



## Memorandum

**Memorandum No: 13-240**

**Date:** December 5, 2013

**To:** Honorable Mayor and Commissioners

**From:** Lee R. Feldman, ICMA-CM, City Manager

**Re: Department of Housing and Urban Development – Civil Rights Compliance Review**

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During the week of June 11 – 15, 2012, the Department of Housing and Urban Development's (HUD), Office of Fair Housing and Equal Opportunity (FHEO) conducted its Civil Rights Compliance Review of the City of Fort Lauderdale's HUD funded programs (see Attachment #1).

This is the first time HUD has conducted a Civil Rights review for the City of Fort Lauderdale. The monitoring report provided identified one concern, five findings and included an Accessibility Report, which outlined accessibility concerns at City Hall, the Sustainable Development Building and the Mizell Center. It also includes a Voluntary Compliance Agreement to be accepted and executed by the City of Fort Lauderdale. The report does state that *"In looking at the bigger picture your organization is doing a GREAT JOB and the findings were minor."*

Staff is providing this memorandum to the inform you of anticipated efforts to respond to the findings and resolve the issues identified by HUD. An initial call between HUD and staff took place on November 8, 2013 and staff has been addressing the issues outlined here below and keeping HUD informed of the progress. A Voluntary Compliance Agreement must be signed now to indicate to HUD our willingness to comply.

The concern and findings identified in the letter from HUD are restated below with an accompanying response from management or proposed resolution:

### **Concern #1 – Community Services Board (CSB)**

City Officials, when considering the appointment of persons to serve on the Community Services Advisory Board, should also consider identifying and recommending persons in

those categories where there is no identifiable representation and/or under representation on the Board in particular protected groups. This is suggested so that appointments are consistent with and representative of the ethnic and cultural diversity within our community, including members of the Hispanic community and persons with disabilities. We will share this concern with the Office of the City Clerk.

**Finding #1 – Finding of Non-Compliance – 24 CFR 1.4(b) – 24 CFR 6.4**

The City failed to ensure that residents, on the grounds of race, color, or national origin, are not excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal Financial Assistance.

**Areas of Concern for Finding #1:**

1. Participation Plan / Outreach – *The City does not advertise any of its CDBG Program activities in local community newspapers.*
2. Limited English Proficiency (LEP) – *Not all of the City's CDBG program public notices, flyers and other related program materials state that "Interpreters are available to interpret documents for non-English speaking persons." None of the HCD documents are provided in a language other than English.*
3. Analysis of Impediments to Fair Housing – *The City identified steps to be taken to overcome the effects of each identified impediment, however the City failed to maintain complete and accurate records which would enable HUD to determine if the City Complied with HUD's Affirmatively Furthering Fair Housing (AFFH) requirements. Also, there was no information provided to show the City monitored its sub-recipients to determine their compliance with its AFFH requirements.*

**HUD Recommended Corrective Action**

1. Analyze if there is a need for affirmative outreach in languages other than English to encourage participation of LEP persons.
2. Develop a monitoring procedure to ensure that all sub-grantees or sub-recipients with significant LEP populations make efforts to conduct affirmative outreach in languages other than English and make available services to LEP populations.
3. The City should establish an organized record keeping system to track its AFFH activities, as well as those of its sub-recipients.



## **Management Response**

City staff does not completely concur with this finding. The City advertises all notices in the Sun Sentinel newspaper, this newspaper is very widespread reaching all areas of the City. Additionally, the City provides a copy of all notices to the Homeowner Associations, as well as non-profit agencies in the City. The City will explore opportunities to advertise in community newspapers and we will work with ethnic agencies throughout the City to ensure all HUD funded programs are advertised in the appropriate places.

