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JUL 20 2011

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

MICHAEL W. DOBBINS

1:11-cv-04885

Judge James F. Holderman

Magistrate Judge Sheila M. Finnegan

**UNITED STATES OF AMERICA *ex rel.*
ALBERT C. HANNA**

Relator,

— v. —

CITY OF CHICAGO,

Defendant.

**FALSE CLAIMS ACT COMPLAINT AND
JURY DEMAND**

**FILED UNDER SEAL PURSUANT TO
31 U.S.C. § 3730(b)(2)**

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INTRODUCTION

1. During the six years preceding the filing of this complaint (the “False Claims Period”), Defendant City of Chicago (“City” or “Chicago”) knowingly made false claims and certifications to the United States Government that it had complied, and would comply, with certain civil rights requirements in order to secure at least \$880 million in Community Development Block Grant (“CDBG”) and federal housing and community development funds.

2. Those civil rights requirements—arising under Title VI of the Civil Rights Act of 1964 (“Title VI”), the Fair Housing Act (“FHA”), and the separate obligation to “affirmatively further fair housing” (“AFFH”) embodied in several federal statutes and regulations—prohibit the City from discriminating on the basis of race, color or national origin and affirmatively require the City to dismantle racial and ethnic segregation and expand housing choice for people of color.

3. As required under the False Claims Act, Relator Albert C. Hanna (“Hanna”) has provided to the Attorney General and to the United States Attorney for the Northern District of Illinois a statement of material evidence and information that he possesses regarding the City’s false claims and certifications.

4. That evidence, and additional evidence to be secured through discovery, establishes that the City has falsely claimed to comply with civil rights certifications while administering its programs in a manner that perpetuates racial and ethnic segregation.

5. Specifically, the City has adopted and enforced laws, regulations, policies and practices with respect to zoning, land use, building codes, funding, location of affordable housing units and the structure of housing subsidy programs that push many of the City’s low- and moderate-income African-American and Latino residents into low-opportunity communities with poor schools, high crime rates, environmental and health problems, inadequate amenities, substandard transportation and poor connections to quality, living wage jobs.

6. As a result, African-American and Latino residents of Chicago have been deprived of opportunities to live in integrated, high-opportunity communities, and the United States Government has been deprived of the benefit to which it is entitled under Title VI, the FHA and the AFFH mandate: that the \$880 million in CDBG and other funds would be used to expand housing choice for African-Americans and Latinos and promote healthy, integrated neighborhoods.

7. Pursuant to the False Claims Act, and on behalf of the United States Government, Hanna seeks to recover funds that the City secured through false statements to

the U.S. Department of Housing and Urban Development (“HUD”), together with treble damages, appropriate civil money penalties, and attorneys’ fees and costs. In addition, Hanna seeks an appropriate share of the proceeds recaptured from the City.

JURISDICTION AND VENUE

8. This action arises under the 31 U.S.C. § 3729, *et seq.* (“the False Claims Act”). This Court has jurisdiction over this case pursuant to 31 U.S.C. §§ 3730(b) and 3732(a). This Court also has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345.

9. Venue is proper in this District pursuant to 31 U.S.C. § 3732(a), because the conduct proscribed by the False Claims Act and complained of herein took place in this District, and is also proper pursuant to 28 U.S.C. § 1391(b) and (c), because the acts and omissions complained of herein occurred in this District, and because, at all times material and relevant, Defendant resided in and transacted business in this District.

10. Because the statement and supporting evidence includes attorney work product of Relator’s counsel, and were submitted to the Attorney General and to the United States Attorney in their capacity as potential co-counsel in this litigation, Hanna understands this statement and supporting evidence to be confidential.

PARTIES

11. Albert C. Hanna is 81 years of age and has been a resident of the Lincoln Park neighborhood of Chicago since 1957. For more than 50 years, he has been engaged in real estate development, real estate mortgage and equity financing, civic affairs and philanthropy in Chicago, with a particular concern for providing affordable housing in quality neighborhoods regardless of race, color or national origin.

12. The United States of America (“United States”) provides housing-related funding to a variety of state and local governmental entities, including the City of Chicago. Receipt of the funds relevant to this action is contingent on certifications that the City has met, and will meet, a variety of civil rights obligations.

