

30 March 2013

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Re: HUD and the future of the City of Galveston

Mr. Kovacs:

Before you go any further down the road to tying this city's future to HUD, and its demands to rebuild Public Housing, in return for disaster recovery money, you obviously need to know a lot more about who and what you are dealing with.

In the recent analysis published in [“Living Apart: How the Government Betrayed a Landmark Civil Rights Law”](#) the authors found that **HUD routinely turned a blind eye as local housing**

authorities violated the Fair Housing Act (FHA). Obviously, this is both tragic and criminal since HUD is the primary federal agency charged with enforcing the FHA, and should be a clear indication that no one can rely on HUD's opinion on what is acceptable and lawful under the FHA. Much of their analysis shows that the federal government has helped to maintain and foster segregation through its Public Housing programs.

"Residential segregation, which the Federal government helped to foster, remains a fact of life in the Nation's metropolitan areas." The U.S. Commission on Civil Rights assessment on the fifth anniversary of the Fair Housing Act.

*When Cisneros arrived, the agency was defending itself in court against a swarm of civil rights lawsuits. HUD's standard response was to argue that law was a general statement of principles which did not require the agency to take any specific steps to foster integrated housing. Cisneros looked at the cases and concluded that **the government was wrong.***

"We were complicit in discrimination, and I gave instructions to fix it," Cisneros said. *"That put us in the position of the department having to admit that what we had done before was inadequate, it was wrong."*

"The folks fighting segregation aren't social engineering. Segregation was created by social engineering," Shaun Donovan said in speeches across the country. ***"Far more often than not, segregation, isolation and poverty don't occur in spite of government. They happen because of government – by government dollars and government decisions made with government authority."***

This last statement must seem Orwellian to you coming from the man who has ordered this city to rebuild segregated Public Housing in isolated reservations of poverty north of Broadway in return for disaster recovery funding! This demand from the Secretary of HUD seems to be unprecedented in HUD's history.

This is an agency that has a long history of supporting segregation when it is desired by local government, but **this appears to be the first time that it has ordered a local government, elected to de-segregate Public Housing, to betray its campaign promises and re-segregate or suffer dire consequences.** Unfortunately, at least four Councilmembers (the Gang of Four) are willing to go along with HUD's unlawful order.

Secretary Donovan's order is maddening both to you and the residents of this city, but the question is, what are you going to do about it? **When are this city's staff and Councilmembers going to stand on principle and enforce the FHA in the City of Galveston?** There is no public evidence that you and the City Attorney are advising this Council about the consequences of violating the FHA in return for federal money.

What is the City's defense going to be? It was just following orders? The City can't claim that it could rely on HUD to bless their plans to rebuild north of Broadway, because HUD is the authority on the FHA, when that is clearly not the case!

*"Living Apart" went on to say, "In interviews, **many HUD officials acknowledged they have no idea how to enforce the provision for affirmatively furthering fair housing.**"*

*"A year later, investigators from the Government Accountability Office confirmed what civil rights advocates had long known: **HUD's system for ensuring compliance with the fair housing law was a sham.**"*

*"It is fair to say, it is accurate to say, that the only situation in which HUD is doing anything effectively to affirmatively further fair housing **are situations where there has been litigation,**" said Florence Wagman Roisman, a law professor at Indiana University. "Then it does as little as possible, as grudgingly as possible."*

There it is! This is the agency that the City is going to point to as its authority to implement its Public Housing plan in obvious

violation of the FHA! The City will also be violating Executive Order 11988 on Floodplain Management and Executive Order 12898 on Environmental Justice. The fact that HUD is turning a blind eye to these obvious violations, and is in fact encouraging you to ignore them, should offer no comfort to this city.

When an injunction is filed, HUD will have no concern about its legal costs, but the City has just learned that its costs are uninsured and will come out of the general fund. You and the City Attorney are the primary members of the City staff charged with the responsibility to persuade the City Council from taking actions that put the City in great legal jeopardy.

If you and the City Attorney do not publically go on the record advising the Council against proceeding with the current Public Housing plan, **what is to prevent two or three Councilmembers from reversing their current desire to build Public Housing north of Broadway, when it becomes politically expedient for them to do so, and then blaming you for not advising them about the consequences of their current plan?** They've already done an about face from what they told the voters they were going to do!

And then there is the worst case scenario:

The Gang of Four on Council continue to push through the concentrated rebuilding of Public Housing in poor minority neighborhoods and then resist rebuilding the low-density scattered sites in middle-class non-minority neighborhoods, as they appear to be doing. **That will create a clear case of discriminatory intent** by the City which is far worse than the disparate impact standard that they are on a path to violate with their current plans.

In short, it is long past time for you and the City Attorney to present a forceful case to the Gang of Four showing them how their Public Housing rebuilding plan will violate at least the three laws listed above, and that **HUD will not be able to save them, because it does NOT get to dictate the scope and meaning of the Fair Housing Act to a federal court,** or issue magic waivers of

fair-housing laws. You are the professional staff that they rely on to stop them before they make major mistakes. What they do now will effect the City for the next 40-50 years.

Best regards,

David Stanowski
President