

04 December 2009

Sent via email to: GreenSus@cityofgalveston.org

Susie Green
City Attorney
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Dear Ms. Green:

In 1996, residents of Galveston Public Housing filed a lawsuit against GHA and the City of Galveston alleging that GHA had subjected them to racial segregation by locating all four of its family housing projects in low-income minority neighborhoods. The suit even cited "[purported violations of the Fair Housing Act alleged against the City's former mayor.](#)" (Page 15) It is not clear why the mayor was singled out, but it may be due to the mayor's role in appointing the GHA Board. Eventually, GHA entered into a Voluntary Compliance Agreement and a [Consent Decree](#) where it agreed to end this practice.

In 2008, about [2% of the U.S. population](#) was living in Public Housing or was using a Housing Authority voucher, but an estimated [8% of Galveston's residents](#) were receiving housing assistance; four times the national average. In addition, [88% of all the Public Housing Units](#), and [76% of all the Section 8 vouchers](#) in Galveston County were located or being used in the City of Galveston which only contained [20% of the County's population](#).

The 1996 lawsuit filed by GHA residents expressed their desire to escape from low-income minority neighborhoods, and the

concentration of Public Housing in the City of Galveston shows that it has been bearing far more than its share of the social and economic costs of Public Housing within the County. There is only one way to give GHA residents a chance at better lives, and lower the burden on the City of Galveston; locate any new Public Housing and Section 8 properties in the more affluent cities in the County that currently have no Public Housing.

When comparing the seven major cities in Galveston County, notice how the three cities with Public Housing (Galveston, La Marque, and Texas City) have the highest crime rates, the lowest Median Household Incomes, and the lowest school district rankings.

City	2007 Crime Rate National Average = 320	2007 Median Household Income	School District Ranking 948 Districts in TX
<u>Galveston</u>	650	\$35,610	<u>735</u>
<u>La Marque</u>	568	\$42,938	<u>821</u>
<u>Texas City</u>	453	\$44,321	<u>571</u>
<u>Santa Fe</u>	275	\$58,600	?
<u>Dickinson</u>	266	\$51,741	<u>444</u>
<u>League City</u>	175	\$78,596	<u>89</u>
<u>Friendswood</u>	99	\$85,509	?

The latest court rulings confirm the view that de-segregation of Public Housing can not be accomplished in a meaningful way when it is done within one city. The City of Baltimore has a demographic composition within Baltimore County that is similar to the City of Galveston and Galveston County. In 1995, Thompson, et al. sued the Housing Authority, its Executive Director, the City Council, the Mayor, and HUD alleging that the local authorities and HUD had made little effort to de-segregate the minority population throughout the entire county, because they had concentrated their Public Housing Projects in the City.

The 2005 decision in [Thompson v. HUD](#) stated on page 11 that, “Geographic considerations, economic limitations, and population shifts, have rendered it impossible to effect a meaningful degree of de-segregation of public housing by redistributing the public housing population of Baltimore City within the City limits. Baltimore City should not be viewed as an island reservation for use as a container for all of the poor of a contiguous region..”

In another case, [United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc., v. Westchester County](#) the Plaintiff filed a claim as a whistle blower under the False-Claims Act alleging that [Westchester County, New York had not “met its obligations to affirmatively further fair housing.”](#)

“To meet this obligation, the County was required to conduct an analysis of the impediments to fair housing choice, including impediments erected by racial and ethnic discrimination or segregation, and to take appropriate actions to overcome the effects of any such impediments.” [DOJ Press Release, Page 1](#)

“As part of its applications for funding under the HUD grant program, between 2000 and 2008 the County periodically certified that it was meeting its obligations to affirmatively further fair housing.” [DOJ Press Release, Page 2](#) The complaint alleged that Westchester County had made a false claim that they were in compliance.

The Court agreed, and [in the settlement, Pages 2-3](#), the County was forced to spend \$30 million to ensure the development of 750 units of fair and affordable housing in areas with low racial and ethnic diversity, to repay \$21.6 million to HUD, pay the whistle blower \$7.5 million, and to submit to the oversight and enforcement authority of a court-appointed Monitor.

The cases in Baltimore and Westchester County set a clear precedent that Public Housing must now be located on a countywide or even regional basis in order to de-segregate low-income minority groups in a way that gives them an authentic

opportunity to better their lives. The plans developed by the Galveston Housing Authority for the re-development of Public Housing are not consistent with the rulings in these cases, and therefore are not within current court-directed HUD policy.

Based on the cases that the Galveston Open Government Project has studied, it appears as though the GHA, the GHA Commissioners, and the Executive Director of the GHA, the City of Galveston, City Council Members, and the City Manager could be vulnerable to a variety of legal actions until local policy is corrected:

1. [Administrative Complaint with HUD. see U.S. Code, Title 42, Chapter 45, Subchapter 1, Section 3610](#)

Texas Appleseed filed an [Administrative Complaint](#) on 28 October 2009 alleging that the City of Galveston cannot certify that they are affirmatively furthering fair housing. Starting on page 22, the AC reads in part:

"CDBG grant funds are expressly conditioned on a jurisdiction's certification that it will affirmatively further fair housing. "The AFFH certification [is] not mere boilerplate formality, but rather a substantive requirement, rooted in the history and purpose of the fair housing laws and regulations, requiring the [jurisdiction] to conduct an AI, take appropriate actions in response, and to document its analysis and actions." United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc., v. Westchester County, Case 1:06-CV-02860-DLC, Document 118 at 50-51, (S.D.N.Y, February 24, 2009).

