

**Housing Discrimination Complaint**

Metropolitan Interfaith Council on Affordable Housing, et al. v. City of Minneapolis, et al.

**Submitted: March 30, 2015**

**CASE NUMBER:**

**1. Complainants**

**Metropolitan Interfaith Council on  
Affordable Housing (MICAH)**

c/o Suzanne Watlov Phillips  
Executive Director  
463 Maria Avenue  
St. Paul, MN 55106

**Webber-Camden Neighborhood  
Organization**

c/o Roberta Englund  
Executive Director  
1206 37th Avenue N.  
Minneapolis, MN 55412

**Whittier Alliance**

c/o Marian Biehn  
Executive Director  
10 E 25th Street  
Minneapolis, MN 55404

**Folwell Neighborhood Association**

c/o Roberta Englund  
Executive Director  
1206 37th Avenue N.  
Minneapolis, MN 55412

Representing the Complainants:

Michael Allen  
Yiyang Wu  
Relman, Dane & Colfax, PLLC  
1225 19th Street, N.W., Suite 600  
Washington, D.C. 20036-2456  
Telephone: 202/728-1888  
E-mail: [mallen@relmanlaw.com](mailto:mallen@relmanlaw.com)  
[yuwu@relmanlaw.com](mailto:ywu@relmanlaw.com)

Complainants allege that the Respondents, City of Minneapolis and City of Saint Paul (collectively, the “Cities”) and the Minneapolis/St. Paul Housing Finance Board (“MSP Board”), operate housing and community development programs with the purpose and effect of discriminating on the basis of race, color and national origin. The Cities receive federal funding and have an obligation to refrain from discrimination and to affirmatively further fair housing. As an agent of the Cities, the MSP Board is bound by the same obligations.

**2. Other aggrieved parties**

Also aggrieved are residents of the Twin Cities region (which consists of the entitlement communities of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties and the Cities of Minneapolis and Saint Paul) who—because of their race, color, or national origin—have been subjected to discrimination because of Respondents’ administration of housing and community development programs.

**3. The following is alleged to have occurred or is about to occur:**

Respondents have adopted, maintained, and enforced policies and practices with respect to financing and land use and housing programs that have the purpose and effect of limiting the development of affordable housing in high-opportunity, majority-white communities and steering such units to low-opportunity, high-poverty communities, furthering racial and ethnic segregation in Minneapolis and Saint Paul.

**4. Cause of the alleged violations:**

The alleged violations occurred because of race, color, and national origin.

**5. Address and location of the property in question (or if no property is involved, the county and state where the discrimination occurred):**

The alleged violations occurred in the City of Minneapolis and the City of Saint Paul. The violations consist of the disproportionate funding approval and placement of LIHTC and affordable housing units in low-opportunity areas within Minneapolis and St. Paul, and policies that deprive higher-opportunity neighborhoods in Minneapolis and St. Paul of opportunities to host LIHTC and other affordable units and the families eligible to live in them.

**6. Respondents:**

**City of Minneapolis**  
c/o Mr. Peter O’Toole,  
Principal Resource Coordinator  
301M City Hall  
350 S. Fifth St.  
Minneapolis, MN 55415-1393

**Minneapolis/St. Paul Housing  
Finance Board**  
c/o Kathy Lantry, Chair  
320-C City Hall  
15 Kellogg Blvd. West  
St. Paul, MN 55102

**City of Saint Paul**  
c/o Mr. Ron Ross,  
Grants Specialist  
Department of Planning and  
Economic Development  
25 W. Fourth St., 14th Floor  
St. Paul, MN 55102-1634

## 7. The violations alleged:

a. Complainants are, respectively, a faith-based regional non-profit organization which seeks to promote fair housing and its resultant opportunities within its service area by combating illegal housing discrimination and by creating and maintaining racially and economically integrated housing patterns, and three non-profit organizations representing the interests of neighborhoods in Minneapolis, each of which has been injured by Respondents' policies and practices which concentrate affordable housing units in low-opportunity areas within the Cities. These policies and practices have had the purpose and effect of limiting the development of affordable housing in high-opportunity, majority-white neighborhoods and steering such units to low-opportunity, high-poverty communities, furthering racial and ethnic segregation in the Twin Cities region. Because of the strong correlation between poverty and minority racial and ethnic status in the Twin Cities region, people of color are significantly more likely to be renters, and significantly more likely to need affordable rental housing, as compared to the population of the Twin Cities region generally. As a consequence, Respondents' policies and practices—which have incentivized development of affordable housing in racially-concentrated, low-opportunity areas—have injured Complainants by diminishing the opportunities of their members, constituents and citizens to live in stable, integrated neighborhoods; by undermining the ability of public schools to remain integrated; and by frustrating Complainants' missions and requiring them to divert their resources to address the results of Respondents' discrimination.

