations which implement the general assistance program and provides, at N.J.A.C. 10:85-1.1(b):

Each municipality in New Jersey is required by law (Chapter I of Title 44, Revised Statutes) to provide financial assistance and medical care to all eligible persons resident in the community at the time of application and not otherwise provided for under the laws of this State and to such other persons who may be in the municipality and require emergency assistance. (See N.J.A.C. 10:85-3.2(f) for definition of resident and N.J.A.C. 10:85-4.6 for emergency assistance.)

14. The defendant, Samuel Beard, is the Director of Municipal Welfare for the City of Atlantic City. The General Public Assistance Law and the General Assistance Manual require defendant Samuel Beard to supervise and administer the general assistance program in the City of Atlantic City. N.J.S.A. 44:8-118; N.J.A.C. 10:85-1.1(c). Samuel Beard is further responsible for the determination of applicant eligibility in accordance with State law and regulations.

### III. FACTS

15. Upon information and belief, at least 20,000 homeless persons live in New Jersey -- a shocking statistic that reflects an unrelenting social tragedy in the State.

16. A critical lack of shelter resources exists throughout the State. Upon information and belief, as of October 1983, only 700 emergency shelter beds were available to accommodate the more than 20,000 homeless persons in New Jersey.

17. Nowhere is this statewide tragedy more evident than in Atlantic City. Numerous homeless persons reside in Atlantic City, but almost no facilities exist to shelter these persons on a temporary or emergency basis. Throughout Atlantic City, homeless men and women wander about the casinos and under the boardwalk, search for food in trash containers, huddle in doorways to keep warm in the winter, or sleep in public places and abandoned buildings.

18. Because of the absence of emergency shelter, most of the homeless in Atlantic City have no place to seek refuge, keep warm, sleep at night and obtain temporary relief from the cold and elements. As a result, homeless men and women suffer from a variety of physical ailments, sickness and disease. Many often experience serious mental illness as a result of their condition. Each winter, some homeless persons in Atlantic City die from excessive exposure to cold and severe weather. The homeless comprise a population which cannot survive at the most basic level without adequate shelter or assistance.

19. The plaintiffs mentioned in paragraphs 5-10 of this Complaint are homeless residents in Atlantic City who have no money, income, and/or resources with which to buy food, clothing, shelter, and medical care.

20. On separate occasions, between October, 1982 and continuously to January 31, 1984, plaintiffs contacted the Municipal Welfare Department in Atlantic City and informed an intake worker or caseworker that they had no place to live and no money or resources with which to buy food, clothing, shelter, or medicine.

21. On separate occasions, between October, 1982 and continuously to January 31, 1984, plaintiffs requested that the Municipal Welfare Department in Atlantic City provide them with emergency shelter, immediate assistance, and general assistance benefits.

22. Defendants City of Atlantic City and Director of the Municipal Welfare Department have repeatedly ignored plaintiffs' repeated requests for emergency shelter despite their apparent need for shelter.

23. Defendants City of Atlantic City and Director of the Municipal Welfare Department have repeatedly ignored plaintiffs' requests for immediate assistance despite their apparent need for food, clothing, shelter, and medical care.

24. Defendants City of Atlantic City and Director of the Municipal Welfare Department have refused to take plaintiffs' applications for general assistance upon plaintiffs' initial contact with the Municipal Welfare Department in Atlantic City.

25. Instead, when a homeless person visits the Municipal Welfare Department in need of emergency shelter and assistance benefits, defendants simply give the needy homeless person a form and set up an appointment for a second visit, generally a week to ten days later. Defendants ask the homeless individual to complete the form and bring it with him or her when the person returns for an appointment.

26. This form requires, among other things, that an applicant list his or her permanent address in Atlantic City and provide numerous documents such as rent receipts "to show that you live at that address in Atlantic City, N.J."

27. When homeless persons complete the form to the best of their ability and return on their specified appointment date, they still receive no emergency shelter, immediate assistance or general assistance payments. Rather, a caseworker explains that the Municipal Welfare Department cannot render any assistance until they find a home and address in Atlantic City. Even if requested, defendants will neither provide emergency shelter nor assist a homeless person in finding permanent housing. Defendants rarely schedule other appointment dates, but rather, tell the homeless person to look for a home and permanent address in Atlantic City.

