

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

Vanessa Wharton, Ruth Ortiz,)
Brenda Jones, and Sherry Butler,)
Plaintiffs,)

Case No.

v.)

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

The United States Department of)
Housing and Urban Development,)
United States Secretary of Housing)
and Urban Development Ben Carson,)
Texas General Land Office,)
and)
Texas Land Commissioner)
George P. Bush in his official capacity,)
Defendants.)

INTRODUCTORY STATEMENT

1. The State of Texas is administering more than \$5.024 billion in HUD funding to address unmet housing needs caused by Hurricane Harvey in August 2017, but renter households are not allowed to apply for any of that assistance. Billions are available to directly assist homeowners who were impacted by the disaster, but the rental recovery resources are only available to developers and property owners, leaving renter households out of the program. Even worse, the units repaired and built in the rental recovery program will not be affordable for Plaintiffs, and Harvey survivors will not be given preference in renting.

2. Plaintiffs are Hispanic and Black or African American renters who have been denied the opportunity to obtain Hurricane Harvey disaster relief benefits by discriminatory policies set out in the State of Texas Plan for Disaster Recovery: Hurricane Harvey - Round 1 and approved by HUD (hereinafter "Action Plan"). The policies were proposed by Defendants Texas General

Land Office (“GLO”) and Land Commissioner George P. Bush and approved by Defendants U.S. Department of Housing and Urban Development (“HUD”) and HUD Secretary Ben Carson. The Defendants have barred Plaintiffs and the other tenants in the disaster area from obtaining the same survivor benefits that are being made available to homeowners in the disaster area.

3. The Action Plan programs are funded through the Community Development Block Grant-Disaster Recovery (“CDBG-DR”) program. CDBG-DR is a HUD program that applies the Community Development Block Grant framework to Congressional allocations that are passed on an ad hoc basis in response to disasters. The HUD Secretary has discretion to waive many CDBG requirements in CDBG-DR programs, but the Secretary cannot waive HUD’s obligation to comply with fair housing and nondiscrimination law.

4. After Congress appropriates CDBG-DR funds, HUD issues a Federal Register Notice setting out the waivers and alternative requirements that apply to the funds. Once HUD has issued its Federal Register Notice, the State or other recipient government is typically required to prepare an Action Plan outlining how it will spend the funds in compliance with HUD’s Notice. The HUD Secretary then has the opportunity to approve or disapprove the Action Plan.

5. Here, Defendants have prohibited tenants from applying for CDBG-DR benefits in the specific policies defining program eligibility. These policies deny Plaintiffs the federal assistance directed to meet disaster survivors’ unmet housing needs solely because of their status as tenants. Meanwhile, the same policies provide

opportunities for homeowner Harvey survivors to address a variety of recovery needs.¹ The policies cause the discriminatory effect of disadvantaging the disproportionately Hispanic and African American tenant household group as compared to the disproportionately White non-Hispanic group of homeowners. The State Defendants' enactment of the policies and the HUD Defendants' funding and approval of the policies are actions taken with discriminatory intent based on race, color, and ethnicity. Plaintiffs are low income tenants who survived Hurricane Harvey and, like many other residents of the eligible counties, would benefit from the Federal disaster relief funding allocated by Congress for disaster relief.²

6. Defendant GLO and Defendant Land Commissioner discriminated against Hispanic and African American tenant Hurricane Harvey survivors by making homeownership a prerequisite to eligibility for all state-administered direct assistance programs under the Action Plan. The Defendants enacted these policies despite knowledge that racial segregation in Texas has created barriers to home ownership for Hispanic and Black or African American Texans. Because of these barriers, a policy excluding tenants from direct assistance programs has a disparate impact on the predominantly Hispanic and Black or African American renter households compared to the benefits provided to the predominantly White non-Hispanic homeowner households in the disaster area.

7. Defendant HUD and Defendant Secretary administer the CDBG-DR program and are responsible for approving the Action Plan. HUD discriminated against Hispanic and Black or African American Hurricane Harvey tenant survivors by approving and funding the

¹ "Homeowners" refers to owner-occupants.

² "Eligible counties" refers to the counties designated by HUD as recipients of the CDBG-DR allocation at issue.

discriminatory plan.³ HUD failed to fulfill its duty to affirmatively further fair housing by failing to assess the impact the policies would have on fair housing.

8. This case is brought to enforce Plaintiffs' right to be free from racial and ethnic discrimination as guaranteed by the U.S. Constitution, 42 U.S.C. § 1982, 42 U.S.C. § 2000d, 42 U.S.C. § 3604, 42 U.S.C. § 3605, 42 U.S.C. § 3608(e)(5). Plaintiffs seek declaratory relief and injunctive remedies for the Defendants' discrimination against tenants.

JURISDICTION

9. This Court has jurisdiction over the subject matter of this civil action pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (deprivation of civil rights) and 42 U.S.C. § 3613(a)(1)(A) (Fair Housing Act jurisdiction).

Federal final agency action and waiver of sovereign immunity

10. HUD's approval of the State Defendants' State of Texas Plan for Disaster Recovery is agency action. 5 U.S.C. § 551. The HUD Defendants' approval of the State Defendants' State of Texas Plan for Disaster Recovery is part of the HUD Defendants' grant of money and assistance pursuant to Congressional authorization. The HUD Defendants' grant of money and assistance is final. The action was taken pursuant to the HUD Defendants' procedure for the submission, review, and decision on the grant of funds for disaster recovery from Hurricane Harvey.

11. HUD approved the State Action Plan Amendment 3 on June 13, 2019 (2019 State Action Plan). This State Action Plan contains the challenged policies at issue in this case. The

³ The race and ethnicity category of "White non-Hispanic" as used in this complaint refers to the U.S. Census racial and ethnic category of "White alone, Not Hispanic or Latino." The ethnic category of Hispanic" as used in this complaint refers to the U.S. Census ethnic category of "Hispanic or Latino." The racial category of Black or African American as used in this complaint refers to the U.S. Census racial category of "Black or African American alone."

HUD approval of the State Action Plan is agency action within the meaning of the Administrative Procedure Act (“APA”), 5 U.S.C. § 551(13), where agency action is “the whole or part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.” The definition of “relief” under the APA, 5 U.S.C. § 551(11) includes the grant of money or remedy. HUD granted the CDBG-DR funds to the state with the Federal Register notice 83 Fed. Reg. 5844 pursuant to the HUD approved State Action Plan.

