

**Asian American Justice Center  
Bazelon Center for Mental Health Law  
Consumer Action  
Lawyers Committee for Civil Rights Under Law  
Leadership Conference on Civil Rights  
National Association for the Advancement of Colored People (NAACP)  
National Coalition for Asian Pacific American Community Development (CAPACD)  
National Community Reinvestment Coalition  
National Consumer Law Center (on behalf of their low-income clients)  
National Council on Independent Living  
National Fair Housing Alliance  
National Housing Law Project  
National Low Income Housing Coalition  
Poverty & Race Research Action Council**

May 15, 2006

Secretary Alphonso Jackson  
U.S. Department of Housing and Urban Development  
451 Seventh Street, SW  
Washington, DC 20410

*via fax and mail*

Dear Secretary Jackson:

As you prepare to review the Louisiana Recovery Authority's plan, The Road Home Housing Programs Action Plan Amendment for Disaster Recovery Funds (RHHP), the undersigned national fair housing, civil rights, and consumer organizations would like to draw your attention to some of the serious and potentially damaging fair housing implications of the plan.

Hurricane Katrina exposed the stark existence of segregation and poverty in Louisiana and along the Gulf Coast. It is clear that racial discrimination and segregation have prevented generations from gaining the opportunities that are the American promise. Now is the time to bring the best our nation has to offer by ensuring that all residents of Louisiana, including those who are low-income, have the right and the ability to return home, and by rebuilding a Gulf Coast community that is integrated, economically robust and within reach of all individuals, regardless of race, national origin, color, religion, sex, familial status, or disability, as well as age and marital status, which are also protected classes under Louisiana law.

Because, as the Secretary, you are charged with the responsibility to enforce the federal Fair Housing Act and other fair housing and civil rights laws, we are sure that you are as concerned as we are to see that the Louisiana Recovery Authority (LRA) plan does not include measures to achieve integration, promote inclusion of all resident returning home, ensure housing choice or

protect Louisiana from discrimination as they set about rebuilding their communities and their lives. While the plan does address some of the needs of people with disabilities, it completely fails to acknowledge the needs of people in other protected classes: race, color, religion, sex, national origin, or familial status. Fair housing is relegated to a brief mention in the “Other Requirements” section of the Plan.

As you know, all Community Development Block Grant recipients are required by law to affirmatively further fair housing. The use of CDBG funds as proposed by the LRA plan does not meet this requirement. We urge you to require changes to the plan before you approve its movement forward. We also strongly encourage the inclusion of fair housing into each of the goals and purpose sections of the RHHP.

The following sections offer our recommendations for ways to incorporate fair housing into the body of the plan. The numbers correspond to sections of RHHP.

### 1.1 Goals of the Road Home Housing Programs

As stated above, all CDBG fund recipients must “affirmatively further fair housing,” and a state’s plan for use of its CDBG funds must delineate how it will carry out this task. Unfortunately, the goals section of the RHHP fails to mention furthering fair housing or integration or reversing Louisiana’s trend of segregation in housing as a goal. And to the extent that the plan does not target lower income families in the rebuilding process, it will have the effect of excluding those families – who are predominantly African-American and immigrant families – from the rebuilt region.

In addition, while the goals section does make limited reference to the need to assist people with disabilities, this should be strengthened by going beyond providing housing opportunities for those with disabilities and setting the goal of providing those opportunities in an integrated setting. The goals fail to address in any way the needs of people in the other six protected classes: race, color, religion, sex, national origin or familial status. HUD should require Louisiana to amend this section of the plan to establish goals that address these needs.

### 1.2 Basis for Recommendations

The funding breakdown between homeowners and renters will have a disparate impact on minority residents. Although the majority of New Orleans residents are renters, most low-income residents are renters, and most minority residents are renters, the RHHP proposes providing the vast majority of housing assistance dollars -- at least 77–79 percent -- in the form of the assistance to homeowners.

This allocation of funds fails to provide adequate resources to address the overwhelming housing needs of renters, many of whom are people of color. As a result, we question whether the RHHP can possibly enable the State to meet its obligations to affirmatively further fair housing and provide 50 percent of its assistance to low and moderate-income residents. HUD should require that Louisiana demonstrate in detail whether the plan achieves the 50 percent requirement in the

supplemental bill, and if they cannot, HUD should require the State to revise this aspect of the plan and allocate sufficient resources to address rental housing needs.

### 1.3 Solicitation of Public Comment

The RHHP was available for public comment for only ten days, which included a holiday weekend. This was not a sufficient time period for residents and others to consider a plan that proposes to determine the future of the state of Louisiana and contemplates the expenditure of as much as \$8.08 billion. HUD should provide an additional opportunity for the public to comment before you reach a final decision on the plan.

### 2.1 Overview of the Homeowner Assistance Program (HAP)

As previously stated, the amount of assistance provided to homeowners overlooks the needs of Louisiana's minority and low-income population providing a likelihood that the plan will not meet the requirement of affirmatively furthering fair housing. It may even have a discriminatory effect on the state's minority population. As you know, under the Fair Housing Act, such effects need not be intentional to be illegal. Additionally, most single-family homes in the area are not accessible for people with disabilities. Further, new elevation requirements may make more homes inaccessible to those with limited mobility. Without specific provisions to address accessibility needs, RHHP's focus on homeownership has the potential to have a discriminatory effect on people with disabilities as well, and HUD should require the State to address this imbalance.

The Overview enumerates a number of laudable concerns in the purposes it provides. However, in addition to those already articulated, HUD should require the inclusion of goals affirmatively furthering fair housing and ending systemic segregation.