The mission of **MICAH** is to organize and mobilize congregations and people of all faiths to ensure that everyone without exception has decent, safe, accessible and affordable housing anywhere in the metropolitan areas in which they choose to live. Its 75 member congregations and supporting organizations represent a wide array of faith perspectives—Christian, Jewish, and Muslim—which believe that God intends for all people to have a safe, decent, accessible and affordable home and to have access to greater opportunity through access to excellent schools, safe communities, affordable and accessible health care and services, dependable transportation, and livable incomes that allow them to support their families, and civil rights respected and protected. MICAH and its member congregations and supporting organizations carry out this mission by educating congregations and communities about the need for affordable housing and by promoting public policies to increase the production and preservation of affordable housing. MICAH's affordable-housing mission extends throughout the metropolitan area, not just in low-income, high-minority neighborhoods where affordable housing has traditionally been located.

The mission of **Whittier Alliance** is to improve the livability and prosperity of the Whittier neighborhood in Minneapolis. The Alliance's strategic plan includes the goal of improving "housing quality and choice for residents," by "creat[ing] housing equity through a balance of entry-level and market-rate housing." The Alliance works to encourage more homeownership within the neighborhood in order to create a healthy balance of owner-occupied and rental units.

The mission of **Webber-Camden Neighborhood Organization** is to support a residential, proud, diverse, multigenerational, safe and sustainable community, with quality

affordable housing where pride of ownership is evident in well-maintained single family and rental properties. Towards this end, the organization has participated in the Minneapolis Neighborhood Revitalization Project, providing loans to homeowners for improvements to their residential property.

The mission of **Folwell Neighborhood Association** is to represent the Folwell area of Minneapolis, participating in programs and initiatives related to housing and community development. Its mission statement envisions a “residential, proud, diverse, multigenerational, safe and sustainable” community, “with quality affordable housing where pride of ownership is evident in well-maintained single family and rental properties.”

b. Respondents are recipients of federal housing and community development funds, and therefore have obligations pursuant to Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, and the Fair Housing Act to refrain from discrimination on the basis of race, color and national origin. By virtue of receipt of such funds (detailed below), each also has an obligation to take affirmative steps to overcome impediments to fair housing choice. Collectively, these are known as Respondents’ “Federal Civil Rights Obligations.”

In the early 1980s, the Cities were implementing housing policies that put them on a path to becoming among the most integrated metropolitan areas in the United States. As the result of the *Booker* school segregation litigation and *Hollman* housing integration litigation, Minneapolis was required to adopt policies to promote integration. In the early 1990s, only about 2,000 (or 2.5 percent) of the region’s non-white students were in schools that were more than 90 percent non-white,<sup>1</sup> and only 3 percent of the region’s total population lived in majority non-white, high poverty areas.<sup>2</sup>

Since then, because of the Cities’ noncompliance with their Federal Civil Rights Obligations, the region now shows some of the widest racial and ethnic disparities in the country. Recent data show alarming gaps between whites and non-whites in income, unemployment, health, and education. Poverty rates for black Minnesotans are more than four times those for whites while household incomes for blacks are less than half of those for whites; reading proficiency rates for black students are less than half those for whites in most school grades and years.

By 2010 the number of schools made up of more than 90 percent non-white students had increased more than seven-fold (from 11 to 83); the number of non-white students in those highly segregated environments had risen by more than 10 times (from 2,000 to 25,400), a percentage increase from 2.5 percent to 16 percent; and the share of the regional population in majority non-white, high poverty areas rose by three times to 9 percent.<sup>3</sup>

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<sup>1</sup> School data are for the 11 Minnesota counties in the Twin Cities metro area in 1995 and are from the Minnesota Department of Education.

<sup>2</sup> Metropolitan Council, *Choice, Place and Opportunity: An Assessment of the Twin Cities Region* (2014), available at <http://www.metrocouncil.org/Planning/Projects/Thrive-2040/Choice-Place-and-Opportunity.aspx> (“Choice report”), Section 5, at 5.