12. HUD’s approval of the State Action Plan is final agency action within the meaning of 5 U.S.C. § 704. HUD approved the plan, made the certifications, entered into the grant agreement, and has obligated CDBG-DR funding to the State pursuant to the approved plan.

13. HUD has approved each of the State Action Plan amendments since its approval of the original State Action Plan on June 25, 2018. None of the amendments have altered the policies at issue in this lawsuit. Those policies remain in the amended plans.

14. As of January 2019, Texas had drawn down about \$18 million (of approximately \$5 billion) for administration and planning only. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-19-232 *DISASTER RECOVERY: BETTER MONITORING OF BLOCK GRANT FUNDS NEEDED*, Highlights Page (March 2019).

15. The HUD Defendants’ sovereign immunity for APA claim is waived by 5 U.S.C. § 702, which states: “An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party.” Sovereign immunity does not bar a suit to enjoin unconstitutional actions by a federal officer. *Larson v. Domestic and Foreign Commerce Corp.*, 337 U.S. 682, 690B91

(1948); *Danos v. Jones*, 652 F.3d 577, 581–82 (5th Cir. 2011); *Pollack v. Hogan*, 703 F.3d 117, 120 (D.C. Cir. 2012).

The General Land Office has no Eleventh Amendment immunity under Title VI.

16. The Disaster Recovery funds are federal financial assistance provided to the State of Texas. The award and use of the funds are covered by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d. Plaintiffs shall not, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C. § 2000d. As an agency of the State of Texas, GLO has no immunity under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance. 42 U.S.C. § 2000d-7.

The Texas Land Commissioner has no immunity.

17. The Texas Land Commissioner has no Eleventh Amendment immunity from the claims brought pursuant to 42 U.S.C. § 1982, 42 U.S.C. § 1983, the Fair Housing Act, 42 U.S.C. § 3601, et seq. and the Equal Protection Clause of the Fourteenth Amendment. The Commissioner's actions implementing an illegal and unconstitutional Disaster Recovery Action Plan is not covered by the immunity granted by the Eleventh Amendment of the Constitution of the United States.

VENUE

18. Venue lies in the Southern District of Texas, pursuant to 28 U.S.C. §

1391(e)(1) because Defendants are officers and agencies of the government, and because the Plaintiffs live in Victoria, Nueces, and Aransas Counties, which are within the Southern District of Texas.

PARTIES

Plaintiffs

19. The Plaintiffs are Hispanic and Black or African American renters who were permanently displaced from their homes due to damage from Hurricane Harvey. Plaintiffs were unable to secure stable housing until months after the disaster. Plaintiffs have been unable to access assistance programs sufficient to help them with many of their disaster-related needs and expenses, including displacement expenses and, in some cases, increased housing costs.

20. Plaintiff Sherry Butler is Black or African American and lives in Rockport, Texas, where her income is approximately 15% of the county median. The home that she was renting at the time of Hurricane Harvey was made unsafe to occupy by the disaster. Ms. Butler was not able to enter the home after the disaster, as the landlord told her it had been condemned.

21. Ms. Butler stayed in shelters and with her sister until she was able to get Rental Assistance from FEMA. While staying in shelters, Ms. Butler had to spend more than she normally would on food and other necessities. With the Rental Assistance, she was finally able to move out of the shelters and into a different rental home, but she was unable to stay there long-term because she could not afford the \$1200 monthly rent without assistance. Ms. Butler stayed with her mother for a few months before moving into her current home in January 2019.

22. Ms. Butler would benefit from the utility assistance program that is currently only available to homeowners. The Affordable Rental Program will not meet Ms. Butler's needs because her income is too low for her to participate.

23. Plaintiff Vanessa Wharton is Black or African American and lives in Corpus Christi, Texas, where her income is approximately 39% of the county median. Before Hurricane Harvey, she had lived in Corpus Christi her whole life and in her neighborhood for six years. The home that Ms. Wharton was renting at the time of Hurricane Harvey was made unsafe to occupy by the disaster: water came in through the ceiling and collected about two inches on the floor. After the disaster, water came into the home every time it rained.

24. When Ms. Wharton first moved out of her damaged home, she moved into an apartment complex where she was given an upstairs apartment, despite the fact that she has limited mobility and struggles to walk up stairs. Due to her limited mobility, Ms. Wharton fell on the stairs multiple times, but the property manager refused to let her move to a first-floor apartment. She had to break her lease because it was not safe for her to continue using the stairs. She now hears from debt collectors frequently about the penalty for breaking that lease, and her credit score is being impacted. Although Ms. Wharton has found a new home to rent, she now pays approximately \$100 more in rent than she did before the disaster and struggles financially because of the expenses she incurred as a result of Hurricane Harvey, including increased rent, and other expenses.

25. Ms. Wharton's expenses include payment on a rent-to-own refrigerator. She would benefit from the appliance reimbursement program that is currently only available to homeowners. Only one of the Harvey Round 1-funded multifamily projects will be placed in Corpus Christi. That project, built by Oaks Texas City LLC, will have only 25 units and will have an affordability level of 80% AMI, which means it is unlikely that Ms. Wharton will be able to live there on her income.

26. Plaintiff Ruth Ortiz is Hispanic lives in Victoria, Texas, where her annual income is approximately 36.7% of the county median. Ms. Ortiz moved to Victoria in 2016. The home that Ms. Ortiz was renting at the time of Hurricane Harvey was made unsafe to occupy by the disaster: the storm broke four windows and made it impossible to lock the back door. Ms. Ortiz was afraid for her family's safety, but the landlord refused to make repairs.

27. About two months after the disaster, Ms. Ortiz used FEMA rental assistance to move into an apartment. She could not find an affordable home to rent, so her rent went from \$750 to \$1000 per month, a 33% increase. Because Ms. Ortiz could not continue paying the increased rent, she moved a second time to a house that is farther away from her job, her children's school, and her son's doctor.

28. Ms. Ortiz's son has a tumor in his brain and needs specialized medical care. Ms. Ortiz is concerned about access to emergency medical services in her neighborhood, which is farther from town than her pre-Harvey neighborhood. Ms. Ortiz still struggles financially because of expenses she incurred as a result of Hurricane Harvey.

