

03 September 2010

To:
Mayor Joe Jaworski

Cc:
Galveston City Council

Mr. Mayor:

I think that I have found a way to satisfy both sides of the issue in the debate over whether Galveston is under a mandate to rebuild 569 public housing units in order to receive other federal recovery funds!

As you know, the two camps are currently locked in a standoff over their very different interpretations of what HUD, the Texas Department of Rural Affairs, the Texas Department of Housing & Community Affairs, and the [25 May 2010 Conciliation Agreement](#) do or do not require on the part of the City of Galveston when it comes to the building of public housing units.

You have listened to various sources within the food chain of federal monetary distribution, and examined the documents, and come to the conclusion that the City of Galveston **MUST** rebuild the 569 public housing units, destroyed by Hurricane Ike, or forfeit millions of dollars of other recovery funding.

On the other hand, myself, and others, have examined the same documents and numerous state and federal laws governing public housing and have come to the conclusion that the City of Galveston is **NOT REQUIRED** to rebuild the 569 public housing units, and will **NOT** forfeit any other recovery funding if it **CHOOSES** not to rebuild these units. Our understanding is that funds have been set aside and allocated to rebuild these units,

and if the City accepts these funds, it can only use them for this purpose. However, if the City does not take these specially allocated funds, it has no obligation to build any public housing, and does not forfeit its share of other recovery funding.

In addition, we recently contacted HUD, and they have confirmed that they have NO REQUIREMENTS for the City to rebuild these units, and we still believe that the laws of the State of Texas protect this city from any attempt by a State agency to single it out as the only city in the state to be forced to build public housing in order to receive other recovery assistance.

How can we settle the impasse over these very different interpretations governing what the City can and cannot do?

If we are able to raise enough money to pay the legal fees, we would love to take this matter to court, and let a judge decide. However, until such a time comes, you definitely have the upper hand, because you are the Mayor, and in an ideal position to persuade the City Council to accept your interpretation of this situation, while we have no power or standing except to try to speak for the people of Galveston who will be severely impacted if these units are built.

However, you should keep in mind that even if Council votes to build these units, or the GHA is allowed to bypass Council and accept the funding directly, there are many remaining obstacles to rebuilding that have been ignored by the proponents of expanding public housing in this city; obstacles that could delay construction to the point where funds may have to be returned when deadlines are not met.

As they stand now, GHA's plans violate [CFR 941.202](#) "Site and Neighborhood Standards", and [federal floodplain regulations \(Executive Order 11988\)](#), and it will not be easy to make the current plans conform to these requirements without simply ignoring the regulations, or obtaining numerous waivers from HUD.

In addition, GHA's plans violate HUD guidelines on the concentration of low-income minority groups in acknowledged "low-opportunity neighborhoods" as stated on page 29 of the ["Fair Housing Planning Guide, 1996"](#). More importantly, they violate the rulings in numerous cases that were decided against HUD, like [Thompson v. HUD](#), for allowing local housing authorities to locate their public housing units in areas that further concentrate low-income minorities in situations that create illegal segregation.

Members of the Loyal Opposition plan to raise these issues at upcoming meetings called to authorize GHA's building plans, at each proposed site, and will attempt to force GHA to follow all the rules, by revising its plans.

I think that we can agree that no community looks upon public housing as an asset to their city, because I have never found an article written by a proponent of public housing that even attempts to make this claim. In addition, most cities choose not to participate in this program. To the contrary, public housing is seen as a major liability that drains city resources and negatively impacts the social fabric of the city. Therefore, if we can find a way to satisfy you that Galveston will not lose funding by choosing not to build any more public housing, in the City, then we will also avoid creating another major liability, so everyone should be happy!

The way to do this is fairly simple. The GOP suggested it to the GHA Board in an [18 February 2010 letter](#).

HUD regulation [CFR 970.11](#) allows a city housing authority to build or purchase public housing units **outside of the city limits** in which it is domiciled. Such a move would also allow the units to be built without violating all of the federal rules and regulations that they do in the City of Galveston!

*(a) "A replacement housing plan may **provide for the location of the replacement housing outside the political boundaries of the locality of the PHA**, provided all relevant program requirements*

are satisfied including the approval of the replacement housing plan by the unit of general local government in which the project being demolished or disposed is located. In order to assure that all program requirements are satisfied, the PHA must enter into any necessary agreements, including where applicable, the execution of a Cooperation Agreement between the PHA and the locality in which the replacement housing will be located, prior to submission of the replacement housing plan to HUD for approval."

Likewise, the State of Texas offers similar provisions in: "Cooperation with other governmental entities or housing authorities": [Texas Local Government Code: Section 392.059](#)

*(a) "An authority may cooperate with a municipality, a county, another political subdivision of this state, or the state in action taken in connection with the problems of clearing, re-planning, and reconstructing slum areas and of providing housing for persons of low income in the area of operation of the authority or **within the boundaries of the cooperating political subdivision.***

*(b) Housing authorities may cooperate in the exercise of a power conferred by this chapter to **finance, plan, undertake, construct, or operate a housing project in the area of operation of one or more of the cooperating authorities.**"*

Finally, the newly released, 01 June 2010, ["Plan for Disaster Recovery - Revised Amendment 1"](#) from HUD, the TDRA, and the TDHCA has a comment on page 162 regarding the City of Galveston from the TDHCA that states "It is not the State's intent to take away the authority to make decisions from the community concerning **where** or how the housing units get rebuilt."

These regulations give the GHA the authority to build public housing units in other cities, with their approval, but the quicker and more economical way to take advantage of this option is to simply purchase existing properties that can be converted to public housing, immediately.

Although I said that this solution was simple, I did not say it would be easy. It would require you, as Mayor, to contact the mayors of the other cities in Galveston County and ask them two questions.

1. Will you allow GHA to build public housing units in your city?
2. Has any government entity told you that you must build public housing in your city in order to receive other recovery funding?

If the other mayors answer yes to the first question, we have solved our problem! The 569 units will get rebuilt, there is no chance that Galveston will lose other funding, and the units will not be a burden to our city.

If they answer no, then we will get to experience the momentary sense of self-righteousness that will come by calling everyone in North County a racist, as our opponents do to us every time they are losing the debate.

But more importantly, if the mayors answer no to both questions, then that should give you nearly absolute certainty that Galveston does not have to build any additional public housing units in order to qualify for other recovery funds, because these cities will have demonstrated that they refuse to do so, and it is clear that they will suffer no such losses. Galveston should follow their lead!

I hope that this simple idea will offer a solution to the current deadlock.

Best regards,

David Stanowski
President
Galveston Open Government Project, Inc.