<sup>3</sup> *Id.*

As of 2010, the central cities of Minneapolis and St. Paul made up just 23 percent of the population of the Twin Cities region, but contained 50 percent of the region’s LIHTC units and 56 percent of all subsidized units.<sup>4</sup> The central cities have much higher shares of minority and low-income residents than the suburbs—in 2010, 42 percent of the cities’ residents were nonwhite and 24 percent were poor, compared to 18 percent nonwhite and 8 percent poor in the suburbs.<sup>5</sup> Consistent with this long-standing trend, 65 percent of the black households in LIHTC units in the region lived in the central cities in 2002 (the most recent year for which racial breakouts are available), even though the central cities accounted for only 50 percent of total LIHTC units.<sup>6</sup> These trends are even more severe when considering housing affordable to the lowest-income families. Of subsidized units affordable at 30 percent of Area Median Income, 66 percent are located in either Minneapolis or Saint Paul.

In the Cities, a huge majority of LIHTC units and subsidized units—82 and 85 percent, respectively—are located within census tracts that are segregated or nonwhite integrated. Both Cities participated in a “Fair Housing Equity Assessment” conducted by the Metropolitan Council, and submitted to HUD in March 2014, under the title *Choice, Place and Opportunity: An Assessment of the Twin Cities Region* (“Choice report”).<sup>7</sup> Elected and appointed officials of Minneapolis and Saint Paul are well aware of the extent of racial and ethnic segregation in their cities and the presence of large “racially concentrated areas of poverty” and “ethnically concentrated areas of poverty” (“RCAPs” and “ECAPs,” respectively).<sup>8</sup> That same report documents how “publicly subsidized affordable rental housing units” in the Cities are in, or immediately adjacent to, such areas.<sup>9</sup> Furthermore, the “housing units with Livable Communities Act investments” are intensely clustered in or near RCAPs or ECAPs.<sup>10</sup> The same is true with respect to LIHTC properties.<sup>11</sup>

Very little subsidized housing in the Cities is located in high-opportunity areas. Complainants’ analysis of Minneapolis census-tract data demonstrates that the quartile of census tracts with the highest minority populace contains 49 percent of the low-income housing units in all of Minneapolis.<sup>12</sup> Despite comprising 25 percent of the census tracts, this quartile accounts for just 17 percent of total housing units. In stark contrast, the city’s whitest quartile of census tracts—which comprises 30 percent of the city’s total housing units—contains a mere 1.3 percent of the city’s low-income units. In the high-minority census tracts in Minneapolis, one out of every 18 housing units is a low-income unit; in its whitest census tracts, that ratio is one out of every 1,194. That is roughly the difference between a low-income unit every block and a low-income unit every 6.5 miles.<sup>13</sup>

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<sup>4</sup> Myron Orfield & Thomas F. Luce Jr., *Region: Planning the Future of the Twin Cities* 122 (2010).

<sup>5</sup> *Id.*

<sup>6</sup> See Orfield & Luce, *supra* note 4.

<sup>7</sup> See Choice report, *supra* note 2.

<sup>8</sup> *Id.* at Map 5.C, Section 5, at 3. RCAPs and ECAPs are defined as having a poverty rate of at least 40 percent and a population of color of at least 50 percent.

<sup>9</sup> *Id.* at Map 7.D, Section 7, at 8.

<sup>10</sup> *Id.* at Map 7.E, Section 7, at 10.

<sup>11</sup> *Id.* at Map 4.C, Section 4, at 14.

<sup>12</sup> Data on file with Myron Orfield.

<sup>13</sup> Assuming nine houses per side per block and tenth-of-a-mile blocks.

The absence of subsidized housing in high-opportunity areas, as well as the manner in which the Cities have exercised their zoning and land use powers, have also created and perpetuated segregation by limiting rental opportunities for Section 8 voucher recipients to a handful of concentrated areas. For instance, in one census tract, which comprises the majority of the Folwell neighborhood, 11.15 percent of households utilize Section 8 vouchers. From a geographic perspective, this tract contains voucher holders at a density of 344 per square mile—one voucher for every one-third of one-hundredth of a mile in the neighborhood.<sup>14</sup> Of the 705 census tracts in the Twin Cities metropolitan area, only 21 have household voucher use rates above 10 percent. Eight of these are located in Saint Paul, twelve in Minneapolis. Across the metropolitan area, 50 percent of Section 8 vouchers are used in census tracts which include only 15.9 percent of all households.