29. Plaintiff Brenda Jones is Black or African American and lives in Aransas Pass, Texas, where her income is approximately 29.04% of the county median. Before Hurricane Harvey, she had lived in Aransas Pass for five years and in her neighborhood for two and a half years. The home that Ms. Jones was renting at the time of Hurricane Harvey was made unsafe to occupy by the disaster. Because of the water damage and mold, Ms. Jones's property manager told her she needed to vacate the apartment.

30. Ms. Jones lived out of her car and in hotel rooms paid by FEMA's Temporary Sheltering Assistance program until March 2018. Eventually, Ms. Jones was able to secure a housing voucher through the Gregory Housing Authority. Ms. Jones was ultimately able to rent a

Section 8 apartment in Aransas Pass.

31. Her current home is farther from her doctor and from the nearest grocery store than her pre-disaster home was, and Ms. Jones is no longer able to go to church because her church is too far away. Due to the financial challenges brought on by the hurricane, Ms. Jones' car was repossessed because she could no longer afford to make payments on it, making it even harder to get to doctor's appointments, the grocery store, and to access social support. Ms. Jones has cancer and sees a specialist; she has to rely on a family member to give her rides to see the specialist.

32. Due to the emotional distress, Ms. Jones now has increased healthcare expenses. Ms. Jones is on a fixed income and still struggles financially because of expenses she incurred as a result of Hurricane Harvey.

33. Only one property funded by the Affordable Rental Program has been approved for Aransas Pass. Ms. Jones lived at that property prior to Hurricane Harvey and was threatened and pressured to move back into the unit when Ms. Jones had serious health and safety concerns about the apartment.

Defendants

34. Defendant HUD is the executive agency of the United States given the authority to administer CDBG-DR pursuant to the Congressional disaster relief authorizations. HUD established the guidelines for the allocation and is responsible for federal administration and oversight of the recipients' compliance with federal law. HUD has reviewed and approved each CDBG-DR State Action Plan and amendment submitted by GLO. HUD's review and approvals are final agency actions.

35. Defendant Ben Carson is sued solely in his capacity as HUD Secretary. The

Secretary's responsibilities include overseeing the CDBG-DR program.

36. Defendant GLO is an agency of the State of Texas. GLO has been designated to administer the CDBG-DR program for the State of Texas for Hurricane Harvey. GLO has been the state agency tasked with disaster recovery in Texas since 2011.

37. Defendant George P. Bush is sued solely in his official capacity as the Texas Land Commissioner. The Land Commissioner's responsibilities include overseeing GLO's disaster recovery work.

FACTS

Hurricane Harvey

38. Hurricane Harvey was a devastating disaster that caused widespread damage in 49 counties in the Coastal Bend, Golden Crescent, Houston/Galveston, and Southeast regions of Texas on or about August 25 through 29, 2017.

39. Hurricane Harvey caused a rental housing crisis. Not only were a substantial number of units made unlivable by the storm, but also many of the undamaged units in the impacted areas were rented by displaced homeowners. This caused increased rents and a shortage of available rental housing. Pre-Harvey renters who lost their homes in the disaster were often unable to find rental housing in their communities. Displaced renters were then forced to choose between options like living in overcrowded conditions at the homes of friends or relatives; moving away from their community, including social support, employment, and schools; or renting a home that was unaffordable.

40. Renters made up nearly half of the households that applied for FEMA assistance after Hurricane Harvey.

The Action Plan for CDBG-DR funds.

41. On February 9, 2018, HUD released a Federal Register Notice setting out requirements for \$5.024 billion in CDBG-DR funds to the State of Texas. The funding was directed to address unmet housing and other needs caused by Hurricane Harvey. An additional \$652.175 million was added to the allocation by a Federal Register notice dated August 14, 2018.

42. The February Federal Register Notice requires grantees to make housing information and services available to both homeowners and renters. It provides waivers allowing activities including down payment assistance, homeownership assistance, and relocation incentives. The Notice requires grantees to allocate at least 70% of their CDBG-DR funds to activities benefiting the recovery of low- to moderate-income (“LMI”) households. LMI is defined as making 80% or less of Area Median Income.

43. HUD approved the Action Plan at issue in this lawsuit on June 25, 2018.

44. GLO enacted the racially discriminatory CDBG-DR allocation policy that is challenged by Plaintiffs in this lawsuit as part of the State Action Plan. In addition, GLO will directly administer a portion of the CDBG-DR funds allocated by the policy. GLO will also supervise other governmental and non-governmental entities in the use of CDBG-DR funds allocated under the challenged policy.

DISPARATE IMPACT:

The Action Plan’s failure to provide adequate financial assistance directly to pre-Harvey renter households has a disparate impact on minority households in the CDBG-DR eligible counties.

45. The Action Plan includes three distinct sections: the section administered by GLO on behalf of the State of Texas (hereinafter the “State Plan”), the section administered by Harris County (hereinafter the “Harris County Plan”), and the section

administered by the City of Houston (hereinafter the “Houston Plan”). Plaintiffs are affected only by the State Plan.

46. Under the current State Plan, Plaintiffs are unable to apply for any program because they are renters.

47. The State Plan has a clear policy of barring non-homeowners from receiving direct financial assistance. GLO and HUD have enacted a policy of requiring homeownership as a prerequisite for receipt of CDBG-DR funds.

48. The State Plan allocates funds for four types of programs that provide assistance directly to Hurricane Harvey survivors: Homeowner Assistance Programs, which provide repairs to disaster-damaged owner-occupied primary residences; Buyout Programs, which allow local governments to offer buyouts to eligible homeowners; Homeowner Reimbursement Programs, which reimburse homeowners for out-of-pocket repair expenses up to \$50,000; and funding for PREPS, a FEMA temporary sheltering program that provides minimal repairs to make damaged homes safe for sheltering. All four types of programs make homeownership at the time of the hurricane a prerequisite to eligibility.

49. The Affordable Rental Housing program funded in the State Plan does not involve assistance for individuals or households who suffered damage from Hurricane Harvey, but instead involves assistance to developers, local governments, and other entities to assist in repairing or building new housing stock or infrastructure, services, or administration. The limited number of apartments to be built under the State Action Plan Affordable Rental Housing Program does not meet the unmet need for renters harmed by Hurricane Harvey. This rental housing will take years to build, and there is no requirement for this rental housing to accept renters who were injured by Hurricane Harvey. Plaintiffs need immediate rental assistance.

