

Council,

Did you know that you have PERSONAL LIABILITY for many of your actions and inactions, such as the failure to do proper due diligence, when it comes to rebuilding public housing? The GHA Commissioners, certain key City and GHA employees, and members of City Boards also have potential PERSONAL LIABILITY.

How can this be? It's very simple!

Location, Location, Location!

Part of the rebuilding process has to do with the actual construction of the units, while much of it has to do with the location of the buildings. If this city puts public housing in locations that violate the Civil Rights of the tenants, then you have PERSONAL LIABILITY!

Chapter 10 of the "Home Rule Cities Handbook for Mayors and Councilmembers", from the Texas Municipal League, is entitled ["Personal Liability of Councilmembers"](#), and it states, in part:

"The Court thus held that a councilmember is personally liable for damages if he or she votes to have the city perform an act that has the effect of depriving citizens of their constitutional rights – even in cases where the councilmember and the city are required by state law to perform the particular act."

In other words, the notion that you had to do something due to the terms of the Conciliation Agreement does NOT remove your PERSONAL LIABILITY!

"Every councilmember needs to know the risks expressly contained in Section 1983, Title 42, of the United States Code:"

"The literal language of Section 1983 makes all persons, councilmembers included, personally liable for damages if their

acts result in depriving others of their civil rights, regardless of whether such acts were reasonable and made in good faith. Additionally, the U.S. Supreme Court has held that Section 1983 does not require proof that a defendant deliberately intended to deprive the plaintiff of his legal rights; the mere deprivation is itself a violation."

Some Councilmembers believe that the City Council should not hesitate to pass a resolution, supporting the rebuilding of 569 public housing units, BEFORE the proper review process demonstrates that they will conform to all federal laws, and the rulings in the latest court cases, in the belief that the City MIGHT lose other federal funding by failing to do so. However, they fail to recognize that this kind of irresponsible open-ended support for rebuilding creates potential liability for the City and themselves!

In the [Westchester Case](#), Westchester County had to pay \$30 million to the federal government in the settlement, plus another \$7.5 million to the Whistleblower/Plaintiff. Can the City of Galveston afford to continue rushing through the public housing rebuilding process without making absolutely sure that the site locations do not violate the Civil Rights of the future tenants? How will the City write a check for millions of dollars if it rushes and bungles this process, and gets sued by a fair-housing group like Texas Appleseed?

Even more on point, are you willing to sit back and allow this to continue now that you know that you have PERSONAL LIABILITY, if public housing is rebuilt in a way that violates someone's Civil Rights?

In [Thompson v HUD](#), the Mayor, City Council, the Housing Authority, and the Executive Director of the HA were named as defendants, but were later dropped when they were able to demonstrate a good faith effort to remedy the Civil Rights violations, even though they were unsuccessful in doing so. However, in Galveston, neither the previous City Council, nor

the current City Council, have demonstrated any interest in addressing the violations of law, including potential Civil Rights violations, that the GHA Rebuilding Plan includes. This is hardly a good faith effort!

Some will say that City Council has no direct oversight role with the GHA, so the City Council cannot do anything to alter GHA rebuilding plans. This is not true! GHA Commissioners can be removed by the Mayor for [“inefficiency, neglect of duty, or misconduct in office”](#), and the refusal to develop plans that conform to the Civil Rights laws, and the latest court interpretations of these laws, putting the City at risk of a multi-million dollar judgment, should be clear cause for removal. The Council merely needs to strongly “encourage” the Mayor to exercise much tighter control through his power to remove and replace Commissioners and his ex-officio membership on the Board!!

Please note that the [1995 lawsuit](#) against the GHA did include the City as a defendant. The Plaintiffs could have easily included the City Councilmembers and GHA Commissioners.

The only resolution that City Council should pass, at its next meeting, is one that makes a commitment to ensure that any rebuilding of public housing will be done in accordance with the criteria developed in the Westchester case, as far as acceptable locations with regards to racial demographics, and the criteria developed in Thompson, with regards to High-Opportunity neighborhoods.

Rebuilding any public housing units on the old footprints will violate the criteria laid down in both cases, so it is clear that allowing the GHA Board to develop rebuilding plans, without a review of the current Civil Rights requirements, is a massive waste of time, because they continue to ignore this issue, which leaves the City wide open for a lawsuit! The [GOGP analysis](#) showed that by using only the Westchester criteria, 84% of the new public housing units should be located west of 99th street.

Anything less than a commitment to do this correctly will leave the City of Galveston wide open for a Civil-Rights lawsuit, and subject City Councilmembers, and certain key City Employees, as well as GHA Commissioners, and certain key GHA Employees, to unnecessary PERSONAL LIABILITY.

The GOP sent this information to the previous Council on [22 December 2009](#), and they chose to ignore it. It was also sent to GHA Chair Mabasa on [10 February 2010](#), and the GHA chose to ignore it.

The GOP has now documented numerous communications with the Council and the GHA on the matter of potential Civil Rights violations, and the indifference and unwillingness to act to review this issue thoroughly and properly, is now duly noted, and part of the official record for any future lawsuit. It's time to reverse course!

Finally, when the issue of PERSONAL LIABILITY was raised at these earlier dates it is interesting to note that [GHA's Executive Director told the GCDN](#) that his assets are held in his wife's name which would serve to make him judgment proof in such a suit. Are the City Councilmembers and GHA Commissioners similarly insulated? If not, it's too late to do so.

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