By comparison, a vast number of census tracts—even densely populated census tracts—contain virtually no Section 8 voucher beneficiaries. Within the metropolitan area, 37.4 percent of households live in census tracts where five or fewer Section 8 vouchers have been put to use; 11.3 percent live in tracts without a single voucher whatsoever. The median census tract boasts only .85 vouchers per 100 households, and 11.8 vouchers per square mile.

The operative Analysis of Impediments to Fair Housing Choice (“AI”), upon which each of the Cities has based its certifications of compliance with its Federal Civil Rights Obligations for 2010 through the present, is the 2009 AI prepared at the direction of the Fair Housing Implementation Council (“FHIC”).<sup>15</sup> Without identifying any specifics or locations (and apparently based only on public forums), FHIC’s contractor found that the following fair housing impediments existed in both Cities: “Policies and practices that have contributed to concentrations of protected classes in selected areas of the community;” and “Disproportionate shares of racial and ethnic minorities in selected areas.”<sup>16</sup> The only relevant “Suggested Actions to Consider” mentioned in the 2009 AI are for the Cities to “Encourage inclusive housing location policies for both private and public housing providers” and “Encourage local government actions that are more in the spirit of affirmatively furthering fair housing, such as minimizing NIMBYism.”<sup>17</sup> Beyond its failure to identify actual impediments in actual places, the 2009 AI is devoid of any accountability measures, milestones or timetables by which the Cities were to carry out these activities. Not surprisingly, the problems of segregation have persisted and grown worse since 2009. The Metropolitan Council’s *Choice* report candidly concedes that the Cities influence the location of affordable housing units through financing the construction, rehabilitation, and preservation of publicly subsidized affordable rental housing (including LIHTC units) and enactment of zoning and land use policies that encourage the location of such affordable units in specific geographic locations.<sup>18</sup> As outlined below, each of the Cities has violated Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and

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<sup>14</sup> Minneapolis and Saint Paul contain a number of such “clusters” of Section 8 vouchers. A small tract in Minneapolis’s Phillips community concentrates voucher holders at the rate of 802 per square mile. In another tract in the Aurora-Saint Anthony neighborhood in Saint Paul, with 583 voucher holder per square mile, 19 percent of households are using a voucher.

<sup>15</sup> Fair Housing Implementation Council, *2009 Analysis of Impediments to Fair Housing for the Twin Cities Region*, available at <http://www.co.washington.mn.us/DocumentCenter/View/204>.

<sup>16</sup> *Id.* at 103-104.

<sup>17</sup> *Id.* at 107.

<sup>18</sup> *Choice, Place and Opportunity* at Section 7, Page 4.

Community Development Act of 1974, and the Fair Housing Act, by virtue of the following acts and omissions concerning its financing, zoning, and land use, and other policies influencing the location of affordable rental housing units in RCAPs or ECAPs and other low-opportunity neighborhoods.

Despite having been put on notice by the *Choice* report and detailed comments from the Institute for Metropolitan Opportunity (“IMO”) since at least November of 2012, the Cities have recently participated in the drafting of a new AI, again under the auspices of FHIC.<sup>19</sup> The final version of this AI was released on February 13, 2015.<sup>20</sup> The finalized AI remedies virtually none of the problems identified in the *Choice* report and IMO letter. Remarkably, it makes only passing mention of the recent *Choice* report, and omits that report’s extensive substantive discussion of potential fair housing impediments. Instead, it states that public sector housing investment is “diversely” distributed throughout the Twin Cities region.<sup>21</sup> It incorrectly asserts that the *Choice* report, the regional Housing Policy Plan, and the recent fair housing complaint against the Metropolitan Council and State of Minnesota are all “outside the purview of this AI” because “they stemmed from causes or funding streams different from those of the AI.”<sup>22</sup> This constricted view of the role of an AI directly contradicts HUD guidance and federal case law, and it renders the AI so deficient that it cannot conceivably form the basis of either of the Cities’ civil rights certifications.