28. Sometimes, after a homeless person's third, fourth, fifth, or sixth visit, defendants will provide a limited amount of food vouchers and a small personal needs check.

29. Defendants have refused to provide plaintiffs with emergency shelter, immediate assistance, and general assistance benefits because they lack a home and address in Atlantic City.

30. Plaintiffs' individual circumstances as homeless persons and their repeated attempts to obtain assistance from the Municipal Welfare Department of Atlantic City are detailed in plaintiffs' affidavits which are separately filed and hereby incorporated in this complaint.

31. Plaintiffs' experiences illustrate and exemplify the tragic plight of the homeless in Atlantic City.

32. The exact number of homeless in Atlantic City at any given time is difficult to estimate. However, reports from charitable organizations that assist homeless persons reveal that the homeless population has grown significantly since the opening of the first casino in Atlantic City in 1978 and now consists of hundreds, perhaps thousands, of men, women and families each year. For example:

(a) The Atlantic City Rescue Mission, which operates the only emergency shelter facility in Atlantic City, reports that an average of 60 men slept in the shelter each night throughout 1983. During the winter months, the nightly average rose to 100 men a night. On many occasions the Rescue Mission has sheltered up to 115 men a night.

(b) Catholic Social Services of Atlantic City reports receiving numerous requests for emergency shelter each month from homeless persons. However, with its limited funding, it was able to provide emergency shelter to only 174 homeless women and families in motels and rooming houses in 1983.

(c) The Salvation Army of Atlantic City sheltered approximately 61 homeless families in 1983 and issued shelter vouchers to provide for a total of



approximately 250 nights of lodging. This assistance consisted of placement in hotels and motels or referrals to emergency shelters outside of Atlantic City, primarily in Camden or Philadelphia. In addition, over the course of 1983, approximately 720 persons left the Salvation Army's office without assistance when they learned that the Salvation Army could not assist them in their shelter needs and could only refer them to another agency.

(d) The Social Work Services Department of the Atlantic City Medical Center reports that homeless persons are regularly admitted to the Medical Center for treatment of injuries and illness which are directly related to their homeless condition. As many as six of these patients may be in the hospital at any given time. For example, on January 16, four homeless persons were being treated for various illnesses and injuries, including tuberculosis, infections, and skin burns. This does not include many homeless persons who are treated in the emergency room and released. Many homeless patients remain in the hospital longer than is necessary because they have no place to stay upon discharge and would otherwise be compelled to live on the streets.

(e) Dr. Sekander Ursani, a physician in the emergency room at the Atlantic City Medical Center, reports that each week approximately ten to twelve homeless individuals come to the emergency room seeking medical treatment or simply a place to come in from the cold.

33. Of these homeless persons, many are residents of Atlantic City, although an increasing number of the homeless are persons who have recently arrived and intend to remain in Atlantic City in search of employment opportunities generated by the casino industry.

34. Homeless persons fall into many categories. Some have chronic mental problems. Other have been recently released from jails, alcoholic

rehabilitation centers, and other mental or medical facilities, many of which lack meaningful follow-up services to ensure appropriate living arrangements. Still others have insufficient income to afford housing in Atlantic City, a situation which often results from the low level of general assistance payments which is usually no more than \$119 per month -- provided under General Public Assistance by the Atlantic City Municipal Welfare Department.

35. A shortage of safe, decent and affordable housing further contributes to homelessness in Atlantic City. This shortage has become increasingly severe with the development of casino gambling in Atlantic City. The New Jersey Legislature has found the housing shortage in Atlantic City to be "acute", N.J.S.A. 2A:28-61.13, and as a result, the State of New Jersey enacted special laws to address the housing crisis in Atlantic City. These laws provide for the protection of tenants from displacement, N.J.S.A. 2A:18-61.13 et seq., and for funds to stimulate the production and rehabilitation of low and moderate income housing by the Atlantic County Improvement Authority. N.J.S.A. 40:37A-106 et seq., and N.J.S.A. 40:48-8.1 et seq.