The CDBG eligible areas are based on Census data and those are the targeted areas where we are permitted to use CDBG funds. In the past since most of the CDBG eligible contains African American residents the City has attempted to advertise in community newspapers such as the Westside Gazette, but the costs for advertising in this community newspaper has been cost prohibitive. New Census data also highlights the fact that portions of the CDBG eligible area has seen an increase in Latin American and Afro-Caribbean residents, which highlights the fact that our target audience for future advertising opportunities is becoming more diverse culturally and have some language barriers.

To overcome the issues of cost and any language barriers, city staff will work with our sub-grantees / sub-recipients to ensure that all agencies with significant LEP populations make the appropriate efforts to conduct affirmative outreach in languages other than English. Additionally, the City will incorporate this as part of our review within our annual sub-recipient monitoring. Lastly, we will continue to seek out opportunities to advertise in community-based, culturally focused newspapers where the costs are affordable.

## **Finding #2 – Finding of Non-Compliance – Recordkeeping**

The City has not complied with recordkeeping requirements of Title VI, which requires each recipient to establish and maintain sufficient records to enable the Department to determine whether the recipient has met the specific requirements.

### **Areas of Concern for Finding #2:**

The City is required to provide HUD timely, complete and accurate racial and ethnic reports in such form and containing such information as HUD determines is necessary to ascertain the extent to which minority groups are beneficiaries of federally assisted programs.

### **HUD Recommended Corrective Action**

None Provided

## **Management Response**

City staff does not completely concur with this finding. All demographic information is entered into HUD's Integrated Disbursement Information System (IDIS). This information is required annually in order to close out activities funded throughout the year. In the past, HUD has never requested this information to be provided in any other format, however if an additional format is requested and required we provide the information.



### **Finding #3 – Finding of Non-Compliance – Self Evaluation**

The City has not conducted a self-evaluation of its CDBG program (*including facility accessibility for persons with disabilities*) as required.

#### **HUD Recommended Corrective Action**

The City must evaluate all of its CDBG policies and procedures governing its CDBG program modify any policies and practices that do not meet the requirements of 24 CFR Part 8 and take appropriate corrective steps to remedy discrimination revealed by the Self Evaluation.

#### **Management Response**

City staff concurs with this finding. To respond to this issue city staff met with the City's Americans with Disabilities Act (ADA)/504 Coordinator (Matthew Cobb) to discuss the process by which we can accomplish this task and to establish a date for the City's self-evaluation. HUD has stated that this is a Self Evaluation; as such the Housing staff may be permitted to conduct this Evaluation. We are currently awaiting confirmation from HUD on whether or not the Housing staff can conduct the Evaluation, in conjunction with the City's ADA Coordinator and possibly the Grants Office. If the Housing staff is not permitted to take part in the Self Evaluation, the City may need to hire a consultant that has the technical expertise to evaluate the City's programs. If that is the case, we could explore whether or not the Single Auditors can take on this task as part of their annual audit of the City's Housing Programs.

### **Finding #4 – Finding of Non-Compliance – Citizen Participation**

The notices issued do not consistently provide a TTD or TTY number for persons with disabilities. Additionally, no TTD telephone number was listed on the Housing Divisions letterhead, and no TTD telephone number was listed on some of the City's program specific applications.

#### **HUD Recommended Corrective Action**

The City must add a TTD/TTY or relay service number for the City's program office, to its informational notices, letterhead and all related program applications.

#### **Management Response**

City staff concurs with this finding. The Housing and Community Development (HCD) staff will acquire a TTD machine for the HCD office within the next 90 days.

Lastly, we will ensure the appropriate TTD/TTY information is included on notices, letterhead and program applications.

### **Finding #5 – Finding of Non-Compliance – Physical Accessibility of Programs and Activities**

The City has not complied with the accessibility requirements. The lack of accessibility in the areas reviewed (*City Hall, the Sustainable Development Office and the Mizell Center*)

means that persons with physical disabilities are likely unable to access City Hall or the other sites to participate in hearings or other community activities.