1. **Respondent City of Minneapolis** (“Minneapolis”) received \$36,439,941 from the U.S. Department of Housing and Urban Development (“HUD”) in 2012 and \$22,834,088 from HUD in 2013. Major sources of funds include Community Development Block Grants, HOME Investment Partnership, and the Emergency Solutions Grant Program (collectively “HUD Block Grant” programs). HUD allocated \$14,909,317 to Minneapolis from these programs in 2014. Furthermore, through actions of the Minnesota Legislature, the Minnesota Housing Finance Agency (“Minnesota Housing”) and the Metropolitan Council, the City of Minneapolis is the beneficiary of an allocation of LIHTC resources that is substantially disproportionate to its population. As a result, a disproportionate share of LIHTC units for families over the past 20 years has been built in Minneapolis, and almost exclusively in the low-opportunity neighborhoods of Minneapolis.

As relevant to this complaint, and as described herein, Minneapolis violated its Federal Civil Rights Obligations by:

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<sup>19</sup> There have been indications for some time that this process would again produce a deficient AI, and an early draft was the subject of a recent letter and Appendix from IMO to Maurice McGough, in HUD’s Chicago regional Office of Fair Housing and Equal Opportunity. As the letter and Appendix make clear, the Draft AI’s deficiencies include the lack of substantive analysis, the omission of the public sector as a potential source of impediments, the absence of measures acknowledging or attempting to reduce racial and ethnic segregation, and the failure to adopt any benchmarks, timetables and other accountability measures by which efforts to overcome fair housing impediments could be measured. Complainants incorporate that letter and its Appendix into this complaint.

<sup>20</sup> Fair Housing Implementation Council, *2014 Analysis of Impediments to Fair Housing Choice: Twin Cities Region*, available at [http://www.housinglink.org/Files/2014\\_FHIC\\_AI\\_FINAL.pdf](http://www.housinglink.org/Files/2014_FHIC_AI_FINAL.pdf).

<sup>21</sup> *Id.* at 44.

<sup>22</sup> *Id.* at 7-8.

- Designating the MSP Board to carry out the LIHTC Program in Minneapolis, with the purpose and effect of concentrating LIHTC units in RCAPs or ECAPs and other low-opportunity areas, as further described below.
- Allocating its HUD Block Grant funds disproportionately to support housing in low-opportunity neighborhoods.
- Exercising zoning and land use power to direct the development of publicly subsidized affordable rental housing units into RCAPs or ECAPs and other low-opportunity communities in Minneapolis.
- Failing to conduct an AI that identifies fair housing impediments and takes appropriate actions to overcome them.
- Failing or refusing to use its zoning laws and other municipal powers to reduce segregation within its borders, as required by its obligation to affirmatively further fair housing, and failing to pursue integrative housing through other financial means at its disposal. For instance, its Affordable Housing Trust units are primarily located in North Minneapolis and south of downtown, where the majority of LIHTC units are also located.
- Causing the Minneapolis public school system to become substantially more segregated on the basis of race.

Because of this intensified pattern of racially segregative construction of low-income housing, in clear disregard of federal housing rules, the Minneapolis public school system has become more—not less—racially and socially segregated that it was when the *Booker* and *Hollman* lawsuits were filed. In 1995, there were ten schools in Minneapolis that were more than 90 percent non-white. Those schools represented nine percent of Minneapolis schools. In 2010, there were 33 schools that were more than 90 percent non-white, representing 39 percent of all schools. Similarly, at the time of the *Hollman* settlement, there were 41 Minneapolis schools that were more than 70 percent non-white, representing 35 percent of Minneapolis schools. By 2010, this number had risen to 57 schools representing 65 percent of all Minneapolis schools. These schools are overwhelmingly composed of poor children and have some of the lowest standardized test scores of all schools in Minnesota.

Despite its annual certification of compliance with its Federal Civil Rights Obligations, the actions and inactions of Minneapolis outlined above, have the purpose and effect of concentrating affordable housing units in low-opportunity neighborhoods of Minneapolis. Under the Housing and Community Development Act of 1974 (HCDA), 42 U.S.C. § 5301 et seq., and its implementing regulations, the Secretary has the authority to make grants “only if” grantees make certain submissions and certifications. 42 U.S.C. § 5304(b)(2); 24 C.F.R. §§ 91.325(a)(1), 570.601(a)(2). The actions and inactions outlined above also constitute evidence that Minneapolis is not complying with its Federal Civil Rights Obligations.