The Secretary cannot obligate funds when a grantee has failed to make a certification that is material to its eligibility to receive CDBG funds. Neither Galveston, as an example, or the State, has submitted or can submit a fair housing

certification that can be satisfactory to the Secretary.”

“For the reasons set out above, we ask you to deem Texas’ Plan insufficient to support obligation of CDBG funds at this time, and require revision and resubmission of the Plan in accordance with applicable federal laws and regulations.”

Based on this AC, and other problems, [HUD rejected the State’s Action Plan for CDBG Disaster Recovery](#) supplemental funding.

The GOP agrees that the City of Galveston’s plan, as drafted by GHA, does not meet the fair housing standards as cited in *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc., v. Westchester County*, but Texas Appleseed conveniently does not ask HUD to require jurisdictions in the State of Texas to meet the standards set forth in *Thompson v. HUD* in regards to countywide and/or regional de-segregation. At some point, Texas Appleseed may file an amended AC to include *Thompson*, or additional AC’s may be filed by other parties to fill in the missing pieces.

The first question that must be addressed by City Council is how can CDBG funds properly be committed to the GHA when their plan does not meet the standards described above?

2. [False Claims Act](#).

Texas Appleseed fails to mention that *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc., v. Westchester County* was initiated by filing a False Claims Act. The complaint alleged that Westchester County had made a false claim that they were in compliance with fair housing laws when they applied for and received CDBG funds. Galveston County, the City of Galveston, and the Galveston Housing Authority may have done the same thing, leaving them vulnerable to a False Claims Act filing.

Since False Claims actions are usually done on a contingency fee basis, with potentially large rewards, and anyone who becomes aware of the False Claim can file; it is likely that someone will use the template of the Westchester County case to do the same thing here.

3. [Lawsuit.](#)

The City and the GHA were sued by residents of the family housing projects in 1996, alleging that the defendants were allowing racial discrimination within the City, and their complaints were not completely remedied according to the old standard of looking at segregation on a citywide basis. With the new standard required by *Thompson v. HUD*, if a countywide approach is not implemented through an Administrative Complaint, surely some group such as the NAACP or ACLU, who originated the process in *Thompson*, will step up and file a lawsuit.

Chris Toombs did most of the research on this subject, and he will be presenting the arguments contained in this letter, in [greater detail](#), to the Planning Commission on 15 December. Based on his findings, the GOGP will be asking the PC to reject the GHA's plans and send the matter back to Council where they can fully consider the necessity of dissolving the Galveston Housing Authority, so that HUD and the Galveston County Commissioners Court can set up a County Housing Authority that can operate according to the guidelines set forth in *Thompson v. HUD*.

We know that the Planning Commission and City Council will be seeking your advice when this matter comes before them, so we wanted to forward our research and references to you, to give you time to begin your review of some of the legal issues effecting any plans to build Public Housing in the City of Galveston.

Our city is currently in the painful and prolonged process of recovering from the devastation leveled on us by Hurricane Ike,

and the last thing we need is for our City government to become entangled in lengthy and costly litigation when this matter can be resolved very easily by simply following the requirements set forth by the two cases cited above and establishing a County Housing Authority which will allow former GHA residents the opportunity to re-locate into more favorable neighborhoods throughout the County.

Postscript:

No society can ever hope to meet its full potential if it allows barriers to stand in the way of anyone's opportunities, AND it does not insist that all able-bodied people find their individual path to independence and self-reliance. The old order that the GHA and others want to perpetuate that separated and isolated people geographically into dehumanizing warehouses of despair, and promoted programs that created hopelessness and emasculating dependency, with all the resultant psychological consequences, must not continue!

The current Public Housing system forces the frustrated, resentful, and overtaxed middle class to bear the cost, not of offering a hand up to their fellow citizens, but rather makes them become the caretakers of the underclass while those herded into this modern plantation system feel no gratitude for the largess they receive; in fact, they are insulted and humiliated even as they feel a strong sense of entitlement.

Unless we stop building Public Housing as a separate world within our country and find a way to mentor the underclass on how to assimilate into mainstream society; we face a very grim future. Everyone has an enormous stake in finding a new way to make this work. Galveston, like other cities, has a very powerful and vocal Poverty Industry that prospers financially and politically by keeping people trapped on the plantation that they have created.

The people of Galveston must not allow the Poverty Industry to dictate our future any longer. We must create a new public

policy based on sound research, common sense, and the enlightened best interests of the City rather than guilt or other irrational emotional impulses!

For further documentation go to: [GOGP on the GHA](#)

Thank you for your wise counsel and assistance,

Best regards,

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