36. At present, the only emergency shelter facility in Atlantic City is the aforementioned Atlantic City Rescue Mission, located at 2009 Bacharach Boulevard. This shelter has 30 beds. Admission is limited to men, and any man admitted to the shelter can stay for a maximum of 10 nights. However, the shelter does allow more than 30 men to sleep in the facility at night, and many of the men stay beyond the 10 day limit since no other emergency shelter exists in Atlantic City and permanent housing is scarce. Because the beds at the Rescue Mission are continually occupied, most of the homeless men must sleep on the floor of the dining hall and chapel. As mentioned in paragraph 32(a), an average of 60 men slept in the shelter each night in 1983, and therefore, an average of 30 men

had to sleep on the floor of the Rescue Mission each night. The operation of the Rescue Mission is funded exclusively by donations solicited from individuals, businesses and foundations.

37. The Atlantic City Rescue Mission does not receive any financial support from the defendant City of Atlantic City. The Rescue Mission is not reimbursed by defendants and does not receive any payments from defendants for providing shelter to homeless men who have sought emergency shelter and immediate assistance from the Atlantic City Municipal Welfare Department.

38. There are no facilities in Atlantic City that provide emergency or temporary shelter for homeless women and children. In addition, most hotels, motels and rooming houses for transient in Atlantic City have been closed or demolished. As a result, there is virtually no place to house homeless women and families at a reasonable cost. At present, there is only one motel in Atlantic City -- the Lincoln Motel located at North Carolina and Arctic Avenues -- which is available to homeless women and families on an emergency basis. The current rate for a room at the Lincoln Motel is \$20-40 a night for a room in the winter and \$55-50 for a room in the summer.

39. At the present time, there are no emergency shelter facilities or emergency housing accommodations which are sponsored or financially supported by the defendants.

40. Upon information and belief, the defendant, City of Atlantic City, in April, 1983, was approached with a proposal by the Atlantic City Rescue Mission to renovate a city-owned building for an emergency shelter for homeless women and families. The defendant rejected the proposal. While the Rescue Mission is interested in establishing a shelter for homeless women and families and in expanding the number of beds for homeless men, it has been unable to do so because of the unavailability of funds to purchase a building, make renovations and commence operations.

41. As a result of the lack of emergency shelter in Atlantic City, homeless persons, including the individual plaintiffs, are forced to live on the streets, under the boardwalk, in alleyways, in public places such as the bus terminal, in casinos and in vacant buildings throughout Atlantic City. Most homeless men who turn to the Rescue Mission for assistance must sleep on the Mission's chapel dining room floors. As a last resort, homeless men and women often seek refuge in the emergency room or as a patient in the Atlantic City Medical Center. The lack of emergency shelter in Atlantic City poses an immediate threat to the health, safety and physical and mental well-being of homeless men and women, including plaintiffs.

42. The defendants do not provide safe and suitable emergency shelter to plaintiffs and other homeless men and women who are in need of such shelter.

43. The defendants have no program to provide emergency shelter to homeless persons, either on their own or through charitable and religious organizations.

44. The defendants have not offered or provided financial support or assistance to any charitable or religious organization which operates or is considering operating an emergency shelter for the homeless in Atlantic City.

45. Defendants routinely and regularly engage in the following practices:

(a) the defendant, Director of Municipal Welfare, does not provide homeless men and women with emergency shelter who request such shelter from the welfare office;

(b) the defendant, Director of Municipal Welfare, does not provide immediate assistance to homeless men and women upon initial contact with the welfare office, even though the immediate need of the person is apparent;

(c) the defendant, Director of Municipal Welfare, does not take applications for general assistance payments from homeless men and women who want to apply for assistance;

(d) the defendant, Director of Municipal Welfare, does not provide emergency shelter, immediate assistance, or general assistance payments to homeless men and women because these persons lack a permanent address in Atlantic City.