2. **Respondent City of Saint Paul** (“Saint Paul”) received \$20,487,633 from HUD in 2012 and \$12,537,322 from HUD in 2013. Major sources of funds include Community



Development Block Grants, HOME Investment Partnership, and the Emergency Solutions Grant Program (collectively “HUD Block Grant” programs). HUD allocated \$8,645,415 to Saint Paul from these programs in 2014. Furthermore, through actions of the Minnesota Legislature, the Minnesota Housing and the Metropolitan Council, the City of Saint Paul is the beneficiary of an allocation of LIHTC resources that is substantially disproportionate to its population. As a result, a disproportionate share of LIHTC units for families over the past 20 years has been built in Saint Paul, and almost exclusively in the low-opportunity neighborhoods of Saint Paul.

As relevant to this complaint, and as described herein, Saint Paul violated its Federal Civil Rights Obligations by:

- Designating the MSP Board to carry out the LIHTC Program in Saint Paul, with the purpose and effect of concentrating LIHTC units in RCAPs or ECAPs and other low-opportunity areas, as further described below.
- Allocating its HUD Block Grant funds disproportionately to support housing in low-opportunity neighborhoods.
- Exercising zoning and land use power to direct the development of publicly subsidized affordable rental housing units into RCAPs or ECAPs and other low-opportunity communities in Saint Paul.
- Failing to conduct an AI that identifies fair housing impediments and takes appropriate actions to overcome them.
- For instance, in its Consolidated Plan, Saint Paul reduces the number of areas of minority concentration within its borders by defining such areas as those containing “78 percent or more minority population,” a much higher figure than commonly used.
- Failing or refusing to use its zoning laws and other municipal powers to reduce segregation within its borders, as required by its obligation to affirmatively further fair housing, and failing to pursue integrative housing through other financial means at its disposal.
- Causing the Saint Paul public school system to become substantially more segregated on the basis of race.

As the Saint Paul school district was deciding to move to a neighborhood school boundary system, the City of Saint Paul did not inform the school district or the NAACP of its plan to build housing in a profoundly segregative manner. In the last 5 years, Saint Paul has created or preserved 2,500 units of affordable housing within the attendance areas of predominantly poor, nonwhite schools. As a consequence of this housing policy, Saint Paul schools have become dramatically more segregated.

Despite its annual certification of compliance with its Federal Civil Rights Obligations, the actions and inactions of Saint Paul outlined above have the purpose and effect of

concentrating affordable housing units in low-opportunity neighborhoods of Saint Paul. Under the Housing and Community Development Act of 1974 (HCDA), 42 U.S.C. § 5301 et seq., and its implementing regulations, the Secretary has the authority to make grants “only if” grantees make certain submissions and certifications. 42 U.S.C. § 5304(b)(2); 24 C.F.R. §§ 91.325(a)(1), 570.601(a)(2). The actions and inactions outlined above also constitute evidence that Saint Paul is not complying with its Federal Civil Rights Obligations.

### 3. **Respondent MSP Board**

Under the State Qualified Allocation Plan (“QAP”), cities or counties may elect to receive their LIHTC funds directly, or they may designate their housing and redevelopment authority as a suballocator. Minneapolis and Saint Paul have designated the Minneapolis/St. Paul Housing Finance Board (“MSP Board”) as their agent and joint suballocator of LIHTC funds. Each of the Cities maintains a separate allocation of funds and proposals are evaluated independently, though any unused tax credits may be passed to the other city through the MSP Board.

In purpose and effect, the actions of the MSP Board have caused LIHTC units to be located disproportionately in RCAPs or ECAPs and other low-opportunity areas in the Cities, and have perpetuated and exacerbated racial and ethnic segregation in the Cities.

The Cities and MSP Board have jointly developed a system for distributing LIHTC. Their QAP has led to the unlawfully disproportionate siting of the Cities’ LIHTC units and other federally supported low-income housing units in low-income, high-minority areas. The MSP Board’s QAP contains the “Minneapolis Selection Priorities,” a rubric that doles out point values for various criteria in values ranging from 1 to 15 points per item, for a maximum of 166 points. This scoring system overwhelmingly favors projects sited in predominantly low-income, high-minority areas. Up to 30 points are available to factors that have the obvious effect of rewarding siting in such areas. An additional 50 points are tied to factors that heavily favor low-income, high-minority siting.

The Cities collaborated while designing their LIHTC competitive scoring system, and have similar (though not identical) scoring criteria. These scoring criteria have the purpose and effect of placing units in RCAPs or ECAPs and other low-opportunity areas and perpetuate racial and ethnic segregation. Minneapolis uses 18 separate criteria, seven of which are potentially segregative and account for 62 total points, while two are potentially integrative and account for 25 points. Saint Paul uses 21 separate criteria; eight criteria are potentially segregative and account for 75 points, while two potentially integrative criteria account for 17 points.