13. Defendant City Chicago, Illinois is a municipal corporation as defined by the laws of the State of Illinois. As a precondition to receiving federal housing and community development funds from the United States, it is required to certify its current and prospective compliance with a variety of federal civil rights laws.

FACTS

14. Since at least 1974, the City has been a recipient of various federal housing and community development funds from HUD, including those under the CDBG, HOME Investment Partnership (“HOME”), Emergency Shelter Grant (“ESG”) and Housing Opportunities for People with AIDS (“HOPWA”) programs. The City has also benefited from federal loan guarantees pursuant to Section 108 of the Community Development Act, 42 U.S.C. § 5308, and has participated in other federal housing and community development funding programs.

15. During the False Claims Period, the City received at least \$880,112,376 in CDBG, HOME, ESG and HOPWA funds.

16. The total figure mentioned in paragraph 15, above, does not include other HUD funds that the City has received under the American Recovery and Reinvestment Act of 2009, the Neighborhood Stabilization Program, the Section 8 Program, and other special allocations that are also subject to the civil rights certifications outlined herein.

17. As a precondition for receiving the funds mentioned in paragraphs 15 and

16, above, the City must certify compliance with civil rights laws, including Title VI, the FHA and the separate obligation to AFFH, which arises under several federal statutes.

18. During the False Claims Period, the City provided HUD with express and implied civil rights certifications mentioned in paragraph 17, above, in furtherance of its applications for the federal housing and community development funds mentioned in paragraphs 15 and 16, above.

19. Among these civil rights certifications, the City was required, throughout the False Claims Period, to certify that it will administer each grant in compliance with Title VI, 42 U.S.C. § 2000d, *et seq.*, as amended, and implementing regulations at 24 C.F.R. Part 1, which provide that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives federal financial assistance.

20. Throughout the False Claims Period, the City was obligated, pursuant to 42 U.S.C. §§ 3608(e)(5), 5304(b)(2), and 12705(b)(15) and applicable HUD regulations to certify—in writing and as a material condition of its eligibility to receive such funds—that it would affirmatively further fair housing. As defined by HUD and by caselaw, the AFFH obligation requires the City to conduct “[a] comprehensive review of [its] laws, regulations, and administrative policies, procedures, and practices[, a]n assessment of how those laws, etc. affect the location, availability and accessibility of housing[, and a]n assessment of conditions, both public and private, affecting fair housing choice for all protected classes.” Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, HUD-1582B-FHEO, *Fair Housing Planning Guide: Vol. 1, 2-7* (1996).

21. Throughout the False Claims Period, the City executed applications and contracts with HUD containing certifications of compliance with Title VI, the FHA and the AFFH obligation.

22. Throughout the False Claims Period, the City knowingly administered its zoning, land use, building code, funding, and affordable housing programs in a fashion that perpetuated and exacerbated racial and ethnic segregation.

23. Contrary to the City's certifications of civil rights compliance made during the False Claims Period, the City knowingly failed to adopt and implement programs to undo racial and ethnic segregation.

24. Throughout the False Claims Period, the City directed hundreds of millions of dollars in CDBG, HOME, ESG and HOPWA funds to support the development of affordable housing principally in racially or ethnically segregated, low-opportunity neighborhoods.

25. Despite its sophisticated mapping capabilities and directions from HUD to prepare, produce and publish maps showing areas of racial and ethnic segregation, the City knowingly failed to do so in order to obscure from HUD and public view the extent to which its programs and policies have perpetuated and exacerbated racial and ethnic segregation.

26. Hanna has provided a written disclosure to the U.S. Department of Justice which includes substantially all of the material evidence and information that he possesses concerning the City's false claims and certifications, including an original research and analytical report containing maps demonstrating how City programs and policies have perpetuated and exacerbated racial and ethnic segregation.

27. On information and belief, the report referenced in the previous paragraph

constitutes the first attempt to comprehensively map the location of subsidized affordable housing in the City with respect to high-opportunity and low-opportunity communities, and therefore constitutes previously undisclosed information.

28. As a condition of receiving CDBG, HOME, ESG and HOPWA funding during the False Claims Period, the City was obligated to submit, for HUD approval, a periodic “Consolidated Plan,” describing the housing market and housing needs within the City of Chicago.

29. In or about 2004, the City submitted its 2005-2009 Consolidated Plan to HUD. In or about 2010, the City submitted its 2010-2014 Consolidated Plan to HUD.