### 2.2 Eligibility for Homeowner Assistance

We are concerned that the plan establishes a requirement that, in order to be eligible for homeowner assistance, applicants must have previously registered with FEMA. FEMA has refused eligible registrants who are not American citizens, with the result that homeowners who are in the country legally and much in need of assistance to rebuild, will be ineligible for that assistance. Because this was widely known in immigrant communities, some immigrants who may have been eligible for FEMA assistance may have been discouraged from applying. In addition, a number of applications for FEMA assistance are still under appeal, with the outcomes uncertain.

Thus, using registration for FEMA assistance as a threshold eligibility requirement is likely to have a discriminatory impact on immigrant residents, particularly Latino and Vietnamese residents, and the communities in which they live. To the extent that immigrant residents who are not provided assistance under the plan are unable to rebuild, the communities in which their homes are located may be subject to blight and abandonment. Neither the application of this provision to individual households nor its effect on communities can be said to affirmatively

further fair housing. It is critical that an alternative, non-discriminatory, mechanism for establishing eligibility be developed, and we urge HUD to require this.

We are further concerned that using the FEMA application as a threshold eligibility requirement for registration may not be a viable approach for persons with disabilities. Following the hurricane, FEMA applications often were not provided for persons with disabilities in accessible formats at the time, effective communication about instructions for filling out the FEMA application was often unavailable to individuals with disabilities in shelter settings, and many people with disabilities were sent to institutional settings where they were not even given access to FEMA applications. Furthermore, the SNAKE report produced by National Organization on Disability's Emergency Preparedness Initiative documents that the FEMA application lacks adequate provisions for persons with disabilities to self-identify needs that they may have that may require additional resources. One specific example of such a possible need is Disability Barrier Mitigation funding, which would involve funding to install a ramp or elevator to ensure that compliance with new elevation maps issued by FEMA does not create new barriers to accessibility for homeowners and members of their household who have mobility disabilities. Such efforts can require thousands of dollars of additional expenditures.

It should be noted that RHHP does provide an appeals process to applicants who are denied access to the program; however, neither the website nor the RHHP provides any description of the appeal process, and thus it is impossible to determine whether it will be sufficient to address this concern, among many others. Residents should be able to consider and comment on the appeals process prior to the final approval of the plan.

#### 2.4 Amounts and Forms of Homeowner Assistance

Financial Incentives to Repair/Rebuild - The program reduces, by 30 percent, the amount of assistance to homeowners who lived in flood plains but did not have flood insurance. This would unduly penalize low and moderate-income homeowners, many of whom may be members of protected classes, who did not have insurance because they simply could not afford it. The penalty will do more to keep housing unaffordable rather than make such individuals whole.

#### 2.7 Homeowner Assistance Centers (HAC) – Process for Receiving Assistance

The “storefronts” established to provide advisory assistance to homeowners have the potential to offer an invaluable opportunity to assist homeowners by providing a wealth of information, including information about their fair housing rights. Among other fair housing-related issues, these centers may be able to help homeowners who need to refinance their mortgages avoid loans that are overpriced or contain predatory features. Predatory lending tends to occur in the subprime market, which, as HUD’s research has consistently illustrated, is heavily concentrated in minority neighborhoods. However, fair housing is not listed as a goal of the HAC. This should be changed.

### 3.0 Workforce and Affordable Rental Housing Programs (WARH)

This section states four goals, all of which are important to Louisiana's recovery. Two additional goals are equally important, namely racial and ethnic integration of Louisiana rental communities, and the provision of housing accessible for people with physical disabilities. HUD should require that the plan be amended to reflect these goals.

#### 3.1 Low-Income Housing Tax Credit (LIHTC) "Piggyback" Program

The RHHP states that 84,000 rental properties were damaged by Hurricanes Katrina and Rita. Yet, the "Piggyback" program will provide only 25,000 new rental units, less than 1/3 of the units damaged. The result will be that Louisianans of color, who are predominantly renters, will have fewer housing opportunities and may not be able to return to the state. Residents with disabilities, who are also predominantly renters, will face a similar situation. Clearly, in order to affirmatively further fair housing, more resources must be allocated to rental housing. Further, more resources must also be devoted to creating rental housing affordable to households with low- and very-low-incomes. In Orleans Parish alone, prior to Hurricane Katrina, there were nearly 40,000 households with annual incomes less than \$10,000. The 6,000 affordable units that the RHHP contemplates creating *statewide* barely scratch the surface of the need.

Properly conceived and implemented, the Road Home Housing Plan could be a unique opportunity for Louisiana, with the help of HUD and the federal government, to integrate its communities and to undo some of the damage done both by the hurricane and by the years of historical injustice that preceded it. This cannot be done if families of color and people with disabilities are not given the opportunity and the means to return home. HUD and Louisiana have both the opportunity and the obligation to use their authority to affirmatively further fair housing through the implementation of the Road Home Housing Plan. This requires educating the state and the country about fair housing laws. It also means insuring that all members of the community, regardless of race, color, religion, national origin, sex, disability or familial status, have fair choices to make. To the extent that the RHHP falls short of this mark, it cheats Louisianans of an historic opportunity to achieve true inclusion and integration. We urge you to use your authority to make sure this does not happen.

Please contact us with any questions or concerns by calling Shanna L. Smith, President and CEO, National Fair Housing Alliance, 202-898-1661.

Thank you for your consideration of our comments and proposals.

Sincerely,

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cc: Kim Kendrick, Assistant Secretary for Fair Housing and Equal Opportunity  
Bryan Greene, Deputy Assistant Secretary for Enforcement and Programs