Despite annual certification of compliance with Federal Civil Rights Obligations by Minneapolis and Saint Paul, which extend to and govern the conduct of their agent, the MSP Board, the actions and inactions of the MSP Board outlined above have the purpose and effect of concentrating affordable housing units in low-opportunity neighborhoods of the Twin Cities region. Under the Housing and Community Development Act of 1974 (HCDA), 42 U.S.C. § 5301 et seq., and its implementing regulations, the Secretary has the authority to make grants “only if” grantees make certain submissions and certifications. 42 U.S.C. § 5304(b)(2); 24 C.F.R.

§§ 91.325(a)(1), 570.601(a)(2). The actions and inactions outlined above also constitute evidence that the MSP Board is not complying with its Federal Civil Rights Obligations.

c. Actions and decisions by the Respondents, as outlined above, have had the purpose and predictable effect of locating a disproportionate number of LIHTC and other affordable rental units in racially and ethnically segregated, low-income, low-opportunity communities. Each Respondents' actions, policies, and practices are continuing at the time this Complaint was submitted.

d. For at least one year prior to the filing of the complaint, the Respondents have individually and collectively administered the LIHTC program and other housing and community development programs in a fashion that concentrates LIHTC developments in low-opportunity neighborhoods in Minneapolis and Saint Paul, which are characterized by racially- and ethnically-concentrated areas of poverty and poor-performing schools, in violation of their Federal Civil Rights Obligations.

e. By its actions and inactions alleged herein, each Respondent has violated its Federal Civil Rights Obligations and failed to take appropriate and effective actions to overcome the effects of impediments to fair housing that are open, obvious, and publicly known to be impediments to equal housing opportunity for people of color in the Twin Cities region.

f. By acting and failing to act as described in this Complaint, each Respondent has intended to and has discriminated against people of color in the Twin Cities region; discriminated against Hispanic residents of the Twin Cities region; and prevented residents and potential residents of the Twin Cities region from living in integrated communities free of discrimination.

## **8. Conclusion**

HUD has the authority, and the obligation, to review the discriminatory actions and inactions of the Respondents alleged herein. The Secretary also has the obligation and responsibility to review the Respondents' submissions and certifications in applications for federal funds and to enforce compliance therewith.

For the reasons set out above, Complainants ask HUD to:

- i. Declare that Respondents' policies and conduct violate 42 U.S.C. § 3604 and Title VI of the Civil Rights Act, Section 109 of the Housing and Community Development Act of 1974, and the Fair Housing Act;
- ii. Deem the Governmental Respondents' AFFH certifications insufficient to support obligation of Block Grant Funds and condition future funding on Respondents' compliance with Federal Civil Rights Obligations;
- iii. Require revision of the respective AIs in accordance with applicable federal laws and regulations;

- iv. Award Complainants damages pursuant to its proof in these proceedings;  
and
- v. Award any other relief that may be available pursuant to Title VI, Section 109 or the Fair Housing Act, including monetary damages, reasonable attorney fees and costs.

**9. The most recent date on which the alleged discrimination occurred:**

The violations are ongoing as of the date of this Complaint's submission.

**10. Types of federal funds identified:**

Community Development Block Grant, HOME Investment Partnership, Emergency Solutions Grants.

**11. The acts alleged in this complaint, if proven, may constitute a violation of the following:**

Title VI of the Civil Rights Act of 1964  
Section 109 of Title I of the Housing and Community Development Act of 1974  
Fair Housing Act of 1988

Dated: March 30, 2015.

Respectfully submitted,

/s/ Suzanne Watlov Phillips

Suzanne Watlov Phillips  
Metropolitan Interfaith Council on Affordable Housing

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Marian Biehn  
Whittier Alliance

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Roberta Englund  
Webber-Camden Neighborhood Organization

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Roberta Englund  
Folwell Neighborhood Association

/s/ Michael Allen

Michael Allen  
Yiyang Wu  
Relman, Dane & Colfax, PLLC  
1225 19th Street, N.W., Suite 600  
Washington, D.C. 20036-2456  
Telephone: 202/728-1888  
Fax: 202/728-0848  
E-mail: mallen@relmanlaw.com  
ywu@relmanlaw.com