50. The Action Plan and the GLO Hurricane Harvey Disaster Recovery Housing Guidelines provide for rehabilitation, repair, and new construction of rental housing, but do not provide any type of direct financial assistance for renters who may ultimately qualify for that housing and will need the assistance to obtain the housing.

51. The policy of excluding tenants from direct financial assistance creates an artificial, arbitrary, and unnecessary barrier to renters' housing recovery following Hurricane Harvey. As a result of this policy, housing was made unavailable to Plaintiffs, each of whom continues to face housing-related injuries due to the disaster.

52. The policy of requiring homeownership as a prerequisite for qualifying for direct CDBG-DR assistance is arbitrary because approximately equal numbers of homeowners and renters applied for FEMA assistance after Harvey. Because renters were less likely to receive FEMA assistance, they are more likely to have remaining unmet housing related needs.

53. The Action Plan programs constitute policies, not one-time decisions. Each program mandates eligibility requirements that will affect all applicants for the program. These policies are stated in the Action Plan and in the GLO Hurricane Harvey Disaster Recovery Housing Guidelines.

54. This policy of homeownership as a prerequisite to receipt of state-administered CDBG-DR funds for survivors has a disparate impact on minority households in the eligible counties.

55. HUD has approved the Action Plan and approved the policy of direct assistance for homeowners and the denial of direct assistance to tenants.

56. Renter families in the 49 counties impacted by Hurricane Harvey are disadvantaged

by the no direct assistance policy. This group is disproportionately Hispanic and Black or African American compared to the disproportionately White non-Hispanic owner families. In the 49 county area, 45% of all Hispanic occupied units are renters and 56% of all Black occupied units are renters. Only 27% of all White non-Hispanic occupied units are renters.

57. As set out below, the direct assistance provided to homeowners by the GLO and HUD policy includes tenant based rental assistance with security deposit, utility assistance, appliance reimbursement, and programs to encourage homeownership.

The Tenant-Based Rental Assistance is available to homeowners but denied to tenants.

58. The GLO Tenant-Based Rental Assistance program available for homeowners will deliver rental assistance to LMI homeowner households in need of housing. This program may include months of rental assistance, including security deposit and utility deposit. Action Plan, pages 153–154. This tenant based rental assistance is denied to tenant households.

59. The denial of Tenant-Based Rental Assistance program benefits to tenants is discrimination in the terms, conditions, and privileges of rental of a dwelling and in the provision of services in connection therewith. The denial of Tenant-Based Rental Assistance program benefits to tenants makes unavailable the dwellings that could be rented using the months of rental assistance, including security deposit and utility deposit. The denial disproportionately affects Hispanic and African American households and Hispanic and Black or African American LMI households.

Utility Assistance Program is provided to homeowners but denied to tenants.

60. The GLO Utility Assistance Program provided to homeowners will provide assistance up to \$1000 to LMI households to meet immediate utility needs. Utility assistance

may include electricity, gas, wastewater, water and other utility bills and deposits. Action Plan page 153–154. The GLO Utility Assistance is denied to tenants.

61. The denial of Utility Assistance Program benefits to tenants is discrimination in the terms, conditions, and privileges of rental of a dwelling and in the provision of services in connection therewith. The discrimination against tenants in the conditions, terms, and privileges and in the provision of the service of providing a subsidy for the payment of utility expenses has a discriminatory effect based on race, color, and ethnicity. The denial disproportionately affects Hispanic and Black or African American households and Hispanic and African American LMI households.

Homeowner reimbursement program for replacing essential appliances and systems is denied to tenants.

62. The GLO Housing Program includes a reimbursement program for the expenditures incurred in replacing essential appliances such as refrigerators, stove/ovens, and dishwashers; and repairing utilities and other systems. Guidelines, pages 49–52. This assistance would be beneficial to tenant survivors who incurred these expenditures and were not reimbursed by the landlord or FEMA. Tenants are not eligible for the appliance reimbursement program solely because they are tenants. The discrimination against tenants in the conditions, terms, and privileges and in the provision of the service of providing a subsidy for the payment of utility expenses has a discriminatory effect based on race, color, and ethnicity. The denial disproportionately affects Hispanic and African American households and Hispanic and Black or African American LMI households.

Tenants are excluded from the programs to encourage homeownership.

63. Eligible activities under the Single Family Housing Programs include:

rehabilitation, reconstruction, and/or new construction; buyout; acquisition; reimbursement; repair or replacement of Manufactured Housing Units; hazard mitigation; elevation; relocation assistance; down payment assistance; activities designed to relocate families outside of floodplain; demolition; and other activities associated with the recovery of impacted single family housing stock. Many of these activities would also benefit tenants, particularly tenants who would exercise the choice to become homeowners. These activities include rehabilitation and purchase, renovation and purchase, new construction and purchase, down payment assistance, and other activities associated with the recovery of impacted single family housing stock. Many tenant survivors would benefit from relocation assistance to decent, safe, and sanitary housing in standard neighborhoods not marked by conditions of slum and blight.

The GLO Policy is a direct cause of the discriminatory effect.

64. GLO's policy creates a clear racial disparity because renters, who are disproportionately Black or African American and Hispanic, are not eligible for direct financial assistance, while homeowners, who are disproportionately White non-Hispanic, have access to multiple direct financial assistance programs. The group disadvantaged by the policy of no direct assistance is renter families in the 49 counties impacted by Hurricane Harvey. This group is disproportionately Hispanic and Black or African American compared to the disproportionately White non-Hispanic owner families. In the 49 county area, 46% of all Hispanic occupied units are renters and 56% of all Black or African American occupied units are renters. Only 27% of all White non-Hispanic occupied units are renters.

65. The disparity in Hispanic and Black or African American households' eligibility for recovery resources is directly caused by GLO's and HUD's policy of requiring homeownership for eligibility for CDBG-DR assistance.

66. The homeownership prerequisite for individual CDBG-DR program applications makes housing unavailable to Plaintiffs because they are renters and thus ineligible for the direct financial assistance benefits for which homeowners are eligible. GLO and HUD are granting access to housing to homeowners and denying housing to Plaintiffs.

67. Plaintiffs are harmed by this denial because Plaintiffs either are living in housing that does not meet their needs or are living in housing that creates additional expenses compared to Plaintiffs' expenses before Hurricane Harvey.