46. As a result of the defendants' practice of refusing to provide emergency shelter, immediate assistance, and general assistance payments to homeless men and women who request such assistance, plaintiffs, and other homeless persons, are unable to obtain safe and suitable emergency shelter and each night can be found throughout Atlantic City in streets, alleyways, under the boardwalk, in public places such as the bus terminal, in casinos, and in abandoned buildings.

47. The failure of defendants to provide emergency shelter, immediate assistance, and general assistance payments constitutes an immediate threat to the health, safety and physical and mental well-being of plaintiffs and other homeless persons.

#### CLAIMS FOR RELIEF

##### FIRST COUNT: Constitutional Claim of Failure to Provide Emergency Shelter.

48. Plaintiffs repeat and incorporate paragraphs 1 through 47 of this Complaint as if fully set forth herein.

49. Plaintiffs and other homeless persons in Atlantic City are constantly exposed to the weather, cold, darkness and danger from living in abandoned buildings, streets, alleyways, public places and the streets. As a result, homelessness is a condition which continuously threatens the life, health, safety, and well-being of plaintiffs and many other homeless men and women in Atlantic City.

50. Plaintiffs and other homeless persons in Atlantic City suffer from sickness and death by virtue of not having permanent housing. As a result, basic notions of human dignity and fundamental decency require that homeless persons who seek refuge from the weather and the dangers of living on the streets be provided safe and suitable shelter on a temporary basis.

51. Plaintiffs and other homeless men and women in Atlantic City have a fundamental right to emergency shelter under Article I, paragraph 1 of the New Jersey Constitution in order to protect their life and preserve their health.

52. Health and housing are basic human needs and, as a result, are considered to be of fundamental importance to the citizens of New Jersey under Article I, paragraph 1 of the New Jersey Constitution.

53. Because of the fundamental importance of health and housing under Article I, paragraph 1 of the New Jersey Constitution, defendants are required to provide immediate assistance to needy persons who are homeless, including plaintiffs, and this assistance must include safe and suitable emergency shelter.

54. Defendants, by refusing to provide plaintiffs and other homeless men and women in Atlantic City with safe and suitable emergency shelter, have violated plaintiffs' rights to shelter and health under Article I, paragraph 1 of the New Jersey Constitution.

55. Defendants, by refusing to provide emergency shelter to plaintiffs and other homeless men and women in Atlantic City, have violated their obligation to provide safe and suitable emergency shelter under Article I, paragraph 1 of the New Jersey Constitution.

SECOND COUNT: Statutory Claim of Failure to Provide Emergency Shelter

56. Plaintiffs repeat and incorporate paragraphs 1 through 55 of the Complaint as if fully set forth at length.

57. Under the General Assistance Law, municipalities are required to provide appropriate assistance to persons in need who are not otherwise eligible for a program of assistance under state law. N.J.S.A. 44:8-109. This program of assistance to the needy is commonly referred to as "general assistance" or "municipal welfare."

58. Pursuant to statute, the Department of Human Services has promulgated regulations implementing the general assistance program. N.J.S.A. 44:8-111(d). These regulations are set forth in the General Assistance Manual, N.J.A.C. 10:85-1.1 et seq.

59. The General Assistance Manual requires defendants to provide immediate assistance to persons in "immediate need". N.J.A.C. 10:85-3.3(a)(2). "Immediate need" is defined as "the condition in which the available resources of an applicant are insufficient to meet current living expenses." N.J.A.C. 10:85-3.3(a)(1).

60. The General Assistance Law requires the defendants to provide immediate assistance to a needy person "promptly". N.J.S.A. 44:8-120. This assistance must ensure that the needy person does "not suffer unnecessarily, from cold, hunger, sickness, or be deprived of shelter pending further consideration of the case." N.J.S.A. 44:8-122. (emphasis supplied).

61. The General Assistance Manual requires defendants to grant immediate assistance to applicants in immediate need "on the day of the application." N.J.A.C. 10:85-7.1(c). This assistance must be sufficient to assure that the applicant is provided with food, shelter and clothing pending further verification of the case. N.J.A.C. 10:85-3.3(a)(2).

