

IN THE MATTER OF X
X
THE GALVESTON HOUSING AUTHORITY X
HA CODE TX017 X

ADMINISTRATIVE COMPLAINT & FAIR HOUSING COMPLAINT

TO THE HONORABLE SHAUN DONOVAN
Secretary, United States Department of Housing and Urban Development

Lone Star Legal Aid (LSLA) files this fair housing and administrative complaint against the Galveston Housing Authority (GHA) on behalf of two groups of its clients:

1. **VOUCHER HOLDERS** who are recipients of housing choice vouchers administered by GHA.
2. **DISPLACED RESIDENTS** who are displaced tenants of GHA demolished multifamily public housing developments known as Cedar Terrace, Cedar Terrace Addition, Magnolia Homes, Oleander Homes and Palm Terrace Addition.

VOUCHER HOLDERS seek an emergency protective order from HUD directing GHA to immediately cease and desist implementation of its recently announced Payment Standard Reduction Policy and directing GHA to immediately notify landlords and housing choice voucher tenants in writing that the announced Payment Standard Reduction Policy is rescinded and that all HAP and lease agreements remain in full force and effect.

1. BACKGROUND

Low income residents of the city of Galveston have suffered the effects of a severe shortage of decent, safe and affordable rental housing for many years. On

September 13, 2008 Hurricane Ike made landfall on Galveston Island flooding 75% of the island and exacerbating the problems of an inadequate housing stock. All four of GHA's multifamily public housing developments were damaged resulting in a decrease in GHA's public housing inventory from 990 units to 410 units, including the loss of all 569 units of multifamily public housing.

The Kirwan Institute issued the report "Galveston After Ike: Moving Together Towards A Full Recovery" in December 2011 as part of its public service commitment to communities hard hit by natural disasters in the Gulf. The report details the "clear disparities in population losses". The city of Galveston lost 16.5% of its population between 2000 and 2010. Loss for the white population was 11.4%. Population loss for the African American community was 36.7%, over three times the rate of loss experienced by the white population.

GHA's HUD approved 5 Year Plan for Fiscal Years 2010-2014 underscores the impact of inadequate housing in Galveston stating that "results of post-Ike analysis suggest that the need for affordable and safe housing for the disadvantaged has increased significantly since the ACS data of 2005-2007. There are *[at the time of submission of the Plan]* 2,359 additional households on the waiting list with the Galveston Housing Authority in addition to another 4,740 who were income-eligible for public housing and living in rental housing with some level of housing problems pre-Ike."

According to GHA data in the approved 2010 Plan, 59% of the 1513 families on its public housing waiting list identified as non-white, 35% as families with children, and 45% as needing a unit with more than one bedroom. Of the 1114 families on its Section 8 tenant-based assistance waiting list 81% were non-white and 27% were families with

children; the waiting list was closed at the time the Plan was submitted. As stated in GHA's proposed Agency Plan FY 2014 "(m)inority families experience lower median incomes, higher rates of poverty, and higher rates of housing problems."

2. GHA'S ILLEGAL POLICY ANNOUNCED

On or about May 3, 2013 GHA notified "Housing Choice Voucher Program Property Owners/Managers" (landlords) of GHA's intent to reduce its payment standard from 100% to 90% effective July 1, 2013. Exhibit A. This notice announcing GHA's unilateral change in the contract advises landlords that they have the right to refuse the reduction, in which case the HAP agreement will be terminated effective June 30, 2013, and the housing choice voucher tenant will be issued a relocation voucher. Landlords were given until May 30, 2013 to make the decision as to whether to refuse the payment standard reduction.

On or about May 3, 2013 GHA also notified voucher holders of the Payment Standard Reduction Policy. Exhibit B. Voucher holders were told that the reduction may cause an increase in the tenant portion of the rent. Voucher holders were notified that if the landlord refuses the reduction, the voucher holder will be responsible for the full rent if he/she does not move by June 30th.

3. GHA'S IMPLEMENTATION OF A PROGRAM-WIDE PAYMENT STANDARD REDUCTION IS ILLEGAL.

HUD regulations and rules detail specific procedures for setting and changing payment standards. GHA set its payment standard in its approved 5 Year Plan at 100%, to be reviewed annually. Factors GHA is to consider in assessment of the adequacy of its payment standard are success rates of assisted families, rent burden of

assisted families and the number of families with a cost burden 40% or more. GHA's proposed Plan FY 2014 incorporates the required rules and procedures.