68. The lack of access to CDBG-DR funds for direct disaster recovery assistance injures Plaintiffs because, unlike the predominantly White homeowners, these Black or African American and Hispanic renters have been unable to access any CDBG-DR funds to assist them in the recovery process. These Hispanic and Black or African American renters have faced many financial burdens due to the hurricane, including but not limited to, increased rent, increased distance to place of employment or to supporting family members and resulting increases in funds spent on gas and car repair, and loss of employment due to being unable to rent adequate housing near enough to their work.

69. The GLO and HUD policy is arbitrary. Tenants have the same recovery and relief needs for rental assistance and the other relevant benefits as owners. The distinction will not save either the federal or the state government money; it only affects the distribution of the funds between the groups of renters and owners. The distinction between tenants and owners for the provision of rental assistance only to owners is artificial.

70. The GLO and HUD policy of requiring homeownership as a prerequisite for

direct financial assistance eligibility is unnecessary. The CDBG-DR statutory and regulatory provisions do not require recipients to limit assistance to homeowners. The provision of direct financial assistance to renters will serve the same interests in disaster recovery as are served by direct financial assistance to homeowners.

71. The relief sought is against government entities whose prior disaster relief policies have been a cause in the existing demographic characteristics of the renter and owner group. The relief sought does not seek to require the defendants to develop housing but only to eliminate the barriers to the receipt of the housing assistance. The continuation of the policy will increase the disparities between renters and owners that existed before the disaster.

GLO and HUD have no legitimate, non-discriminatory interest in refusing to provide tenants with the direct assistance provided to homeowners.

72. GLO has no legitimate, non-discriminatory interest in barring non-homeowners from receiving the direct assistance under the Action Plan described above that is provided to homeowners.

73. GLO's interest in administering Harvey recovery funds could be served by another, less discriminatory practice. A program allowing for direct assistance to renters, to assist with increases in rent, utilities, and transportation expenses, as well as moving expenses due to challenges in finding appropriate housing would meet the unmet needs of renter Harvey survivors.

INTENTIONAL DISCRIMINATION:

There is substantial circumstantial evidence that GLO's policy, and HUD's approval, of barring non-homeowners from direct recovery assistance under the Action Plan are acts of intentional discrimination by GLO and HUD.

74. The following facts set out the circumstantial evidence supporting the existence of discriminatory intent in the adoption and approval of the State Action Plan. *Vill. of Arlington*

Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 266 (1977) sets out the non-exhaustive description of circumstantial evidence that can support a finding of discriminatory intent. Plaintiffs do not have to prove malice or hostility as part of discriminatory intent. Deliberate treatment that avoids equal treatment for Black or African American and Hispanic disaster survivors because of deference to other constituencies such as White non-Hispanic homeowners is discriminatory intent.

The extent of discriminatory effects caused by the challenged policies.

75. The statistics demonstrate that the prerequisite of homeownership for receipt of any direct assistance under the Action Plan has a clear discriminatory effect and disproportionately bears more heavily on Black or African Americans and Hispanics disaster survivors than on White non-Hispanic disaster survivors. In the 49 county area, 46% of all Hispanic occupied units are renters and 56% of all Black or African American occupied units are renters. Only 27% of all White non-Hispanic occupied units are renters.

76. The policy will exacerbate racial segregation and unequal conditions in the counties and neighborhoods affected by the disaster. The Plaintiffs' predominantly minority neighborhoods are disproportionately more likely to be lower income than the White, non-Hispanic neighborhoods. The neighborhood living conditions in the predominantly minority neighborhoods were disproportionately unequal before the Disaster. The GLO and HUD policy will steer the financial assistance necessary to remedy the unmet housing needs in Plaintiffs' neighborhoods to predominantly White non-Hispanic neighborhoods. The implementation of the GLO policy as approved by HUD will continue to make unavailable the financial assistance needed to meet the unmet housing need in those neighborhoods related to the disaster. The cumulative effect will be to perpetuate and increase the unequal neighborhood living conditions

in Plaintiffs' neighborhoods.

77. The GLO and HUD policy will continue to subject Plaintiffs to the injuries of racial segregation. HUD's description of these injuries is:

Racially or ethnically concentrated areas of poverty merit special attention because the costs they impose extend far beyond their residents, who suffer due to their limited access to high-quality educational opportunities, stable employment, and other prospects for economic success. Because of their high levels of unemployment, capital disinvestment, and other stressors, these neighborhoods often experience a range of negative outcomes such as exposure to poverty, heightened levels of crime, negative environmental health hazards, low educational attainment, and other challenges that require extra attention and resources from the larger communities of which they are a part. Consequently, interventions that result in reducing racially and ethnically concentrated areas of poverty hold the promise of providing benefits that assist both residents and their communities. Affirmatively Furthering Fair Housing; Proposed Rule, 78 Fed Reg 43710, 43714, July 19, 2013.

78. Given the disparate rates of tenant occupancy by race, the discriminatory effect of the policy requiring homeownership as a prerequisite for direct recovery assistance is reasonably foreseeable. Public comments to GLO noted the discriminatory effect of the Action Plan, putting GLO and HUD on public notice of the obviously foreseeable discriminatory impact of the policy.

79. The obvious foreseeability of the negative impact on Hispanic and Black or African American households constitutes circumstantial evidence that GLO must have "affirmatively considered that impact" when designing the plan with such an obvious disparate impact.

The historical background for the State Defendants' submission of the CDBG-DR Action Plan and the HUD approval of the plan is circumstantial evidence supporting the existence of discriminatory intent.

80. The State Defendants and HUD have current knowledge of the racially segregated and unequal conditions in the Disaster areas. The State Defendants and HUD have knowledge of the need to take these conditions into consideration when developing, approving, and

implementing a disaster relief State Action Plan. This knowledge is shown by the 2011 Phase I Analysis of Impediments to Fair Housing conducted by the State's Department of Housing and Community Affairs. The Analysis was conducted pursuant to a conciliation agreement between the State and HUD settling a fair housing complaint against the State's Hurricane Ike/Dolly Action plan for CDBG-DR funding.

81. One of the primary items included in the conciliation agreement was that the State would complete a Phase I Analysis of Impediments to Fair Housing for the areas within the Dolly and Ike impacted areas and submit the Phase I Analysis of Impediments to HUD for review by January 1, 2011. The State submitted the Analysis and HUD approved it. The State described the Analysis of Impediments to Fair Housing as:

. . . a tool used by state agencies, and recipients and subrecipients of CDBG disaster recovery funds to promote the State's goal that infrastructure, housing and economic development projects affirmatively further fair housing within the impacted communities, as required by federal law.