30. In its Consolidated Plans and related submissions to HUD, the City reveals that the majority of its Community Areas—a designation used for City planning purposes since the late 1920s—are characterized by stark racial and ethnic segregation which has persisted since 1960.

31. The City is fully aware of the extent of racial and ethnic segregation in Chicago.

32. Despite that awareness, the City has failed to administer its programs and failed to take the affirmative steps required to overcome the fair housing impediments experienced by African-Americans and Latinos on account of such segregation.

33. In the face of these failures to identify impediments faced by African-Americans and Latinos, and to take appropriate actions to overcome those impediments, the City has made express and implied certifications of compliance with Title VI, the FHA and its express and implied AFFH certifications.

34. On multiple occasions within the preceding six years, the City certified

that it was in compliance with these requirements. On multiple occasions within the preceding six years, the City made demands for payment of the funds that it had been awarded, which demands represented that the City was in compliance with the terms of the grants.

35. To Hanna's knowledge, no public disclosure has been made of these facts.

36. Through the Consolidated Plans submitted or in force during the False Claims Period, the City caused HUD and the public to believe that racial and ethnic segregation was a significant problem in Chicago and that the City would employ its housing and community development funds to address that problem.

37. Through its Annual Action Plans, Consolidated Annual Performance Evaluation Reports and annual certifications of compliance with Title VI, the FHA and its AFFH obligations, the City caused HUD and the public to believe that it was in compliance with all federal obligations relating to the receipt of federal housing and community development funds.

38. Specifically, through its annual Applications for Federal Assistance and Grant Agreements, the City caused HUD and the public to believe that it and its sub-recipients were complying with its obligation under Title VI, the FHA and its AFFH obligation.

39. The City's false claims and certifications to the federal government were knowingly made.

40. Through its repeated certifications and assurances to HUD that it was in compliance with Title VI, the FHA and its AFFH obligations, the City has knowingly caused false or fraudulent claims for payment or approval to be submitted to the federal government.

41. In short, while conveying the “cover story” supported by the actions described in the City’s Consolidated Plans, Annual Action Plans, and Consolidated Annual Performance Evaluation Reports, the City was actually permitting the use of hundreds of millions of dollars to perpetuate and exacerbate racial and ethnic segregation. In essence, the City lied to the federal government in order to secure the federal funds mentioned above. That is precisely the conduct Congress sought to prevent in passing and strengthening the False Claims Act.

42. More broadly, the City has knowingly failed to take appropriate steps to overcome impediments to fair housing choice for African-Americans and Latinos, as required by the FHA.

43. Accordingly, the City’s certifications were false, as were its representations that it was complying with its obligations under the grants when it made demands for payment. Inasmuch as compliance with all civil rights certifications is a precondition for receipt of federal housing and community development funds, the City has improperly received at least \$880 million in federal funds.

44. Hanna alleges that all of the funds mentioned in paragraphs 15 and 16, above, were obtained through knowingly false claims and certifications to HUD, and will seek recovery of such funds on behalf of the United States.

CAUSE OF ACTION

False Claims Act, 31 U.S.C. § 3729, et seq.

45. Hanna repeats and incorporates herein the allegations set forth in paragraphs 1- 44, above.

46. On each occasion that the City made an express certification of the type described herein, the total number of which during the False Claims Period is not currently known to Hanna, and on each occasion that the City otherwise requested or demanded payment from the federal government based on the City's having supposedly complied with its certification-based obligations outlined above, it committed a separate violation of the False Claims Act, 31 U.S.C. § 3729, et seq.

JURY TRIAL DEMAND

Hanna hereby demands a trial by jury.

CLAIMS FOR RELIEF

Hanna respectfully request that this Court enter judgment against the City as follows:

1. That the United States be awarded damages against the City in the amount of three times the damages sustained by the United States because of the false claims alleged within the Complaint, as provided by the False Claims Act, 31 U.S.C. §3729, et seq.
2. That civil penalties of \$11,000 be imposed for each and every false claim that the City presented to the United States;
3. That Hanna be granted an appropriate share of the proceeds of the action or settlement of the claim, pursuant to 31 U.S.C. § 3730(d); and

4. That pre- and post-judgment interest be awarded, along with reasonable attorneys' fees, costs, and expenses which Hanna necessarily incurred in commencing and prosecuting this case.

Dated: July 19, 2011

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