

David Stanowski's remarks to the Planning Commission 13 January 2010

re: Personal Liability

On 22 December, the Galveston Open Government Project sent a letter to the City Attorney stating that if Councilmembers take actions that violate anyone's Constitutional rights, such as their Civil Rights, the Councilmembers who do so create possible personal liability for themselves in any lawsuit brought by the injured parties. Even though the cited reference dealt with Councilmembers, it is our understanding that the same principles apply to all employees, and elected or appointed officials of local government. The letter went on to say that any GHA plan that does not follow the guidelines set forth by Thompson v. HUD will most likely be found to be furthering segregation which [will expose everyone who supports such a plan to potential personal liability](#).

We share our research with the City and County governments not as some kind of veiled threat of potential litigation, but rather to offer a simple course of action that will shield everyone involved from personal liability, by simply following the guidelines laid down in the Thompson case. [The GOP has no legal standing to sue anyone for a Civil Rights violation](#), so any legal actions of this sort would have to come from past, present, or future residents of GHA housing projects, as it did in Thompson.

The GHA appears to have ignored the potential Civil Rights violations that we raised as they moved forward with their plans, and the City Council has declined to put it on their agenda. The County Commissioners invited us to give them a presentation, earlier today, and they are consulting with their attorneys; now the ball is in your court.

It seems to us that you have three basic choices on how to proceed.

1. You can evaluate the GHA rebuilding plan like any other, and simply ignore the issue of whether it may result in unlawful segregation.

2. You can investigate whether this project will result in Civil Rights violations. If you choose this course, we offer the following suggestions based on the extensive research we have done:

a.) [Ask the Mayor to explain to you why she does not want to put this issue on the Council agenda \(see attachment\)](#). Does Council believe that they can sidestep personal liability by taking no action on the number and location of units approved by leaving this up to the GHA and the Planning Commission?

b.) Retrieve and review all of the correspondence on this matter between HUD, FEMA, the GHA, City staff, and Council; something that we are currently attempting to do.

c.) Request a copy of the study and report done by federal mediators Steve Fischer and Jan Sunoo for the GHA that [the GHA is refusing to furnish to us](#). In their request for an opinion from the Attorney General on their right to withhold this report they state,

“However, it appears that some members of the City of Galveston’s Planning Commission have expressed (in public meetings of that body) [their belief that it is the Commission’s prerogative to review GHA’s overall plans to replace the demolished public housing units](#) and to make its recommendations to Galveston’s City Council on whether GHA should or should not be permitted to proceed with its overall replacement housing plans. This unfortunately [creates a potential conflict between GHA and the City of Galveston.](#)”

[Why doesn’t the GHA want us to have the mediator’s report?](#)

[Why is the GHA so concerned that the Planning Commission intends to perform their mandated oversight function?](#)

d.) Insist that the City to **hire an experienced Civil Rights attorney who can act independently of City Council** to advise you on whether the GHA plan will likely result in unlawful segregation.

3. Send this matter back to City Council and insist that they settle all the Civil Rights issues attached to it, to your satisfaction, BEFORE it comes back to the Planning Commission for a normal evaluation.

It appears as though the GHA and the City Council do not want to consider the potential unlawful segregation created by the GHA Plan; however, neither body wants the Planning Commission to review it properly, either. This puts the Planning Commission in a very difficult position. **This body was never intended to pass judgment on legal issues surrounding new projects, especially issues like Civil Rights and segregation; therefore, we highly recommend that you send it back to Council and make them address these issues.**