TEXAS DEP'T. OF HOUSING AND CMTY. AFFAIRS, ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING: PHASE 1 HURRICANE IMPACTED COMMUNITIES, page 9 (January 2011).

The specific sequence of events leading up to the challenged decision is circumstantial evidence supporting the existence of discriminatory intent.

82. The administration of the previous federal and state disaster relief funds has been one cause of the existing unequal conditions in the 49 county area impacted by Hurricane Harvey.

The State Action Plan's substantive departures from Fair Housing requirements for disaster relief acknowledged by the State and approved by HUD is circumstantial evidence supporting the existing of discriminatory intent.

83. The HUD approved State of Texas 2011 Phase I Analysis of Impediments to Fair Housing (2011 Phase I Analysis) in the CDBG-DR program included specific standards for compliance with the obligation to affirmatively further fair housing. The standards were set by

the State of Texas. The affirmatively furthering fair housing obligation requires HUD and the State Defendants to administer the housing elements of the disaster relief program to not only avoid illegal discrimination but to also contribute to preventing the increase of racial segregation and to achieving the goal of increasing the supply of open housing. While many of the standards involve procedural matters, some are substantive standards. The HUD approved State Action Plan for Hurricane Harvey relief departs from the following substantive standards that were established in 2011. These departures exacerbate the discriminatory effects of the State Action Plan allocation policy.

84. The State of Texas acknowledges the need for a successful opportunity program to provide mobility options for individuals or families who want to move from high concentrations of minorities and poverty and flood plains. 2011 Phase I Analysis, Appendix C, pages 10, 22. The State Allocation Plan does not include any provision for mobility options for individuals or families who want to move from high concentrations of minorities and poverty and flood plains. The absence of these options will perpetuate racial segregation in the disaster area.

85. The State of Texas acknowledges that disaster relief efforts are hampered by the barriers to free housing choice for housing voucher families.

IMPEDIMENT #10. There are barriers to mobility and free housing choice for Housing Choice Voucher holders including: inadequate tenant counseling services and mobility assistance, failure of PHAs to apply for the FMR pilot demonstration, and government policies, procedures, and regulations that tend to decrease participation by private housing providers and to restrict available housing to “racially or low-income populated neighborhoods” with little access to economic, educational, or other opportunity. 2011 Phase I Analysis, Appendix C, page 10.

86. The 2019 State Action Plan guidelines prohibit discrimination against voucher families for all units developed with rental assistance funding. The State Action Plan does not include any element that addresses the Impediment #10 barriers to the use of the voucher

program in the disaster relief activities. The State Action Plan does not include any element that addresses the need for additional voucher assistance through the use of CDBG-DR funds or by applications for additional vouchers. The failure to implement the effective use of the voucher program will perpetuate racial segregation in the disaster area.

87. The State through the 2011 Phase I analysis acknowledged the FEMA inaccuracies in the processing of the claims for FEMA disaster benefits and that these inaccuracies had an adverse effect on the disaster relief effort. Appendix C, 2011 Phase I Analysis, pages 17–19. The FEMA claims process data for the Harvey disaster shows the same evidence that protected classes under the Fair Housing Act were disproportionately and adversely affected by inaccurate FEMA damage determinations. The current State Action Plan does not take this evidence into account in either its use of FEMA data for decision making or in providing funding and programs to help families wrongfully denied FEMA assistance. The use of the inaccurate data introduces a statistical bias against the provision of relief to members of the Fair Housing Act protected classes.

88. The State acknowledged the need for a publicly available Government Information System database on the distribution of disaster relief funding for purposes of assessing the fair housing impacts of government funding decision utilizing federal funds. Appendix C, 2011 Phase I Analysis, page 10. The 2019 State Allocation Plan approved by HUD does not include funding for the database. The existence of this database would enhance compliance with the applicable civil rights obligations of the State and the local political subdivisions.

GLO’s use of the FEMA Verified Loss (“FVL”) data was a departure from a substantive standard requiring objective evidence of unmet housing need.

89. GLO’s analysis of the FEMA data willingly ignored the impact of its policies on

racial and ethnic minorities. GLO used the FEMA data to determine the unmet need for the State Action Plan. HUD approved the use of the FEMA data even though HUD stated in the Federal Register Notice for the CDBG-DR funds that such FEMA data need not be used.

90. GLO defined “Major-Low” damage for the State Action Plan using threshold dollar amounts of FEMA Verified Loss (FVL) that ignored substantial racial and ethnic disparities. For renters, GLO only counted households with \$2000 or more in personal property FVL (PP-FVL) as having unmet need. This designation has a racially discriminatory effect. In fact, using the FEMA data for Hurricane Harvey, 24% of the inspected renters in the 90% + White non-Hispanic census tracts were found to have a PP-FVL greater than \$2000 and only 11% of the inspected renters in the less than 10% White non-Hispanic census tracts had a PP-FVL greater than \$2000.

91. The average PP-FVL in the 90% or greater White non-Hispanic tracts was \$3313, which is more than 1.45 times the average PP-FVL of \$2279 in the less than 10% White non-Hispanic census tracts. 80,000 tenants had a PP-FVL greater than \$0, but by applying the discriminatory threshold, the State Defendants reduced the number of tenants counted as having unmet housing needs as a result of Hurricane Harvey to 37,000.

92. Defendants’ overt preference for homeowners over renters, despite renter households’ clear need, supports the existence of discriminatory purpose.

GLO’s State Action Plan excludes FEMA data for the actual damage suffered by rental units and uses a personal property standard to show unmet renter need.

93. The State Defendants’ decision to exclude the FEMA IA data on the damage suffered by rental units has a racially discriminatory effect. The only measure for unmet housing need for tenants used by the State Defendants was whether the family had a personal property FEMA

verified loss of \$2000 or more. Using this measure, the State Defendants determined that only 37,746 renters had such a loss and based the unmet housing need allocation on that number.