### **HUD Recommended Corrective Action**

The City must conduct a self-evaluation of its CDBG Programs including the physical accessibility of all sites, and including policies and procedures for ensuring that its CDBG programs are accessible to persons with disabilities, pursuant to 24 CFR 8.51.

### **Management Response**

City staff concurs with this finding. To respond to this issue city staff met with the Matthew Cobb to discuss the process by which we can accomplish this task and to establish a date for the City's self-evaluation. Further detail is provided under the Management Response in Finding #3.

### **Accessibility Survey Report**

Attached to the Civil Rights Compliance Review is an Accessibility Survey Report that lists HUD's concerns with City-owned facilities where Housing and Community Development (HCD) activities are conducted and discussed.

HUD has outlined their concerns and recommendations with respect to the following locations:

1. City Hall
2. Office of Sustainable Development
3. Mizell Center

The issues identified at City Hall and the Sustainable Development Office will need to be addressed, as housing clients are served and visit to gain access to services. The Mizell Center is no longer used for HCD programs, and therefore is not considered a priority for the concerns outlined by HUD at this time.

On November 4, 2013, City staff that included Jonathan Brown, Matthew Cobb, Scott Sundermeier, Dennis Girisgen, Chris Augustin and other staff from the Engineering Office met to review and discuss the findings. Below is a recap of the discussion:

- **The Department of Sustainable Development** – The Americans with Disabilities Act (ADA) items and the Uniform Federal Accessibility Standards (UFAS) items that need to be addressed in the Sustainable Development building are not major items, the Facilities Division feel that the City will have all these items addressed by March 2014.
- **City Hall** – The ADA and UFAS items that need to be addressed at City Hall are more extensive and expensive. The minor ADA and UFAS items (*signage and grab bars*) can be addressed at City Hall within 90 days, however, a complete review and walkthrough of City Hall (*by the Engineering Division and possibly the Facilities Division*) would be required to identify the estimated cost of repairs for all other items.



- **Mizell Center** – Since the Mizell Center is no longer used to administer Federal grant programs, we have not begun discussions on the ADA and UFAS work that HUD is recommended at that location. We will have discussions on this building, once a plan has been developed for the primary buildings (DSD and City Hall).

**Next Steps**

On November 13, 2013, Alfred Battle, Jonathan Brown and Matthew Cobb held a conference call with HUD to discuss each of the findings. HUD advised that they are accepting of our plans to address and remedy all the findings. Additionally, HUD has stated that if the City is no longer using the Mizell Center for housing programs, the City is not required to remedy the ADA and UFAS issues. However, HUD is expecting the ADA and UFAS related repairs to be made to City Hall. Upon execution of the VCA, HUD is requesting that a modification plan to address all the repairs be submitted within 60 days.

HUD would like the VCA executed and submitted in November or early December at the latest. HUD was advised that this timeframe does not provide sufficient time to complete an assessment of the repair costs for City Hall. HUD understands what needs to be done and the time involved; therefore, HUD is willing to accept a tentative agreement signed by me, as City Manager, pending ratification by the City Commission In January 2014. Staff is completing the City Hall assessment for full Commission discussion in January.

As a final note, while discussing funding options for the ADA and UFAS repairs to City Hall, HUD was asked if CDBG can be used to address the issues. HUD stated that CDBG funds could be used. Staff is requesting direction on how to proceed in addressing the ADA and UFAS repairs required for City Hall and what funding sources should we target to remedy the issues.

Attachments: #1 – Civil Rights Compliance Review  
 #2 – Email Communication with HUD

- c: Stanley D. Hawthorne, Assistant City Manager  
 Susanne M. Torriente, Assistant City Manager  
 Cynthia A. Everett, City Attorney  
 Jonda K. Joseph, City Clerk  
 John C. Herbst, City Auditor  
 Department Directors  
 CMO Managers  
 Alfred Battle, Economic & Community Revitalization Director  
 Jonathan Brown, Housing & Community Development Manager  
 Matthew Cobb, ADA Coordinator