62. The General Assistance Manual requires defendants, on initial contact with the needy person, to inform the person of the requirements of the appli-

cation process and, if the person indicates that he or she wants to apply for assistance, the application "shall be taken immediately." N.J.A.C. 10:85-3.2 (b)(1) and (2).

63. The General Assistance Law requires defendants to provide continued assistance to applicants who are determined to be eligible following investigation. N.J.S.A. 44:8-121 and 123. This continued assistance must be provided in such a manner "as may be necessary to protect the well-being of the person or persons to whom assistance is to be granted such as the provision of food, milk, shelter, fuel, clothing, or medical care." N.J.S.A. 44-8-124 (emphasis supplied).

64. The Department of Human Services, pursuant to N.J.S.A. 44:8-124, has established the standards for general assistance payments. Under these standards, individuals receive \$119 per month if able to accept employment and \$178 per month if unable to accept employment. N.J.A.C. 10:85-4.1(a)(1).

65. The General Assistance Manual also requires that the defendant Samuel Beard, as the Director of Municipal Welfare of the City of Atlantic City, to provide general assistance "to prevent needy persons from suffering from cold, hunger, lack of shelter or sickness." N.J.A.C. 10:85-4.1(b). The General Assistance Manual further provides that eligible applicants are entitled to assistance according to the standards established by the New Jersey Department of Human Services. N.J.A.C. 10:85-4.1(a)(1).

66. The General Assistance Manual requires defendants to provide immediate assistance and continued assistance to needy persons who are residents of Atlantic City. A needy person is a resident of Atlantic City if he or she maintains a customary permanent home in the municipality or if he or she is in the municipality with an "intention to remain". N.J.A.C. 10:85-3.2(f).



67. Defendants, in administering the general assistance program, must strictly adhere to the General Public Assistance Law, N.J.S.A. 44:8-107 et seq., and regulations, N.J.A.C. 10:85-1.1 et seq., and may not impose additional requirements as a condition to receiving assistance. N.J.A.C. 10:85-1.1(d).

68. Pursuant to the General Public Assistance Law, N.J.S.A. 44:8-120 and 122, and the General Assistance Manual, N.J.A.C. 10:85-3.3(a), plaintiffs and other homeless persons in Atlantic City are entitled to immediate assistance upon initial contact with the Municipal Welfare Department of the defendant City of Atlantic City. This immediate assistance must include safe and suitable emergency shelter.

69. The refusal of defendants to provide emergency shelter upon initial contact with plaintiffs, and other homeless men and women who reside in Atlantic City, violates plaintiffs' rights to such shelter under the General Public Assistance Law and the General Assistance Manual. N.J.S.A. 44:8-120 and 122; N.J.A.C. 10:85-3.3(a)(2) and 7.1.

THIRD COUNT: Statutory Claim of Failure to Provide Immediate Assistance

70. Plaintiffs repeat and incorporate paragraphs 1 through 69 of the Complaint as if fully set forth herein.

71. Pursuant to the General Public Assistance Law, N.J.S.A. 44:8-120 and 122 and the General Assistance Manual, N.J.A.C. 10:85-3.3(a), plaintiffs and other homeless persons are in Atlantic City entitled to immediate assistance upon initial contact with the Municipal Welfare Department of the defendant City of Atlantic City. This immediate assistance must be sufficient to assure that the needy person is provided with food, shelter, medicine, and clothing until an application for general assistance payments can be presented and verified.

72. The refusal of defendants to provide immediate assistance upon initial contact by plaintiffs and other homeless men and women in Atlantic City violates

plaintiffs' right to such assistance under the General Public Assistance Law and the General Assistance Manual. N.J.S.A. 44:8-120 and 122; N.J.A.C. 10:85-3.3(a) (2) and 7.1.

FOURTH COUNT: Statutory Claim of Failure to Take Applications For General Assistance Payments.