HUD has informed PHAs that it is not approving waivers that allow PHAs to make payment standard decreases for families under HAP contract that would be effective earlier than regulatory provisions permit. As stated by Secretary Donovan in his April 26, 2013 letter to PHA Executive Directors "waivers place a financial burden on participating families and therefore are only approved as a last resort to prevent termination of families. Because the estimated cost to prevent terminations due to insufficient funding at present appears to be less than the amount of set-aside funding that is available, the hardship on families that would result from the waiver does not appear to be justified at this time." GHA's recently announced policy change is blatantly defiant of the guidance in Secretary Donovan's letter.

GHA's implementation of a program-wide payment standard reduction on or about May 3, 2013 from 100% to 90% violates HUD regulations, rules and guidance and is contrary to its own Plan.

4. GHA HAS FAILED TO COMPLY WITH FAIR HOUSING REQUIREMENTS IN THE ADMINISTRATION OF ITS HOUSING CHOICE VOUCHER PROGRAM.

As indicated by the demographics of GHA's housing choice voucher tenants and of its waiting list applicants, implementation of the program-wide payment standard reduction has a discriminatory effect based on race. The impact of such a change results in a disparate impact on people of color and predictably will result in displacement thereby increasing the forced migration of people of color out of the city of Galveston. Although budget cuts may require GHA to take action to address potential

funding shortfalls, there are a range of alternatives available that would have a less discriminatory effect. GHA is and has been violating fair housing requirements in the administration of its housing choice voucher program.

5. GHA'S BREACH OF ITS SETTLEMENT AGREEMENT WITH DISPLACED RESIDENTS

On March 2, 2009 LSLA, on behalf of displaced residents, filed an administrative complaint with HUD regarding GHA's proposed demolition of all of its 569 multifamily public housing units. Exhibit C. LSLA and GHA entered into a Settlement Agreement with Replacement Plan on March 13, 2009. Exhibit D. The Settlement Agreement assures the 1 for 1 replacement of the demolished 569 units with 569 public housing units of corresponding bedroom size, provides displaced residents the right to return to replaced public housing and requires GHA to provide LSLA with written reports at least quarterly. Pursuant to a Conciliation Agreement entered into by housing advocates, the State of Texas and HUD, federal disaster CDBG funding for replacement of the demolished developments has been reserved for GHA. Exhibit E.

GHA anticipated that replacement of all 569 public housing units would be completed within 3-5 years from the date of the Settlement Agreement. Only 40 one bedroom units have been replaced to-date. In flagrant violation of that Settlement Agreement with displaced residents, and according to its "Plan for Public Housing Reconstruction" adopted in September 2012, GHA does not intend to replace all 569 demolished public housing units with public housing units of corresponding bedroom size on a 1 for 1 basis. Exhibit F.

GHA has failed to provide LSLA with written reports and has failed to respond to LSLA's requests for reports and for meetings in violation of its obligations under the Settlement Agreement.

6. GHA'S FAILURE TO IMPLEMENT A COMPLIANT REPLACEMENT PLAN FOR DEMOLISHED PUBLIC HOUSING UNITS IS UNLAWFUL.

Although required to replace all 569 demolished public housing units on a 1 for 1 basis, GHA has replaced only 40 of the 569 demolished public housing units. GHA's September 2012 Plan for Public Housing Reconstruction provides that it will replace a maximum of only 141 more public housing units. Based on plans announced to-date, it appears that the limited replacement housing will be redeveloped without regard to the Settlement Agreement requirement to replace demolished units with public housing units of corresponding bedroom size.

This dramatic departure from the terms of the Settlement Agreement that GHA entered into with LSLA on behalf of displaced residents was not negotiated with LSLA. The Settlement Agreement has not been amended to relieve GHA of its obligation to replace the demolished developments with 569 public housing units of corresponding bedroom size.

Pursuant to the Settlement Agreement, LSLA has requested reports. LSLA also has requested to meet with GHA. GHA has failed to respond to LSLA's requests.