94. The State Defendants' decision to exclude substantial FEMA IA evidence of direct damage to substantially exceeds more than 37,746 renter units. FEMA IA data shows that there were 54,074 renter units needed repairs to disaster caused damage that made the units uninhabitable for conditions threatening safety and health. In addition, the FEMA data shows 52,196 renter units that had suffered either moderate damage (47,003) or major damage (5,193). FEMA found 71,211 renter units were subject to water levels inside the units. The exclusion of this evidence of physical damage to renter units manipulates the evidence of unmet needs of renters and is evidence of discriminatory intent.

The State Action Plan's departure from the HUD requirement to omit housing needs likely to be met by insurance proceeds steers funding away from the disproportionately Black and Hispanic renter group and is circumstantial evidence supporting the existence of discriminatory intent.

95. The State Defendants overtly refused to comply with the HUD requirement that the unmet needs assessment must ensure that the assessed needs do not include housing needs likely to be met by insurance proceeds. HUD requires that the unmet needs assessment by the State must estimate housing needs that do not include needs that will likely be met by insurance proceeds. The HUD requirement set out in the Federal Register for the allocation of the CDBG-DR funding to the State requires the State to:

Estimate unmet needs to ensure CDBG-DR funds meet needs that are not likely to be addressed by other sources of funds by accounting for the various forms of assistance available to, or likely to be available to, affected communities (e.g., projected FEMA funds) and individuals (e.g., estimated insurance) and use the most recent available data to estimate the portion of need unlikely to be addressed by insurance proceeds, other Federal assistance, or any other funding sources (thus producing an estimate of unmet need).

83 Fed. Reg. 5849.

96. Instead of estimating the needs by omitting the persons who were helped with insurance, the State Defendants included the persons assisted by insurance as those with unmet housing needs. This grossly inflates the unmet homeowner unmet need in violation of the HUD standard prohibiting the use of owners with insurance in the calculation.

97. The State Defendants overtly refused to comply with this HUD requirement for the unmet needs determination. The policy refusing to exclude or discount the existence of insurance is set out in the notes to Table 56 in the State Action Plan page 146. Table 56 is the “Summary of Total Unmet Need”. Both the “Owner-Occupied Housing” and the “Rental-occupied Housing” categories are qualified by the same note:

“** Does not exclude or discount the estimated loss for those identified as having homeowners and/or flood insurance in FEMA's IA data.”

98. The State Defendants are grossly overestimating the homeowner need for the CDBG-DR Action Plan, and this deliberate inclusion of homeowners likely to be helped with insurance is evidence of discriminatory intent. The State Defendants’ refusal to estimate the portion of need likely to be addressed by insurance proceeds alone adds \$4.7 billion of housing need for the owners with homeowner's insurance in the FEMA 1A data. In addition, the refusal adds an additional \$323 million of housing need for the owners with no homeowners’ insurance but who did have flood insurance as set out in the FEMA IA data. The exclusion of these amounts reduces the overall homeowners’ unmet housing need from \$6.9 billion to \$2 billion. By contrast, the small amount of insurance for renter households, \$67 million, reduces the renter unmet need from \$2.7 billion to \$2.6 billion. The inflated homeowner need allocation is arbitrary because it violates the HUD requirement. It is artificial because it inflates the actual unmet need

by more than \$4 billion dollars. It is unnecessary because individuals with available insurance proceeds are barred from receiving CDBG-DR assistance for needs covered by the insurance. 42 U.S.C. § 5170; 84 Fed. Reg. 28836. The exclusion or discounting of the owner needs that may be covered by homeowners' insurance or flood would significantly reduce the discriminatory effect of the State Defendants' decision to include owners assisted with insurance.

99. HUD approved the State Action Plan and failed to account for the gross departure from the HUD requirement to omit those owners assisted with insurance.

100. This departure from HUD's requirements has a significant discriminatory effect on Black and Hispanic renters. The deliberate violation of a substantive requirement that causes a discriminatory effect is circumstantial evidence supporting the existence of discriminatory intent.

The only Action Plan program for renter assistance ignores substantial unmet housing needs for renter direct financial assistance, a need recognized by the standards for disaster recovery.

101. GLO's Affordable Rental Program provides no disaster recovery benefits directly to tenant households. The Affordable Rental Program offers only one form of assistance and that is to multifamily landlords—a forgivable loan or grant of up to \$25,000,000 for the rehabilitation, renovation, or new construction of multifamily rental properties in the eligible counties. The resulting units do not have to be affordable to LMI tenants with incomes below 80% of Area Median Income. In contrast to the Homeowner Assistance programs, the Affordable Rental Program funded by GLO provides tenants with no public services such as survivor management, utility assistance, rent assistance, security deposit assistance, reimbursement for disaster damaged appliances, or other financial assistance to rent a home.

102. The Affordable Rental Program allows the landlords to charge rents up to 30% of 65% of AMI. Guidelines, pages 64–65. These rents are not affordable for Extremely Low

Income (30% of AMI or less) and Very Low Income (30% to 50% of AMI) renter families.

103. Moreover, the Affordable Rental Program has no requirement to rent to pre-Harvey renters affected by the storm. Thus, it is possible that the majority of the units made available could be rented instead to homeowners, awaiting repairs or the purchase of a new home, or to individuals not affected by Harvey at all. This program does not meet the unmet needs of African American and Hispanic renters who are still trying to recover from the devastating effects of Hurricane Harvey.

104. In the counties where Plaintiffs live, there are thousands of renter units that needed habitability repairs. According to the FEMA IA data, the following numbers of renter units needed habitability repairs as a consequence of Hurricane Harvey: 1008 renter units in Nueces County, 1857 renter units in Aransas County, 991 renter units in Victoria, and 1169 renter units in San Patricio County. The few new units being constructed by the Affordable Rental Program do not address the serious unmet renter need in Plaintiffs' counties.

105. A program allowing for direct assistance to renters including assistance in paying higher rent, utilities, and transportation expenses, as well as moving expenses due to challenges in finding appropriate housing would help meet the unmet housing needs of renter Harvey survivors.

106. The State Action Plan provision of direct financial assistance programs for owners while denying the assistance to tenants is a departure from substantive standards for disaster recovery.

Tenants are excluded from the Survivor Case Management services.

107. The State Defendants' Homeowner Assistance Program provides for a Survivor Case Management program that can provide support to homeowners as they recover from the

disaster. This assistance would be beneficial to Plaintiffs, but only homeowner survivors are eligible.