73. Plaintiffs repeat and incorporate paragraphs 1 through 72 of the Complaint as if fully set forth herein.

74. Pursuant to the General Public Assistance Law, N.J.S.A. 44:8-121, and the General Assistance Manual, N.J.A.C. 10:85-3.2(b), the defendants are required to take applications for general assistance payments from needy persons immediately following an indication from the person that he or she wants to apply for assistance.

75. The refusal of defendants to immediately take applications for general assistance payments from plaintiffs and other homeless men and women in Atlantic City violates plaintiffs' rights to such assistance under the General Public Assistance Law and General Assistance Manual. N.J.S.A. 44:8-121; N.J.A.C. 10:85-3.2(b).

FIFTH COUNT: Statutory Claim of Refusal to Provide Proper General Assistance Payments

76. Plaintiffs repeat and incorporate paragraphs 1 though 75 of the Complaint as if set forth fully herein.

77. Pursuant to the General Public Assistance Law, N.J.S.A. 44:8-124, plaintiffs are entitled to general assistance at the monthly payment levels established by the New Jersey Department of Human Services in the General Assistance Manual, N.J.A.C. 10:85-4.1(a) and (b).

78. Defendants' refusal to provide plaintiffs and other homeless persons in Atlantic City with general assistance at the established monthly standard because

plaintiffs are homeless and lack an address violates plaintiffs' rights to such assistance under the General Public Assistance Law, N.J.A.C. 44:8-124 and the General Assistance Manual, N.J.A.C. 10:85-4.1.

#### V. RELIEF SOUGHT

WHEREFORE, Plaintiffs demand judgment against defendants for the following relief:

A. Enter a declaratory judgment that:

(1) Plaintiffs and other homeless men and women in Atlantic City have a right to safe and suitable emergency shelter under Article I, paragraph 1 of the New Jersey Constitution;

(2) Defendants, refusal to provide plaintiffs and other homeless men and women in Atlantic City with emergency shelter violates plaintiffs' rights to safe and suitable emergency shelter under Article I, paragraph 1 of the New Jersey Constitution;

(3) Defendants' refusal to provide emergency shelter and immediate assistance to plaintiffs and other homeless men and women in Atlantic City violates plaintiffs' rights to emergency shelter and immediate assistance under the General Public Assistance Law and General Assistance Manual. N.J.S.A. 44:8-107 et seq.; N.J.A.C. 10:85-1.1 et seq.;

(4) Defendants' refusal to take applications for general assistance payments from plaintiffs and other homeless men and women in Atlantic City violates plaintiffs' rights under the General Public Assistance Law and the General Assistance Manual. N.J.S.A. 44:8-107 et seq.; N.J.A.C. 10:85-1.1 et seq.;

(5) Defendants' practice of not providing emergency shelter, immediate assistance, and general assistance payments to plaintiffs and other homeless men and women in Atlantic City because they lack a permanent address in Atlantic City violates plaintiffs' rights under the General Public Assistance Law

the General Assistance Manual. N.J.S.A. 44:8-107 et seq.; N.J.A.C. 10:85-1.1 et seq.

B. Enter a preliminary injunction ordering defendants to immediately provide plaintiffs, and all other homeless men and women in Atlantic City, with (1) safe and suitable emergency shelter as required by Article I, paragraph 1 of the New Jersey Constitution, and (2) emergency shelter and immediate assistance, as required by the General Public Assistance Law and the General Assistance Manual.

C. Enter a permanent injunction requiring defendants to provide plaintiffs, and other homeless men and women in Atlantic City with (1) safe and suitable emergency shelter as required by Article I, paragraph 1 of the New Jersey Constitution, and (2) safe and suitable emergency shelter, immediate assistance, applications for general assistance and general assistance benefits, despite plaintiffs' lack of a permanent address in Atlantic City, as required by the General Public Assistance Law and the General Assistance Manual.

D. Such other relief as the Court deems equitable, just and appropriate.

JOSEPH H. RODRIGUEZ  
PUBLIC ADVOCATE

BY: 

DAVID G. SCIARRA  
Assistant Deputy Public Advocate

Dated: 2/6/84

On the Complaint:

Susan C. Remis, Esq.

Member of the District of Columbia Bar