GHA's plan to replace a maximum of only 181 of the demolished units is in direct violation of its legally binding Settlement Agreement with LSLA and is contrary to details contained in its approved Five Year Plan. Its apparent refusal to provide LSLA with reports on at least a quarterly basis also is a direct violation of its obligations.

7. GHA HAS FAILED TO COMPLY WITH FAIR HOUSING REQUIREMENTS IN THE ADMINISTRATION OF ITS PUBLIC HOUSING PROGRAM.

A GHA waiting list summary prepared in August 2012 indicates that 77% of households on the low income waiting list are identified as non-white and that 74% are classified as families (as opposed to single, elderly, or disabled). Although one-bedroom units comprised only 13% of the demolished units, they represent 100% of the units replaced to-date. In addition, it appears that development of the planned maximum 141 replacement public housing units will be without regard to corresponding bedroom size and will favor units with fewer bedrooms.

GHA has violated fair housing requirements in its administration of its public housing program. It is clear based on the demographics of GHA's public housing tenant population and of waiting list population that its decision not to replace all demolished units has a very significant discriminatory effect based on race and on familial status. Without adequate affordable housing in Galveston, families will be forced to move away from established roots and out of the city of Galveston. It is predictable that the burden of GHA's conduct falls disproportionately on protected classes and has a disparate impact on people of color and on families with children.

8. VOUCHER HOLDERS AND DISPLACED RESIDENTS WILL SUFFER INREPARABLE HARM IF GHA IS PERMITTED TO CONTINUE ON ITS CURRENT COURSE OF ACTION.

GHA's illegal acts and the on-going mismanagement of its housing programs are contrary to its obligation to affirmatively further fair housing. Its widely-publicized and consistent failure to cooperate with the State of Texas in regard to replacement of demolished public housing jeopardizes approximately \$100 million earmarked for

redevelopment of Galveston's demolished public housing, even as the affordable housing crisis in Galveston worsens.

The predictable impact of GHA's discriminatory actions has been and will continue to be increased housing insecurity and the displacement of people of color and of families with children. GHA is failing to provide affordable housing as mandated. The loss of decent, safe and affordable housing will escalate if GHA is allowed to proceed with its current course of conduct. **Voucher holders** and **displaced residents** will suffer immediate and irreparable harm.

RELIEF REQUESTED

VOUCHER HOLDERS and **DISPLACED RESIDENTS** request that HUD provide the following relief:

1. Order GHA to immediately cease and desist implementation of its program-wide reduction in its payment standard;
2. Order GHA to immediately notify landlords and housing choice voucher tenants in writing that the announced payment standard reduction is rescinded and that all HAP and lease agreements remain in full force and effect;
3. Order GHA to comply with all terms of its Settlement Agreement with LSLA regarding replacement of demolished public housing units unless and until an amendment to the Agreement is negotiated with LSLA;
4. Order GHA to immediately provide to HUD and to LSLA the following:
 - a) a list of all landlords who have notified GHA of their intent to refuse the announced payment standard reduction;
 - b) a list of all housing choice voucher tenants who have requested or have been provided a relocation voucher in response to the announced payment standard reduction;
5. Order GHA to provide to HUD and to LSLA on or before June 30, 2013 the following:

- a) a written report detailing the current status of replacement housing plans and efforts;
 - b) copies of all reports, financial statements, and any and all other documents and data used in determining whether GHA has sufficient funding, including program or administrative reserves, for the remainder of the calendar year;
 - c) a written report detailing what, if any, other measures GHA has taken to mitigate the potential impact of funding cuts;
6. Conduct a fair housing compliance investigation and review of GHA housing operations;
 7. Investigate GHA's illegal policies and practices and initiate proceedings to place GHA's federally subsidized housing programs in federal receivership.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I certify that the above Fair Housing and Administrative Complaint was sent by certified mail, return receipt requested, and by email to:

Shaun Donovan
Secretary, United States Department of Housing and Urban Development
451 7th Street S. W., Room 10000
Washington, D. C. 20410
shaun.donovan@hud.gov

I certify that the above Fair Housing and Administrative Complaint was sent by email to:

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