108. GLO's decision to exclude tenants from this service creates a clear racial disparity because renters, who are disproportionately Black or African American and Hispanic, are not eligible for direct financial assistance while homeowners, who are disproportionately White non-Hispanic, have access to multiple direct financial assistance programs.

EQUAL PROTECTION AND 42 U.S.C. § 1983.

109. The State Defendants' administration of the CDBG-DR programs is pursuant to the official State policy set out in the State Plan and supporting documents and is action taken under color of state law. The State Defendants' administration of the CDBG-DR programs subjects Plaintiffs to the deprivation of the equal protection of the laws based on their race, color, and ethnicity in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. 42 U.S.C. § 1983 provides for redress of the injuries inflicted by the violation of equal protection.

TITLE VI.

110. The HUD CDBG-DR funding for Hurricane Harvey recovery is federal funding under Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d, et seq. Plaintiffs are being denied the benefits of and are being subjected to racial and ethnic discrimination under the Action Plan.

HUD OBLIGATION TO AFFIRMATIVELY FURTHER FAIR HOUSING.

111. 42 U.S.C. § 3608(e)(5) requires HUD to affirmatively further fair housing in its administration of the CDBG-DR program. Here, HUD's published notices and approvals of the State Action Plan do not require the State to provide the information necessary for HUD to comply with its own affirmatively furthering fair housing obligation in its consideration of the application.

112. HUD has not gathered the information it must have to perform its minimal Title VIII obligation to evaluate the State Action Plan and alternative courses of action such as direct benefits to tenants in light of their effect upon fair housing. HUD's failure to even gather the required information violates 42 U.S.C. § 3608(e)(5).

113. HUD has overtly exempted its consideration of the State Action Plan from the HUD 42 U.S.C. § 3608(e)(5) obligation to affirmatively further fair housing.

114. The Fair Housing Act declares as its "policy" the provision of "fair housing throughout the United States." 42 U.S.C. § 3601. The FHA requires HUD to administer its programs and activities relating to housing and urban development in a manner affirmatively to further the policies of the FHA. 42 U.S.C. § 3608(e)(5). This obligation requires more than HUD refraining from discriminating itself. HUD's obligation in considering the State Action Plan is assess the elements of the plan by the effect on existing patterns of racial segregation, unequal treatment based on race, and the historic lack of equal access to opportunity without regard to race. HUD must then assess negatively those aspects of the proposed State Action Plan that would further limit the supply of genuinely open housing and assess positively those aspects of the action that would increase the supply of racially integrated and equal housing. *NAACP v. Sec. of Dept. of Housing and Urban Dev.*, 817 F.2d 149 (1st Cir. 1987).

115. HUD failed to evaluate the State Action Plan to determine any racially

discriminatory or racially segregative effects on racial and ethnic groups in the areas impacted by Hurricane Harvey. The HUD notice setting out its requirements for the Action Plan and its proposed review of the proposed Action Plan omits any mention of HUD engaging in the required affirmatively furthering fair housing review. 83 Fed. Reg. 5844, 5846. The notice specifically limits HUD's review of the proposed State Action Plans "to criteria identified in this notice." 83 Fed. Reg. 5846. The notice does not mention or otherwise identify the criteria for HUD's review under 42 U.S.C. § 3608(e)(5).

116. The only provisions for review of actions affirmatively furthering fair housing do not include any action by HUD prior to approving the State Action Plan. The provisions mentioning affirmatively furthering fair housing refer to actions taken by grantees after the Action Plan has been approved. 83 Fed. Reg. 5853, 5856. While the grantees certify that they will affirmatively further fair housing, 83 Fed. Reg. 5857, HUD makes no determination that HUD's approval of the Action Plan satisfies HUD's obligation to affirmatively further fair housing in HUD's consideration of the proposed Action Plan.

117. HUD has knowledge of the existing patterns of racial segregation, unequal treatment based on race, and the historic lack of equal access to opportunity without regard to race in the disaster relief area.

118. HUD's approval of the State Action Plan will perpetuate and increase the patterns of racial segregation, unequal treatment based on race, and the historic lack of equal access to opportunity without regard to race in the disaster relief area. As set out in this complaint, the discriminatory allocation policies approved by HUD will cause the

discriminatory effects of disadvantaging a predominantly Black or African American and Hispanic group, renters, compared to the treatment of a predominantly White, non-Hispanic group, home owners. The challenged policies will disadvantage the predominantly Hispanic and Black or African American group, residents on the Hispanic and Black or African American neighborhoods in the disaster area compared to the treatment of the residents of the White non-Hispanic neighborhoods in the disaster area.

CLAIMS FOR RELIEF

119. The GLO Commissioner's implementation of the policy denying direct financial assistance to renters violates both the discriminatory impact standard and the discriminatory intent standard of 42 U.S.C. § 3604(a) and 42 U.S.C. § 3605.

120. The GLO Commissioner's implementation of the policy denying direct financial assistance to renters violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution for which 42 U.S.C. § 1983 provides a cause of action. The State Action Plan setting this policy is official state policy.

121. The GLO Commissioner's implementation of the policy denying direct financial assistance to renters violates 42 U.S.C. § 1982.

122. The GLO implementation of the policy denying direct financial assistance to renters violates the discriminatory intent standard under 42 U.S.C. § 2000d.

123. HUD's approval of the GLO policy denying direct financial assistance to renters violates the discriminatory intent standard of the Fifth Amendment to the United States Constitution.

124. HUD's approval of the GLO policy denying direct financial assistance to renters violates HUD's duty to affirmatively further fair housing pursuant to 42 U.S.C. § 3608(e)(5).

PRAYER FOR RELIEF

125. Plaintiffs seek the following relief:

A. A judgment declaring that Defendants have violated Plaintiffs' federal constitutional rights, Title VI of the Civil Rights Act of 1964, 42 U. S.C. § 1982, and the Fair Housing Act of 1968.

C. The issuance of a permanent injunction requiring the submission of an Action Plan that includes programs that provide direct assistance to renters;

D. The issuance of a permanent injunction setting aside HUD's current approval of the Action Plan and requiring HUD to timely consider the revised Action Plan that is submitted pursuant to a remedial order in this case, or, in the alternative, requiring the Action Plan for the CDBG-MIT allocation to provide substantial direct assistance to impacted renter households.

E. Any other appropriate relief.

F. Costs, attorney's fees, and litigation expenses.

Dated: October 11, 2019

Respectfully submitted,

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